

**ITEM 7. DEVELOPMENT APPLICATION: 280-288 GEORGE STREET SYDNEY****FILE NO: D/2015/1845****DEVELOPMENT APPLICATION NO: D/2015/1845****SUMMARY**

**Date of Submission:** 18 December 2015

**Applicant:** Giovanni Cirillo

**Architect:** Johnson Pilton Walker Pty. Ltd.

**Developer:** Toga Hotel Property Investments No. 2 Pty. Ltd.

**Owner:** Toga Hotel Property Investments No. 2 Pty. Ltd.

**Cost of Works:** \$56,461,000

**Proposal Summary:** The subject application seeks consent for staged construction of a 26-storey mixed use development, and encompasses the following:

- demolition of the existing structures;
- excavation for basement levels;
- vehicular access off Curtin Place;
- 194 hotel rooms, with ancillary lobbies, gymnasium, swimming pool and restaurant / bar;
- 719 sqm of retail floor space;
- 2 loading bays;
- bicycle parking and end of trip facilities; and
- public art.

The application was advertised and notified for 28 days from January to February 2016. The public consultation process resulted in one (1) submission being received, raising the following matters:

- noise emission;
- wind impacts;
- reflectivity and glare from the building facades; and
- construction vehicular traffic impacts.

**Proposal Summary:  
(continued)**

The Applicant submitted a public benefits offer in May 2016 for the conversion of the western part of Curtin Place, between George Street and Little Hunter Street, to a shared zone, and regrading and upgrade to the laneway. The above works are in addition to the payment of Section 61 contributions. A draft Voluntary Planning Agreement is being prepared and will shortly be placed on public exhibition for a period of 28 days.

The proposal has been amended during the assessment period to provide further refinement to the detailed design of the lower levels of the building. The revised design is considered to be satisfactory and will result in an appropriate urban design outcome.

The proposal is fully compliant with the approved building envelope under the Stage 1 development consent.

An architectural design competition was undertaken prior to the lodgement and approval of a Stage 1 concepts development application, which was not technically in strict accordance with the provisions of the *Competitive Design Policy*. As such, the proposal cannot be awarded design excellence FSR under the provisions of Clause 6.21 of Sydney LEP 2012.

The proposed FSR exceeds the development standard of the LEP by 10.95%, which equates to a gross floor area of 901.2 sqm. The above departure from the FSR controls of the LEP is inclusive of an enclosed swimming pool terrace on Level 21 of the building, which amounts to 96 sqm of gross floor area.

The Applicant has submitted a statement under the provisions of Clause 4.6 of Sydney LEP 2012 to justify the variation of the floor space ratio standard. With the exception of the enclosure of the swimming pool terrace, the floor space variation is supported as the form and massing of the building are consistent with the Stage 1 envelope and are contextually appropriate to the site's setting within the Sydney CBD. A deferred commencement condition is recommended to require modification to the external walls of the swimming pool terrace in a manner that does not constitute gross floor area.

- Proposal Summary:**  
**(continued)**
- As amended, the proposal is considered to be generally consistent with the relevant planning controls and the existing Stage 1 consent in place for the site, and responds appropriately to the characteristics of the site. The proposal is considered to be a satisfactory design outcome.
- Summary Recommendation:**
- It is recommended that authority be delegated to the Chief Executive Officer (CEO) to determine the application having regard to the content of this report and recommended conditions, and following the completion of the public exhibition of the Voluntary Planning Agreement.
- Development Controls:**
- (i) Environmental Planning and Assessment Act 1979 and Regulation 2000
  - (ii) State Environmental Planning Policy No. 55 Remediation of Land
  - (iii) State Environmental Planning Policy (Infrastructure) 2007
  - (iv) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (deemed SEPP)
  - (v) Sydney Local Environmental Plan 2012 (gazetted 14 December 2012, as amended)
  - (vi) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)
  - (vii) Section 61 of the City of Sydney Act 1988 and the Central Sydney Development Contributions Plan 2013
- Attachments:**
- A - Architectural drawings
  - B - Photomontages and 3D images

**RECOMMENDATION**

It is resolved that:

- (A) authority be delegated to the Chief Executive Officer (CEO) to determine Application No. D/2015/1845 after the draft Planning Agreement, in accordance with the public benefit offer made by Toga Hotel Property Investments No. 2 Pty. Ltd. dated 10 May 2016, is publicly exhibited and any submissions considered;
- (B) if the CEO determines to approve the application, then consideration be given to supporting the variation sought to Clause 4.4 (Floor Space Ratio) and Clause 6.4 (Accommodation Floor Space) of Sydney Local Environmental Plan 2012 pursuant to the provisions of Clause 4.6 of the Sydney Local Environmental Plan 2012; and
- (C) if the CEO determines to approve the application, then consideration be given to granting a deferred commencement consent, pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, subject to the conditions set out in Part A and Part B below.

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

- The consent is not to operate until the following conditions have been satisfied, within **24 months** of the date of this determination:
  - (1) VOLUNTARY PLANNING AGREEMENT**
    - (a) That a Planning Agreement in accordance with the public benefit offer made by Toga Hotel Property Investments No. 2 Pty. Ltd., dated 10 May 2016 be executed and submitted to Council; and
    - (b) The Planning Agreement, as executed, must be registered on the Title of the land in accordance with the Planning Agreement.
  - (2) EXTERNAL WALLS TO SWIMMING POOL TERRACE**

The external enclosing walls to the swimming pool terrace on Level 21 of the building are to be redesigned so that they are less than 1.4 metres high above the floor, in order to enable exclusion of the pool terrace from gross floor area in accordance with the provisions of the Sydney Local Environmental Plan 2012. Amended plans demonstrating compliance with this condition are to be submitted to the satisfaction of the Director City Planning, Development and Transport.
  - (3) FLOOD PLANNING LEVELS AND FLOOD MANAGEMENT**
    - (a) Proposed basement levels, basement car park entry levels and ground floor and lower ground floor levels which provide access to the basement shown on the approved Development Application plans have not been approved by this consent.

- (b) The flood protection for all basement and basement entries shall comply with Council's Interim Floodplain Management Policy, i.e. they shall be protected up to the 1 in 100 year ARI + 500mm freeboard or the PMF, whichever is higher.
  - (c) Should the protection required in clause (b) above be prohibitive for below ground levels / basement then the following must be submitted and approved by Council's Area Planning Manager:
    - (i) A report which provides clear justification on why the levels required at each location or a change in design configuration cannot be achieved.
    - (ii) Evacuation Management Manual, prepared by a suitably qualified professional with experience in floodplain management, which addresses the following issues, but not limited to:
      - a. Time to fill basement from onset of property inundation;
      - b. Possible flood free access;
      - c. Methods of preventing floodwater entering the building; and
      - d. Use of disabled access.
- Evidence that will sufficiently enable Council to be satisfied as to those matters identified in the deferred commencement conditions, as indicated above, must be submitted to Council within 24 months of the date of this 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;
  - 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
  - Upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the following conditions of consent and any other additional conditions reasonably arising from consideration of the deferred commencement consent conditions.

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

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

Upon written confirmation from Council that the deferred commencement conditions have been satisfied, the consent will become operational from the date of that written confirmation, subject to the following conditions of consent and any other additional conditions reasonably arising from consideration of the deferred commencement consent conditions.

**SCHEDULE 1A****Approved Development/Design Modifications/Covenants and Contributions/Use and Operation**

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

**(1) STAGED CONSTRUCTION CERTIFICATES**

- (a) The works may be carried out in stages with the relevant conditions being satisfied prior to the issue of a construction certificate for each stage as follows:

<b>Stage</b>	<b>Works</b>
1	<ul style="list-style-type: none"> <li>• Demolition;</li> <li>• Installation of shoring; and</li> <li>• Excavation.</li> </ul>
2	<ul style="list-style-type: none"> <li>• Construction of structures;</li> <li>• Construction of building facades / envelope;</li> <li>• Construction of public domain works to Hunter and George Streets (excluding works to Curtin Place);</li> <li>• Internal fit-out works; and</li> <li>• Services installation.</li> </ul>
3	<ul style="list-style-type: none"> <li>• Public domain works to Curtin Place, including relocation of services.</li> </ul>

**(2) APPROVED DEVELOPMENT**

- (a) Development must be in accordance with Development Application No. D/2015/1845 dated 18 December 2015 and the following drawings:

<b>Drawing Number / Title</b>	<b>Architect</b>	<b>Date</b>
DA2-A-0100 (Rev 00) Location Plan	JPW	16-12-15
DA2-A-0700 (Rev 00) Plan Basement Level 2	JPW	16-12-15
DA2-A-0800 (Rev 01) Plan Basement Level 1	JPW	08-06-16
DA2-A-0900 (Rev 01) Plan Lower Ground Level	JPW	06-07-16

Drawing Number / Title	Architect	Date
DA2-A-0905 (Rev 01) Plan Lower Ground Level Rendered	JPW	06-07-16
DA2-A-1000 (Rev 01) Plan Ground Level	JPW	06-07-16
DA2-A-1005 (Rev 01) Plan Ground Level Rendered	JPW	06-07-16
DA2-A-1010 (Rev 01) Plan Level 01	JPW	06-07-16
DA2-A-1060 (Rev 00) Plan Level 02-06 Typical	JPW	16-12-15
DA2-A-1130 (Rev 00) Plan Level 07-13 Typical	JPW	16-12-15
DA2-A-1180 (Rev 00) Plan Level 14-18 Typical	JPW	16-12-15
DA2-A-1200 (Rev 00) Plan Level 19-20 Typical	JPW	16-12-15
DA2-A-1210 (Rev 00) Plan Level 21 - Lobby, Gym, Pool, Deck	JPW	16-12-15
DA2-A-1215 (Rev 00) Plan Level 21 - Lobby, Gym, Pool, Deck Rendered	JPW	16-12-15
DA2-A-1220 (Rev 00) Plan Level 22 - Bar	JPW	16-12-15
DA2-A-1225 (Rev 00) Plan Level 22 - Bar Rendered	JPW	16-12-15
DA2-A-1230 (Rev 00) Plan Level 23 - Lower Plant	JPW	16-12-15
DA2-A-1240 (Rev 00) Plan Level 24 - Upper Plant	JPW	16-12-15
DA2-A-1250 (Rev 00) Plan Roof Level	JPW	16-12-15
DA2-A-2000 (Rev 01) Elevation George Street	JPW	16-06-15

<b>Drawing Number / Title</b>	<b>Architect</b>	<b>Date</b>
DA2-A-2001 (Rev 01) Elevation Hunter Street	JPW	16-06-15
DA2-A-2002 (Rev 01) Elevation Little Hunter Street	JPW	08-06-16
DA2-A-2003 (Rev 01) Elevation Curtin Place	JPW	16-06-15
DA2-A-3000 (Rev 00) Section West-East	JPW	16-12-15
DA2-A-3001 (Rev 00) Section North-South	JPW	16-12-15
DA2-A-5000 (Rev 01) Façade Details George Street	JPW	06-07-16
AR-A-5001 (Rev 01) Façade Details Hunter Street	JPW	06-07-16
DA2-A-5002 (Rev 01) Screen Façade Corner Detail	JPW	06-07-16
DA2-A-5003 (Rev 00) Facade Details Upper Tower	JPW	16-12-15
DA2-A-5004 (Rev 01) Screen Facade Corner Detail	JPW	06-07-16
DA2-A-5005 (Rev 00) Crown Facade - Facade Details	JPW	Undated
DA2-A-5200 (Rev 01) Details Public Domain George Street	JPW	06-07-16
DA2-A-5201 (Rev 01) Details Public Domain Hunter Street	JPW	06-07-16
DA2-A-5202 (Rev 00) Details Public Domain Hunter Street	JPW	06-07-16
DA2-A-5203 (Rev 01) Details Public Domain Curtin Place	JPW	06-07-16
DA2-A-5210 (Rev 00) Colonnade Details Hunter Street	JPW	06-07-16



Drawing Number / Title	Architect	Date
DA2-A-5210 (Rev 00) Awning Details	JPW	06-07-15

and as amended by the conditions of this consent.

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

**(3) DESIGN MODIFICATIONS – COLONNADE ON HUNTER STREET ELEVATION**

The design of the building must be modified as follows:

- (a) The architectural feature screens facing the colonnade on the Hunter Street (southern) elevation extending from the access ramp to the underside of level 2, shall be designed in a manner that retains a high degree of visibility and sightlines between the interior space and Hunter Street and the colonnade areas.
- (i) Details of the configuration, materials and finishes of the screens, and dimensions and spacing of the tubular elements, are to be submitted.
- (b) Clear glazing shall be installed on the Hunter Street elevation of the retail areas on the ground and first levels.

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

**(4) DESIGN MODIFICATIONS**

The design of the building must be modified as follows:

- (a) The masonry claddings to the columns in the George Street, Hunter Street and Curtin Place frontages of the building, denoted as "ST1" and "ST2" on the approved drawings, shall consist of Piles Creek sandstone claddings;
- (b) The design, materials and finishes of the exhaust vents on the Hunter Street and Curtin Place elevations of the building shall be of high quality and integrated with the design of the facades; and
- (c) Bicycle parking racks for visitors are to be provided within the ground floor setback areas at the north-western and south-western corners of the building.

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

**(5) DESIGN QUALITY EXCELLENCE**

- (a) 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 Stage 1 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.

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

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal must not exceed 15.24:1 calculated in accordance with the Sydney Local Environmental Plan 2012. For the purpose of the calculation of FSR, the Gross Floor Area of the approved development is **9,036 sqm**.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Gross Floor Areas (by use) in the development, utilising the definition under *Sydney Local Environmental Plan 2012* applicable at the time of development consent, to the satisfaction of the Principal Certifying Authority.
- (c) Prior to a Stage 2 Construction Certificate being issued, Council's written verification must be obtained, confirming that **2,549 sqm** 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*.

**(7) MATERIALS AND SAMPLES BOARD**

The design details of the proposed building façade including all external finishes, colours and glazing must be in accordance with the Materials Schedule, numbered DA2-A-9900 (Rev 00), prepared by JPW.

**(8) BUILDING HEIGHT**

- (a) The height of the building must not exceed RL 99.70 (AHD) to the top of the building and RL 58.05 (AHD) to the parapet of the podium.
- (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.

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

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

**(10) 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 Development Contributions Plan 2013 in accordance with the following:

- (a) Prior to a Stage 1 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.

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

A separate development application for the fitout and use of the retail floor space on the lower ground level, ground level and first level must be submitted to and approved by Council prior to that fitout or use commencing.

**(12) SIGNAGE STRATEGY**

A separate development application is to be submitted seeking approval of a signage strategy for the building. The signage strategy development application must include information and scale drawings of the location, type, construction, materials and total number of signs appropriate for the building.

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

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

**(14) EXTERNAL LIGHTING**

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

**(15) 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 Stage 2 Construction Certificate.

**(16) RESTRICTION OF END OF JOURNEY – CENTRAL SYDNEY**

Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, a documentary restrictive covenant to the effect that **91 sqm** of the building has been approved as end of journey facilities and has been excluded from floor space for the purposes of calculating floor space ratio is to be registered on the Title of the development site pursuant to section 88E of the *Conveyancing Act 1919*. The covenant is to be created appurtenant to Council and at no cost to Council.

**(17) BOUNDARY WINDOWS COVENANT**

All windows adjacent to the eastern boundary of the site must be sealed, bricked up or otherwise enclosed, prior to the construction of any building abutting, adjoining or adjacent to such windows. Prior to a Stage 2 Construction Certificate being issued, a documentary restrictive covenant is to be registered on the Title of all units/tenancies facing the affected boundary. The covenant is to be created appurtenant to Council and at no cost to Council.

**(18) ALLOCATION OF PARKING**

The number of car parking spaces to be provided for the development shall comply with the table below. Details confirming the parking numbers shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Stage 2 Construction Certificate.

Car Parking Type	Number
Small Rigid Vehicle loading dock(s)	2
Total	2

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

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

Bicycle Parking Type	Number	Requirements
Non-residential Staff/employee	8	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	1	
Personal lockers	8	

- (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 Stage 2 Construction Certificate being issued.

**(20) ASSOCIATED ROADWAY COSTS**

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

**(21) CHANGES TO KERB SIDE PARKING RESTRICTIONS**

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

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

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

Note: As parking in the LGA is at a premium, it is recommended that the Applicant should approach the Area Traffic Engineer to discuss the proposal before making a submission.

**(22) 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.

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

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

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

**(24) PARKING DESIGN**

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

**(25) SERVICE VEHICLE SIZE LIMIT**

The size of vehicles servicing the property must not exceed 6.4m.

**(26) 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.

**(27) 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: In all cases the construction materials should reinforce the priority of pedestrian movement over that of the crossing vehicle.

**(28) 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 LAeq, 15 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 LA90, 15 minute / rating LA90, 15 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 LAeq, 15 minute noise level emitted from the use must not exceed the LA90, 15 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 LA90, 15 minute noise level is below the threshold of hearing, Tf 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 Tf corresponding to that Octave Band Centre Frequency shall be used instead.
- (ii) The LAeq,15 minute noise level and the LA90,15 minute noise level shall both be measured with all external doors and windows of the affected residence closed;
- (iii) The relevant background noise level (LA90, 15 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.

## **(29) NOISE - ENTERTAINMENT VENUES**

- (a) The LA10, 15 minute noise level emitted from the use must not exceed the background noise level (LA90, 15minute) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 5dB between the hours of 7.00am and 12.00 midnight when assessed at the boundary of any affected residence.
- (b) The LA10, 15 minute noise level emitted from the use must not exceed the background noise level (LA90, 15 minute) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) between the hours of 12.00 midnight and 7.00am when assessed at the boundary of any affected residence.
- (c) Notwithstanding compliance with (a) and (b) above, noise from the use when assessed as an LA10, 15 minute enters any residential use through an internal to internal transmission path is not to exceed the existing internal LA90, 15 minute (from external sources excluding the use) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed within a habitable room at any affected residential use between the hours of 7am and 12midnight. Where the LA10, 15 minute noise level is below the threshold of hearing, Tf 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 Tf corresponding to that Octave Band Centre Frequency shall be used instead.



- (d) Notwithstanding compliance with (a), (b) and (c) above, the noise from the use must not be audible within any habitable room in any residential use between the hours of 12.00 midnight and 7.00am.
- (e) The LA10, 15 minute noise level emitted from the use must not exceed the background noise level (LA90, 15 minute) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 3dB when assessed indoors at any affected commercial premises.

Note: The LA10, 15 minute noise level emitted from the use is as per the definition in the Australian Standard AS1055-1997 Acoustics – Description and measurement of environmental noise. The background noise level LA90, 15 minute is to be determined in the absence of noise emitted by the use and be representative of the noise sensitive receiver. It is to be determined from the assessment LA90 / rating LA90 methodology in complete accordance with the process listed in the NSW EPA Industrial Noise Policy and relevant requirements of AS1055.1997.

**(30) COMPLIANCE WITH THE ACOUSTICS REPORT PRIOR TO CONSTRUCTION AND/OR OCCUPATION CERTIFICATES**

- (a) All performance parameters, requirements, engineering assumptions and recommendations contained in the acoustic report Prepared by: Acoustic Logic, Dated 25th November 2015, Ref: 20151562.1/2511A/R1/TA Revision 1, Titled: 280 George Street, Sydney Development Application Acoustic Report, City of Sydney Ref: 2016/325469 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 Stage 1 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 report given in (a) above. Specifically, the consultant will provide reference in their certification to design drawings, the requirements set out in part (a) of this condition, and relevant conditions of consent to the satisfaction of the Certifying Authority.
- (c) Prior to the issue of an Occupation Certificate, a suitably qualified acoustic consultant is to provide a written Acoustic Verification Report to the satisfaction of the Principal Certifying Authority that the development complies with the requirements set out in the Report and in (a) and (b) above.

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

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

A site specific noise management plan shall be submitted to the Council for comment and approval prior to issue of any Stage 1 Construction Certificate.

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

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

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

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

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

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

**(33) PLAN OF MANAGEMENT - HOTEL**

The hotel use must always be operated / managed in accordance with the Plan of Management - 280 George Street Sydney, and TOGA Hotels House Policy, prepared by TOGA. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management and House Policy.

**(34) HOURS OF OPERATION - RESTAURANT / BAR**

The hours of operation for the Level 22 Bar and Restaurant are restricted to between 06.00am and 01.00am Monday to Sunday.

**(35) MAXIMUM CAPACITY OF PERSONS**

- (a) The maximum number of patrons permitted in the Level 22 Bar and Restaurant at any one time is 104 patrons.
- (b) The capacity for each area shall not exceed the maximum numbers at any given time.
- (c) The manager/licensee is responsible for ensuring the number of persons in the premises does not exceed that specified above.
- (d) A sign in letters not less than 25mm in height must be fixed at the main entry point to the premises alongside the Licensee's name stating the maximum number of persons, as specified in the development consent, that are permitted in the building. Details of the sign are to be submitted to Council's Health and Building Unit for approval prior to issue of a Stage 2 Construction Certificate.

Note: Clause 98D of the *Environmental Planning and Assessment Regulation 2000* requires a sign specifying maximum number of persons permitted in the building to be displayed in a prominent position for the following types of premises:

- (i) Entertainment venue,
- (ii) Function centre,
- (iii) Pub,
- (iv) Registered club,
- (v) Restaurant.

**(36) PLAN OF MANAGEMENT - LICENSED PREMISES**

The use must always be operated / managed in accordance with the Plan of Management, prepared by Planning Lab dated 19 May 2016 that has been approved by Council. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

**(37) COPIES OF CONSENTS AND MANAGEMENT PLANS**

A full and current copy of all current development consents for the operation of the licensed premises, and the Plan of Management and any Security Management Plan must be kept on-site and made available to Police or Council Officers, or Special Investigator upon request.

**(38) CONDITIONS OF OPERATION SIGNAGE**

A notice must be displayed at or near every entrance by which patrons may enter the premises, and in such a manner and position that a patron entering the premises would reasonably be expected to see its contents. The notice is required to state the following:

- (a) The development approved hours of operation of the premises. Where appropriate specify hours of operation for each floor/area of the premises.
- (b) Any development approved trial hours of operation of the premises, and their expiry date. Where appropriate specify trial hours of operation for each floor/area of the premises.
- (c) Any development approved hours of operation of the footway associated with the premises.
- (d) Any development approved trial hours of operation of the footway, and their expiry date.
- (e) The maximum number of persons (including staff, patrons and performers) permitted in the premises at any one time. Where appropriate specify maximum number of persons for each floor/area of the premises at any one time. The capacity for each area shall not exceed the maximum numbers at any given time.
- (f) This notice must be in legible letters and figures:
  - (i) at least 50mm high; and
  - (ii) on contrasting background

(g) Any such sign must be in a form approved by Council.

**(39) NO SPEAKERS OR MUSIC OUTSIDE**

Speakers and/or noise amplification equipment must not be installed and music must not be played in any of the outdoor areas associated with the premises including the public domain. Speakers located within the premises must not be placed so as to direct the playing of music towards the outdoor areas associated with the premises.

**(40) NO SPRUICKING NOISE**

No persons (such as those commonly known as spruickers) or recordings or other devices which have the effect of spruicking are to be located on Council owned property. Furthermore, the sound level of any spruicking generated within privately owned land must not be audible on any adjacent property with a shared boundary.

**(41) NOISE FROM GLASS REMOVAL**

Glass must not be emptied or transferred from one receptacle to another anywhere in a public place. All glass must be emptied / transferred inside of the building on the premises and removed in containers.

**(42) GLASS CRUSHER**

All glass bottles and other glass waste must be reduced to glass shards (by way of a glass crusher located inside the premises) prior to the removal of such waste from the premises.

**(43) SECURITY - RESTAURANTS, LARGE HOTELS, THEATRES, CONFERENCE ROOMS AND EXHIBITION HALLS**

Management shall ensure an appropriate number of security staff (in accordance with the premises' security management plan or, if no such plan is required, approved industry standards) are employed to regulate and control patrons whenever the premise is used for specific public functions or group events.

**(44) INCIDENTS – RECORDING AND NOTIFICATION**

The manager/licensee must ensure that all incidents involving staff members (including security personnel) are recorded in the incident register maintained on site, including incidents involving physical contact between staff and patrons, physical restraint of patrons and/or the ejection of patrons from the premises.

**(45) SURVEILLANCE CAMERAS**

(a) CCTV surveillance cameras shall be strategically installed, operated and maintained throughout the premises with particular coverage to:

- (i) principal entrance/s and exits;
- (ii) all areas within the premise occupied by the public (excluding toilets);

- (iii) staircases in multilevel premises; and
  - (iv) the area within a 10m radius external to the public entrance(s) to the premise.
- (b) Suitable and clearly visible signage shall be displayed at the principal entrance(s) to the premise and in a prominent position on each floor accessible to the public, in lettering not less than 50mm in height with the words "Closed Circuit Television in use on these premises".
- (c) All CCTV recording equipment and cameras shall be of high grade digital quality capable of establishing the population and identification of patrons, offenders and incidents within the depth of field view of the cameras. In this respect each surveillance camera shall be capable of recording a minimum rate of 10 frames per second and at high resolution.
- (d) CCTV recording discs or hard drive recordings shall be retained for 28 days before being re-used, destroyed or deleted. Time and date shall be auto recorded on the disc or hard drive. The CCTV recording equipment shall be capable of reproducing a CD, DVD, USB or other appropriate digital copy of recorded footage on demand of Council or Police Officers either immediately or within 12 hours of the request being made. Copy discs must be handed to Council, Police Officer or Special Inspectors as required.
- (e) All CCTV recording devices and cameras shall be checked daily to ensure the equipment is operating correctly. The Licensee shall record this daily checking activity in the security/incident register book that meets the standards required by the Licensing Police and Council. If it is discovered at any time that the equipment is not in full operating order all reasonable steps must be taken to repair the system as soon as practicable. Where the system will not be functioning in full operating order for a period of longer than 24 hours the manager/licensee is to notify the relevant Local Area Commander of the NSW Police.
- (f) All CCTV recording devices and cameras shall be operated at all times when the premises are open to the public and, where premises do not operate 24 hours a day, continuously for at least 1 hour prior to opening and closing times of the premises.
- (g) The CCTV recording device shall be secured within the premises and only be accessible to senior management personnel so as to maintain the integrity of the recorded footage. When the premises is operating there must be at least one staff member present at the premises who is authorised to access the CCTV system and able to immediately review recordings and produce copies.
- (h) Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.

**(46) NEIGHBOURHOOD AMENITY**

- (a) Signs must be placed in clearly visible positions within the licensed premises requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area. The signage shall be in bold letters not less than 25mm in height on a contrasting background.
- (b) The management/licensee must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood.

**(47) CRIME SCENE PRESERVATION**

Immediately after the person in charge of the Licensed Premises become aware of an incident involving an act of violence causing an injury to a person on the premises, the person must:

- (a) Take all practical steps to preserve and keep intact the area where the act of violence occurred;
- (b) Retain all materials and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by the NSW Police;
- (c) Make direct and personal contact with the Local Area Command or his/her delegate and advise the Commander or delegate of the incident; and
- (d) Comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.

**SCHEDULE 1B****Prior to Construction Certification/Commencement of Work/Health and Building****(48) 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.

**(49) 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.

**(50) PUBLIC ART**

Final details of the approved public art work must be submitted to the City of Sydney for endorsement by the Public Art Advisory Panel, and approved by Council's Director City Planning, Development and Transport prior to issue of a Stage 2 Construction Certificate. The public artwork must be in accordance with the *Sydney DCP 2012* and the *Public Art Policy*. Installation of the art work must be completed to Council's satisfaction prior to the issue of an Occupation Certificate.

**(51) FLOOR TO CEILING HEIGHT**

Prior to a Stage 2 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.



**(52) 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.

**(53) LAND SUBDIVISION**

Any proposal for subdivision of the building, such as Stratum subdivision, 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*.

**(54) NO STRATA SUBDIVISION TO HOTEL**

Any future subdivision of the site must provide for the hotel uses to be contained within one allotment and cannot be Strata subdivided.

**(55) ARCHAEOLOGICAL DISCOVERY DURING EXCAVATION**

- (a) Should any relics be unexpectedly discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with section 146 of the *Heritage Act 1977*.
- (b) Should any Aboriginal objects be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and NSW Government Office of Environment and Heritage is to be informed in accordance with Section 89A of the *National Parks and Wildlife Act 1974*.
- (c) Should any archaeological remains or Aboriginal objects be discovered, a copy of recording of the finds and the final archaeological summary report is to be submitted to Council prior to the Occupational Certificate.
- (d) If the discovery is on Council's land, Council must be informed.

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

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

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.

As the Applicant is requesting stage construction certificate, stage specific CPTMP needs to prepare and approved by the concerned authority.

**(57) 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 Stage 2 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 retail use (removalist vehicles, bulky good deliveries, tradesmen etc).

The plan must include, but is not limited to, the following:

- (a) Estimated traffic generation during peak periods for residential and hotel components based on the traffic generation surveys undertaken to similar sites in the CBD;
- (b) Management for queuing on public roads;
- (c) Detailed swept path analysis;
- (d) Management of incidents at the access to the car park / loading dock;
- (e) Loading bay management details including service vehicle movements during peak periods;
- (f) Management of conflicts between cars accessing the car park and the service vehicle using the loading bays;
- (g) 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 the users (hotel/retail) 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 the users (hotel and retail) and external users of the loading area.

**(58) 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.

**(59) 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.

**(60) 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.

**(61) 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.

**(62) 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.

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

The approved mechanical exhaust systems are to be designed to be capable of accommodating exhaust requirements for all lower ground, ground and first 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.

No approval is granted for the burning of charcoal and solid fuel.

**(64) MECHANICAL VENTILATION**

- (a) The premises must be ventilated in accordance with the *Building Code of Australia* and AS1668.1 and AS1668.2.

- (b) Details of any mechanical ventilation and/or air conditioning system complying with AS1668.1 and AS1668.2, the *Building Code of Australia* and relevant Australian Standards must be prepared by a suitably qualified person certified and certified in accordance with Clause A2.2(a)(iii) of the *Building Code of Australia*, to the satisfaction of the Certifying Authority prior to the issue of a Stage 2 Construction Certificate.
- (c) Prior to issue of an Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2(a)(iii) of the *Building Code of Australia*, must be submitted to the Principal Certifying Authority.

#### **(65) CONTINUED PERFORMANCE OF MECHANICAL VENTILATION**

The required operation and performance of any mechanical ventilation, air pressurisation or other smoke control system must not be impaired by any future proposed partitioning layout.

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

- (a) Prior to the issue of a Stage 2 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.

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

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

#### **(68) WASTE AND RECYCLING MANAGEMENT**

The proposal must comply with the relevant provisions of Council's *Policy for Waste Minimisation in New Developments 2005* which requires facilities to minimise and manage waste and recycling generated by the proposal. Waste receptacles or garbage bins are not to be stored on the public footways adjoining the development prior to collection or at any other time.

#### **(69) 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.

#### **(70) WASTE ROOMS**

- (a) To ensure the adequate storage and collection of waste from the occupation of the building, all garbage and recyclable materials emanating from the premises must be stored in the designated waste storage area. The waste storage area must be designed and constructed in accordance with the following requirements to minimise odours, deter vermin, and protect surrounding areas:
  - (i) Provided with a hose tap connected to the water supply;
  - (ii) Paved with impervious floor materials;
  - (iii) Coved at the intersection of the floor and walls;
  - (iv) Graded and drained to a waste disposal system in accordance with the relevant regulatory authority (Sydney Water);

- (v) Adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the *Protection of the Environment Operations Act 1997*;
  - (vi) An adequate lighting system must be provided (natural or artificial) to the waste room to aid with cleaning and the detection of pest activity.
  - (vii) Fitted with appropriate interventions to meet fire safety standards in accordance with the *Building Code of Australia*.
- (b) Detailed plans and specifications for the construction of the waste storage area are to be submitted to the Certifying Authority with the Stage 2 Construction Certificate.

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

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

If, in complying with this condition, amendments to the development are required, the design changes must be submitted to and approved by Council prior to a Stage 2 Construction Certificate being issued.

**(72) ACCESS FOR PERSONS WITH DISABILITIES - OFFICE / SHOP FITOUTS**

In accordance with the *Building Code of Australia* the proposed office / shop layout and design must comply with Australian Standard 1428.1: General requirements for access - New building works.

**(73) DEMOLITION, EXCAVATION AND CONSTRUCTION MANAGEMENT**

- (a) Prior to the commencement of demolition and/or excavation work the following details must be submitted to and be approved by the Principal Certifying Authority:
- (i) Plans and elevations showing distances of the subject building from the location of adjoining and common/party walls, and (where applicable) the proposed method of facade retention.
  - (ii) A Demolition Work Method Statement prepared by a licensed demolisher who is registered with the WorkCover Authority. (The demolition by induced collapse, the use of explosives or on-site burning is not permitted.)
  - (iii) An Excavation Work Method Statement prepared by an appropriately qualified person.
  - (iv) A Waste Management Plan for the demolition and or excavation of the proposed development.

- (b) Such statements must, where applicable, be in compliance with AS2601-2001 Demolition of Structures, the *Work, Health and Safety Act 2011* and Regulation; Council's *Policy for Waste Minimisation in New Developments 2005*, the *Waste Avoidance and Resource Recovery Act 2001*, and all other relevant acts and regulations and must include provisions for:
- (i) A Materials Handling Statement for the removal of refuse from the site in accordance with the *Waste Avoidance and Resource Recovery Act 2001*.
  - (ii) The name and address of the company/contractor undertaking demolition/excavation works.
  - (iii) The name and address of the company/contractor undertaking off site remediation/disposal of excavated materials.
  - (iv) The name and address of the transport contractor.
  - (v) The type and quantity of material to be removed from site.
  - (vi) Location and method of waste disposal and recycling.
  - (vii) Proposed truck routes, in accordance with this development consent.
  - (viii) Procedures to be adopted for the prevention of loose or contaminated material, spoil, dust and litter from being deposited onto the public way from trucks and associated equipment and the proposed method of cleaning surrounding roadways from such deposits. (Note: With regard to demolition of buildings, dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site).
  - (ix) Measures to control noise emissions from the site.
  - (x) Measures to suppress odours.
  - (xi) Enclosing and making the site safe.
  - (xii) Induction training for on-site personnel.
  - (xiii) Written confirmation that an appropriately qualified Occupational Hygiene Consultant has inspected the building/site for asbestos, contamination and other hazardous materials, in accordance with the procedures acceptable to WorkCover Authority.
  - (xiv) An Asbestos and Hazardous Materials Clearance Certificate by a person approved by the WorkCover Authority.
  - (xv) Disconnection of utilities.



- (xvi) Fire Fighting. (Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed).
  - (xvii) Access and egress. (Demolition and excavation activity must not cause damage to or adversely affect the safe access and egress of the subject building or any adjacent buildings).
  - (xviii) Waterproofing of any exposed surfaces of adjoining buildings.
  - (xix) Control of water pollution and leachate and cleaning of vehicles tyres (proposals must be in accordance with the *Protection of the Environmental Operations Act 1997*).
  - (xx) Working hours, in accordance with this development consent.
  - (xxi) Any WorkCover Authority requirements.
- (c) The approved work method statements and a waste management plan as required by this condition must be implemented in full during the period of construction.

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

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of No. 10-14 Hunter Street are to be prepared by an appropriately qualified structural engineer prior to commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Certifying Authority and the Council prior to the issue of a Stage 1 Construction Certificate.

#### UPON COMPLETION OF EXCAVATION/DEMOLITION

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

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

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

#### **(75) 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.

#### **(76) 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).

**(77) 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.

**(78) 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.

**(79) 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".

**(80) PHOTOGRAPHIC RECORD / DILAPIDATION REPORT – PUBLIC DOMAIN**

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

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

The form of the recording is to be as follows:-

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

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

#### **(81) PRESERVATION OF SURVEY MARKS**

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

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

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

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

**(82) 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*.

**(83) 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 the City's Director City Planning, Development and Transport 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 the City's Director City Planning, Development and Transport 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.

#### **(84) 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.

#### **(85) 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.

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 by a suitably qualified drainage engineer and must be approved by Council, demonstrating how the development will be designed to ensure that the flow of post-development pollutants from the site due to stormwater will be reduced.

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

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

#### **(87) 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.

#### **(88) PROTECTION OF STONE KERBS**

- (a) The existing stone kerbs on the George Street, Hunter Street and Curtin Place 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.

#### **(89) PUBLIC DOMAIN DAMAGE DEPOSIT**

A Public Domain Damage Deposit calculated on the basis of 2 lineal metres of concrete and 2 lineal metres of granite paver site frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The Public Domain Damage Deposit must be submitted as an unconditional bank guarantee in favour of Council as security for repairing any damage to the public domain in the vicinity of the site.

The guarantee must be lodged with Council prior to an approval for demolition being granted or a Stage 1 Construction Certificate being issued, whichever is earlier.

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



**(90) 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's Director City Planning, Development and Transport. 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.

**(91) 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.

**(92) 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*).

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

- (a) Where scaffolding is to be installed to undertake the proposed development an approved graphic / artwork installation must be provided on the scaffolding system to shield the development from the public place and to minimise adverse visual impacts on the locality.

- (b) The graphic installation must be printed, installed and maintained in accordance with Council's Guidelines for Hoardings and Scaffolding. Details of the proposed graphic must be submitted to and approved by Council prior to the installation of any scaffolding.

**(94) 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 Stage 2 Construction Certificate being issued or the commencement of the use, whichever is earlier.

**(95) UTILITY SERVICES**

To ensure that utility authorities are advised of the development:

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

**SCHEDULE 1C**

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

**(96) 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.

**(97) 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 (e.g. 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.

(Unless alternative hours are approved following consideration of any submission within your Demolition, Excavation & Construction Noise Vibration Management Plan that demonstrates compliance with the *City of Sydney Code of Practice for Construction Hours/Noise 1992 for additional hours of working*)

- (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*.

#### **(98) STREET TREE APPROVED FOR REMOVAL**

- (a) All trees detailed in Table 1 below are approved for removal. Tree removal must not occur until the Stage 1 Construction Certificate has been issued.

Table 1 – Tree Removal:

<b>Tree No</b>	<b>Botanical/Common Name</b>	<b>Location</b>
1	Platanus x hybrida (Plane tree)	Street Tree – George Street – western side of Curtin Place

- (b) The City's Street Tree Coordinator must be notified in writing a minimum of 48 hours prior to the removal of the trees.
- (c) All tree removal works must be carried out by a qualified Arborist, with a minimum Level 3 AQF in arboriculture and in accordance with WorkCover's Code of Practice – Amenity Tree Industry.
- (d) The removal of any street tree approved by Council must include complete stump removal and the temporary reinstatement of levels so that no trip or fall hazards exist until suitable replanting occurs. These works must be completed immediately following the trees removal.
- (e) In the event that wildlife is found during the course of tree removal works, work must stop until a trained wildlife handler attends the site or the animal relocates itself.

**(99) STREET TREE PROTECTION**

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

- (a) Tree trunk and major limb protection must be undertaken prior to or during the installation of any hoarding or scaffoldings. The protection must be installed by a qualified Arborist (AFQ 2 or 3) and must include:
  - (i) An adequate clearance, minimum 250mm, must be provided between the structure and tree branches, limbs and trunk at all times;
  - (ii) Tree trunk/s and/or major branches, located within 500mm of any hoarding or scaffolding structure, must be protected by wrapped hessian or similar material to limit damage, and
  - (iii) Timber planks (50mm x 100mm or similar) must be placed around tree trunk/s. The timber planks must be spaced at 100mm intervals, and must be fixed against the trunk with tie wire, or strapping. The hessian and timber planks must not be fixed to the tree in any instance, or in any fashion,
  - (iv) Tree trunk and major branch protection is to remain in place for the duration of construction and development works, and must be removed at the completion of the project.
- (b) All hoarding support columns are to be placed a minimum of 300mm from the edge of the existing tree pits/setts, so that no sinking or damage occurs to the existing tree setts. Supporting columns must not be placed on any tree roots that are exposed.
- (c) Materials or goods, including site sheds, must not be stored or placed:
  - (i) around or under the tree canopy; or
  - (ii) within two (2) metres of tree trunks or branches of any street trees.
- (d) Any damage sustained to street tree/s as a result of the erection of hoardings, scaffolding, or due to the loading/unloading of vehicles adjacent the site, must be immediately reported to the Council's Street Tree Contract Coordinator on 9265 9333, in order to determine the appropriate action for maintaining the health and structural integrity of any damaged street tree.

**(100) 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'.

#### **(101) 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.

#### **(102) 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.

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

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

#### **(104) 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.

#### **(105) 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.

**(106) 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.

**(107) 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.

**(108) 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.

**(109) 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.

**(110) 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.

**(111) 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.

**(112) 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.

**(113) 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.

**(114) LOADING AND UNLOADING DURING CONSTRUCTION**

The following requirements apply:

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



- (e) The structural design of the building must allow the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development.
- (f) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate approval under Section 68 of the Local Government Act 1993 must be obtained.

#### **(115) 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.

#### **(116) USE OF MOBILE CRANES**

The following requirements apply:

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

### **SCHEDULE 2**

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

### **SCHEDULE 3**

#### **Ausgrid conditions**

Ausgrid has provided the following concurrence conditions under the provisions of Clause 45 of State Environmental Planning Policy (Infrastructure) 2007:

- (117)** The substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian Standards including AS 1668.2: *The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings*.

- (a) In addition to the above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres.
- (b) Exterior parts of buildings within 3 metres in any direction from substation ventilation openings, including duct openings and louvered panels, must have a fire rating level (FRL) of not less than 180/180/180 where the substation contains oil-filled equipment.
- (c) For further details on fire segregation requirements refer to Ausgrid's Network Standard 113.

**(118)** 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 (e.g. whether a substation is required on site).

- (a) 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 (i.e. asset relocations, decommissioning substations, etc.);
  - (iii) Works affecting Ausgrid's easements, leases and/or right of ways;
  - (iv) Changing the level of roads or footpaths;
  - (v) Widening or narrowing of roads;
  - (vi) Closing roads or laneways to vehicles; and
  - (vii) Land subsidence and vibration impact on Ausgrid assets as a result of excavation / reinforcement activities.
- (b) In all cases, Ausgrid is to have 24-hour access to all its assets.

**(119)** Any work undertaken near Overhead Power lines needs to be done in accordance with:

- (a) WorkCover Document ISSC 23 "Working Near Overhead Power Lines";
- (b) Ausgrid's Network Standards; and
- (c) Ausgrid's Electrical Safety Rules.

**(120)** 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.

**Sydney Trains condition**

Sydney Trains has provided the following condition:

**(121) Service Searches**

Prior to the issue of a Stage 1 Construction Certificate, the Applicant shall undertake a services search to establish the existence and location of any rail services. Persons performing the service search shall use equipment that will not have any impact on rail services and signalling. Should rail services be identified within the subject development site, the Applicant must discuss with the RailCorp as to whether these services are to be relocated or incorporated within the development site.

**Transport for NSW Conditions**

Transport for NSW has provided the following conditions:

**(122) Construction Traffic Management Plan**

A Construction Pedestrian and Traffic Management Plan (CPTMP) is to be prepared in consultation with the CBD Coordination Office within TfNSW, Sydney Light Rail team. The CPTMP needs to specify, but not limited to, the following:

- Location of the proposed work zone;
- Location of the crane;
- Haulage routes;
- Construction vehicle access arrangements;
- Proposed construction hours;
- Estimated number of construction vehicle movements;
- Construction program;
- 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;
- Cumulative construction impacts of projects including Sydney Light Rail Project. Should any impacts be identified, the duration of the impacts; and
- Measures proposed to mitigate any associated general traffic, public transport, pedestrian and cyclist impacts should be clearly identified and included in the CPTMP.

A copy of the final plan is to be submitted to the Coordinator General, CBD Coordination Office for endorsement, prior to the commencement of any work.

**(123) Acoustics Requirements**

The proposal shall comply with the acoustic requirements applicable to the development as detailed in the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads – Interim Guidelines".

**(124) Loading Bay Management Plan**

A detailed loading bay management plan is to be prepared and submitted for TfNSW review, prior to issuing the Stage 2 Construction Certificate. The management plan is required to include the following (not limited to):

- Estimated traffic generation during peak periods for retail and hotel components based on the traffic generation surveys undertaken for similar sites in the CBD;
- Management of potential queuing on public roads;
- Detailed swept path analysis;
- Management of incidents at the access to the car park; and
- Loading bay management details during peak periods.

**(125) Protection of TfNSW Land, Easements or Infrastructure**

Prior to the issue of the Stage 1 Construction Certificate or the commencement of construction works (which excludes demolition, archaeological investigative and service relocation works) (whichever occurs first) the applicant shall liaise with TfNSW to ascertain its reasonable requirements in relation to the protection of TfNSW land, easements or infrastructure. The applicant is to submit to TfNSW all relevant documentation as requested by TfNSW prior to the issuing of the relevant Construction Certificate or commencement of construction works, as the case may be.

**(126) Excavation for the Proposed Development**

Prior to the issuing of a Stage 1 Construction Certificate, the applicant shall provide to TfNSW certification from the Geotechnical Engineer and Structural Engineer that the ground penetration works (e.g. excavation, piling, shoring) will not have any impact on the rail corridor and comply with TfNSW minimum track movement requirements.

**(127) Advisory: Proposed Shared Zone for Curtin Place**

The proposed shared zone arrangement along Curtin Place shall be undertaken with the approval of Roads and Maritime Services and in consultation with the CBD Coordination Office within TfNSW.

## Sydney Water conditions

Sydney Water Corporation has provided the following conditions:

### (128) Sydney Water Servicing

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

Make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

### (129) Building Plan Approval

You must have your building plans stamped and approved before any construction is commenced. Approval is needed because construction / building works may affect Sydney Water's assets (e.g. Water, sewer and stormwater mains).

For further assistance please telephone 13 20 92 or refer to the Building over or next to assets page on the Sydney Water website (see Plumbing, building and developing then Building over or next to assets).

### (130) Trade Wastewater Requirements

If this development is going to generate trade wastewater, the property owner must submit an application requesting permission to discharge trade wastewater to Sydney Water's sewerage system. You must wait for approval of this permit before any business activities can commence.

The permit application should be emailed to Sydney Water's Business Customer Services at [businesscustomers@sydneywater.com.au](mailto:businesscustomers@sydneywater.com.au)

It is illegal to discharge Trade Wastewater into the Sydney Water sewerage system without permission.

A Boundary Trap is required for all developments that discharge trade wastewater where arrestors and special units are installed for trade wastewater pre-treatment.

If the property development is for Industrial operations, the wastewater may discharge into a sewerage area that is subject to wastewater reuse. Find out from Business Customer Services if this is applicable to your development.

### (131) Backflow Prevention Requirements

Backflow is when there is unintentional flow of water in the wrong direction from a potentially polluted source into the drinking water supply.

All properties connected to Sydney Water's supply must install a testable Backflow Prevention Containment Device appropriate to the property's hazard rating. Property with a high or medium hazard rating must have the backflow prevention containment device tested annually. Properties identified as having a low hazard rating must install a non-testable device, as a minimum.

Separate hydrant and sprinkler fire services on non-residential properties, require the installation of a testable double check detector assembly. The device is to be located at the boundary of the property.

Before you install a backflow prevention device:

1. Get your hydraulic consultant or plumber to check the available water pressure versus the property's required pressure and flow requirements.
2. Conduct a site assessment to confirm the hazard rating of the property and its services. Contact PIAS at NSW Fair Trading on 1300 889 099.

For installation you will need to engage a licensed plumber with backflow accreditation who can be found on the Sydney Water website:

<http://www.sydneywater.com.au/Plumbing/BackflowPrevention/>

### **(132) Water Efficiency Recommendations**

Water is our most precious resource and every customer can play a role in its conservation. By working together with Sydney Water, business customers are able to reduce their water consumption. This will help your business save money, improve productivity and protect the environment.

Some water efficiency measures that can be easily implemented in your business are:

- Install water efficiency fixtures to help increase your water efficiency, refer to WELS Water Efficiency Labelling and Standards (WELS) Scheme, <http://www.waterrating.gov.au/>
- Consider installing rainwater tanks to capture rainwater runoff, and reusing it, where cost effect. Refer to: <http://www.sydneywater.com.au/Water4Life/InYourBusiness/RWTCalculator.cfm>
- Install water-monitoring devices on your meter to identify water usage patterns and leaks.
- Develop a water efficiency plan for your business.

It is cheaper to install water efficiency appliances while you are developing than retrofitting them later.

**(133) Contingency Plan Recommendations**

Under Sydney Water's customer contract Sydney Water aims to provide Business Customers with a continuous supply of clean water at a minimum pressure of 15 metres head at the main tap. This is equivalent to 146.8kpa or 21.29psi to meet reasonable business usage needs.

Sometimes Sydney Water may need to interrupt, postpone or limit the supply of water services to your property for maintenance or other reasons. These interruptions can be planned or unplanned.

Water supply is critical to some businesses and Sydney Water will treat vulnerable customers, such as hospitals, as a high priority.

Have you thought about a contingency plan for your business? Your Business Customer Representative will help you to develop a plan that is tailored to your business and minimises productivity losses in the event of water service disruption.

For further information please visit the Sydney Water website at:

<http://www.sydneywater.com.au/OurSystemsandOperations/TradeWaste/> or  
contact Business Customer Services on 1300 985 227 or  
[businesscustomers@sydneywater.com.au](mailto:businesscustomers@sydneywater.com.au)

## BACKGROUND

### The Site

1. The subject site consists of four land parcels, being Lot 1 in DP 215950 and Lots 2, 3 and 4 in DP 217746. The site is described as No. 280-288 George Street, Sydney.
2. The site is located on the eastern side of George Street, between Curtin Place to the north and Hunter Street to the south. The site has three frontages.
3. Lot 4 in DP 217746 forms the main part of the site. There are two triangular splays at the corners between Curtin Place and George Street (being Lot 2 in DP 217746) and between Hunter Street and George Street (being Lot 3 in DP 217746). The above splays are public roads approximately 2m below and 5m above the footpath level.
4. The site has a total land area of 593 sqm, inclusive of the two triangular splayed corners.
5. The site is occupied by a 13-storey commercial building with retail uses on the ground level and office suites above. There is a colonnade along the George Street frontage and a basement car park for 18 vehicles accessible from Curtin Place. The building was constructed in 1964.



**Figure 1** Aerial view of the subject site (in white border) and surrounding environment.





**Figure 2** Existing commercial building on the site, as viewed from the intersection between George and Hunter Streets.



**Figure 3** Lower levels of the existing building, note the colonnade located along the George Street frontage of the site.



**Figure 4** Colonnade along the George Street frontage of the existing building.

### Surrounding development

6. Immediately to the north of the site is Curtin Place, which is a public laneway connecting with Pitt Street, Hamilton Street, Little Hunter Street and George Street. Further to the north is the Australia Square complex consisting of a 50-storey office tower fronting George Street, public plaza areas and a 13-storey office building at the rear facing Pitt Street. The complex is listed as a heritage item under the Sydney LEP 2012.
7. To the east of the site is a 5-storey commercial building at No. 10-14 Hunter Street known as the "NSW Sports Club", which is listed as a heritage item on both the State Heritage Register and the Sydney LEP. In between Little Hunter Street and Hamilton Street is a 17-storey office building. Further to the east is a 6-storey building known as the "Grand Hotel", which is listed as a heritage item on both the State Heritage Register and the Sydney LEP. At the corner of Pitt and Hunter Streets is the Tank Stream Hotel, which is a 15-storey building. The "Former Wales House" at the corner of Pitt and O'Connell Streets is listed as a heritage item on both the State Heritage Register and the Sydney LEP.
8. Hamilton Street and the Tank Stream that runs underground are listed as heritage items on both the State Heritage Register and the Sydney LEP.
9. To the south on the opposite side of Hunter Street are a mixture of lower scale and mid-rise commercial buildings. The 3-storey "Former Skinners Family Hotel" building at the corner of George and Hunter Streets is listed as a heritage item on both the State Heritage Register and the Sydney LEP.
10. To the west on the opposite side of George Street is a range of mid- to high-rise commercial buildings, including No. 285-287 George Street, which is listed as a heritage item under the Sydney LEP.

11. Photographs of the surrounding developments are provided in **Figures 5 to 10** below.



**Figure 5** Curtin Place looking east. The heritage listed Australian Square complex is seen on the left hand side of the photograph.

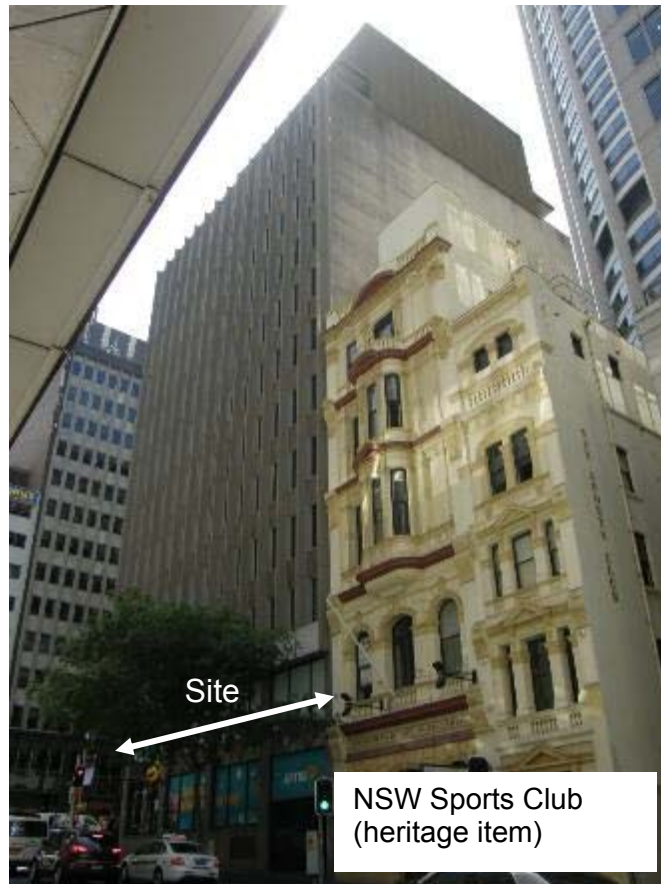


Figure 6 Hunter Street frontage of the site and the adjoining heritage item ("NSW Sports Club").



Figure 7 Hunter Street looking east.



Figure 8 Southern corner of Hunter and George Streets.



Figure 9 Western side of George Street, south of Margaret Street.



**Figure 10** Western side of George Street, north of Margaret Street.

## PROPOSAL

12. The subject development application seeks consent for staged construction of the following works:
  - (a) demolition of the existing building on the site;
  - (b) excavation and construction of 2 basement levels containing plant rooms, services, substation, loading dock, bicycle parking and end of trip facilities;
  - (c) provision of vehicular access from Curtin Place at the north-eastern corner of the site;
  - (d) construction of a 26-storey building, with a total gross floor area of 9,132 sqm, which accommodates the following:
    - (i) plant rooms and substation on basement level 2;
    - (ii) loading dock, bicycle parking, end of trip facilities and waste storage on basement level 1;
    - (iii) hotel lift lobby on the lower ground level;
    - (iv) 719 sqm of retail floor space on the lower ground, ground and first levels;
    - (v) 194 hotel rooms on levels 2 to 20;
    - (vi) hotel lobby, gymnasium and swimming pool terrace on level 21;
    - (vii) restaurant / bar on level 22; and
    - (viii) plant rooms on levels 23 and 24.

- (e) the trading hours of the restaurant / bar on level 22 will be 6.00am – 1.00am, Monday to Sunday inclusive, with a maximum capacity of 104 patrons; and
  - (f) installation of public art.
13. **Figures 11 to 13** below provide photomontages of the proposed development. It should be noted that most of these photomontages were submitted with the application at the time of lodgement. The proposal has been amended during the assessment process with the inclusion of sandstone cladding to the intermediate columns (excluding the corner columns) in the lower levels on the George Street, Hunter Street and Curtin Place elevations. Architectural drawings and 3D images of the proposed development are provided in **Attachments A and B**.



**Figure 11** Photomontage of the proposed development as viewed from George Street, looking north.





**Figure 12** Photomontage of the proposed development as viewed from George Street, looking east. Note: the amended sandstone finishes to the columns on the lower levels of the building are not shown in this image.



**Figure 13** Photomontage of the proposed development as viewed from Hunter Street, looking west. Note: the amended sandstone finishes to the columns on the lower levels of the building are not shown in this image.

## HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION

### Design Competition Process

14. A competitive design process was undertaken prior to the lodgement and approval of the Stage 1 Development Application (refer to the paragraphs below for details on the Stage 1 Development Application).
15. Due to the ordering of these events, a Design Excellence Strategy had not been endorsed as part of a Stage 1 consent, prior to the undertaking of the competitive design process. As such, the process was not in strict accordance with the provisions of the *City of Sydney Competitive Design Policy*. Therefore, the subject proposal cannot be awarded design excellence FSR under the provisions of Clause 6.21(7) of the LEP.
16. The design competition was conducted in accordance with an architectural design brief, which was endorsed by the City on 4 June 2015. TFE Hotels, as the proponent of the competitive process, engaged 6 architectural firms to participate in an invited architectural design competition.
17. The design scheme by Johnson Pilton Walker (JPW) was selected by the jury as the winner of the competitive process in September 2015.
18. The approved Stage 1 building envelope and the subject Stage 2 detailed design reflect the above winning scheme.

### Stage 1 Development Application

19. A Stage 1 Development Application (D/2015/1518) for the subject site was granted consent by the Central Sydney Planning Committee (CSPC) on 25 February 2016.
20. The approved Stage 1 proposal was for a conceptual building envelope for a mixed-use development to a height of approximately 95.2m (RL104.73). The approved envelope indicatively contained 28 storeys, including a lower ground and 2 basement levels.
21. The approved proposal included the following indicative land uses:
  - (a) retail and hotel lobby on the lower ground level, ground level and level 1;
  - (b) hotel accommodation from level 2 to level 24;
  - (c) plant rooms on levels 25 and 26;
  - (d) loading dock, storage and plant rooms on basement level 1; and
  - (e) plant room and substation on basement level 2.
22. The subject Stage 2 detailed design is consistent with the approved Stage 1 building envelope.

### Amendments to the Development Application

23. A number of meetings between the applicant and the City's staff were held both at the pre-lodgement stage and during the assessment process.

24. Following a preliminary assessment of the development application by the City, a request was made on 16 May 2016 for the submission of the following additional information:
- (a) a variation to the FSR development standard under Clause 4.6 of the Sydney LEP to justify any proposed floor space, which exceeds the combined base FSR and accommodation floor space;
  - (b) information to address the provisions of the City of Sydney Interim Floodplain Management Policy;
  - (c) information relating to the design and dimensions of the loading dock, bicycle parking and end of trip facilities; and
  - (d) a plan of management and an amended acoustics report relating to the operation of the licensed restaurant / bar on level 22.
25. The application was referred to the Design Advisory Panel for comment on 17 May 2016. As a result of the advice from the Panel and City staff, the Applicant submitted revised drawings on 7 July 2016 incorporating the use of Piles Creek sandstone claddings to the columns from the lower ground level to the underside of level 2, with the exception of the corner columns. The original design involved the use of off-form concrete and non-sandstone claddings as finishes to the columns.
26. The requested stormwater management and traffic and parking information was submitted on 17 June 2016.
27. A statement justifying the variation to the FSR development standard under Clause 4.6 of the Sydney LEP 2012 was submitted on 7 July 2016.
28. The amended drawings and the additional information form the subject of assessment with this report.

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

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

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

- (1) *The Planning Committee must consult the CSTTC before it exercises a function under Part 4 that will result in the making of a decision that will require, or that might reasonably be expected to require, the carrying out of road works or traffic control works that are likely to have a significant impact on traffic and transport in the Sydney CBD.*
- (2) *The Planning Committee must take into consideration any representations made by the CSTTC within the period of 21 days (or such other period as is agreed to by the CSTTC and the Planning Committee in a particular case) after consultation takes place.*

- (3) *The Planning Committee may delegate to a subcommittee of the Planning Committee, or the general manager or another member of the staff of the City Council, any of its functions under this section other than this power of delegation. A delegation can be given subject conditions. A delegation does not (despite section 38) require the approval of the Minister administering that section.*
- (4) *The failure of the Planning Committee to comply with this section does not invalidate or otherwise affect any decision made by the Planning Committee."*
30. The proposal includes a driveway entry in Curtin Place near the north-eastern corner of the site. The public benefit offer from the applicant proposes the conversion of the western section of Curtin Place into a shared zone, and regrading and upgrading of Curtin Place including the construction of a new staircase. Having liaised with the City's Access Unit, in this instance, the proposal is not considered by the CSTTC delegate, the Director City Planning, Development and Transport, to have a significant impact on traffic and transport in the CBD, and formal consideration by the CSTTC is not necessary.

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

31. The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:

#### **Environmental Planning Instruments and DCPs**

##### **State Environmental Planning Policy No. 55 Remediation of Land**

32. The aim of SEPP 55 is to ensure that a change of land use will not increase the risks to health, particularly in circumstances where a more sensitive land use is proposed.
33. A phase 1 preliminary environmental site investigation was submitted with the Stage 1 Development Application. As part of the assessment of the Stage 1 application, the City's Environmental Health Unit advised that the historic uses of the site present a low risk of contamination. As a result, no further detailed site investigation was required to be provided as part of the subject Stage 2 Development Application. The site is considered to be suitable for the intended uses.
34. A condition is recommended to require notification to Council and the certifying authority, should additional information that may alter previous conclusions about site contamination be obtained during the demolition and construction phase.

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

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

##### **Clause 45 Electricity transmission or distribution network**

36. The proposal involves the replacement of the existing substation within the basement of the building. In accordance with Clause 45 of Subdivision 2 – *Development likely to affect an electricity transmission or distribution network*, the application was notified to Ausgrid and no objections were raised. The conditions advised by Ausgrid have been included in this report.

**Clause 85 Development immediately adjacent to rail corridors / Clause 86 Excavation in, above or adjacent to rail corridors**

37. The site is located adjacent to the proposed Sydney Light Rail along George Street, which is currently under construction. The proposal may have implications on the construction activities associated with the Light Rail project, as well as local traffic conditions during the operational phase. The application was referred to Transport for NSW (TfNSW) for comments and no objections have been raised. The conditions advised by TfNSW have been included in this report.

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

38. The principal aim of the SREP is to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained.
39. The site is within the Sydney Harbour Catchment according to the map of the SREP. It is identified as being within the hydrological catchment of Sydney Harbour and is subject to the provisions of the Plan. The property is not located within a Foreshores and Waterways Area or a strategic foreshore site.
40. The proposed development will not result in any significant environmental impact on the foreshore areas. The development is considered to be consistent with the aims and planning principles of the SREP.

**Sydney Local Environmental Plan 2012**

41. The site is zoned B8 – Metropolitan Centre under the Sydney Local Environmental Plan 2012. The proposed uses are defined as “hotel accommodation” and “retail premises”. Both are permissible land uses in the zone.
42. The relevant matters of the LEP to be considered are outlined below.

<b>Compliance Table</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
4.3 Height of buildings	Yes	A maximum height of 235m is permitted. A height of approximately 90.4m (RL99.70) is proposed.
4.4 Floor Space Ratio  6.4 Accommodation floor space	No	A maximum base FSR of 8:1 is permitted under Clause 4.4 of the LEP.  As the site is within Area 1, an additional accommodation floor space of 4.5:1 (for <i>office premises, business premises and retail premises</i> ) to 6:1 (for <i>hotel accommodation</i> ) is applicable to the site pursuant to Clause 6.4(1) of the LEP.

Compliance Table		
Development Control	Compliance	Comment
		<p>The proposed land uses include hotel accommodation with ancillary food and drink premises (92.1%) and retail premises (7.9%). The collective maximum FSR applicable to the site under these clauses amounts to 13.88:1.</p> <p>Under Clause 6.21 of the LEP, a further 10% of FSR is possible where the Stage 2 detailed design scheme is the winner of a competitive design process, and the consent authority is satisfied that the building exhibits design excellence.</p> <p>Clause 6.21(9) defines a competitive design process as an architectural design competition or the preparation of design alternatives on a competitive basis, carried out in accordance with the <i>City of Sydney Competitive Design Policy</i>. The Policy requires the competitive design process to be undertaken in accordance with a Design Excellence Strategy approved as part of a Stage 1 concepts development application.</p> <p>In this case, the architectural design competition was undertaken prior to the lodgement and approval of a Stage 1 development application, which is not technically in strict accordance with the provisions of the <i>Competitive Design Policy</i>. As such, the proposal cannot be awarded design excellence FSR under the provisions of Clause 6.21 of Sydney LEP 2012.</p> <p>The proposed development has a gross floor area of 9,132 sqm, which equates to an FSR of 15.40:1.</p> <p>The applicant has submitted a written statement under the provisions of Clause 4.6 of the LEP seeking to vary the FSR development standard by 901.2 sqm (or 10.95%).</p> <p>Refer to further discussion under the "Issues" section of this report.</p>

Compliance Table		
Development Control	Compliance	Comment
4.6 Exceptions to development standards	Able to comply	<p>The proposal seeks to vary the development standard prescribed under Clauses 4.4 (Floor space ratio) and 6.4 (Accommodation floor space).</p> <p>Refer to the “Issues” section of this report for details.</p>
5.9 Preservation of trees or vegetation	Yes	<p>The proposal includes the removal of an existing street tree near the intersection between George Street and Curtin Place, in order to allow the provision of a future works zone during the construction phase.</p> <p>The applicant has provided evidence that this street tree has already been identified by Transport for NSW for removal in the near future to facilitate the Light Rail construction works. The City’s Tree Management Unit has reviewed the proposal and raised no objection in this regard.</p> <p>The existing street tree on the Hunter Street frontage of the site will be retained. Conditions have been recommended to require the installation of appropriate tree protection measures during the construction phase.</p>
5.10 Heritage conservation	Yes	<p>The subject site is not listed as a heritage item or within a heritage conservation area. The site is located adjacent to the following heritage items:</p> <ul style="list-style-type: none"> <li>• 11764: ‘Australia Square’ including tower and plaza buildings, forecourt, plaza and interiors, 264-278 George Street and 87-95 Pitt Street (Local significance); and</li> <li>• 11808: NSW Sports Club including interior, 10-14 Hunter Street (State significance).</li> </ul>



Compliance Table		
Development Control	Compliance	Comment
		<p>The site is also located in the vicinity of a number of heritage items, including:</p> <ul style="list-style-type: none"> <li>• I1765: Former commercial building including interiors, 285-287 George Street (Local significance);</li> <li>• I1766: Former Skinners Family Hotel including interiors, 296 George Street (State significance);</li> <li>• I1806: Hamilton Street (State significance);</li> <li>• I1809: Grand Hotel including interiors, 30-32 Hunter Street (State significance); and</li> <li>• I1915: Former Wales House including interior, 64-66 Pitt Street (State significance).</li> </ul> <p>Refer to further discussion on heritage conservation in the "Issues" section of this report.</p>
6.6 End of journey floor space	Yes	<p>The proposal includes 91 sqm of end of journey facilities in the basement of the building. The above end of journey floor space has been excluded from FSR calculation for the development pursuant to the provisions of Clause 6.6.</p> <p>A condition is recommended to require a restrictive covenant to be registered on the title of the development to ensure these areas are for end of journey uses only.</p>
6.11 Utilisation of certain additional floor space requires allocation of heritage floor space	Yes	<p>Any FSR in excess of 8:1 allowable under Clause 4.4 of the LEP shall be subject to a requirement for allocation of heritage floor space (HFS) in accordance with the provisions of Clause 6.11.</p> <p>Refer to further discussion in the "Issues" section of this report.</p>

Compliance Table		
Development Control	Compliance	Comment
6.16 Erection of tall buildings in Central Sydney	Yes	<p>The proposed development has a height exceeding 55m and the provisions of Clause 6.16 are applicable. The proposal is considered to satisfy the objectives for tower developments within Central Sydney as it:</p> <ul style="list-style-type: none"> <li>• is contextually appropriate;</li> <li>• does not adversely affect the amenity of adjacent buildings;</li> <li>• allows sunlight to reach the sides of the tower; and</li> <li>• encourages active uses at ground level.</li> </ul> <p>As the site area is less than 800 sqm, the proposal is required to comply with the provisions of Clauses 6.16(3)(a) to (c). The proposed building will satisfy the above clauses as:</p> <ul style="list-style-type: none"> <li>• The site has three street / lane frontages. The adjoining heritage listed NSW Sports Club at 10-14 Hunter Street is subject to restrictions on the land title to maintain the floor area and height of the existing building. Accordingly, the proposed tower component will have all four elevations visible from the public domain;</li> <li>• The proposal will not result in any significant amenity or privacy impacts on those properties along the opposite side of Curtin Place, George Street and Hunter Street due to the degree of spatial separation. The design scheme does not rely on the eastern elevation for solar access, ventilation or outlook. As such, the proposed development is not considered to cause any significant adverse impact on the amenity or privacy of the adjoining NSW Sports Club; and</li> <li>• The ground and lower ground levels fronting George Street, Hunter Street and Curtin Place will be used for the purposes of retail premises.</li> </ul>

Compliance Table		
Development Control	Compliance	Comment
6.21 Design excellence	Generally complies	<p>The proposal meets the threshold of Clause 6.21(5) of the LEP, and as such the applicant 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, a design competition process was held in September 2015, with Johnson Pilton Walker selected by the jury as the winner. This process occurred prior to the submission and approval of a Stage 1 development application.</p> <p>Clause 6.21(9) defines a competitive design process as an architectural design competition or the preparation of design alternatives on a competitive basis, carried out in accordance with the <i>City of Sydney Competitive Design Policy</i>. This Policy requires the competitive design process to be undertaken in accordance with a Design Excellence Strategy approved as part of a Stage 1 concepts development application.</p> <p>In this case, the architectural design competition was undertaken prior to the lodgement and approval of a Stage 1 concepts development application, which is not technically in strict accordance with the provisions of the <i>Competitive Design Policy</i>. As such, the proposal cannot be awarded design excellence FSR under the provisions of Clause 6.21 of Sydney LEP 2012.</p> <p>The proposal is considered to exhibit design excellence and satisfies the provisions of Clause 6.21(4). Refer to the “Issues” section for details.</p>
7.5 & 7.9 Car parking ancillary to other development	Yes	<p>Under Clauses 7.5 and 7.9, a maximum of 48 car parking spaces are permitted based on the proposed land uses.</p> <p>The proposal does not provide any car parking and complies with the provisions of the LEP.</p>

Compliance Table		
Development Control	Compliance	Comment
7.14 Acid Sulphate Soils	Yes	The site is identified as containing Acid Sulphate Soils Class 5. The site is not within land that is below 5m AHD. The proposed excavation works relate to the construction of footings below the existing basement levels and service trenches, and are not likely to affect the water table. The City's Health Unit has reviewed the proposal and does not raise any issues relating to Acid Sulphate Soils, and no further investigation or special mitigation is required.
7.15 Flood planning	Yes	Appropriate conditions have been recommended by the City's engineers to address potential flooding issues.
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. The proposal is considered to adequately address the requirements of this Clause.
7.20 Development requiring preparation of a development control plan	Yes	<p>The site is subject to a valid Stage 1 consent (being D/2015/1518). This Stage 1 consent is the equivalent of a development control plan and establishes the allowable building envelope, land uses and vehicular access point. The Stage 1 consent for the site has addressed the requirements of Clause 7.20.</p> <p>Further discussion is provided in the "Issues" section of this report with regard to consistency of the proposal with the Stage 1 development consent.</p>

### Sydney Development Control Plan 2012

43. The relevant provisions of Sydney Development Control Plan 2012 are addressed below:

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
3.1.5 Public art	Yes	<p>A Public Art Strategy has been submitted with the application, and has identified a number of preferred locations for the installation of public art, including the colonnade on the Hunter Street frontage and Curtin Place.</p> <p>An appropriate condition is recommended to require the final details of the public art work to be submitted for approval prior to the issue of a Construction Certificate.</p>
3.2.1 Improving the public domain	Yes	<p>The proposal will not result in any additional overshadowing of publicly accessible open spaces when compared to the existing condition.</p>
3.2.3 Active frontages	Yes	<p>Those sections of George Street, Hunter Street and Curtin Place adjoining the site are identified as active frontages according to the Active Frontages Map of the DCP.</p> <p>The proposal includes retail uses on the lower ground, ground and first levels facing all street and laneway frontages. Activation and casual surveillance of the public domain will be achieved.</p>
3.2.4 Footpath awnings	Yes	<p>A footpath awning is not required for the site according to the Footpath Awnings Map of the DCP.</p> <p>Notwithstanding, the proposal incorporates an awning along both the George Street and Hunter Street frontages of the site. The awning has a variable height of approximately 3.8m along George Street and 3.8m – 5.6m along Hunter Street due to the fall in the site topography. The height of the awning exceeds the requirement of the DCP (that is, between 3.2m and 4.2m).</p> <p>The design of the awning is integrated with the architecture of the building. The height and profile of the awning on the Hunter Street elevation align with the façade features of the adjoining heritage listed NSW Sports Club. As such, the proposed awning height is considered acceptable and is supported.</p>

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
3.2.5 Colonnades	Yes	A colonnade is provided on the Hunter Street elevation, with ramped access to the hotel concierge and retail tenancy on the lower ground floor. Refer to the "Issues" section for details.
3.2.6 Wind effects	Yes	A wind study was submitted with the application. The report confirms that the proposed development will result in minimal impacts upon the local wind environment and pedestrian comfort at ground level, due to the irregular street pattern in the area. No wind mitigation measures are required for the proposal.
3.2.7 Reflectivity	Yes	<p>A reflectivity report was submitted with the application to assess the potential reflectivity impacts of the façade treatment on pedestrians and drivers.</p> <p>The report confirms that the proposed development will have a minimal risk of causing disabling glare and solar reflection.</p> <p>A condition is recommended to require the reflectivity index of glazing on the building facades to be not greater than 20%. The proposal is not considered to result in any adverse reflectivity impacts, subject to the above condition.</p>
3.2.8 External lighting	Yes	A condition is recommended to require a separate development application to be submitted to and approved by Council, prior to the installation and use of any flood lighting or illumination to the building facades.
3.3 Design excellence and competitive design processes	No	Refer to the "Issues" section of this report for details.
3.6 Ecologically sustainable development	Yes	The proposed development is able to comply with Section J of the Building Code of Australia, which contains provisions relating to energy efficiency.
3.7 Water and flood management	Yes	Appropriate conditions relating to stormwater drainage and flood management have been recommended by the City's engineers.

<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
3.8 Subdivision, strata subdivision and consolidation	Yes	Appropriate conditions are recommended to require the consolidation of the site into one allotment, and to require that any future subdivision of the site must provide for the hotel component to be contained within one allotment and cannot be Strata subdivided.
3.9 Heritage	Yes	Refer to the "Issues" section of this report.
3.11 Transport and parking <i>3.11.1 Managing transport demand</i>	Yes	The proposal has been reviewed by the City's Transport & Access Unit. The proposed development is not considered to generate a significant level of vehicular traffic that would adversely affect the local road network.
<i>3.11.3 Bicycle parking and associated facilities</i>	Yes	A condition is recommended to require the provision of appropriate bicycle parking and end of trip facilities within the development.
<i>3.11.6 Service vehicle parking</i>	Yes	The proposal includes a loading dock for 2 x 6.4m long small rigid service vehicles. A condition is recommended to require the approval of a loading dock management plan by Council prior to the issue of a Construction Certificate, in order to ensure the loading bays will be adequately managed and used for deliveries, waste collection and servicing for both the hotel and retail components.
<i>3.11.11 Vehicle access and footpaths</i>	Yes	The proposal includes a new vehicle access point in Curtin Place near the north-eastern corner of the site. Detailed swept path analysis has been submitted, which demonstrates that service vehicles could enter and exit the site in a forward direction.
3.12 Accessible design	Yes	A condition is recommended to require the provision of appropriate access and facilities for persons with disabilities in accordance with the BCA.

3. General Provisions		
Development Control	Compliance	Comment
3.13 Social and environmental responsibilities	Yes	The proposal includes retail uses on the lower ground, ground and first levels, which will provide casual surveillance and activation to George Street, Hunter Street and Curtin Place.
3.14 Waste	Yes	Conditions have been recommended to require the provision of appropriate waste storage facilities within the development, and compliance with the relevant requirements of the <i>Code for Waste Minimisation in New Developments 2005</i> .
3.15 Late night trading management	Yes	<p>The proposal includes a licensed restaurant / bar on level 22, with trading hours from 6.00am to 1.00am, 7 days a week, and a maximum capacity of 104 patrons.</p> <p>Under Section 3.15 of the DCP, the proposed restaurant / bar is classified as a Category B Low Impact Premise, and the site is located within a Late Night Management Area.</p> <p>Clause (1) and Table 3.7, Section 3.15 of the DCP stipulate base indoor trading hours of 6am to 2am for Category B Premises in Late Night Management Areas. The proposed operation hours are consistent with the above control. A trial period is not required for this development.</p> <p>The site is located within the Sydney CBD Entertainment Precinct and is subject to the provisions of the Liquor Amendment (Temporary Licence Freeze) Act 2009. However, an exemption applies as the premise is associated with tourist accommodation.</p> <p>The proposed licensed premise is located on the upper level of the building and is primarily for use by the hotel patrons. The proposed late night trading is unlikely to contribute to street crime and would not result in adverse safety and amenity impacts on the surrounding streets. In addition, the premise is not located in the vicinity of any residential uses.</p>



<b>3. General Provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
		<p>A plan of management has been submitted. The City's Licensing Unit has reviewed the plan and raised no objections, subject to specific conditions that require appropriate management and operational controls.</p> <p>The proposed licensed food and drink premise is considered to satisfy the matters for consideration under Section 3.15.3 of the DCP, subject to the recommended conditions.</p>
3.16 Signage and advertising	N/A	<p>No signage or advertising is proposed as part of the subject application.</p> <p>A condition is recommended to require the submission and approval of a separate development application for a signage strategy, in order to provide a coordinated approach for signs and advertising on the building.</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	No, but acceptable	Refer to the "Issues" section for details.
4.2.3.1 Solar access	Yes	The proposal will not result in overshadowing of any surrounding residential properties.
4.2.6 Waste minimisation	Yes	Conditions have been recommended to require the provision of appropriate waste storage facilities within the development, and compliance with the relevant requirements of the <i>Code for Waste Minimisation in New Developments 2005</i> .

<b>4. Development Types</b>		
<b>4.4 Other Development Types and Uses – Visitor Accommodation</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
4.4.8.1 General provisions	Yes	A condition is recommended to require the hotel to be operated in accordance with the submitted plan of management.
4.4.8.3 Additional provisions for hotels, private hotels and motels	Yes	The proposed hotel rooms are capable of providing more than 3.25 sqm per person. The rooms contain adequate storage areas.

<b>5. Specific areas – Central Sydney</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
5.1 Street frontage heights	No, but acceptable (consistent with Stage 1 envelope)	<p>The proposed street frontage height is RL58.05 consistent with the approved Stage 1 envelope, which is equivalent to approximately 45.79m (George Street), 47.55m (Hunter Street) and 48.75m (Curtin Place).</p> <p>The proposal exceeds the 45m maximum street frontage height control of the DCP by approximately 0.79m (George Street), 2.55m (Hunter Street) and 3.75m (Curtin Place).</p> <p>Whilst the proposal represents a departure from the street frontage height planning control, the variation was supported as part of the assessment of the Stage 1 development application.</p> <p>The variation above the 45m control is attributed to the slope of the site and the adjoining streets. The podium height and form will address the visually prominent intersection between George and Hunter Streets. It is also compatible with the height and scale of the surrounding buildings along the eastern side of George Street.</p> <p>The proposed development is consistent with the approved Stage 1 building envelope, and is therefore considered to be satisfactory in this instance.</p>

5. Specific areas – Central Sydney		
Development Control	Compliance	Comment
5.1.2.1 Front setbacks	No, but acceptable (consistent with stage 1 envelope)	<p>The DCP stipulates the following setbacks above podium for street frontages:</p> <ul style="list-style-type: none"> <li>• George Street (north-south major street): 8m weighted average, 6m minimum</li> <li>• Hunter Street (secondary street): 6m</li> </ul> <p>The proposal provides the following setbacks for the tower component:</p> <ul style="list-style-type: none"> <li>• George Street: 3m</li> <li>• Hunter Street: 3m</li> </ul> <p>The proposal numerically departs from the front setback controls for both George and Hunter Streets.</p> <p>This matter was assessed as being acceptable as part of the Stage 1 development application. This is due to the fact that the site has three street / lane frontages and the tower will be appropriately separated from the surrounding buildings. The reduced setbacks will not detrimentally affect the quality of the public domain, in terms of daylight access and sky views at pedestrian level. The proposed built form will adequately address the street and laneway frontages and the visually prominent intersection between George and Hunter Streets.</p>
5.1.2.2 Side setbacks	No, but acceptable (consistent with stage 1 envelope)	<p>The DCP stipulates a minimum side setback of 6m for principal windows of hotels up to a height of 45m.</p> <p>Above a height of 45m, a side setback of 12m is required for hotels.</p> <p>The proposal has been designed to comply with the tower setbacks of the approved Stage 1 envelope, which does not provide any setback from the eastern boundary. This has been established to be acceptable as part of the Stage 1 assessment.</p>

<b>5. Specific areas – Central Sydney</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
		<p>The interior floor planning does not rely on the eastern elevation for solar access, ventilation or outlook. There is a covenant restricting the floor space and height of the adjoining heritage listed NSW Sports Club building to the existing condition.</p> <p>The fixed windows on the eastern façade of the proposed development provide additional amenity and outlook for the hotel rooms but are not essential for their functioning. These windows can be obstructed in the future without detrimentally affecting the hotel rooms, in the event that redevelopment to the adjoining NSW Sports Club occurs in the future. A condition has been recommended requiring a boundary window covenant to be registered on the title of the property prior to the issue of a relevant construction certificate.</p> <p>As such, a nil side setback arrangement is supported in this instance.</p>
5.1.2.3 Setbacks for buildings adjoining or fronting lanes	Yes	<p>The DCP stipulates a minimum setback of 6m from the centreline of laneways above the street frontage height.</p> <p>The envelope for the tower is setback 6.805m from the centreline of Curtin Place.</p>
5.1.5 Building exteriors	Yes	<p>The design of the podium is characterised by a system of masonry columns, fins and expressed floor slabs. The materiality includes off-form concrete, tinted glass reinforced concrete (GRC) and Piles Creek sandstone claddings. The design scheme will reinforce the predominant masonry character of Central Sydney. The off-form concrete will also adequately reference the adjoining heritage listed Australia Square building.</p>
5.1.8 Award and allocation of heritage floor space	Able to comply	Refer to the "Issues" section of this report.

## ISSUES

**Consistency with Stage 1 development consent**

44. The provisions of Section 83D of the Environmental Planning and Assessment Act 1979 state that where a Stage 1 development consent for a site remains in force, the determination of any further development application in respect to that site cannot be inconsistent with the Stage 1 consent.
45. The table below provides an assessment of the proposed development against the key conditions imposed on the Stage 1 development consent (being D/2015/1518).

<b>Stage 1 consent requirement</b>	<b>Comments</b>
Approved Stage 1 development (Condition 1) Stage 2 Design to be contained within approved envelope (Condition 4) Building height (Condition 6)	The approved Stage 1 building envelope prescribes a maximum overall height of RL104.73 and a podium height of RL58.05. The proposed building height is RL99.70 and is 5.03m below the Stage 1 envelope. The proposed street frontage height is RL58.05 and is consistent with the Stage 1 envelope. The proposed tower setbacks are consistent with the Stage 1 envelope.
Design excellence and competitive design process (Condition 5)	The proposed development is considered to exhibit design excellence and satisfies the matters for consideration under Clause 6.21(4) of the Sydney LEP 2012. Refer to the following sections for further details.
Floor space ratio (Condition 7)	Refer to the following sections for details.
Detailed design of building (Condition 8)	<p><b>Relationship with adjoining heritage items</b></p> In relation to the Australia Square development to the north of the site, which is listed as a heritage item on Schedule 5 of the Sydney LEP, the material palette of the proposed podium has included off-form concrete columns and expressed concrete floor slabs. These materials will provide an appropriate reference to the light coloured finishes to the masonry elements of the Australia Square development. Refer to the sections below for discussion relating to the NSW Sports Club.

Stage 1 consent requirement	Comments
	<p><b>Modelling of north-western corner of building</b></p> <p>Condition 8(d) of the Stage 1 consent requires exploration of possible modelling of the north-western corner of the building, with the intention of expanding views to Australia Square tower when looking north along George Street.</p> <p>View analysis has been submitted with the subject application. It is noted that the proposed tower will obstruct views to Australia Square when compared to the existing condition. However, views to Australia Square tower will be regained as one travels northward along George Street. The view obstruction to Australia Square will only occur at certain locations on George Street and is not considered to be a significant issue.</p> <p><b>Connection between Hunter Street and Curtin Place</b></p> <p>The proposal features a colonnade on the Hunter Street elevation, which provides ramped access to the hotel concierge and retail tenancy on the lower ground level. The lower ground retail tenancy has direct access to Curtin Place. Physical connection between Hunter Street and Curtin Place has been achieved in accordance with Condition 8.</p> <p><b>Activation to George Street, Hunter Street and Curtin Place</b></p> <p>Retail uses are provided on the lower ground, ground and first levels, which will provide a high degree of activation to George Street, Hunter Street and Curtin Place.</p> <p><b>Ceiling heights</b></p> <p>Refer to the following sections for details.</p> <p><b>Provision of additional footpath space</b></p> <p>Corner setbacks have been provided on the ground floor level adjacent to the intersection between George and Hunter Streets, and between George Street and Curtin Place. The design has provided additional public footpath areas for improved pedestrian circulation in accordance with the requirements of Condition 8.</p>
Hotel use (Condition 9)	The submitted floor plans demonstrate that the interior planning of the hotel rooms satisfies the design requirements of Section 4.4.8 of the Sydney DCP 2012.
Public art (Condition 10)	A Public Art Strategy has been submitted with the application in accordance with this condition.
Wind (Condition 12)	A wind assessment has been submitted with the application in accordance with this condition.

Stage 1 consent requirement	Comments
Bicycle parking and end of trip facilities (Condition 20)	Bicycle parking and end of trip facilities have been provided in the basement level. Due to the constrained site area, it is not feasible to provide visitor bicycle parking at grade within the building. A condition is recommended to require the provision of bicycle racks at the north-western and south-western corner setbacks at street level within the property boundary.
Vehicle access (Condition 21)	Detailed swept path analysis has been submitted, which demonstrates that service vehicles are able to enter and exit the site in a forward direction.
Loading within site (Condition 22)	A loading dock for 2 service vehicles is provided within the basement level. Loading and unloading activities are able to be carried out within the site in compliance with Condition 22.
Service vehicle size limit (Condition 23)	The loading dock is designed to accommodate 6.4m long small rigid vehicles. The submitted swept path analysis demonstrates that the intended service vehicles can enter and exit the site and the loading areas in a forward direction.
Loading dock management plan (Condition 24)	Appropriate conditions have been recommended to require a loading dock management plan to be prepared and submitted for approval by Council prior to the issue of a Construction Certificate. This will ensure that the loading bays will be adequately managed and used for deliveries, waste collection and servicing for both the hotel and retail components.
Coach parking management plan (Condition 25)	The applicant has confirmed that the operational model of the hotel does not generally rely on coaches or buses for transport of guests. It is anticipated that hotel guests would likely to utilise taxis to visit the hotel. As such, a coach parking management plan is not required for the subject proposal.
Accessibility (Condition 27)	An access report has been submitted with the application in accordance with Condition 27.
Waste facilities (Condition 28)	Details relating to waste management have been submitted with the application in accordance with Condition 28.
Transport for NSW requirements (Condition 30)	The applicant has been in on-going discussions with Transport for NSW relating to construction and operational traffic issues, since the approval of the Stage 1 development application. As detailed elsewhere within this report, the application was formally referred to Transport for NSW for comments. The conditions recommended by Transport for NSW have been incorporated in this report.

**Exception to development standard - Floor Space Ratio**

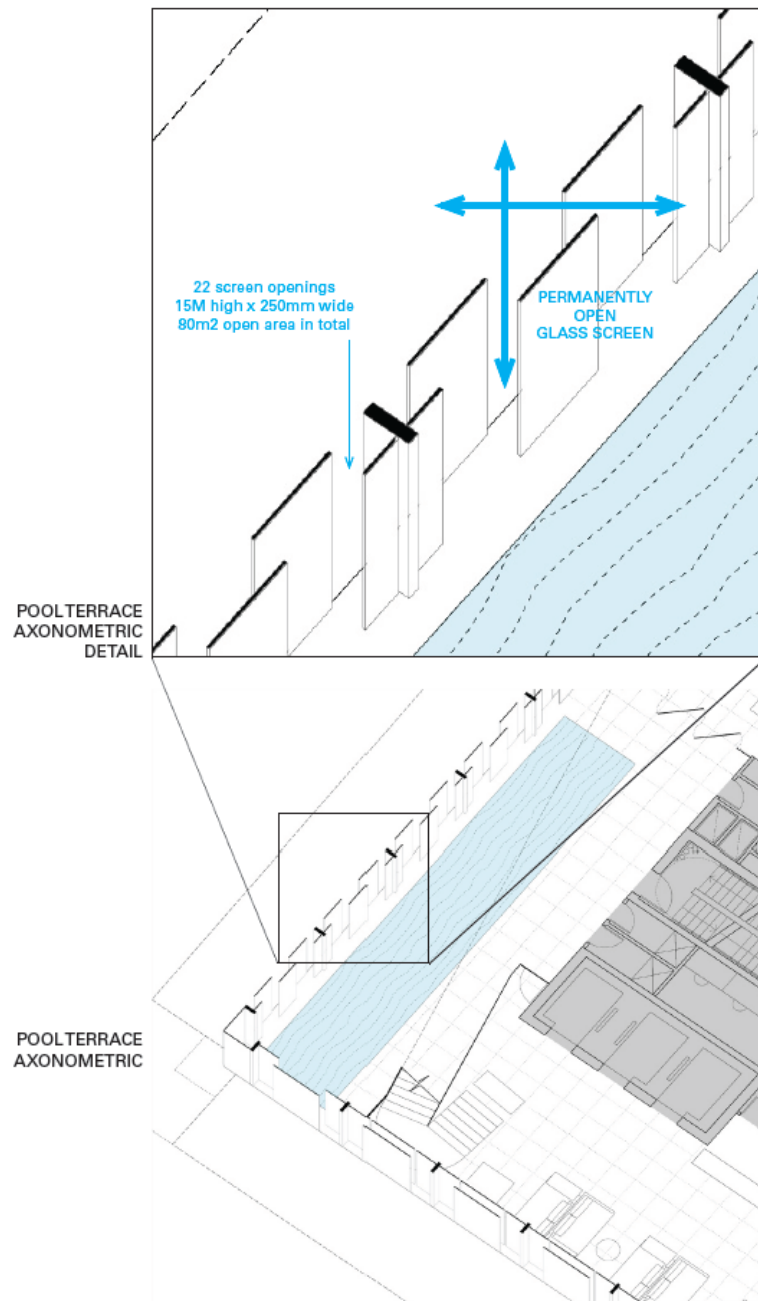
46. Clause 4.4 of Sydney LEP 2012 stipulates a base floor space ratio of 8:1 for the site. Clause 6.4 provides an opportunity based on the proposed land use mix in the development for a further 5.88:1 of floor space, where accommodation land uses are included. The collective maximum FSR applicable to the site under these clauses amounts to 13.88:1 (based on a land use mix of 92.1% of hotel accommodation and 7.9% of retail premises), which equates to a gross floor area of 8,230.8 sqm.
47. As discussed earlier, the architectural design competition for the proposed development was undertaken prior to the lodgement and approval of a Stage 1 development application. Due to the ordering of these events, a Design Excellence Strategy had not been endorsed as part of a Stage 1 consent, prior to the undertaking of the competitive design process. As such, the process was not in strict accordance with the provisions of the *City of Sydney Competitive Design Policy*. Therefore, the subject proposal cannot be awarded design excellence FSR under the provisions of Clause 6.21(7) of the LEP.
48. The Applicant has accommodated the additional floor space within the development that equates to an additional 10% of FSR, which could have been awarded under the design excellence provisions of the LEP, had the competition process been carried out in accordance with the *Competitive Design Policy*. As such, the applicant has submitted a Clause 4.6 variation seeking to justify the additional floor space on the basis of the scheme exhibiting design excellence.
49. The proposed development has a gross floor area of 9,132 sqm, which equates to an FSR of 15.4:1.
50. The applicant is relying on the provisions of Clause 4.6 of the Sydney LEP to seek an exception to the FSR development standard by 901.2 sqm. This represents a 10.95% or 1.52:1 exceedance of the maximum collective FSR for the site. The above is inclusive of an enclosed swimming pool terrace on Level 21 of the building, which amounts to 96 sqm of gross floor area (equating to 1.2% variation from the permissible FSR).
51. 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 CSPC 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.
52. In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the FSR development standard has been considered against the objectives and provisions of Clause 4.6 in the following paragraphs.
53. Clause 4.6(4)(a)(i) of the Sydney LEP provides that the applicant must submit a written request to vary the development standard demonstrating that compliance is unreasonable or unnecessary in the circumstances of the case, and there are sufficient environmental planning grounds to justify contravening the standard.
54. A written request has been submitted to Council justifying the proposed contravention of the floor space ratio development standard on the following basis:



- (a) the Stage 2 application is fully compliant with the approved Stage 1 envelope;
  - (b) the Stage 2 detailed design exhibits design excellence and satisfies the provisions of Clause 6.21(4) of the Sydney LEP 2012, despite the fact that the competitive design process was not carried out in strict accordance with the Competitive Design Policy;
  - (c) the request for variation to the FSR development standard under Clause 4.6 of the LEP is made having regard to relevant case law established in the NSW Land and Environment Court;
  - (d) part of the non-compliance with the FSR control is attributed to an open air swimming pool terrace on Level 21 (being 96 sqm or 1.2% variation from the permissible FSR), which is enclosed by full height glass screens. The floor area occupied by the pool terrace has been included in the FSR calculation for the development; and
  - (e) there are no adverse environmental and amenity impacts as a result of the non-compliance with the FSR development standard.
55. The proposed variation to the FSR development standard is considered to be justified on environmental planning grounds as:
- (a) The proposed development is considered to exhibit design excellence and satisfies Clause 6.21(4) of the Sydney LEP:
    - (i) The proposal presents a high standard of architectural design, materials and detailing, and will be appropriately related to the adjoining and nearby heritage items. The City's Design Advisory Panel has reviewed the proposal and raised no objections. As such, the proposal is considered to satisfy the provisions of Clause 6.21(4)(a);
    - (ii) The proposed design has appropriately resolved the site topography and level difference between George Street, Hunter Street and Curtin Place, and has provided adequate activation at the ground floor interface with the streets and laneway. As such, the proposal is considered to satisfy the provisions of Clauses 6.21(4)(b), (d)(x) and (d)(xii);
    - (iii) The proposal will not affect any significant view corridors. As such, the proposal is considered to satisfy the provisions of Clause 6.21(4)(c);
    - (iv) The site is considered to be suitable for the proposed development. The suitability of the site has been established in the Stage 1 consent. The height and scale of the development are contextually appropriate to the CBD location, and is compatible with the surrounding buildings along the eastern side of George Street. The podium and tower forms will address the visually prominent intersection between George and Hunter Streets. As such, the proposal is considered to satisfy the provisions of Clauses 6.21(4)(d)(i), (v) and (vi);
    - (v) The proposed hotel and retail land uses are considered to be appropriate to the CBD location of the site, and will satisfy the demand for tourist accommodation and services in Central Sydney. As such, the proposal is considered to satisfy the provisions of Clause 6.21(4)(d)(ii);

- (vi) As will be discussed in the following sections, the proposed façade treatment and articulation will be sympathetic to the adjoining and nearby heritage items and the streetscape. As such, the proposal is considered to satisfy the provisions of Clause 6.21(4)(d)(iii);
  - (vii) The site has three street / lane frontages. The adjoining heritage listed NSW Sports Club at 10-14 Hunter Street (to the east of the site) is subject to restrictions on the land title to maintain the floor area and height of the existing building. The proposed tower will be spatially separated from the surrounding high rise buildings, and will have all four elevations visible from the public domain. The proposed tower will not result in any significant amenity or privacy impacts on the surrounding properties. As such, the proposal is considered to satisfy the provisions of Clause 6.21(4)(d)(iv);
  - (viii) The overall massing and scale of the development will not create excessive enclosure to the public domain, and that an appropriate degree of sky views and daylight to the streets will be retained. The development will not result in detrimental overshadowing impacts on any publicly accessible open space and residential developments. There will be minimal changes to the existing wind condition in the surrounding streets at ground level as a result of the development. As such, the proposal is considered to satisfy the provisions of Clauses 6.21(4)(d)(vii) and (x);
  - (ix) The proposal is not considered to result in any significant impacts on vehicular and pedestrian circulation in the area. The ground floor level has provided a setback at the corners between George and Hunter Streets, and between George Street and Curtin Place, which will improve pedestrian circulation. As such, the proposal is considered to satisfy the provisions of Clause 6.21(4)(d)(ix).
- (b) The proposed development is compliant with the approved Stage 1 building envelope. The non-compliance with the FSR development standard will not result in any additional environmental or amenity impacts beyond that assessed as being acceptable under the approved Stage 1 envelope;
  - (c) In this instance, only up to 10% variation to the FSR standard pursuant to Clause 4.6 of the LEP is supported. This level of exceedance equates to an additional 10% of FSR, which could have been awarded under the design excellence provisions of the LEP, had the competition process been carried out in accordance with the *Competitive Design Policy*; and
  - (d) The enclosed swimming pool terrace on Level 21 accounts for 96 sqm of gross floor area, which equates to 1.2% variation to the maximum FSR standard. The full-height enclosing glass walls to the pool terrace are designed to incorporate permanent openings in between the glass panels (refer to **Figure 14** below). The external glass walls to the pool terrace could be re-designed, so that the area could be excluded from floor space calculations, whilst still providing an acceptable level of enclosure to the semi-outdoor facility. A condition to the above effect is recommended for imposition. Subject to the above conditions, the resultant variation to the FSR development standard will be reduced from 10.95% to 9.8%.

56. It is considered that strict compliance with the FSR development standard is unreasonable and unnecessary in the circumstances of the case, subject to the above-mentioned condition that requires re-design of the enclosing walls to the swimming pool terrace on Level 21.



**Figure 14** Axonometric view of the swimming pool terrace and glass wall configuration details.

57. Clause 4.6(4)(a)(ii) provides that the consent authority must be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone.

58. The objectives of the B8 - Metropolitan Centre zone are:
- *To recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy.*
  - *To provide opportunities for an intensity of land uses commensurate with Sydney's global status.*
  - *To permit a diversity of compatible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community.*
  - *To encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling.*
  - *To promote uses with active street frontages on main streets and on streets in which buildings are used primarily (at street level) for the purposes of retail premises.*
59. The objectives of the FSR development standard are:
- *to provide sufficient floor space to meet anticipated development needs for the foreseeable future,*
  - *to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,*
  - *to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure,*
  - *to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.*
60. The Applicant submits that the proposal is consistent with the objectives for the B8 Metropolitan Centre zone and the FSR development standard.
61. It is considered that the proposed development is consistent with the objectives for the B8 Metropolitan Centre zone as:
- (a) The proposed development will provide hotel and retail floor space to meet the anticipated demand for tourist accommodation and services within Central Sydney. It is noted that hotel accommodation is an important land use in the functioning of the Sydney CBD as a business and tourist core in the capital city;
  - (b) The proposed land uses will provide services to the workforce, visitors and the wider community, and will contribute to employment opportunities;
  - (c) The proposed development does not provide any car parking and will encourage the use of alternative modes of transport, including the future Sydney Light Rail; and
  - (d) The proposal has incorporated retail uses at the lower levels which would provide activation to the public domain.

62. It is considered that the proposed development is consistent with the objectives for the FSR development standard as:
- (a) The proposed development will provide hotel and retail floor space to meet the anticipated demand for tourist accommodation and services within Central Sydney;
  - (b) The anticipated vehicular and pedestrian traffic generated by the development have been assessed and are not considered to result in any detrimental impacts on the surrounding road network;
  - (c) The proposed development will have an intensity that is supportable by the capacity of the existing and planned infrastructure. The application has been referred to relevant utility and transport authorities and no objections have been raised, subject to conditions; and
  - (d) The proposed building will be contextually appropriate to the CBD location and will not result in any detrimental environmental impacts.
63. The proposed development is considered to be consistent with the objectives for the B8 Metropolitan Centre zone and the FSR development standard, and is within the public interest.
64. It is considered that the written statement provided by the applicant has sufficiently justified that strict numeric compliance with the development standard is unreasonable and unnecessary in this instance, subject to compliance with the recommended conditions. For the reasons outlined above, there are sufficient environmental planning grounds to justify the departure from the FSR development standard and it is recommended that a Clause 4.6 exception be granted, pursuant to the Director-General's general concurrence of May 2008.

### **Staged construction**

65. The application seeks approval for the staged construction of the proposed development. The proposed staging is as follows:
- (a) Stage 1 – demolition, installation of shoring and excavation;
  - (b) Stage 2 – construction of structures, building facades / envelope, public domain works to Hunter Street and George Street, internal fit-out works and services installation;
  - (c) Public domain works to Curtin Place, including relocation of services.
66. The proposed conditions have been formulated having regard to the proposed staging.

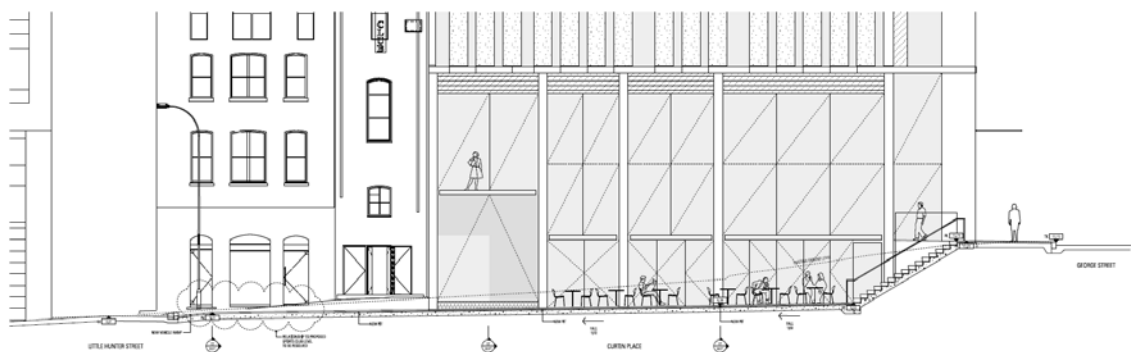
### **Allocation of heritage floor space**

67. Clause 6.11(1) of Sydney LEP 2012 requires the allocation of heritage floor space (HFS) to development within Central Sydney that utilises any additional floor space over and above the permissible base FSR. The applicable heritage floor space required to be allocated to the proposed development under sub-clauses (a) and (e) is calculated as follows:

- (a) 50% of accommodation floor space utilised (i.e. 50% x 5.88:1 accommodation floor space) = 1743.4 sqm; and
  - (b) 100% of any additional floor space permitted under Clause 4.6 = 805.2 sqm.
  - (c) Note: As discussed, a deferred commencement condition is recommended to require the external walls to the outdoor pool terrace on level 22 to be reduced to a maximum of 1.4m in height. As such, the total gross floor area of the building and the variation to the FSR standard under Clause 4.6 of the LEP will be reduced by 96 sqm. This has been factored into the above calculations.
68. The total amount of heritage floor space required to be allocated (purchased and transferred) to the proposed development is 2,549 sqm.

### Voluntary Planning Agreement

69. On 10 May 2016, the applicant submitted an offer to enter into a Voluntary Planning Agreement (VPA) with Council in conjunction with the assessment of the subject application, pursuant to Section 2.5(b) of the Central Sydney Development Contributions Plan 2013 and Section 93F of the Environmental Planning and Assessment Act 1979.
70. The offer involves the design, construction and delivery of public domain improvement works in Curtin Place at a capital cost of approximately \$890,000, including:
- (a) conversion of the western part of Curtin Place, between George Street and Little Hunter Street, to a shared zone;
  - (b) re-grading of the laneway with excavation of up to approximately 2.7m in depth;
  - (c) construction of a new staircase connecting the footpaths in George Street with the regraded Curtin Place; and
  - (d) installation of new paving and elimination of street kerbs.



**Figure 15** East-west longitudinal section (looking south towards the proposed development and the adjoining NSW Sports Club) showing the proposed public domain works within Curtin Place.

71. The public benefits offer is currently under review, and a draft Voluntary Planning Agreement will be prepared following this review process. It is expected that the draft VPA will be placed on public exhibition in the near future.

72. Given the above, it is recommended that authority be delegated to the CEO to determine the subject application after the draft VPA has been publicly exhibited, and that a deferred commencement condition be attached requiring the execution of the final VPA prior to the consent becoming operational.

#### **Heritage and facade treatment**

73. The site is located directly adjacent to the NSW Sports Club at 10-14 Hunter Street, which is listed as a heritage item on both the State Heritage Register and Schedule 5 of the Sydney LEP 2012.
74. The height of the podium (RL58.05) is significantly greater than the parapet level of the adjoining heritage listed NSW Sports Club at 10-14 Hunter Street (RL35.13), being a difference of 22.92m. The height of the NSW Sports Club is lower than other more recent developments in the locality and is subject to a height restriction on the title to the land.
75. The Hunter Street elevation of the development is considered to have incorporated suitable articulations and detailing to relate to the NSW Sports Club, such as:
- (a) expressed floor slabs to relate to the horizontal architectural elements of the NSW Sports Club, including the parapet, cornice and balustrade lines;
  - (b) the vertical fins and blades are spaced in a manner that corresponds to the proportions of the openings of the NSW Sports Club; and
  - (c) the design has been amended so that the intermediate columns (excluding the corner columns) at the building base on the Hunter Street, George Street and Curtin Place elevations will be clad with Piles Creek sandstones. The selected materiality will provide a suitable reference to the colours and finishes of the NSW Sports Club as well as other heritage items in the locality.





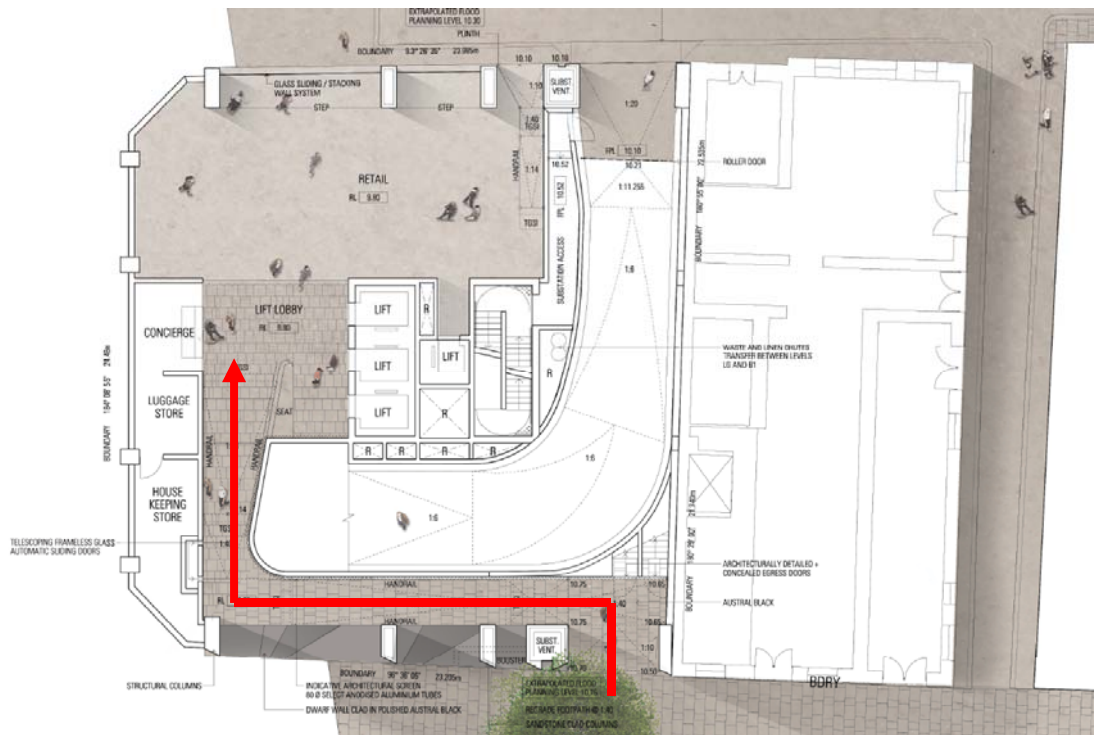


**Figure 17** Photomontage showing the relationship between the proposed development and the adjoining heritage listed NSW Sports Club building.

### Activation of street and laneway frontages

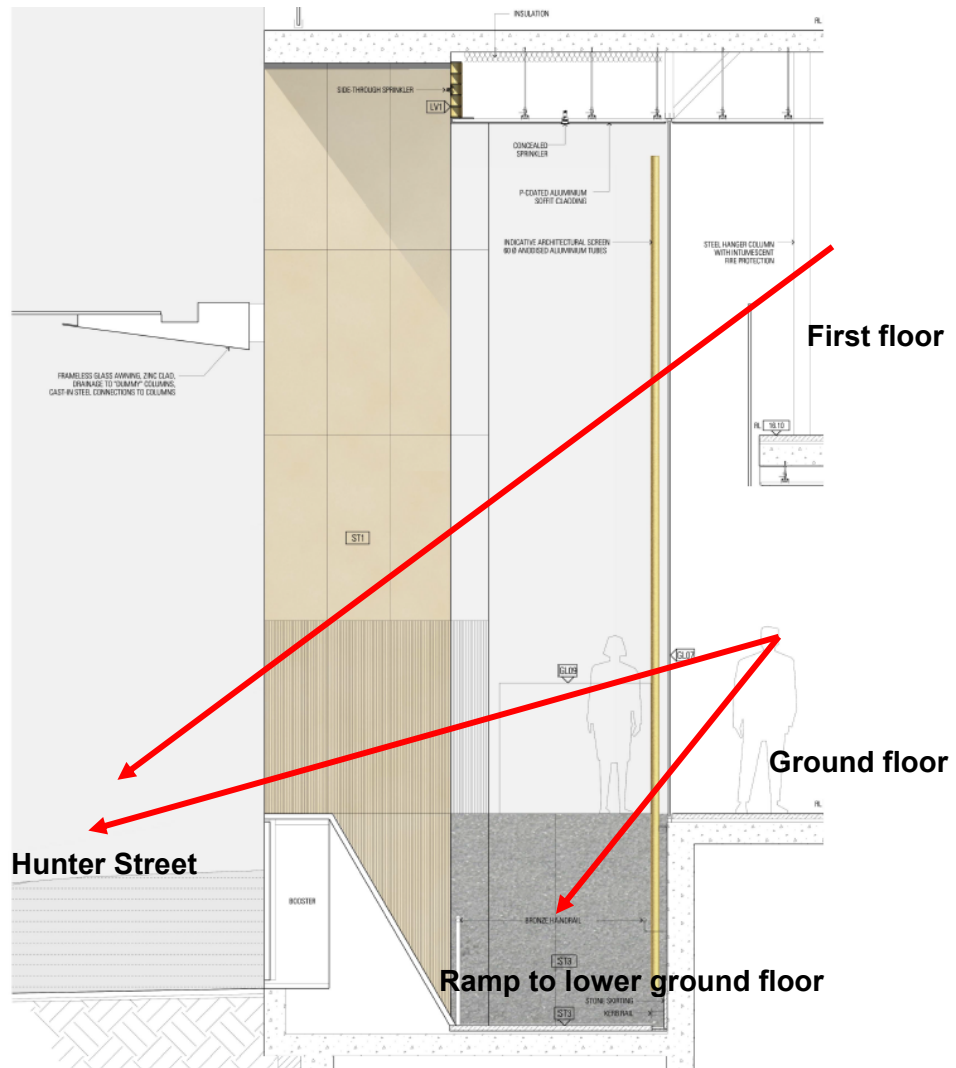
77. Condition (8)(f) of the Stage 1 consent requires a high level of activation to the George Street, Hunter Street and Curtin Place frontages of the site.
78. The proposal includes retail uses on the George Street and Curtin Place frontages, which are directly accessible from the public domain and would provide a high level of activation.

79. The design incorporates a colonnade on the southern elevation, with ramped access for pedestrian connection from Hunter Street to the hotel concierge on the lower ground level. Refer to **Figure 18** below. The colonnade and ramps are a response addressing the significant fall in site topography from west to east, and to maximise direct pedestrian access from the streets to the interior. It is also to address the need for accommodating a vehicular access ramp to the basement for service vehicles, which inhibits the provision of floor space.

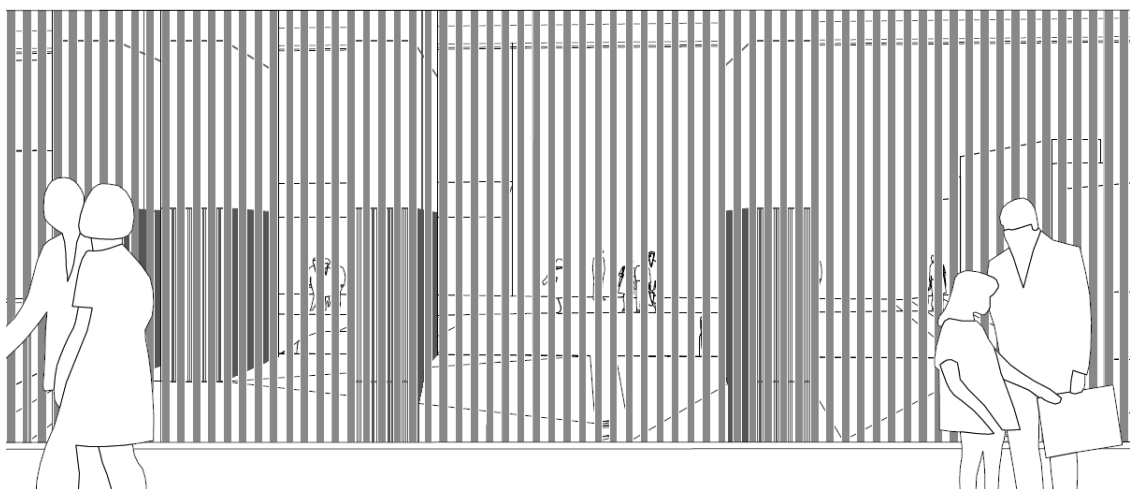


**Figure 18** Lower ground floor plan. Note the entry route to the lower ground hotel concierge from Hunter Street.

80. The proposed colonnade is considered to satisfy the provisions of Section 3.2.5 of Sydney DCP, and is considered to provide adequate activation and casual surveillance to Hunter Street as:
- the colonnade is designed as a high ceiling circulation space extending to the top of level 1 of the building, and will enjoy an acceptable level of daylight; and
  - retail uses on the ground and first storeys will overlook the colonnade and Hunter Street through a tubular architectural feature screen (refer to **Figures 19 and 20** below). Sightlines and visual interaction will be achieved between the public domain, the open air circulation areas and the interior. A condition is recommended to require the design details of the architectural screens, including configuration, materials, dimensions and spacing to be submitted for approval prior to the issue of a Construction Certificate. A further condition is recommended to require clear glazing on the southern elevation of the ground and first floor retail areas to maximise sightlines and visibility.

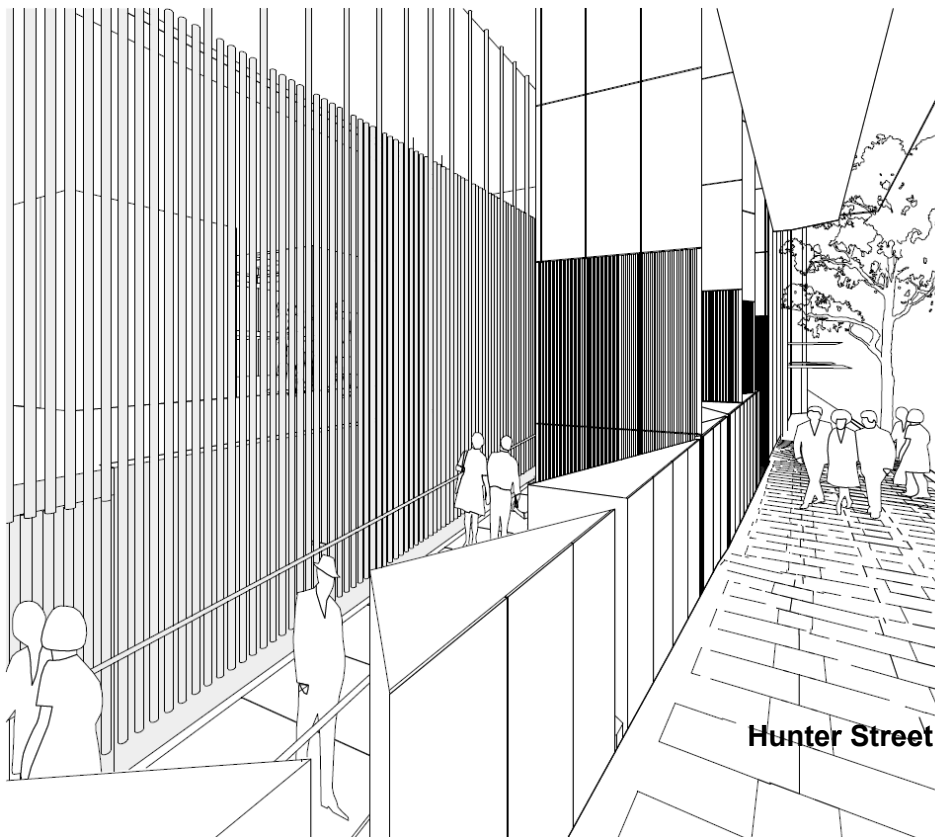


**Figure 19** Section (north-south) showing the relationship between the ground and first floor retail areas, colonnade and Hunter Street. Note that sightlines can be achieved from the interior to Hunter Street and the colonnade.



**Figure 20** Perspective showing views from the ground floor retail area overlooking the colonnade and Hunter Street.

- (c) the colonnade will be flanked by architectural screens and sandstone clad columns with high quality stone paving. It is also identified in the submitted Public Art Strategy as a location for a public art installation. It will provide visual interest and is considered suitable as the principal entry for the hotel. Refer to **Figure 21** below and **Attachment B** for perspective images of the proposed colonnade.



**Figure 21** Perspective showing the proposed colonnade as viewed from the Hunter Street footpath, looking east.

### Ceiling height

81. Clause (1)(a), Section 4.2.1.2 of the DCP prescribes a minimum floor to ceiling height of 4.5m for the first basement storey. The lower ground floor is partially underground and represents the first basement level. The lower ground floor has a floor to floor height of 2.83m and does not meet the above control.
82. The lower ground floor will accommodate a retail tenancy facing Curtin Place, which is likely to be used as a food and drink premise. The hotel concierge and luggage store will also be located on this level, which are accessible via a ramp from Hunter Street.
83. The proposed floor to floor height is considered acceptable in this particular instance as:

- (a) the site has a fall from west to east of approximately 1.7m (from south-western to south-eastern corners) to 2.3m (from north-western to north-eastern corners). The site topography presents a significant constraint in providing levelled access from the George Street footpath to the ground level, as well as equitable access from both Hunter Street and Curtin Place. The floor to floor height for the lower ground level is a reasonable solution that balances accessibility, functionality and activation to the public domain;
  - (b) it is possible to furnish the lower ground tenancy adjacent to Curtin Place as a functional retail or food and drink premise, provided the relevant building services and mechanical ventilation and exhaust systems are carefully planned and constructed. A condition is recommended to require the approval of a separate application for the fit-out and use of the lower ground retail space. Relevant BCA compliance issues will be addressed as part of this application. A further condition is recommended to stipulate that the mechanical exhaust system for all retail floor space is to have the capacity for accommodating the requirements for food and drink premises; and
  - (c) the principal hotel lobby is located on level 21. The concierge on the lower ground level functions as an initial reception space, and a lower floor to floor height is considered acceptable for its intended purpose as a lift lobby.
84. Clauses (1)(b) and (c), Section 4.2.1.2 of the DCP stipulates a minimum floor to ceiling height of 4.5m for the ground floor and 3.6m for the first commercial floor. The floor to floor heights of the ground and first levels are 3.47m and 3.7m respectively, and do not meet the above controls. Notwithstanding, the design incorporates a void between the ground and first levels, the combined ceiling height will become approximately 6.8m. The design would allow adequate level of daylight to the interior, and the proposed floor to floor heights are considered suitable for the intended retail function.
85. All hotel room levels have a minimum floor to floor height of 3.1m, and will meet the 2.7m floor to ceiling height requirement of Clause (4) of Section 4.2.1.2 of the DCP.

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

86. The proposed development is capable of complying with the BCA.
87. It is considered that the proposal will not result in detrimental environmental, social or economic impacts on the locality, subject to the recommended conditions.

#### **Suitability of the Site for the Development**

88. The proposed building and land uses are considered to be appropriate to the CBD location. The site is located in close proximity to the future Sydney Light Rail and would promote sustainable modes of transport. The proposed development is capable of providing activation to the surrounding public domain and would enhance the character of the locality. Therefore, the site is considered to be suitable for the development.

**INTERNAL REFERRALS**

89. Council's internal service units, including Building & Surveying, Health, Licensed Premises, Public Art, Public Domain (City Infrastructure), Safe City, Transport & Access, Tree Management, Urban Design & Heritage and Waste Management; Quantity Surveying consultant; Design Advisory Panel and Public Art Advisory Panel have reviewed the application and raised no objections, subject to conditions.

**EXTERNAL REFERRALS**

90. The application has been referred to Ausgrid, Police, Roads and Maritime Services, Transport for NSW and Sydney Water. The relevant conditions recommended have been incorporated in this report.

**Notification, Advertising and Delegation (Submission(s) Received)**

91. In accordance with Schedule 1 of Sydney DCP 2012, the proposed development was advertised and notified from 7 January to 5 February 2016. A total of one (1) submission was received at the conclusion of the public consultation process. The issues raised in the submission are addressed below:

- (a) The operation of the proposed food and drink premises on the upper level of the building and the mechanical plant and equipment have the potential to result in noise impacts on the surrounding developments.

**Comments:** Appropriate conditions have been recommended to ensure that the development will not result in any significant noise emission during the operational phase.

- (b) The submitted wind study has not addressed the potential wind impacts on the plaza areas of the Australia Square development.

**Comments:** The wind study states that the proposed development will have minimal effects on the existing wind condition at ground level in the surrounding areas. An addendum to the wind study further confirms that the proposed building would not adversely affect the wind conditions in Australian Square plaza.

- (c) The proposed glass curtain walling would result in glare and reflectivity impacts on the plaza areas and office tower of Australia Square.

**Comments:** The submitted reflectivity report confirms that the proposed development will have a minimal risk of creating disabling glare and solar reflection. A condition is recommended to require the reflectivity index of glazing on the building facades to be not greater than 20%. The proposal is not considered to result in any adverse reflectivity impacts, subject to the above condition.

- (d) The construction traffic would adversely affect Curtin Place, which is regularly used by pedestrians accessing Australia Square.

**Comments:** Appropriate conditions are recommended to require a construction traffic management plan to be prepared prior to the issue of a Construction Certificate, in order to minimise disturbance to the surrounding uses during the construction phase.

**PUBLIC INTEREST**

92. It is considered that the proposal will have no detrimental effect on the public interest, subject to the recommended conditions of consent.

**FINANCIAL IMPLICATIONS / S61 CONTRIBUTION****Section 61 Contribution**

93. 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 the Construction Certificate stage, and would be approximately \$564,610 (based on the current estimated construction cost for the project).

**RELEVANT LEGISLATION**

94. The Environmental Planning and Assessment Act 1979.

**CONCLUSION**

95. The proposal seeks consent for a 26-storey mixed use development accommodating 194 hotel rooms with ancillary gymnasium, swimming pool and restaurant / bar facilities and 719 sqm of retail floor space at 280-288 George Street, Sydney.
96. Whilst the proposed development results in numeric non-compliance with the FSR development standard in Sydney LEP 2012, in this instance, the written request submitted by the applicant to justify the departure under the provisions of Clause 4.6 of the LEP is supported.
97. A condition is recommended to require the redesign of the external enclosing walls of the swimming pool terrace on Level 21, so that the area will not be included in gross floor area calculation. Subject to the above condition, the variation from the FSR development standard will be reduced to 9.8%.
98. The 9.8% variation from the FSR standard (excluding the pool terrace area) is supported on the basis that it would have been awarded as design excellence floor space (not requiring a variation pursuant to Clause 4.6 of the LEP) had the design competition process been carried out in strict accordance with a design excellence strategy approved as part of a Stage 1 consent and the *City of Sydney Competitive Design Policy*.
99. The proposed development is considered to be generally consistent with the relevant planning controls and the existing consent in place for the site. The proposal responds appropriately to the characteristics of the site and is considered to achieve a satisfactory design outcome.

100. It is recommended that authority be delegated to the CEO to determine the development application after the VPA has been publicly exhibited and any submissions considered. If the CEO determines to approve the application, then it is recommended that consideration be given to granting a deferred commencement approval requiring the VPA to be executed prior to the consent becoming operational.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

(Simon Ip, Senior Planner)