

**ITEM 6. SECTION 96(2) APPLICATION: 1 ALFRED STREET, 19 - 31 PITT STREET AND 31A PITT STREET SYDNEY****FILE NO: D/2015/1049/A****DEVELOPMENT APPLICATION NO: D/2015/1049/A****SUMMARY**

**Date of Submission:** 26 April 2016

**Applicant:** Wanda One Sydney Pty Ltd

**Architect:** CRONE

**Developer:** Wanda Group

**Owner:** Wanda One Sydney Pty Ltd

**Cost of Works:** \$554,000,000

**Proposal Summary:** The subject Section 96(2) application seeks consent to modify the approved State Significant Development (SSD) Stage 1 building envelope for two mixed use towers at 1 Alfred Street, 19 – 31 Pitt Street and 31A Pitt Street, Sydney. The application seeks to vary the maximum height of Tower A to RL 200 (194 metres) from the approved RL 191 (185 metres). Minor variations are also sought to the number of storeys, floor-to-floor heights, indicative floor plate layout and distribution of gross floor area (GFA) across the site. No modifications to Tower B are proposed.

Amendments to the conditions imposed on the Stage 1 consent (D/2015/1049) by the Central Sydney Planning Committee at its meeting on 10 December 2015 are proposed as follows:

- Modify Condition (2) (Approved Development) to reflect the amended envelope;
- Modify Condition (6) (Building Height) to permit the envelope to a height of RL 200 (Or a maximum on this site of 194 metres); and
- Modify Condition (37) (Sydney Airport Conditions) to permit a maximum building height of 200m.

**Proposal Summary:  
(continued)**

Modification of the approved building envelope will ensure consistency between staged development applications on the site, as is required under Section 83D of the Environmental Planning and Assessment Act, 1979. Modifications to the Stage 2 consent (D/2015/882/A) are being assessed concurrently with this application.

The Minister for Planning and Secretary, Department of Planning and the Environment delegated their respective consent authority and assessment functions to the City of Sydney Council (Council) for this site. As the cost of development is more than \$50 million, this Section 96 modification is therefore lodged for assessment and determination by the Central Sydney Planning Committee (CSPC).

The application was notified for a period of 14 days between 4 May 2016 and 19 May 2016. Four submissions were received as a result of the notification, one of these in support of the application. The other three submissions raised the following concerns:

- Building height;
- Bulk and scale;
- View analysis; and
- Cumulative impacts of buildings in the APDG Block.

As modified, the proposed envelope is considered to be contextually appropriate and has sited the additional height in such a location as to minimise amenity and environmental impacts on neighbouring properties. In this instance, the modifications to the Stage 1 building envelope of Tower A are supported.

**Summary Recommendation:**

The Section 96(2) application is recommended for approval, subject to the modification of Condition (2) (Approved Development) and Condition (6) (Building Height) to reflect the revised scheme.

- Development Controls:**
- (i) Environmental Planning and Assessment Act 1979
  - (ii) Sydney Local Environmental Plan 2012
  - (iii) Sydney Development Control Plan 2012
  - (iv) State Environmental Planning Policy (State and Regional Development) 2011
  - (v) State Environmental Planning Policy (Infrastructure) 2007
  - (vi) State Environmental Planning Policy No. 55 – Remediation of Land
  - (vii) State Environmental Planning Policy No. 65 – Design Quality of Residential Development
  - (viii) State Regional Environmental Plan (Sydney Harbour Catchment) 2005

- Attachments:**
- A - Amended Drawings
  - B - Shadow Diagrams
  - C - Stage 1 State Significant Development Assessment Report
  - D - Delegations

**RECOMMENDATION**

It is resolved that consent be granted to Section 96(2) Application No. D/2015/1049/A, subject to Condition (2) (Approved Development), Condition (6) (Building Height) and Condition (37) (Sydney Airport Conditions) of Schedule 1A, Part B - Conditions of Consent (Once Consent Is Operational) of Development Consent D/2015/1049 being modified, (with modifications shown in ***bold italics*** (additions) and ~~***bold italics strikethrough***~~ (deletions)), as follows:

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

The following deferred commencement conditions must be satisfied prior to the consent becoming operative:

**(1) VOLUNTARY PLANNING AGREEMENT**

- (a) That a Voluntary Planning Agreement (VPA) in accordance with the public benefit offer made by Wanda One Sydney Pty Ltd, dated 3 December 2015 is to be publicly exhibited, executed and submitted to Council;
- (b) The payment of the monetary contribution must be provided to Council in accordance with the VPA;
- (c) The guarantee must be provided to Council in accordance with the VPA at the time of execution; and
- (d) The VPA, as executed, must be registered on the title of the land in accordance with the VPA.

**(2) CONSOLIDATION OF THE SITE AND EXTINGUISHMENT OF EASEMENTS**

- (a) All land titles within the site must be consolidated into one lot. A surveyed plan of consolidation must be registered with the Office of Land and Property Information Division of the Department of Lands.
- (b) All easements within the areas designated as C, G and J in deposited plan 537286 must be extinguished (wholly or in part) in so far as each easement relates to the areas designated as C, G or J in deposited plan 537286.

**(3) SURRENDER OF PREVIOUSLY APPROVED STAGE 1 CONSENT**

The following consent is to be surrendered in accordance with section 80A(5) of the Environmental Planning and Assessment Act 1979 and section 97 of the Environmental Planning and Assessment Regulation 2000:

- (a) D/2010/1533 for a Stage 1 approval at 19-31 Pitt Street, Sydney.
- (C) evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council within 24 months of the date of this deferred commencement consent, failing which this deferred commencement consent will lapse pursuant to Section 95(6) of the Environmental Planning and Assessment Act 1979;

- (D) 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
- (E) upon Council giving written notification to the applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the following conditions of consent and any other additional conditions reasonably arising from consideration of the deferred commencement consent conditions.

## SCHEDULE 1A

### PART B – CONDITIONS OF CONSENT (ONCE CONSENT IS OPERATIONAL)

Upon compliance with the conditions contained in Part A, the consent will become operative, subject to the following conditions, as may be amended by such other conditions that may arise as a result of compliance with conditions/information required in Part A.

## SCHEDULE 1A

### (1) STAGED DEVELOPMENT APPLICATION

Pursuant to Clause 100 of the Environmental Planning and Assessment Regulation 2000, this Notice of Determination relates to a Stage 1 development application. A subsequent development application is required prior to commencement of any work on the site.

### (2) APPROVED DEVELOPMENT

- (a) Development must be in accordance with State Significant Development application No. D/2015/1049, as amended, dated 17 July 2015, and the following drawings:

Drawing Number	Architect	Date
<b>DA01/E S96 01/A</b> Massing Envelope Context Plan	Crone Partners	<del>24.11.15</del> 08.04.16
<b>DA02/E S96 02/A</b> Massing Envelope Basement 3-6	Crone Partners	<del>24.11.15</del> 08.04.16
<b>DA03/E S96 03/A</b> Massing Envelope Basement 1-2	Crone Partners	<del>24.11.15</del> 08.04.16
<b>DA04/F S96 04/A</b> Massing Envelope Ground	Crone Partners	<del>24.11.15</del> 08.04.16
<b>DA04A/D S96 04A/A</b> Massing Envelope Lower Ground	Crone Partners	<del>24.11.15</del> 08.04.16
<b>DA05/F S96 05/A</b> Massing Envelope Level 1	Crone Partners	<del>24.11.15</del> 08.04.16
<b>DA06/F S9 606/A</b> Massing Envelope Level 2	Crone Partners	<del>24.11.15</del> 08.04.16
<b>DA07/F S96 07/A</b> Massing Envelope Level 3	Crone Partners	<del>24.11.15</del> 08.04.16
<b>DA08/F S96 08/A</b> Massing Envelope Level 3FM-4	Crone Partners	<del>24.11.15</del> 08.04.16

Drawing Number	Architect	Date
<del>DA09/G</del> S96 09/A Massing Envelope Level 5-28	Crone Partners	<del>27.11.15</del> 08.04.16
<del>DA10/F</del> S96 10/A Massing Envelope Level 27/38	Crone Partners	<del>27.11.15</del> 08.04.16
<del>DA11/G</del> S96 11/A Massing Envelope Level 39-57	Crone Partners	<del>27.11.15</del> 08.04.16
<del>DA12/E</del> S96 12/A Massing Envelope East Elevation	Crone Partners	<del>27.11.15</del> 08.04.16
<del>DA13/E</del> S96 13/A Massing Envelope North Elevation	Crone Partners	<del>27.11.15</del> 08.04.16
<del>DA14/D</del> S96 14/A Massing Envelope West Elevation	Crone Partners	<del>27.11.15</del> 08.04.16
<del>DA15/E</del> S96 15/A Massing Envelope South Elevation	Crone Partners	<del>27.11.15</del> 08.04.16

and as amended by the conditions of this consent.

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

**(3) MATTERS NOT APPROVED IN STAGE 1 DEVELOPMENT CONSENT**

The following matters are not approved as part of this Stage 1 development consent:

- (a) any works, including demolition, excavation, construction and public domain improvements;
- (b) subdivision;
- (c) layout, mix and number of residential units and hotel rooms;
- (d) the precise quantum of commercial, residential and hotel floor space;
- (e) the number of on-site car parking spaces, bicycle spaces, car share or loading spaces/zones;
- (f) any additional up to 10% design excellence floor space which may be allowable under Clause 6.21 of the Sydney Local Environmental Plan 2012;
- (g) the proposed vehicular access to the basement parking levels to/from Pitt Street;
- (h) any works located outside of the site boundary including:
- (i) the proposed set-down and pick-up zone located along the western side of Pitt Street;
- (ii) the turning circle located at the head of Pitt Street;

(iii) ground floor RL levels.

**(4) COMPLIANCE WITH VOLUNTARY PLANNING AGREEMENT**

The terms of the planning agreement entered into in accordance with Deferred Commencement Condition (1) **VOLUNTARY PLANNING AGREEMENT** are to be complied with.

**(5) STAGE 2 TO BE CONTAINED WITHIN APPROVED ENVELOPE**

The detailed Stage 2 design for Tower A and Tower B, including services, must be contained within the building footprint and envelope approved as part of this consent and comply with relevant planning controls.

**(6) BUILDING HEIGHT**

(a) The maximum height of future buildings, including all plant and services must not exceed the following:

- (i) Tower A – ~~RL191~~ **RL200** (AHD);
- (ii) Tower B – RL112.5 (AHD).

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

The following applies to floor space ratio:

- (a) The floor space ratio for the proposal must not exceed the maximum 13.05:1 calculated in accordance with Clauses 4.4, 4.5 and 6.4 of Sydney Local Environmental Plan 2012 (as amended).
- (b) Notwithstanding clause (a) above, the maximum floor space ratio may be increased in accordance with Clause 6.21 of the Sydney Local Environmental Plan 2012 (as amended) only if the consent authority is satisfied that the resulting Stage 2 development(s) exhibit design excellence and are the result of a competitive design process which satisfies the requirements of any relevant local environmental plan and/or development control plan.
- (c) Precise details of the distribution of floor space shall be provided with the relevant future Stage 2 development applications.
- (d) Any floor space ratio in excess of 8:1 shall be subject to a requirement to purchase heritage floor space (HFS) in accordance with the requirements of Clause 6.11 of the Sydney Local Environmental Plan 2012.

**(8) STAGE 2 DEVELOPMENT APPLICATION TO COMPLY WITH RELEVANT PLANNING CONTROLS**

- (a) Any Stage 2 development application must be designed to comply with the provisions of Sydney Local Environmental Plan 2012 (Sydney LEP 2012) and Sydney Development Control Plan 2012 (Sydney DCP 2012). In particular:

- (i) Section 4.2.1.2 of Sydney DCP 2012 Floor to ceiling heights and floor to floor heights.
- (b) The residential component of any Stage 2 development must be designed to comply with “State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development” (as amended), and the Apartment Design Guide (ADG).
- (c) A BASIX Certificate in accordance with the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 must be submitted with the relevant Stage 2 development application.

**(9) COMMUNAL FACILITIES AND COMMON OPEN SPACE**

The Stage 2 development application for Tower B is to include provision for communal facilities/common open space that is accessible to the residents of Tower A.

**(10) DESIGN EXCELLENCE AND COMPETITIVE DESIGN PROCESS**

A competitive design process in accordance with the provisions of Sydney Local Environmental Plan 2012 shall be carried out for Tower B and:

- (a) Conducted prior to lodgement of a Stage 2 development application;
- (b) Conducted in accordance with the approved Design Excellence Strategy prepared by Urbis, dated November 2015; and
- (c) The detailed design of the development must exhibit design excellence.

The design brief for the competitive design process shall incorporate the following requirements:

- (d) The design for Tower B needs to respond in a way that achieves the same or improved built form and public domain outcomes as the 2009 design competition and 2013 approval (D/2010/2029).
- (e) The integration of public domain elements to ensure a cohesive public domain approach. The public domain between the two buildings needs to be maintained and enhanced with regard to the geometry, alignment and visibility that was achieved in the previous 2009 design and 2013 approval.
- (f) A focus on the integration of art and architecture. Competition participants should provide a description of what successful artistic/architectural/curatorial collaboration would look like and a methodology for achieving this integration.
- (g) The design of vehicle access to the basement and any set-down and pick-up zone required to service the hotel. It is recommended that competition participants consult with the CBD Coordination Office, CBD and South East Light Rail Project Team and the City of Sydney during the design phase to ensure that transport interface issues along Pitt Street adequately consider relevant transport projects in the vicinity of the site.



- (h) The requirements, as outlined in Condition **(36) SYDNEY TRAIN CONDITIONS**.

**(11) PUBLIC ART**

- (a) A Public Art Strategy is to be developed for the site/development in accordance with the Sydney Development Control Plan 2012 and the City of Sydney Public Art Policy. This Strategy shall form part of the documentation lodged with the future relevant Stage 2 development application.
- (b) The requirement to accommodate public art as part of the redevelopment of the site must form part of the competitive design process brief and the nominated location should be included as part of the future relevant Stage 2 development application.
- (c) All public art required under this condition is in addition to the public art contribution required under the Voluntary Planning Agreement entered into in accordance with Deferred Commencement Condition **(1) VOLUNTARY PLANNING AGREEMENT**.

**(12) PUBLIC DOMAIN PLAN**

A Public Domain Plan must be prepared by a suitably qualified architect, urban designer, landscape architect or engineer and must be lodged with any Stage 2 development application for the site. The Public Domain Plan must be submitted with a completed Public Domain Plan checklist (available in the City of Sydney's Public Domain Manual).

**(13) PUBLIC DOMAIN DAMAGE DEPOSIT**

A Public Domain Damage Deposit calculated on the basis of 150 lineal metres of stone 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.

**(14) PUBLIC DOMAIN LIGHTING**

- (a) 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 Council with the relevant Stage 2 development application. The Lighting Plan must be prepared in accordance with the City of Sydney's Interim Draft Sydney Lights Design Code, Sydney Streets 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.

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

- (a) Concept 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 Council with the relevant Stage 2 development application.
- (b) The requirements of Sydney Water with regard to the onsite detention of stormwater must be ascertained and complied with. Evidence of the approval of Sydney Water to the on-site detention must be submitted to Council with the relevant Stage 2 development application.
- (c) A concept stormwater quality assessment must be undertaken and submitted to Council with the relevant Stage 2 development application.

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%.

**(16) WIND ASSESSMENT**

- (a) Prior to the lodgement of any Stage 2 development application, the detailed design shall be subject to wind tunnel testing to ascertain the impacts of the development on the wind environment and condition within the publicly accessible pedestrian space, the surrounding streets and neighbouring buildings, communal external areas within the subject development and private open space.
- (b) Any recommendations of the wind tunnel testing required by (a) above, shall be incorporated into the final detailed design lodged as a Stage 2 development application.

**(17) ACID SULFATE SOILS MANAGEMENT PLAN**

An Acid Sulfate Soils Management Plan is to be submitted with the relevant Stage 2 development application.

**(18) CONTAMINATION – DETAILED ENVIRONMENTAL SITE ASSESSMENT**

- (a) A Detailed Environmental Site Assessment must be submitted for approval with the relevant Stage 2 development application. The Detailed Environmental Site Assessment must be carried out in accordance with the NSW EPA Contaminated Site guidelines, certifying that the site is suitable (or will be suitable, after remediation) for the proposed use.

Note: Where the Detailed Environmental Site Assessment states the site is suitable for the proposed use, it is to be peer reviewed by a NSW EPA accredited site auditor and a Site Audit Statement submitted to Council prior to granting any consent, certifying that the site is suitable for the proposed use.

- (b) Where the Detailed Environmental Site Assessment states that a Remediation Action Plan (RAP) is to be undertaken, the RAP is to be peer reviewed by a NSW EPA Accredited Site Auditor and include a statement certifying that the RAP is practical and the site will be suitable after remediation for the proposed use before scheduled conditions of consent can be activated.
- (c) The RAP and NSW EPA Accredited Site Auditors review and statement must be submitted to Council's Health and Building Unit for review and written approval before a schedule of conditions of consent can be activated.

**(19) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES**

The building(s) proposed in any Stage 2 development application must be designed and constructed to provide access and facilities for people with a disability in accordance with the Building Code of Australia.

**(20) WASTE MANAGEMENT FACILITIES**

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

- (a) clearance height for access by collection vehicle must be no less than 3.8m at any point if vehicle is required to enter site to service bins;
- (b) waste vehicles must be capable of entering and exiting in a forward direction; and
- (c) the applicant must submit a swept path analysis as part of the detailed design stage showing all the roads can be serviced by a standard Council garbage vehicle. These plans must be submitted with the relevant Stage 2 development application.

**(21) SITE LANDSCAPING**

Detailed landscape plans are to be submitted with any future Stage 2 development application.

**(22) ACOUSTIC REPORT**

The relevant Stage 2 development application is to be accompanied by an acoustic report prepared by a suitably qualified acoustic consultant (see note) which demonstrates that the development will be capable of achieving adequate levels of acoustic amenity for future occupants.

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 Australian Association of Acoustic Consultants.

**(23) DEMOLITION, EXCAVATION AND CONSTRUCTION NOISE MANAGEMENT PLAN**

A site specific noise management plan must be prepared and submitted with the relevant Stage 2 development application.

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

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

- (a) Identification of noise sensitive receivers near to the site.

- (b) A prediction as to the level of noise impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite. A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the City of Sydney Construction Hours /Noise Code of Practice 1992 for the typical construction hours of 07.00am to 7.00pm. Where resultant site noise levels are likely to be in exceedance of this noise criteria, then a suitable proposal must be given as to the duration and frequency of respite periods that will be afforded to the occupiers of neighbouring property.
- (c) A representative background noise measurement (LA90, 15min) should be submitted, assessed in the vicinity of any potentially affected receiver locations and measured in accordance with AS 1055:1.2.1997.
- (d) Confirmation of the level of community consultation that has, is and will be undertaken with Building Managers/occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery during construction works.
- (e) Confirmation of noise monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria contained within the City's Construction Noise Code.
- (f) What course of action will be undertaken following receipt of a complaint concerning offensive noise.
- (g) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring noise sensitive property to a minimum.
- (h) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

Note: Monitoring data must be conducted in full accordance with the NSW EPA Industrial Noise Policy to include 7 days non-weather affected data for a residential use and not more than the permitted number of excluded events.

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

The applicant is advised that approval of any future Stage 2 development application will require the submission and approval of a Construction Traffic Management Plan prior to the issue of a Construction Certificate. The Construction Traffic Management Plan is to detail construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control.

**(25) TRANSPORT IMPACT ASSESSMENT**

A detailed Transport Impact Study must be prepared in accordance with the provisions of Section 7.4 of the Sydney Development Control Plan 2012 and shall be submitted with any Stage 2 development application.

**(26) CAR PARKING SPACES AND DIMENSIONS**

- (a) The permissible number of car parking spaces is to be established as part of the relevant future Stage 2 development application.
- (b) The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities.

**(27) SERVICE VEHICLES**

As part of the relevant Stage 2 development application, adequate spaces must be provided to allow manoeuvring and turning of different sized vehicles. The design, layout, signage, line marking, lighting and physical controls for all service vehicles must comply with the minimum requirements of Australian Standard AS 2890.2 – 2002 Off- Street Parking Part 2: Commercial vehicle facilities.

The relevant Stage 2 development application must include a swept path assessment for the largest vehicle to access the proposed servicing area.

**(28) LOADING WITHIN SITE**

The relevant Stage 2 development application is to demonstrate that all loading and unloading operations associated with servicing the site can be carried out within the confines of the site at all times, and must not obstruct other properties / unit or the public way.

**(29) VEHICLES TO ENTER AND LEAVE SITE IN A FORWARD DIRECTION**

The relevant Stage 2 development application is to demonstrate that development on the site has been configured to allow all vehicles to be driven onto and off the site in a forward direction.

**(30) CAR SHARE SPACES**

The relevant Stage 2 development application is to make provision for car share spaces in accordance with Sydney Development Control Plan 2012.

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

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

Details of the location, number and class of bicycle parking must be included in the relevant Stage 2 development application. Bicycle parking for residents and employees is to be provided in the uppermost basement parking level. Class 2 facilities, or a combination of Class 1 and Class 2 facilities, are considered acceptable for residents. Employee bicycle parking is to be provided in close proximity to end-of-trip facilities. All visitor bicycle parking is to be provided at-grade in an easily accessible and visible location.

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

**(32) CONSULTATION WITH THE CBD COORDINATION OFFICE, CBD AND SOUTH EAST LIGHT RAIL PROJECT TEAM AND THE CITY OF SYDNEY**

The applicant is to consult with the CBD Coordination Office, CBD and South East Light Rail Project Team and the City of Sydney to ensure that the traffic / transport interface issues along Pitt Street are addressed prior to the lodgement of the relevant Stage 2 development application. The relevant Stage 2 development application will need to consider the CBD and South East Light Rail project, City Access Plan, Sydney City Centre Bus Plan, and other committed major redevelopments in the vicinity of the subject site.

**(33) CONSULTATION WITH ADJOINING PROPERTY OWNERS – SHARED BASEMENT AND ACCESS**

Prior to the lodgement of the relevant Stage 2 development application, the applicant is to investigate the potential to integrate the proposed basement and associated vehicle access from Pitt Street with adjoining properties. Investigations are to include consultation with adjoining property owners.

**(34) CENTRAL SYDNEY TRAFFIC AND TRANSPORT COMMITTEE (CSTTC)**

Any relevant Stage 2 development application relating to Tower B and/or the basement on the site is to include a brief assessment in line with the CSTTC assessment criteria, which includes the following:

- (a) impact on the road network;
- (b) future economic welfare and development of Sydney and the State;
- (c) efficient functioning of businesses in the whole or any part of the Sydney CBD;
- (d) maintenance of access for freight within the whole or any part of the Sydney CBD;
- (e) efficiency and traffic safety of the public transport network in the Sydney CBD; and
- (f) needs of commuters, residents, pedestrians and visitors in the whole or any part of the Sydney CBD.

**(35) TRANSPORT FOR NSW CONDITIONS****Construction Pedestrian and Traffic Management Plan**

- (a) Prior to the commencement of any works on the Site, a Construction Pedestrian and Traffic Management Plan prepared by a suitably qualified person shall be submitted to the Principal Certifying Authority (PCA). The Plan must be prepared in consultation with the CBD Coordination Office within TfNSW. The Plan shall address, but not be limited to, the following matters:
- (i) Details of construction activities and timing of these activities;
  - (ii) Ingress and egress of vehicles to the Site;
  - (iii) Construction programme;
  - (iv) The staging of works and simultaneous construction with other projects including Sydney Light Rail project in the Circular Quay and Wynyard Precincts;
  - (v) Predicted construction traffic movements, types and routes;
  - (vi) Construction impacts on the road network, bus operation, bus stops and the safety of pedestrians/cyclists; and
  - (vii) Pedestrian and traffic management measures.

The applicant shall submit a copy of the final Plan to the CBD Coordination Office within TfNSW for endorsement, prior to the commencement of work.

**Sydney Rail Light Project**

- (b) The applicant shall design and construct the development in accordance with the 'Development Near Rail Corridors and Busy Roads – Interim Guideline' (2008) prepared by the Department of Planning and Environment. This guideline includes requirements for excavation within proximity to rail lines, safety and other requirements to be incorporated into design.

**(36) SYDNEY TRAINS CONDITIONS**

- (a) The owners of the site are required to consult with TfNSW and Sydney Trains prior to lodgement of relevant designs as part of any Design Competition under the relevant provisions of the Sydney Local Environmental Plan 2012 and lodgement of a Stage 2 development application(s) to ensure that the relevant designs have taken into consideration the relationship with the of the designs with the future CBD Rail Link (CBDRL).
- (b) Any Stage 2 development application(s) over the site must address the following matters:
- (i) the design to satisfy conditions (c) to (f) 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 development for the future operation of railway tunnels in the vicinity of the approved development, especially in relation to noise, vibration, stray currents, electromagnetic fields and fire safety;
  - (iv) consultation with TfNSW and Sydney Trains;
  - (v) provision to TfNSW and Sydney Trains of drawings, reports and other information relating to the design development;
  - (vi) such matters which TfNSW and Sydney Trains considered are appropriate; and such other matters as the owners and TfNSW and Sydney Trains may agree;
  - (vii) a detailed acoustic assessment report;
  - (viii) a detailed report on the potential impacts of electro-magnetic stray currents.
- (c) The design of the basement levels, foundations and ground anchors for the approved development are to be completed to the satisfaction of TfNSW / Sydney Trains.
- (d) Undertake detailed geotechnical analysis to the satisfaction of TfNSW / Sydney Trains to demonstrate likely movement of the ground due to the future CBDRL.
- (e) No modifications may be made to the approved design without the consent of TfNSW / Sydney Trains.
- (f) A regime is to be prepared for consultation with, and approved by TfNSW / Sydney Trains 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.

### **(37) SYDNEY AIRPORT CONDITIONS**

- (a) The building (Tower A) must not exceed a maximum height of ~~191~~ **200** metres AHD, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lighting rods, any roof top garden planting, exhaust flues etc.
- (b) Separate approval must be sought under the Airports (Protection of Airspace) Regulations 1996 for any cranes required to construct buildings that exceed 51 metres AHD and penetrate prescribed airspace. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently may not be approved. Therefore it is advisable that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.

- (c) At the completion of the construction of the building, a certified surveyor is to notify (in writing) the airfield design manager of the finished height of the building.
- (d) Any future addition to the buildings height that increases the penetration of the OLS (including the installation of additional antennas) will require a separate assessment.

**(38) HERITAGE COUNCIL CONDITIONS**

- (a) Details of the proposed methodology for demolition, excavation and construction phases of the project must be provided as part of the relevant Stage 2 development application. Careful consideration of subsidence, vibration and structural instability must be incorporated into the construction and design. The methodology must ensure that there will be no disturbance to the Tank Stream.
- (b) A detailed historical archaeological assessment and research design must be prepared and submitted as part of the relevant Stage 2 development application in areas. This assessment should exclude the footprint of Goldfields House. It should be prepared by a suitably qualified historical archaeologist with experience in state significant archaeological sites. The assessment must be prepared to inform the design proposed for the relevant Stage 2 development application. Avoidance of harm must be considered in this design where state significant relics may be impacted by the proposed buildings. Design options and mitigation measures should be identified in a heritage impact statement supporting the relevant Stage 2 development application. This HIS should also demonstrate impact mitigation where harm cannot be avoided.
- (c) There is potential for Aboriginal objects to be present within the footprint of the Rugby Club, Fairfax House site and immediate surrounds. On this basis a Full Aboriginal Cultural Heritage Assessment Report with Community consultation in line with current OEH Guidelines must be prepared and submitted as part of the relevant Stage 2 development application if the Aboriginal Due Diligence Assessment undertaken for the site confirms that there is potential for 'Aboriginal objects' on this site. Avoidance of harm must be considered in this design where Aboriginal objects may be impacted by the proposed buildings. Design options and mitigation measures should be identified in a heritage impact statement supporting the relevant Stage 2 development application. This heritage impact statement should also demonstrate impact mitigation where harm cannot be avoided.
- (d) An interpretation strategy should be prepared and implemented as part of the relevant Stage 2 development application. The Interpretation Strategy must enhance public appreciation of the early history of the precinct, its maritime uses, and of the Tank Stream.

**(39) DEPARTMENT OF PRIMARY INDUSTRIES CONDITIONS**

- (a) A comprehensive investigation of the hydrogeological setting is to be undertaken during the preparation of and prior to the submission of the relevant Stage 2 development application.

- (b) It is noted that the option of having an on-going take of groundwater for the life of the building is to be considered.
- (c) At the time of Stage 2 site investigations, the Applicant is to establish and continuously monitor piezometers established around the perimeter of the site in the uppermost aquifer present at the site, with a view to accurately ascertaining the current groundwater conditions and variation. The accuracy and extent of the understandings developed will help inform the licensing of any on-going groundwater take. The assessment needs to consider any interaction with the Tank Stream and its present ability to provide enhanced drainage or effects on groundwater flow.

#### **(40) AUSGRID CONDITIONS**

- (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) In general, works to be considered by Ausgrid include, but are not limited to, the following:
  - (i) changes in electrical load requirements;
  - (ii) changes to Ausgrid's infrastructure (ie. asset relocations, decommissioning substations etc.);
  - (iii) works affecting Ausgrid's easements, leases and/ or right of ways;
  - (iv) changing the gradients of any roads or paths;
  - (v) changing the level of roads or foot paths;
  - (vi) widening or narrowing of roads;
  - (vii) closing roads or laneways to vehicles;
  - (viii) in all cases Ausgrid is to have 24 hour access to all its assets.
- (c) The developer is to ensure that the proposed works do not contravene Ausgrid's technical standards and statutory requirements, in regards to the safe and reliable operation and maintenance of Ausgrid's network.

#### **(41) SYDNEY WATER CONDITIONS**

- (a) Water, Drainage, Stormwater and Groundwater
  - (i) As per the Secretary's Environmental Assessment Requirements, issued 30 June 2015, the applicant will be required to provide an Integrated Water Management plan, Groundwater Monitoring Plan, Stormwater Concept Plan and information on potential augmentation of Sydney Water infrastructure.

- (ii) The Stage 2 development application should include an Integrated Water Management plan, Groundwater Monitoring Plan, Stormwater Concept Plan and information on potential augmentation of Sydney Water infrastructure. These documents should be referred to Sydney Water as part of the assessment of the Stage 2 Development Application.
- (b) Constructing a building adjacent to Sydney Water Stormwater assets
  - (i) Prior to the submission of a Stage 2 Development Application, suitable arrangements are to be made with Sydney Water for the accessibility and protection of the existing Sydney Water stormwater drain in Rugby Place / Crane Place.
  - (ii) Sydney Water advises that no building structure is to encroach laterally within 1m of the existing Sydney Water stormwater drain (unlimited depth and height) and this is to be clearly shown on future survey drawings. This is to comply with our Building Over/Adjacent to Sydney Water stormwater assets.
- (c) Discharge Stormwater Quality Targets
  - (i) Discharge stormwater quality targets should form part of the Stormwater Concept Plan for Stage 2 development application.
  - (ii) Detailed requirements will be provided at the Section 73 application phase.
- (d) Heritage
  - (i) The proposal is within close proximity of the Tank Stream, which is State Heritage listed on Sydney Water's Section 180 Register.
  - (ii) Sydney Water are satisfied that the proposal does not propose to develop within 3m of the Tank Stream, and that no connection is proposed to this asset.
  - (iii) Stage 2 of the development application should outline the methodology to ensure no adverse impacts to the Tank Stream during construction phase. The Stage 2 application should be referred to Sydney Water for subsequent review.
- (e) Water and wastewater
  - (i) The proposed development can connect to the 250mm water main in Pitt Street and 450mm wastewater main in Alfred Street.
  - (ii) Amplification of assets may be required to service the proposed development. This will be assessed at the Section 73 application phase after the development consent is obtained

**SCHEDULE 2****PRESCRIBED CONDITIONS**

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

- |            |  |
|------------|--|
| Clause 98  | Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989 |
| Clause 98A | Erection of signs  |
| Clause 98B | Notification of Home Building Act 1989 requirements  |
| Clause 98C | Conditions relating to entertainment venues  |
| Clause 98D | Conditions relating to maximum capacity signage  |
| Clause 98E | Conditions relating to shoring and adequacy of adjoining property                                      |

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

## BACKGROUND

### The Site

1. The site is located on the northern edge of the Sydney CBD. It is bound by Alfred Street to the north, Pitt Street to the east, Rugby Place to the south and George Street to the west. It forms the northern portion of the Alfred, Pitt, Dalley and George (APDG) block. The amalgamated site incorporates the properties in **Table 1** below and is illustrated in **Figure 1**.

**Table 1:** Site address and legal description

Site	Site Address	Legal Description	Site Area
'Goldfields House'	1 Alfred Street	Lot 1 DP 217877 Lot 1 DP 220830	2,686sqm
'Fairfax House'	19 – 31 Pitt Street	Lot 1 DP 537286	916.5sqm
'The Rugby Club' and Rugby Lane reserve	31A Pitt Street	Lot 180 DP 606866	437.5sqm

2. The site is irregular in shape and has a total site area of 4,040sqm. The site has an approximate 58.825m frontage to Alfred Street, 49.18m frontage to Pitt Street, 14.475m frontage to George Street and 25.83m frontage to Rugby Place.
3. The site contains three buildings. These include;
  - (a) Goldfields House (1 Alfred Street) – 26 storey commercial office tower with retail spaces at ground level, completed 1966 (**Figure 2**);
  - (b) Fairfax House (19 – 31 Pitt Street) – 13 storey commercial office tower with retail spaces at ground level, constructed 1970 (**Figure 3**); and
  - (c) The Rugby Club (31A Pitt Street) – 6 storey converted commercial office building with restaurant and function spaces at ground level (**Figure 4**).
4. **Figures 1 to 4** over page illustrate the context of the site and the existing built form.

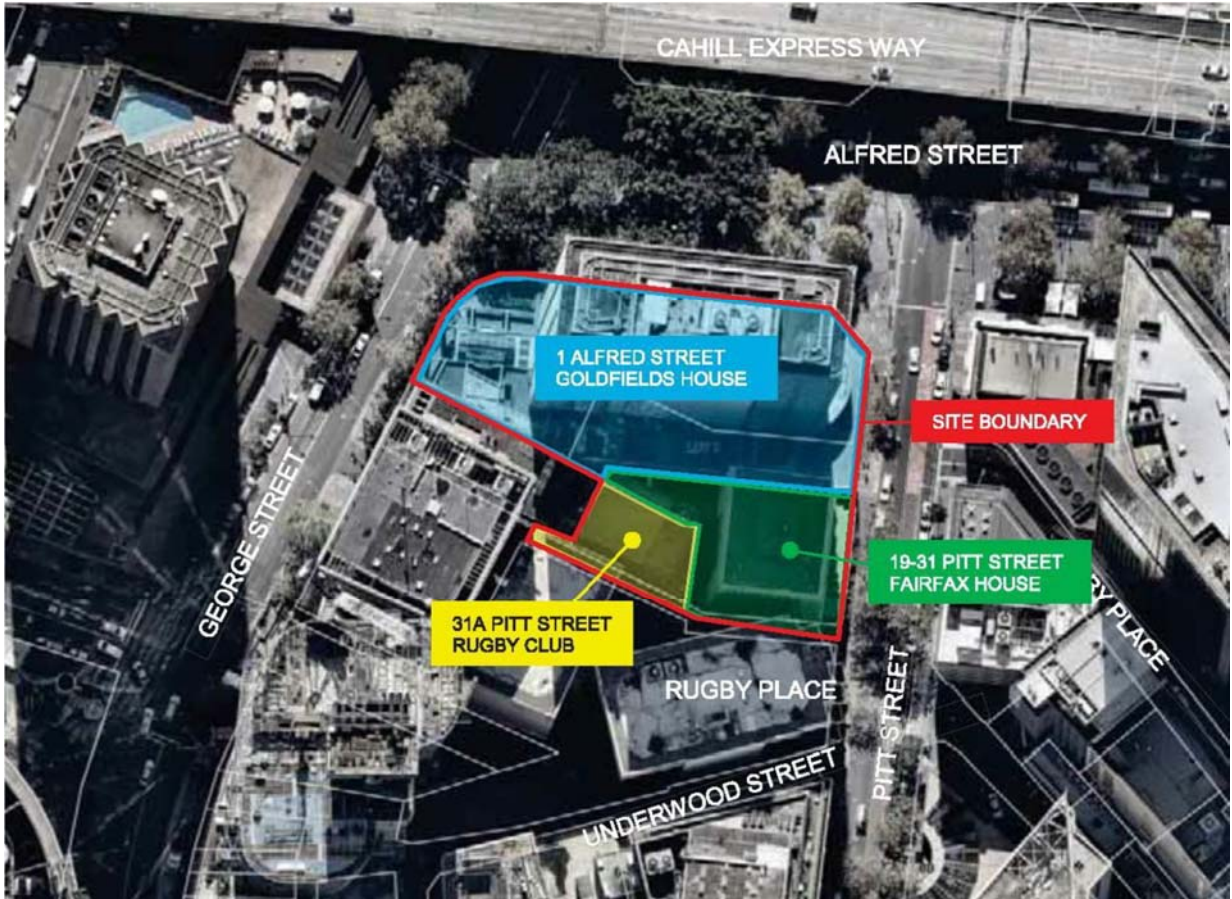


Figure 1: Aerial image of subject site and surrounding area (Source: Urbis)



Figure 2: 1 Alfred Street, Goldfields House, viewed from north (left) and west (right)  
(Source: Urbis)





**Figure 3:** 19 – 31 Pitt Street, Fairfax House, viewed from Pitt Street (left) and pedestrian access from Pitt Street (right) (Source: Urbis)



**Figure 4:** 31A Pitt Street, Rugby Club, viewed from Rugby Place (both) (Source: Urbis)



## Surrounding Development

### *North*

5. To the immediate north of the site are Herald Square and Alfred Street. Herald Square includes the Tank Stream Fountain, a local heritage item. Herald Square incorporates areas for outdoor dining and includes public seating. Further north of Alfred Street is the City Circle Railway line, the Cahill Express Way and Circular Quay.

### *East*

6. To the immediate east of the site is Pitt Street, which acts as a primary arterial road having north-south orientation. The heritage listed Tank Stream runs underground, parallel and adjacent to, the eastern boundary of the site. The location of the Tank Stream varies between 110mm and 175mm from the boundary and is located approximately 1m from the existing basement level wall.
7. Further to the east of the site, across Pitt Street, is the heritage listed Ship Inn building. The Ship Inn is physically connected to the high rise 'Gateway' building, being a 50 storey commercial office tower with a retail centre at the lower levels. Alfred Street also includes Customs House and the existing AMP Tower at 33 Alfred Street.

### *South*

8. To the immediate south of the site is Rugby Place. Rugby Place acts as an access way for the loading dock provided to the rear of 1 Alfred Street.
9. South of Rugby Place is 33 – 35 Pitt Street, known as The Atrium and 182 George Street, also known as the St George building. The Atrium is a 12 storey commercial office building. The St George building is a 16 storey commercial office building with a St George Bank branch and other retail tenancies at ground floor level. A Planning Proposal and DCP Amendment submitted by Lend Lease is being considered by Council for redevelopment of this site.

The Planning Proposal, which was approved by the Central Sydney Planning Committee (CSPC) at its meeting on 25 June 2015 for submission to the Minister for Planning, proposed a 220m commercial tower on the site. The gateway determination was received 18 August 2015, with the Planning Proposal placed on exhibition between 15 May 2016 and 15 June 2016. The proposed building height has been revised to 248 metres and is currently under review by Council officers.

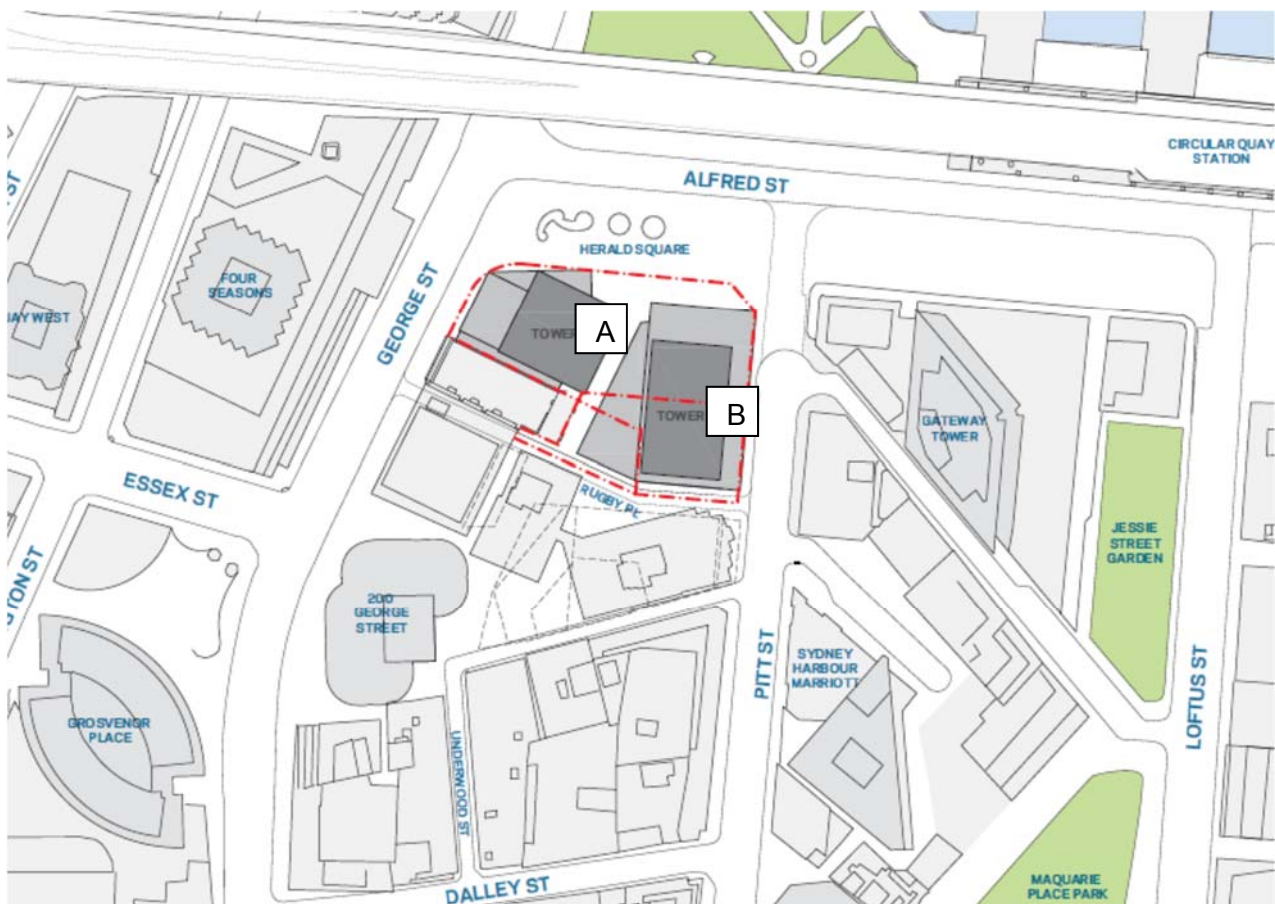
10. Further to the south is 200 George Street, a recently completed Mirvac development. The building is 150m in height, equal to 37 storeys, with retail areas fronting George Street and Underwood Street.

### *West*

11. To the immediate west of the site is George Street which acts as a primary arterial road and main thoroughfare connecting Circular Quay to the Central CBD. Further to the west is the Four Seasons Hotel and Quay West. Grosvenor Place is also located further east and is a 46 storey commercial office building.

**HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION****Stage 1 Development Application – D/2015/1049 (SSD 15\_7101)**

12. A Stage 1 State Significant Development Application (D/2015/1049) for the subject site was granted consent by the Central Sydney Planning Committee (CSPC) on 10 December 2015. The Stage 1 was granted consent to the following:
- (a) in-principle approval for demolition of the three existing buildings on site;
  - (b) building envelopes and indicative future land uses for two towers referred to as Tower A and Tower B;
    - (i) Tower A comprising mixed use (residential and retail) building with a maximum height of 185m / RL 191;
    - (ii) Tower B comprising a mixed use (hotel and retail) building with a maximum height of 110m / RL 112.5; and
  - (c) six level basement car park across the site.
13. **Figures 5** below illustrates the approved envelopes for Tower A and Tower B on the site



**Figure 5:** Approved envelopes of Tower A and Tower B within Wanda One Sydney site  
(Source: Urbis)

**Stage 2 - Tower A Development Application (D/2015/882)**

14. The Stage 2 Development Application was granted consent concurrently with the Stage 1 SSD application (D/2015/1049) by the CSPC on 10 December 2015. The Stage 2 was granted consent to the following:
- (a) Demolition of Goldfields House;
  - (b) Excision of Tower B and the basement car park from the Stage 2 development previously approved for the site; and
  - (c) Construction of a single tower 57 storeys in height containing 184 apartments, retail space and landscaping known as 'Tower A'.

**PROPOSAL**

15. The subject Section 96(2) seeks to vary the maximum height of Tower A and minor amendments to the building envelope as follows:
- (a) increase to building height of Tower A from RL 191 (185 metres) to RL 200 (194 metres);
  - (b) two additional storeys in the upper most levels of Tower A (Level 58 & 59);
  - (c) Improved floor-to-floor heights of 3420mm from Level 47 through 58;
  - (d) Modifications to the indicative floor plate layout; and
  - (e) Redistribution of GFA across the site.
16. Condition (3) of D/2015/1049, 'Matters not approved in Stage 1 development consent', precludes the approval of items (b) to (e) in clause 15. above. These aspects of the proposal will form part of the detailed Stage 2 design and any subsequent amendments.

**CITY OF SYDNEY ACT 1988**

17. Section 51N requires the Central Sydney Planning Committee (the Planning Committee) to consult with the Central Sydney Traffic and Transport Committee (CSTTC) before it determines that a proposed development application 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.
18. The proposed modification does not have any altered impact on traffic or transport in the Sydney CBD beyond that assessed in the original Stage 1 Development Application. In assessment of that application, it was determined that consultation with the CSTTC was not necessary at Stage 1.

**THRESHOLD TEST**

19. The development, as proposed to be modified, is considered to be substantially the same as that originally approved.

## ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

20. Besides the matters discussed in this report, the assessment against the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, contained in the report to the CSPC at its meeting on 10 December 2015 are still relevant.

## ISSUES

### Building Height

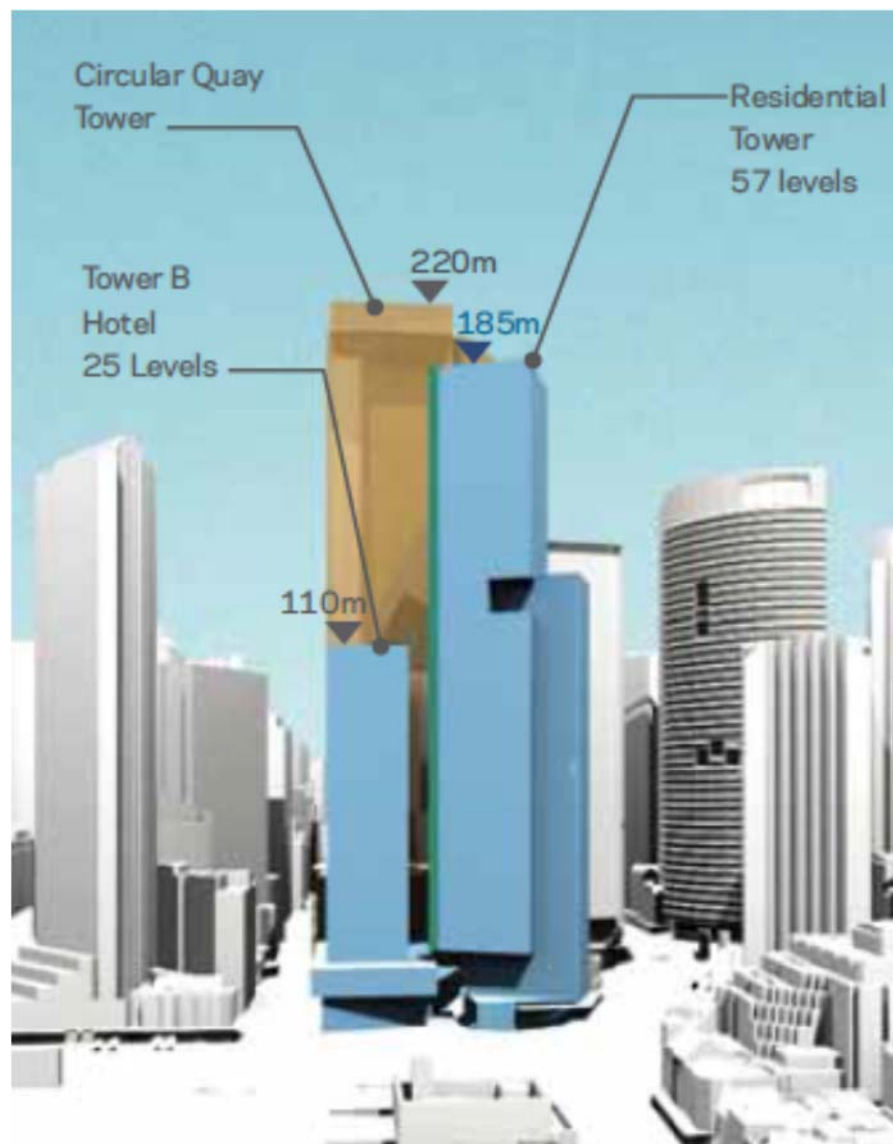
21. The approved building height of Tower A is RL 191 (185 metres). The subject Section 96(2) modification seeks to increase the approved building height by 9m to RL 200 (194 metres). No amendments to floor space ratio (FSR), floor plates, building separation or setbacks are proposed.
22. **Figure 6** below provides a comparison of the approved and proposed envelopes.



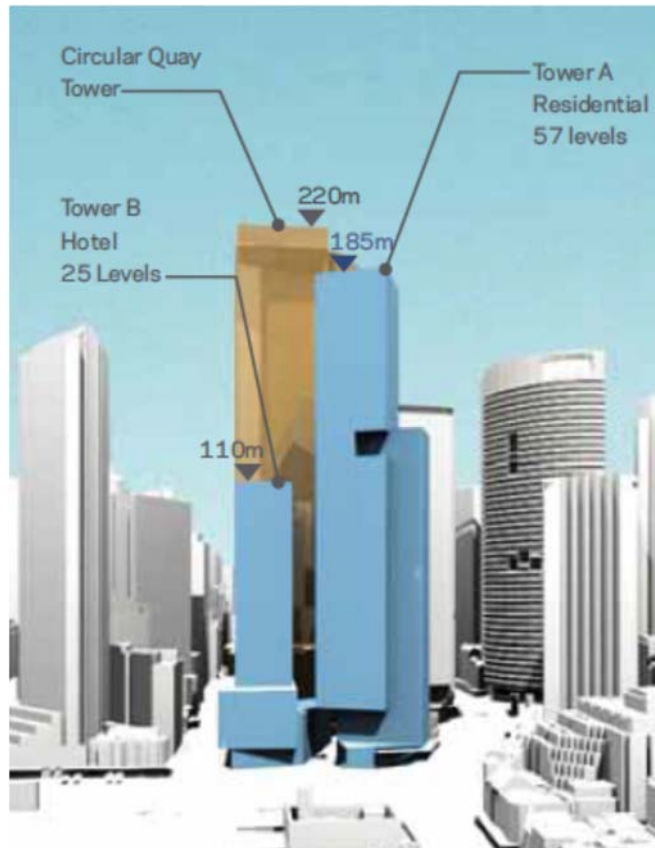
**Figure 6:** Tower A envelope with 900mm eastern extension (left) v. Tower A envelope as approved by D/2015/1049 (right) (Source: Urbis)

23. The site is identified in SLEP 2012 Height of Buildings Maps as 'AC' which permits a maximum building height of 110m. Clause 6.25(3) of SLEP 2012 allows for additional building heights beyond the base 110m control within parts of the APDG block, which includes the subject site (referred to as block 3). Specifically, Clause 6.25 provides that development consent may be granted to the erection of a building up to 185m on up to 24% of the area of block 3.

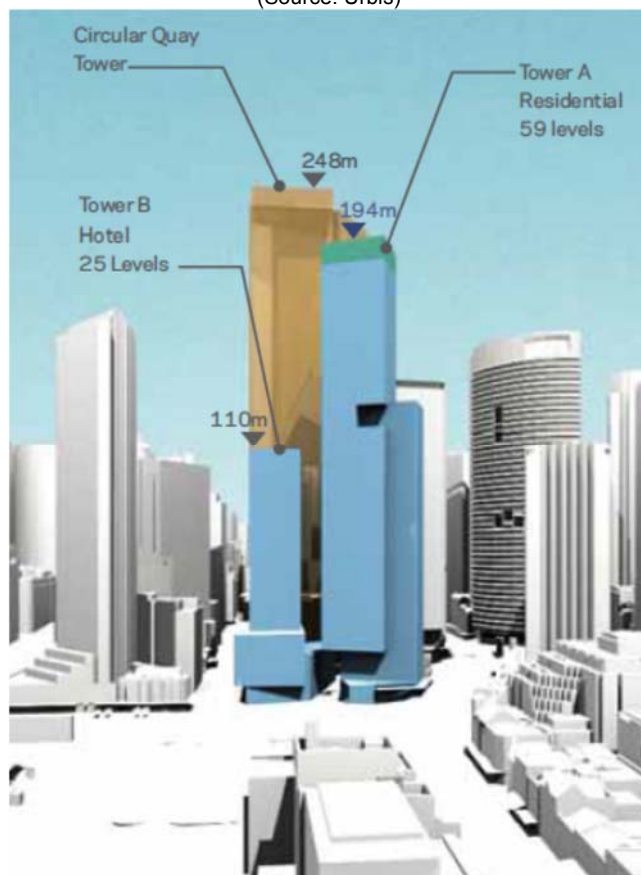
24. It is noted the Stage 1 SSD application sought consent for building envelopes only, with no consent sought for, or provided to the floor plate of Tower A. As such, compliance with the floor plate provisions of Clause 6.25 is not a matter for consideration in this Section 96(2) application. However, it shall be assessed under the concurrent Stage 2 Section 96 application D/2015/882/A.
25. Notwithstanding the above, the proposed modifications make no change to the approved building footprint of Tower A, which represents 26.5% of the 1 Alfred Street site area.
26. In proposing additional height to Tower A, the Applicant intends to utilise residual GFA for the site resulting from deletion of a 900mm extension that was sought at the eastern side of Tower A in the original SSD Stage 1 consent. This GFA is proposed to be transferred to the top of Tower A and distributed across two additional levels. **Figure 7, 8 and 9** below demonstrate this proposed shift in GFA.



**Figure 7:** Tower A envelope with 900mm eastern extension as initially proposed under D/2015/1049 (Source: Urbis)



**Figure 8:** Tower A envelope as approved by D/2015/1049 with deletion of 900mm eastern extension (Source: Urbis)



**Figure 9:** Proposed Tower A envelope subject of this Section 96(2) application (Source: Urbis)



27. As the proposed building height does not numerically comply with the development standard identified in Clause 4.3, the applicant has submitted a request under Clause 4.6 to vary the development standard by 4.86%. However, as the subject application is a Section 96 modification, the provisions of Clause 4.6 are not applicable (it being applicable to development applications).
28. Despite this, detailed consideration has been given to the potential impacts of the variation to the development standard and the objectives of the building height development standard. A detailed assessment is provided.

#### *Visual Impacts*

29. The site is located in a prominent location at the northwest end of Circular Quay. Given the building will alter the CBD skyline, a visual analysis was undertaken by the proponent considering the additional height from key public locations and vantage points around the city. The analysis further assessed the potential view loss from buildings in vicinity to the subject site. These buildings were chosen due to objections raised during exhibition of the original Stage 1 SSD application, their sensitive land use or orientation toward Circular Quay.
30. The visual analysis provided a comparison of the approved and proposed building envelopes only. The findings resulting from Council's review are detailed below. It should be noted that impacts upon residential and commercial properties have been made with regard to the view sharing principles established in *Tenacity Consulting v Warringah Council [2004] NSWLEC 140*. Although these relate to residential properties, Council officers have applied the principles as a guideline for commercial properties in the absence of such.
  - (a) When viewed against the prominent base height at the Circular Quay waterfront, the proposed building envelope is appropriately sited within the skyline at a height commensurate or transitional to other visible towers including the existing and approved AMP tower, Four Seasons Hotel, Grosvenor Place, Barangaroo and various towers at the east of the city.

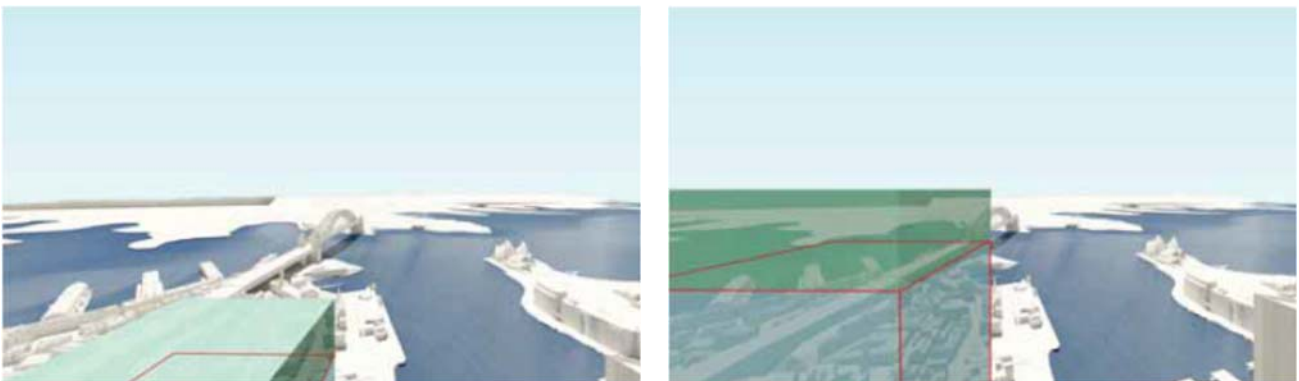


**Figure 10:** View of skyline looking south toward CBD (addition in green) (Source: Urbis)



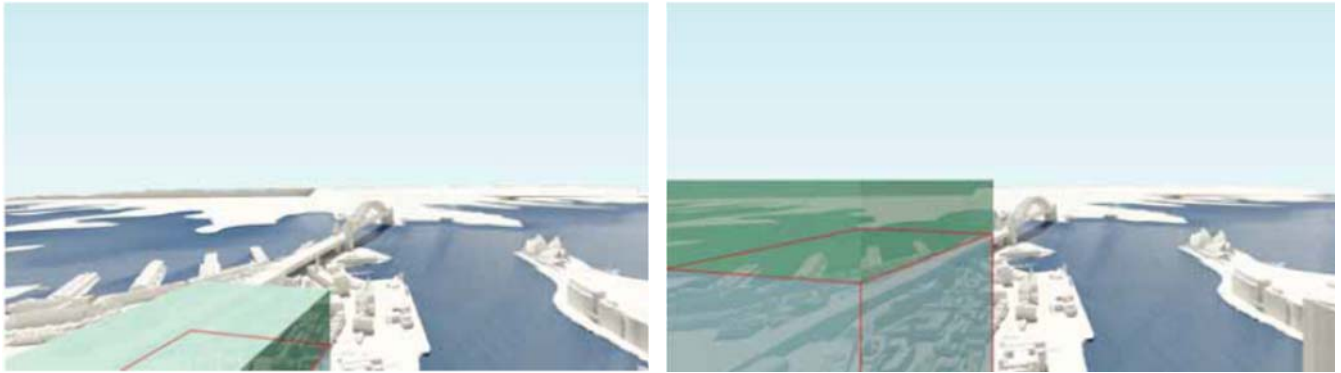
**Figure 11:** View of skyline looking southwest toward CBD (addition in green) (Source: Urbis)

- (b) The proposed amendment to building height will have a negligible impact on public open spaces or key streets within proximity of the site. When viewed from these locations, the additional height of 9m will be imperceptible and not obscure important public domain views.
- (c) The increase in height will result in moderate view loss from the northwest aspect of Circular Quay Tower between RL 191 and RL 220. This represents two storeys within the indicative building envelope (yet to be approved). The extent of view loss is indicated in **Figure 12** and **13**. It includes part of the Harbour Bridge. The tower will, however, retain iconic views of the Opera House with visibility to the Harbour and sky view. In this regard, the proposal allows for an appropriate level of view sharing.



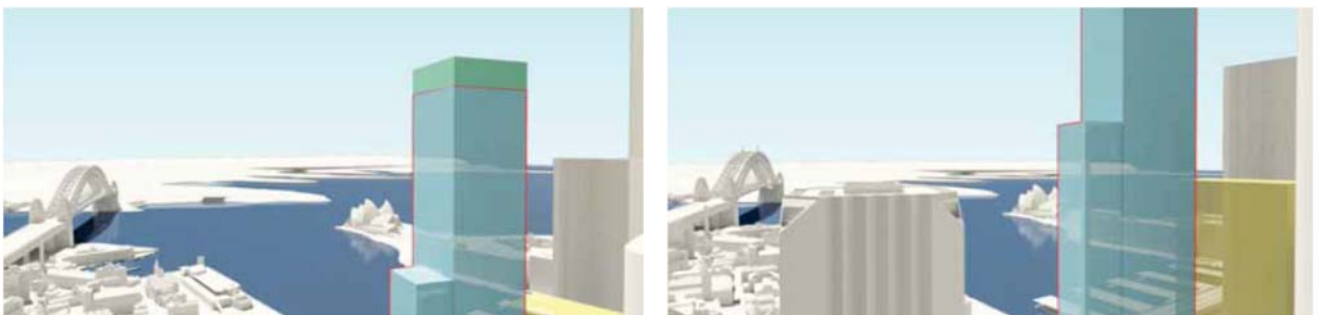
**Figure 12:** View of skyline from Circular Quay Tower at RL 220 (L) and RL 200(R) (Source: Urbis)



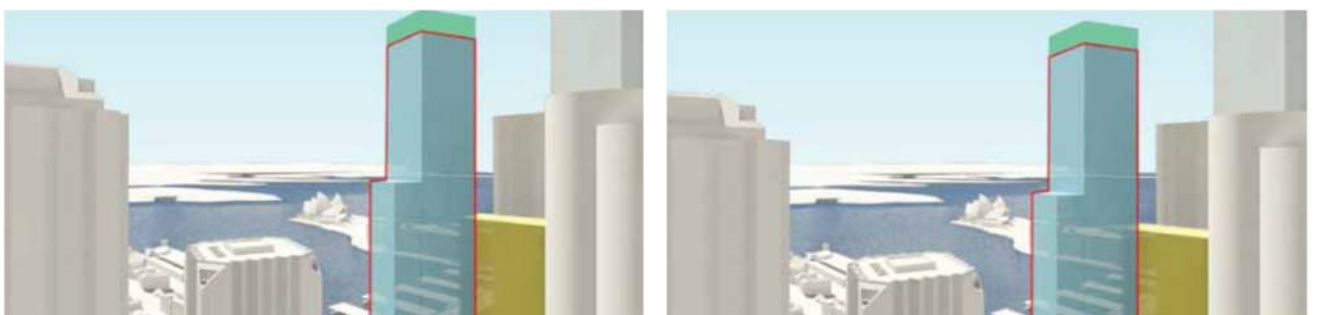


**Figure 13:** Alternative view of skyline from Circular Quay Tower at RL 220 (L) and RL 200(R)

- (d) The approved height of Tower A at 185m exceeds the maximum height of 200 George, being 150m including plant. Accordingly, no further impact to the view corridor will occur as a result of the proposal.
- (e) The additional height will have no impact upon views from Grosvenor Tower or The Cove Apartments toward the northeast aspect. However, will cause minor loss of sky view. As illustrated in **Figure 14** and **15** over page, this loss is negligible and will be indiscernible to building occupants.



**Figure 14:** View of skyline from Grosvenor Tower at RL 160 (L) and RL 120 (R) (Source: Urbis)



**Figure 15:** View of skyline from The Cove Apartments at RL 140 (L) and RL 145 (R) (Source: Urbis)

#### *Sun Access Plane and Overshadowing*

31. Clause 6.19 of SLEP 2012 states that development consent must not be granted to development resulting in additional overshadowing at any time between 14 April and 31 August, on Macquarie Place between 10.00am and 2.00pm. Whilst the site is not identified as land that is affected by Sun Access Planes, it is located in close proximity to Macquarie Place, which is located at the intersection of Bridge and Loftus Streets.

32. The application includes detailed shadow diagrams which are contained in **Attachment B**. These diagrams demonstrate that the proposal does not result in any additional overshadowing to Macquarie Place during the specified time.
33. A review of the submitted shadow diagrams was undertaken to assess whether the proposal would have any overshadowing impact on surrounding residential properties. The assessment found that the proposed increase in height does not result in any solar access loss on surrounding residential properties. It is noted that overshadowing to commercial properties is not a matter for consideration when assessing overshadowing and solar access impacts. Nonetheless, the diagrams indicate minimal impact to surrounding commercial development.
34. The shadow diagram analysis assesses the potential impact of the proposal against that of the previously approved built form. The City's review of the shadow diagrams indicate the following:
- (a) the proposed increase to the building height of Tower A will not impact upon any residential development within proximity to the development;
  - (b) minor overshadowing will occur to the rooftops of surrounding commercial buildings. However, will not result in any material impacts to building occupants;
  - (c) slight overshadowing will occur to the following roads and public spaces:
    - (i) Essex Street at 10.00am on summer solstice (21 December);
    - (ii) Corner of Loftus Street and Alfred Street at 3.00pm on summer solstice;
    - (iii) Abercrombie Lane at 11.00am on winter solstice (21 June);
    - (iv) Tank Stream Way at 12.00pm on winter solstice; and
    - (v) A 3% increase in overshadowing of the proposed George Street Public Plaza between 11.00am and 11.40am on summer solstice;
  - (d) despite the above findings, the tall and slender form of Tower A will cast a narrow shadow that moves rapidly throughout the day. As such, any overshadowing caused by the additional height of Tower A will linger no more than an hour at each of the affected locations; and
  - (e) it is noted that the shadow diagrams submitted for Grosvenor Place were superseded on 22 July 2016 due to a minor error. The corrected diagrams indicate no additional overshadowing upon Grosvenor Place or piazza.
35. On balance, it is not considered that the proposal will result in unreasonable impact upon solar access to surrounding properties or public domain spaces.

#### *Wind Impacts*

36. A Wind Impact Report was prepared by the proponent to assess the potential impacts of the proposed modification. The report found the change in massing is likely to increase the local wind speeds along George Street. However, would remain suitable for pedestrian walking and comfort.

37. Notwithstanding the above, the wind conditions are an improvement upon existing conditions subject to suitable amelioration measures. It is envisaged this will be better resolved in the Stage 2 detailed design.

#### *Summary of Findings*

38. A variation to the development standard under Clause 4.3, Height of Buildings within the Sydney Local Environmental Plan 2012 is supported for the reasons outlined below:
- (a) the proposed development is able to accommodate additional height above the numerical control having regard to the condition of the site and its context within the Circular Quay Precinct and APDG Block;
  - (b) compliance with the development standard will not result in a perceptible difference in building bulk, scale or intensity when viewed from the public domain or in the context of the city skyline;
  - (c) the proposed built form does not result in any unreasonable additional environmental effects such as significant loss of views, privacy or sunlight from any surrounding residential property, commercial tower or public place; and
  - (d) notwithstanding the non-compliance with the development standard, the proposal complies with the relevant planning controls and principles including the B8 – Metropolitan Centre zone objectives.

#### **Voluntary Planning Agreement**

39. A public benefit offer was agreed between the Applicant and Council as part of the Stage 1 SSD approval D/2015/1049. No modification is sought to the Voluntary Planning Agreement as a result of the subject Section 96 application.

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

40. 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**

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

#### **INTERNAL REFERRALS**

42. The conditions of other sections of Council have been included in the proposed conditions.

#### **EXTERNAL REFERRALS**

43. The application was re-referred to the following public authorities. No objection was raised to the proposed modification:
- (a) Foreshore and Waterways Development Advisory Committee;

- (b) Office of Environment and Heritage;
- (c) Roads and Maritime Services;
- (d) Sydney Airports – Amended approval granted;
- (e) Sydney Trains;
- (f) Sydney Water and
- (g) Transport for NSW.

### Notification, Advertising and Delegation

44. In accordance with Schedule 1 the Sydney DCP 2012, the proposed development is required to be notified. As such, the application was notified for a period of 14 days between 4 May 2016 and 19 May 2016. As a result of this notification four submissions were received, one in support of the application. The subject of the three objections are detailed below:

- (a) The proposal does not comply with the SLEP 2012 in relation to the maximum height. The building is already too high and is against all planning principles and community interests.

**Response** – See discussion under ‘Building Height’.

- (b) Justification for additional building height on the basis of achieving maximum FSR is not a reasonable argument:

**Response** – FSR has not been considered in determining the suitability of the proposed modification on the subject site.

- (c) The height variation in both the Stage 1 and Stage 2 Section 96(2) applications undermine the competitive design process;

**Response** – The competitive design process applies to the Stage 2 application D/2015/882.

- (d) The view analysis completed for Grosvenor Place is incorrect. The proposed height, bulk and scale will have further adverse impacts on Grosvenor Place, contrary to the SLEP 2012;

**Response** – As discussed within the submission, Grosvenor Place comprises 44 levels, with Level 44 located at RL 172 (RL 173.5 at standing eye level). The subject site as approved is at RL 191. Therefore, with the exception of sky view loss, the proposal at RL 200 is unlikely to have any further impacts upon Grosvenor Place at RL 173.5.

- (e) The Clause 4.6 variation to height is not well founded and should not be supported.

**Response** – As the as the subject application is a Section 96 modification, the provisions of Clause 4.6 are not applicable. A merits based assessment has been undertaken.

- (f) Concern is raised with regard to the increase in bulk and scale across a number of the APDG sites including the subject site, 182 George Street and 33 – 35 Pitt Street. Any assessment of the cumulative impacts must have regard to the whole of the APDG block.

**Response** – The Mirvac development known as ‘200 George’ that forms part of the APDG block has already been constructed. In terms of other development within the block, Lendlease have expressed intention for construction of a building. However, this has been submitted as a planning proposal only. Any impacts of this building will be assessed if and when a DA is lodged.

### **PUBLIC INTEREST**

45. 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**

46. A Section 61 Contribution pursuant to the Central Sydney Development Contribution Plan 2013 will be a condition of the Stage 2 development application.

### **RELEVANT LEGISLATION**

47. The Environmental Planning and Assessment Act 1979, Airports (Protection of Airspace) Act 1966, City of Sydney Act 1988.

### **CONCLUSION**

48. The subject Section 96(2) application seeks consent to modify the approved State Significant Development (SSD) Stage 1 building envelope to vary the maximum height of Tower A from RL 191 (185 metres) to RL 200 (194 metres).
49. As modified, the proposed envelope is considered to be contextually appropriate and has sited the additional height in such a location as to minimise amenity and environmental impacts on neighbouring properties. In this instance, modifications to the Stage 1 building envelope of Tower A are supported.

### **GRAHAM JAHN, AM**

Director City Planning, Development and Transport

(Michaela Briggs, Specialist Planner)