

ITEM 8. DEVELOPMENT APPLICATION: 136 HAY STREET HAYMARKET**FILE NO: D/2015/1490****DEVELOPMENT APPLICATION NO: D/2015/1490****SUMMARY**

Date of Submission: 15 October 2015, amended plans received 29 April and 14 June 2016

Applicant: DEDICO DEVELOPMENT SERVICES

Architect: BVN

Developer: DEDICO DEVELOPMENT SERVICES

Owner: LINZHU (AUSTRALIA) PTY LTD

Cost of Works: \$60,727,860

Proposal Summary

The proposal is an amended Stage 1 development application seeking consent for a 16-storey building envelope with 4 basement levels and services on the roof.

The indicative land uses are for retail, commercial and hotel, with indicative basement car parking and vehicular access from Campbell Street.

The application is Integrated Development under the Water Management Act 2000 as dewatering of the site is required. The NSW Office of Water issued their General Terms of Approval on 12 November 2015.

The Applicant originally sought the use of the building as residential with serviced apartments and retail; however, due to concerns raised by council officers regarding amenity of apartments the proposal has been amended to hotel and retail use only.

**Proposal Summary
(continued):**

The residential application was originally notified for a 30 day period from 10 November 2015. One petition was received with 75 signatures. The amended proposal was renotified for 14 days on 15 June 2015. One submission was received, which raised similar concerns, which included:

- Traffic, access and parking;
- Solar access plane to Belmore Park;
- General views to Belmore Park and Central Station;
- General noise impacts; and
- Reduction in height.

There are a number of inherent site constraints that impact on the potential development of the building, including the Belmore Park sun access plane, covenants relating to sunlight, the Belmore Park substation zone and its associated easements and the location of rail corridors adjacent to and near the site.

The proposed building envelope has been designed to accommodate the above constraints and includes a base with a triangular prism in response to the sun access plane. As a result of this, the proposed building envelope does not provide the required 8m setback of the tower above the street wall. The variation to this DCP control is considered acceptable, due to the design of the envelope and being contextually appropriate.

The future building within the proposed envelope is considered capable of satisfying the objectives of the relevant planning controls.

Summary Recommendation:

The Stage 1 development application for the building envelope and indicative land uses are considered to be acceptable and as such the proposal is recommended for approval, subject to conditions. A condition is recommended requiring that no residential or serviced apartment use is permitted on the site and that there is to be no future strata subdivision of the hotel rooms owing to poor residential amenity.

- Development Controls:**
- (i) Environmental Planning and Assessment Act 1979
 - (ii) Water Management Act, 2000
 - (iii) City of Sydney Act, 1988
 - (iv) State Environmental Planning Policy No. 55 Remediation of Land
 - (v) State Environmental Planning Policy (Infrastructure) 2007
 - (vi) Sydney Local Environmental Plan 2012
 - (vii) Sydney Development Control Plan 2012
- Attachments:**
- A - Selected Drawings

RECOMMENDATION

It is resolved that consent be granted to Development Application No. D/2015/1490, subject to the following conditions:

SCHEDULE 1A**Approved Development/Design Modifications/Covenants and Contributions/Use and Operation****(1) STAGE DEVELOPMENT APPLICATION**

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

(2) APPROVED DEVELOPMENT

- (a) Development consent is limited to a Stage 1 concept plan building envelope and indicative land uses within this envelope, in accordance with Development Application No. D/2015/1490 dated 15 October 2015 (as amended) and the following drawings:

Drawing Number	Architect	Date
A00-02 3	BVN	02.10.15
C-EA-01 3	BVN	26.04.16
C-NO-01 3	BVN	26.04.16
C-S-01 4	BVN	26.04.16
C-WE-01 4	BVN	26.04.16

and as amended by the conditions of this consent.

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

(3) MATTERS NOT APPROVED IN STAGE 1 DEVELOPMENT CONSENT

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

- (a) Any works including excavation and/or construction;
- (b) The precise total quantum of floor space;
- (c) The quantum, ratio and distribution of hotel accommodation, retail or commercial floor space;
- (d) The floor layout of the hotel accommodation including the total number of hotel rooms;

- (e) The floor levels of each storey;
- (f) The number, configuration and layout of the basement level/s;
- (g) The vehicular access / crossover location on Campbell Street;
- (h) The number and configuration of car space, bicycle spaces and loading spaces / zones;
- (i) The siting and location of a substation; and
- (j) Any part of the building that protrudes beyond the Belmore Park sun access plane.

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

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

(5) HERITAGE CONSERVATION WORKS

A Heritage Impact Statement and an Archaeological Assessment report are to be prepared and submitted as part of the Stage 2 Development Application.

(6) SUN ACCESS MODELLING

Detailed design drawings are to be submitted with the Stage 2 Development Application providing precise sun access modelling, confirming that the development will not impact on the Belmore Park sun access plane.

(7) BUILDING HEIGHT

The maximum height of the buildings as defined in the Sydney Local Environmental Plan 2012 may not exceed 55m with the exception of an architectural roof feature.

(8) FLOOR SPACE RATIO - CENTRAL SYDNEY

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal must not exceed the maximum permitted floor space as calculated in accordance with the Sydney Local Environmental Plan 2012.
- (b) Precise details of the distribution of floor space shall be provided with the future Stage 2 development applications.
- (c) Any floor space ratio in excess of 8:1 shall be subject to a requirement to purchase heritage floor space (HFS) in accordance with the requirements of Clause 6.10 of the Sydney Local Environmental Plan 2012.

(9) HOTEL USE

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

(10) RESIDENTIAL / SERVICED APARTMENT USE AND STRATA SUBDIVISION NOT PERMITTED

- (a) Residential and serviced apartment use is not permitted.
- (b) Strata subdivision of hotel rooms is not permitted.

(11) FLOOD LEVELS

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

(12) TREES

All street trees surrounding the site must be accurately surveyed and the plan submitted with the Stage 2 Development Application.

(13) LANDSCAPING

A detailed landscape plan is to be submitted with the Stage 2 Development Application.

(14) FLOOR TO CEILING LEVELS

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

(15) PUBLIC ART

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

(16) WIND

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

(17) CONSTRUCTION NOISE MANAGEMENT PLAN

A Construction Noise Management Plan must be prepared and submitted with the Stage 2 Development Application. This Plan must be prepared by a suitably qualified acoustic consultant and must detail, but not limited to, the following:

- (a) The equipment to be used during construction on site, the quantity of all equipment and a plan of how equipment will be operated on site cumulatively;
- (b) The type of work that will be conducted during the construction process;
- (c) Details on (any) respite periods and any noise mitigation measures required; and
- (d) Detail the extent of community consultation to be undertaken.

(18) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

A construction traffic management plan must be prepared and submitted with the Stage 2 Development Application.

(19) TRANSPORT IMPACT ASSESSMENT

A detailed Transport Impact Study must be prepared in accordance with the provisions of Schedule 7.4 of Sydney DCP 2012, and shall be submitted with the Stage 2 Development Application.

(20) WASTE COLLECTION

The future Stage 2 Development Application shall demonstrate compliance with Council's requirements for waste collection for Waste Minimisation in New Development 2005.

(21) AUSGRID

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

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

A site specific noise management plan shall be submitted with the Stage 2 Development Application..

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

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

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

(23) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES

An Access Report shall be submitted with the Stage 2 Development Application to demonstrate that the building has been designed and is capable of being constructed to provide access and facilities for people with a disability in accordance with the *Building Code of Australia*.

(24) CENTRAL SYDNEY TRAFFIC AND TRANSPORT COMMITTEE (CSTTC)

The subject site falls within the CSTTC boundary. The application also triggers the requirement for determination by the Central Sydney Planning Committee (CSPC) due to the estimated cost of works. All CSPC items falling within the CSTTC boundary are subject to consideration by the CSTTC.

As such, the Stage 2 Development Application is to include a brief assessment in line with the CSTTC assessment criteria, which includes the following:

- (a) Impact on the road network;
- (b) Future economic welfare and development of Sydney and the State;
- (c) Efficient functioning of businesses in the whole or any part of the Sydney CBD;
- (d) Maintenance of access for freight within the whole or any part of the Sydney CBD;
- (e) Efficiency and traffic safety of the public transport network in the Sydney CBD; and
- (f) Needs of commuters, residents, pedestrians and visitors in the whole or any part of the Sydney CBD.

(25) 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.

(26) PARKING DESIGN

- (a) No parking spaces are approved under this consent. The permissible number of car parking spaces is to be determined at Stage 2.
- (b) The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the Principal Certifying Authority prior to a Construction Certificate being issued.

(27) SECURITY GATES

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

(28) SERVICE VEHICLE SIZE LIMIT

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

(29) SERVICE VEHICLES

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

(30) VEHICLES ACCESS

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

(31) VEHICLE LIFT

The Stage 2 Development Application must include details of the proposed vehicle lift system, including an assessment of vehicle queuing and consequential impacts on the road network, if any.

(32) BICYCLE PARKING

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

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

(33) COACH PARKING MANAGEMENT PLAN (HOTEL)

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

(34) 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".

(35) NSW TRANSPORT ROADS & MARITIME SERVICES

The following information and requirements of NSW Transport Roads & Maritime Services must be fully addressed and detailed in the Stage 2 Development Application:

- (a) Due to the current Sydney Light Rail Works, proposed Sydney Metro works and various other construction projects development in the CBD, a Construction Traffic Management Plan (CTMP) will need to be provided in consultation with the CBD Coordination Office. This should be submitted prior to issue of a construction certificate and should include but not limited to, the following:
 - (i) Haulage Routes;
 - (ii) Construction vehicle access arrangements;
 - (iii) Proposed construction hours;
 - (iv) Impacts to general traffic, cyclists, pedestrians and buses during the construction work and mitigation measures proposed.

(36) SYDNEY TRAINS

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

- (a) Prior to the issue of a 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 Rai/Corp as to whether these services are to be relocated or incorporated within the development site.
- (b) Prior to the issue of a Construction Certificate, the Applicant shall provide an accurate survey locating the development with respect to the rail boundary and rail infrastructure. This work is to be undertaken by a registered surveyor, to the satisfaction of Sydney Trains representative.

- (c) Prior to the commencement of works, during the works, prior to the issue of the Occupation Certificate, and following occupation, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during and after construction to be observed. The timing of the surveys is to be agreed with Sydney Trains. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.
- (d) Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.
- (e) An acoustic assessment is to be submitted to Council prior to the issue of a Construction Certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".
- (f) A geotechnical report is needed to evaluate the impact of the development on the rail tunnel below the subject site. The Applicant shall submit a Geotechnical Report for review by Sydney Trains to ensure that the proposed development is structurally sound and will not jeopardise the structural integrity of the existing rail tunnel
- (g) The Applicant shall provide details of any intended encroachment into Rai/Corp's easement or RailCorp owned lands, for review and approval by Sydney Trains.

(37) ELECTRICITY SUBSTATION

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

(38) 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 the relevant Stage 2 Development Application. The Public Domain Plan must be submitted with a completed Public Domain Plan checklist (available in the City of Sydney's *Public Domain Manual*).

- (b) The Public Domain Plan must document all works required to ensure that the public domain complies with the City of Sydney's *Public Domain Manual*, *Sydney Streets Design Code* and *Sydney Streets Technical Specification*, including requirements for road pavement, traffic measures, footway pavement, kerb and gutter, drainage, vehicle crossovers, pedestrian ramps, lighting, street trees and landscaping, signage and other public domain elements. If an Alignment Levels condition applies to the development, the Public Domain Plan submission must incorporate the approved Alignment Levels. If the proposed detailed design of the public domain requires changes to any previously approved Alignment Levels, then an amended Alignment Levels submission must be submitted to and approved by Council to reflect these changes prior to a Construction Certificate being issued for public domain work.
- (c) The works to the public domain are to be completed in accordance with the approved Public Domain Plan and Alignment Levels plans and the *Public Domain Manual* before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.
- (d) A Public Domain Works Deposit will be required for the public domain works, in accordance with the City of Sydney's adopted fees and charges and the *Public Domain Manual*. The Public Domain Works Deposit must be submitted as an unconditional bank guarantee in favour of Council as security for completion of the obligations under this consent.
- (e) Council's Public Domain section must be contacted to determine the guarantee amount prior to lodgement of the guarantee. The guarantee must be lodged with Council prior to a Construction Certificate being issued for Stage 2 development.
- (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.

(39) STORMWATER AND DRAINAGE - MAJOR DEVELOPMENT

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

(40) LAND CONTAMINATION

The Stage 2 application must include documentation that demonstrates the requirements of State Environmental Planning Policy No 55 are addressed.

To address the requirements of SEPP No 55, the hierarchy of assessment may include but is not limited to the following:

- (a) Preliminary Environmental Site Assessment (PESA) (Also known as Stage 1);
- (b) Detailed Environmental Site Assessment (DESA) (Also known as Stage 2);
- (c) Remediation Action Plan (RAP);
- (d) Review by NSW EPA Site Auditor;
- (e) Site Validation Report; and
- (f) Site Audit Statement (SAS).

(41) ACID SULFATE SOILS – PRELIMINARY SITE ASSESSMENT

- (a) A preliminary acid sulfate soil assessment is required on this site as it is located within 500m of land with a class 1, 2, 3 or 4 acid sulfate soil classification. The development has the potential of removing greater than 1 tonne of soil from the site or lowering the water table to below 1 metre. This must be carried out by a suitably qualified person in accordance with the *Acid Sulfate Soils Assessment Guidelines (Acid Sulfate Soils Management Advisory Committee August 1998)*. The preliminary assessment **must** be submitted to the City's Area Planning Manager for approval.
- (b) Where the preliminary site assessment confirms that the site is subject to acid sulfate soils which may affect the integrity development then an Acid Sulfate Soils Management Plan must also be prepared and submitted to the City for approval and **approved in writing**.

SCHEDULE 2

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

SCHEDULE 3

Terms of Approval

Other Integrated Development Approvals

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

General

1. An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.

2. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.
3. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
 - (a) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
 - (b) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
 - (c) where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
4. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
5. DPI Water requires documentation (referred to as 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted to DPI Water at Parramatta Office, in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.

Prior to excavation

6. The following shall be included in the initial report:
 - (a) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.
 - (b) a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.

- (c) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
 - (d) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [DPI Water prefers that monitoring be undertaken on a continuous basis using automatic loggers in boreholes.]
7. The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.
8. Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.
9. Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.
10. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).
11. A copy of a valid consent for the development shall be provided in the initial report.
12. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.

13. Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During Excavation

14. Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
15. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off- site discharge.
16. Measurement and monitoring arrangements to the satisfaction of DPI Water are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.
17. Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
18. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
19. The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.
20. Access to groundwater management works used in the activity is to be provided to permit inspection when required by DPI Water under appropriate safety procedures.

Following excavation

21. Following completion of the dewatering operations, the applicant shall submit to DPI Water, Parramatta Office, the completion report which shall include:
 - (a) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and

- (b) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
 - (c) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.
22. The completion report is to be assessed by DPI Water prior to any certifying agency's approval for occupation or use of the completed construction.

BACKGROUND

The Site and Surrounding Development

1. The site consists of Lot 20 DP 1189291 at 136 Hay Street, Haymarket and has a total site area of 1,619m². The site is rectangular in shape and comprises a private at grade carpark, which has a fall of 2.5m in a south westerly direction. The site is vacant other than a perimeter fence. There are a number of street trees that surround the site.
2. The site is bound by Pitt Street to the west, Campbell Street to the north and Hay Street to the south. Immediately to the east of the site is the large Belmore Park Zone Substation, approximately 22m in height, which is also located under a portion of the site. This substation has resulted in an easement affecting the land, approximately 417m², which is unable to be built on.
3. There are a number of other easements and covenants affecting the site, including:
 - (a) A railway tunnel (south-west corner) of the site;
 - (b) Easement for light and air at the eastern portion of the site, with the proposed development to be setback 7.7m from the eastern site boundary;
 - (c) Easements for services to provide separation between the subject site and the Belmore Park Zone substation;
 - (d) Various easements relating to Ausgrid including right of access, noise, vibration and electrolysis, as well as electro-magnetic fields; and
 - (e) Covenants in relation to solar access protection for Belmore Park which restricts the height of the building.
4. Across Hay Street to the south is Belmore Park; across Pitt Street to the west is the heritage listed seven storey Manning Building; and across Campbell Street to the north is the four storey heritage listed Chamberlain Hotel.
5. Photos of the site and surrounds are provided below:



Figure 1: Aerial image of subject site and surrounding area



Figure 2: The subject site as viewed from the corner of Campbell and Pitt Streets, with the Belmore Park substation located to the east of the site



Figure 3: Looking west across the subject site to the Manning Building

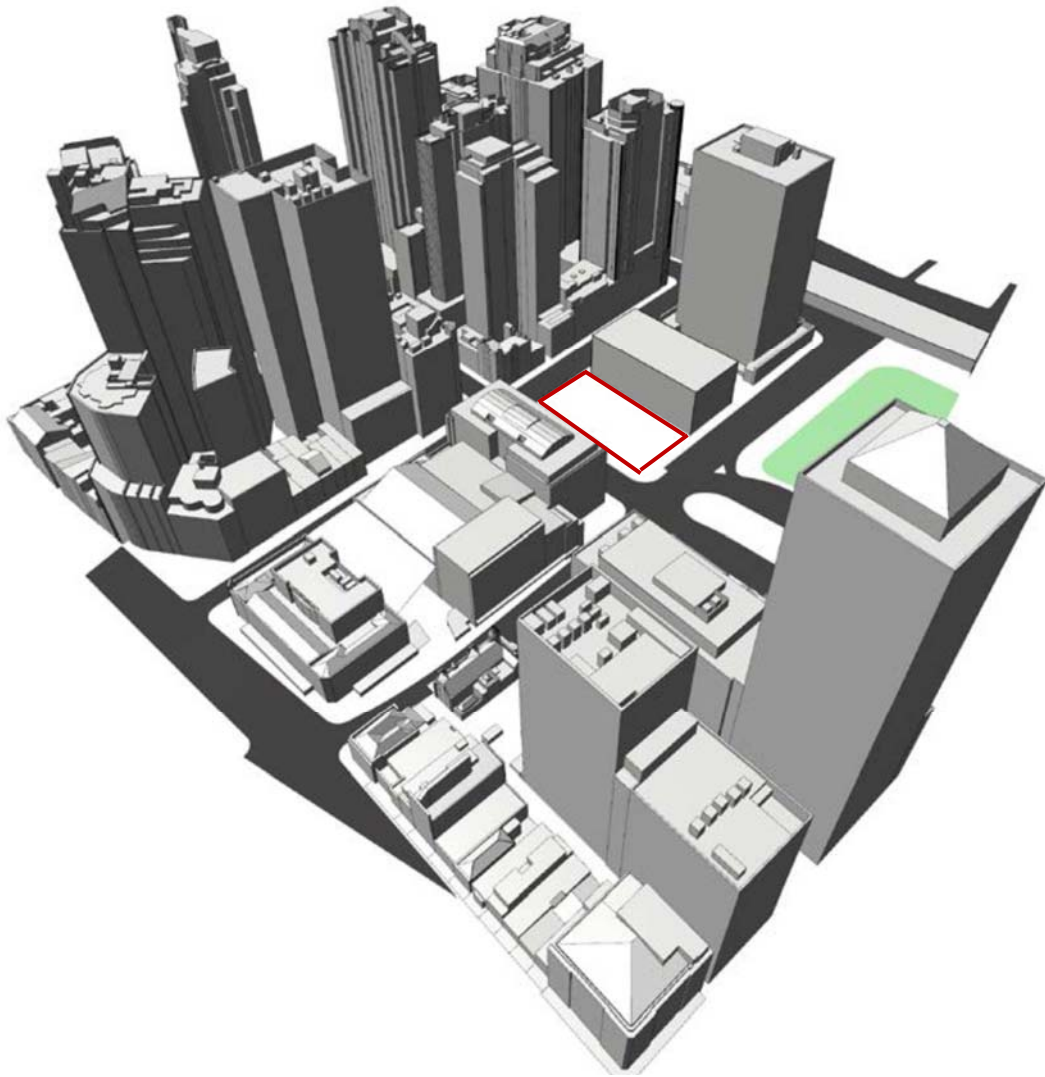


Figure 4: Aerial view of the subject site, highlighted

PROPOSAL

6. The subject application seeks consent for a Stage 1 building envelope and design parameters including the following:
 - (a) a 16 storey mixed use tower building envelope (to a maximum height of 60.165m (RL67.692) at the northern boundary reducing to 24.2m (RL31.8) at the southern boundary);
 - (b) indicative future land uses of ground and lower ground floor retail and services, restaurant (level 1), hotel (level 2 to 15); and services (level 16);
 - (c) new indicative basement car parking (3 levels below ground);
 - (d) vehicular access off Campbell Street; and
 - (e) through site link along the eastern boundary.



Figure 5: Proposed building envelope as viewed along Campbell Street looking east



Figure 6: Proposed building envelope as viewed along Pitt Street looking south



Figure 7: Proposed building envelope looking west along Hay Street

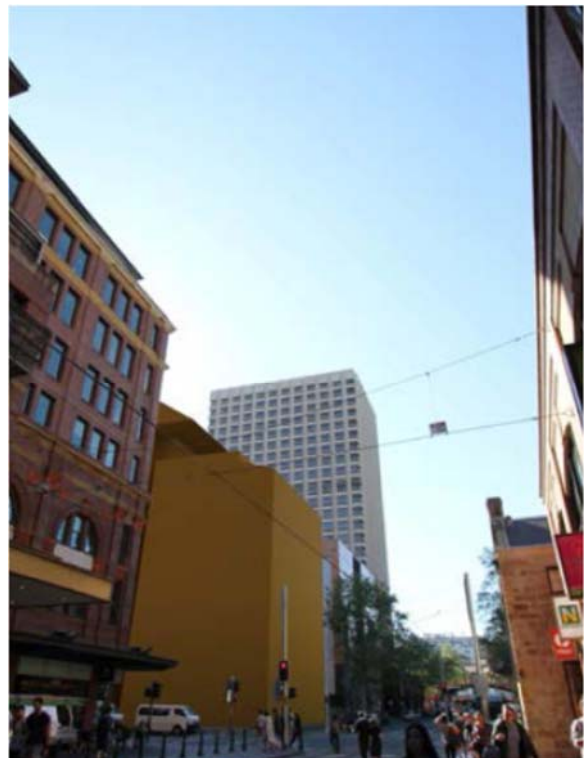


Figure 8: Proposed building envelope looking east along Hay Street



Figure 9: Photomontage of a possible detailed design at the Stage 2 Development Application

AMENDED PLANS

7. The Applicant initially submitted an application for the current building envelope with residential, serviced apartments and retail uses proposed with 4 levels of basement car parking. Concerns were raised by Council officers regarding residential amenity with particular consideration to solar access and ventilation; lack of active street frontages with a substation proposed to face Belmore Park; and access to the development. The Applicant submitted amended plans on 24 February 2016, which removed the residential component and replaced it with additional serviced apartments.
8. The amended proposal was not acceptable as a number of amenity issues still remained. At the advice of Council officers the use was modified to hotel and retail and amended plans were submitted on 3 June 2016.

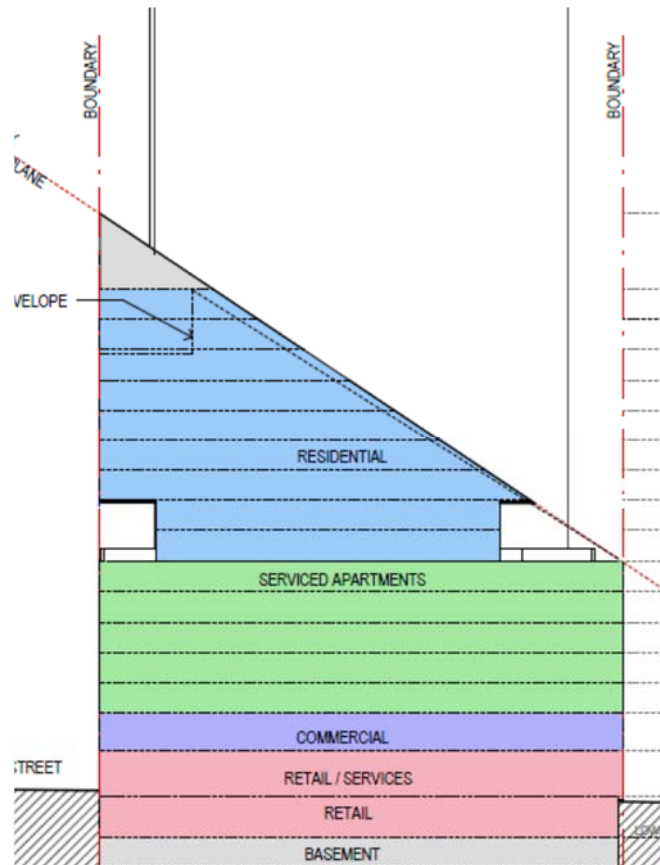


Figure 10: Original scheme showing residential, serviced apartment and retail use

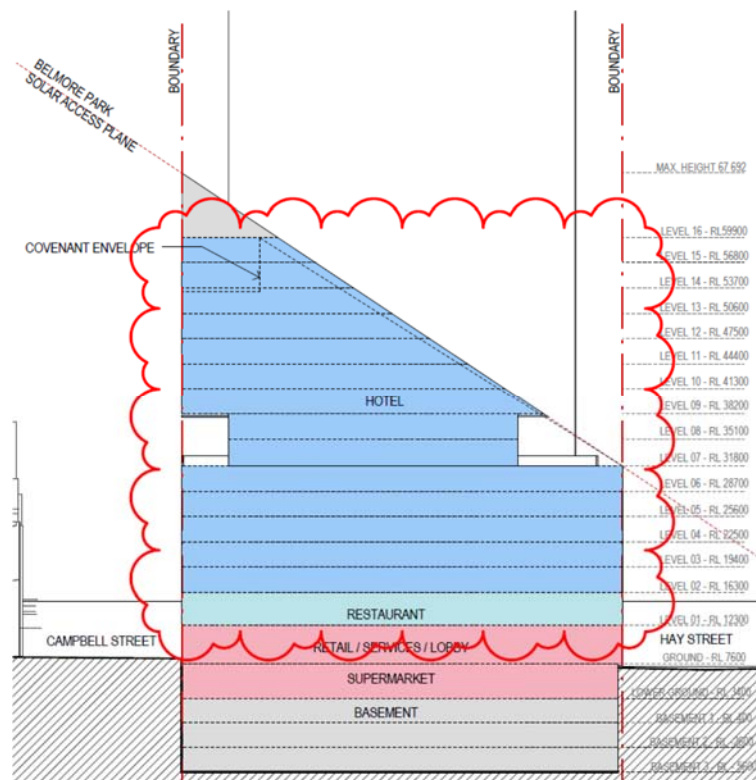


Figure 11: The amended scheme replaces serviced apartments and residential with hotel accommodation

HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION

9. There is no relevant history, with the site being used as a carpark since 1994.

CITY OF SYDNEY ACT 1988

10. 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."*
11. As the Stage 1 proposal stands, it is not likely to have significant impacts on traffic and transport within the CBD. However, having liaised with the City's Access Unit, the proposal may require consideration by the CSTTC at the Stage 2 Development Application.

WATER MANAGEMENT ACT 2000

12. Under Section 91 of the Environmental Planning and Assessment Act 1979, the application is 'integrated development' requiring approval of the NSW Office of Water under the *Water Management Act 2000*. This approval is required as a result of the proposed basement excavation depth impacting on the groundwater levels on the site.
13. On 12 November 2015, the NSW Office of Water have granted their General Terms of Approval.

ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

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

- (a) Environmental Planning Instruments and DCPs.

State Environmental Planning Policy No 55—Remediation of Land

15. The aim of SEPP 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
16. Relevant contamination documentation will be required to be submitted with the Stage 2 DA to ensure that the site can be made suitable for the proposed use.

State Environmental Planning Policy (Infrastructure) 2007

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

Clause 45

18. The application is subject to Clause 45 (Determination of development applications – other development) of the SEPP, as the development is immediately adjacent an easement for electricity purposes and directly adjacent an electricity substation. In accordance with the Clause, the application was referred to Energy Australia (Ausgrid) for a period of 21 days. No response had been received at the time of writing this report. As such, it is considered that no objection is raised to the proposal.

Clause 85

19. The application is subject to Clause 85 (Development immediately adjacent to rail corridors) of the SEPP, as the development is immediately adjacent to the light rail corridor. In accordance with the Clause, the application was referred to Sydney Trains for a period of 21 days and no objection was raised subject to conditions regarding a services search, a property and title search and dilapidation surveys. These conditions are recommended to form part of the Stage 1 consent.

Clause 86

20. The application is subject to Clause 86 (Excavation in, above or adjacent to rail corridors) of the SEPP as the development proposes 4 levels of basement in close proximity to a rail easement.
21. In accordance with the Clause, the application was referred to Sydney Trains for a period of 21 days and no objection was raised subject to conditions, which have been included as part of the recommendation.

Sydney LEP 2012

22. The site is zoned B8 – Metropolitan Centre under the Sydney Local Environmental Plan 2012 (SLEP 2012). The proposal is defined as *'tourist and visitor accommodation'* and *'retail premises'*. All of these land uses are permissible with consent within the B8 – Metropolitan Centre zone pursuant to Clause 2.3 of SLEP 2012.

23. The relevant matters to be considered under SLEP 2012 for the proposed development are outlined below.

Compliance Table		
Development Control	Compliance	Comment
4.3 Height of Buildings	No	The site has a maximum building height determined by the sun access plane to Belmore Park (A3). The maximum height of the building, as determined by the sun access plane, is 60.165m (RL 67.692) reducing in part to 24.2m (RL 31.800). The proposed development respects these coordinates. A condition is recommended prohibiting any projections above the plane.
4.4 Floor Space Ratio	Yes	The site is identified as being within the area AC with a FSR of 8:1. A FSR of 7.54:1 is proposed.
5.9 Preservation of trees or vegetation	No	<p>There are seven street trees that will be affected by the proposed development, including the removal of two on the Campbell Street frontage due to the proposed driveway.</p> <p>The removal of these trees is not supported by Council's Tree Management unit.</p> <p>The proposal has been amended since the initial submission to consolidate the driveway from two to one and is considered to be the most appropriate location in relation to design and impacts on the road network. The removal of the trees and additional planting will be further considered in the detailed design of the Stage 2 DA.</p>

Compliance Table		
Development Control	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The subject site is located within the vicinity of a number of heritage items. Council's Heritage officer has reviewed the proposal and considers that the development will have no detrimental impact on the heritage items within the immediate area. It is noted that the development will be across from the heritage listed Chamberlain Hotel, which currently has views across the car park to Belmore Park. This view will be interrupted by the proposed development, but is considered acceptable, as a development is envisaged on the site through the documentation in Council's controls.</p> <p>Notwithstanding this, the scale and height of the proposed building envelope is considered to be respectful of the neighbouring items, as it comprises a base of similar scale to neighbouring sites (approximately 24m) with a recess for approximately two levels and topped with a triangular prism, which significantly reduces the potential bulk of the building.</p> <p>A suitable condition is recommended requiring a Heritage Impact Statement and Archaeological Assessment to be submitted with the Stage 2 DA.</p>
6.16 Erection of tall buildings in Central Sydney	Yes	<p>The proposed envelope is considered to be generally consistent with the objectives, as the proposal will not adversely impact on the amenity of public places; is compatible with its context; and will encourage active uses on its three street frontages.</p>
6.17 Sun access planes	Yes	<p>The proposed building envelope has been designed within the Belmore Park sun access plane control.</p> <p>This is discussed further in the Issues section below.</p>

Compliance Table		
Development Control	Compliance	Comment
Division 4 Design excellence	Able to comply	The applicant has requested that the requirement for a competitive design process be waived for Stage 2. This is discussed further in the Issues section below.
Part 7 Local provisions—general		
7.7 and 7.9 Car parking ancillary to other development	Yes	The proposal seeks three levels of basement car parking for the site. Car parking numbers for hotel and retail uses can only be assessed and confirmed as part of a Stage 2 DA. Parking numbers are determined having regard to the number of hotel rooms proposed which is only conceptual at this stage. Car parking numbers and basement levels will not be approved as part of this Stage 1 application.
7.14 Acid Sulphate Soils	Yes	The site is identified as containing class 5 Acid Sulphate Soil (ASS). Any potential impact from ASS is likely to be manageable with the implementation of an ASS Management Plan. Details will need to be submitted with the future Stage 2 DA to demonstrate compliance.
7.15 Flood planning	Yes	The site is identified by Council as being flood prone. Council's Engineers have reviewed the proposal with regard to flooding and stated that the proposed floor levels comply with Council's requirements. Further work in regard to flooding will be required as part of any Stage 2 DA.
7.16 Airspace operations	Yes	The proposed development will not penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Sydney Airport.

Compliance Table		
Development Control	Compliance	Comment
7.20 Development requiring or authorising preparation of a development control plan	Yes	<p>As the height of the proposed building envelope exceeds 55m and the site area exceeds 1,500m², preparation of a specific DCP is required.</p> <p>However, in accordance with the provisions of Section 83C of the <i>Environmental Planning and Assessment Act 1979</i>, the lodgement of a Stage 1 DA may be considered by the consent authority as satisfying the obligation.</p>

Sydney DCP 2012

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

3. General Provisions		
Development Control	Compliance	Comment
3.1 Public Domain Elements	Able to comply	<p>The proposed development is bound by Pitt, Campbell and Hay Streets. Through concerns from Council officers regarding the location of a substation at ground level on the Hay Street frontage, the indicative floor plans have been amended to provide for active frontages along each street frontage. The proposed vehicular access will be limited to one on Campbell Street.</p> <p>The proposed laneway is an easement on the site that runs along the eastern boundary. This laneway will increase permeability through the site and has the potential to be activated. Additional detail of the space and the lane will be provided at the Stage 2 DA.</p> <p>An indicative Public Art Strategy was submitted with the application, this is to be further developed for the site in accordance with the SDCP 2012 and the Public Art Policy. This will form part of the Stage 2 DA.</p>

3. General Provisions		
Development Control	Compliance	Comment
3.2 Defining the Public Domain	Able to comply	<p>The proposed development will enhance the public domain by ensuring adequate sun access to publicly accessible spaces, particularly Belmore Park.</p> <p>The proposal has been amended to ensure that the development will address and activate the street frontages, including the relocation of the substation, which was proposed to front Hay Street and will now be located underground.</p> <p>There is a requirement for an awning on Pitt Street. The detailed design of this will be addressed as part of the Stage 2 DA.</p> <p>Council's Public Domain Unit have recommended suitable conditions, including Public Domain Plan to be submitted as part of the Stage 2 DA.</p>
3.3 Design Excellence and Competitive Design Processes	Able to comply	<p>As discussed elsewhere within this report, the applicant has requested that the requirement for a competitive design process is waived.</p> <p>See discussion under 'Issues'.</p>
3.5 Urban Ecology	Yes	<p>The proposed development involves the removal of two street trees. This has been discussed above and is not approved as part of the Stage 1 DA process.</p> <p>The proposed hotel use has the potential to have landscaping on the upper level terrace areas; detailed landscape plans will be submitted with the Stage 2 DA.</p>
3.6 Ecologically Sustainable Development	Able to comply	<p>The proposal will not have unacceptable impacts on the environment. Any ESD initiatives will be detailed at the Stage 2 DA.</p>
3.7 Water and Flood Management	Able to comply	<p>The site is identified as being on flood prone land. This has been discussed above in the SLEP 2012 compliance table.</p>

3. General Provisions		
Development Control	Compliance	Comment
3.9 Heritage	Yes	This has been discussed above in the SLEP 2012 compliance table.
3.11 Transport and Parking	Able to comply	<p>The Stage 1 DA proposes three levels of basement car parking. The access to the parking and servicing is proposed from Campbell Street; this is considered to be the most appropriate location and has been combined to one from the previous two.</p> <p>Parking numbers and basement levels will not be approved as part of the Stage 1 DA. Details regarding general parking provisions, including car and bicycle parking, end of trip facilities, loading, servicing and coach management will be assessed as part of the future Stage 2 DA. Suitable conditions are recommended.</p>
3.12 Accessible Design	Able to comply	A condition has been recommended for the proposed development to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.
3.13 Social and Environmental Responsibilities	Able to comply	Details will need to be submitted with any future Stage 2 DA to demonstrate compliance.
3.14 Waste	Able to comply	A specific condition has been recommended for the proposed development to comply with the relevant provisions of the City of Sydney Code for Waste Minimisation in New Developments 2005. Details will need to be submitted with the future Stage 2 DA to demonstrate compliance.

4. Development Types		
4.2 Residential Flat, Commercial and Mixed Use Developments		
Development Control	Compliance	Comment
4.2.1.2 Floor to ceiling heights	Able to comply	The indicative sections show the hotel use being able to accommodate a floor to floor height of approximately 3.1m and the retail uses between 4.2m and 4.7m. A suitable condition is recommended that this level is met in the detailed design of the Stage 2 DA.
4.4.8 Visitor Accommodation		
Development Control	Compliance	Comment
4.4.8.3 Additional provisions for hotels, private hotels and motels	Able to comply	The additional provisions and design requirements for hotel rooms will be assessed at the Stage 2 DA.

6. Specific sites – Central Sydney		
Development Control	Compliance	Comment
5.1.1 Street frontage heights	No	See discussion under Issues section.
5.1.2 Building setbacks	No (but considered acceptable)	The proposal does not provide for an 8m setback above the Pitt Street Street wall. This is discussed further in the Issues section below.
5.1.5 Building bulk	Yes	The building envelope is mostly defined by the sun access plane, which significantly impacts on the potential bulk of the building. The proposed building envelope has been designed with a triangular prim due to the sun access plane, which reduces the bulk of the building.

ISSUES

Registered Covenant Envelope and Sun Access Plane

25. The subject site is affected by two registered covenants which restrict the height of the development to maintain solar access to Belmore Park. The covenants benefit the City of Sydney and are registered on title.
26. Both covenants may be amended or extinguished with the consent of the City of Sydney in accordance with section 88E(7) of the Conveyancing Act 1919. Enforcing these covenants would result in compromising at least two to three levels of the proposed building envelope, being Levels 13, 14 and 15.
27. Clause 6.17 of SLEP 2012 prescribes a sun access plane for Belmore Park. The covenant is within the sun access plane. These are shown in **Figure 12** below. Through research undertaken, it is understood that the discrepancy is due to the covenant relating to historical solar access planes. There was a minor adjustment in the coordinates for the sun access plane in the SLEP 2012, as there was additional survey information available at the time of drafting.
28. In consideration of the above, the proposed development complies with the current sun access plane provisions under the SLEP 2012 and satisfies the intent of both covenants as sun access is protected to Belmore Park. The applicant can apply for these covenants to be amended.

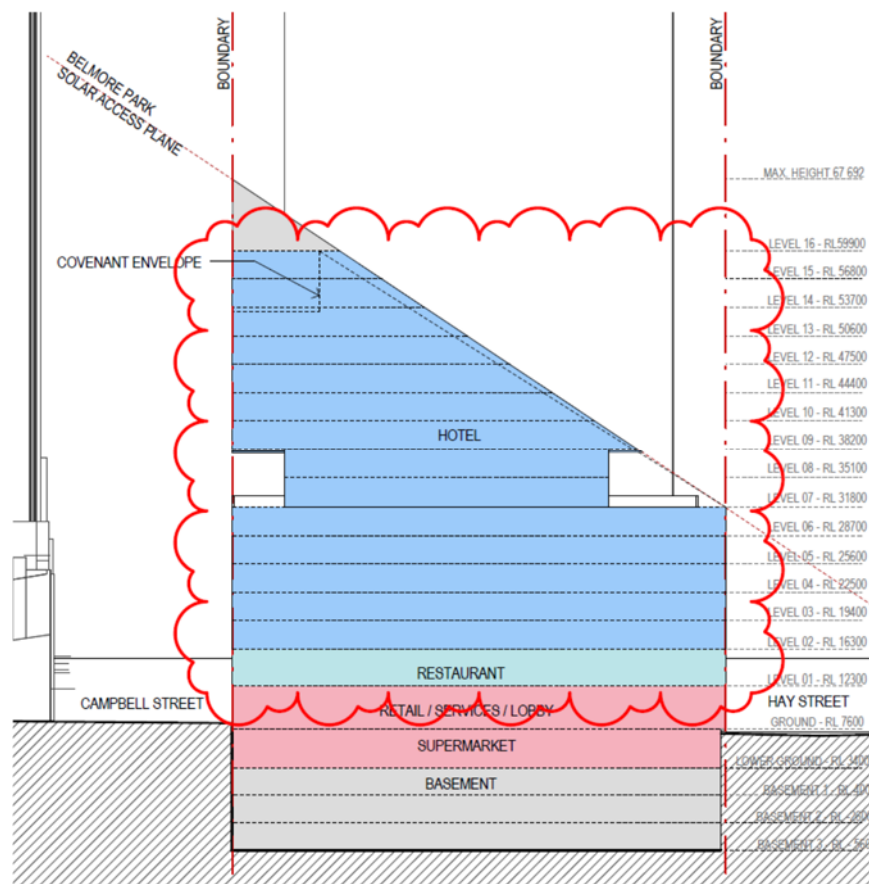


Figure 12 Proposed building envelope showing the Belmore Park sun access plane and the covenant that affects the site.

Street wall height and setback

29. The site has a primary frontage to Pitt Street and secondary frontages to Hay and Campbell Streets. Clause 5.1.2 of the SDCP 2012 requires an 8m setback above the street wall height of the primary frontage, permitting a reduced setback on secondary streets.
30. An upper level setback is not proposed to Pitt Street or Campbell Street. Rather, the development proposes a street wall height that gradually increases from 21m at the corner of Pitt and Hay streets to a maximum height of 60m at the corner of Pitt and Campbell streets. In this instance, the shaping of the Pitt street façade has been determined by the established street wall height of Hay Street, and the Belmore Park sun access plane.
31. Although there are few buildings on Pitt or Campbell streets with a wall height of 60m, the development has sought to reduce the visual bulk and scale of the building by creating 'notches' or 'shadow lines' at Level 7 and 8. These elements interpret the street wall height of Hay Street and will align accordingly.
32. **Figure 13** and **14** over page provide a comparison of compliant and proposed building envelopes.



Figure 13: Building envelope with 8m tower setback to Pitt Street



Figure 14: Proposed building envelope with no setback to Pitt Street

33. As demonstrated in **Figure 13** above, application of both the setback and sun access controls produce a considerably smaller tower footprint, eroding the developable area to 548.1m² and a truncated built form. In this regard, the proposed development is considered a reasonable outcome for the site.

34. In maintaining the intent of the street wall height and setback controls, it is noted the proposal will not result in significant overshadowing to Pitt Street or the surrounding area, as the site itself is overshadowed by surrounding developments. Further, that 'notches' within the building envelope and slope away from Hay Street, in compliance with the sun access plane, will contribute to a visual reduction in bulk of the tower and provide a level of uniformity in the street wall height of each frontage.
35. Therefore, while the building envelope does not strictly comply with the SDCP 2012 built form controls, the proposal balances the floor space expectations and prioritises the relevant built form controls resulting in an acceptable outcome which given its setting, is considered contextually appropriate.

Overshadowing

36. In accordance with the SLEP 2012, the height of the proposed building envelope is set with regard to the Belmore Park sun access plane. Conditions of consent will ensure the plane is not penetrated.

Competitive Design Process

37. Clause 6.21 of the SLEP 2012 requires that a competitive design process is held for a development in respect of a building with a height that exceeds 55m on land in Central Sydney. The objective of a competitive design process is to deliver a high standard of architectural, urban and landscape design. It includes creating better urban spaces and making a positive contribution to the public domain.
38. The Applicant has requested that the requirement for a competitive design process be 'waived', as although the site has an area of 1,619m²; 417m² of this area is a dedicated easement that cannot be built upon. Furthermore, only a small portion of the proposed building envelope can be above the 55m, due to the sun access plane. This area is limited to services.
39. Notwithstanding the above request and given the existing site constraints, it is considered that any future development of the site would benefit from a competitive design process. In this regard, the request for the detailed design of the building to be subject to a competitive design process should not be waived at this time.

Access

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

Other Impacts of the Development

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

Suitability of the site for the Development

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

INTERNAL REFERRALS

44. The application was referred to Council's Urban Design and Heritage Specialists; Public Domain Unit; Health Unit; Tree Management Unit; Specialist Surveyor; and Transport and Access Unit. All appropriate conditions from these referrals have been included within the recommendation.

EXTERNAL REFERRALS

45. The original application for the serviced apartments and residential uses was referred to NSW Roads and Maritime, who have no objection to the proposal, subject to further details that would be considered under a Stage 2 DA, including queuing and a Construction Traffic Management Plan, which is to consider the Sydney Light Rail and Sydney Metro works.
46. The application was referred to Ausgrid. No response was received. Nonetheless, conditions are recommended to ensure the proponent consults with Ausgrid prior to lodgement of a Stage 2 development application.

INTEGRATED DEVELOPMENT

47. The application constitutes integrated development and as such the original application was notified and advertised for 30 days in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of this there was one submission received with a petition of 75 signatures. The submission raised concerns regarding potential residential and construction noise from the building, interruption of views from surrounding buildings and reduction in height.
48. The amended plans received on 14 June 2016 were renotified for 14 days, which included notification to the original submission. A further submission was received and raised the following concerns:

Design and Height

- (a) The 'solar access plane' is neither effective nor efficient. The building is too tall, and could be reduced by 4-5 levels by removing the graduated 'solar access plane' portion of the design.

Response – The solar access plane is a control within the SLEP 2012 and is to ensure that there is no additional overshadowing of Belmore Park as a result of height, which the proposed building envelope achieves in relation to this plane. The proposed height is within the controls for the site. A condition is recommended requiring the building be limited to 55m in height.

- (b) The proposed development towers over, and is intimidating on, the existing Chamberlain Hotel and will block views from surrounding buildings. It should be in similar height to the Manning Building, located opposite.

Response – The proposed building height is within the height control for the site. Notwithstanding this, a 'notch' or shadow line has been introduced at levels 7 and 8 to 'break the building up'. The building will not interrupt any protected views.

- (c) The plans show a mid-building open-balcony (public platform), facing towards Campbell Street. This should be changed to being an enclosed space due to the likely excess noise level by users

Response – The detailed design and use of this area will be considered under the Stage 2 DA.

Traffic

- (d) The parking should be reduced due to the highly accessible location of the site and should include disabled spaces.

Response – The number of car parking spaces and provision of accessible spaces will be determined at the Stage 2 DA; however, the indicative number is within the controls for the site.

- (e) Vehicular access to the site should be from Hay Street, with Campbell and Pitt Streets already suffering from high-density usage with limited spaces available for on-street parking

Response - Council's Traffic Management unit have reviewed the proposal consider that the Campbell Street access is the most suitable. Any changes to the on-street parking restriction or removal of spaces will be considered under the Stage 2.

A further traffic study and coach parking management plan will be required with the submission of the Stage 2 DA.

Accommodation

- (f) The design of the hotel shows some rooms are enclosed (facing inwards) within the building, and will not receive natural light and may not have access to appropriate ventilation; this may be a breach of the building code.

Response - The layout and design of hotel rooms will be considered at the Stage 2 DA.

Public Art

- (g) The developer's inclusion of public art and recognition that there should be public thoroughfare is appreciated and should be kept.

Response: Public Art will be a requirement of the Stage 2 DA.

PUBLIC INTEREST

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

FINANCIAL IMPLICATIONS/S61 CONTRIBUTION

Section 61 Contributions

50. A Section 61 Contribution will form part of the Stage 2 Development Application.

RELEVANT LEGISLATION

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

CONCLUSION

52. The proposal seeks consent for a Stage 1 concept plan for a 16 storey building envelope with basement levels on the site at 136 Hay Street, Haymarket.
53. Considering the site's location opposite Belmore Park and the restrictions imposed by the sun access plane and the other numerous constraints on the site and the applicable planning controls, the proposed envelope and indicative land uses are acceptable and are an appropriate response to the sites constraints.
54. Accordingly, Development Application No. D/2015/1490 for a Stage 1 development is recommended for approval, subject to recommended conditions.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

(Bridget McNamara, Senior Planner)