

**17 March 2022**

At 5.00 pm

## **Central Sydney Planning Committee**

**Agenda**

- 1. Disclosures of Interest**
- 2. Confirmation of Minutes**
- 3. Matters Arising from the Minutes**
- 4. Election of Deputy Chairperson**
- 5. Development Application: 37-49 Pitt Street, 49A-57 Pitt Street, 6-8 Underwood Street, 6 Dalley Street and 8-14 Dalley Street, Sydney - D/2021/665**
- 6. Approved Variations to Development Standards Reported to the Department of Planning, Industry and Environment**
- 7. Summary of Applications to be Reported to the Central Sydney Planning Committee**



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As part of our democratic process, the City invites members of the community to speak directly to committee members during Central Sydney Planning Committee meetings about items on the agenda.

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1. Register to speak by calling Secretariat on 9265 9702 or emailing [secretariat@cityofsydney.nsw.gov.au](mailto:secretariat@cityofsydney.nsw.gov.au) before 10.00am on the day of the meeting.
2. Check the recommendation in the committee report before speaking, as it may address your concerns so that you just need to indicate your support for the recommendation.
3. Note that there is a three minute time limit for each speaker (with a warning bell at two minutes) and prepare your presentation to cover your major points within that time.
4. Avoid repeating what previous speakers have said and focus on issues and information that the committee may not already know.
5. If there is a large number of people interested in the same item as you, try to nominate three representatives to speak on your behalf and to indicate how many people they are representing.

At the start of each Central Sydney Planning Committee meeting, the Chair may reorder agenda items so that those items with speakers can be dealt with first.

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## Item 1.

### Disclosures of Interest

Pursuant to the provisions of the City of Sydney Code of Meeting Practice and the City of Sydney Code of Conduct, Members of the Central Sydney Planning Committee are required to disclose pecuniary interests in any matter on the agenda for this meeting.

Member of the Central Sydney Planning Committee are also required to disclose any non-pecuniary interests in any matter on the agenda for this meeting.

This will include receipt of reportable political donations over the previous four years.

In both cases, the nature of the interest must be disclosed.

Written disclosures of interest received by the Chief Executive Officer in relation to items for consideration at this meeting will be laid on the table.

### Local Government and Planning Legislation Amendment (Political Donations) Act 2008

The Local Government and Planning Legislation Amendment (Political Donations) Act 2008 ("the Act") requires the disclosure of relevant political donations or gifts when planning or development applications are made to minimise any perception of undue influence. The amendments to the Act require disclosure to the Electoral Funding Authority of:

- a **reportable political donation** as defined in the Election Funding and Disclosures Act 1981 (a donation of \$1000 or more made to or for the benefit of the party, elected member, group or candidate or made by a major political donor to or for the benefit of a party, elected member, group or candidate, or made to the major political donor), or
- a **gift** (as defined in the Election Funding and Disclosures Act 1981) to any local councillor or council employee (and includes a disposition of property or a gift of money or the provision of other valuable or service for no consideration or for inadequate consideration) when a relevant planning application is made to a council.

A donation of less than \$1000 can be a reportable political donation if the aggregated total of such donations was made by an entity or person to the same party, elected member, group or candidate or person.



## **Item 2.**

### **Confirmation of Minutes**

Minutes of the following meeting of the Central Sydney Planning Committee are submitted for confirmation:

Meeting of 11 November 2021

### **Item 3.**

#### **Matters arising from the Minutes**

Matters arising from the minutes of the Central Sydney Planning Committee of 11 November 2021.

## **Item 4.**

### **Election of Deputy Chairperson**

**File No: X086720**

### **Summary**

This report is to enable the Central Sydney Planning Committee to consider the matter of electing a Deputy Chairperson.

The Central Sydney Planning Committee (CSPC) is constituted by the City of Sydney Act 1988 (the Act).

Section 34(1) of the Act provides that the Committee shall consist of seven members:

- (a) the Lord Mayor of Sydney;
- (b) two councillors of the City of Sydney elected by the City Council; and
- (c) four persons (two of whom are senior State government employees and two of whom are not State or local government employees) appointed by the Minister administering Part 4 of the Planning Act, each having expertise in at least one of architecture, building, civic design, construction, engineering, transport, tourism, the arts, planning or heritage.

### **Recommendation**

It is resolved that:

- (A) the Central Sydney Planning Committee elect a member to be Deputy Chairperson for a term commencing immediately and ending at the conclusion of their appointment period; and
- (B) the method of voting for the election be open, exhaustive voting.

### **Attachments**

Nil.

## Background

1. The Central Sydney Planning Committee (CSPC) is constituted by the City of Sydney Act 1988 (the Act).
2. Section 34(1) of the Act provides that the Committee shall consist of seven members:
  - (a) the Lord Mayor of Sydney;
  - (b) two councillors of the City of Sydney elected by the City Council; and
  - (c) four persons (two of whom are senior State government employees and two of whom are not State or local government employees) appointed by the Minister administering Part 4 of the Planning Act, each having expertise in at least one of architecture, building, civic design, construction, engineering, transport, tourism, the arts, planning or heritage.
3. The councillors currently elected pursuant to clause (b) as members and alternate members are Deputy Lord Mayor - Councillor Jess Scully, Councillor HY William Chan, Councillor Robert Kok (alternate) and Councillor (Waskam) Emelda Davis (alternate).
4. The persons currently appointed by the Minister pursuant to clause (c) as members and alternate members are Ms Abbie Galvin, Mr Brett Whitworth, Mr Dick Persson AM, Mr Richard Horne, Ms Olivia Hyde, Mr David Gainsford, Mr Julian Frecklington and Mr Bruce James.
5. The City of Sydney Act 1988 provides -
  - (a) Clause 3 Schedule 1  

Chairperson

The Lord Mayor of Sydney shall be the Chairperson of the (Central Sydney) Planning Committee.
  - (b) Clause 3A Schedule 1  

Deputy Chairperson

(1) The members of the Planning Committee are to elect a person from among their number to be the Deputy Chairperson of the Planning Committee.

(2) The person may be elected for the duration of the person's term of office as a member or for a shorter term.
6. The Central Sydney Planning Committee has historically elected a member of the Committee to the position of Deputy Chairperson.

**Conduct of Election**

7. Previously, the Central Sydney Planning Committee has chosen to hold an election for the Deputy Chairperson by open, exhaustive voting (that is, by a show of hands or similar means for candidates duly nominated).

**GRAHAM JAHN AM**

Director City Planning, Development and Transport

Erin Cashman, Council Business Coordinator

**Item 5.**

**Development Application: 37-49 Pitt Street, 49A-57 Pitt Street, 6-8 Underwood Street, 6 Dalley Street and 8-14 Dalley Street, Sydney - D/2021/665**

**File No.:** D/2021/665

**Summary**

**Date of Submission:** 16 June 2021

Amended plans and additional documentation were received on 10 December 2021, 16 December 2021, 17 December 2021, 28 January 2022, 4 February 2022 and 10 February 2022

**Applicant:** Mirvac Commercial Sub SPV Pty Limited

**Architect/Designer:** Woods Bagot and SHoP Architects

**Developer:** Mirvac

**Owner:** Mirvac Commercial Sub SPV Pty Limited

City of Sydney Council

Alpha Distribution Ministerial Holding Corporation

Telstra Corporation Ltd

Sydney Metro

**Planning Consultant:** Ethos Urban

**Heritage Consultant:** GML Heritage

**DAP:** 16 September 2021

**Cost of Works:** \$602,195,713

**Zoning:** The site is located in the B8 Metropolitan Centre zone. The proposed commercial development is permissible with consent in the zone.

**Proposal Summary:** The application proposes the excavation of part of the site for new basement parking, loading and services and the

construction of a new 55-storey commercial tower to RL 240.8m with a podium at RL 46.1m.

The proposed tower building will contain ground floor retail uses fronting Pitt Street, Underwood Street and Queens Court while commercial office uses will occupy the floors above.

The application also proposes the widening of a public laneway known as Queens Court to the north to Underwood Street and the widening of the lane to create a through-site link, improvements to the existing Telstra and Ausgrid buildings, the provision of public art throughout the development site and other public domain upgrades.

The application is being referred to the CSPC as the development has an estimated cost of over \$50 million.

The proposal is an Integrated application requiring approval from Water NSW under the Water Management Act 2000.

The subject site is located within the B8 Metropolitan Centre zone. The proposed commercial premises and public domain works are permitted with consent in the zone.

The site is located within a city block commonly known as the Alfred, Pitt, Dalley and George Street (APDG) block. Site specific provision apply to the block within the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012. The development proposes to utilise these provisions that allow for increased building height and floor space where activated recreation areas, lanes and roads are provided. The proposal is consistent with the planning agreement registered on the site that requires the provision of specific public benefits including but not limited to the provision of a new through-site link, improvements to existing public utility buildings and the provision of public art throughout the development site.

A competitive design process was held for the development with a scheme prepared by SHoP Architects and Woods Bagot selected as the winning scheme. This development application has been prepared in response to the recommendations made by the design competition jury.

A request has been submitted pursuant to Clause 4.6 of Sydney Local Environmental Plan 2012 to vary the applicable building height standard. An architectural roof feature is proposed above the tower building height limit. The roof feature complies with the criteria within Clause

5.6 of SLEP 2012 and the variation is supported in this instance.

A preliminary assessment of the application identified concerns relating to the City's Design Advisory Panel (DAP) advice on the proposal, the podium design and use of masonry, flooding impacts, general design of Queens Court through site link, solar shading to the tower, street awnings, public art, materials and finishes, transport and access, general public domain matters and waste management.

These issues have been largely addressed through the resubmission of amended plans and additional information.

The application was advertised and notified for a period of 28 days. No submissions were received. The amended plans were not required to be renotified as no new environmental impacts resulted from the amendments.

Subject to conditions, the amended proposal is generally consistent with the applicable planning provisions, including those within the Sydney LEP 2012 and Sydney DCP 2012. Proposed non-compliances have been assessed as having merit in the specific circumstances of the proposal and are addressed in the report.

The application is considered to achieve the objectives for the APDG block controls and will contribute to the creation of a new through site link within the city block.

As a result of the design modifications made to the scheme, the amended proposal is of a high standard of architectural design, materials and detailing. It presents an improved outcome, comprises an appropriate response to the site conditions and locality and will result in a form and scale that achieves the desired future character of the area.

**Summary Recommendation:** The development application is recommended for approval, subject to conditions.

**Development Controls:**

- (i) Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000
- (ii) City of Sydney Act 1988 and City of Sydney Regulation 2016
- (iii) Heritage Act 1977
- (iv) Water Management Act 2000



- (v) Sydney Water Act 1994 and Sydney Water Regulation 2017
- (vi) Airports Act 1996 (Cth) and Civil Aviation (Building Control) Regulation 1988
- (vii) State Environmental Planning Policy (Transport and Infrastructure) 2021 (previously State Environmental Planning Policy (Infrastructure) 2007)
- (viii) State Environmental Planning Policy (Resilience and Hazards) 2021 (previously State Environmental Planning Policy No 55 - Remediation of Land) and the Managing Land Contamination Planning Guidelines (SEPP 55 Guidelines)
- (ix) State Environmental Planning Policy (Biodiversity and Conservation) 2021 (previously Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005)
- (x) Sydney Local Environmental Plan 2012 (Sydney LEP 2012)
- (xi) Sydney Development Control Plan 2012 (Sydney DCP 2012)
- (xii) Sydney Landscape Code Volume 2: All Developments Except for Single Dwellings 2012
- (xiii) City of Sydney Interim Floodplain Management Policy 2012
- (xiv) City of Sydney Guidelines for Waste Management in New Developments
- (xv) City of Sydney Public Art Policy 2011
- (xvi) City of Sydney Public Art Strategy 2011
- (xvii) City of Sydney Interim Guidelines for Public Art in Private Developments 2006
- (xviii) Central Sydney Development Contributions Plan 2013
- (xix) City of Sydney Community Participation Plan 2020

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request - Height of Buildings

## Recommendation

It is resolved that:

- (A) the variation requested to height of buildings in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (B) consent be granted to Development Application No. D/2021/665 subject to the conditions set out in Attachment A to the subject report.

## Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979 in that, subject to the imposition of conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Central Sydney Planning Committee.
- (B) The proposal generally satisfies the objectives and provisions of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012, particularly the site-specific provisions for the development site within the APDG block.
- (C) The articulation, materiality and architectural contribution of the proposal combine to exhibit design excellence in accordance with the relevant provisions and matters for consideration in Part 6 Division 4 of the Sydney Local Environmental Plan 2012.
- (D) The proposed development is consistent with the design intent of the winning scheme of a competitive design process, held in accordance with the City of Sydney Competitive Design Policy.
- (E) The proposed development has a height, scale and form suitable for the site and its context, and subject to conditions, satisfactorily addresses the heights and setbacks of neighbouring developments, is appropriate in the streetscape context and setting of the Central Sydney locality.
- (F) Subject to the recommended condition of consent, the proposed development achieves acceptable amenity for the existing and future occupants of the subject and adjoining sites.
- (G) The proposal is consistent with the terms of the Planning Agreement that is registered on the site.
- (H) Based upon the material available to the Committee at the time of determining this application, the Committee is satisfied that:
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the height of buildings development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 of the Sydney Local Environmental Plan 2012; and

- (ii) the proposal is in the public interest because it is consistent with the objectives of the B8 Metropolitan Centre zone and the height of buildings development standard.

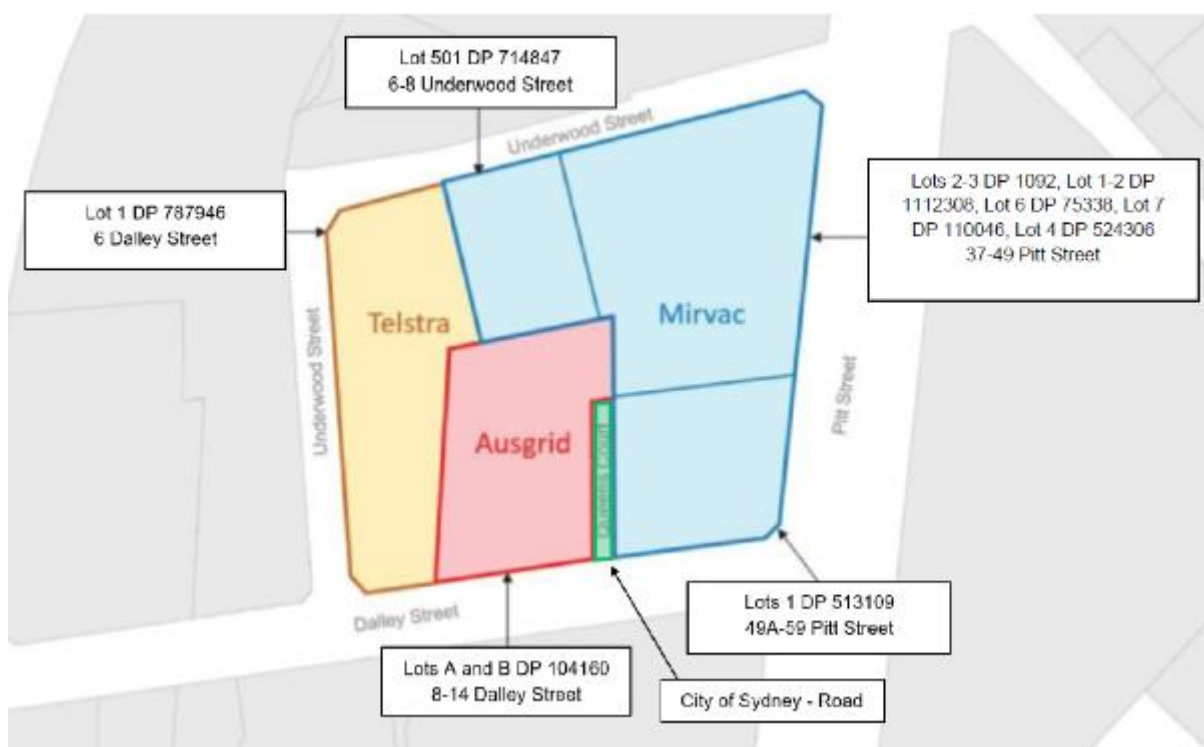
## Background

### The Site and Surrounding Development

1. The site has a legal description of Lots 2-3 DP 1092, Lot 6 DP 75338, Lot 7 DP 110046, Lot 4 DP 524306, Lots 1-2 DP 1112308, Lot 1 DP 513109, Lot 501 DP 714847, Lot A and B DP 104160, Lot 121 DP 1231659 and part of a public roadway, known as 6-8 Underwood Street, 37-49 Pitt Street, 49A-57 Pitt Street, 6 Dalley Street, 8-14 Dalley Street and Queens Court Sydney.
2. The site is also informally known at 55 Pitt Street, Sydney and is also known as block 5 in the APDG block.
3. The development site occupies an entire city block, bounded by Pitt Street to the east, Underwood Street to the north and west and Dalley Street to the south. It is irregular in shape with area of approximately 4,294.6sqm. It has a street frontage of 67m to Pitt Street, 80m to Underwood Street north, 56m to Underwood Street west and 64m to Dalley Street. The site is located close to the intersection of Pitt Street and Bridge Street.
4. The site contains three commercial buildings ranging in height between 10-13 storeys in height, two utility buildings owned by Ausgrid and Telstra, respectively, a public laneway and basement level parking (including a public car park). 6-8 Underwood Street is a 10-storey commercial office building, 37-49 Pitt Street is a 12-storey commercial office building and contains vehicle access to basement parking and 49A-57 Pitt Street is a 13-storey commercial office building. All three commercial buildings have been approved for demolition under a separate consent (D/2021/428).
5. The Ausgrid utility building at 8-14 Dalley Street is seven storeys in height and is currently used for electrical distribution. The Telstra Exchange building located at 6 Dalley Street is approximately nine storeys in height and currently used for telecommunications services. A public laneway known as Queens Court is located to the west of 49A-57 Pitt Street and provides vehicle access to the commercial buildings, the Ausgrid building and basement parking.
6. The site currently sits above a Sydney Metro rail tunnel running east-west beneath the existing structures.
7. The site is also located adjacent to the State Heritage listed Tank Stream, located beneath Pitt Street and several heritage items located directly opposite the site to the east.
8. An aerial image of the site and breakdown of site ownership are provided in Figures 1 and 2 below. Photos of the site are provided below in Figures 3 to 11.



**Figure 1:** Aerial view of site and surrounds



**Figure 2:** Ownership breakdown of the development site





**Figure 3:** 37-49 Pitt Street viewed from Pitt Street



**Figure 4:** 37-49 Pitt Street and 6-8 Underwood Street viewed from the intersection of Bulletin Place and Pitt Street





**Figure 5:** 49A-57 Pitt Street viewed from Pitt Street



**Figure 6:** 49A-57 Pitt Street and adjacent Telstra and Ausgrid buildings viewed from Dalley Street



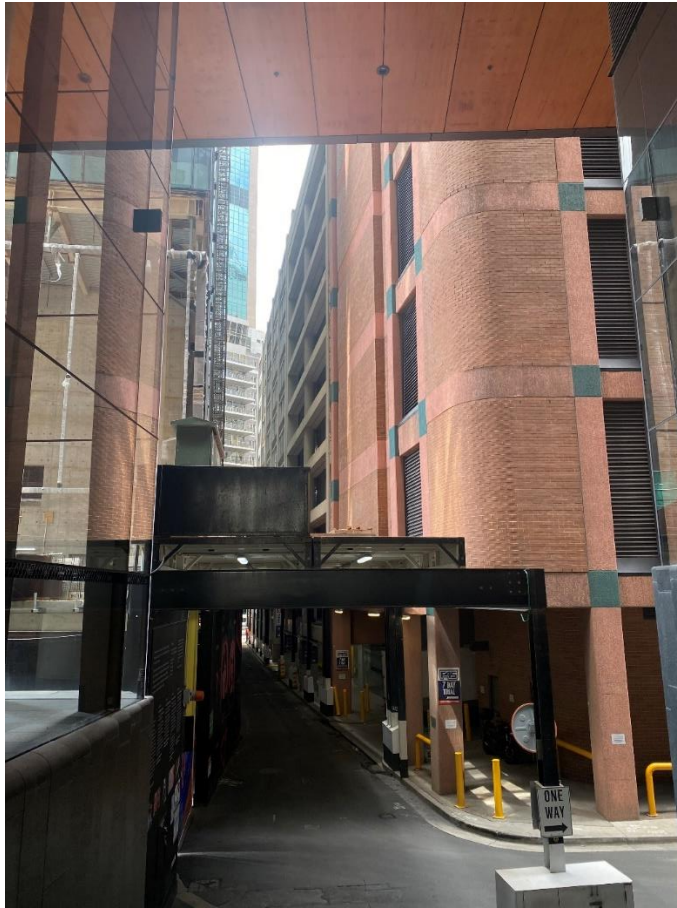


**Figure 7:** Queens Court as viewed from Dalley Street

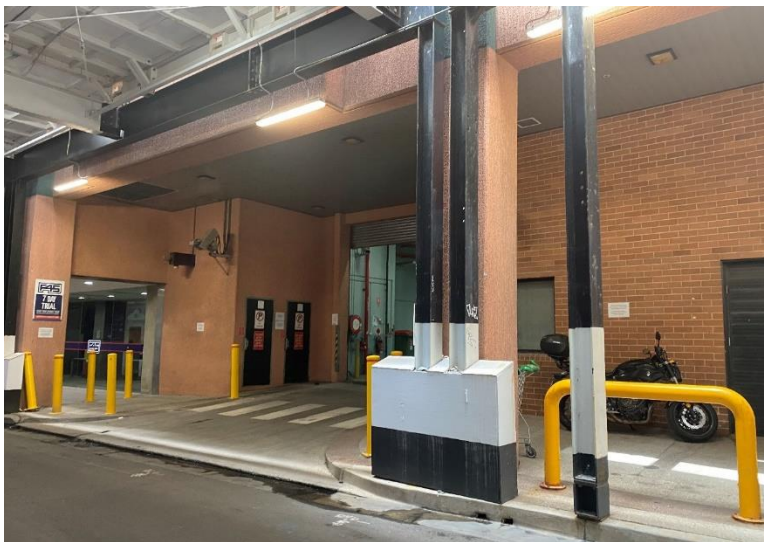


**Figure 8:** Telstra Exchange building as viewed along Underwood Street (west)





**Figure 9:** 37-49 Pitt Street, 6-8 Underwood Street and adjacent Telstra building viewed from Underwood Street



**Figure 10:** Existing vehicle entry to the Telstra building along Underwood Street (north)



**Figure 11:** 37-49 Pitt Street and 6-8 Underwood Street viewed from Underwood Street (north)

### The Locality

9. The surrounding area is characterised by a mixture of land uses, primarily being commercial office, retail, food and drink uses and tourist and visitor accommodation.
10. Directly to the north of the site at 33-35 Pitt Street, a 55-storey commercial tower development is currently under construction. Further north of the site, a new hotel and residential development are currently being constructed.
11. To the east of the site across Pitt Street, is a mix of commercial and retail developments of various sizes. This includes the Marriot Hotel, which is adjoined to the south by a 16-storey commercial building on the corner of Pitt Street and Bridge Street and 'Gateway Sydney' to the north, on the corner of Pitt Street and Alfred Street.
12. To the south of the site, across Dalley Street is the Australian Stock Exchange (ASX), a mid-rise building of up to 13 storeys with frontages to both Dalley Street and Pitt Street.
13. To the immediate west is 4 Dalley Street, a low scale functioning utility/infrastructure building associated with the commercial tower at 200 George Street. Further to the west is the EY Centre at 200 George Street and a new 110-metre commercial building at 210-220 George Street which is currently under construction.
14. Figures 12 to 16 below provide photos of existing developments surrounding the site.



**Figure 12:** 55-storey commercial tower currently under construction to the north of the site at 33-35 Pitt Street





**Figure 13:** Australian Stock Exchange building located to the south of the site viewed from the intersection of Pitt Street and Bridge Street



**Figure 14:** Existing commercial buildings located to the east of the site along Pitt Street





**Figure 15:** Utility building associated with 200 George Street located on the opposite/west side of Underwood Street



**Figure 16:** New commercial tower currently under construction located to the west of the site viewed from George Street

## History Relevant to the Development Application

### Development Applications

15. On 22 October 2021, amendments to Sydney LEP 2012 (Clause 6.25) and Sydney DCP 2012 (Section 6.1.4) under planning proposal PP\_2020\_SYDNEY\_003 were gazetted to include amended provisions for the development site. The amended planning controls will facilitate the renewal of block 5 in the APDG block, consisting of the following key components:
  - (a) a 72,568 square metre commercial office tower up to 232m in height, with a 45m high podium
  - (b) creation of a through-site link widening and connecting Queens Court to Underwood Street
  - (c) a retail activated pedestrian colonnade along Underwood Street to improve pedestrian connections; and
  - (d) upgrades to facades and roof of the adjoining Ausgrid substation building and facade upgrade and new retail spaces to the Telstra exchange building.
16. The amendments to the development standards will facilitate the redevelopment of 55 Pitt Street (37-49 Pitt, 49A-57 Pitt Street, 6-8 Underwood Street, 6 Dalley Street and 8-14 Dalley Street), the remaining parcels of land in the APDG block, to allow for a new commercial office tower while retaining essential utility buildings and delivering public domain improvements such as connections to the wider pedestrian laneway network envisaged under the original APDG controls. Council and the Central Sydney Planning Committee approved the planning proposal for public exhibition and Gateway request in May 2020.
17. Accompanying the Planning Proposal was a draft Development Control Plan that provides further guidance for development of the site consistent with the approved amendments to the LEP. The DCP provisions include:
  - (a) building form and external appearance
  - (b) tower location
  - (c) setbacks
  - (d) street frontage heights
  - (e) environmental impacts
  - (f) vehicular access
  - (g) design excellence; and
  - (h) environmentally sustainable development targets.
18. A voluntary planning agreement was prepared and exhibited concurrently with the planning proposal and draft DCP. The public benefits that will be delivered are:
  - (a) monetary contribution to community infrastructure in Central Sydney;

- (b) monetary contribution to affordable housing in the local government area;
  - (c) provision of public art on the site;
  - (d) dedication of land for footpath widening on Underwood Street;
  - (e) construction of the Underwood Street footpath widening; the through-site link incorporating Queens Court; improvements to the colonnade of the Telstra building and public art to the through-site link (if required);
  - (f) creation of public access easements for the Telstra colonnade and the through-site link; and
  - (g) ecologically sustainable development targets:
    - (i) minimum 6 star Office Green Star v1.3 Design and Construct rating;
    - (ii) minimum 5.5 star rating on operation under the NABERS energy scheme; and
    - (iii) minimum 4-star rating in operation under the NABERS water scheme.
19. In late 2020 and early 2021, the proponent invited six architectural firms to respond to a design brief as part of an International Architectural Design Excellence Competition. The purpose of this design competition was to select the scheme that exhibited the highest quality architectural, landscape and urban design solution of the site in response to the competition brief. On 16 February 2021, the Woods Bagot and SHoP Architects scheme was recommended by the Design Competition Jury as the winning scheme to develop the detailed proposal.
20. On 27 October 2021, development consent was granted under development application D/2021/428 for the demolition of the existing commercial buildings at 37-49 Pitt Street, 49A-57 Pitt Street and 6-8 Underwood Street and site establishment works.

### **Amendments**

21. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information and amendments was sent to the applicant on 11 October 2021.
22. The request raised the following matters:
- (a) Podium design and use of masonry
  - (b) Window operability
  - (c) Wind impacts on water feature
  - (d) Design of Queens Court and public access arrangements
  - (e) Width of access bridge over Queens Court
  - (f) Sun shading to the tower
  - (g) Street awning design

- (h) Materials and finishes
  - (i) Provision of public art along Queens Court and throughout the Telstra and Ausgrid sites
  - (j) Driveway design, basement parking, access arrangements, bicycle parking and loading dock management
  - (k) Stormwater mitigation, flood gate design and public domain levels
  - (l) Waste management
23. The applicant responded to the request on 10 December 2021, and submitted amended plans and additional documentation that responded to matters raised by Council. In regard to notable design modifications, the amended application included the following:
- (a) Increased the use of masonry in the podium
  - (b) Reduced the width of the lift core access bridge over Queens Court from 9m to 5.5-6.7m to better respond to the DCP requirements and character and scale of the laneway below
  - (c) Simplified the design of Queens Court to enhance pedestrian and patron amenity
  - (d) Clarified the design of the Pitt Street shopfronts and awnings
  - (e) Modified the design of the tower sun shading elements to increase sun protection and simplify design
24. The amended design package also included several amendments resulting from further design development. Additional proposed amendments include the following:
- (a) Structural reconfiguration of the northern core and adjustments to services and amenities locations on each tower level
  - (b) Minor podium facade adjustments to Underwood Street and Dalley Street
  - (c) Minor relocation of structure of the western core and surrounding services
  - (d) Reduction of commercial office space on Level 4 and conversion to end of journey and visitor bicycle parking spaces and a wellness centre
  - (e) Provision of additional commercial floor space on Level 54 with additional stair and lift access to commercial space and roof terrace areas on Level 55
  - (f) Reorientation of tower sunshade fins
  - (g) Reduction of window louvres on northern facade and replacement with insulated glazing
  - (h) Slight reduction of operable windows on 'softcore' (**glass as opposed to concrete exterior**) tower facades
  - (i) Reconfiguration of parking and loading areas in the basement



25. Subsequent requests were sent to the applicant on 20 January 2022, 24 January 2022, 25 January 2022 and 8 February 2022 requesting further clarification on matters relating to flooding and flood gates, public art, tree protection and traffic impacts respectively.
26. The applicant responded to each item and provided further information for Council's consideration.

### **Proposed Development**

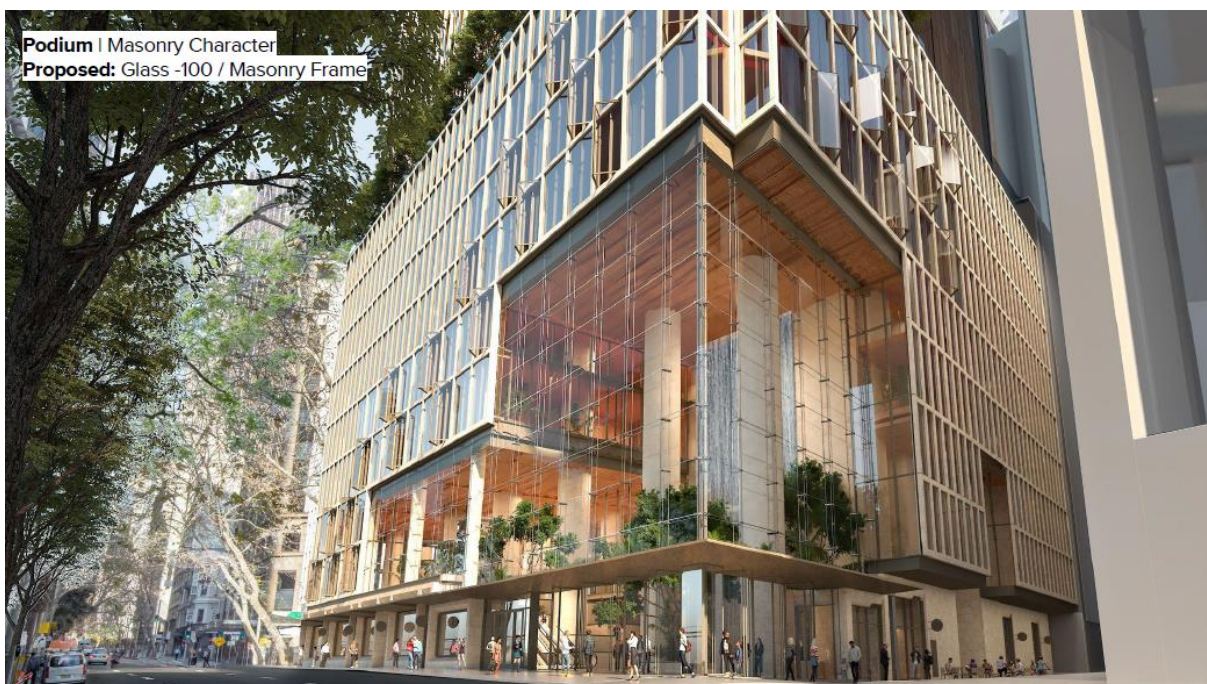
27. The application seeks consent for the following:
  - (a) excavation for new basement parking, loading and services
  - (b) construction of new 55-storey commercial tower to RL 240.8 with podium at RL 46.1
  - (c) extension of Queens Court to north Underwood Street and widening of through-site link and other public domain upgrades
  - (d) improvements to Telstra and Ausgrid building facades; and
  - (e) provision of public art.
28. Specifics of the proposal are as follows.
29. Demolition works, excavation, ground floor:
  - (a) demolition of existing basement walls, site preparation and remediation works
  - (b) removal of existing driveway access points along Underwood Street (north)
  - (c) bulk excavation to create three levels of basement to accommodate:
    - (i) 52 car parking spaces (43 in the basement levels, 7 within the Telstra building), 19 service vehicle spaces (12 in the basement levels, 7 within the Telstra building) and 10 motorbike parking spaces
    - (ii) Loading dock facilities; and
    - (iii) Service rooms such as waste room, fire pump room, fire control room, water meter and bin washing bay; and
  - (d) new vehicular access to the basement levels from Dalley Street.
30. Staged construction and new use of a commercial building containing up to 70,747sqm of commercial and retail GFA, and comprising an 8-storey podium and a 45-storey tower above with the following key features:
  - (a) a ground level entry 'Cove' lobby in the north eastern corner of the site providing pedestrian access from Underwood Street and Pitt Street containing landscaping elements and a 20m tall water feature
  - (b) 4 retail tenancies fronting Pitt Street

- (c) 3 retail tenancies fronting Underwood Street (contained within the main tower building)
  - (d) 3 retail tenancies fronting Queens Court
  - (e) street awnings along the Pitt Street and part Underwood Street (north) frontages
  - (f) an elevated double height lobby accessed from the 'Cove'
  - (g) access to mid-rise, high-rise and sky-rise lifts via a pedestrian bridge over Queens Court
  - (h) 44 commercial office levels
  - (i) a 'softcore' facade system surrounding the mid-, high- and sky-rise lift cores providing a highly transparent glazed facade with operable windows providing naturally ventilated spaces from Levels 30-55
  - (j) 650 bicycle spaces, end-of-trip facilities and a wellness centre located on Levels 3 and 4 of the podium
  - (k) three plant levels
  - (l) a rooftop garden terrace accessible to tenants and tenant visitors; and
  - (m) an architectural roof feature.
31. Landscaping and public domain improvements, including:
- (a) extension and widening of Queens Court to provide an active through-site link between Dalley Street and Underwood Street providing direct access to the entry 'Cove' lobby and end of journey levels
  - (b) construction of a 14m high glazed awning over Queens Court addressing weather and wind conditions
  - (c) widening of the Underwood Street footpath and upgrades to the existing colonnade
  - (d) general public domain upgrades including new paving to Pitt Street, Underwood Street, Dalley Street and Queens Court
  - (e) the provisions of street trees on Pitt Street and landscaped planters throughout Queens Court; and
  - (f) 8 bicycles spaces for visitor use.
32. Improvements to the existing Ausgrid and Telstra buildings, including the relocation of the vehicle entry point from Underwood Street (north) to Underwood Street (west), the provision on a new laneway retail tenancy on the ground floor of the Telstra building fronting Underwood Street (north), treatments to both building facades and roofscapes.
33. Provision of public art in various locations of the public domain, Queens Court and internally within the tower building.

34. The proposal seeks to draw on the masonry character of the surrounding locality and utilise sandstone and sandstone appearance cladding throughout the podium. The materiality of the podium facade incorporates two main facade types as follows:
- (a) Retail ground level: The materials at the ground level along the retail tenancy frontages are sandstone clad with bronze coloured metal framed shop windows.
  - (b) Entry space veil: The 'Cove' will be enclosed with a transparent 'veil' of ultra-clear glazing and a stainless-steel net structure. Bronze coloured metal finishes on the curtain wall frame, hardware and fascia frame the windows from both the exterior and interior.
  - (c) Podium (General): The majority of the podium facade comprises cladding with sandstone appearance and bronze coloured metal which frames ultra-clear glazing. Operable windows will be provided in select locations and will open outwards to provide opportunities for natural ventilation.
35. The tower facades incorporates three main components as follows:
- (a) Main tower facade: Fixed terracotta sunshades or a material of similar durability and appearance, are to be provided that frame the clear glazed units over two storeys. The shading hoods provide vertical profiles to the main tower and are twisted to respond to views and sunlight, maximising their sun shading qualities.
  - (b) Soft-core cladding: Cladding of sandstone appearance is proposed to extend from the ground plane up the western core.
  - (c) Soft-core operable glazing: Clear glazing with bronze coloured metal framing is proposed to the remainder of the soft core, with part of the facade incorporating operable windows.
36. A selection of plans, elevations and photomontages of the proposed development are provided below in Figures 17 to 44.

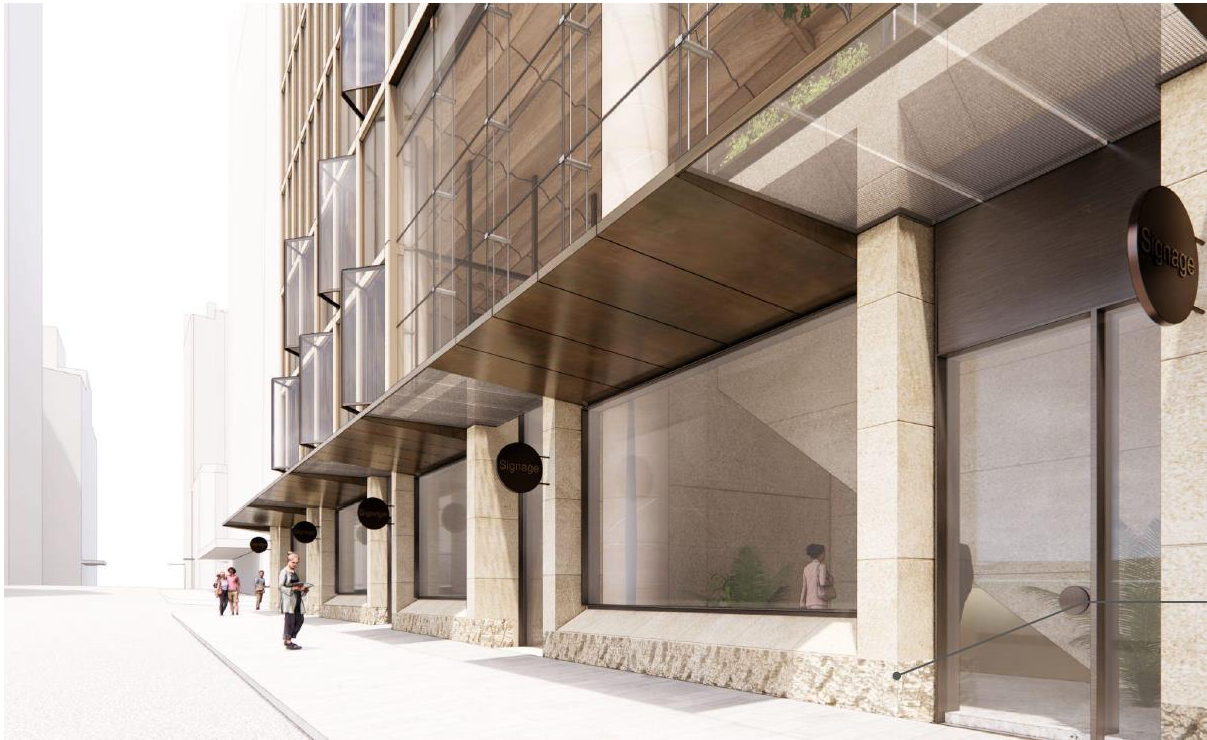


**Figure 17:** Photomontage of proposed tower development - viewed from the south

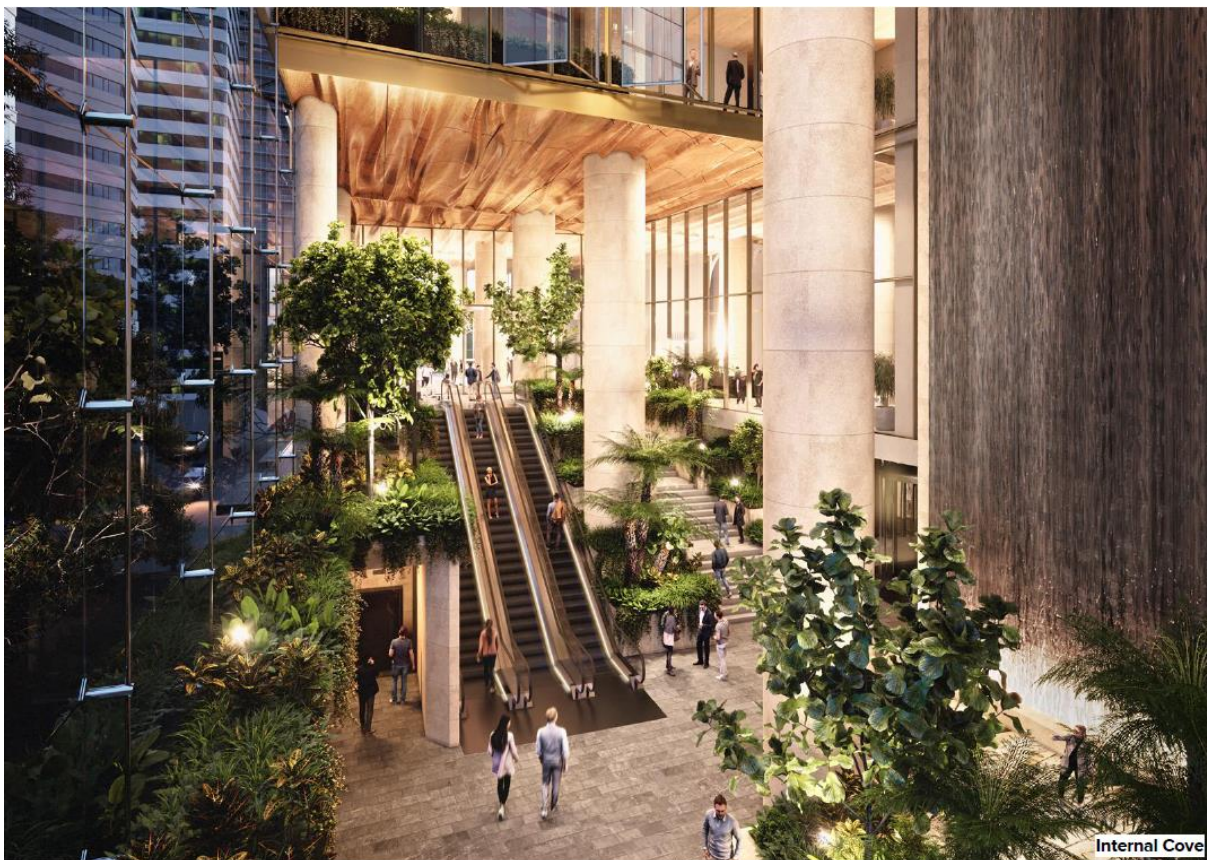


**Figure 18:** Photomontage of proposed podium - corner of Pitt Street and Underwood Street





**Figure 19:** Perspective of proposed fine grain retail tenancies fronting Pitt Street



**Figure 20:** Photomontage of proposed 'Cove' entry lobby





**Figure 21:** Photomontage of proposed tower facade including sun shading fins (right) and operable 'softcore' facade (left)



**Figure 22:** Perspective drawing of Queens Court from Underwood Street - looking south





**Figure 23:** Perspective drawing of Queens Court from Dalley Street - looking north



**Figure 24:** Proposed Ground Level



**Figure 25: Proposed Level 1**



**Figure 26: Proposed Level 3 (tenant end of journey and bicycle storage)**





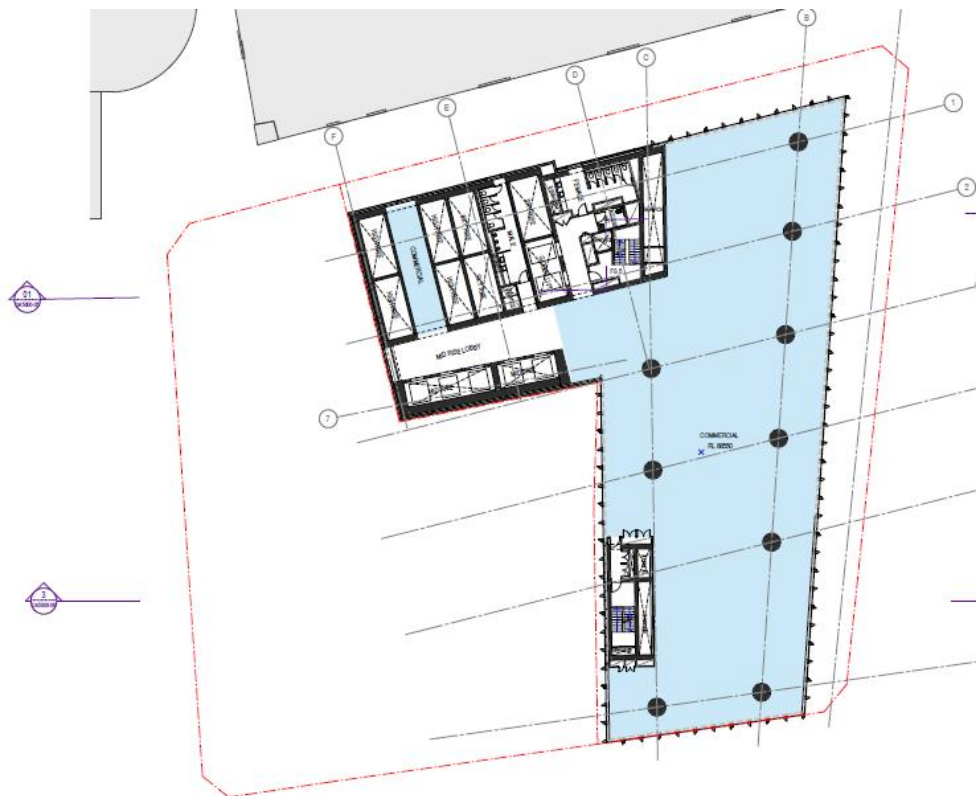
**Figure 27:** Proposed Level 4 (visitor bicycle parking and wellness centre)



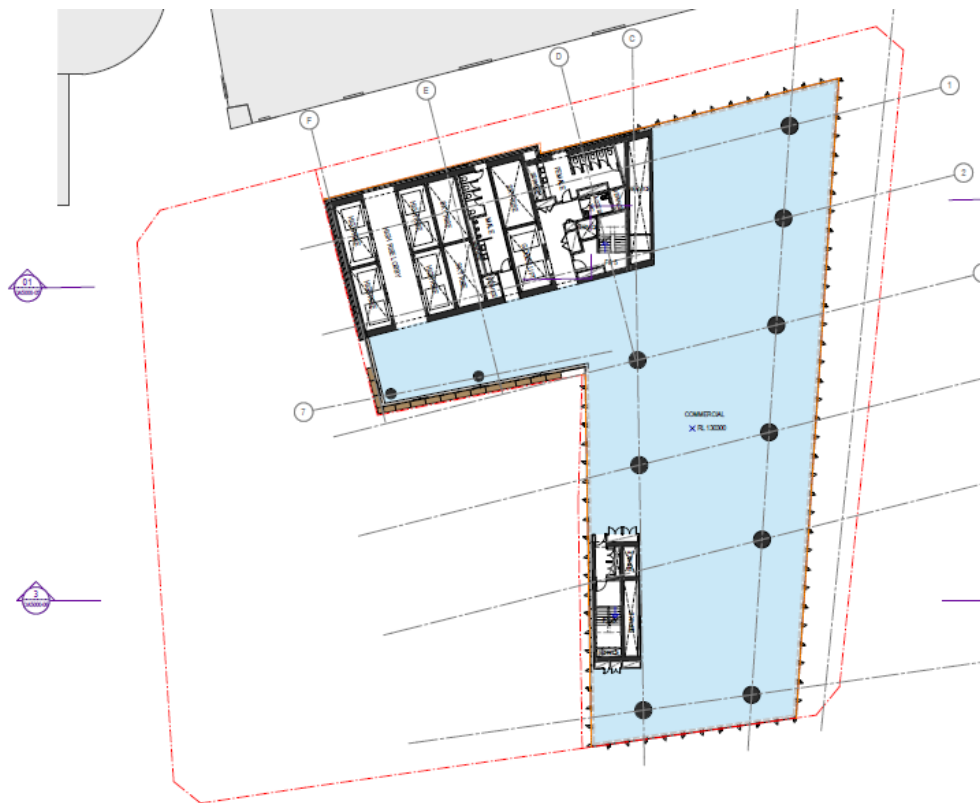
**Figure 28:** Proposed Level 4 - typical podium low-rise commercial office floorplate



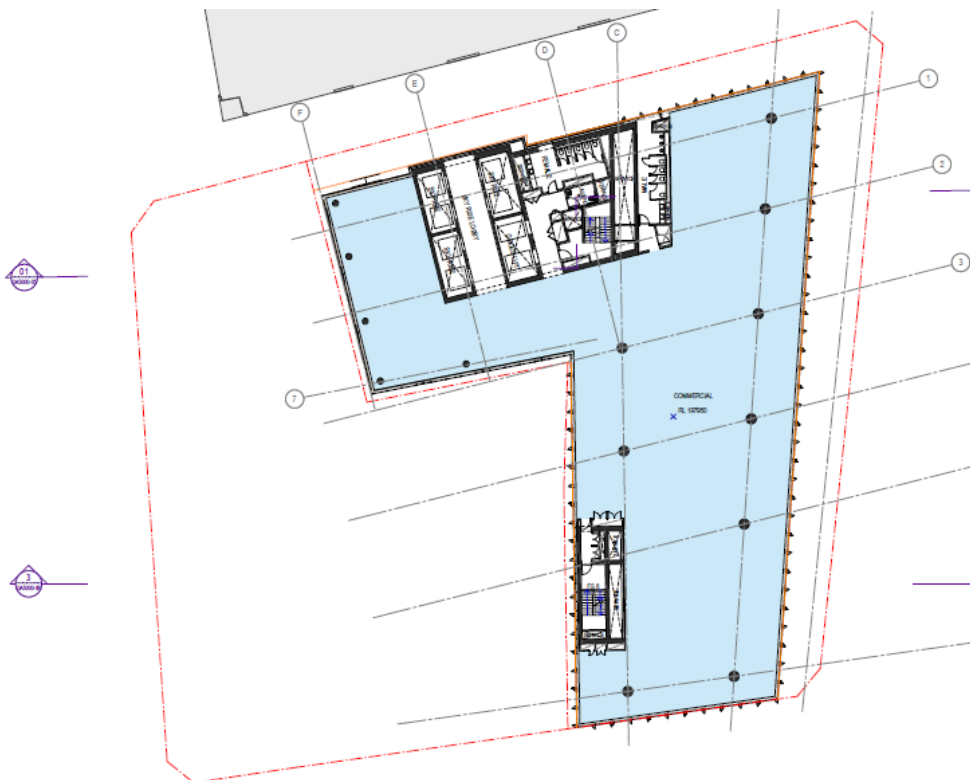
**Figure 29:** Proposed Level 13-17 - typical tower low-rise commercial office floorplate



**Figure 30:** Proposed Level 20-27 - typical mid-rise commercial office floorplate



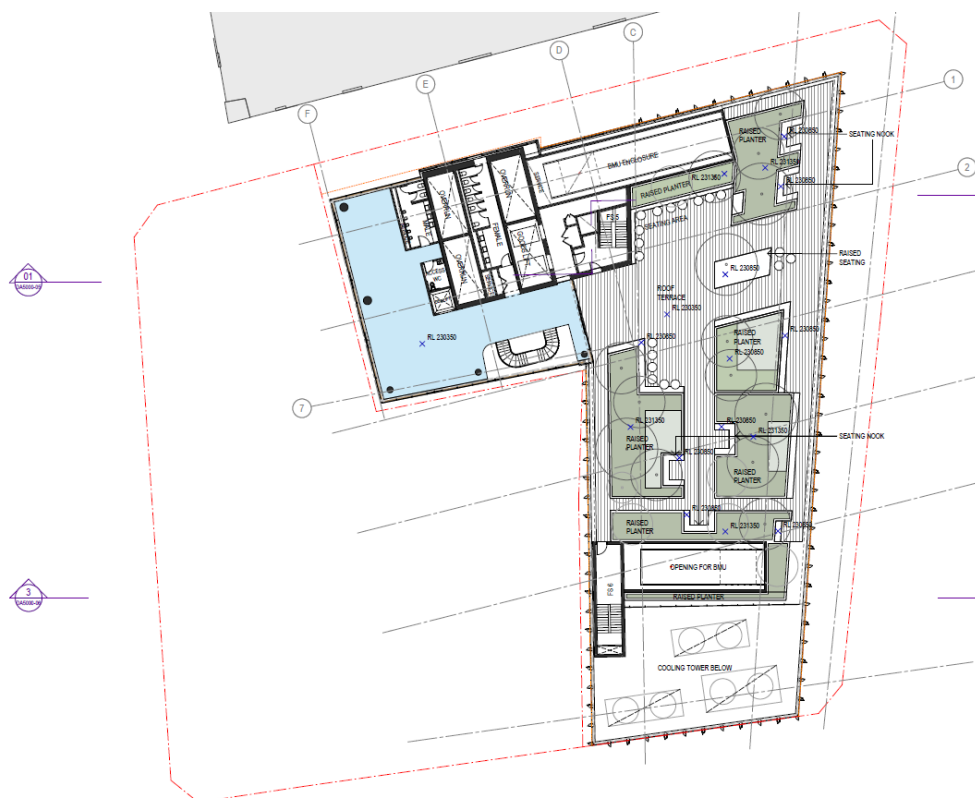
**Figure 31:** Proposed Level 30-42 - typical high-rise commercial office floorplate



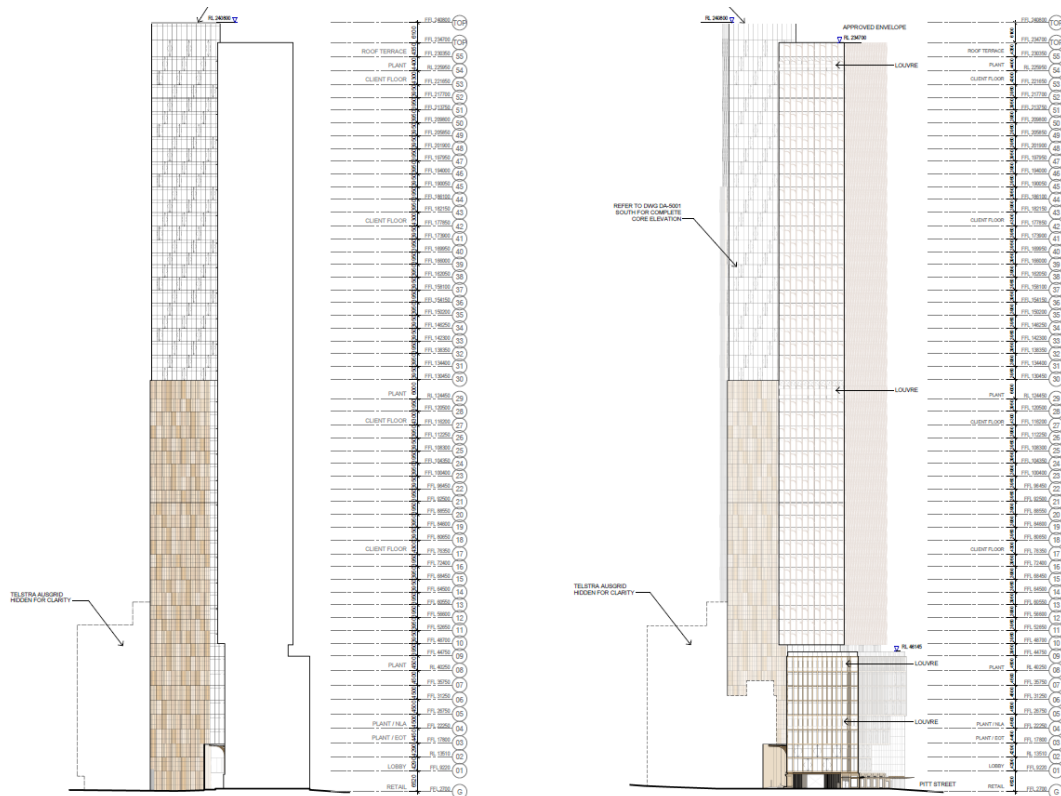
**Figure 32:** Proposed Levels 42-53 - typical sky-rise commercial office floor plate



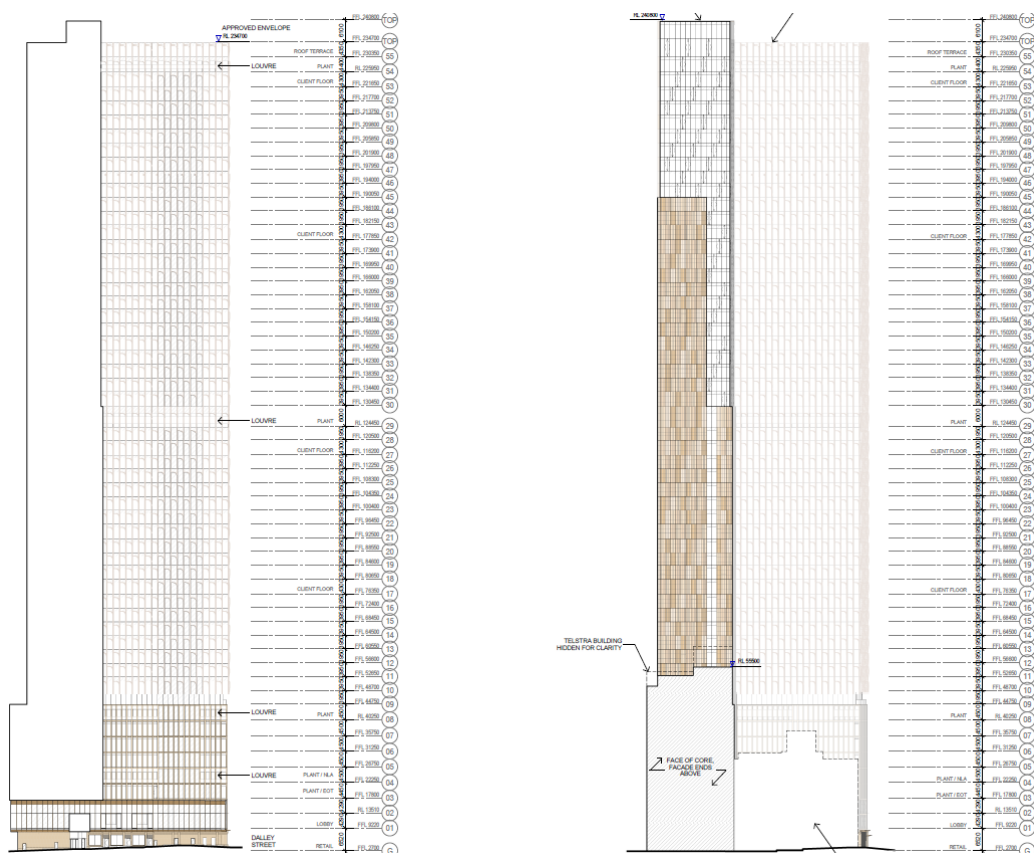
**Figure 33:** Proposed Level 54



**Figure 34:** Proposed Level 55 and rooftop terrace



**Figure 35:** Proposed south elevations - hard/softcore (left) and Dalley Street (right)



**Figure 36:** Proposed west elevation - Queens Court and tower (left) and hard/softcore (right)



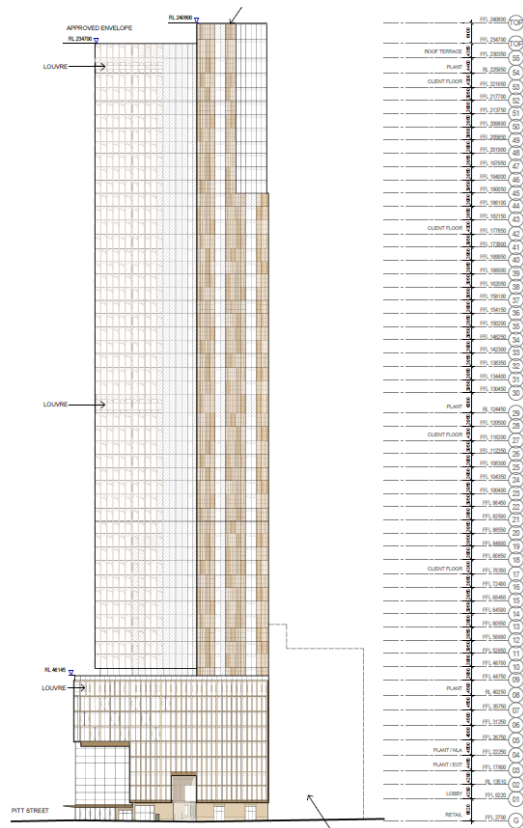


Figure 37: Proposed north elevation

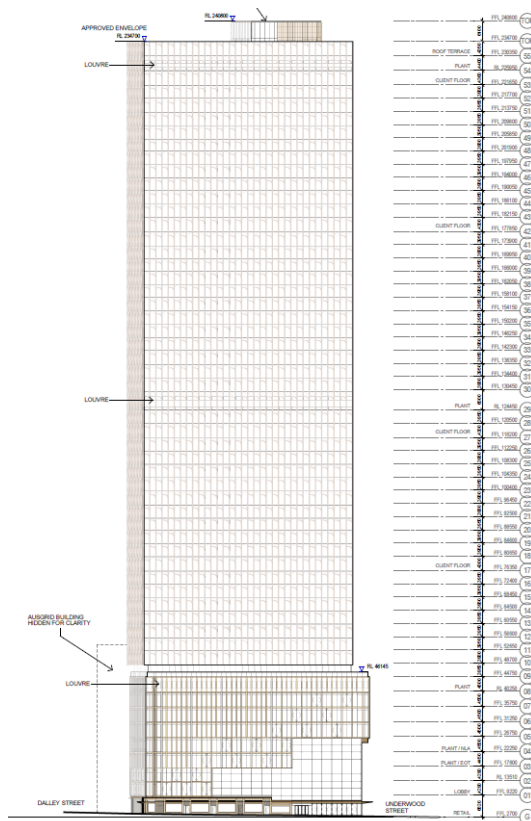
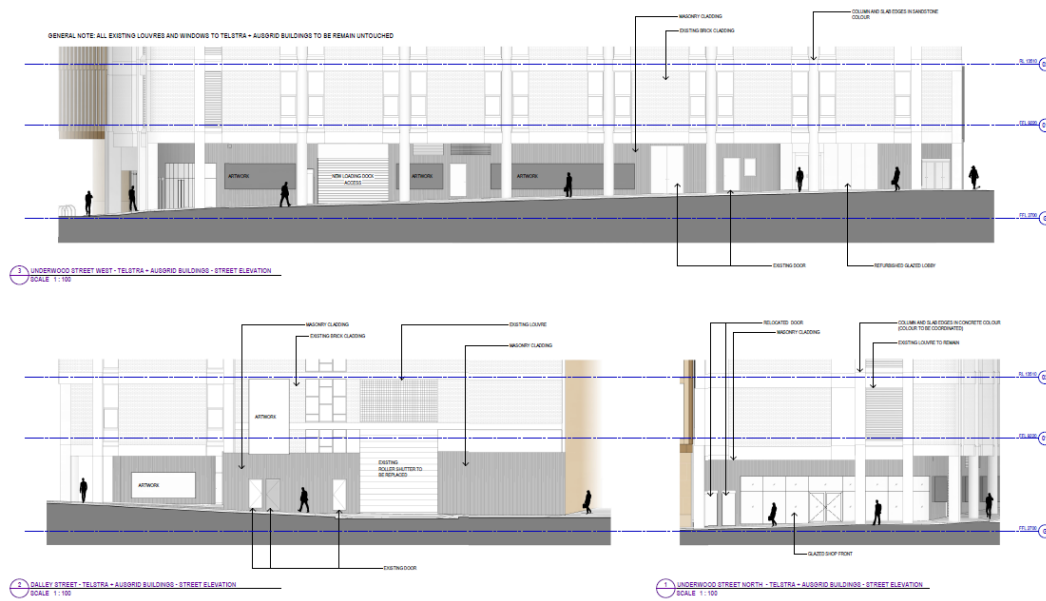
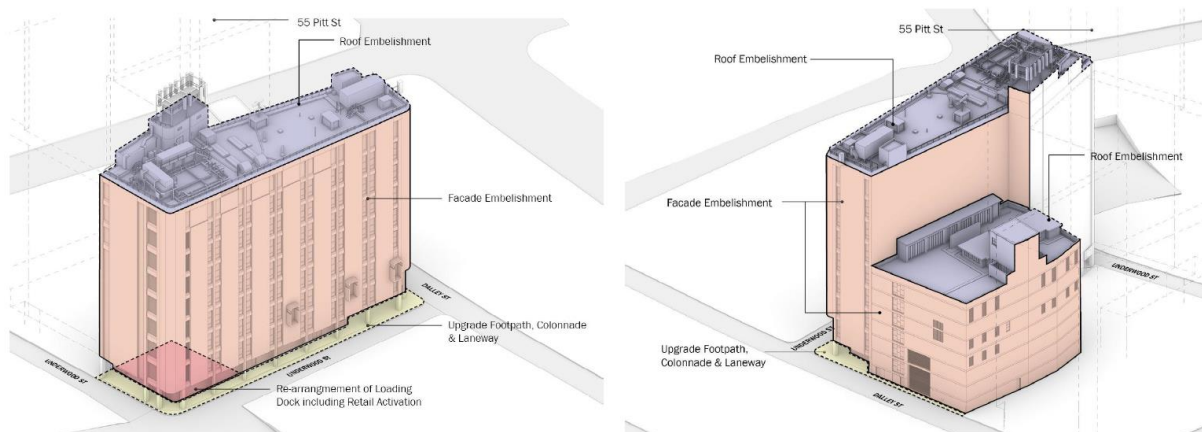


Figure 38: Proposed east elevation



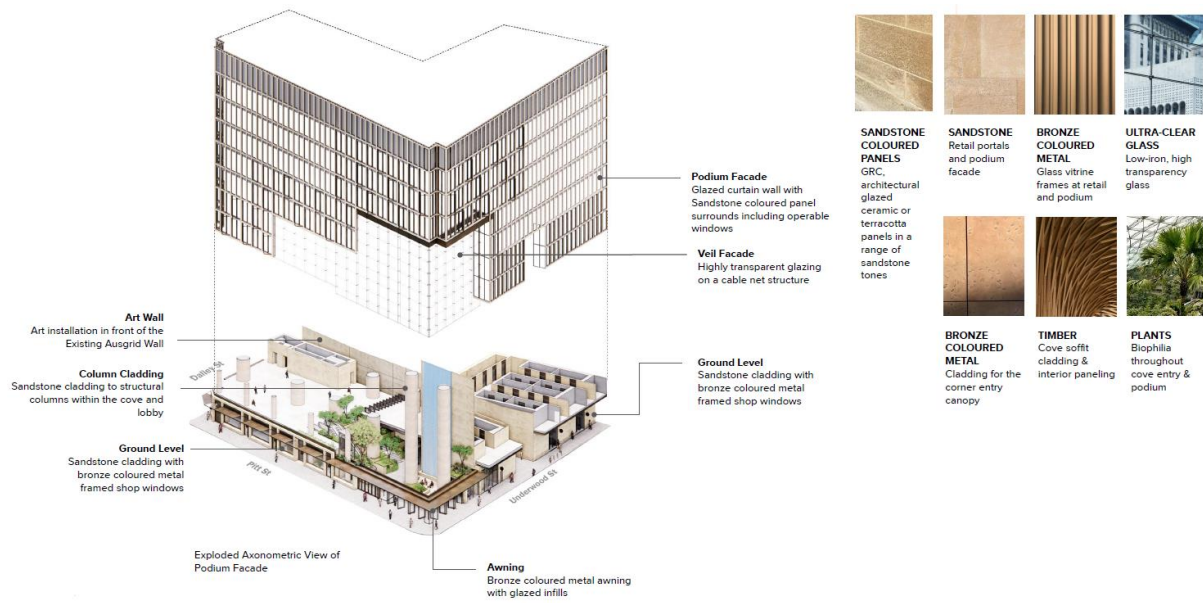
**Figure 39:** Proposed works to Telstra and Ausgrid buildings



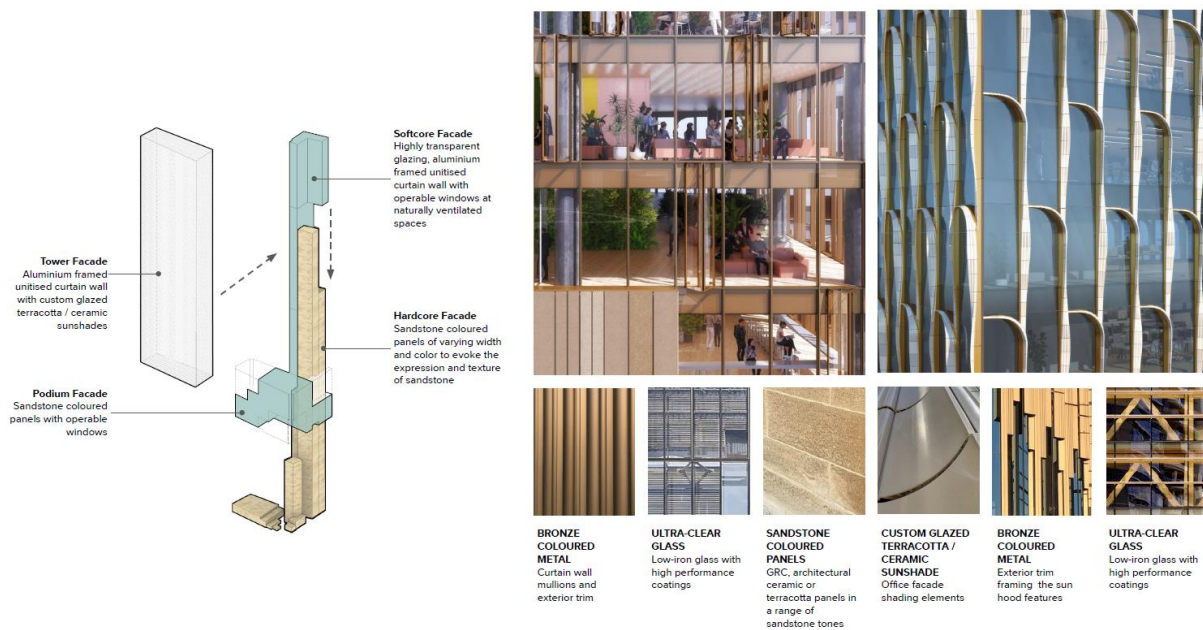
**Figure 40:** Proposed scope of works to existing Telstra and Ausgrid utility buildings



**Figure 41:** Perspective of proposed ground floor works to existing Telstra utility building along Underwood Street

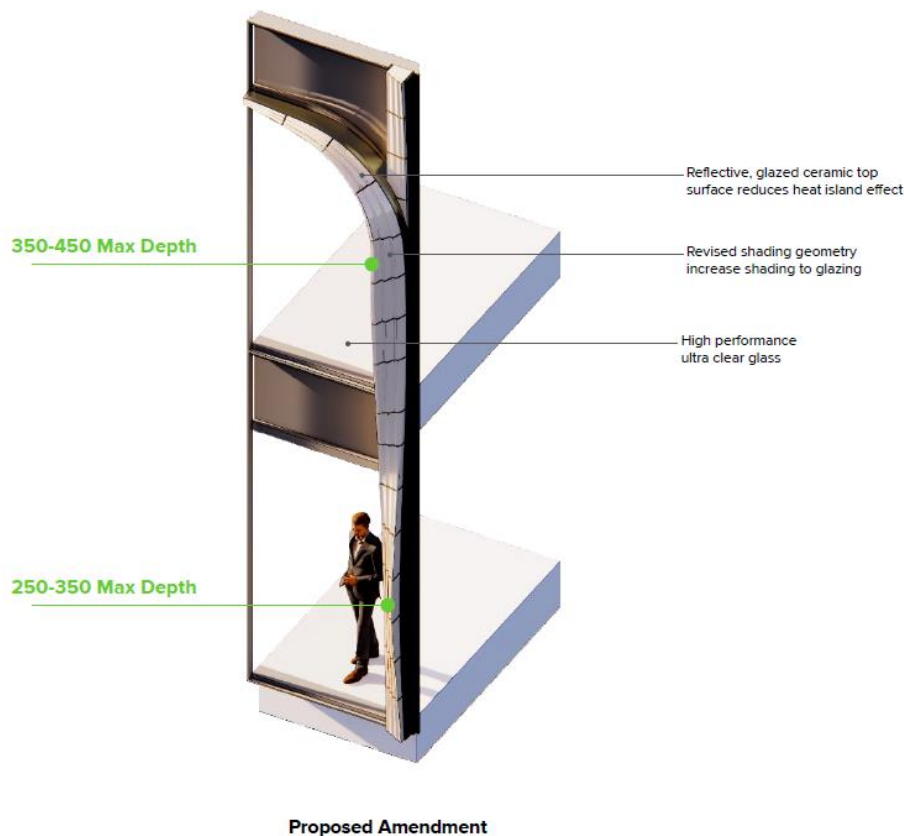


**Figure 42:** Proposed axonometric view of podium and proposed materials palette



**Figure 43:** Proposed facade types and proposed materials palette





**Figure 44:** Proposed terracotta sun shading surrounds (fins)

## Assessment

37. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

## Water Management Act 2000

38. The application has been identified as Integrated Development requiring an approval under the Water Management Act 2000.
39. The proposal was referred to Water NSW who have determined that the proposal will encounter groundwater during the works and will require an approval for dewatering. General Terms of Approval issued by Water NSW are included in the recommended conditions of consent in Attachment A.

## City of Sydney Act 1988

40. Section 51N requires the Central Sydney Planning Committee (the Committee) to consult with the Central Sydney traffic and transport Committee (CSTTC) before it determines a development application 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 Central Business District.

41. 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."

42. Transport for New South Wales (TfNSW), as the delegate of the CSTTC, was consulted.
43. Submissions received from TfNSW have been considered in the assessment of the application and the recommended conditions included in Attachment A.

### **Sydney Water Act 1994**

44. Section 78 of the Sydney Water Act 1994 sets out various requirements for the determination of development applications which would:
- (a) increase the demand for water supplied by the Corporation; or
  - (b) increase the amount of waste water that is to be removed by the Corporation; or
  - (c) damage or interfere with the Corporation's works; or
  - (d) adversely affect the Corporation's operation.
45. Subclauses (2) and (4) of Section 78 of the Sydney Water Act 1994 allow for a consent authority to approve an application at any time, subject to a condition requiring that a developer obtain a compliance certificate from the Sydney Water Corporation.
46. Several conditions have been recommended in Attachment A requiring various Sydney Water approvals and certification, including a condition requiring that the developer obtain a Section 73 Compliance Certificate from the Sydney Water Corporation.

## Heritage Act 1977

47. The subject site does not contain any items listed on the State Heritage Register under the Heritage Act 1977, however, is located within close proximity to the state heritage listed 'Tank Stream including tanks and tunnels', running parallel to the site boundary near Pitt Street.
48. The application was referred to Heritage NSW who provided comments on 19 August 2021 noting that the submitted heritage impact statement and archaeological report indicates that the works are likely to impact historical archaeological information of both State and local significance relating to the early colonial settlement, Tank Stream, James Underwood, maritime, domestic and commercial development from the 1820s to the twentieth century.
49. Advice provided by Heritage NSW raised concern that the project does not provide any alternatives to the wholesale removal of the site's archaeological resources. Conservation in-situ of State significant archaeology is a preferred option which appears to have not been considered or possible. Additionally, the proposed mitigation does not contain recommendations for future interpretation specific to the archaeological information proposed (either on-site, digitally, open days or other options) to be removed from the site. Instead, interpretation of the built elements of the site is recommended and a question regarding interpretation is included in the site-specific research questions. This is not an acceptable recommendation for a site with predicted State significant archaeology proposed to be removed. Both these issues need to be revisited.
50. Heritage NSW recommended conditions which require the Applicant to reassess the impact on significant archaeology and consider options for avoidance and protection of State significant archaeology. This may include the need to complete a test excavation prior to the finalisation of project detailed design. Recommended conditions from Heritage NSW are included in Attachment A.

## State Environmental Planning Policies

51. Commencing on 1 March, the 45 existing State Environmental Planning Policies (SEPPs) have been consolidated into 11 policies to make the system simpler. The new SEPPs are based on focus 9 areas and are listed below:
  - (a) Housing
  - (b) Transport and Infrastructure
  - (c) Primary Production
  - (d) Biodiversity and Conservation
  - (e) Resilience and Hazards
  - (f) Design and Place
  - (g) Industry and Employment
  - (h) Resources and Energy

(i) Planning Systems

52. While the existing SEPPs have been consolidated, no policy changes have been made. The SEPP consolidation does not change the legal effect of the SEPPs being repealed and section 30A of the Interpretation Act 1987 applied to the transferred provisions.
53. The consolidation of the SEPPs has not changed the provisions that apply to the proposed development. The assessment against relevant SEPPs as below will refer to the relevant SEPP sections as updated in their consolidated form however will reference the relevant SEPPs in their previous form.

**State Environmental Planning Policy (Resilience and Hazards) 2021 (previously State Environmental Planning Policy No 55 - Remediation of Land)**

**Chapter 4 Remediation of land**

54. The aim of Chapter 4 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.
55. A detailed site investigation report, prepared in accordance with the SEPP and the SEPP 55 Guidelines, has been submitted with the application. The report has been reviewed by City staff during the assessment of the proposal.
56. The City's Health and Building Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed mix of land uses, in accordance with Clause 4.6 of the SEPP and the SEPP 55 Guidelines. The recommended conditions are included in Attachment A.

**State Environmental Planning Policy (Transport and Infrastructure) 2021 (previously State Environmental Planning Policy (Infrastructure) 2007)**

**Chapter 2 Infrastructure**

57. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

***Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network***

***Clause 2.48 Determination of development applications – other development***

58. The application is subject to Clause 2.48 of the SEPP as the development will be carried out immediately adjacent to an electricity substation.
59. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised.

***Division 15, Subdivision 2: Development in or adjacent to rail corridors and interim rail corridors***

***Clause 2.98 – Excavation in, above, below or adjacent to rail corridors***

60. The application is adjacent to the City and Southwest and Metro North West rail corridor and was subsequently referred to Sydney Metro as delegate of Transport for

NSW (TfNSW) for comment. Sydney Metro have recommended conditions which are included in Attachment A.

***Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations***

***Clause 2.121 – Traffic generating development***

61. The application is subject to Clause 2.121 of the SEPP as the proposed development is a commercial premises with a gross floor area of over 10,000sqm.
62. The application was referred to TfNSW who raised no objection to the proposal subject to conditions requiring the preparation of a Car Parking, Loading and Servicing Management Plan and a Construction Pedestrian and Traffic Management Plan. Recommended conditions of consent from TfNSW are included in Attachment A.

**State Environmental Planning Policy (Biodiversity and Conservation) 2021 (previously Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005)**

63. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.
64. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SEPP are not applicable to the proposed development. The development is consistent with the controls contained within the SEPP.

**Local Environmental Plans**

**Sydney Local Environmental Plan 2012**

65. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

**Part 2 Permitted or prohibited development**

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the B8 Metropolitan Centre zone. The proposed development is defined as a mixed use development comprising commercial office and retail uses with associated public domain works and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.



**Part 4 Principal development standards**

Provision	Compliance	Comment
4.3 Height of buildings	No	<p>A maximum height of 110m is permitted.</p> <p>Additional height is permitted pursuant to the site specific APDG controls under Clause 6.25, up to a height of 232m.</p> <p>A height of 238.1m (RL240.8) is proposed for the commercial tower building, inclusive of a 15m tall architectural roof feature.</p> <p>A request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.</p>
4.4 Floor space ratio 6.3 Additional floor space in Central Sydney 6.4 Accommodation floor space 6.6 End of journey floor space 6.8 Lanes development floor space 6.21D Competitive design process (design excellence) 6.25 APDG block	Yes	<p>A maximum floor space ratio of 8:1 is permitted under Clause 4.4 of the Sydney LEP 2012.</p> <p>In accordance with clause 6.25(4) the site is also subject to the following floor space bonuses:</p> <ul style="list-style-type: none"> <li>• 2.52:1 additional floor space for block 5 in the APDG block</li> <li>• 4.5:1 accommodation floor space bonus for office and retail uses</li> <li>• 0.3:1 end of journey floor space</li> <li>• Lanes development floor space equal to the floor space occupied by the lanes development use</li> <li>• Additional 10% the sum of maximum permissible floor space, addition 2.52:1 and accommodation floor space if the building exhibits design excellence</li> </ul> <p>Overall, the site is subject to a maximum floor space ratio of 16.52:1.</p> <p>A floor space ratio of 16.52:1 or 70,568sqm is proposed.</p>

Provision	Compliance	Comment
		The proposed development complies with the maximum floor space ratio development standard.
4.6 Exceptions to development standards	Yes	<p>The proposed development seeks to vary the development standard prescribed under Clause 4.3 Height of buildings. A variation request under Clause 4.6 of SLEP 2012 has been submitted with the application.</p> <p>See further details in the 'Discussion' section below.</p>

### Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.6 Architectural roof features	Yes	<p>The proposed architectural roof feature will extend to a height of RL240.8, comprising a 6.1m extension above the maximum height prescribed under section 6.25 of the Sydney LEP 2012 .</p> <p>The feature is acceptable as it is decorative and fully integrated with the design of the building.</p>
5.10 Heritage conservation	Yes	<p>The existing buildings contained within the site are not heritage listed and the site is not located within a Heritage Conservation Area.</p> <p>The site is within proximity of several heritage items of local and state significance. Of note is the collection of heritage items to the east across Pitt Street and the State Heritage Listed Tank Stream is located east of the site beneath the alignment of Pitt Street.</p> <p>A Historical Archaeological Assessment and Archaeological Research Design Report was submitted with the application and concludes that the proposal is acceptable from a heritage perspective. The proposal is not considered to have an adverse impact on surrounding heritage fabric.</p>

**Part 6 Local provisions – height and floor space**

Provision	Compliance	Comment
Division 1 Additional floor space in Central Sydney		
<p>Subdivision 3 Heritage floor space</p> <p>6.11 Utilisation of certain additional floor space requires the allocation of heritage floor space (HFS)</p>	Yes	<p>The proposal includes 12,390sqm of accommodation floor space, which is the total GFA above 8:1 FSR, less the proposed 1,286sqm of end of journey floor space and 335sqm of lanes development floor space.</p> <p>Clause 6.11(1)(a) of the Sydney LEP 2012 requires that HFS is allocated to the site equal to 50% of the accommodation floor space.</p> <p>Clause 6.11(2)(a) allows this amount to be reduced by up to 50%, or 1,000sqm, whichever is the lesser, if the proposed development is the winner of an architectural design competition carried out in accordance with the City of Sydney Competitive Design Policy.</p> <p>The proposal is the winning scheme of an 'invited' architectural design competition conducted in line with the City's Competitive Design Policy and is eligible for a 1,000sqm HFS reduction.</p> <p>As such, a total of 5,695sqm of HFS is required to be allocated to the site. A condition is recommended in Attachment A to require this HFS to be purchased and allocated to the development.</p>
Division 3 Height of buildings and overshadowing		
6.18 Overshadowing of certain public places	Yes	<p>The proposal will not cause any additional overshadowing to Macquarie Place or Australia Square from 14 April to 31 August between 10.00am and 2.00pm.</p> <p>The proposed tower falls within the shadows of the new tower development to the north at 33-35 Pitt Street and will cause no additional overshadowing to protected public places.</p>

Provision	Compliance	Comment
		Solar access and overshadowing is discussed in further detail below under the heading Discussion.
Division 4 Design excellence		
6.21 Design excellence	Yes	<p>The proposal exhibits design excellence as required by Clause 6.21C(2) and is recommended to be awarded an additional 10% floor space in accordance with Clause 6.21D(3), given it is the winner of an 'invited' architectural design competition and has retained the key elements of the winning scheme.</p> <p>The amended scheme adequately addresses recommendations made by the competition jury for improvements. These recommendations are addressed in detail below under the Discussion heading.</p> <p>The proposal responds appropriately to the concept approval conditions and planning controls where required. The built form is compatible with the character of the locality and providing an appropriate relationship with the retained heritage buildings on the site and with the adjacent development.</p> <p>The proposal achieves the principles of ecologically sustainable development (ESD) and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants.</p> <p>The proposal presents a high standard of architectural design and the overall materiality, articulation and architectural expression of the development is in keeping with the relevant planning controls and reflecting the desired future character of the area.</p> <p>The proposal will have a positive contribution to the public domain through the provision of street awnings, retention</p>



Provision	Compliance	Comment
		and protection of street trees and provision of an active frontage.  Overall, the proposal satisfies the considerations in Clause 6.21C(2) of the Sydney LEP 2012 and the development is considered to exhibit design excellence.
Division 5 Site specific provisions		
6.25 APDG block	Yes	This application is for Block 5 under the provisions of this clause.  The clause relates to additional permitted building heights, the provision of recreation areas, lanes and roads, businesses and retail premises fronting these areas, distribution of built form, and the calculation of floor space ratio.  The proposed development is generally consistent with the requirements of this clause and is discussed in further detail below under the Discussion heading.

**Part 7 Local provisions – general**

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.6 Office premises and business premises	Yes	A maximum of 86 car parking spaces are permitted.  The proposed development includes 52 car parking spaces and complies with the relevant development standards.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with Class 2 and Class 5 Acid Sulfate Soils. The amended application was accompanied by an Acid Sulfate Soils Management Plan, which was reviewed by Council's Environmental Health Unit and was found to be satisfactory. The plan is a contingency action should Acid Sulfate

Provision	Compliance	Comment
		Soils be found during excavation of the basement and footings.
7.15 Flood planning	No	<p>The site is identified as being subject to flooding.</p> <p>The application proposes development at or below the flood planning level. In accordance with the City's Interim Floodplain Management Policy a finished floor level of 0.3m above the surrounding ground is required. The proposed development does not comply with this requirement. This issue is discussed further below under the heading Discussion.</p>
7.16 Airspace operations	Yes	<p>The proposed development will penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for Sydney Airport.</p> <p>The concurrence of Sydney Airport Corporation, as a proxy for the Civil Aviation Safety Authority, has been received subject to conditions of consent.</p>
7.20 Development requiring or authorising preparation of a development control plan	Yes	<p>The site is contained within the APDG block and is subject to site specific controls for the built form and character or the redevelopment precinct.</p> <p>Further, as a result of the Planning Proposal as discussed under the heading History Relevant to the Development Application above, additional site specific provisions were incorporated into the existing controls for Block 5 of the APDG site in Section 6.1.4 of the Sydney DCP 2012.</p> <p>The updated site specific controls for Block 5, in addition to the general considerations for development in Central Sydney as per Section 5.1 of the Sydney DCP 2012, satisfactorily address the matters for consideration in clause 7.20(4).</p>

Provision	Compliance	Comment
7.26 Public art	Yes	<p>The proposal includes public art which will be integrated with the detailed design of the development.</p> <p>The preliminary public art plan submitted with the application has been reviewed by the City's Public Art Unit.</p> <p>It is considered acceptable, subject to a condition included in Attachment A, which requires final details to be provided prior to the issue of a construction certificate.</p> <p>The preliminary plan provides sufficient details, however, to satisfy the tests in Clause 7.26(2) as follows, in relation to the proposed artworks throughout the development:</p> <ul style="list-style-type: none"> <li>• They will not involve the display of any advertisements;</li> <li>• They will not increase the GFA of the buildings within the development;</li> <li>• They will not have any impacts to any nearby heritage items; and</li> <li>• They will not have any significantly adverse impacts on the amenity of the public domain, including by overshadowing, wind or noise impacts.</li> </ul>

## Development Control Plans

### Sydney Development Control Plan 2012

66. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

### Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	Yes	The proposed lanes and public space are generally consistent with the APDG specific controls and will be required to

Provision	Compliance	Comment
		<p>be constructed in accordance with the City's specifications and design code.</p> <p>Details of the trees to be located within plaza areas are to be updated as part of further detailed public domain approvals.</p> <p>A public art contribution is documented as part of the VPA. This VPA public art component is in addition to that required by this DA alone. A public art strategy is being developed for the site in consultation with the Public Art Advisory Panel and as part of any approval, would require the DA component and VPA component to be included in the strategy.</p>
<p>3.2. Defining the Public Domain</p> <p>3.2.1 Improving the public domain</p> <p>3.2.2 Addressing the street and public domain</p>	Yes	<p>The proposal satisfactorily addresses the public domain, given that it:</p> <ul style="list-style-type: none"> <li>• Minimises the overshadowing effects of the new building on protected public places;</li> <li>• Will not result in adverse wind impacts within the public domain or within the proposed through-site link and publicly accessible lobby area;</li> <li>• Does not impede on any significant views from the public domain to any public places, park, heritage buildings or monuments;</li> <li>• Incorporates high quality materials and finishes and public art in publicly accessible locations;</li> <li>• Provides multiple pedestrian points of entry into the development along Pitt Street, Queens Court and Underwood Street; and</li> <li>• Subject to conditions recommended by the City's Public Domain Unit, the proposed development will integrate with the public domain whilst achieving and acceptable flooding outcome.</li> </ul>



Provision	Compliance	Comment
3.2.3 Active frontages	Yes	<p>The site is identified as having to provide active frontages to Pitt Street, Underwood Street, Dalley Street and Queens Court.</p> <p>The design intent of the proposed shopfronts maximises entries, shopfront display windows, minimises blank portions of the ground level facade and provides for a high standard of finish and architectural detail.</p> <p>The proposed development prioritises retail uses on the ground floor by reducing the area of the entry lobby and relocating the majority of the commercial office lobby functions to Level 1.</p> <p>The proposal also provides consistent weather protection along Pitt Street, Underwood Street and Queens Court with the addition of continuous street awnings, canopies and colonnades.</p>
3.2.4 Footpath awnings	Yes	<p>Awning(s) are required along Pitt Street as identified on the Footpath awnings and colonnades map.</p> <p>The proposal includes a continuous street awning along Pitt Street, wrapping around the building to Underwood Street to the north and Dalley Street to the south.</p> <p>The height, depth and form of the new awnings are generally acceptable and are consistent with the requirements of this provision.</p>
3.2.5 Colonnades	Yes	<p>The proposal also continues the existing colonnade cover over the remainder of Underwood Street (north) to provide continuous weather protection to pedestrians and is considered acceptable in this instance.</p>
3.2.6 Wind effects	Yes	<p>The application was accompanied by a wind report confirming that the proposed development will not have an adverse</p>

Provision	Compliance	Comment
		<p>impact on public safety and comfort at ground level in regard to wind.</p> <p>Accompanying documentation with the application confirms comfort criteria of sitting, standing and walking can be achieved in publicly accessible areas including Queens Court, Pitt Street, Underwood Street and the entry 'Cove' lobby.</p>
3.2.7 Reflectivity	Yes	A condition in Attachment A is to ensure that light reflectivity from the building facades in the proposed development does not exceed 20%.
3.2.8 External lighting	Yes	<p>No external lighting is detailed as part of the proposed development beyond generalised references in the application documentation.</p> <p>A condition is recommended in Attachment A to require the lodgement of a separate application for external illumination of the building and/or site landscaping.</p>
<p>3.3 Design Excellence and competitive design processes</p> <p>3.3.1 Competitive design process</p>	Yes	<p>As noted above under the History Relevant to the Development Application heading, the proposed development has been subject to an 'invited' architectural design competition and is consistent with the winning scheme by SHoP Architects and Woods Bagot.</p> <p>The competition was carried out prior to the lodgement of the subject application, in accordance with the City of Sydney Competitive Design Policy and a Design Excellence Strategy.</p>
<p>3.3.3 Award for design excellence</p> <p>3.3.5 Awarding additional floor space</p>	Yes	<p>In accordance with Clause 6.21D of the Sydney LEP 2012, the proposal seeks an additional 10% floor space on the basis that design excellence has been achieved through a competitive design process.</p> <p>The proposal has addressed the recommendations made by the competition jury and, as a consequence</p>

Provision	Compliance	Comment
		<p>of the 'invited' architectural design competition, the amended development is considered to be a "building demonstrating design excellence".</p> <p>As such, it is recommended to be awarded up to an additional 10% floor space.</p> <p>The additional floor space is pro-rated by the area covered by the competitive design process, as a proportion of the total developable site area.</p> <p>The competitive design process applies to the entire site and therefore the 10% floor space is calculated across the entire site.</p>
3.5 Urban Ecology	Yes	<p>The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology.</p> <p>Appropriate conditions relating to the protection of adjacent street trees are recommended by the City's Tree Management Officer and included in Attachment A.</p>
3.6 Ecologically Sustainable Development	Yes	<p>In accordance with the Planning Agreement registered on the site and associated with the proposal, the development must achieve a:</p> <ul style="list-style-type: none"> <li>• minimum 6 star Office Green Star v1.3 Design and Construct rating;</li> <li>• minimum 5.5 star rating on operation under the NABERS energy scheme; and</li> <li>• minimum 4-star rating in operation under the NABERS water scheme.</li> </ul> <p>Appropriate conditions are recommended in Attachment A requiring the development to meet the energy commitments as above.</p>

Provision	Compliance	Comment
3.7 Water and Flood Management	No	<p>A site-specific flood study has been submitted to address flooding in the locality as the site is subject to flooding.</p> <p>The proposed flooding solution includes the use of flood barriers which under Council's interim flood management policy is a last resort measure.</p> <p>A detailed discussion is provided below under the heading Discussion.</p>
3.9 Heritage 3.9.1 Heritage impact statements	Yes	A Heritage Impact Statement has been prepared and submitted with the application considering the potential impacts of the proposed development on surrounding heritage fabric.
3.9.3 Archaeological assessments	Yes	<p>Two archaeological reports submitted with the application concluded that the site has low Aboriginal archaeology potential and no further study regarding Aboriginal remains on the site are needed.</p> <p>The site, however, is assessed to have historical archaeological potential and it is recommended that approval under Section 140 of the Heritage Act 1977 (excavation permit) be obtained. Similar advice was received by Heritage NSW and is discussed above under the heading Heritage Act 1977.</p>
3.9.5 Heritage items	Yes	<p>Although the site does not contain any heritage items, it is located within close proximity of several heritage items of local and state significance.</p> <p>The proposed development is not considered to have an adverse visual impact on surrounding heritage items and is generally in keeping with the historic built character of the locality.</p>
3.9.13 Excavation in the vicinity of heritage items and in heritage conservation areas	Yes	The proposed development is within the vicinity of heritage items and in the Sydney LEP 2012 including the Tank Stream. The proposal involves the excavation of the site to provide three

Provision	Compliance	Comment
		<p>levels of basement parking and service space. A Geotechnical Report submitted with the application concludes that the proposed development is suitable from a geotechnical perspective.</p> <p>Upon request of Council officers, the applicant further investigated the potential for sandstone quarrying during excavation. Additional advice provided concluded that high-quality sandstone is unlikely to be encountered in relatively large quantities.</p>
<p>3.11 Transport and Parking</p> <p>3.11.1 Managing transport demand</p>	Yes	<p>The proposal comprises a mixed-use development including a non-residential development exceeding 1,000 square metres of GFA. As such, it generates a requirement for a Transport Impact Study, Green Travel Plan and Transport Access Guide under the relevant provisions of Section 3.11.1 of the Sydney DCP 2012.</p> <p>A Transport Impact Assessment report has been submitted with the application in accordance with these requirements, which has been reviewed by Transport for New South Wales and the City's Access and Transport Unit.</p> <p>The latter has advised that it is acceptable with regard to the controls in Section 3.11.1 of the Sydney DCP 2012.</p> <p>Conditions are recommended in Attachment A to ensure the development of a Green Travel Plan and Transport Access Guide for the development.</p>
3.11.2 Car share scheme parking spaces	Yes	<p>The proposal includes the provision of 2 car share vehicle spaces located within basement level 2 and is consistent with the requirements of this provision, subject to conditions.</p>
3.11.3 Bike parking and associated facilities	Yes	<p>The DCP requires a minimum total of 658 bicycle parking spaces for the site.</p>



Provision	Compliance	Comment
		<p>The proposed development provides the following facilities:</p> <ul style="list-style-type: none"> <li>• 474 staff bicycle spaces</li> <li>• 177 visitor bicycle spaces (additional 8 spaces provided at ground level)</li> <li>• 49 showers</li> <li>• 735 lockers</li> </ul> <p>Bicycle parking and end of journey facilities are located on Levels 3 and 4 of the podium. The bike parking area is accessible via shuttle lifts in the basement and from Queens Court and satisfactorily meets the requirements of this provision.</p> <p>A condition is recommended in Attachment A to ensure compliance with the minimum requirements set out above.</p>
3.11.6 Service vehicle parking	Yes	<p>The provision at Section 3.11.6(1) of the Sydney DCP 2012 requires service vehicle parking to be provided in accordance with the requirements set out in Schedule 7.</p> <p>Schedule 7.8.1(1) of the Sydney DCP 2012 requires the provision of at least 21 service vehicle spaces.</p> <p>The proposed development provides 19 service spaces as a mix of Medium Rigid Vehicle (MRV) parking spaces and Small Rigid Vehicle (SRV) parking spaces within basement level B1 and within the loading area of the Telstra building. The application was amended to increase the number of service spaces on site and is considered acceptable.</p> <p>Further, there is a 57 overall space reduction compared to the existing development resulting in a large net reduction of vehicles entering the site.</p>

Provision	Compliance	Comment
		Subject to the conditions recommended in Attachment A requiring the submission of plans to confirm the location of parking spaces within the site and the further development of a freight, loading and servicing management plan, the proposed service vehicle parking provision is acceptable.
3.11.7 Motorbike parking	Yes	The application proposes 10 motorbike parking spaces within the basement levels. Associated end of journey facilities are provided on Levels 3 and 4 as discussed above.
3.11.9 Accessible parking	Yes	An accessible parking space is provided within a basement level of the proposed development.
3.11.10 Vehicle access for developments greater than 1000sqm GFA	No, but acceptable	<p>Vehicle access to the site is provided via a ramp on Dalley Street located approximately 11m from the intersection of Dalley Street and Pitt Street.</p> <p>The direction of travel along Dalley Street, however, requires vehicles to travel in an easterly direction, meaning only vehicles departing the site will be approaching the close intersection.</p> <p>Council's Transport Planner reviewed the proposal who supports the application subject to the submission of a car park management plan that addresses the implementation of a carpark signal systems and how vehicles entering the site are prioritised over vehicles exiting the site.</p>
3.11.11 Vehicle access and footpaths	Yes	<p>Conditions are recommended in Attachment A requiring the preparation of a detailed loading dock and car parking management plan that will outline time limits to the use of the driveway by service vehicles to times of low pedestrian activity and arrangements for access for service vehicles and private cars.</p> <p>Additional conditions require:</p>

Provision	Compliance	Comment
		<ul style="list-style-type: none"> <li>Vehicles entering or leaving the site to do so in a forward direction;</li> <li>Installation of signs at Dalley Street to compel drivers to give way to pedestrians; and</li> <li>The preparation of car parking, loading and servicing management plan and transport access guides.</li> </ul>
3.11.12 Tandem, stacked and mechanical parking areas	Yes	<p>The proposed development includes a turntable within the basement.</p> <p>Mechanical parking installations are acceptable, given the physical constraints posed by the site footprint, the subterranean Sydney Metro rail corridor beneath the site, and the configuration and necessary space given over to other critical uses within the basement.</p> <p>A condition is recommended in Attachment A requiring the turntable to be reviewed for suitability for implementation and compliance with Australian Standard AS 2890.1.</p> <p>The application also proposes tandem parking for commercial tenants. The tandem parking spaces comply with the relevant requirements of this provision.</p>
3.11.13 Design and location of waste collection points and loading areas	Yes	<p>Proposed waste storage and collection points are appropriately located close to the loading area on basement level 1.</p> <p>Suitable access is provided for collection vehicles and the proposal is suitable, subject to compliance with an approved Operational Waste Management Plan.</p>
3.11.14 Parking area design	Yes	<p>Conditions are recommended in Attachment A to require all loading to be carried out on site, parking design in accordance with Australian Standard AS 2890.1, and a parking, loading and servicing management plan to be developed.</p>

Provision	Compliance	Comment
3.12 Accessible Design	Yes	<p>The building has been designed to provide accessible entry into retail premises at the ground floor, along the through-site link at Queens Court and throughout the commercial lobby and tower areas.</p> <p>The proposed development meets the requirements of this provision.</p>
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	A condition is to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.
3.16 Signage and Advertising	Yes	A condition is recommended in Attachment A that requires the submission of a separate development application for any future signage strategy and installation of business and building identification signs.
3.17 Contamination	Yes	<p>A Detailed Site Investigation has been prepared and submitted with the application that concludes that the Site may comprise contaminated soils.</p> <p>Further, the application was accompanied by a Remediation Action Plan (RAP), describing appropriate remediation works needing to be carried out during excavation.</p> <p>Interim Audit Advice has also been provided with the application and confirms that the processes described in the RAP should be followed to ensure that the Site will be made suitable for the proposed use.</p> <p>Council's Environmental Health Unit have reviewed the submitted documentation and note that the recommendations are suitable and have</p>

Provision	Compliance	Comment
		recommended conditions provided in Attachment A requiring compliance with such recommendations.

## Section 4 – Development Types

### 4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.2 Floor to ceiling heights and floor to floor heights	Yes	The proposal includes floor to floor heights of 6.52m to retail premises fronting Pitt Street and laneways, a 20m lobby and equal or greater than 3.95m to commercial floors.
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	<p>The proposal is not considered to cause an unacceptable overshadowing impact on surrounding developments or the public domain.</p> <p>See further discussion on solar access and the overshadowing to protected public spaces under the heading Discussion below.</p>
4.2.3.5 Landscaping	Yes	Indicative landscape details have been provided and are considered acceptable. The proposed landscaping throughout the site is supported and conditions are recommended requiring detailed landscape plans to be submitted for further consideration.
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>The objectives and provisions of achieving a fine grain outcome and architectural diversity have been achieved through the design of the ground plans which incorporates a range and variety of retail tenancies.</p> <p>The activation of the ground level will ensure that a fine grain is achieved, while built form, landscaping and opportunities for leisure across the site</p>



Provision	Compliance	Comment
		will ensure an inviting, scaled and highly articulated proposal is achieved.
4.2.6 Waste and recycling Management	Yes	<p>A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p> <p>Conditions are also recommended ensuring the development complies with an approved demolition, excavation and operational waste management plan.</p>

### Section 5 – Specific Areas

Provision	Compliance	Comment
5.1 Central Sydney		
5.1.1 Built form controls 5.1.1.1 Street frontage heights and street setbacks	Yes	<p>The proposed development incorporates a podium height of 45m and is consistent with the requirements of this provision.</p> <p>The building setback provisions for the APDG block are contained within Section 6 of the DCP and are discussed in the table below.</p>
5.1.1.3 Side and rear setbacks and building form separations	Yes	Building form controls including side and rear setbacks are contained within the site specific controls for the site in Section 6.1.4 of the DCP and are discussed further in the table below.
5.1.1.4 Built form massing, tapering and maximum dimensions	Yes	<p>The proposed development meets the objectives of this provision.</p> <p>Specific building form and tower controls are contained within the site specific controls for the site in Section 6.1.4 of the DCP and are discussed further in the table below.</p>
5.1.2 Development outlook and demonstrating amenity compliance	Yes	The proposed tower development is designed to reduce the impact of additional overshadowing on surrounding public domain areas.

Provision	Compliance	Comment
		Further the proposed tower does not rely on neighbouring properties for access to views and light and is consistent with the requirements of this provision.
5.1.4 Building exteriors	Yes	<p>The predominant masonry character and articulation of Central Sydney north of Park Street is required to be reinforced, particularly at the lower levels of buildings. Masonry finishes, being natural sandstone to the ground floor and sandstone finish large format GRC panels to upper levels are proposed.</p> <p>The tower design uses curved terracotta surrounds (fins) thorough the majority of the tower facades to avoid extensive expanses of blank glass while the solid wall areas covering the western core employs texture and colour differences that contribute successfully to the city skyline.</p> <p>While there are minor projections for operable window elements within the podium and sun shading fins to the southern facade of the tower, these are within the maximum projection of 450mm.</p>
5.1.6 Heritage floor space	Yes	As discussed in Section 6.11 of the LEP table above, a condition is recommended requiring the allocation of heritage floor space.
5.1.7 Sun protection of public parks and places	Yes	The site is not affected by sun access plan provisions, however, as discussed above, the proposed tower will not result in any additional overshadowing to protected public places, specifically Macquarie Place to the east and Australia Square to the south.
5.1.8 Views from public places	Yes	The proposal will not affect views to any significant spaces from the public domain and is consistent with the requirements of this provision.
5.1.9 Managing wind impacts	Yes	The application was accompanied by a wind report confirming that the proposed

Provision	Compliance	Comment
		<p>development will not have an adverse impact on public safety and comfort at ground level in regard to wind.</p> <p>Accompanying documentation with the application confirms comfort criteria of sitting, standing and walking can be achieved in publicly accessible areas including Queens Court, Pitt Street, Underwood Street and the entry 'Cove' lobby.</p>

### Section 6 – Specific Sites

Provision	Compliance	Comment
6.1.4 The APDG site (bounded by Alfred, Pitt, Dalley and George Streets)		
<p>6.1.4.1 Local Infrastructure and Public Domain</p> <p>General</p>	Partial compliance	<p>The proposal will include the widening and expansion of Queens Court to create a through-site link connecting Dalley Street and Underwood Street (east-west). The through-site link will have a width of between 4m and 6m.</p> <p>The proposed public domain will create a permeable and integrated pedestrian network that aligns with the through-site link of the adjoining development and provides opportunities for relaxing, eating, meeting and greeting.</p>
Streets, lanes and through-site links	Partial compliance	<p>The proposed Queens Court through-site link has been designed in accordance with Figure 6.9A public domain principles plan.</p> <p>The vehicular and service entry has been provided along Dalley Street.</p> <p>The footpath on the southern side of Underwood Street has been widened to 3m to provide adequate pedestrian amenity.</p> <p>The proposed bridge link at level 1 connecting the commercial lobby to the lift cores is wider than the recommended 3m width as per the DCP. The application has been amended to reduce the bridge width from 9m wide to 5.5-</p>

Provision	Compliance	Comment
		6.7m that works with the lift core geometry. Although the width of the bridge is not consistent with the recommended 3m, the reduced width of the amended proposal will allow better light penetration from Underwood Street into Queens Court and will not overwhelm the scale of the laneway.
Active frontages	Yes	In accordance with Figure 6.12A of the DCP, the proposal provides active frontages on Pitt Street, Underwood Street (east-west and north-south) and Queens Court through fine grain retail, glazed shopfronts and the integration of public art along the ground plane facades.
Awnings	Yes	The proposal provides an awning along Pitt Street in accordance with the footpath awnings and colonnades map.
6.1.4.2 Built Form and Design Building Height	Partial compliance	The proposal has a maximum building height of 232m, with the exception of an architectural roof feature which is permitted under clause 5.6 of the Sydney LEP 2012 and is discussed in further detail under the heading Discussion.
Street Frontage Height and setbacks	Yes	<p>The proposed development includes street frontage heights and setbacks consistent with the requirements of the DCP.</p> <p>Street frontage heights and setbacks are discussed in further detail below.</p>
Building design and bulk	Yes	<p>The proposed building envelope is generally consistent with Figure 6.10A of the DCP with the exception of the proposed architectural roof feature extending over the maximum height control.</p> <p>The proposal also includes an allowance for facade articulation equivalent to 1.65% of the building envelope and is generally consistent with this control.</p>

Provision	Compliance	Comment
		<p>Ground floor retail will be provided with amenities, storage and back-of-house spaces to support uses, as well as spaces generous in height with highly glazed frontages, allowing visual connectivity to the public realm.</p> <p>Office spaces throughout the podium will be open plan supporting visual connectivity and interest to Queens Court.</p> <p>The proposal is located adjacent to the Lendlease Salesforce Tower. Accordingly, privacy measures have been implemented along the northern facade to ensure visual privacy is maintained. The tower is setback 3-4m along the northern facade to provide adequate separation distance. The southern portion of the northern facade is the soft-core and will present a solid wall along the lift core. The northern facade of the main tower will include the following privacy measures:</p> <ul style="list-style-type: none"> <li>• Terracotta sun shading surrounds</li> <li>• Louvers</li> <li>• Obscure glazing</li> <li>• Internal blinds</li> </ul>
Design Excellence Strategy for Development Block 5	Yes	<p>As discussed above under the heading History Relevant to the Development Application, the proposal is a result of a competitive design process in which an 'invited' architectural design competition occurred.</p> <p>In accordance with the DCP, the additional floorspace pursued for demonstrating design excellence is provided within the building envelope and no additional height which includes floor space has been proposed as a result of the competition.</p>
6.1.4.3 Parking and Vehicular access	Yes	The proposed vehicular access point is provided on the eastern section of



Provision	Compliance	Comment
		<p>Dalley Street which is consistent with Figure 6.15A of the DCP.</p> <p>The basement car park provides shared services across the Site. The loading dock facilities are provided within Basement Level 1, and no above ground parking is proposed.</p>
6.1.4.4 Floodplain Management for Development Block 5	Yes	<p>A Flood Impact Assessment has been prepared and submitted with the proposed development.</p> <p>The Flood Impact Assessment has identified flood mitigation measures to ensure the impacts of potential flooding are managed, while maintaining an accessible, connected and inviting public domain.</p> <p>The vehicle access ramp on Dalley Street will be passively flood protected above the 5% AEP via a threshold crest set at RL 4.15m.</p> <p>Council's Public Domain Unit have reviewed the submitted flooding information and the matter is discussed further under the heading Discussion below.</p>
6.1.4.5 Sustainability for Development Block 5	Yes	<p>The application was submitted with an ESD report confirming the proposed development can achieve the following:</p> <ul style="list-style-type: none"> <li>• New commercial buildings should be designed to meet a 6 star Greenstar rating.</li> <li>• New commercial buildings should be designed to meet a 5.5 star NABERS Energy rating for base building of the commercial component, evidenced by the provision of a NABERS Energy Commitment Agreement prior to the issuing of relevant Construction Certificate.</li> <li>• New commercial buildings should be designed to meet a 4 star</li> </ul>

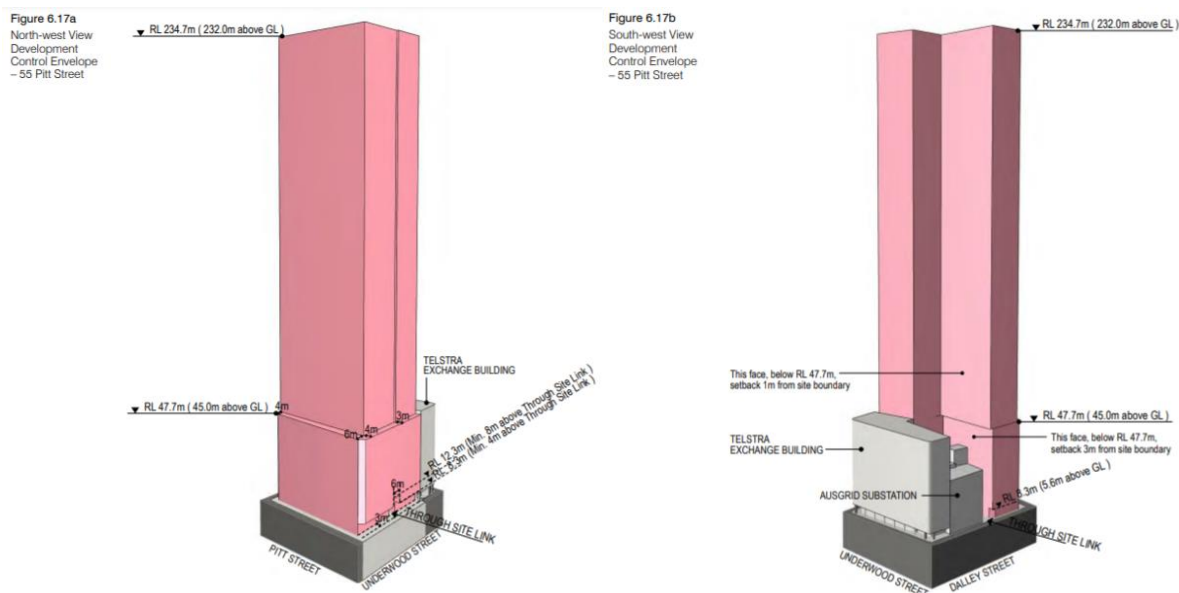
Provision	Compliance	Comment
		<p>NABERS Water score for the commercial component.</p> <ul style="list-style-type: none"> <li>New commercial development should achieve net-zero carbon, zero waste and water efficient outcomes.</li> </ul> <p>Conditions are recommended that requires the development to achieve such commitments.</p>

## Discussion

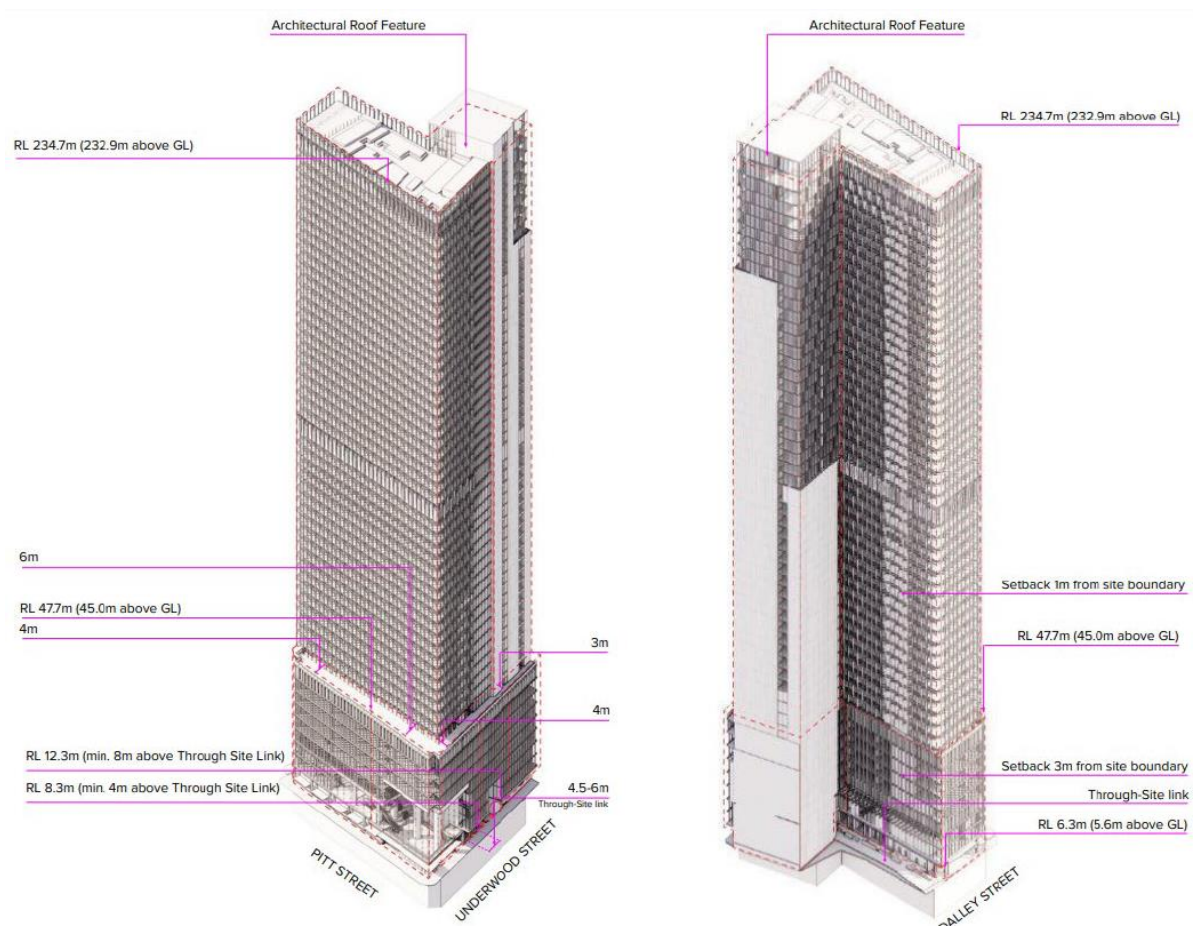
### APDG site provisions

67. The site is subject to site specific provisions relating to tower height, podium height, setbacks, through site links and general built form and design.
68. The application seeks to utilise the provisions in Clause 6.25 of SLEP 2012 for the 'APDG block'. The controls provide that on block 5, being the land the subject of this application, a building may be erected with a height of up to 232 metres to a maximum of 44% of the block area.
69. In order for the increased height provisions under Clause 6.25 to apply, the consent authority must be satisfied that the development application:
  - (a) includes recreation areas and lanes and roads through the site
  - (b) includes business premises and retail premises that have frontages at ground level to those recreation areas, lanes and roads
  - (c) provides a satisfactory distribution of built form and floor space development; and
  - (d) the development relates to the whole block (and except as otherwise provided) no other land.
70. A building on block 5, must also not be used for the purpose of residential accommodation or serviced apartments.
71. The application has provided recreation areas with the provision of the Queens Court through site link in accordance with the public domain plan as detailed in Part 6.1.5 of SDCP 2012.
72. The proposal includes premises with frontages at ground level to the recreation areas, lanes and roads. The ground level uses are predominantly independent to the commercial tower and are designed to activate the plazas and laneways. The fitout of the premises would be the subject of separate applications.

73. The development provides a satisfactory distribution of form and floor space within the block. The proposed building form aligns with the relevant height and FSR controls and is distributed in accordance with relevant site specific controls contained in SLEP 2012 and SDCP 2012. The proposed building to a height of 232 metres occupies 44% of the block area.
74. The development relates to the whole of block 5 as defined in Clause 6.25 and no development is proposed for the purpose of residential accommodation or serviced apartments.
75. The proposal is therefore able to be considered for approval under the provisions of Clause 6.25 of SLEP 2012.
76. Additionally, the site has a series of height and setback controls prescribed in section 6.1.4.2 and is shown in Figure 45 below. Figure 46 then provides a comparison to the DCP height and setback controls to the proposed development, demonstrating compliance with the numeric controls, excluding the height of the architectural roof feature.



**Figure 45:** Sydney DCP 2012 Envelope controls including tower height, street frontage heights, setbacks and through site link dimensions



**Figure 46:** Proposed building tower height, podium height, setbacks and through site link dimensions

77. Although the proposed development is generally consistent with the majority of the numeric controls prescribed for the site, some aspects of the development do not comply with the DCP and are discussed in further detail below.

#### Queens Court

78. The design of the Queens Court and through-site link is strongly supported, however, requires some further design refinement.
79. The City's Public Domain Unit has reviewed the application and notes that the design of the Queens Court public through-site link, as agreed in Planning Agreement, must include an open, inviting entrance to Queens Court from Dalley Street with all internal planters, seats, walls, stairs and handrails to be within the private property boundaries, a clear accessible thoroughfare through City's land on Queens Court and all doors adjacent must open wholly within building lines (to prevent pedestrian obstruction and hazards). The concept design must provide the public with passive areas to meet and dwell (including items such as fixed furniture for sitting and dining) and must not favour commercial interests over public interests.
80. The design of Queens Court provides ramp access to part of the laneway whilst the remaining part is access from Dalley Street via stairs to address flood levels as shown in Figure 47 below. The use of the portion of Queens Court by vehicles servicing the Ausgrid substation building and the Ausgrid chamber below needs to be clarified as this will potentially require a clearance to the existing Queens Court road reserve.

81. It is recommended that this ramped area be maximised in width and may require a slight relocation of planters to be located wholly within the privately owned portion of the through-site link. A condition is recommended requiring the submission of detailed plans of Queens Court showing widths to allow for vehicle access and for all public domain elements to be located within privately owned land to ensure that all the publicly accessible spaces surrounding the site correlate and work successfully.

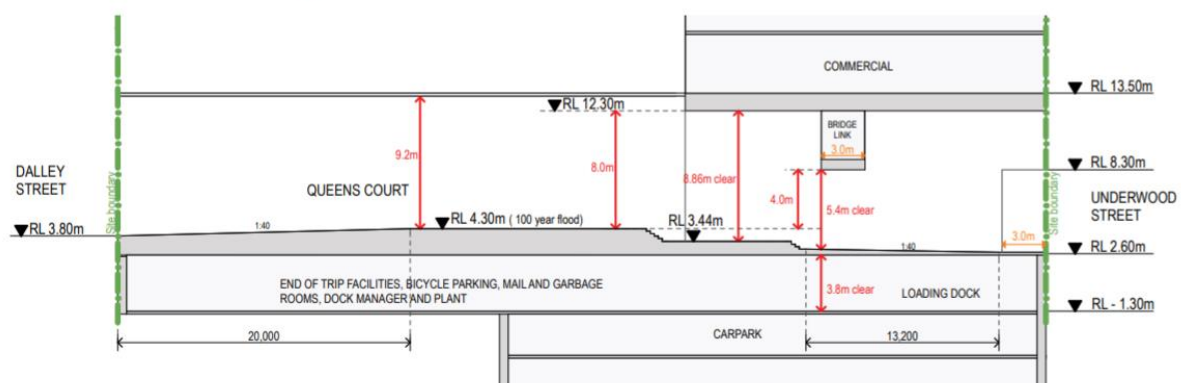


**Figure 47:** Perspective drawing of Queens Court from Dalley Street. Ramped vehicle access must be provided to service the Ausgrid site to the left of the image.

82. Further, the proposal will include a glazed awning over Queens Court to a height of 14m above finished ground level, exceeding the minimum required height of 10m. The proposed bridge above Queens Court will have a minimum clearance of 5.4m to the underside of the bridge and is consistent with the site specific requirements of the DCP as per Figure 6.17c of the DCP and as provided below in Figure 48.

Figure 6.17c

Development Control Envelope – 55 Pitt Street



**Figure 48:** DCP controls for Queens Court dimensions



83. The proposal, however, includes an amended alternative bridge width from the recommended 3m to a width of 5.5m - 6.7m, it was reduced from nine metres which is a substantial variation from the maximum DCP control of 3m. Whilst the proposed width exceeds the recommended 3m, the wider proposal is not considered to adversely impact pedestrian amenity along Queens Court and is considered to meet the objectives of the DCP. See Figure 49 below for a comparison between the original proposed 9m wide bridge with the amended width.
84. The proposed bridge is considered to maintain a sense of openness and space within Queens Court, ensuring that the bridge is a lightweight addition and the civic qualities of Queens Court are maintained. The following specific design strategies have been adopted for the bridge design:
- (a) An increased height of the entryway into Queens Court from Underwood Street from 9.5m to 14m, increasing the perceived scale of the space.
  - (b) The proposed canopy treatment over Queens Court will be extended along the whole length of Queens Court and will be raised from the compliant 10m to 14m, improving the public realm experience through creating a more generous scale and sense of openness.
  - (c) Reduction of the bridge to a single height feature, in turn emphasising the bridge as a link between two separate volumes and allowing a void between the Queens Court canopy and the bridge which enhances visual permeability through the lane.
  - (d) The Queens Court bridge will have fully glazed façades and operable windows to allow visual permeability and natural light penetration through the bridge, and continuation of sightlines through the lane.



**Figure 49:** Original (captioned as Current) and reduced width (captioned as Proposed) bridge link over Queens Court as viewed from Underwood Street

#### Fire Stair, Commercial and Retail Egress Doors

85. The DA plans show numerous doors, from fire exits, retail and commercial spaces, opening into the public domain and pedestrian paths of travel, which is not safe. Such obstructions can hinder movement and become a hazard and health risk to patrons and pedestrians.



86. The application was discussed with the City's Public Domain unit who recommend that all doorway designs and configurations must be amended to show all doors opening wholly within the building line, without causing obstructions or impediments. A condition of consent is recommended that requires amended plans to be submitted for review.

### Solar Access and Overshadowing to Protected Public Places

87. Clause 6.18 of the Sydney LEP 2012 and Sections 4.2.3.1 and 5.1.7.2 of the Sydney DCP 2012 require developments to address solar access to surrounding uses and within Central Sydney, to protected public places.
88. Although uses surrounding the site are predominantly commercial and tourist and visitor accommodation, residential apartment uses are noted at 4 Bridge Street, 44 Bridge Street, 8 Loftus Street, 18 Loftus Street and 15 young Street. Submitted shadow diagrams, as provided in Figures 50 and 51 below, confirm that the proposed development will have no additional overshadowing impact on surrounding residential uses.

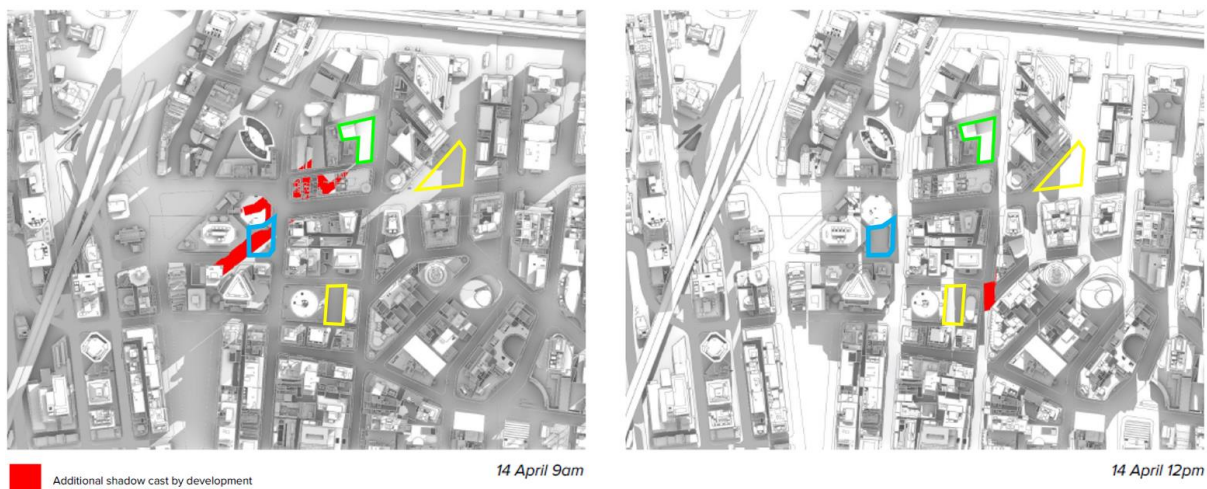


**Figure 50:** Overshadowing caused by proposed development at 9am and 12pm on winter solstice identified in red. Subject tower site outlined in green. Residential uses identified in blue.

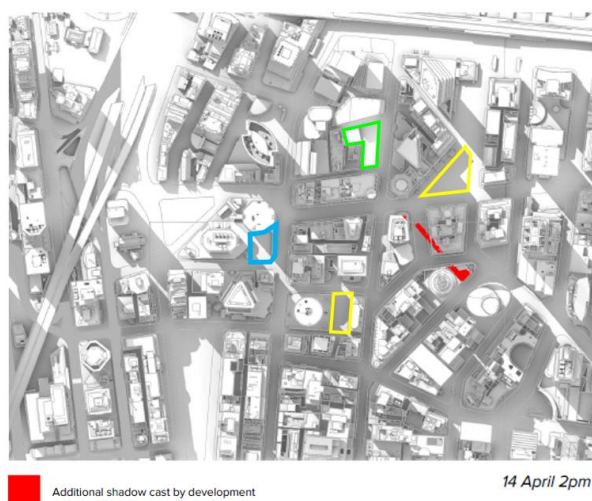


**Figure 51:** Overshadowing caused by proposed development at 2pm on winter solstice identified in red. Subject tower site outlined in green. Residential uses identified in blue.

89. When considering the overshadowing impact of the proposed development to public places, the greatest impact occurs at 9am on 14 April (see figures 52 and 53 below) where the shadows fall upon the forecourt of 243-259 George Street. Although the forecourt to this site is publicly accessible, it is not a protected public place as identified in Clause 6.18 of the Sydney LEP 2012 and Section 5.1.7.2 of the Sydney DCP 2012.
90. The proposed tower will not result in any additional overshadowing to protected public places, specifically Macquarie Place to the east and Australia Square Plaza to the south. Figures 52 and 53 provide shadow diagrams of the proposed tower on 14 April and surrounding protected public places that must not be impacted by additional overshadowing as required in the Sydney DCP 2012.



**Figure 52:** Overshadowing caused by proposed development at 9am and 12pm on 14 April. Subject tower site outlined in green. 243-257 George Street identified in blue. Protected public places identified in yellow.



**Figure 53:** Overshadowing caused by proposed development at 2pm on 14 April. Subject tower site outlined in green. 243-257 George Street identified in blue. Protected public places identified in yellow.

91. Figures 54 and 55 below provide excerpts of Figures 5.39 and 5.42 of the Sydney DCP 2012 identifying the indicative maximum heights of buildings so as to not cause any additional overshadowing over protected public places. Figure 54 confirms the subject site falls outside areas that would cause overshadowing to Macquarie Place whilst Figure 55 notes the western edge of the development site having a potential impact on Australia Square Plaza. The proposed development does not propose any additional height to the existing Telstra utility building and as such, will not impact solar access to the plaza.



**Figure 54:** Macquarie Place No Additional Overshadowing. Subject site outlined in red.



**Figure 55:** Australia Square Plaza No Additional Overshadowing. Subject site outlined in red.



### Invited Architectural Design Competitions Jury Recommendations

92. As discussed above under the heading History Relevant to the Development Application, the proposal has been subject to an international invited architectural design competition in which the SHoP Architects and Woods Bagot scheme was selected as the winning scheme given the proposal presented a distinctive character, and the strongest identity and commercial presence noting the objectives of the Competition Brief.
93. The Jury identified a number of matters to be refined during the design development phase of the project to ensure the design adequately responds to the Competition Brief and exhibits design excellence while maintaining the original design intent and are discussed in further detail below.

Jury Recommendation	Response
<b>Public realm, Entry and Laneways:</b> The public realm, entry and laneways require further resolution to reconcile the simplicity and unity of the podium with need for integration and activation of the street. This will require further technical review of the ground plane and its interaction with the public domain. Specifically, resolution of the following is required:	
A more resolved and coherent architectural language along Pitt Street is required. Consideration of the awnings, retail entries, lobby entry and relationship of these	The architectural language along Pitt Street has been resolved to have a more legible, contextual and unified presentation to the public domain. The veil enclosing the entry



Jury Recommendation	Response
elements to the podium is needed to enable a stronger and more unified presentation to the public realm	way solidifies the relationship of the Pitt Street frontage with the urban block and will include a bronze metal awning to give emphasis to the main entry on the north eastern corner of the site. The southern section of the Pitt Street frontage utilises sandstone treatment that is consistent with the materiality of the podium and presents a common condition of the built form in Sydney.
Finer resolution of the entries, door portals, ramps, stairs and landscaped platforms – in particular generous dimensions to enable seamless pedestrian movement throughout the ground plane, at the same time - accommodating equitable access and achieving appropriate wind conditions.	The entries, door portals, ramps and stairs have been coordinated with a pedestrian modeller and informed by access consultants, wind consultants and civil (flood) engineers. Level street access has been provided to all retail tenancies as there is a strong desire to create and facilitate equitable access and activation along the street frontages and avoid DDA restrictive steps and intrusive ramps. Equitable access has also been achieved through the provision of a DDA lift and generous circulation distances within the entry area.
Resolution and simplification of Queens Court, including review of the landscape elements which create a structured separation between seating and circulation and navigation of levels to achieve a simpler and more urban laneway quality.	Landscape elements in Queens Court have been simplified to create a narrower and more streamlined planter along the centre of the through-site link providing separation between retail seating to the east and circulation to the west.
A technical review of all relative levels is required to ensure seamless connections, achievement of the required flood planning levels and equitable access.	<p>Levels throughout the public realm have been coordinated with the landscape architect, civil (flood) engineer and access consultant to achieve the required flood planning levels and equitable access.</p> <p>Equitable access is achieved through appropriate ramping throughout the ground plane and the location of the DDA lift adjacent to the escalators at the ground floor main entry.</p>
<b>Podium</b>	
The detailed relationship of the facade and slab edge is to be integrated with tenant requirements regarding flexibility and	The relationship of the facade and slab edge has been resolved through providing an architectural hierarchy of the vitrine

Jury Recommendation	Response
security, whilst maintaining the concept of a fine facade, structural and landscaped edge.	facade which clearly defines the mid-door zones with operable windows from the typical office floor zones. This results in a finely detailed outcome. The provision of landscaping has been retained in the base-building design, ensuring the concept is retained and celebrated.
<div data-bbox="204 589 778 913">  <p data-bbox="422 943 609 981"><b>Competition Design</b> Full Glass Curtain Wall</p> </div> <div data-bbox="850 589 1380 913">  <p data-bbox="1018 943 1230 996"><b>Proposed Amendment</b> Projected Masonry Frame &amp; Recessed Glass Window</p> </div> <p data-bbox="204 1039 1345 1099"><b>Figure 56:</b> Perspective drawing extracts of the podium design from Pitt Street in the competition design (left) and in the amended design (right)</p>	
<b>Tower</b>	
The terracotta sunshades on the tower facade require further resolution to optimise their sun-shading efficacy. This is to contribute to an improved ESD performance through consideration of varied depth and differing requirements of the four orientations.	<p>Significant design development has occurred on the sunshades ensuring the function of solar shading and heat glare reduction is optimised.</p> <p>Further design development as a result of design amendments during the assessment of the application have also optimised the finds performance. Shading effectiveness studies were carried out and conclude that the proposed terracotta fins reduce the solar load on the glazing on the east and west facades by approximately 20% annually, and by 14% during the summer months, compared to no shading.</p>
The ability of the 'soft core' to manage wind loads and the operability of the facade needs to be further resolved. The management of heat loads and glare from the strong western sun need to also be	The operation and effectiveness of the soft-core façade has been studied in depth with Cundall to ensure that both the comfort conditions of the space is achieved and transparency maintained.



Jury Recommendation	Response
resolved while retaining the clarity, lightness and transparency of the facade.	
As with the podium, the detailed relationship of the facade and slab edge, and the presence of voids across the floor plate to deliver interconnectivity, are to be integrated with tenant requirements regarding flexibility and security.	The proposal does not currently include interconnected floorplates in the current design, but it is anticipated that these will be delivered in the detail tenant fit outs. The proposed scheme provides a high level of tenant flexibility through the arrangement of the tower floorplates. The core has been consolidated to the north western section of the building which maximises the opportunity to create contiguous floorplates. The layout of the floorplate also provides the ability to efficiently maximise tenant subdivisions or changing workplace layouts whilst ensuring equal access to the services in the core, daylight, and ventilation.
Further investigation and technical review, particularly from a wind perspective and need for services allocation, is required to ensure the usability and comfort of the roof terrace while maintaining the balance of open and enclosed spaces.	The roof level has been coordinated with the landscape architects, wind consultant and services engineers, and has been designed to provide both usability and conform to the tenants and visitors. Wind conditions have been mitigated through the incorporation of both open and closed spaces, landscaping and high-level balustrades all contained within the maximum height limit.
The proposed structural solution which incorporates a hybrid timber approach is noted, however it is acknowledged that a detailed technical, buildability and costing review, as well as authority approval, is required to align this solution with the project objectives, and aspirations.	A review of the buildability and costing of the project has been undertaken, and it has been determined that a timber hybrid approach is not suitable for the project. Accordingly, the structural solution of the building is proposed to be more conventional and will be subject to further design development.
<b>ESD</b>	
The investigation of water reuse and renewables should be undertaken to enhance and contribute to the suite of ESD initiatives to be delivered as part of the VPA.	A number of water reuse techniques and renewables have been incorporated into the proposed sustainability strategy.
<b>Interiors and Planning</b>	

Jury Recommendation	Response
The core configuration, including the arrangement of lifts and incorporation of adequate service risers, should be further resolved with technical input.	The core configuration has undergone design development, informed by structural and service engineers and a vertical transport consultant to create both efficient and practical vertical travel. The core configuration will be subject to ongoing coordination through the design development phase.

### Building Height - Architectural Roof Feature - Clause 4.6 Request to Vary a Development Standard

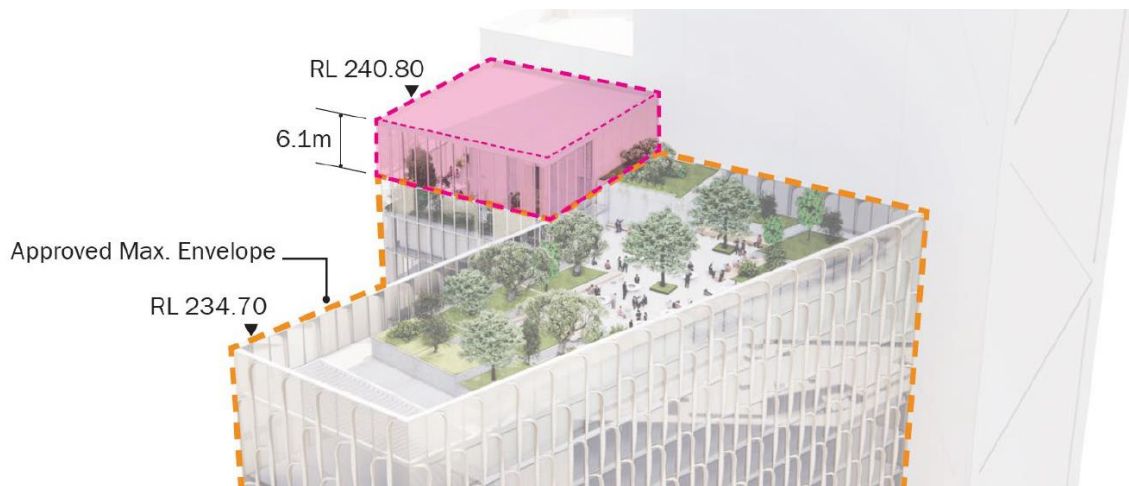
94. The site is subject to a maximum height of buildings control of 232m over 44% of the block. The proposed development has a height of 232m covering 44% of the block with an architectural roof feature 6.1m above, with a resulting total height of 238.1m.
95. The application has included a request to vary the height of buildings development standard pursuant to Clause 4.6 of the Sydney LEP 2012.

#### Architectural Roof Feature

96. Clause 5.6 of the Sydney LEP 2012 allows architectural roof features to exceed height limits provided the feature does not cause an adverse visual impact and is integrated with the building design. Figures 57 and 58 below provide photomontage and perspectives drawings of the proposed architectural roof feature and the relationship of the feature with the main tower structure and maximum height limits.



**Figure 57:** Photomontage of proposed architectural roof feature



**Figure 58:** Perspective drawing of proposed architectural roof feature form exceeding the maximum height limit

97. Clause 5.6(3) requires the consent authority to be satisfied that the architectural roof feature:
- (a) is a decorative element on the uppermost portion of the building
  - (b) is not an advertising structure
  - (c) does not include floor space area and is not reasonably capable of modification to include floor space area
  - (d) will cause minimal overshadowing; and
  - (e) that any building identification signage or servicing is fully integrated into the design of the roof feature.
98. The proposed roof feature is located on the uppermost portion of the building and satisfies the requirements of this provision in that it:
- (a) Is designed in a way to emphasise the verticality of the building form, acting as an extension of the strong linear facades and appropriately concealing the building services. It is a decorative element at the top of the tower that contains no floorspace or signage
  - (b) Will not result in any significant overshadowing, particularly given it is a small component of the overall built form
  - (c) Does not include any floor space and only contains elevator machine rooms, plant and void space for GFA which is located below the maximum height limit
  - (d) Does not cause significant additional environmental impact which would render it incompatible with its surrounding land uses and ensures the proposal is appropriate for the context of the Site
99. The proposed roof feature is considered to reasonably comply with the provisions and be able to be considered an architectural roof feature in accordance with Clause 5.6 of Sydney LEP 2012.

## Clause 4.6 Request to Vary a Development Standard

100. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- a. That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case
  - b. That there are sufficient environmental planning grounds to justify contravening the standard
  - c. The proposed development will be consistent with the objectives of the zone; and
  - d. The proposed development will be consistent with the objectives of the standard.

## Applicant's Written Request - Clause 4.6(3)(a) and (b)

101. The applicant seeks to justify the contravention of the height of buildings development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
    - (i) The applicant has referred to *Wehbe v Pittwater Council*, whereby Preston CJ establishes the test for determining whether compliance with a development standard is unreasonable or unnecessary. A summary of the applicant's request is provided below
    - (ii) The development is consistent with the objectives relating to building height and design excellence considerations as provided in the Sydney LEP 2012
    - (iii) The proposal is consistent with the objectives of the specific architectural roof features controls
    - (iv) The roof feature has been designed as an integrated building element as part of the overall building design
    - (v) The extent of non-compliance is minor
    - (vi) There are no significant adverse environmental planning impacts associated with the non-compliance
  - (b) That there are sufficient environmental planning grounds to justify contravening the standard:
    - (i) The applicant has referred to *Initial Action Pty Ltd v Woollahra Municipal Council* and focuses on the aspect or element of the development that contravenes the development standard, not on the development as a whole; and why that contravention is justified on environmental planning grounds. A summary of the applicant's discussion is provided below.

- (ii) There is an absence of environmental harm arising from the contravention, for reasons set out in the discussion under (a) above.
- (iii) The height variation is considered to be in the public interest given its ability to:
  - (i) Be designed consistent with the provisions for architectural roof features in Section 5.6 of the Sydney LEP
  - (ii) Not cause significant additional adverse natural and built form impacts; and
  - (iii) Provide site specific environmental planning grounds demonstrating that strict compliance is unreasonable or unnecessary in the circumstances.
- (iv) The proposed development will be consistent with the objectives of clause 1.3 of the Environmental Planning and Assessment Act 1979:
  - (i) The proposed height variation will promote the social and economic welfare of the community by enabling a higher performing building with enhanced amenity catering to tenants seeking to position themselves in the Sydney CBD.
  - (ii) The proposed variation allows for building services to be located above the maximum height limit. It will facilitate the usability of the rooftop terrace by future tenants and visitors, providing a highly sustainable development outcome. Furthermore, the height variation will have no negative impact on environmental and social considerations and will support the economic health of the Sydney CBD.
  - (iii) The proposal is a balanced and orderly design outcome that responds to the unique characteristics of the site and does not represent the over intensification of land as it does not comprise habitable commercial office floor space above the height limit.
  - (iv) The proposal will promote good design and amenity of the built environment by exhibiting a high quality and sculptured design which adds to the architectural diversity of the Sydney CBD skyline.
- (c) The proposed development will be consistent with the objectives of the zone;
  - (i) Provides for a development that is of an intensity consistent and commensurate with the site's location in the Sydney CBD
  - (ii) Provides for a diversity of land uses complementary to Sydney's global status and will contribute to the strength of Sydney's status as a world city
  - (iii) Facilitates significant public benefit in the form of a public lane in the extended Queens Court, a new activated ground plane, and the upgrade of two utility buildings which contribute to the APDG precinct
  - (iv) Will provide commercial workspace which is well connected to major transport infrastructure such as heavy rail, bus and ferry services as well as the future Martin Place Metro Station
- (d) The proposed development will be consistent with the objectives of the standard;

- (i) The site is located in the Sydney CBD and sits within the APDG Block which forms an important part of the financial, professional and business services core of Central Sydney. Importantly, directly north of the site, an architectural roof feature was approved on the site at 182 George Street and 33-35 Pitt Street (referred to as the Lendlease CQ Tower), which included a 15 metre variation to the development standard. The height proposed and subject to this clause 4.6 variation request aligns with the approved architectural roof feature of the Lendlease CQ Tower to the north. Notwithstanding the non-compliance with the height of buildings standard, the proposal meets the aims of objective 4.3(1)(a).
- (ii) There are several heritage items in the vicinity of the site. The location of the proposed architectural roof feature on the north western corner of the site at the uppermost levels of the tower will ensure no surrounding heritage items are impacted. Overall, the proposed variation continues to maintain appropriate height transitions between new development and the surrounding heritage items.
- (iii) The proposed variation will not result in any significant additional impacts to views from surrounding buildings or public places. As previously mentioned, the Lendlease CQ Tower which is under construction, includes an architectural roof feature with a height that aligns with the top of the roof feature proposed as part of this clause 4.6 variation. The CQ Tower rooftop feature includes a useable landscaped rooftop. View impacts from the CQ Tower rooftop terrace to the proposed roof feature are considered negligible given primary and more highly valued views are to the north and the significant setback as a result of the BMU which wraps the perimeter of the western rooftop feature on CQ Tower. The outlook from the commercial office levels below the roof feature of the CQ Tower will be improved by way of appropriate screening proposed as part of the proposed roof feature.

In addition, the component of the development which exceeds the height of buildings development standard, being the proposed architectural roof feature, does not significantly impact existing public or private views as:

- (i) The site is not positioned in any significant view corridors.
- (ii) The existing development on the site already inhibits views across the site, and the new building will be to a much greater height which is largely above surrounding building heights.
- (iii) The additional height associated with the architectural roof feature will not block any significant views for surrounding residences.
- (iv) The additional height (given its location and height relative to the ground plane) will not be discernible.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

102. Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and



- (b) 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 in which the development is proposed to be carried out.

Does the written request adequately address those issues at Clause 4.6(3)(a)?

103. The application is considered to address the requirements in Clause 4.6(3). The architectural roof feature meets the requirements of Clause 5.6(3) of SLEP 2012, and pursuant to Clause 5.6(2), the roof feature may exceed the nominated height limit. The additional height was considered as part of the architectural design competition and is an integrated element of the building. The additional height does not result in any adverse environmental impacts in the locality.

Does the written request adequately address those issues at clause 4.6(3)(b)?

104. The applicant has successfully demonstrated that strict compliance with the height of buildings development standard would result in a poorer outcome for the site, as discussed in Preston CJ in Initial Action Pty Ltd v Woollahra Municipal Council. In particular, strict compliance with the standard would not improve the amenity of the surrounding area noting that the development is compatible with the emerging and desired future character of the area.
105. The applicant has referenced the site constraints, the desired built form and the minimal environmental impacts caused by the extent of the noncompliance to demonstrate that there are sufficient environmental planning grounds to justify contravening the height of buildings development standard. The applicant has also provided an acceptable discussion to confirm the amended proposal will exhibit design excellence and is consistent with Part 6 Division 4 of the Sydney LEP 2012.
106. To summarise the applicant's submission, the extent of the variation is limited to the area occupied by an architectural roof feature which is consistent with the relevant matters for consideration is Section 6.25 of the Sydney LEP and as discussed throughout this report.
107. The applicant has therefore demonstrated that there are sufficient environmental planning grounds to support the extent of variation proposed.

Is the development in the public interest?

108. The proposed development is considered to be in the public interest as it is consistent with the objectives of the height of buildings development standard and objectives of the B8 Metropolitan Centre zone.
109. The objectives of Clause 6.25 APDG block are:
- (1) The objective of this clause is to provide for additional building height on parts of certain sites (within the area bounded by Alfred Street, Pitt Street, Dalley Street and George Street (known as the "APDG block")) if the development of the site provides for publicly accessible open space, lanes and other links through the site.
110. The proposed development is consistent with the objectives of the APDG block as the proposal provides publicly accessible open space and a through site link. The proposed architectural roof feature will not adversely impact the public amenity

provided to these proposed publicly accessible spaces or surrounding existing or proposed publicly accessible places within the greater APDG block.

111. The objectives of the height of buildings development standard are:

- (a) to ensure the height of development is appropriate to the condition of the site and its context
- (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas
- (c) to promote the sharing of views outside Central Sydney
- (d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas
- (e) in respect of Green Square—
  - (i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and
  - (ii) to ensure the built form contributes to the physical definition of the street network and public spaces.

112. The proposed architectural roof feature has been designed considering the existing and future built character of the area and is sympathetic in design to the APDG precinct. The proposal will not adversely impact the sharing of views and is considered to meet the objectives of the height of buildings standard.

113. The objectives of the B8 Metropolitan Centre Zone are:

- (a) To recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy
- (b) To provide opportunities for an intensity of land uses commensurate with Sydney's global status
- (c) To permit a diversity of compatible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community
- (d) To encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling. 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

114. The proposal is consistent with the objectives of the APDG controls, height standards and the objectives of the zone. The proposed commercial tower is appropriate to the context of the site, and its design has been considered as part of a design competition and design excellence review as part of the assessment of this application.

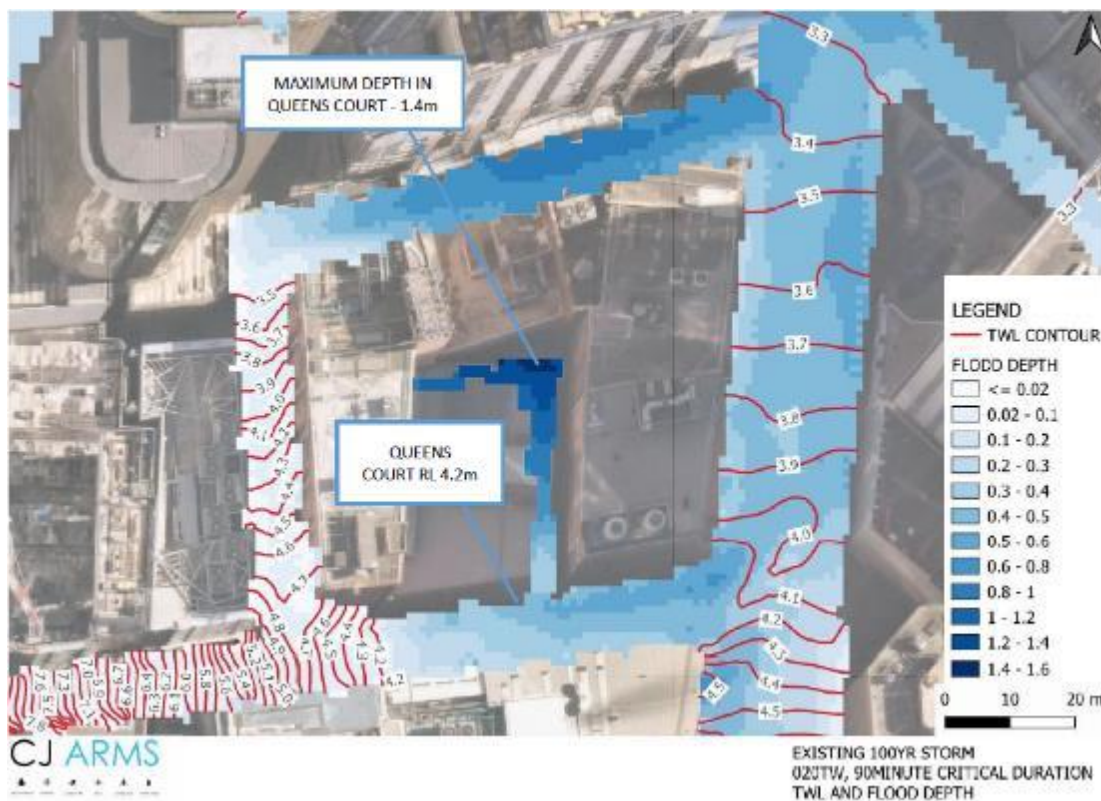
## Conclusion

115. For the reasons provided above the requested variation to the height of buildings development standard is supported as the applicant's written request has adequately

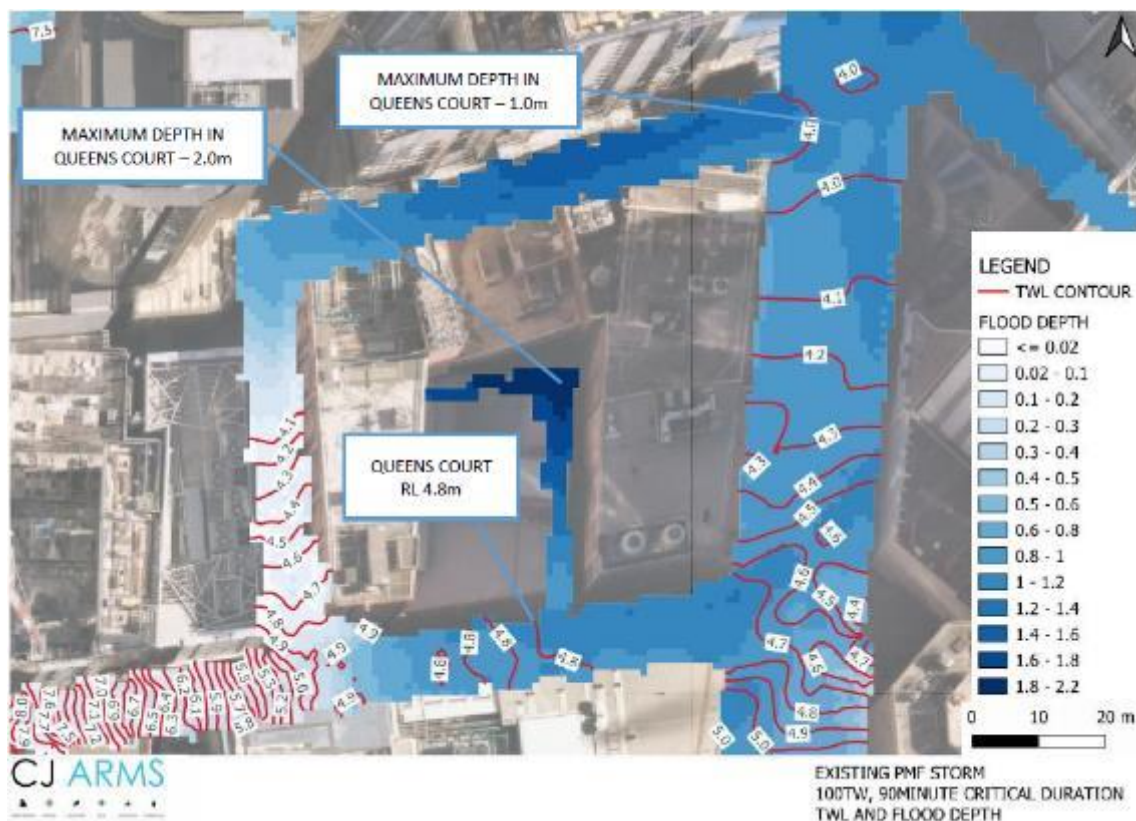
addressed the matters required to be addressed by Clause 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height of buildings development standard and the B8 Metropolitan Centre zone.

### Flooding

116. The site is located within the City Area Catchment and is subject to flooding as shown in the applicant's submitted flood study. The subject site has been identified as impacted by all flood events up to and including the PMF. The subject site is impacted by flood water flowing north along Pitt Street towards Circular Quay as well as along Dalley Street and Underwood Street (north and south) and provided in figures 59 and 60 below.



**Figure 59:** Existing Condition 1% AEP Peak Flood Level and Depth Map



**Figure 60:** Existing Condition PMF Peak Flood Level and Depth map

117. Flood modelling has been undertaken by the applicant and conclude that the finished floor levels of retail tenancies fronting Queens Court meet Council's flood planning levels however remaining retail tenancies fronting Pitt Street, Underwood Street, fire stairs, ground floor entry lobby, and vehicular basement entry areas along Underwood Street and Dalley Street will be designed to a nominated threshold level and incorporate self-raising flood barriers to achieve their respected Flood Planning Levels.
118. The proposed flooding solution includes the use of floodgates to various retail entry points, vehicular access entries and areas within the commercial lobby. Self-raising flood barriers recommended for the Cove and basement ingress points will be automatically triggered and engineered into the building structure. This will ensure full load transfer into the building structure with maximum water tightness. Flood gates are a considered a last resort measure with reference to Council's interim flood management policy.
119. Council's Public Domain Unit have reviewed the proposal and advise that they generally do not support the use of floodgates in developments where alternative design solutions can be explored that provide permanent flood mitigation measures rather than relying on barriers that may fail.
120. However, the use of flood gates is considered to be acceptable in this instance noting that the issue of flooding and flood barriers was considered as part of the planning proposal that introduced the site specific APDG planning controls that require active uses in the laneways and the competition brief. The use of floodgates in this instance will enable the active uses to the laneway level, rather than requiring a raised level that would difficult to include accessible entries to these premises. The modelled flooding

that occurs along Dalley, Underwood and Pitt Street will not impact the new through-site link along Queens Court, where a permanent stair and ramp design solution has addressed flooding and is considered acceptable. The flooding extent within this area is largely maintaining the existing situation and not impacting adversely on adjoining properties.

121. The proposed public domain outcome has taken into account the principles of the APDG precinct, and the feedback provided by the competition jury, in particularly noting the need for an accessible, enjoyable and attractive public domain which encourages retail activation and facilitates movement through the precinct. While the proposed flood mitigation measures are not strictly compliant with the Policy, they propose a balanced outcome which achieves the objectives and intentions of the APDG precinct.
122. All retail tenancies will be constructed with flood compatible materials, capable of withstanding floodwater ingress up to the 1% AEP storm event. Furthermore, all flood depths in retail tenancies do not exceed 500mm, ensuring an acceptable level of safety as per the Australian Disaster Resilience (ADR) flood hazard vulnerability curves.
123. All basement ingress points of the building will be provided with flood mitigation measures at the greater of the 1 in 100-year flood level plus the nominated 500 mm freeboard or the PMF level.
124. Furthermore, the new vehicle access on Underwood Street (west) into the existing Telstra building will be provided with automatic self-raising barriers up to the PMF event.
125. Measures are included in the recommended conditions to mitigate against potential flooding impacts, including ongoing maintenance of flood barriers, the inclusion of a warning light system and emergency response plans to be implemented within the development. The issues raised are not considered to warrant refusal of the application in its current form.
126. Further, conditions are recommended that will require the submission of a pumping option, in addition to identifying the location of pumps in the event of mechanical failures of the flood barriers. The pumps must be designed to pump out the full range of flood volumes within 6 hours after floodwaters have receded. Details of the operation and maintenance of the pumps are to be included in the Flood Emergency Response Plan for the site.

### **Staged Construction**

127. The application proposes staging the construction through various construction certificates. This is supported. Where necessary, the recommended conditions reflect the proposed staging.

### **Consultation**

#### **Internal Referrals**

128. The application was referred to, or discussed with the following panel, Council units and City officers:
  - (a) Design Advisory Panel (DAP)

- (b) City Access and Transport Unit
- (c) Cleansing and Waste Unit
- (d) Construction and Building Services Unit
- (e) Environmental Projects Unit
- (f) Health and Building Unit
- (g) Heritage and Urban Design Unit
- (h) Landscape Assessment Officer
- (i) Model Unit
- (j) Planning Agreement Unit
- (k) Public Art Unit and Public Art Advisory Panel
- (l) Public Domain Unit
- (m) Specialist Surveyor
- (n) Tree Management Unit

129. These panels, units and officers generally advised that the proposal is acceptable, subject to conditions.
130. Where appropriate, these conditions have been included in Attachment A. Comments provided by the DAP have been addressed elsewhere in this report.
131. Where concerns were raised with the proposed development, these matters are either addressed in the table sections provided throughout the body of this assessment report or outlined in detail under the Discussion heading above.

## **External Referrals**

### **Ausgrid**

132. Pursuant to Section 45 of the SEPP (Infrastructure) 2007, the application was referred to Ausgrid for comment.
133. A response was received raising no objections to the proposed development, subject to conditions.

### **NSW Heritage Council**

134. The application was referred to NSW Heritage Council for comment due to the proximity of the site to a state heritage item.
135. Comments were received from Heritage NSW and are discussed above under the heading Heritage Act 1977. Recommendations provided by Heritage NSW are included as conditions in Attachment A.



**Sydney Airport**

136. Section 182 of the Commonwealth Airports Act 1996 specifies that, amongst other things, constructing a building or other structure that intrudes into a prescribed airspace is a controlled activity.
137. Clause 6(1) of the Civil Aviation (Building Control) Regulations 1988 identify that 'prescribed airspace' includes 'the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services - Aircraft Operations (PANS-OPS) surface for the airport'.
138. The Outer Horizontal Surface of the OLS above the subject site is at a height of 156 metres above the Australian Height Datum (AHD) and the prescribed airspace above the site commences at RL156 AHD. At a maximum proposed height of RL 240.8 AHD, the building will penetrate the OLS by 84.8 metres and any construction of a building to this height constitutes a 'controlled activity'.
139. Section 183 of the Airports Act, 1996 specifies that controlled activities may not be carried out in relation to prescribed airspace unless an approval has been granted.
140. Clause 14 of the Civil Aviation (Building Control) Regulations 1988 provides that a proposal to carry out a controlled activity must be approved unless carrying out the controlled activity interferes with the safety, efficiency or regularity of existing or future air transport operations into or out of the airport concerned. Clause 14(1)(b) provides that an approval may be granted subject to conditions.
141. Under the Regulations, the Secretary of the Department is empowered to make decisions in relation to the approval of controlled activities and impose conditions on the approval. The Director, Demand Management and Protection of Airspace, Aviation and Airports, as the delegate of the Secretary for the purposes of the Regulations, provided approval for the controlled activity.

**Transport for NSW**

142. Pursuant to Section 104 of the SEPP (Infrastructure) 2007, the application was referred to Transport for NSW (TfNSW) for comment.
143. Conditions of consent were recommended which are included in Attachment A.

**Water NSW**

144. Pursuant to Section 90(2) of the Water Management Act 2000, the application was referred to Water NSW for concurrence.
145. General Terms of Approval were issued by Water NSW on 23 February 2022 and have been included in the schedules within the recommended conditions of consent.

**Advertising and Notification**

146. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified and advertised for a period of 28 days between 30 June 2021 and 29 July 2021. A total of 3,245 properties were notified and no submissions were received.

## **Financial Contributions**

### **Levy under Section 61 of the City of Sydney Act 1988**

147. The cost of the development is in excess of \$200,000. The development is therefore subject to a levy under the Central Sydney Development Contributions Plan 2013.
148. A condition relating to this levy has been included in the recommended conditions of consent. The condition requires the contributions to be paid prior to the issue of a construction certificate.

### **Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012**

149. The site is located on land within Central Sydney and involves:
- (a) The creation of more than 100 square metres of gross floor area; and
  - (b) The demolition of existing floor area and the subsequent creation, whether for the same or a different purpose, of more than 100 square metres of gross floor area.
150. Section 7.13 of the Sydney LEP 2012 applies to the proposed development.
151. Subclause (4)(b) requires the contribution to be calculated in accordance with the City of Sydney Affordable Housing Program. The program requires contributions to be calculated only for development applications lodged after 1 July 2021. Although the subject application, which was lodged prior to this date on 16 June 2021, is therefore not formally subject to a Section 7.13 contribution, a component of the Voluntary Planning Agreement for the development requires the payment of an affordable housing contribution.
152. A condition of consent is recommended requiring payment of the affordable housing contribution in accordance with the terms of the VPA prior to the issue of a construction certificate.

## **Relevant Legislation**

153. Environmental Planning and Assessment Act 1979.
154. Roads Act 1993.
155. Heritage Act 1977.
156. Sydney Water Act 1994.
157. Airports Act 1996 (Cth).
158. Water Management Act 2000.

## Conclusion

159. The application for the construction of a 53 level commercial tower and podium building with a 3 level basement, new laneway through-site link and upgrades to public utility buildings has been assessed in accordance with the relevant planning controls.
160. Site specific control apply to the APDG block under the SLEP 2012 and SCDP 2012. The proposal provides activated public spaces as required by the controls and utilises the additional height controls for the design of the commercial tower building.
161. The applicant's request to vary the height of buildings standard pursuant to Clause 4.5 of the SLEP 2012 has been considered and is supported in this instance. An architectural rooftop feature is located above the permitted height control.
162. The proposed development does not pose any significant or unreasonable impacts upon the existing or likely future development surrounding site. The proposal will improve the interface between the private and public domain and exhibits design excellence in accordance with Part 6 Division 4 of the SLEP 2012.
163. The proposal will provide new commercial office and retail land uses on a site which is highly accessible to existing and planned employment, services, public transport infrastructure and community facilities.
164. Subject to the recommendation of this report, and the imposition of the conditions in Attachment A, the proposal responds appropriately to the site constraints and contributes positively to the existing and desired future character of Central Sydney.
165. The proposed detailed design of the development is therefore in the public interest and is recommended for approval by the CSPC.

## GRAHAM JAHN, AM

Director City Planning, Development and Transport

Marie Burge, Senior Planner

# **Attachment A**

<b>Recommended Conditions of Consent</b>
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## CONDITIONS OF CONSENT

### 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:

Stage and works
<b>1. Demolition (as approved under consent D/2021/428)</b>
<b>2. Excavation, Piling and Shoring</b>  Excavation, remediation, dewatering, piling and shoring and any relevant environmental works such a remediation and dewatering. Piling and shoring will commence to install the foundation of the building in preparation for the construction of the core, basement, and tower.
<b>3. Structure</b>  <b>3a. Below ground</b>  The below ground structure which includes the core, basement slab and walls will be constructed to facilitate the further construction of the above ground structures.
<b>3b. Above ground</b>  The above ground structure including the core and floor levels will be constructed as the structural frame of the building.
<b>4. Tower facade</b>
<b>5. Ausgrid and Telstra Facades</b>
<b>6. Base building fitout and services</b>
<b>7. External works and public domain upgrades</b>

#### (2) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2021/665 dated 16 June 2021 and the following drawings prepared by Woods Bagot and SHoP Architects:

Drawing Number	Revision Number	Drawing Name	Date
AD DA1000 B03 01	02	Floor Plan - Basement Level 3	6 December 2021
AD DA1000 B02 02	02	Floor Plan - Basement Level 2	6 December 2021
AD DA1000 B01 03	02	Floor Plan - Basement Level 1	6 December 2021
AD DA1000 L00 04	03	Floor Plan - Ground Level	19 January 2022
AD DA1000 L01 05	02	Floor Plan - Level 01	6 December 2021
AD DA1000 L03 06	02	Floor Plan - Level 03	6 December 2021
AD DA1000 L04 07	02	Floor Plan - Level 04	6 December 2021
AD DA1000 L05 08	02	Floor Plan - Level 05 - 07	6 December 2021
AD DA1000 L08 09	02	Floor Plan - Level 08 Plant	6 December 2021
AD DA1000 L09 10	02	Floor Plan - Level 09	6 December 2021
AD DA1000 L10 11	02	Floor Plan - Level 10	6 December 2021
AD DA1000 L11 12	02	Floor Plan - Level 11	6 December 2021
AD DA1000 L12 13	02	Floor Plan - Level 12	6 December 2021
AD DA1000 L13 14	02	Floor Plan - Level 13- 17 Typ Low Rise	6 December 2021



Drawing Number	Revision Number	Drawing Name	Date
AD DA1000 L18 15	02	Floor Plan - Level 18 Low Rise Overrun	6 December 2021
AD DA1000 L19 16	02	Floor Plan - Level 19 Low Rise LMR	6 December 2021
AD DA1000 L20 17	02	Floor Plan - Level 20- 27 Typ Mid Rise	6 December 2021
AD DA1000 L28 18	02	Floor Plan - Level 28 Mid Rise Overrun	6 December 2021
AD DA1000 L29 19	02	Floor Plan - Level 29 Plant	6 December 2021
AD DA1000 L30 20	02	Floor Plan - Level 30- 42 Typ High Rise	6 December 2021
AD DA1000 L43 21	02	Floor Plan - Level 43 High Riser Overrun	6 December 2021
AD DA1000 L44 22	02	Floor Plan - Level 44 High Rise LMR	6 December 2021
AD DA1000 L45 23	02	Floor Plan - Level 45- 53 Typ Sky Rise	6 December 2021
AD DA1000 L54 24	02	Floor Plan - Level 54 Plant	6 December 2021
AD DA1000 L55 25	02	Floor Plan - Level 55 Roof Terrace	6 December 2021
AD DA1000 L56 26	02	Floor Plan - Level 56 LMR / Lower Roof Plan	6 December 2021
AD DA1000 L57 27	02	Floor Plan - Roof	6 December 2021
AD DA5000-00	02	Elevation - East	6 December 2021
AD DA5000-01	02	Elevation - South	6 December 2021

Drawing Number	Revision Number	Drawing Name	Date
AD DA5000-02	02	Elevation - West	6 December 2021
AD DA5000-03	02	Elevation - North	6 December 2021
AD DA5000-05	02	Sections - Overall N-S, E-W	6 December 2021
AD DA5000-06	02	Sections - E-W, Loading Dock, Ground Floor Typ	6 December 2021
AD DA5000-07	02	Ground Plane Elevations - Telstra & Ausgrid	6 December 2021
AD DA5000-08	02	Ground Plane Elevations - Pitt, Dalley & Underwood Streets	6 December 2021
AD DA5000-09	02	Ground Plane Elevations - Queens Court	6 December 2021
AD DA5000-10	02	Sections - Streets	6 December 2021
AD DA5200-00	02	Cove Elevations	6 December 2021
AD DA6100-00	02	Exterior Wall Type Diagram	6 December 2021
AD DA6100-01	02	WT-02	6 December 2021
AD DA6100-02	02	WT-03	6 December 2021
AD DA6100-03	02	WT-04	6 December 2021
AD DA6100-04	02	WT-05	6 December 2021
AD DA6100-05	02	WT-06	6 December 2021
AD DA6100-06	02	WT-07	6 December 2021

Drawing Number	Revision Number	Drawing Name	Date
AD DA6100-07	02	WT-21	6 December 2021
AD DA6100-08	02	SFT-04	6 December 2021

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) PUBLIC DOMAIN AND QUEENS COURT THROUGH-SITE LINK CONCEPT DESIGN PLAN**

A public domain and Queens Court through-site link concept design plan, showing all site frontages, all public domain and through-site link elements, road/shared zone and cycleway, easements, and levels and gradients, including areas extending a minimum of 5m either side of the site boundary and to the road centreline, is to be prepared in accordance with the Public Domain Manual and the City's Sydney Streets Code. It must be submitted to and approved by the Council's Director City Planning Development and Transport, advised by the Public Domain Unit, prior to the issue of a Stage 3a Construction Certificate.

Note: A detailed Public Domain and Queens Court Through-Site Link Plan will be required prior to construction (refer to Public Domain Plan Detailed documentation for construction).

**(4) FIRE STAIR, COMMERCIAL AND RETAIL EGRESS DOORS**

All fire stair, commercial and retail egress doors must be designed to open wholly within the building line and must not obstruct or impede easements for public access or the public domain. Amended plans must be submitted to and approved by the Council's Director City Planning Development and Transport, advised by the Public Domain Unit, prior to the issue of a Stage 3a Construction Certificate.

**(5) DESIGN DETAILS**

The following detailed drawings must be submitted prior to the issue of a Stage 3a Construction Certificate:

- (a) A 1:20 plan of the materials and construction details of the sandstone construction of the podium. Details are to include:
- (i) If sandstone cladding is proposed, cladding is to have no joints at corners to provide the impression of solid sandstone blocks.

- (ii) Construction of angled sill, rough course finish and clarification if construction is two separate sandstone panels of a single corner panel with two different treatments.

**(6) 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 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 Accredited Certifier, 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 Accredited Certifier 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. Any item for which an exemption has been granted is still to be included in the total cost of development, together with an itemised value to enable the City to calculate the value of the exemption.

- (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.

#### **(7) RESTRICTION OF END OF JOURNEY FLOOR SPACE – CENTRAL SYDNEY**

Prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, a documentary restrictive covenant to the effect that 1,286sqm of the building has been approved as end of journey floor space 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.

#### **(8) RESTRICTION OF LANES DEVELOPMENT FLOOR SPACE – CENTRAL SYDNEY**

Prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, a documentary restrictive covenant to the effect that 335sqm of the building has been approved as lanes development floor space 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.

#### **(9) RESTRICTION ON USE OF CAR SPACES**

The following conditions apply to car parking:

- (a) The on-site car parking spaces, exclusive of service car spaces, are not to be used other than by an occupant or tenant of the subject building.
- (b) Prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, a documentary restrictive covenant, is to be registered on the Title of the development site pursuant to section 88E of the *Conveyancing Act 1919*, to the effect of (a) above. The covenant is to be created appurtenant to Council, at no cost to and to the satisfaction of Council.
- (c) Any future strata subdivision of the site is to include a restriction on User pursuant to section 39 of the *Strata Titles (Freehold Development) Act, 1973* as amended, so burdening all utility car parking allotments in the Strata Plan and/or an appropriate restrictive covenant pursuant to section 88B of the *Conveyancing Act 1919* burdening all car parking part - lots in the Strata Scheme.

## **(10) BUILDING HEIGHT**

- (a) The height of the building must not exceed RL 234.70 (AHD) to the top of the building and RL 240.80 (AHD) to the top of the architectural roof feature.
- (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 Certifier.

## **(11) FLOOR SPACE RATIO - CENTRAL SYDNEY**

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal must not exceed 16.52:1 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 72,368sqm.
- (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 in the Dictionary of the Sydney Local Environmental Plan 2012 applicable at the time of development consent, to the satisfaction of the Principal Certifier.
- (c) Prior to a Stage 2 Construction Certificate being issued, Council's written verification must be obtained, confirming that 5,695sqm of heritage floor space was allocated (purchased and transferred) to the development in accordance with Clause 6.11(1)(a) of the Sydney Local Environmental Plan 2012, being:
  - (i) 50% of that gross floor area in excess of 8:1 FSR, less the approved:
    - a. End of journey floor space under Clause 6.6 of the Sydney Local Environmental Plan 2012; and
    - b. Lanes development floor spaced space under Clause 6.8 of the Sydney Local Environmental Plan 2012; and
  - (ii) Reduced by 1,000 square metres, as specified in Clause 6.11(2)(a) of the Sydney Local Environmental Plan 2012.

## **(12) COMPLIANCE WITH VOLUNTARY PLANNING AGREEMENT**

The terms of the planning agreement entered into between THE COUNCIL OF THE SYDNEY OF SYDNEY and MIRVAC CAPITAL PTY LTD AS TRUSTEE FOR THE MIRVAC PITT STREET TRUST ABN 19 326 659 400 and MIRVAC COMMERCIAL SUB SPV PTY LTD AS TRUSTEE FOR MIRVAC PITT STREET TRUST NO.2 ABN 14 958 651 710 executed 30 June 2021 are to be complied with, including but not limited to the following:

- (a) Submission to Council of Bank Guarantees.
- (b) Payment of the monetary contribution for community infrastructure in Central Sydney.



- (c) Payment of the monetary contribution for affordable housing in the local government area.
- (d) Provision of public art on the site.
- (e) Dedication of land for footpath widening on Underwood Street.
- (f) Construction of the blast wall if required.
- (g) Construction of the Underwood Street footpath widening; the through-site link incorporating Queens Court; improvements to the colonnade of the Telstra building and public art to the through-site link.
- (h) Creation of public access easements for the Telstra colonnade and the through-site link.
  - (i) Achievement of ecologically sustainable development targets:
  - (ii) minimum 6 star Office Green Star v1.3 Design and Construct rating;
  - (iii) minimum 5.5 star rating on operation under the NABERS energy scheme; and
  - (iv) minimum 4-star rating in operation under the NABERS water scheme.

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

All roof-top plant and associated equipment must be located within the approved building envelope (including the architectural roof feature as approved).

#### **(14) DESIGN QUALITY EXCELLENCE**

- (a) As the proposal has been awarded bonus floor space or height for achieving design excellence and in order to ensure the design quality excellence of the development is retained to completion:
  - (i) The design architects comprising Woods Bagot and SHoP Architects are to have direct involvement in the design documentation, contract documentation and construction stages of the project including signing off any required certifications at DA, S4.55 applications, Construction Certificate and Occupation Certificate stages;
  - (ii) The design architects are to have full access to the site and are to be authorised by the applicant to respond directly to Council where information or clarification is required in resolving design issues throughout the life of the project;
  - (iii) Evidence of the design architect's commission must be provided to the Council prior to release of the Construction Certificate.
- (b) The design architect of the project is not to be changed without prior notice and approval of the Council's Director City Planning, Development and Transport.

The Accredited Certifier and Principle Certifier must be satisfied that the above matters are complied with prior to the issue of a relevant Construction and Occupation Certificates, in accordance with written confirmation from Council.

#### **(15) MATERIALS AND SAMPLES BOARD – MAJOR DEVELOPMENT**

A physical material sample board which specifies all proposed materials, finishes and colours, (including visible rainwater goods and services) keyed to each building elevation must be submitted to and approved by Council's Director City Planning, Development and Transport prior to a Stage 3a Construction Certificate being issued. The materials and samples board must:

- (a) Confirm materiality and finish of the sandstone coloured panels, including details on gloss or matte finishes.
- (b) Not include generic material or colour descriptions or use terminology such as 'or similar'.

#### **(16) COMPLIANCE WITH SUBMITTED MATERIALS AND SAMPLES BOARD**

The design details of the proposed building facade including all external finishes, colours and glazing must be in accordance with the materials schedule and sample board, and specifications as approved in Condition 15 above.

#### **(17) APPROVED USE - SEPARATE DA REQUIRED**

Consent is granted for commercial office use within the tower development. No consent is granted or implied for the fitout or specific use of the ground floor retail tenancies, uses in the Telstra building or the roof terrace and commercial spaces at Levels 54 and 55 (if not used for commercial office purposes).

A development consent or Complying Development Certificate (as appropriate) is required to be obtained for the fitout and use of each individual tenancy prior to that fitout or use commencing prior to that fitout or use commencing.

#### **(18) ALLOCATION OF CAR PARKING**

Car parking spaces are to be provided in accordance with the table below. Details confirming the quantity and allocations of car parking spaces is to be submitted to the satisfaction of the Council prior to the issue of a stage 3a Construction Certificate.

Car Parking Type	Number
Office and business car parking	49
Accessible office and business car parking	1
Motorcycle parking	10
Car share parking	2
Service vehicle spaces (Australian Standard AS2890 SRV size vehicle)	3

Car Parking Type	Number
Service vehicle spaces (Australian Standard AS2890 MRV size vehicle)	1
Service vehicle spaces (car/van/ute size vehicle)	13
Courier Spaces	2
Small Rigid Vehicle loading dock(s) (One within 55 Pitt St with turntable and one within Telstra site with turntable. Total 2 (two) SRV docks with 2 (two) turntables.)	2
Medium Rigid Vehicle loading dock(s) (within 55 Pitt St site)	1

#### **(19) CAR PARKING DESIGN**

The design, layout, signage, line marking, lighting and physical controls of all off-street car parking facilities is to satisfy the Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking and Australian Standard AS/NZS 2890.2 - 2002 Parking facilities Part 2: Off-street commercial vehicle facilities and Australian Standard AS/NZS 2890.6 - 2009 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the Certifying Authority prior to the relevant Construction Certificate being issued.

#### **(20) SMALL CAR PARKING SPACES AND DIMENSIONS**

The design and layout of all off-street small car parking spaces must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking and Council's Development Control Plan. The details must be submitted to and approved by the Principal Certifying Authority prior to a Construction Certificate being issued.

All small car spaces must be clearly marked and identifiable as small car spaces. The signs or line markings must be in place and approved by the Principal Certifying Authority prior to an Occupation Certificate being issued and must be maintained in good order at all times.

#### **(21) BICYCLE PARKING AND END OF TRIP FACILITIES**

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

User	Number of bicycles to be accommodated	Requirements
Staff / Customer	474	Class B bicycle parking facility in accordance with AS2890.3
Visitor	185	Class B/C bicycle parking facility in accordance with AS2890.3
End of Trip Facility Type	Number	
Showers with change area	49	
Personal lockers	735	

The layout, design and security of bicycle facilities must comply with *Australian Standard AS 2890.3:2015 Parking Facilities Part 3: Bicycle Parking Facilities and Section 3.11.3 of the DCP 2012*. The details must be submitted to and approved by the Certifying Authority confirming prior to the relevant Construction Certificate being issued.

**Notes:**

- (a) If any change from the plan referenced in the table above, it must be submitted to and approved by the Area Planning Manager of the Council prior to any construction certificate is issued.
- (b) Council DCP class 1, 2 and 3 refers to Australian Standard AS 2890.3:2015 refers to class A, B and C respectively.
- (c) 4 (four) hoops are shown on ground level for 8 visitor bicycle parking spaces. The minimum spacings in between any two bicycle hoops must be 1000mm for double sided parking. The plan must be confirmed and agreed by Council Public Domain Unit prior to the approval of a Public Domain Plan. If required, those hoops can be moved away from footpath and relocated any suitable space within the premise at the ground level.

## **(22) CHANGES TO KERB SIDE CAR PARKING RESTRICTIONS**

A separate submission must be made for any changes to kerbside parking arrangements. There is no guarantee kerbside parking will be changed or that any change will remain in place for the duration of the development/use.

All costs associated with any parking changes would be borne by the developer.

**Note:** The applicant is to contact the Area Traffic Engineer to discuss the proposal before making a submission.

If new parking signage is installed, the developer is to immediately notify the City's Public Domain team.

**(23) COST OF SIGNPOSTING**

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

**(24) 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 "Development Specification for Civil Works Design and Construction".

**(25) INTERCOM FOR VISITORS**

Where a boom gate or barrier control is in place, the visitor spaces must be accessible to visitors by the location of an intercom at the car park entry and at least 4m clear of the property boundary, wired to all units. The intercom must comply with Australian Standard AS 1428.2-1992: Design for access and mobility - Enhance and additional requirements - Building and facilities Sections 22 and 23.

**(26) ON-SITE LOADING OPERATION**

All loading and unloading associated with the site must be carried out within 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.

**(27) CAR SHARE SPACES**

- (a) A minimum of 2 (two) car parking spaces for the exclusive use of car share scheme vehicles are to be provided.
- (b) The spaces must be retained as common property of the Owners Corporation of the site, and not sold or leased to an individual owner/occupier at any time.
- (c) The spaces must be made available to car share operators without a fee or charge.
- (d) The spaces must be sign posted for use only by car share vehicles and well lit.
- (e) The spaces must accessible to members of the car share scheme at all times. This may require a standalone access system for car share scheme members to access the location of proposed car share space/s such as basement. Car share operators should be contacted for further information.

- (f) The car share spaces are to be fully operational prior to the issuing of any Occupation Certificate/s. The car share scheme operator is to confirm operation to the Principle Certifying Authority prior to the issuing of any Occupation Certificate/s.

#### **(28) 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.

#### **(29) SERVICE VEHICLE SIZE LIMIT**

The size of vehicles servicing the property must not exceed 8.8m.

#### **(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) SIGNAL SYSTEM / VEHICLE QUEUE MANAGEMENT**

A system of traffic lights and/or mirrors must be installed at the ends of any single lane ramp(s), to indicate traffic movement on the ramp(s) and also vehicle queue management. Priority must be default to incoming vehicles from the street to the site. This system that are outlined in the traffic letters by Ethos Urban dated 10 February 2022 must be detailed in the application for a construction certificate. Any system using traffic light signals must maintain a green signal to entering vehicles at the point of entry and must maintain a red signal when an existing vehicle is detected upon the ramp or driveway. The system must be installed and maintained according to the manufactures specifications and relevant Australian Standard.

The details must be submitted to and approved by the Certifying Authority confirming prior to the Construction Certificate being issued.

#### **(32) SIGNS AT EGRESS**

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

- (a) Compelling drivers to "Give Way to Pedestrians" before proceeding across the footpath.

The signs/ are to be erected prior to issue of an Occupation Certificate and must be maintained in good order at all times by the owners of the building.

#### **(33) STACKED OR TANDEM PARKING EMPLOYEES OR TENANTS ONLY**

Any stacked or tandem parking spaces (maximum 2 spaces, nose to tail) must be attached to the same strata title comprising a single dwelling unit or commercial/retail tenancy, subject to the maximum parking limit applying. The stacked or tandem parking spaces must be designated (with appropriate signage)



for employee or tenant parking only (not visitor parking), prior to an Occupation Certificate being issued. The moving of stacked or tandem vehicles must occur wholly within the property.

#### **(34) 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.

#### **(35) 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: To reinforce the priority of pedestrian movement on the footpath, the footpath paving surface is to be continued over the vehicle crossing.

#### **(36) BICYCLE PARKING SIGNAGE AND WAYFINDING PLAN**

Signage directing users to the bicycle parking facilities are to be installed from the street level, between the bicycle riders entry point/s at the site boundary and the entry point to the bike parking and End of Trip facilities. Signage is to be generally in accordance with signage shown in *Australian Standard AS 2890.3:2015 Parking Facilities Part 3: Bicycle Parking Facilities*. The signage plan must be submitted to and approved by Council prior to the Occupation Certificate for the site being granted. Signage is to be installed before the issue of any Occupation Certificate.

#### **(37) MECHANICAL PARKING FACILITIES (VEHICLE TURN TABLE)**

- (a) A report addressing the following is to be submitted with respect to the proposed mechanical parking stackers:
  - (i) A review of the proposed installation by the manufacturer and its suitability for implementation in accordance with the manufacturer's specifications including but not limited to compliance with AS/NZS 2890.1 2004 and its references to AS/NZS 28590.6.
  - (ii) The predicted noise and vibration levels arising from the car parking area received by occupiers of the building, including references to relevant Standards.

- (iii) Implementation of mechanisms addressing potential safety concerns including but not limited to:
  - a. The potential trip hazard posed by the platforms to pedestrians walking within the car parking areas, and
  - b. Management measures and procedures to be followed at mechanical fault and /or system breakdown.
- (iv) Any further information requested by the Principal Certifying Authority.
- (b) The report is to be submitted to and approved by the Principal Certifying Authority prior to the issue of a stage 3b Construction Certificate.

### **(38) LOADING AND SERVICING MANAGEMENT PLAN**

A Loading and Servicing Management Plan must be submitted to and approved by Council's Area Planning Manager prior to the Occupation (including interim) Certificate for the site/use being granted. The Loading and Servicing Management Plan must include the strategy for the management of all servicing of the site including delivery vehicles, garbage collection, service vehicles and should include information such as arrivals to the site, the anticipated numbers of arrivals per week, time of day of the arrivals, length of stay, vehicle type etc. along with how these will be managed to prevent disruption to public streets.

The management of the plan needs to be able to respond to changes in the surrounding road environment and be updated accordingly. Specific loading times for the various tenants of the site are to be identified within the Plan. The Plan should be generally in accordance with the Loading and Servicing Management Plan prepared 2 June 2022 submitted as part of the application and include the induction training to the tenant and relevant users of the building. Once approved, this management plan must be provided to all tenants and external users.

### **(39) CAR PARKING/ INTERNAL TRAFFIC MANAGEMENT PLAN**

A Car Parking and internal Traffic Management Plan is to be submitted to and approved by Council's Area Planning Manager prior to the Occupation (including interim) Certificate for the site/use being granted. The Plan must include, but is not limited to, management of tandem car parking, internal traffic/queue management and, training/induction to tenants and users about the internal traffic control system etc. as outlined in the traffic responses dated 10 February 2022 as submitted as part to the application. The plan is to ensure there is no requirement for any vehicles to wait on public streets to enter the site. Once approved, this management plan will need to be provided to all tenants and external users of the building.

#### **TRANSPORT ACCESS GUIDE**

A Transport Access Guide, including a strategy for the future distribution of the Guide to staff, clients, customers and visitors to the site, must be submitted to and approved by the Area Planning Manager Council prior to the Occupation (including interim) Certificate for the site/use being issued.

#### **(41) EXTERNAL LIGHTING**

A separate development application is required to be lodged and approved prior to any external floodlighting or illumination of the building and/or landscaping. The application should include an illumination management plan.

#### **(42) UNDER AWNING LIGHTING**

Under awning lighting must be fitted with LED lighting technology (or other technology with an improved lighting power density – watts per square metre). Batten type fluorescent lighting is not approved. Illumination from the under awning lighting, when measured from any place in the public domain, must be designed and certified to comply with the following:

- (a) the maximum horizontal luminance level must not exceed 200 lux including light spill from shop windows. Lux level may be increased to 220 lux in some areas in Central Sydney CBD;
- (b) the horizontal illuminance uniformity ratio ( $E_{avg}/E_{min}$ ) must not exceed 4:1 to ensure safe movement of pedestrians;
- (c) the intensity, colour, period of intermittency and hours of illumination must be varied if adverse impact or Obtrusive Light in accordance with the definition in Australian Standard AS4282-1997 *Control of the obtrusive effects of outdoor lighting* is being caused to the amenity of the area;
- (d) where nearby residents are located above the level of the under awning lighting, details are to be provided to show that light is not directed upwards toward such residences.

#### **(43) AWNING MAINTENANCE**

The awning must be inspected and regular maintenance be carried out to ensure the awning's structural integrity, aesthetic and functional qualities are maintained.

#### **(44) REFLECTIVITY**

Prior to issue of the Stage 4 Construction Certificate the Accredited Certifier must ensure that the visible light reflectivity from building materials used on the facade of the building does not exceed in any location, 20%.

#### **(45) SWINGING DOORS OVER PUBLIC WAY**

Any access doors to enclosures housing building services and facilities, such as hydrant and sprinkler booster assemblies or the like, must not open over the footway/roadway, including the colonnade along Underwood Street.

#### **(46) NOISE – COMMERCIAL PLANT / INDUSTRIAL DEVELOPMENT**

- (a) Noise from commercial plant and industrial development must not exceed a project amenity/intrusiveness noise level or maximum noise level in accordance with relevant requirements of the NSW EPA [Noise Policy for](#)

[Industry 2017 \(NPfI\)](#) unless agreed to by the City's Area Planning Manager. Further:

- (i) Background noise monitoring must be carried out in accordance with the long-term methodology in [Fact Sheet B](#) of the NPfI unless otherwise agreed by the City's Area Planning Manager.
  - (ii) Commercial plant is limited to heating, ventilation, air conditioning, refrigeration and energy generation equipment.
- (b) An  $L_{Aeq,15\text{ minute}}$  (noise level) emitted from the development must not exceed the  $L_{A90, 15\text{ minute}}$  (background noise level) by more than 3dB when assessed inside any habitable room of any affected residence or noise sensitive commercial premises at any time. Further:
- (i) The noise level and the background noise level must both be measured with all external doors and windows of the affected residence closed.
  - (ii) Background noise measurements must not include noise from the development but may include noise from necessary ventilation at the affected premise.
- (c) Corrections in [Fact Sheet C](#) of the NPfI are applicable to relevant noise from the development measured in accordance with this condition, however duration corrections are excluded from commercial noise.

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

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

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

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

- (a) identification of noise sensitive receivers near to the site.
- (b) A prediction as to the level of noise impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite. A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the *City of Sydney Construction Hours /Noise Code of Practice 1992* for the typical construction hours of 07.00am to 7.00pm. Where resultant site noise levels are likely to be in exceedance of this noise criteria then a suitable proposal must be given as to the duration and frequency of respite periods that will be afforded to the occupiers of neighbouring property.

- (c) A representative background noise measurement ( $L_{A90, 15 \text{ minute}}$ ) should be submitted, assessed in the vicinity of any potentially affected receiver locations and measured in accordance with AS 1055:1.2.1997.
- (d) Confirmation of the level of community consultation that has/is and will be undertaken with Building Managers/ occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- (e) Confirmation of noise monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria contained within City's Construction Noise Code.
- (f) What course of action will be undertaken following receipt of a complaint concerning offensive noise.
- (g) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring noise sensitive property to a minimum.
- (h) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

**(48) 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 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.

**(49) LANDSCAPING OF THE SITE**

- (a) A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by Council's

Area Coordinator Planning Assessments / Area Planning Manager prior to the issue of a Stage 3a Construction. The plan must include:

- (i) Location of existing and proposed structures on the site including, but not limited to, existing and proposed trees, paved areas, planted areas on slab, planted areas in natural ground, lighting and other features;
  - (ii) Details of earthworks and soil depths including mounding and retaining walls and planter boxes (if applicable). The minimum soil depths for planting on slab must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers;
  - (iii) Location, numbers, type and supply of plant species, with reference to NATSPEC (if applicable);
  - (iv) Details of planting procedure and maintenance;
  - (v) Details of drainage, waterproofing and watering systems.
- (b) Prior to the issue of a Construction Certificate, a maintenance plan is to be submitted to and approved by the Accredited Certifier. The maintenance plan is to be complied with during occupation of the property.
- (c) All landscaping in the approved plan is to be completed prior to any Occupation Certificate being issued.

#### **(50) TREES THAT MUST BE PROTECTED**

- (a) The existing trees detailed in Table 1 below must be protected in accordance with the conditions of consent throughout the construction and development.

Table 1 – Trees to be protected:

<b>Tree No</b>	<b>Botanical (Common Name)</b>	<b>Location</b>
3-6	<i>Platanus acerifolia</i> (London Plane Tree)	Street Trees on Pitt Street, outside site and opposite roadway.

#### **(51) TREE PROTECTION PLANS**

- (a) All detailed architectural, building, engineering (structural, stormwater and drainage services) and landscape documentation submitted for the Construction Certificate shall clearly show on all drawings the retention of trees as required by these conditions of consent, the position of their trunks, full diameter of their canopies, Structural Root Zones (SRZs) and Tree Protection Zones (TPZs).

#### **(52) STREET TREE PROTECTION**

All street trees directly outside the site must be retained and protected in accordance with the Australian Standard 4970 Protection of Trees on

Development Sites. All street trees must be protected during the construction works as follows:

- (a) Tree trunk and major limb protection must be undertaken prior to the commencement of any works. The protection must be installed and certified by a qualified Arborist (AQF level 3) and must include:
  - (i) An adequate clearance, minimum 250mm, must be provided between the structure and tree branches, limbs and trunks at all times;
  - (ii) Tree trunk/s and/or major branches, 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) Young street trees shall be protection by installing three (3) wooden takes around the edge of the tree pit. Hessian shall be wrapped around the stakes. If existing stakes are already in place, these shall suffice as tree protection.
- (d) Temporary signs, or any other items, shall not be fixed or attached to any street tree.
- (e) 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.
- (f) Any excavation within in any area known to, or suspected of having street tree roots greater than 40mm diameter must be undertaken by hand.
- (g) Any trenching works for services / hydraulics / drainage etc must not be undertaken within five metres of any street tree. Alternative installation methods for services, such as directional boring/drilling, or redirection of services shall be employed where large woody roots greater than 40mm diameter are encountered during the installation of any services.
- (h) Existing sections of kerbs adjacent to any street tree must not be removed without approval from the Council's Tree Management Officer.
- (i) Any damage sustained to street tree/s as a result of construction activities (including demolition) must be immediately reported to the Council's Tree



Management Officer on 9265 9333. Any damage to street trees as a result of construction activities may result in a prosecution under the Local Government Act 1993 and the Environmental Planning and Assessment Act 1979.

**(53) STREET TREE PRUNING**

- (a) The consent from Council's Tree Management Officer 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 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'.

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

- (a) Any trenching works for services / hydraulics / drainage etc must not be undertaken within a Tree Protection Zone (TPZ), and be referred to the Site Arborist with regard to tree protection, prior to commencement of any works.
- (b) Alternative installation methods for services, such as directional boring/drilling, or redirection of services shall be employed where large woody roots greater than 40mm diameter are encountered during the installation of any services adjacent to the specified TPZ.

**(55) TREE BOND**

- (a) A \$15,000 bond for each tree numbered 3-6, totalling \$60,000, shall be lodged with Council to ensure the retention, protection of the tree/s and adaptation to the altered environment is achieved.
- (b) The applicant shall lodge an unconditional bond with Council prior to the issuing of individual Construction Certificate(s).
- (c) The applicant shall be responsible for the health and condition of trees numbered 3-6 for the duration of the works. In the event that at completion of the works, the City's Tree Management Officer determines that the existing trees have been damaged/destroyed (by activities associated with any Development Application related to the subject site) to a value in excess of the retained bond the applicant shall lodge the excess to Council and to an amount determined by Council's Tree Management Officer.
- (d) The bond amount for each stage will be retained for a minimum period of 12 months from the date of a Final Occupation Certificate. At this time, a further inspection will be undertaken by the Consulting Arborist engaged throughout the demolition/construction phases of the development. The Consulting Arborist is to submit an Arboricultural Report to Council at the expiry of each bond period and prior to the bond being refunded. If the report indicates that the tree/s require remedial works, the City's Tree Management Officer will assess the recommendations and determine any works prior to their execution by the Consulting Arborist.

- (e) The following formula will be used for the retention of all or part of the tree bond/s:-
  - (i) An initial breach of any tree protection condition – 20% of total bond for each tree;
  - (ii) A second of continuing breach of any tree protection condition – 40% of total bond for each tree;
  - (iii) If after 40% of the bond is retained, further breaches of the tree protection conditions occur, Council may instigate legal proceedings for the cessation of all works on the site; and
  - (iv) Death of any protected trees due to non-compliance with the tree protection conditions – Total 100% of total bond for particular tree/s and possible legal action by Council.

## **(56) SITE SUPERVISION AND REPORTING**

- (a) An Arborist with minimum qualifications in Arboriculture of Level 5 (under the Australian Qualification Framework) must oversee various stages of work within the Tree Protection Zone of any tree listed for retention. The Arborist must certify compliance with each key milestone as detailed below:
  - (i) Installation of tree protection measures;
  - (ii) During demolition of any ground surface materials (paving, concrete, grass etc) within the Tree Protection Zone (TPZ) of any tree to be retained;
  - (iii) During installation of hoarding / scaffolding within the TPZ of any tree to be retained;
  - (iv) During any excavation and trenching which has been approved by Council within the TPZ of any tree to be retained;
  - (v) During any Landscape works within the TPZ of any tree to be retained.
- (b) An Arboricultural Compliance Report which includes photographic evidence and details of the health and condition of trees, must be submitted to Council's Area Planning Manager at each hold-point listed below:
  - (i) Certification tree protection measures have been installed in accordance with the conditions prior to the commencement of works;
  - (ii) Certification of compliance with each key milestone listed above within 48 hours of completion;
  - (iii) Details of any other works undertaken on any tree to be retained or within TPZ/s;
  - (iv) A final compliance report shall be submitted prior to the issuing of the Occupation Certificate.

## **(57) ADVANCED TREE PLANTING**

Tree planting within the property must be undertaken in accordance with the approved landscape plans and the following conditions, to Council's satisfaction, prior to the issuing of the Occupation Certificate:

- (a) Trees must be grown to Australian Standard 2303:2015 'Tree stock for landscape use'
- (b) At the time of planting, the container size is to be a minimum of 100 litres and a minimum height of 2 metres.
- (c) New trees must be planted with adequate soil volumes to allow maturity to be achieved;
- (d) New trees must be appropriately located away from existing buildings and structures to allow maturity to be achieved without restriction;
- (e) The tree must be planted by a qualified Horticulturalist or Arborist of Level 2 under the Australian Qualifications Framework (AQF).
- (f) The tree planting/s must be planted in such a manner as to promote good health during the establishment period, and must be maintained, as far as practicable to ensure tree growth into maturity.
- (g) Written confirmation is to be obtained from Council's Area Planning Manager that all tree planting/s have been completed to Council's satisfaction (excluding tree maintenance) prior to the issue of an Occupation Certificate.
- (h) Any newly planted tree that fails to establish within 2 years of the initial planting date must be replaced with a tree of comparable qualities

## **(58) PUBLIC DOMAIN TREE PLANTING AND MAINTENANCE**

- (a) A Tree Planting Plan must be submitted and approved by Council's Director City Planning Development and Transport, advised by the Public Domain Unit, prior to the issuing of a Stage 3a Construction Certificate. The plan must include and be consistent with the following requirements:
  - (i) Tree species shall be consistent with the City's Street Tree Master Plan (refer to relevant precinct plans) or other relevant guidance document. Species substitutes will not be accepted.
  - (ii) Tree pits must be located and constructed in accordance with the City's Street Tree Master Plan (Technical Guidelines) or other relevant guidance document.
  - (iii) The tree pit design must include structural soils or structural cells to support pavements in accordance with the Street Tree Master Plan (Technical Guidelines).
  - (iv) Indicate the chosen tree planting arrangement, being a choice of one of two options, being:

Undertake all tree supply, planting, and maintenance requirements to the required standards and to the satisfaction of the City's Tree Management.

OR

Pay a fee for the City to supply, plant, and maintain each required tree on the applicant's behalf. The fee is consistent with the City's Schedule of Fees and Charges.

- (b) If opting to undertake all tree supply, planting, and maintenance requirements, the following requirement must be met:
  - (i) The trees must be a minimum container size of 200 litres, at the time of planting.
  - (ii) All new trees must be grown in accordance with the Australian Standard 2303:2015 'Tree stock for landscape use' and meet the requirements of this standard at the time of planting.
  - (iii) Certification from the tree supplier must be submitted to the City's Tree Management Officer and Public Domain Officer, prior to the trees being planted. The certification must confirm the tree(s) have been grown and comply with the requirements of AS2302. Any new trees that do not conform will be rejected by the City.
  - (iv) The trees must be planted by a qualified Arborist or Horticulturist (AQF Level 3) and be planted before the issuing of the final Occupation Certificate.
  - (v) All new trees must be inspected and approved by the City's Tree Management Officer (or their representative) at the following milestones: before planting with planting pits excavated; after planting; and at the end of the maintenance period.
  - (vi) All trees planted in accordance with the approved Tree Planting Plan must be maintained by a qualified Horticulturist or Arborist (minimum AQF Level 3) for a minimum period of twelve (12) months, commencing from the date of planting. Maintenance includes, but is not limited to, watering, weeding, removal of rubbish from tree base, pruning, fertilizing, pest and disease control and any other operations to maintain a healthy robust tree.
  - (vii) At the end of the twelve (12) month maintenance period, written acceptance of the tree/s must be obtained from the City before release of the public domain bond.
  - (viii) If a tree fails to thrive and successfully establish during the maintenance period, then City will request payment for a replacement tree and establishment period according to the City's Schedule of Fees and Charges.

## **(59) PUBLIC ART**

Public art must be installed to the City's satisfaction prior to the issue of any Occupation Certificate.

- (a) The public art must be in accordance with Preliminary Public Art Plan prepared by Broached Commissions, dated 9 December 2021, the *Sydney DCP 2012*, the *Public Art Policy*, and the *Interim Guidelines: Public art in private developments*.
- (b) A Detailed Public Art Plan with final details of the proposed public art must be submitted to and approved by Council's Director City Planning, Development and Transport prior to issue of any Construction Certificate for above ground works. The detailed public art plan must also address the following:
  - (i) The intended duration of display of the initial video works commissioned by Broached for MIRVAC; and
  - (ii) The intended approach to the commissioning of works following this initial work and who will manage this process including but not limited to programming and rotation.
- (c) Public art must be installed to the City's satisfaction, inspected and approved and the Final Public Art Report submitted and approved by Council's Area Planning Manager prior to the issue of any Occupation Certificate.

Note: Public Art must be reviewed and endorsed by the City's Public Art Team and/or the Public Art Advisory Panel prior to submission for Council approval. Further information is available online at <http://www.cityofsydney.nsw.gov.au/explore/arts-and-culture/public-art>. Please contact the Public Art Team at [publicartreferrals@cityofsydney.nsw.gov.au](mailto:publicartreferrals@cityofsydney.nsw.gov.au) for further information.

## **(60) SHOP FRONTS**

- (a) All shop front glazing must be clear and untinted and must not be obscured by blinds, curtains, roller shutters, security grilles or the like.
- (b) The approved shopfront configuration must not be altered, without the prior approval of Council, where it would result in the shopfront being obscured in any way.

## **(61) 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.

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

A separate development application for any proposed signs (other than exempt or complying signs) must be submitted to and approved by Council prior to the erection or display of any such signs.

**(63) SIGNS/GOODS IN THE PUBLIC WAY**

No signs or goods are to be placed on the footway or roadway adjacent to the property.

**(64) 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 Code*.

## **SCHEDULE 1B**

### **PRIOR TO CONSTRUCTION CERTIFICATE/COMMENCEMENT OF WORK/HEALTH AND BUILDING**

#### **(65) FLOOD RISK MANAGEMENT**

- (a) Details of proposed flood barriers and their operation to demonstrate:
  - (i) Flood control devices or systems can withstand flood-related forces including hydro static load and dynamic load and impacts in a probable maximum flood event.
  - (ii) Flood control devices or systems have been certified by an appropriately experienced engineer registered on the National Engineers Register (NER).
  - (iii) Flood control devices or systems are integrated into the driveway of a building to descend from above or ascend from below to exclude floodwater.
  - (iv) Automatic closure of flood control devices or systems, together with an anti-opening mechanism to prevent them from being opened in a flood event.
  - (v) Appropriate peripheral safety measures will be provided to support the operation of the flood control devices or systems, including, but not limited to:
    - a. an independent back-up power supply, to be used in the event of a power failure; and
    - b. audible and visual alarm systems to warn of the operation of the flood doors and barriers. The alarm system must be linked to the building management system which indicates the status of the failsafe operation and back-up supply power;
    - c. flood sensors linked to the alarm system to provide information on the status of the operation of the flood doors and barriers; and
    - d. passenger lift programming is to ensure that the lift is deactivated when flood doors and barriers are activated.
- (b) All building structures are to be designed to ensure structural integrity for immersion and the impact of hydraulic forces of floodwaters and debris up to the 100 year flood level plus 0.5meter or Probable Maximum Flood level, whichever is the greater. For example, where glass is used, it must be toughened glass to resist the impact of hydraulic forces of floodwaters and impact loading of debris. Details of these works shall be submitted to and shall be approved by the Principal Certifying Authority prior to the issue of the stage 2 Construction Certificate. A copy of the approved Certification report shall be provided to Council for record keeping purposes.



- (c) Flood protection is required for all flood events up to and including the minimum flood planning levels applicable to the respective retail spaces as well as Underwood Street and Dalley Street basement carpark entry.
- (d) Flood proofing is to be maintained for the life of the development. The design of the flood proofing is to be certified by a suitably qualified practitioner engineer with experience in flood proofing and is to be compatible with the design of the development set out in this development consent. The certification must ensure compliance with the relevant Australian Standards and codes for structural engineering. The certification must be supplied by the Applicant to the Certifying Authority and the Council prior to the issue of any Construction Certificate.
- (e) All flood protection features requiring power to operate must have alternative backup power source;
- (f) All electrical features including power points and other mechanical equipment must be set above the Flood planning Level. This must be shown on the detailed plans prior to the issue of a Stage 3a Construction Certificate for the basement.
- (g) A design certification report prepared by a suitably qualified practitioner engineer demonstrating compliance has been achieved of these requirements above must be submitted to and shall be approved by the Principal Certifying Authority prior to the issue of any Occupation Certificate. A copy of the report shall be provided to Council for record keeping purposes

#### **(66) FLOOD EMERGENCY RESPONSE PLAN**

- (a) A Flood Emergency Response Plan is to be prepared by a suitably qualified flood engineer. The Flood Emergency Response Plan is to be implemented and operated by the building owner and/or Owners Corporation at all times.
- (b) The Flood Emergency Response Plan must include all measures required to be implemented to ensure the ongoing management of flooding risk in relation to the building, including (but not limited to) the following:
  - (i) Describe the flood conditions in the vicinity of the site;
  - (ii) If appropriate, direct persons on the site to seek refuge above the Probable Maximum Flood level for all levels of the building that are flood affected. Shelters in place for flood affected parts of the building is not permissible;
  - (iii) Include a map directing residents and visitors to a refuge via a flood free pathway within the building;
  - (iv) Describe the audible and visual alarm system for the basement area, including the linkage of this system to the building management system, details of failsafe operations and alternate power arrangements;
  - (v) Provide details (as an appendix) of all proposed flood sensors, their purpose, operation and maintenance (including the frequency of maintenance);

- (vi) Provide details of lift design and operation in the event of a flood and specify how the lift will be deactivated in the event of a flood;
  - (vii) Provide details of access to flood free areas for disabled persons;
  - (viii) Provide details of all flood protection design features of the building (flood doors and the like) and describe their operation, maintenance, repair and replacement arrangements. Repairs are to be completed to ensure that the flood doors/gates/barriers remain operational and effective at all times;
  - (ix) A pumping option needs to be shown, along with the location of pumps (in case mechanical failures of flood barriers occur). The pumps must be designed to pump out the full range of flood volumes within 6 hours after floodwaters have receded. The power supply of the pumps must be located outside of any flood reach if they are required to connect from the building's internal system.
  - (x) Details of the operations and maintenance of the pumps are to be included. Any pumping equipment used to disperse flood waters should have the same maintenance schedule as the flood doors; and
  - (xi) Make provision for three monthly testing by the building owner and/or Owners Corporation.
- (c) The building owner and/or Owners' Corporation must enter into a service arrangement by which all identified faults or defects to all flood designed features of the building must be repaired within 24 hours.
  - (d) No toxic or other hazardous materials are to be stored below the Flood Planning Level or in the basement levels.
  - (e) Prior to the issue of any Stage 1 Construction Certificate for the basement, the Flood Emergency Response Plan (FERP) is to be submitted to and approved by Principal Certifying Authority (PCA). A copy of the approved FERP shall be submitted to the City for record keeping purpose.

#### **(67) FLOOD PROTECTION FEATURES**

- (a) Prior to the issue of any Occupation Certificate, the proposed Flood Protection System including all its features are to be tested by an independent floodplain management consultant, and a report confirming the full operation of the system is to be submitted to and approved by Principal Certifying Authority.

#### **(68) CONSTRUCTION TRAFFIC AND PEDESTRIAN MANAGEMENT PLAN**

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

Construction Traffic and Pedestrian Management Plans are to be prepared in accordance with Standard Requirements for Construction Traffic Management Plan on the City's website

**(69) 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 *Protection of the Environment Operations (Clean Air) Regulation 2010*.
- (c) Uses that produce airborne particulate matter must incorporate an effective dust collection system.

**(70) EXTERNAL WALLS AND CLADDING FLAMMABILITY**

The external walls of the building including attachments must comply with the relevant requirements of the Building Code of Australia (BCA). Prior to the issue of a Construction Certificate and Occupation Certificate the Accredited Certifier and the Principal Certifier must:

- (a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the BCA; and
- (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the BCA as proposed and as built.

**(71) PRODUCTS BANNED UNDER THE BUILDING PRODUCTS (SAFETY) ACT 2017**

- (a) No building products that are banned, or products that are subject to a ban if used in a particular way, under the Building Products (Safety) Act 2017 are to be used in the construction of the development approved in this development consent.
- (b) Prior to the issue of any Occupation Certificate, the principal certifier is to confirm that none of the building products used on the building are subject to a building product use ban under the Building Products (Safety) Act 2017 or, if a product is only subject to a ban if used in a particular way that it is not used in any way contrary to the Building Products (Safety) Act 2017.

**(72) PHYSICAL MODELS**

- (a) Prior to the issue of any Occupation Certificate an accurate 1:500 scale model of the development as constructed must be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager 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 modellers 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 4.55 of the *Environmental Planning and Assessment Act*) that affect the external appearance of the building.

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

- (a) Prior to any Occupation Certificate being issued, an accurate 1:1 electronic CAD model of the completed development must be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager 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.

**(74) DESIGN FOR ENVIRONMENTAL PERFORMANCE**

- (a) Prior to the issue of any Construction Certificate, the Principal Certifier must be satisfied that those matters listed in the following sections of the approved Design for Environmental Performance report prepared by David Clark of

Cundall dated 7 June 2021 are incorporated into the relevant construction plans and accompanying documentation:

- (ii) Section 4 – Energy Efficiency and Greenhouse Gas Abatement
  - (iii) Section 5 – Passive Design for Thermal Performance – Building Envelope Design
  - (iv) Section 6 – On site Renewable Energy Generation and Storage
  - (v) Section 7 – Design for Resilience to Climate Change
  - (vi) Section 8 – Designing for mains potable water savings and water efficiency
  - (vii) Section 9 – Storm water quality
- (c) Changes to any commitments as listed in the approved Design for Environmental Performance report must be submitted to and approved by Council's Area Planning Manager/Coordinator prior to the issue of any relevant Construction Certificate.

#### **(75) ENERGY EFFICIENCY OF BUILDINGS**

The design of the building and its services must achieve a Base Building National Australian Built Environment Rating System (NABERS) Energy Commitment Agreement of 5.5 stars as per the Department of Planning and Environment (DPE). This is to be demonstrated by:

- (a) Entering into a Commitment Agreement with DPE, to deliver this star rating for the base building:

The applicant must provide a copy of the signed Commitment Agreement contract with their Construction Certificate application; and

- (b) Providing a copy of the independent energy assessment report to NABERS administration and submitting the same report with the Construction Certificate application. This report must be based on the

Note: Definitions referred to above are as follows:

- (i) Commitment Agreement means an agreement that is set out in accordance with DPE. The NABERS Commitment Agreement, which is signed between DPE and the applicant/building owner/building manager, to design, build and commission the premises to achieve an agreed star rating.
- (ii) Star rating refers to the benchmarking system applied by DPE for measuring the energy efficiency of a building and known as NABERS the National Australian Built Environment Rating System.
- (iii) Base Building means central services and common areas of a building, as defined under NABERS.

## **(76) 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 issue of any Occupational Certificate.
- (d) If the discovery is on Council's land, Council must be informed.

## **(77) ARCHAEOLOGICAL INVESTIGATION**

- (a) The applicant must apply to the Heritage Division of the Department of Environment and Heritage for an excavation permit under Section 140 of the *Heritage Act 1977*.
- (b) Should any potential archaeological deposit likely to contain Aboriginal objects be identified by any person during the planning or historical assessment stage, application must be made by a suitably qualified archaeologist to the NSW Government Office of Environment and Heritage for an excavation permit for Aboriginal objects.
- (c) The applicant must comply with the conditions and requirements of any excavation permit required and are to ensure that allowance is made for compliance with these conditions and requirements into the development program.
- (d) General bulk excavation of the site is not to commence prior to compliance with the conditions and requirements of any excavation permit required.
- (e) Should any relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then 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*.
- (f) 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*;
- (g) 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's Urban Design and Heritage Manager prior to issue of any Occupation Certificate.

**(78) LOT CONSOLIDATION**

All land titles within the development site must be consolidated into one lot. A plan of consolidation must be registered with NSW Land Registry Services, prior to any Occupation Certificate being issued. If an application is made to subdivide the site to reflect the approved development, the requirement for consolidation is waived.

**(79) LAND SUBDIVISION**

Any proposal for land subdivision, including any stratum subdivision of the building, will require a separate application to Council to obtain development Subdivision Certificate under Section 6.15 of the *Environmental Planning and Assessment Act 1979*.

**(80) STRATA SUBDIVISION**

Any proposal for strata subdivision of the site will require development consent and therefore the lodgment of a separate development application or complying development application, and subsequent approval from Council, or an accredited certifier, of the Strata Plan and issue of a Strata Certificate under the *Strata Schemes Development Act 2015*.

**(81) LAND REMEDIATION**

The site is to be remediated and validated in accordance with the Remedial Action Plan prepared by JBS&G dated 27 May 2021 and referenced 60566/138056, Council Ref: 2021/280333 and the letter of Interim Audit Advice from NSW EPA Site Auditor Melissa Porter dated 3 June 2021, Reference: s18876\_002\_ltr\_rev 1\_iaamirvac (Council Ref: 2021/280236).

All remediation work carried out shall be conducted in accordance with the guidelines in force from time to time under the *Contaminated Land Management Act 1997*.

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination must be immediately notified to the Council's Area Planning Manager, the Site Auditor and the Principal Certifier.

Any variations to the approved Remediation Action Plan must be approved in writing by the Site Auditor and Council's Area Coordinator Planning Assessments / Area Planning Manager prior to the commencement of such work.

**(82) SITE AUDIT STATEMENT**

Prior to the issue of a construction certificate associated with the built form of the development (excluding building work directly related to remediation), a Section A Site Audit Statement must be obtained from a NSW Environment Protection Authority accredited Site Auditor and submitted to the Council's Area Planning Manager at email address:-

[hbapplications@cityofsydney.nsw.gov.au](mailto:hbapplications@cityofsydney.nsw.gov.au)



The Site Audit Statement must confirm that the site has been remediated in accordance with the approved Remedial Action Plan and clearly state that site is suitable for the proposed use.

- (a) In circumstances where the Site Audit Statement is subject to conditions that require ongoing review by the Auditor or Council, these must be reviewed and must be approved by the Council's Health and Building Unit in writing through the Area Planning Manager before the Site Audit Statement is issued.
- (b) In circumstances where the Site Audit Statement conditions (if applicable) are not consistent with the consent, the development must not proceed until the inconsistency has been resolved to the satisfaction of Council (such as via a S4.55 modification of the consent pursuant to the provisions of the *Environmental Planning & Assessment Act 1979*).
- (c) **No Occupation Certificate is to be issued** by the Principal Certifier unless a Site Audit Statement has been submitted to and approved by Council in accordance with this condition.

#### **(83) 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.

#### **(84) COMPLIANCE WITH ACID SULFATE SOILS MANAGEMENT PLAN**

All recommendations contained in the Acid Sulphate Soils Management Plan prepared Acid Sulfate Soils management plan, JBS&G dated 13 September 2021, reference 60566 –140554 (Rev 1) (2021/402729) must be implemented, including the following:

- (a) All recommendations within section 4.

#### **(85) ENVIRONMENTAL MANAGEMENT PLAN**

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

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

#### **(86) IMPORTED FILL MATERIALS**

All fill imported onto the site must be validated to ensure the imported fill is suitable for the proposed land use from a contamination perspective. Fill imported on to the site shall also be compatible with the existing soil characteristic for site drainage purposes.

The City may require details of appropriate validation of imported fill material to be submitted with any application for future development of the site. Hence all fill imported onto the site should be validated by either one or both of the following methods during remediation works:

- (a) Imported fill must be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
- (b) Sampling and analysis of the fill material shall be conducted in accordance with NSW EPA (1995) Sampling Design Guidelines.

#### **(87) NOTIFICATION – NEW CONTAMINATION EVIDENCE**

Council's Area Planning Manager and the Principal Certifier must be notified of any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination.

#### **(88) STOCKPILES**

- (a) No stockpiles of soil or other materials must be placed on footpaths or nature strips unless prior approval has been obtained from the City's Construction Regulation Team.
- (b) All stockpiles of soil or other materials must be placed away from drainage lines, gutters or stormwater pits or inlets.
- (c) All stockpiles of soil or other materials likely to generate dust or odours must be covered.
- (d) All stockpiles of contaminated soil must be stored in a secure area and be covered if remaining more than 24 hours

#### **(89) ASBESTOS REMOVAL WORKS**

- (a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with Safework NSW, holding either a Friable (Class A) or a Non-Friable (Class B) Asbestos Removal Licence which ever applies.

A copy of the relevant licence must be made available to any authorised Council officer on request within 24 hours.

- (b) Five days prior to the commencement of licensed asbestos removal, Safework NSW 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 must identify the licensed asbestos removal contractor and include a contact person for the site together with telephone number and email address.

- (c) All work must be carried out in accordance with the *Work Health and Safety Regulation 2017* and the NSW Government and SafeWork NSW document entitled *How to manage and control asbestos in the work place: Code of Practice (SafeWork NSW)* December 2011 and the *City of Sydney Managing Asbestos Policy* dated 21 October 2013 and associated guidelines.
- (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 must 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 must be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs must be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs must be in accordance with AS 1319 -1994 *Safety Signs for the Occupational Environment* for size, illumination, location and maintenance.
- (f) Asbestos waste must only be transported and disposed of at an EPA licensed waste facility.
- (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 written 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.

## **(90) DILAPIDATION REPORT - PUBLIC DOMAIN**

Prior to an approval for demolition and preparatory works being granted or the issue of any Construction Certificate being issued, whichever is earlier, a photographic recording of the public domain site frontages is to be prepared as

described in the *Public Domain Manual* and submitted to and approved by Council's Public Domain Unit. The City's *Public Domain Manual* is available for download from the City's website at <https://www.cityofsydney.nsw.gov.au/>

The submission is to 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.

## **(91) SURVEY INFRASTRUCTURE – IDENTIFICATION AND RECOVERY**

Under Section 24 of the Surveying and Spatial Information Act 2002, it is an offence to remove, damage, destroy, displace, obliterate or deface any survey mark unless authorised to do so by the Surveyor-General. Accordingly, the applicant must, where possible, ensure the preservation of existing survey infrastructure undisturbed and in its original state or else provide evidence of the Surveyor-General's authorisation to remove or replace marks.

Prior to the issue of any Construction Certificate, documentary evidence must be prepared by a Registered Surveyor and submitted to and approved by Council's Area Planning Manager / Coordinator. This evidence must include either:

- (a) A copy of any Surveyor-General's Approval for Survey Mark Removal granted by NSW Spatial Services for the subject site, including all documentation submitted as part of that application (for example the survey mark audit schedule, strategy plan and strategy report); or
- (b) A letter, signed by a current NSW Registered Land Surveyor and including his or her Board of Surveying and Spatial Information (BOSSI) identification number, stating that all investigations required under Surveyor-General's Direction No.11 have been made for the subject site and that no survey infrastructure will be affected by the proposal.

Council's Principal Surveyor may request further information and/or add conditions to any Surveyor-General's Approval at their discretion.

## **(92) PUBLIC DOMAIN AND THROUGH-SITE LINK LEVELS AND GRADIENTS**

Prior to the issue of the Stage 2 Construction Certificate, a Public Domain Levels and Gradients submission for the building, site frontages and the through-site link must be submitted to the City's Public Domain Unit and approved by Council. The submission must be prepared in accordance with the City's *Public Domain Manual* and submitted with a completed *Application for Public Domain Levels and Gradients*. Information on how to complete the submission can be downloaded from the City's website at <https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>.

Any requirements to comply with Disability Discrimination Act at the entrance to a building or publicly accessible space must be resolved inside the site boundary.

Note: Approved Public Domain Levels and Gradients plans are to be submitted with Public Domain Plan – Detailed Documentation for Construction Condition submission.

### **(93) STORMWATER DRAINAGE DESIGN**

Prior to issue of any Construction Certificate a detailed stormwater management plan prepared by suitable qualified and experienced professionals must be submitted to and approved by Council and must include;

A certified stormwater drainage design complying with

- (i) Council's *Sydney Streets Technical Specifications*, Part A4 *Stormwater Drainage Design*;
- (ii) Council's *Sydney Streets Technical Specifications*, Standard Drawings;
- (iii) Council's *Sydney Streets Technical Specifications*, Part B10: *Stormwater Drainage Construction*;
- (iv) Council's Stormwater Drainage Manual; and
- (v) All relevant Australian Standards.

This information is available for download from the City's website at <https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>

- (a) Note: A Deed of Agreement (Stormwater Deed) for all proposed connections to the City's drainage system, and a Positive Covenant for all OSD systems is required prior to issue of any Occupation Certificate.

### **(94) STORMWATER QUALITY ASSESSMENT**

The development must comply with "Stormwater Management Plan" report prepared by CJ Arms, Revision 2, dated 30/11/2021 approved with this development application.

Prior to issue of any Construction Certificate a stormwater quality assessment report prepared by a suitably qualified practicing civil engineer (NER), demonstrating compliance with approved music link targets and parameters must be submitted to the City's Public Domain Unit and approved by Council.

The report must include a response to all stormwater quality improvement devices structural integrity, treatment train and their treatment properties demonstrating compliance with the approved MUSIC link report.

### **(95) PUBLIC DOMAIN LIGHTING UPGRADE**

Prior to issue of the Stage 3a Construction Certificate, a concept Public Domain Lighting Upgrade Plan for pedestrian and street lighting in the public domain and through site link must be submitted to the City's Public Domain Unit and approved by Council. The Lighting Plan must be prepared in accordance with the *Sydney*

*Streets Technical Specifications A5- Street Lighting Design and B8- Street Lighting Construction, Sydney Lights: Public Domain Design Code and Public Domain Manual.* This information is available for download from the City's website at <https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>.

The lighting upgrade plan must cover all adjacent street frontages, being Pitt Street, Dalley Street, Underwood Street and Queens Court, and shall be designed to include the following requirements: Smartpole lighting upgrade to Pitt Street and Dalley Street; and City standard wall mounted lighting to Dalley Street, Underwood Street and Queens Court.

Advice on site specific lighting requirements must be obtained from the City's Public Domain Unit before proceeding with the preparation of any final lighting design proposals.

#### **(96) TEMPORARY DEWATERING DURING CONSTRUCTION**

Prior to discharging any water collected during excavation and construction into the City's stormwater drainage system, approval must be sought from the City's Public Domain Unit. A dewatering management plan must be submitted with an *Application for Temporary Dewatering* available to download on the City's website.

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

#### **(97) PUBLIC DOMAIN AND THROUGH SITE LINK PLAN – DETAILED DOCUMENTATION FOR CONSTRUCTION**

A detailed public domain and through-site link plan and all relevant documentation must be submitted to and approved by the Director City Planning Development and Transport, advised by Public Domain Unit, prior to the Stage 3b Construction Certificate being issued for the development. This Plan must document all works required to ensure that the public domain upgrade work complies with the City of Sydney's *Public Domain Manual, Sydney Streets Code, Sydney Street Tree Masterplan, Sydney Lights: Public Domain Design Code, Sydney Streets Technical Specification*, and the approved Public Domain and Queens Court Through Site Link Concept Design. The documentation must be *checked, be accurate, and comply with specified requirements*. Plans must be based on an accurate survey, to scale and fully coordinated across all disciplines and submissions. The supplied documentation must be For Construction issue and will be approved under Section 138 of the Roads Act 1993.

The Public Domain Manual and all other relevant documents are available for download from Council's website at <https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>.

The Public Domain and Through-Site Link Plan documentation must be submitted with an *Application for Public Domain Plan Assessment* and include the approved Public Domain Levels and Gradients documentation. If the proposed detailed design of the public domain requires changes to any previously approved levels, an *Application for Public Domain Levels and Gradients* must be submitted to and

approved by Council to reflect these changes prior to an approval being issued for the construction of public domain and through-site link work.

**(98) 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".

**(99) PUBLIC DOMAIN WORK - CONSTRUCTION APPROVAL UNDER SECTION 138 ROADS ACT 1993**

Prior to the Stage 3b Construction Certificate being issued for the development, approval under Section 138 / 139 of the *Roads Act 1993* for the public domain works must be issued by the City's Public Domain Unit.

**(100) HOLD POINTS**

Prior to an approval being issued for the construction of public domain and / or planning agreement works, including civil, drainage and subsurface works, a set of hold points will be provided by the City's Public Domain Unit in accordance with the City's *Public Domain Manual* and *Sydney Streets Technical Specification*. The list of hold point inspections will be included in the Public Domain works approval letter.

These hold point inspections must be adhered to during construction works. Prior to the issue of any Occupation Certificate, confirmation from the City's Public Domain Unit, that hold point inspections have been completed and works have been accepted by the City must be provided to the Principal Certifier.

**(101) STORMWATER DRAINAGE CONNECTION**

For approval of a connection into the City of Sydney's underground drainage infrastructure system an *Application for Approval of Stormwater Drainage Connection* must be submitted to the City, together with an application fee in accordance with the City of Sydney's adopted Schedule of Fees and Charges. This must be approved prior to approval being issued for the construction of public domain work.

A connection into the Sydney Water underground drainage infrastructure system must be approved by Sydney Water prior to issue of any Construction Certificate. Evidence of this approval must be submitted to Council.

**(102) PUBLIC DOMAIN LIGHTING RETICULATION DESIGN**

Prior to the issue of the Stage 3b Construction Certificate a detailed Public Domain Lighting reticulation Plan for pedestrian and street lighting in the public domain and through site link must be submitted to the City's Public Domain Unit and approved by Council in accordance with the City of Sydney's *Sydney Lights: Public Domain Design Code*, *Sydney Streets Code*, *Sydney Streets Technical Specification* and *Public Domain Manual*.



The *Public Domain Manual* and all other relevant documents are available for download from Council's website at <https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works>

This public domain lighting documentation shall include pole footing locations and structural details, location and details of underground electrical reticulation including connections and conduits, pit cabling and certifications as described in the City's *Public Domain Manual*. The public domain lighting is to be superimposed on the public domain plan to show any conflicts between lighting and the proposed landscape design.

#### **(103) PUBLIC DOMAIN WORKS SECURITY BOND**

A Public Domain Works Security Bond will be required for the public domain works and repairing damage that may be caused to the public domain in the vicinity of the site, in accordance with the City of Sydney's adopted fees and charges and the Public Domain Manual.

The City's Public Domain Unit must be contacted to determine the bond amount prior to lodgement. The bond must be lodged with the City prior to the Stage 3b Construction Certificate being issued for the development.

The bond will be retained in full until all public domain works, including any rectification of damage to the public domain, are completed to City's standards, and the required work as executed documentation is approved. On satisfying the above requirements and the issue of the Public Domain Works Letter of Completion Operational Acceptance by the City, 90% of the bond will be released. The remaining 10% balance will be held for the duration of the specified defects liability period.

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

All works to the City's public domain, including rectification of identified defects, are subject to a 6-month defects liability period from the date of Completion. The date of Completion will be nominated by Council on the Public Domain Works Letter of Completion Operational Acceptance.

#### **(105) NO OBSTRUCTIONS**

All public footways and paths of travel must be free from obstructions. If services are required to be relocated to clear paths of travel, then this must be undertaken at the developer's expense. All obstructions are to be removed prior to the issue of any Occupation Certificate.

#### **(106) PUBLIC DOMAIN WORKS COMPLETION**

The Public Domain works are to be constructed in accordance with the Public Domain Works Approval letter stamped plans for Public Domain Levels and Gradients, Stormwater Drainage, Public Domain Lighting, *Public Domain Manual*, *Stormwater Drainage Manual*, *Sydney Lights: Public Domain Design Code* and *Sydney Streets Technical Specification*.

The public domain work must be inspected, and a Public Domain Works Letter of Completion Operational Acceptance must be issued by Council's Public Domain Officer prior to the issue of any Occupation Certificate or before the commencement of use, whichever is earlier.

**(107) PUBLIC DOMAIN COMPLETION - WORK AS EXECUTED DOCUMENTATION**

Prior to a Public Domain Works Letter of Completion Operational Acceptance being issued for public domain works, works-as-executed (As-Built) plans and documentation, must be submitted to and accepted by the City of Sydney for all public domain works, including where required Stormwater, Public Domain Lighting and Road construction. Details of the plans and documentation required for submission and approval will be advised by the City's Public Domain Unit.

**(108) STORMWATER DRAINAGE DESIGN FOR STATE ROADS/OTHER AUTHORITIES**

A detailed stormwater management plan prepared by suitably qualified and experienced professional and complying with Council's Sydney Streets Technical Specifications, Part A4 Stormwater Drainage Design must be submitted to and approved by Sydney Water prior to issue of any Construction Certificate. Evidence of this approval must be submitted to Council.

**(109) STORMWATER COMPLETION DEED OF AGREEMENT AND POSITIVE COVENANT**

Prior to the issue of any Occupation Certificate:

- (a) The Owner is required to enter into a Deed of Agreement (Stormwater Deed) with the City of Sydney and obtain registration of Title of a Positive Covenant for all proposed connections to the City's underground drainage system. The deed and positive covenant will contain terms reasonably required by the City and will be drafted by the City's Legal Services Unit at the cost of the applicant, in accordance with the City's Fees and Charges.

**(110) SURVEY INFRASTRUCTURE – RESTORATION**

- (a) Prior to any Occupation Certificate being issued for the development, documentary evidence of restoration must be prepared by a Registered Surveyor and submitted to and approved by Council's Area Planning Manager / Coordinator. This evidence must include:
  - (i) Certification that all requirements requested under the Surveyor-General's Approval for Survey Mark Removal or by the City's Principal Surveyor under condition "Survey Infrastructure – Identification and Recovery" have been complied with;
  - (ii) Certification that all requirements requested under any Surveyor-General's Approval for Deferment of Survey Marks from condition "Survey Infrastructure – Pre-Subdivision Certificate works" have been complied with and;

- (iii) Time-stamped photographic records of all new survey infrastructure relating to the site clearly showing the mark itself and sufficient context to aid in identifying the mark on site.

**(111) LAND DEDICATION – NO LONG-TERM ENVIRONMENTAL MANAGEMENT PLAN**

Any land that is to be dedicated to the City as part of the associated Voluntary Planning Agreement must not be encumbered by an Environmental Management Plan or Long-Term Environmental Management Plan.

**(112) PUBLIC DOMAIN DAMAGE SECURITY BOND**

- (a) A Public Domain Damage Security Bond calculated on the basis of 270 square metres of stone and 300 square metres of asphalt site frontage must be lodged with the City in accordance with the City of Sydney's adopted fees and charges. The bond must be provided as security for repairing any damage to the public domain in the vicinity of the site.
- (b) The City's Public Domain Unit must be contacted to determine the bond amount prior to lodgement. The Bond must be lodged with the City prior to an approval for demolition/excavation being granted or any Construction Certificate being issued, whichever is earlier.
- (c) The bond in this condition will be released in full when the Public Domain Works Security Bond is lodged with the City.

**(113) PROTECTION OF STONE KERBS**

- (a) The existing stone kerbs on the Pitt Street, Dalley Street and Underwood Street frontages of the site are to be retained and properly protected during demolition, 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. A temporary concrete kerb will need to be constructed to retain the footpath until the stone kerbs can be reinstalled.
- (c) Note the following:
  - (i) all costs associated with the works are to be borne by the developer.
  - (ii) Damaged kerbs are to be replaced to match existing to Council's satisfaction or as otherwise advised by Council officers.
  - (iii) Where new vehicle crossings or temporary crossings are to be constructed to access the property, the affected kerb stones should be salvaged and reused wherever possible.

- (iv) All new driveway laybacks and kerbs are to be constructed with stone kerbs to match existing stones or as specified by City officers.
- (v) Council approval is required before kerbs are removed.
- (vi) Council approval is required prior to the cutting of existing stone kerbs for stormwater kerb outlets.
- (vii) A bond may be required for stone kerbs and gutters in accordance with the City of Sydney's adopted Schedule of Fees and Charges. If so, this will be included with the Public Domain Damage Bond.

#### **(114) DRAINAGE AND SERVICE PIT LIDS**

All existing or proposed drainage and utility service pit lids throughout the public domain shall be to City of Sydney specifications and heel / bicycle safe, slip resistant, infill with material to match surrounding surface, finished flush with the adjacent pavement to avoid trip hazards and be clear of obstructions for easy opening and cleaning. Infill pit lids are to be detailed where specified by the Council's Public Domain Officer. Private pits are not permitted within the public domain. All details of pit lids must be shown on the public domain plan and must be approved by the City's Public Domain Unit prior to the issue of an approval for public domain works.

#### **(115) 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.

#### **(116) MECHANICAL VENTILATION**

- (a) The premises must be ventilated in accordance with the *Building Code of Australia* and *AS1668.1 and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings - Mechanical Ventilation in Buildings*.
- (b) Details of any mechanical ventilation and/or air conditioning system complying with *AS1668.1 and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings - Mechanical Ventilation in Buildings*, the *Building Code of Australia* and relevant Australian Standards must be prepared and certified in accordance with Clause A5.2(1)(e) of the *Building Code of Australia*, to the satisfaction of the Accredited Certifier prior to the issue of a Construction Certificate.
- (c) Prior to issue of any 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 A5.2(1)(e) of the *Building Code of Australia*, must be submitted to the Principal Certifier.

#### **(117) 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.

#### **(118) STRUCTURAL CERTIFICATION FOR DESIGN – BCA (ALL BUILDING CLASSES)**

Prior to the issue of a Construction Certificate, structural details and a Structural Certificate for Design by a qualified practising structural engineer and in accordance with Clause A5.2(1)(e) of the Building Code of Australia must be submitted to the satisfaction of Council (where Council is the Accredited Certifier).

#### **(119) STRUCTURAL CERTIFICATION FOR EXISTING BUILDING – ALTERATIONS AND ADDITIONS**

A qualified practising registered structural engineer must provide structural certification to Council (where Council is the Accredited Certifier) verifying that the existing structure can adequately support the proposed new loads and the structural design complies with the Structural Provisions of Part B1 (Vol 1) and Part 2.1 (Vol 2) of the *Building Code of Australia* prior to a Construction Certificate being issued. The proposed additional loads and/or alterations must not cause a decrease in the existing structural performance of the building including its performance under earthquake actions (AS1170.4).

#### **(120) 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 Certifier:
  - (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 Work Cover 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 and Recycling Management Plan – Demolition and Construction for the demolition and or excavation of the proposed development. The plan is to include details of materials that will be excavated and their proposed destination or reuse.
  - (v) Plans and elevations showing the location, construction and installation of temporary site fencing and any temporary structures used in connection with the construction of the development.

Note: Temporary structures, including hoardings and scaffolding, proposed for erection on City-owned and controlled land (footways and roadways), must comply with Council's *Guidelines for Hoardings and Scaffolding* and be approved by Council under the provisions of the Local Government Act 1993 and the Roads Act 1993 prior to installation.

- (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 *Guidelines for Waste Management in New Developments 2018*, 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 SafeWork NSW.

- (xiv) An Asbestos and Hazardous Materials Clearance Certificate by a person approved by the SafeWork NSW.
- (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 SafeWork NSW 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.
- (d) All waste records from the recycling and/or disposal of any demolition and construction waste generated from the works must be retained on site. These records must be available for sighting on request by an authorised Council officer.

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

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of 8 Dalley Street and 8-14 Dalley 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 Accredited Certifier and the Council prior to the issue of any 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 Certifier and the Council prior to the issue of any 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.

#### **(122) 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 Certifier. 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.

#### **(123) ROAD OPENING APPLICATION**

A separate road opening application under Sections 138/139 of the *Roads Act 1993* must be submitted to and approved by 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).

#### **(124) 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 Sections 138/139 of the *Roads Act 1993* must be submitted to and approved by Council.

#### **(125) ELECTRICITY SUBSTATION**

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

#### **(126) UTILITY SERVICES**

To ensure that utility authorities are advised of the development:

- (a) Prior to the issue of any 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.

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

Prior to any 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.

#### **(128) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL**

- (b) A Waste and Recycling Management Plan is to be approved by the Accredited Certifier prior to a Stage 2 Construction Certificate being issued. The plan must comply with the Council's *Guidelines for Waste Management in New Developments 2018*. All requirements of the approved Building Waste and Recycling Management Plan must be implemented during construction of the development.

#### **UPON COMPLETION OF THE DEVELOPMENT**

- (c) Prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifier must ensure that waste handling works have been completed in accordance with: the Waste and Recycling Management Plan; other relevant development consent conditions; and Council's *Guidelines for Waste Management in New Developments 2018*.

#### **(129) WASTE/RECYCLING COLLECTION**

- (a) The collection of waste and recycling must only occur during the designated zone collection times as outlined in the City's Waste Policy – Local Approvals Policy for Managing Waste in Public Places 2017.

#### **(130) 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) Where a hoarding and/or scaffolding (temporary structures) are proposed to be installed on or above a road reservation (footway and/or roadway), a separate application under Section 68 of the *Local Government Act 1993* and Sections 138/139 of the *Roads Act 1993* must be submitted to and approved by Council for such structures.
- (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, artwork or historic images are provided and fully maintained to the City's requirements (Clauses 3.4, 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/wind vanes any part of the device over the public road, a separate application under Section 68 of the *Local Government Act 1993* and Sections 138/139 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 2017*).

#### **(131) TEMPORARY STRUCTURES (HOARDINGS, SCAFFOLDING AND OTHER STRUCTURES) INSTALLED ON PUBLIC ROADS THAT REQUIRE DEVELOPMENT CONSENT**

The following forms of temporary structures (hoardings, scaffolding and other structures) proposed for installation on or above public roads and in connection with the construction of the approved development require Council approval (development consent):

- (a) Type B hoardings that span over roads such as laneways;
- (b) Type B hoardings that propose more than a single storey of site sheds installed on a hoarding deck;
- (c) Type A and Type B hoardings with or without scaffolding that project beyond the side boundaries of adjoining properties;
- (d) fenced work compounds at roadway/footway level;
- (e) hoardings/scaffolding associated with works on heritage-listed buildings; or
- (f) any other large and/or potentially high environmental impact temporary structures, as determined by Council.

A separate development application must be submitted and approved by Council prior to the installation of any temporary structure listed above.

### **(132) WORKS REQUIRING USE OF A PUBLIC PLACE**

Where construction/building works require the use of a public place including a road or footpath, a separate application under Sections 138/139 of the *Roads Act 1993* must be submitted to and approved by Council prior to the commencement of work. Details of any barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

### **(133) OPERATING HOISTING DEVICES INCLUDING BUILDING MAINTENANCE UNITS OVER A PUBLIC ROAD**

If it is proposed to install a building maintenance unit or operate a hoisting device above a road (footpath) including swinging, hoisting material/equipment and slewing any part of the device, a separate application under Section 68 of the *Local Government Act 1993* and Sections 138/139 of the *Roads Act 1993* must be submitted to and approved by Council prior to the installation of such devices.

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 2017*).

### **(134) SYDNEY AIRPORT CORPORATION APPROVAL**

An approval for the proposed height of the development must be obtained from Sydney Airport Corporation Limited in accordance with the Civil Aviation (Building Control) Regulations 1988 prior to the issue of a Construction Certificate.

### **(135) INSTALLATION OF ARTWORK AND IMAGES ON SCAFFOLDING (DEMOLITION / CONSTRUCTION WRAPS)**

- (a) Where scaffolding is to be installed to undertake the proposed development an approved artwork / historic image installation must be provided on the scaffolding system to screen the development from the public place, minimise adverse visual impacts on the locality and add visual and public art in the streetscape.
- (b) The artwork installation must be printed, installed and maintained in accordance with Council's *Guidelines for Hoardings and Scaffolding*. Details of the proposed installation must be submitted to and approved by Council prior to the issue of a construction certificate or work commencing.

Note: The scaffolding system on which a required artwork wrap is to be installed must be designed to safely and adequately accommodate and support the wrap mesh material on which the artwork is printed/displayed. This includes designing the scaffold to address potential increased wind loads that may be encountered in the locality.

## **SCHEDULE 1C**

### **DURING CONSTRUCTION/PRIOR TO OCCUPATION/COMPLETION**

#### **(136) OCCUPATION CERTIFICATE TO BE SUBMITTED**

An Occupation Certificate must be obtained from the Principal Certifier 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.

#### **(137) HOURS OF WORK AND NOISE – CBD**

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

- (a) All work, including demolition, excavation and building work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.00am and 7.00pm on Mondays to Fridays, inclusive, and 7.00am and 5.00pm on Saturdays, and no work must be carried out on Sundays or public holidays.
- (b) All work, including demolition, excavation and building work must comply with the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436-2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites*.
- (c) Notwithstanding the above, the use of a crane 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 outside of above hours can occur, subject to a permit being issued by Council under Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993.

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 4.55 of the *Environmental Planning and Assessment Act 1979*.

#### **(138) USE OF HIGH NOISE EMISSION APPLIANCES / PLANT**

- (a) The operation of high noise emission appliances, plant and/or machinery such as pile – drivers, rock breakers and hydraulic hammers and those which are not listed in Groups B, C, D, E or F of Schedule 1 of the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436-2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites* is restricted to the hours of 9.30am to 1pm and 2pm to 4.30pm Mondays to Fridays and 9.30am to 1.30pm Saturdays.

- (b) All reasonable and feasible steps must be undertaken to ensure that the work, including demolition, excavation and building complies with the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436- 2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites*.

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

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

#### **(140) 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.

#### **(141) SURVEY**

All footings, walls and floor slabs adjacent to a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report, prepared by a Registered Surveyor, must be submitted to the Principal Certifier indicating the position of external walls in relation to the boundaries of the allotment. Any encroachments by the subject building over adjoining boundaries or roads must be removed prior to continuation of building construction work.

#### **(142) SURVEY CERTIFICATE AT COMPLETION**

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

#### **(143) 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.

#### **(144) 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 Certifier 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.

#### **(145) 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.

#### **(146) NON-ROAD FRONTAGE SHOP NUMBERING - EASE OF IDENTIFICATION**

Prior to any Occupation Certificate being issued, shop numbers must be clearly visible at the front of the premises, for ease of identification. Numbering must be maintained so that identification can be made at all times.

#### **(147) 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 Certifier prior to any Occupation Certificate or subdivision/strata certificate being issued.

#### **(148) 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.

#### **(149) LOADING AND UNLOADING DURING CONSTRUCTION**

The following requirements apply:

- (a) All loading and unloading associated with construction activity must be accommodated on site, where possible.
- (b) If, 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) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate application under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993 must be submitted to and approved by Council.

#### **(150) NO OBSTRUCTION OF PUBLIC WAY**

Unless otherwise approved by Council, the public way must not be obstructed by any materials, vehicles, waste receptacles, skip-bins or the like. Non-compliance with this requirement may result in the issue of a notice by Council to stop all work on the site.

#### **(151) 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) The use of a crane 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 outside of approved hours of construction can occur, subject to a separate application being submitted to and approved by Council under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993.

#### **(152) DEDICATION FOR ROAD WIDENING**

The owner must dedicate for road purposes, the variable width parcel of land adjoining part of the southern alignment of Underwood Street, limited in stratum if so agreed to, as detailed in the Voluntary Planning Agreement for the site. The widening is to be detailed in a plan of subdivision/consolidation of the land. This plan is to be registered at NSW Land Registry Services prior to an Occupation Certificate being issued. The area to be dedicated must be shown as a separate lot, and numbered as such.

#### **(153) EASEMENT FOR PUBLIC ACCESS – THROUGH-SITE LINK**

- (a) Prior to the issue of an Occupation (including Interim) Certificate for the development, a documentary Easement for Public Access, limited in stratum if so desired, is to be created and registered on the Title of the development site. The Easement is to be defined over a strip of land of variable width containing paved areas and landscaping, all running in an north-south direction, extending from the northern alignment of Dalley Street to the southern alignment of Underwood Street, generally as shown on the plan numbered AD DA 1000 L00 04 Rev03 prepared by Woods Bagot, and contained within the Voluntary Planning Agreement for the development. The Easement is to be created appurtenant to Council in terms granting unrestricted rights for public pedestrian access, without vehicles, exclusive of wheelchairs for the disabled, to Council's satisfaction,
- (b) Prior to the issue of an Occupation Certificate for the development, a documentary Positive Covenant is to be created and registered on the Title of the development site, appurtenant to Council. The Positive Covenant is to be created in terms indemnifying Council against any claims and damages arising from the use of the Easement for Public Access, and is to require the maintenance of a \$20,000,000 public indemnity insurance policy and is to require the maintenance, upkeep and repair of the Easement for Public Access in accordance with Council's requirements and to the satisfaction of Council.

#### **(154) EASEMENT FOR PUBLIC ACCESS – TELSTRA COLONNADE**

- (a) Prior to the issue of an Occupation Certificate for the development, a documentary Easement for Public Access, limited in stratum if so desired, is to be created and registered on the Title of the Telstra land adjoining the site. The Easement is to be defined over a strip of land of variable width located adjacent to the Underwood Street and Dalley Street alignments, generally as indicated on plans contained within the Voluntary Planning Agreement for the development. The Easement is to be created appurtenant to Council in terms granting unrestricted rights for public pedestrian access, without vehicles, exclusive of wheelchairs for the disabled, to Council's satisfaction,
- (b) Prior to the issue of an Occupation Certificate for the development, a documentary Positive Covenant is to be created and registered on the Title of the development site, appurtenant to Council. The Positive Covenant is to be created in terms indemnifying Council against any claims and damages arising from the use of the Easement for Public Access, and is to require the maintenance of a \$20,000,000 public indemnity insurance policy and is to require the maintenance, upkeep and repair of the Easement for Public Access in accordance with Council's requirements and to the satisfaction of Council.

## SCHEDULE 2

### PRESCRIBED CONDITIONS

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

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

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

## SCHEDULE 3

### TERMS OF APPROVAL

The Terms of Approval for Integrated Development as advised by WaterNSW are as follows:

#### (155) DEWATERING

- (a) **GT0115-00001** Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
- (b) **GT0116-0001** Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity Advisory Note: 3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.
- (c) **GT0117-00001** A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.
- (d) **GT0188-00001** If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@waternsw.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.

- (e) **GT0119-00001** All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
- (f) **GT0120-00001** The design and construction of the building must prevent:
  - (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully 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;
  - (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and
  - (c) any elevated water table from rising to within 1.0 m below the natural ground surface.
- (g) **GT0121-00001** Construction phase monitoring bore requirements GTA:
  - a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW.
  - b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application.
  - c) The monitoring bores must be installed and maintained as required by the water supply work approval.
  - d) The monitoring bores must be protected from construction damage.
- (h) **GT0122-00001** Construction Phase Monitoring programme and content:
  - a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW):
    - i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW.
    - ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater;
    - iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW;
    - iv. QA: Include details of quality assurance and control
    - v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories.
  - b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme)
- (i) **GT0123-00001**
  - (a) Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW.
  - (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must

include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website [www.waternsw.com.au/customer-service/water-licensing/dewatering](http://www.waternsw.com.au/customer-service/water-licensing/dewatering)

- (j) **GT0150-00001** The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual
- (k) **GT0151-00001** Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- (l) **GT0152-00001** This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
- (m) **GT0155-00001** The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report

## **SCHEDULE 4**

### **TERMS OF APPROVAL**

The following conditions have been recommended by NSW State agencies:

#### **AUSGRID**

##### **(156) SUPPLY OF ELECTRICITY**

It is recommended for the nominated electrical consultant/contractor to provide a preliminary enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the enquiry which may include whether or not:

- (a) The existing network can support the expected electrical load of the development
- (b) A substation may be required on-site, either a pad mount kiosk or chamber style and;
- (c) site conditions or other issues that may impact on the method of supply.

Please direct the developer to Ausgrid's website, [www.ausgrid.com.au](http://www.ausgrid.com.au) about how to connect to Ausgrid's network.

##### **(157) CONDUIT INSTALLATION**

The need for additional electricity conduits in the footway adjacent to the development will be assessed and documented in Ausgrid's Design Information, used to prepare the connection project design.

##### **(158) PROXIMITY TO EXISTING NETWORK ASSETS**

###### **Underground Cables**

- (a) There are existing underground electricity network assets in Pitt St and Pitt St 50498 in Dalley St.
- (b) Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.
- (c) Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.
- (d) Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.
- (e) Safework Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.



## Substation

- (f) There are existing electricity substation ZN263 near the proposal building.
- (g) 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.
- (h) In addition to 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.
- (i) Any portion of a building other than a BCA class 10a structure constructed from non combustible materials, which is not sheltered by a non-ignitable blast-resisting barrier and is within 3 metres in any direction from the housing of a kiosk substation, is required to have a Fire Resistance Level (FRL) of not less than 120/120/120.
- (j) Openable or fixed windows or glass blockwork or similar, irrespective of their fire rating, are not permitted within 3 metres in any direction from the housing of a kiosk substation, unless they are sheltered by a nonignitable blast resisting barrier.
- (k) The development must comply with both the Reference Levels and the precautionary requirements of the ICNIRP Guidelines for Limiting Exposure to Time-varying Electric and Magnetic Fields (1 HZ – 100 kHz) (ICNIRP 2010).
- (l) For further details on fire segregation requirements refer to Ausgrid's Network Standard 141.
- (m) Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid.
- (n) For further details refer to Ausgrid's Network Standard 143.

## TRANSPORT FOR NSW

### **(159) CAR PARKING, LOADING AND SERVICING MANAGEMENT PLAN**

Prior to the issue of any Construction Certificate, the applicant shall update the draft Car Parking, Loading and Servicing Management (CPLSM), for the on-site loading docks, operation of the car lift, car stacker and turntable facilities and management of traffic in Pitt Street, in consultation with TfNSW.

The applicant should submit a copy of the final plan to TfNSW for endorsement. The Plan needs to specify, but not be limited to, the following:

- (a) Management of queuing along Pitt Street as a result of malfunction of the proposed car lift and turn table;
- (b) Details of alternate car parking locations and loading zones to redirect vehicles due to extensive queuing at the access to the car park and loading bay;
- (c) Management of conflicts between service vehicles and cars entering and exiting the site onto Pitt Street;
- (d) Details on the forecast freight and servicing traffic volumes by time of day and how deliveries would be managed to ensure there is no requirement for any freight and service vehicles to wait on public streets to enter the site;
- (e) Details on how disabled access to and from parked cars will be managed including the loading and unloading of roof mounted wheelchairs;
- (f) Queuing analysis that factors in both entering and exiting vehicles, and any provisions for a vehicle waiting to enter the site if there is a vehicle exiting;
- (g) Details of the operation of the car lift, car stacker and turntable, including how this will be managed in the waste removal process, that provide priority to vehicles entering the site;
- (h) Details on how the interaction between pedestrians, cyclists and loading and servicing vehicles accessing the driveway will be managed;
- (i) Details on how the loading area will be managed and used by all building tenants; and
- (j) Details of loading and servicing facilities within the subject site which adequately accommodate the forecast demand of the development so as to not rely on the kerbside restrictions to conduct the development's business.

The plan should ensure the loading dock space can support to accommodate a maximum size vehicle commercial portion of the development. The CPLSM shall be implemented by the applicant following the issue of the occupation certificate.

#### **(160) CONSTRUCTION PEDESTRIAN AND TRAFFIC MANAGEMENT PLAN**

The applicant shall prepare a Construction Pedestrian and Traffic Management Plan (CPTMP) in consultation with TfNSW. The CPTMP needs to specify, but not be limited to, the following:

- (a) A description of the development;
- (b) Location of any proposed work zone(s) noting Pitt Street are not suitable locations;
- (c) Location of any crane(s);
- (d) Haulage routes;
- (e) A detailed plan identifying all construction vehicle access arrangements;

- (f) Estimated number of construction vehicle movements, including measures to reduce the number of movements during the AM and PM peak periods;
- (g) Measures to avoid construction worker vehicle movements within the CBD;
- (h) Construction program;
- (i) Proposed construction hours;
- (j) Consultation strategy for liaison with surrounding stakeholders, including other developments;
- (k) A detailed plan of any proposed hoarding and/or scaffolding;
- (l) Any potential impacts to general traffic, cyclists, pedestrians and bus and light rail services within the vicinity of the site from the construction of the development;
- (m) Cumulative construction impacts of the development, Sydney Metro City and Southwest and other development. Existing CPTMPs for developments within or around the development site should be referenced in the CPTMP to ensure that coordination of work activities are managed to minimise impacts on the CBD road network; and
- (n) Proposed mitigation measures. 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.

The applicant shall submit a copy of the final plan to TfNSW for endorsement, prior to any construction certificate or any preparatory, demolition or excavation works, whichever is the earlier. Please send to [development.sco@transport.nsw.gov.au](mailto:development.sco@transport.nsw.gov.au).

The applicant shall provide the builder's direct contact number to small businesses adjoining or impacted by the construction work and TfNSW to resolve issues relating to traffic, freight, servicing and pedestrian access during construction in real time. The applicant is responsible for ensuring the builder's direct contact number is current during any stage of construction.

## **SYDNEY METRO**

Prior to the issue of any Construction Certificate

### **(161) ENGINEERING**

The Certifier must not issue a Construction Certificate for the development unless the Applicant has submitted to Sydney Metro and Sydney Metro has provided written approval of the following items:

- (a) A final Metro Rail Corridor Impact Assessment to demonstrate there are no adverse impacts on Sydney Metro infrastructure. Some details within the preliminary report are unclear and clarification would be required for the final impact assessment as noted in the following:

- (i) Figure 14 stresses appear to equilibrate far lower than the >2MPa major stresses within Table 1. Please clarify the stresses used (and orientation).
- (ii) Section 4.5.6. Please report the magnitude of the drawdown to support the argument in this section.
- (iii) Table 3 displacements do not appear to correspond with Figures 15 and 16 (e.g. Figure 15 max sidewall lateral displacement = 3mm vs Table 3's <2mm). Please clarify.
- (iv) In Figure 17, the Applicant is to confirm if bad build tolerances were considered and if they will be for the subsequent final impact assessment.
- (v) Please confirm if the impact of pile loading been considered within the analyses.
- (vi) Please clarify if a sensitivity study considering the impact of poor performing sleeves (allowing for a limited transfer of load) can be considered within the detailed analysis.
- (vii) Appendix B UDEC is a Distinct Element model. Please clarify.
- (viii) Appendix B Table 4. Please clarify if the model runs to equilibrium at each stage and if sensitivity is planned whereby the excavation is not fully relaxed prior to the lining installation.
- (ix) Appendix B Table 7. Jointing within class III looks low but block stiffness strength high. Please clarify if there will be sensitivity for material parameters.
- (x) Joint properties for class IV look high but assume negligible impact on results. Please clarify.
- (xi) Appendix B page B7 Muir Wood method reduces the I value for a constant stiffness (E). Please clarify.
- (xii) Appendix C – It appears that the bedding jointing has resulted in significant lateral stress relief after tunnel excavation. Please clarify if a greater bedding spacing has been considered.
- (xiii) A monitoring plan (including instrumentation and the monitoring regime during excavation and construction phases) is to be submitted to Sydney Metro for review and endorsement.
- (b) As a result of the final Metro Rail Corridor Impact Assessment, other documents in this package will need to be updated and provided to Sydney Metro for review. This includes, but not limited to, final drawings that have been updated accordingly.
- (c) Final construction drawings for the Construction Certificate.

## **(162) RAIL CORRIDOR**

All structures must be designed, constructed and maintained so as to allow for the future operation and demolition of any part of the development without damaging or otherwise interfering with the Sydney Metro – City & Southwest rail corridor or rail operations. Where any part of the development is to be retained because its demolition would damage or otherwise interfere with the Sydney Metro – City & Southwest rail corridor or rail operations, that part of the development must have a minimum design life of 100 years.

## **(163) SURVEY AND SERVICES**

Prior to the issue of any Construction Certificate:

- (a) the Applicant must provide Sydney Metro with an accurate survey of the development and its location relative to the rail corridor boundary and any rail infrastructure. The survey is to be undertaken by a registered surveyor, to the satisfaction of Sydney Metro; and
- (b) a registered surveyor shall peg-out the common property boundary between the development site and the rail corridor and any Sydney Metro easements to ensure that there is no encroachment by the development. A copy of the survey report indicating the location of pegs must be provided to Sydney Metro prior to the commencement of works.

Prior to the issue of a Construction Certificate, the Applicant must undertake a services search to establish the existence and location of any rail services and provide the results of the search to Sydney Metro. 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 development site, the Applicant must discuss with Sydney Metro whether the services are to be relocated or incorporated within the development site.

## **(164) NOISE AND VIBRATION**

The development must:

- (a) *comply with State Environmental Planning Policy (Infrastructure) 2007 and the NSW Department of Planning & Environment's document titled "Development Near Rail Corridors and Busy Roads - Interim Guideline" (2008) and the Sydney Metro Underground Corridor Protection Guidelines (available from [www.sydneymetro.info](http://www.sydneymetro.info));*
- (b) *be designed, constructed and maintained so as to avoid damage or other interference which may occur as a result of air-borne noise, ground-borne noise and vibration effects that may emanate from the rail corridor during rail construction and operations; and*
- (c) *not have any noise or vibration impacts on the rail corridor or rail infrastructure.*

The Applicant must incorporate as part of the development all the measures recommended in the Detailed DA Acoustic Report [Ref. 280679-AC03 – Revision 1] prepared by ARUP and dated 31 May 2021. A copy of the acoustic assessment

report is to be provided to the Certifier and Council prior to a Construction Certificate being issued by the Certifier. The Certifier must ensure that the recommendations of the acoustic assessment report are incorporated in the construction drawings and documentation prior to issuing a Construction Certificate for the development.

#### **(165) ELECTROLYSIS**

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 electrolysis report to control that risk. A copy of the electrolysis report is to be provided to the Certifier with the application for a Construction Certificate. Prior to issuing a Construction Certificate for the development, the Certifier must ensure that the recommendations of the electrolysis report are incorporated in the construction drawings and documentation.

#### **(166) DESIGN**

The roots and foliage of trees planted beside the rail corridor as part of the development must not impact on the rail corridor or rail operations. A final landscaping and planting plan demonstrating measures to ensure compliance with this condition must be prepared to the satisfaction of Sydney Metro. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.

#### **(167) CONSTRUCTION**

- (a) No work is permitted within the rail corridor, or any easements which benefit Sydney Metro, at any time, unless the prior approval of, or an Agreement with, Sydney Metro has been obtained by the Applicant. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.
- (b) No rock anchors, rock bolts, ground anchors or rock ties, piles, foundations, rock pillars, transfer structures, basement walls, slabs, columns, beams, cut rock faces, are to be installed in the rail corridor, Sydney Metro property or easements unless the Applicant has obtained prior written consent from Sydney Metro for any proposed use of piles and transfer slabs. The Certifier must not issue a Construction Certificate for the development until it has received written confirmation from Sydney Metro that this condition has been satisfied.
- (c) Prior to the issuing of a Construction Certificate, the following information must be submitted to Sydney Metro for review and endorsement:
  - (i) Machinery to be used during excavation/construction; and
  - (ii) Demolition, excavation and construction methodology and staging.

The Certifier must not issue a Construction Certificate for the development until it has received written confirmation from Sydney Metro that this condition has been satisfied.

- (d) Prior to the issue of a Construction Certificate, a Risk Assessment/Management Plan and detailed Safe Work Method Statements for the proposed works are to be submitted to Sydney Metro for review and endorsement regarding impacts on the rail corridor. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.
- (e) Prior to the issue of a Construction Certificate, a tunnel monitoring plan (including instrumentation and the monitoring regime during excavation and construction phases) is to be submitted to Sydney Metro for review and endorsement. The Certifier must not issue a Construction Certificate until written confirmation has been received from Sydney Metro that this condition has been satisfied.
- (f) Prior to the issuing of a Construction Certificate, the Applicant must submit to Sydney Metro a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Metro requirements. If required by Sydney Metro, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Metro requirements. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from the Sydney Metro that this condition has been satisfied.
- (g) If required by Sydney Metro, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Metro's Corridor Protection Team to determine the need for public liability insurance cover and the level of insurance required. If insurance cover is deemed necessary, the Applicant must obtain insurance for the sum determined by Sydney Metro and such insurance shall not contain any exclusion in relation to works on or near the rail corridor or rail infrastructure and must be maintained for the period specified by Sydney Metro. Prior to issuing a Construction Certificate for the development, the Certifier must witness written proof of any insurance required by Sydney Metro in accordance with this condition, including the written advice of Sydney Metro to the Applicant regarding the level of insurance required.

*Reason: construction of the proposed development presents a risk of potential damage to the Sydney Metro – City & Southwest rail corridor which is not in the public interest. This risk of damage to public infrastructure must be appropriately managed and mitigated.*

- (h) If required by Sydney Metro, prior to the issue of a Construction Certificate the Applicant must contact the Sydney Metro Corridor Protection Team to determine the need for the lodgement of a bond or bank guarantee for the duration of the works and the sum of any required bond or bank guarantee. Prior to issuing a Construction Certificate for the development, the Certifier must witness written confirmation from Sydney Metro that the Applicant has lodged any bond or bank guarantee required by this condition.

Reason: construction of the proposed development presents a risk of potential damage to the Sydney Metro – City & Southwest rail corridor which is not in the public interest. This risk of damage to public infrastructure must be appropriately managed and mitigated.

- (i) Prior to the issue of a Construction Certificate, the Applicant must prepare and provide to Sydney Metro for review and endorsement a hydrologic assessment, in the form of a statement or report, demonstrating that any dewatering during construction will not have any adverse settlement impacts on the rail corridor. The Certifier must not issue a Construction Certificate until this assessment has been endorsed by Sydney Metro in writing.

#### **(168) DRAINAGE**

The Applicant must ensure that all drainage from the development is adequately disposed of and managed and must ensure that no drainage is discharged into the railway corridor unless prior written approval has been obtained from Sydney Metro. The Certifier must not issue a Construction Certificate or Occupation Certificate for the development unless this condition has been satisfied.

#### **(169) DOCUMENTATION**

Copies of any certificates, drawings, approvals or documents endorsed by, given to or issued by Sydney Metro must be submitted to Council for its records prior to the issue of any Construction Certificate.

During Construction

#### **(170) SUPERVISION**

Unless advised by Sydney Metro in writing, all excavation, shoring and piling works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects and who holds current professional indemnity insurance.

#### **(171) CONSULTATION**

The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Metro in writing), who:

- (a) oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Metro;
- (b) acts as the authorised representative of the Applicant; and
- (c) is available (or has a delegate notified in writing to Sydney Metro that is available) on a 7 day a week basis to liaise with the representative of Sydney Metro as notified to the Applicant.

Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Metro in relation to the carrying out of the development



works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Metro in relation to the works.

Where a condition of consent requires consultation with Sydney Metro, the Applicant shall forward all requests and/or documentation to the relevant Sydney Metro interface team.

#### **(172) DRAINAGE**

- (a) The Applicant must ensure that all existing and future drainage works on the development site will be directed into the appropriate local council or approved drainage system.
- (b) The Applicant must ensure that during works no water collects on or near the railway corridor. Should water be allowed to pond adjacent to rail infrastructure facilities and service is interrupted, the Applicant shall be liable for any Sydney Metro expenditure involved with restoring or maintaining alternative services.

#### **(173) INSPECTIONS**

If required by Sydney Metro, the Applicant must give Sydney Metro written notice at least 5 business days before any of the following events occur within 25 metres of the rail corridor:

- (a) site investigations;
- (b) foundation, pile and anchor set out;
- (c) set out of any other structures below ground surface level or structures which will transfer any load or bearing;
- (d) foundation, pile and anchor excavation;
- (e) other excavation;
- (f) surveying of foundation, pile and anchor excavation and surveying of as-built excavations;
- (g) other concreting; or
- (h) any other event that Sydney Metro has notified to the Applicant in writing so that Sydney Metro may inspect the carrying out or completion of those works on the development site.

Prior to the commencement of works or at any time during the excavation and construction period deemed necessary by Sydney Metro, a joint inspection of the rail infrastructure and property in the vicinity of the development is to be carried out by representatives from Sydney Metro and the Applicant and a dilapidation survey prepared. The dilapidation survey(s) will establish the extent of any existing damage and enable any deterioration during construction to be observed and rectified at the Applicant's cost. The submission of a detailed dilapidation report by the Applicant for review and approval by Sydney Metro will be required within

10 days following the undertaking of any joint inspection, unless otherwise notified by Sydney Metro in writing.

Prior to the issue of an Occupation Certificate

#### **(174) NOISE AND VIBRATION**

Prior to the issue of an Occupation Certificate, an acoustic assessment report must be prepared and submitted to the Certifying Authority, Council and Sydney Metro certifying that the completed development meets the requirements of:

- (a) State Environmental Planning Policy (Infrastructure) 2007;
- (b) the Department of Planning, Infrastructure and Environment's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines"; and
- (c) any other noise and vibration requirements imposed by this consent.

The acoustic report must demonstrate testing of external and internal noise levels for the completed development and ensure that external noise levels are representative of the typical maximum levels that may occur at the development and internal noise levels meet the required dB(A) levels. Where it is found that internal noise levels are greater than the required dB(A) level, necessary corrective measures must be carried out to ensure that internal noise levels are compliant with the requirements of this consent.

#### **(175) DOCUMENTATION**

Prior to the issue of an Occupation Certificate, the Applicant is to submit as-built drawings to Sydney Metro and Council. The as-built drawings are to be endorsed by a registered surveyor confirming that there has been no encroachment into the rail corridor or Sydney Metro easements, unless agreed to by Sydney Metro in writing. The Certifier must not issue an Occupation Certificate until written confirmation has been received from Sydney Metro that this condition has been satisfied.

Copies of any certificates, drawings, approvals or documents endorsed by, given to or issued by Sydney Metro must be submitted to Council for its records prior to the issue of any Occupation Certificate.

#### **(176) INSPECTIONS**

If required by Sydney Metro, prior to the issue of an Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the development is to be carried out by representatives from Sydney Metro and the Applicant and a dilapidation survey prepared. The dilapidation survey will establish the extent of any existing damage and enable any deterioration during operation of the development to be observed. The Certifier is not to issue an Occupation Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.

### **(177) INSPECTIONS**

At any time during the construction of the development, Sydney Metro and persons authorised by those entities may give reasonable notice to the Applicant or the Applicant's principal contractor that Sydney Metro or persons authorised by that entity seek to:

- (a) inspect the development site and all works and structures that may impact on the rail corridor, including at specified "hold points" in the construction of the development; and
- (b) attend on-site meetings with the Applicant and its contractors,

to enable Sydney Metro to determine whether the development has been or is being constructed and maintained in accordance with all approved plans and this development consent.

### **(178) OTHER**

- (a) Any conditions or other requirements imposed by Sydney Metro part of its approval/endorsement of any documents provided by the Applicant to 0 Sydney Metro in accordance with these conditions of consent must also be complied with by the Applicant when implementing any approved/endorsed documents, plans, reports during the construction and operation of the development (as applicable).
- (b) Where a condition of consent requires Sydney Metro endorsement or approval, the Certifier must not to issue a Construction Certificate or Occupancy Certificate, as the case may be, until written confirmation has been received from those entities that the particular condition has been complied with. The issuing of staged Construction Certificates by the Certifier dealing with specific works and compliance conditions can only occur subject to written confirmation from Sydney Metro.

## **FLYSAFE – AIRSPACE PROTECTION**

### **(179) FLYSAFE – AIRSPACE PROTECTION CONDITIONS**

- (a) The building must not exceed a maximum height of 240.8 metres AHO, including all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues etc.
- (b) Separate approval must be sought under the Regulations for any equipment (i.e. cranes) required to construct the building. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations. Therefore, it is advisable that approval to operate construction equipment (i.e. cranes) be obtained prior to any commitment to construct.

- (c) The Proponent must advise Airservices Australia at least three business days prior to the controlled activity commencing by emailing [ifp@airservicesaustralia.com](mailto:ifp@airservicesaustralia.com) and quoting YSSY-CA-464.
- (d) The Proponent must report all permanent obstacles 100 metres or more above ground level or that penetrate the OLS to the Aeronautical Information Service provider, Airservices Australia by emailing [VOD@airservicesaustralia.com](mailto:VOD@airservicesaustralia.com) or telephoning 02 6268 5622.
- (e) On completion of construction of the building, the Proponent must provide the SACL airfield design manager with a written report from a certified surveyor on the finished height of the building.

## **HERITAGE NSW**

### **(180) HERITAGE NSW**

- (a) The Applicant shall update their current historical archaeological assessment to provide further information and assessment of the impact to significant archaeology which considers options for avoidance and protection of State significant archaeology.
- (b) In the event the Historical Archaeological Assessment identifies the proposal will impact archaeological relics, the Applicant will need to obtain an approved s140 application under the *Heritage Act 1977* prior to any ground disturbing activities commencing. This application will need to clearly outline what mitigation measures are proposed to avoid harm to any significant deposits.
- (c) In the event the historical archaeological assessment identifies that State significant archaeology requires removal an Interpretation Plan should be prepared to guide the future incorporation of the findings from the works in communicating the archaeological significance of the site to future visitors. The Interpretation Plan should be prepared in accordance with the Guidelines issued by the Heritage Council of NSW and be submitted to the Heritage Council of NSW or its delegate for approval within 18 months of the completion of archaeological investigations on site.
- (d) Prior to the issue of the occupation certificate by Council and/or the Principal Certifying Authority, the Applicant shall supply a copy of written correspondence from the Heritage Council of NSW or its delegate confirming that their requirements under any Heritage Act 1977 approval have been satisfied.

## **SYDNEY WATER**

### **(181) SYDNEY WATER SERVICING**

- (a) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.
- (b) The proponent is advised to 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.

- (c) 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.

## **(182) BUILDING PLAN APPROVAL**

- (a) The approved plans must be submitted to the Sydney Water [Tap in™](#) online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.
- (b) The Tap in™ service provides 24/7 access to a range of services, including:
  - (i) building plan approvals
  - (ii) connection and disconnection approvals
  - (iii) diagrams
  - (iv) trade waste approvals
  - (v) pressure information
  - (vi) water meter installations
  - (vii) pressure boosting and pump approvals
  - (viii) changes to an existing service or asset, e.g. relocating or moving an asset.
- (c) Sydney Water's Tap in™ online service is available at: <https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>
- (d) Sydney Water recommends developers apply for Building Plan approval early as in some instances the initial assessment will identify that an Out of Scope Building Plan Approval will be required.

## **(183) OUT OF SCOPE BUILDING PLAN APPROVAL**

Sydney Water will need to undertake a detailed review of building plans:

- (a) That affect or are likely to affect any of the following:
  - (i) Wastewater pipes larger than 300mm in size
  - (ii) Pressure wastewater pipes
  - (iii) Drinking water or recycled water pipes
  - (iv) Our property boundary

- (v) An easement in our favour
- (vi) Stormwater infrastructure within 10m of the property boundary.
- (b) Where the building plan includes:
  - (i) Construction of a retaining wall over, or within the zone of influence of our assets
  - (ii) Excavation of a basement or building over, or adjacent to, one of our assets
  - (iii) Dewatering – removing water from solid material or soil.

The detailed review is to ensure that:

- (c) our assets will not be damaged during, or because of the construction of the development
- (d) we can access our assets for operation and maintenance
- (e) your building will be protected if we need to work on our assets in the future.

The developer will be required to pay Sydney Water for the costs associated with the detailed review.

#### **(184) TRADE WASTEWATER REQUIREMENTS**

- (a) 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 obtain Sydney Water approval for this permit before any business activities can commence. It is illegal to discharge Trade Wastewater into the Sydney Water sewerage system without permission.
- (b) The permit application should be emailed to Sydney Water's Business Customer Services at [businesscustomers@sydneywater.com.au](mailto:businesscustomers@sydneywater.com.au)
- (c) A Boundary Trap is required for all developments that discharge trade wastewater where arrestors and special units are installed for trade wastewater pre-treatment.
- (d) 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.

#### **(185) BACKFLOW PREVENTION REQUIREMENTS**

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

- (c) 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.
- (d) Before you install a backflow prevention device:
  - (i) Get your hydraulic consultant or plumber to check the available water pressure versus the property's required pressure and flow requirements.
  - (ii) 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.
- (e) 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/>

## **(186) 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:

- (a) 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/>
- (b) Consider installing rainwater tanks to capture rainwater runoff, and reusing it, where cost effective. Refer to <http://www.sydneywater.com.au/Water4Life/InYourBusiness/RWTCalculator.cfm>
- (c) Install water-monitoring devices on your meter to identify water usage patterns and leaks.
- (d) Develop a water efficiency plan for your business.

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

## **(187) CONTINGENCY PLAN RECOMMENDATIONS**

- (a) 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 15meters head at the main tap. This is equivalent to 146.8kpa or 21.29psi to meet reasonable business usage needs.

- (b) 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.
- (c) Water supply is critical to some businesses and Sydney Water will treat vulnerable customers, such as hospitals, as a high priority.
- (d) 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 a 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).



# **Attachment B**

<b>Selected Drawings</b>
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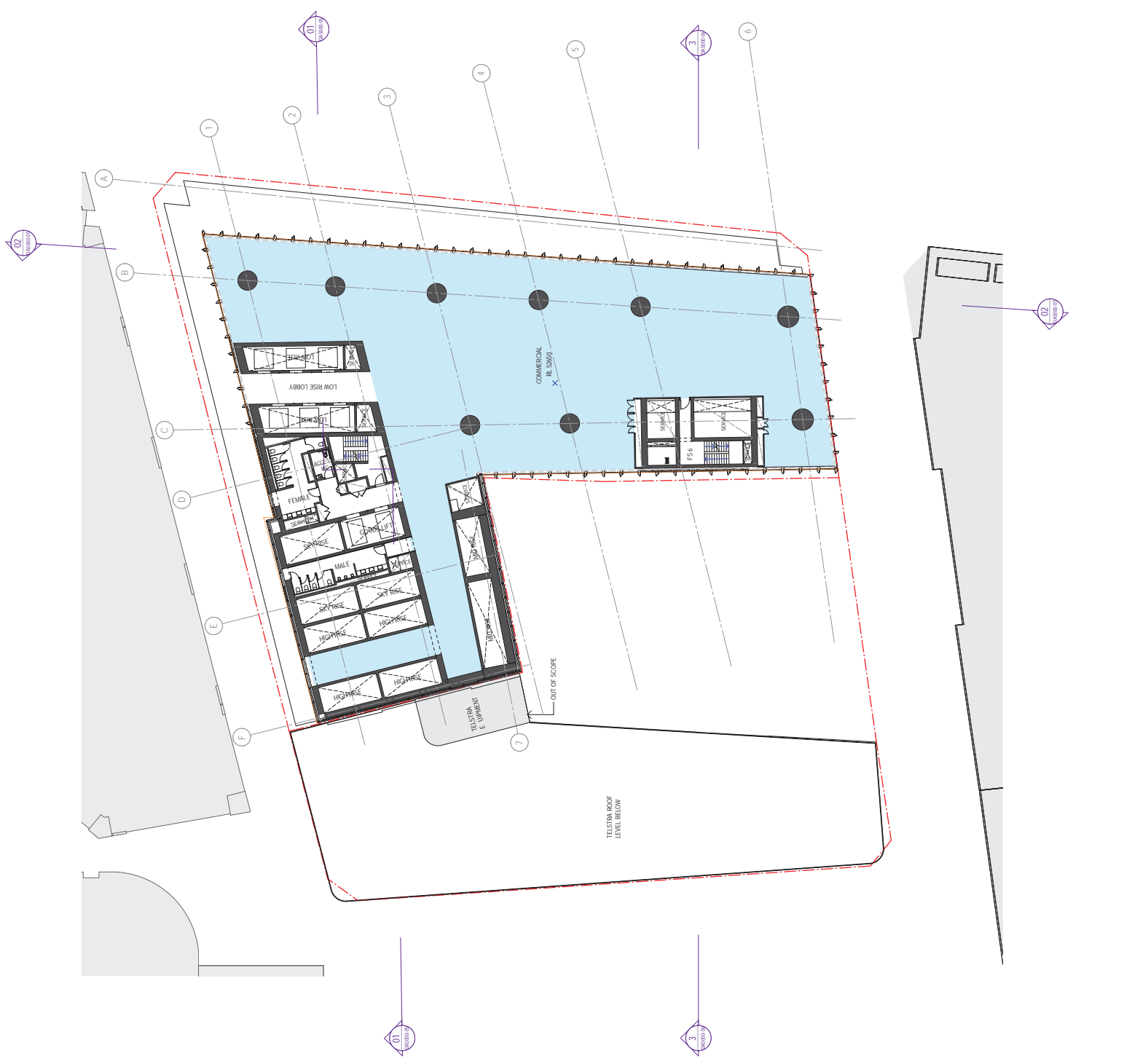
















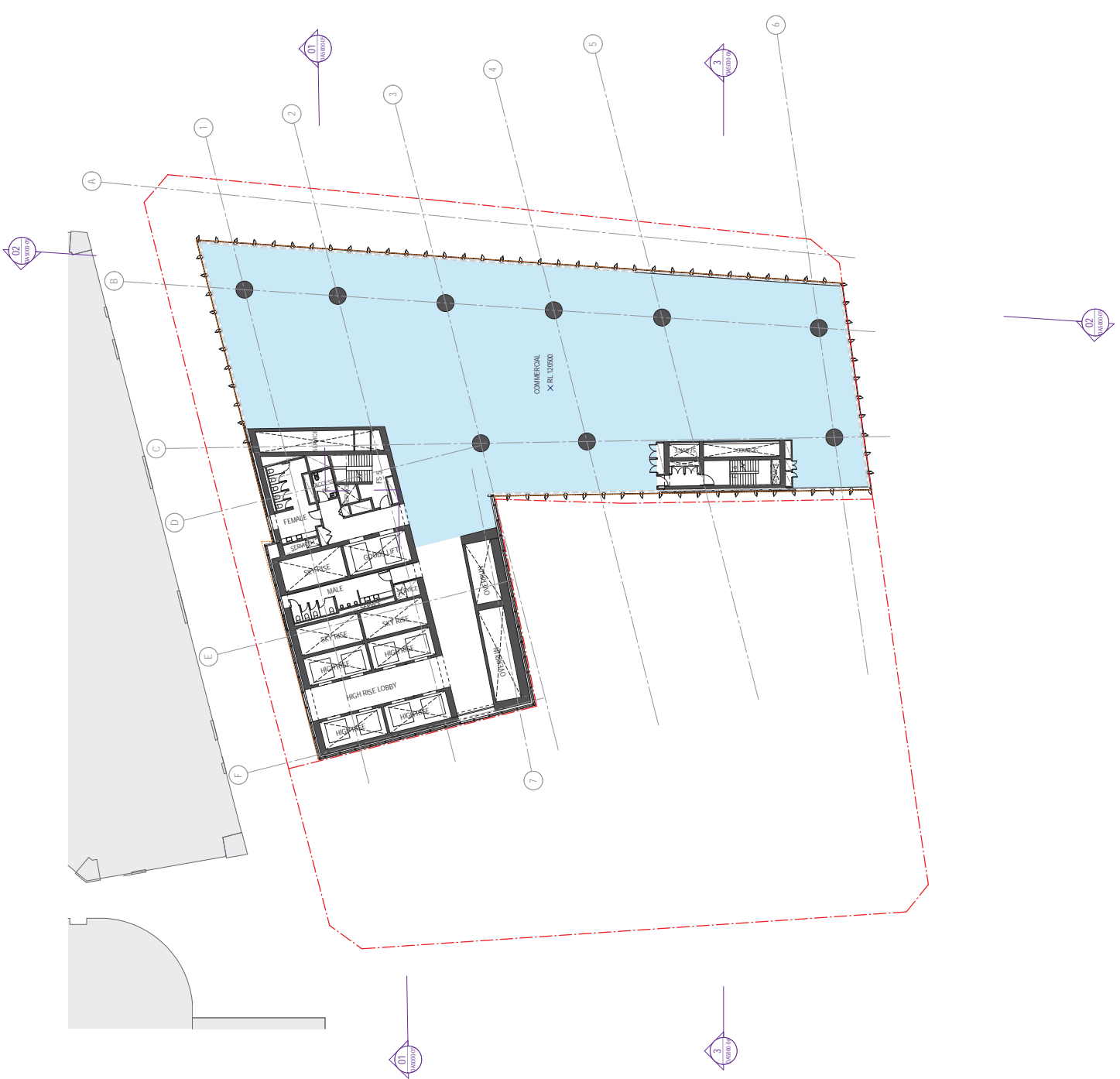
























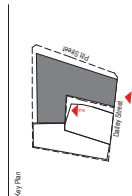












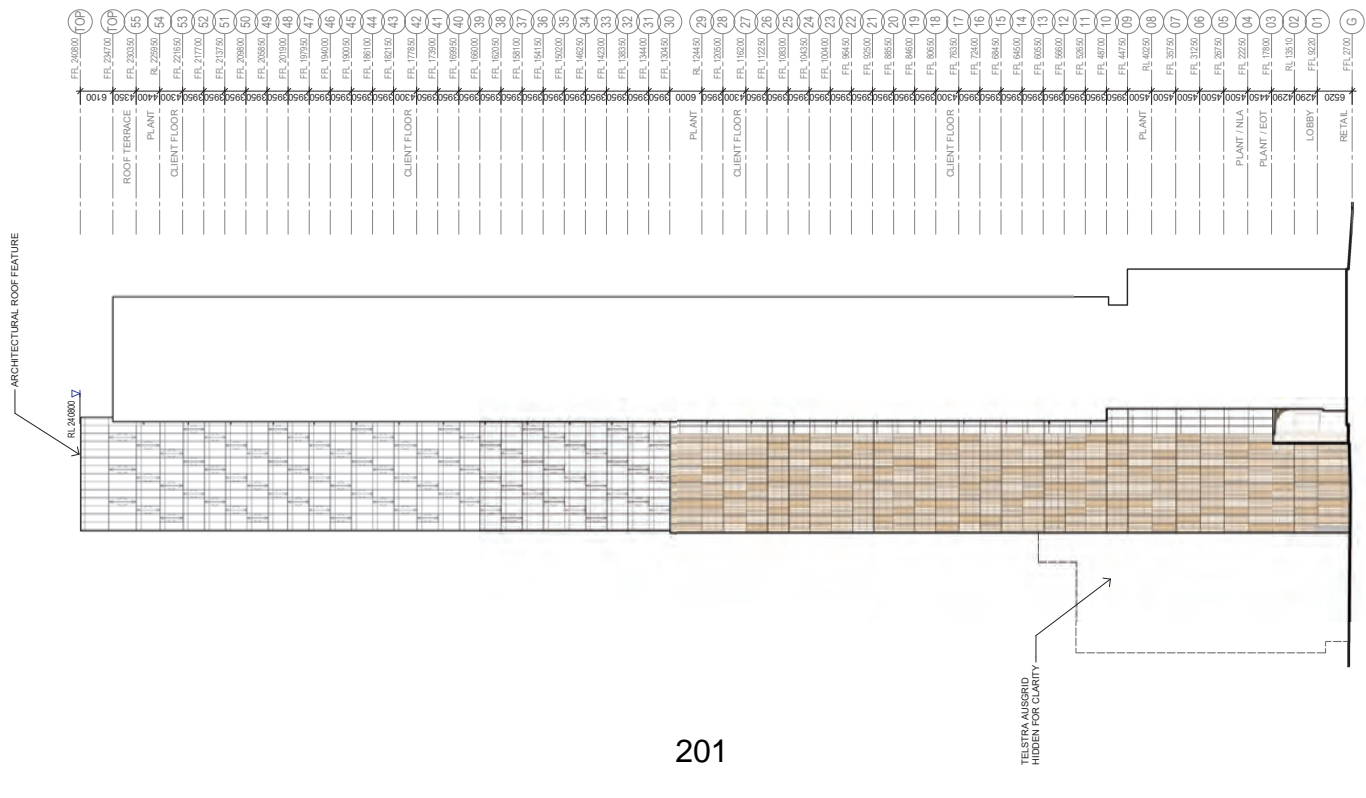
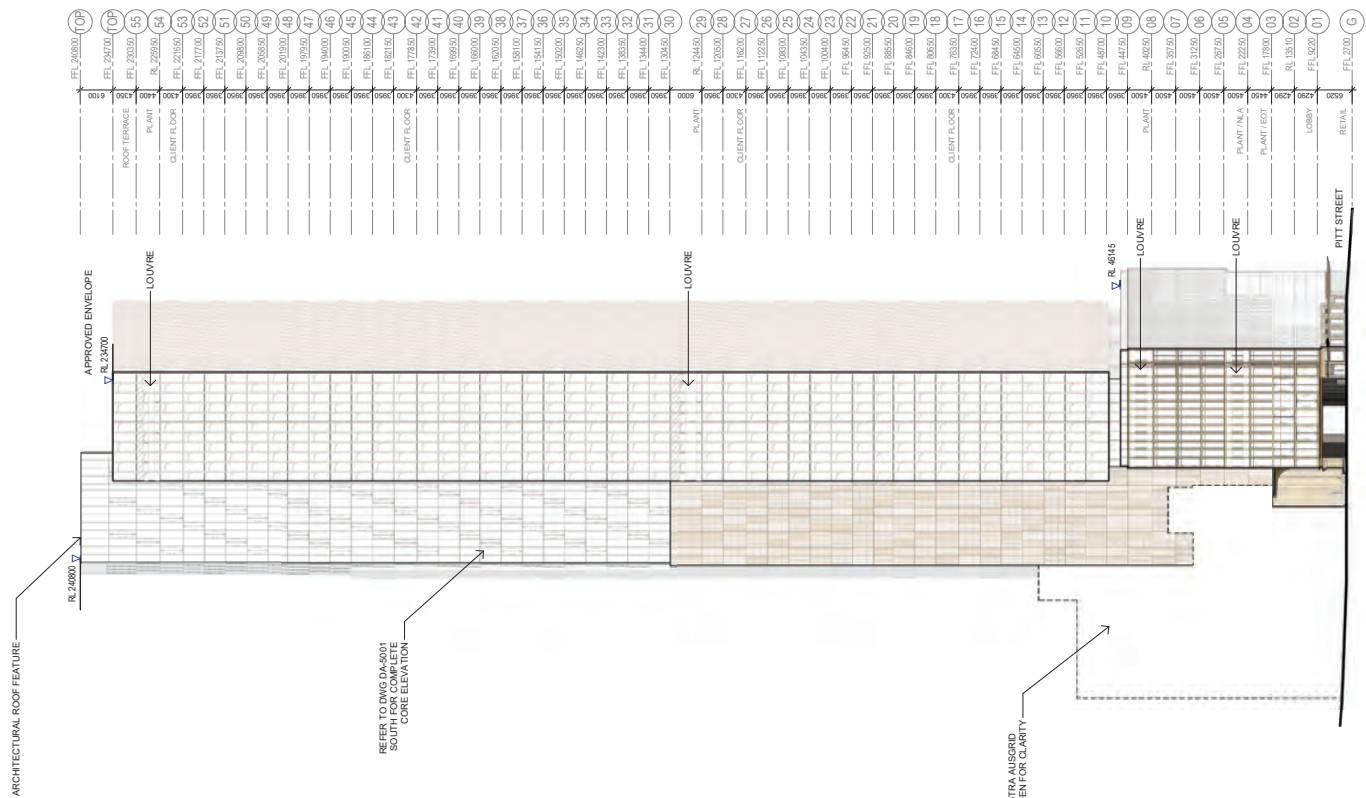
Consultant  
**W-B**<sup>TM</sup>  
WOODS BAGOT

Project  
55 Pitt Street  
55 Pitt Street Sydney NSW 2000

Project number  
**121152**

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ELEVATION - SOUTH





















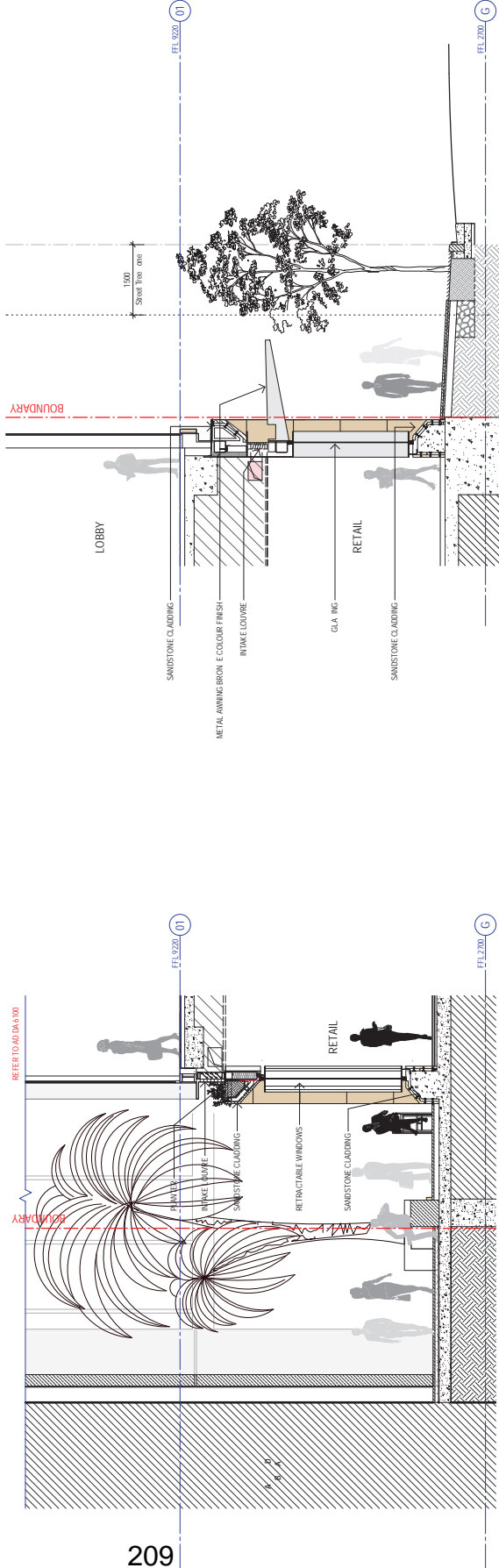


Recent revision history	
A	18/07/21
B	27/07/21
C	04/08/21
D	04/08/21
E	04/08/21
F	04/08/21
G	04/08/21

Notes:  
1. All dimensions are in millimetres unless otherwise stated.  
2. All dimensions are to the centre line of the building unless otherwise stated.  
3. All dimensions are to the finished floor level unless otherwise stated.  
4. All dimensions are to the finished floor level unless otherwise stated.  
5. All dimensions are to the finished floor level unless otherwise stated.

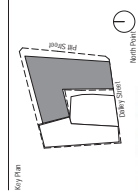
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A	18/07/21
B	27/07/21
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3. All dimensions are to the finished floor level unless otherwise stated.  
4. All dimensions are to the finished floor level unless otherwise stated.  
5. All dimensions are to the finished floor level unless otherwise stated.



1 SECTION - STREET - PITT STREET

3 SECTION - STREET - JEFFES COURT



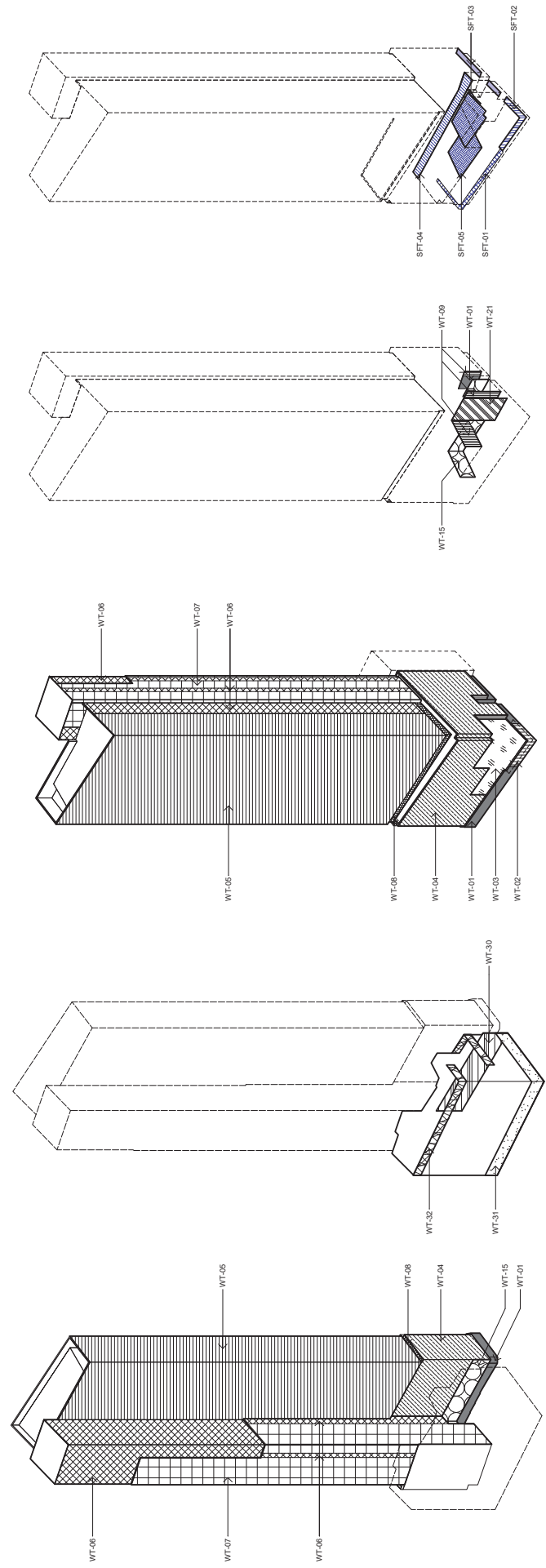
Project  
55 Pitt Street Sydney NSW 2000

Project number	121152
Drawn	NS
Checked	LS
Approved	CY
Scale	1:50

Sections - Streets

For main works development	Application update
AD DA 000	10
Revision	02





4 SW AXON



















5 SW AXON - TELSTRA & AUSGRID

3 NE AXON

2 NE AXON - COVE INTERIOR FACADE

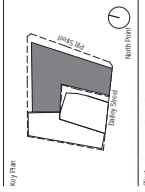
1 NE AXON - SOFFIT

WALL TYPE DESCRIPTION

	<b>WT-01 STOREFRONT</b> Carved aluminium frame, portals with picture frame vitrine windows		<b>WT-01 WATER FEATURE WALL</b> material to activate the flow of water over the vertical surface in the Cove.
	<b>WT-02 COMMERCIAL ENTRY PIVOT WALL</b> Highly transparent, aluminium framed pivoted curtain wall system with bronze colour frame with transparent glazing to match veil hours.		<b>WT-03 ART WALL</b> Highly transparent, aluminium framed pivoted curtain wall system for future artwork to Ausgrid building along with Queens Court and screening of the service access
	<b>WT-03 VEL</b> Highly transparent, aluminium framed pivoted curtain wall system with a visually light and delicate structural system to preserve views into and out of the Cove entry space.		<b>WT-03 TELSTRA &amp; AUSGRID</b> Highly transparent, aluminium framed pivoted curtain wall system to preserve level of existing Telstra & Ausgrid building including artwork
	<b>WT-04 PODIUM</b> Highly transparent, aluminium framed pivoted curtain wall system in high temperature glass. Custom operable windows at naturally ventilated spaces. Mechanical booms fill at plant levels as indicated on elevations.		<b>WT-04 RETAIL AWNINGS</b> Highly transparent, aluminium framed pivoted curtain wall system over structural framing at retail window portals and overhead laminated glass infill above entries.
	<b>WT-05 TOWER</b> Highly transparent, aluminium framed pivoted curtain wall system with glass textures provided by glazed terracotta / ceramic material in shade. Glazed terracotta / ceramic material features stretched vertically in a standing position. Mechanical booms fill at plant levels as indicated on elevations.		<b>WT-05 COMMERCIAL ENTRY CANOPY</b> Highly transparent, aluminium framed pivoted curtain wall system with integral canopy framing at retail window portals and overhead laminated glass infill above entries.
	<b>WT-06 SOFT CORE</b> Highly transparent, aluminium framed pivoted curtain wall with operable windows at naturally ventilated spaces.		<b>WT-06 UNDERWOOD SOFFIT</b> Highly transparent, aluminium framed pivoted curtain wall with overhangs along Underwood Street.
	<b>WT-07 HARD CORE</b> Highly transparent, aluminium framed pivoted curtain wall with operable windows of varying width and color to evoke the expression and texture of sandstone.		<b>WT-07 QUEENS COURT CANOPY</b> Highly transparent, aluminium framed pivoted curtain wall with canopy supported by custom bronze coloured metal semi-circular framing.
	<b>WT-08 REEVAL</b> Highly transparent, aluminium framed pivoted curtain wall system with operable windows and adjacent systems.		<b>WT-08 QUEENS COURT CANOPY</b> Highly transparent, aluminium framed pivoted curtain wall with canopy supported by custom bronze coloured metal semi-circular framing.
	<b>WT-09 COVE</b> Highly transparent, aluminium framed pivoted facade with operable windows.		<b>WT-09 QUEENS COURT</b> Highly transparent glass within deep structural steel frames with horizontal glazing slots to provide natural ventilation.

**MATERIAL BOARD**

DESCRIPTION / PERFORMANCE SPECIFICATION	LOCATION	PHOTOGRAPHIC REFERENCE
Ceramic blocks to achieve traditional masonry in southeast	WT-01	
GR/Structural glazed ceramic or terracotta cladding in a range of sandstone tones	WT-07 WT-04	
Suspended slats at Underwood swimming pool and bridge underside	SFT-03	
Timber air surface at Crown south and lobby ceiling	SFT-05	
Minimal cladding (ceramic cladding at retail and entry canopy)	SFT-01 SFT-02	
Blacked carbonised metal at Pavilion entrance	WT-04	
Light brown carbonised metal at Pavilion entrance	WT-05	
Light bronze coloured metal at South Core entrance	WT-06	
Custom-glazed ceramic material profiles of various depths at Tower sun-shades	WT-05	
Lower level 4 coated-glazing with 50% MTF / <20% Reflectivity in Pavilion	WT-03-04	
Lower level 4 coated-glazing with 50% MTF / <20% Reflectivity in Tower	WT-05	
Lower level 4 coated-glazing with 50% MTF / <20% Reflectivity in South Core	WT-06	

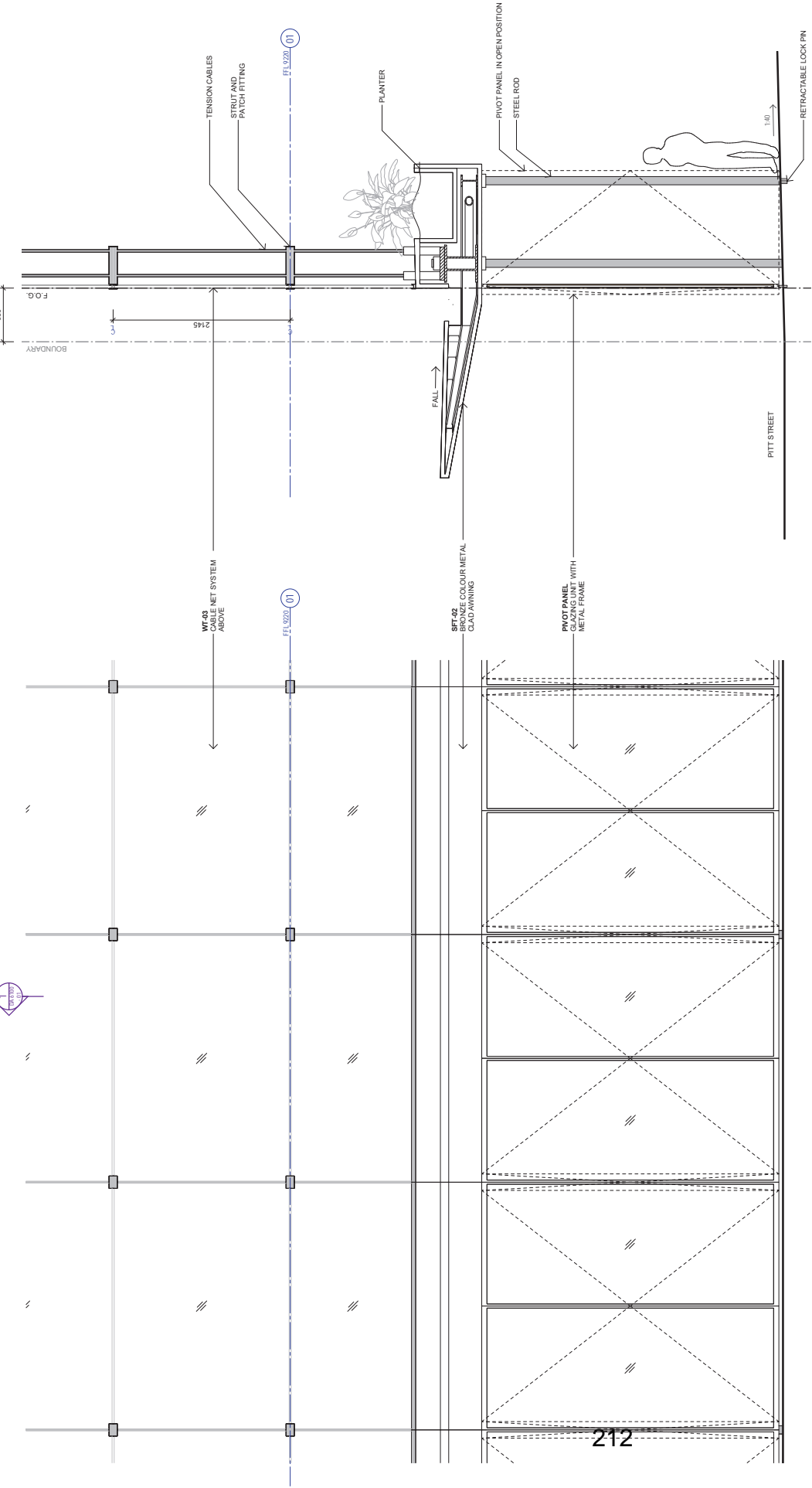


Project  
55 Pitt Street  
55 Pitt Street Sydney NSW 2000

Project number	121152	Size check	25mm
Checked	MYS	Approved	RJP
		Sheet size	A1
		Scale	As indicated

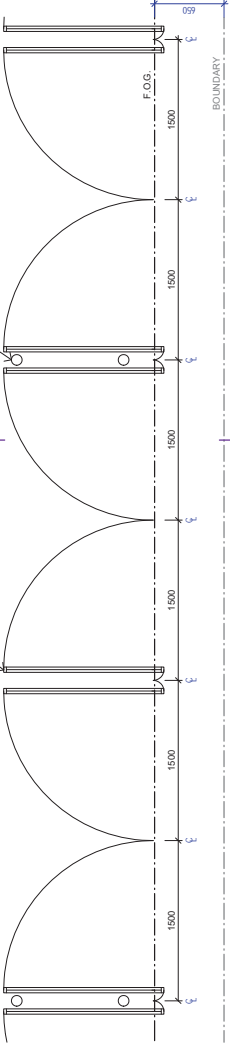
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FOR MAIN WORKS DEVELOPMENT  
APPLICATION UPDATE  
Sheet number  
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1 WT-02 - SECTION  
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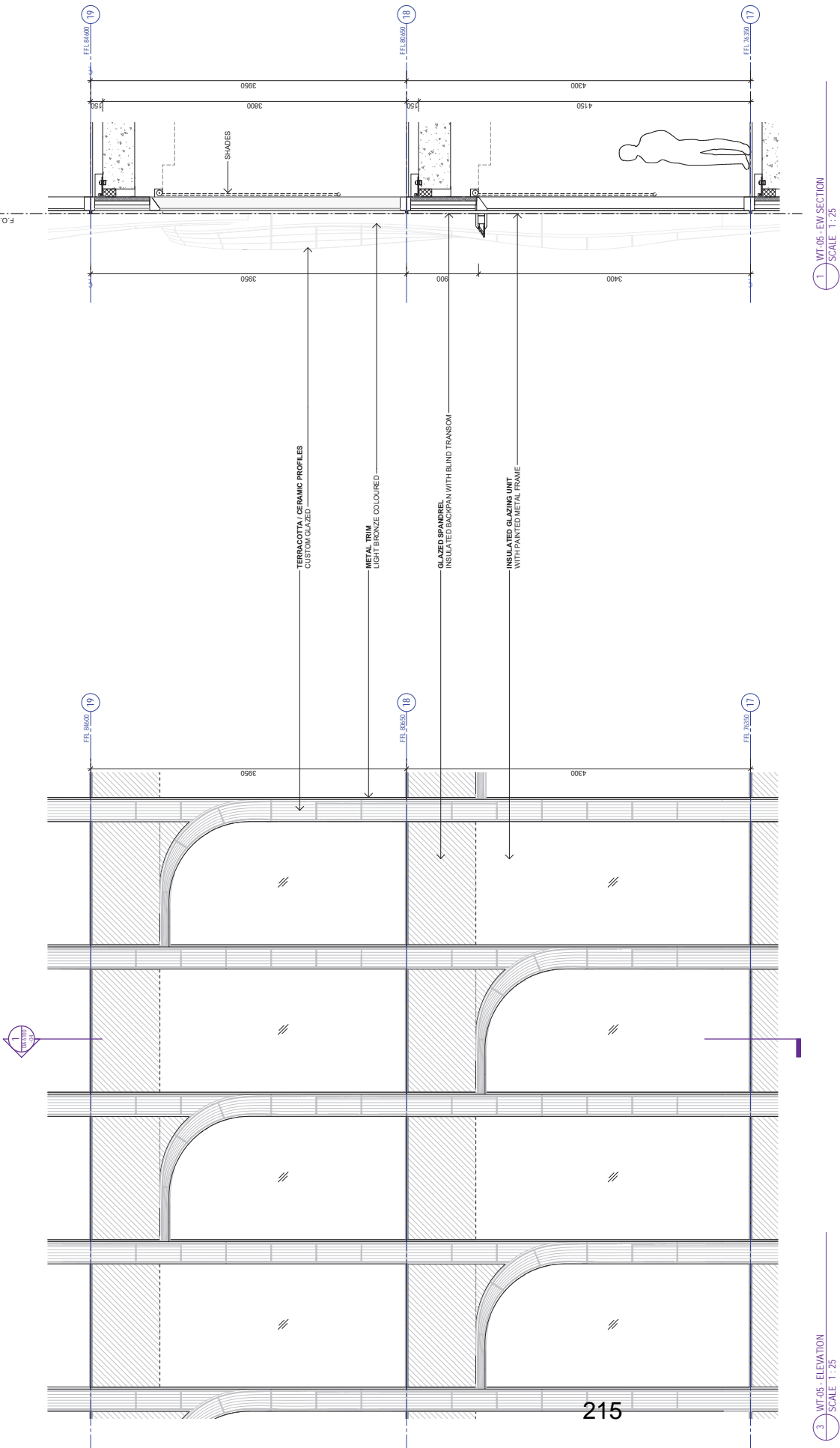
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SCALE 1:25



2 WT-02 - PLAN  
SCALE 1:25



















# **Attachment C**

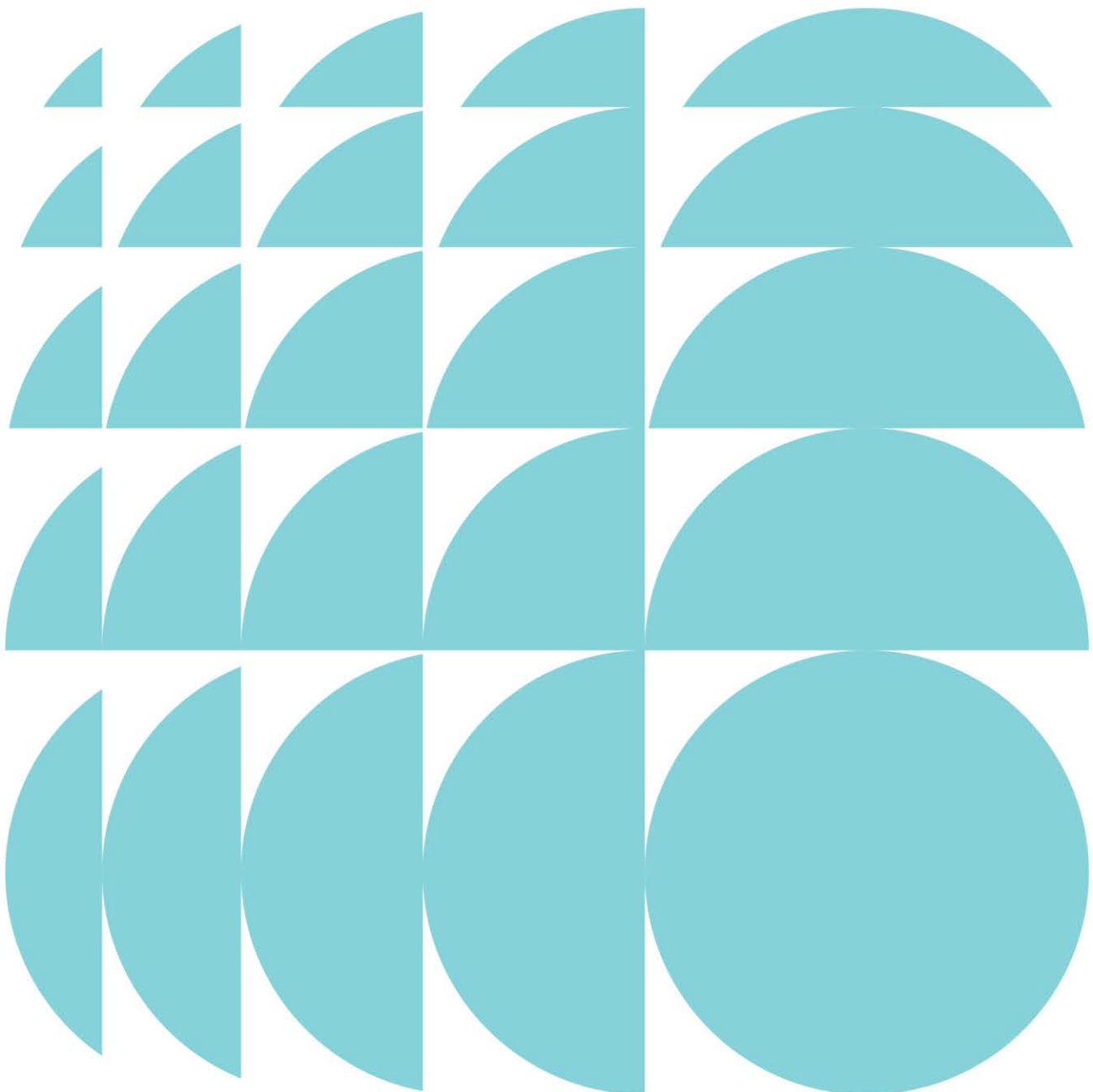
<p><b>Cause 4.6 Variation Request – Height of Buildings</b></p>
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## Clause 4.6 Variation Request

55 Pitt Street, Sydney

Submitted to the City of Sydney Council  
On behalf of Mirvac Capital Pty Ltd and Mirvac  
Commercial Sub SPV Pty Ltd

15 June 2021 | 2210025



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This document has been prepared by:		This document has been reviewed by:	
			
Juliet Wittenoom Louw	15 June 2021	Brendan Hoskins	15 June 2021
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VERSION NO.	DATE OF ISSUE	REVISION BY	APPROVED BY
1	20 May 2021	JWL	BH
2	25 May 2021	JWL	BH
3	8 June 2021	JWL	BH
Ethos Urban Pty Ltd ABN 13 615 087 931. <a href="http://www.ethosurban.com">www.ethosurban.com</a> 173 Sussex Street, Sydney NSW 2000 t 61 2 9956 6952			

# Contents

1.0	Introduction	2
2.0	Background	4
3.0	Development Standard to be Varied	5
3.1	Is the Planning Control in Question a Development Standard?	5
3.2	Variation Sought	5
4.0	Justification for Contravention of the Development Standard	6
4.1	Role of the consent authority	7
4.2	Clause 4.6(3)(a): Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case	7
4.3	Clause 4.6(3)(b): Environmental planning grounds to justify contravening the development standard	10
4.4	Clause 4.6(4)(a)(i): The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3)	14
4.5	Clause 4.6(4)(a)(ii): In the public interest because it is consistent with the objectives of the zone and development standard	14
4.6	Other Matters for Consideration	15
5.0	Conclusion	16

## Figures

Figure 1	Three-dimensional view of the extent of variation to the approved 232 metres height plane	6
Figure 2	Section through roof showing RL234.70 (232 metres) height plane and extent of height variation	12

## Tables

Table 1	Proposal's consistency with Clause 4.3 objectives	9
Table 2	Proposal's consistency with Clause 5.6 objectives	10
Table 3	Assessment of consistency of the proposed development with the Objects of the EP&A Act	12

## 1.0 Introduction

This clause 4.6 variation request has been prepared by Ethos Urban on behalf of Mirvac Capital Pty Ltd and Mirvac Commercial Sub SPV Pty Ltd (together Mirvac). It is submitted to the City of Sydney Council (Council) in support of a development application (DA) for the redevelopment of the site at 55 Pitt Street, Sydney (the site).

The proposed development seeks consent for:

- Demolition of existing basement walls, site preparation and remediation works.
- Bulk excavation to create three levels of basement to accommodate:
  - 79 car parking spaces, 10 service vehicle spaces and 13 motorbike parking spaces.
  - Loading dock facilities.
  - Service rooms such as waste room, fire pump room, fire control room, water meter and bin washing bay.
- New vehicular access to the basement levels from Dalley Street.
- Landscaping and public domain improvements, including:
  - Extension and widening of Queens Court to provide an active through-site link between Dalley Street and Underwood Street.
  - Widening of the Underwood Street footpath and upgrades to the existing Underwood Street Colonnade.
  - Ground floor retail tenancies fronting Pitt Street, Underwood Street (east-west) and Queens Court.
  - General public domain upgrades including new paving to Pitt Street, Underwood Street, Dalley Street and Queens Court.
  - The provision of street trees on Pitt Street and landscaped planters throughout Queens Court.
  - 8 bicycle spaces.
- Staged construction and use of a new commercial building containing up to 70,747m<sup>2</sup> of commercial and retail GFA, and comprising an 8-storey podium and a 45-storey tower, with the following key features:
  - A ground level entry 'Cove' lobby in the north eastern corner of the Site.
  - An elevated double height lobby with access from the 'Cove'.
  - 44 commercial office levels.
  - A total of 650 bicycle spaces and end-of-trip facilities on Level 3.
  - Three plant levels.
  - A rooftop garden terrace accessible to tenants and tenant visitors.
  - An architectural roof feature.
- Improvements to the existing Ausgrid and Telstra buildings on the Site, including treatments of the existing façades and roofscape.
- Provision of public art in various locations of the public domain, Queens Court lane, and internally within the new building.
- Extension and augmentation of services and utilities to the development, as required.

Clause 4.6 of the *Sydney Local Environmental Plan 2012* (Sydney LEP 2012) enables the consent authority to grant consent for development even though the development contravenes a development standard. The clause aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

This clause 4.6 variation has been prepared to address the variation to the maximum height prescribed for the site under clause 6.25 of the Sydney LEP 2012 and should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by Ethos Urban dated June 2021.

This clause 4.6 variation request demonstrates that compliance with the maximum height control is unreasonable and unnecessary in the circumstances of this case and that there are sufficient environmental planning grounds to justify contravention of the standard. This request is made in the context of clause 5.6 of the Sydney LEP 2012 which relates to architectural roof features.

This clause 4.6 variation request demonstrates that, notwithstanding the non-compliance with the maximum height of building control prescribed by clause 6.25 of the Sydney LEP 2012, the proposed development:

- Achieves the objective of clause 6.25 of the Sydney LEP 2012 by providing a development which aligns with the intended commercial uses of the Alfred Street, Pitt Street, Dalley Street and George Street (APDG) block while providing significant public benefit.
- Achieves the objectives of clause 4.3 of the Sydney LEP 2012 by:
  - Ensuring that the height of the development is in-keeping with the scale and character of neighbouring buildings and is of a form that will not result in any negative environmental impacts.
  - Respecting the character, appearance and scale of nearby heritage buildings.
  - Continuing to promote the sharing of views.
- Achieves the objectives of clause 5.6 of the Sydney LEP 2012 by:
  - Ensuring the architectural roof feature will not cause any adverse visual impacts nor adversely affect the amenity of neighbouring premises. Additionally, the proposed development will not impact on any significant view lines and vistas from the public domain.
  - Ensuring the architectural roof feature is a considered component in the overall proposed building design and integral in emphasising the verticality of the Soft-Core built form.
- Will deliver a compliant FSR of 16.52:1, consistent with the permitted FSR under the Sydney LEP 2012, and delivering 7,760 jobs.
- Relates only to the screening of elevator machine rooms, providing an opportunity to crown the building and extend the Soft-Core proportion of the massing, emphasising this element in the roofscape.
- Will have an appropriate impact, in terms of its scale, form and massing.
- Will promote the orderly and efficient use of land, in accordance with the objects of the *Environmental Planning and Assessment Act 1979* (the Act).

In light of the above, the consent authority can be satisfied that there is sufficient justification for the variation to the development standard, as proposed in accordance with the flexibility allowed under clause 4.6 of the Sydney LEP 2012 and in accordance with the provision of an architectural roof feature under clause 5.6 of the Sydney LEP 2012.

## 2.0 Background

The site has been subject to a long planning history, initially through the wider APDG master plan, and more recently with a site-specific planning proposal and further site-specific DCP amendment. The planning proposal received gateway determination on 22 June 2020 and was publicly exhibited with a draft Voluntary Planning Agreement (VPA) on 18 September 2020 to 16 October 2020. On 16 November 2020, Council endorsed post-exhibition amendments to the planning proposal and supporting Sydney DCP 2012 amendments and sent the planning proposal to the Department of Planning, Industry and Environment for finalisation.

While the site-specific amendments to the Sydney LEP 2012 and Sydney Development Control Plan 2012 (Sydney DCP 2012) are not yet finalised, gazettal is expected imminently. For further background, the planning proposal will amend the current APDG Clause (clause 6.25) of the Sydney LEP 2012 to:

- Establish a maximum building height of 232m to up to 44% of Block 5 (the Site).
- Establish a maximum floor space ratio of 15.02:1 (or up to 16.52:1 inclusive of the 10% additional floor space if the consent authority is satisfied that the building demonstrates design excellence).
- Permit for the purposes of calculating the floor space ratio, the inclusion of the Telstra and Ausgrid buildings.
- Transfer unused floor space from the adjacent Telstra and Ausgrid sites, with improvements proposed to both utility buildings in the form of façade and roof upgrades and new retail spaces in the Telstra building.
- Restrict development on Block 5 (the Site) to non-residential uses.
- Allow development consent to be granted only if development includes a through-site link and improvement works to the Telstra and Ausgrid Buildings.

This clause 4.6 variation request has been written in the context of these amendments, noting the imminent nature of the gazettal.



### 3.0 Development Standard to be Varied

#### 3.1 Is the Planning Control in Question a Development Standard?

The environmental planning instrument to which this variation relates is the Sydney LEP 2012. The specific clause of Sydney LEP 2012 in contention relates to clause 6.25(3)(e) which is subject to gazettal, but is reproduced as follows:

***‘Despite clause 4.3, development consent may be granted to the erection of a building with a maximum height of—***

- a) 200 metres on up to 33% of the area of block 1, or*
- b) 155 metres on up to 42% of the area of block 2, or*
- c) 185 metres on up to 24% of the area of block 3, or*
- d) 248 metres on up to 25% of the area of block 4 and 238 metres on up to 12% of the area of that block.*
- (e) 232 metres on up to 44% of the area of block 5.***

*(our emphasis)*

It is clear that clause 6.25(3) of Sydney LEP 2012 contains two development standards, being:

1. a maximum height control for a building (in this case set at 232 metres); and
2. a maximum site coverage control for a building (in this case 44% for a building with a height of 232 metres).

The maximum height control as prescribed under clause 6.25(3e) of the Sydney LEP 2012 is therefore a development standard.

#### 3.2 Variation Sought

The maximum height control established for the site under clause 6.25(3) of the Sydney LEP 2012 is 232 metres on up to 44% of the site. The proposed development comprises a commercial office building with a general height of 232 metres on 44% of the site, but across 10.4% of the site, an architectural roof feature is proposed which extends to RL 240.8 (238.1m in height).

The architectural roof feature will result in a variation to the height development standard by 6.1 metres (or 2.62%). This variation is localised to only the north western corner of the building, as illustrated in **Figure 1**. Architectural drawings providing further detail of the variation sought are provided at **Appendix A** of the SEE.

The proposed variation to the maximum height development standard for the site does not result in any additional floor space, and the roof features does not contain any gross floor area. Rather the function of the variation is to facilitate an integrated architectural roof feature which will create a consistent façade treatment that screens the lift motor rooms and associated building plant. Noting this, clause 5.6 of the Sydney LEP 2012 provides that:

*(1) The objectives of this clause are as follows—*

- (a) to allow minor architectural roof features to exceed height limits,*
- (b) to ensure that any architectural roof feature does not cause an adverse visual impact or adversely affect the amenity of neighbouring premises,*
- (c) to ensure that architectural roof features are considered in the design of a building and form an integral part of a building’s design.*

*(2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by this Plan may be carried out, but only with development consent.*

*(3) Development consent must not be granted to any such development unless the consent authority is satisfied that—*

- (a) the architectural roof feature—*
  - (i) comprises a decorative element on the uppermost portion of a building, and*
  - (ii) is not an advertising structure, and*

- (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
- (iv) will cause minimal overshadowing, and
- (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

The proposed exceedance in height due to the roof feature is provided in accordance with clause 5.6 of the Sydney LEP 2012 as set out above. While a variation under clause 4.6 may not be required due to the structure of clause 5.6, this written variation request has been prepared for completeness.



**Figure 1** Three-dimensional view of the extent of variation to the approved 232 metres height plane

Source: Woods Bagot

## 4.0 Justification for Contravention of the Development Standard

Clause 4.6(3) of the Sydney LEP 2012 provides that:

### 4.6 Exceptions to development standards

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Further, clause 4.6(4)(a) of the Sydney LEP 2012 provides that:

- (4) Development consent must not be granted for development that contravenes a development standard unless:
  - (a) the consent authority is satisfied that:

- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - (ii) *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 in which the development is proposed to be carried out, and*
- (b) *the concurrence of the Secretary has been obtained.*

Assistance on the approach to justifying a contravention to a development standard is also to be taken from the applicable decisions of the NSW Land and Environment Court in:

1. *Wehbe v Pittwater Council* [2007] NSW LEC 827.
2. *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009.
3. *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (Initial Action).
4. *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245 (Al Maha).

#### 4.1 Role of the consent authority

The role of the consent authority in considering this written request for a clause 4.6 variation has been recently explained by the NSW Court of Appeal in *Initial Action* and in *Al Maha* to require that the consent authority needs to be satisfied in relation to two matters:

- That the applicant's request has adequately addressed the matters in clause 4.6(4)(a)(i).
- That the proposed development will be in the public interest because of its consistence with the objectives of the development standard and the zone objectives.

The consent authority is required to form these two opinions first before it considers the merits of the DA, and it can only consider the merits of the DA if it forms the required satisfaction in relation to the matters. In particular, the consent authority needs to be satisfied that there are proper planning grounds to grant consent and that the contravention of the standard is justified.

This report provides the basis for the consent authority to reach the required level of satisfaction.

This clause 4.6 variation request is proposed in the context of several clauses of the Sydney LEP 2012. Relevant matters contained in clause 4.6 of the Sydney LEP 2012, with respect to the height development standard, are each addressed below. The objectives and criteria in clause 5.6 of the Sydney LEP 2012 have also been identified for the purposes of justifying the architectural roof feature which is subject to the height variation. While a numerical height of building control is not identified in clause 4.3, rather under clause 6.25, the underlying objectives of clause 4.3 have been considered given they provide guidance on maximum heights under the Sydney LEP 2012.

#### 4.2 Clause 4.6(3)(a): Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

In *Wehbe*, Preston CJ of the Land and Environment Court provided relevant assistance by identifying five traditional ways in which a variation to a development standard had been shown as unreasonable or unnecessary. However, it was not suggested that the types of ways were a closed class.

While *Wehbe* related to objections made pursuant to *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1), the analysis can be of assistance to variations made under clause 4.6 where subclause 4.6(3)(a) uses the same language as clause 6 of SEPP 1 (see *Four2Five* at [61] and [62]).

As the language used in subclause 4.6(3)(a) of the Sydney LEP 2012 is the same as the language used in clause 6 of SEPP 1, the principles contained in *Wehbe* are of assistance to this clause 4.6 variation request.

The five methods outlined in *Wehbe* include:

- The objectives of the standard are achieved notwithstanding non-compliance with the standard (**First Method**).

- The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary (**Second Method**).
- The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable (**Third Method**).
- The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable (**Fourth Method**).
- The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone (**Fifth Method**).

This clause 4.6 variation request establishes that compliance with the development standard is unreasonable or unnecessary in the circumstances because the objectives of the height development standard are achieved notwithstanding the non-compliance with the standard (First Method).

#### 4.2.1 Clause 6.25 objective

As previously noted, the maximum height development standard for the site is stipulated under clause 6.25 of the Sydney LEP 2012. As such, this section provides justification as to how the proposed variation aligns with the objective of clause 6.25. The objective as contained under clause 6.25 of the Sydney LEP 2012 requires development to provide for:

*... additional building height on parts of certain sites (within the area bounded by Alfred Street, Pitt Street, Dalley Street and George Street (known as the "APDG block")) if the development of the site provides for publicly open space, lanes and other links through the site.*

The development, including the proposed height variation, continues to align with the objective as listed under clause 6.25 for the following reasons:

- The design facilitates the redevelopment of the site to achieve a high quality urban built form.
- The proposal will have minimal impact on views and will result in no overshadowing to the protected public spaces as stipulated under clause 6.19 of the Sydney LEP 2012.
- The existing permeability of the site will be improved through the extension of Queens Court which will provide pedestrians with a connection from Dalley Street to Underwood Street and also provide future workers and visitors with areas suitable for outdoor dining and a place to meet.
- Enhanced pedestrian connections will be created through the ground plane due to proposed porous corner of Pitt and Underwood Streets.
- The development as a whole will provide 70,746m<sup>2</sup> of commercial floor space which will contribute to the globally competitive CBD.

#### 4.2.2 The underlying objectives or purposes of the development standard are achieved notwithstanding non-compliance with the standard

Clause 6.25(3) establishes the maximum height for the site, while clause 4.3 establishes the broader objectives for the height of buildings in the City of Sydney Local Government Area. As such, the objectives of the height of buildings development standard under clause 4.3 are also addressed in this section. They include:

- (a) to ensure the height of development is appropriate to the condition of the site and its context,*
- (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,*
- (c) to promote the sharing of views,*
- (d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas,*
- (e) in respect of Green Square –*

- (i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and
- (ii) to ensure the built form contributes to the physical definition of the street network and public spaces.

The proposal is assessed against the objectives for the height of buildings development standard below for completeness. As this clause 4.6 variation request is also related to an architectural roof feature, the objectives of clause 5.6 have also been assessed below.

### Clause 4.3 – Height of Buildings Development Standard

The proposal's consistency against the objectives as listed under clause 4.3 of the Sydney LEP 2012 are listed in **Table 1** below.

**Table 1** Proposal's consistency with Clause 4.3 objectives

Objective	Comment
Objective 4.3 (1)(a): to ensure the height of development is appropriate to the condition of the site and its context	The site is located in the Sydney CBD, one of the highest density centres in Australia. The site also sits within the APDG Block which forms an important part of the financial, professional and business services core of Central Sydney. Importantly, directly north of the site, an architectural roof feature was approved on the site at 182 George Street and 33-35 Pitt Street (referred to as the Lendlease CQ Tower), which included a 15 metre variation to the development standard. The height proposed and subject to this clause 4.6 variation request aligns with the approved architectural roof feature of the Lendlease CQ Tower to the north. Notwithstanding the non-compliance with the height of buildings standard, the proposal meets the aims of objective 4.3(1)(a).
Objective 4.3 (1)(b): to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas	There are several heritage items in the vicinity of the site, including the Cliveden Commercial Building and the former Northumberland Insurance Building. The location of the proposed architectural roof feature on the north western corner of the site at the uppermost levels of the tower will ensure no surrounding heritage items are impacted.  Overall, the proposed variation continues to maintain appropriate height transitions between new development and the surrounding heritage items.
Objective 4.3 (1)(c): to promote the sharing of views	The proposed variation will not result in any significant additional impacts to views from surrounding buildings or public places. As previously mentioned, the Lendlease CQ Tower which is under construction, includes an architectural roof feature with a height that aligns with the top of the roof feature proposed as part of this clause 4.6 variation. The CQ Tower rooftop feature includes a useable landscaped rooftop. View impacts from the CQ Tower rooftop terrace to the proposed roof feature are considered negligible given primary and more highly valued views are to the north and the significant setback as a result of the BMU which wraps the perimeter of the western rooftop feature on CQ Tower. The outlook from the commercial office levels below the roof feature of the CQ Tower will be improved by way of appropriate screening proposed as part of the proposed roof feature.  In addition, the component of the development which exceeds the height of buildings development standard, being the proposed architectural roof feature, does not significantly impact existing public or private views as: <ul style="list-style-type: none"> <li>• The site is not positioned in any significant view corridors.</li> <li>• The existing development on the site already inhibits views across the site, and the new building will be to a much greater height which is largely above surrounding building heights.</li> <li>• The additional height associated with the architectural roof feature will not block any significant views for surrounding residences.</li> <li>• The additional height (given its location and height relative to the ground plane) will not be discernible.</li> </ul>
Objective 4.3(1)(d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas	Objective 4.3 (1)(d) is not relevant since the site is not within Green Square Town Centre and is within the centre of the Central Sydney catchment area.
Objective 4.3(1)(e) in respect of Green Square— (i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and	Objective 4.3 (1)(e) is not relevant since the site is not within Green Square Town Centre.



Objective	Comment
(ii) to ensure the built form contributes to the physical definition of the street network and public spaces.	

### Clause 5.6 – Architectural roof feature

The proposal's consistency against the objectives as listed under clause 5.6 of the Sydney LEP 2012 are listed in Table 2 below.

**Table 2 Proposal's consistency with Clause 5.6 objectives**

Objective	Comment
Objective (a): to allow minor architectural roof features to exceed height limits	The height exceedance of 6.1 metres (2.62%) is contained within the north western corner of the building and will impact 10.4% of the site. As such, the variation is minor in nature.
Objective (b): to ensure that any architectural roof feature does not cause an adverse visual impact or adversely affect the amenity of neighbouring premises	While buildings immediately surrounding the site are predominately mid-rise, there is an increasing number of taller high-rise towers immediately surrounding the site including 1 Alfred Street, Lendlease CQ Tower, 200 George Street and 210-220 George Street. Additional height on the neighbouring tower to the north (the Lendlease CQ Tower) has been approved for the purposes of an architectural roof feature, with the majority of commercial office levels are contained generally at a height lower than the proposed architectural roof feature. The proposed roof feature subject to this clause 4.6 variation request will result in a height that aligns with the height of the Lendlease CQ Tower. The roof feature will provide adequate screening to limit view impacts from the Lendlease CQ Tower's commercial floors. The useable component of the landscaped rooftop of the CQ Tower will be setback to reduce visual impacts from tenants of the building, with the roof feature unlikely to be substantially visible. Given the proposed tower is taller than most other buildings within the site's surroundings, the amenity of other neighbouring premises will not be compromised by the architectural roof feature.
Objective (c): to ensure that architectural roof features are considered in the design of a building and form an integral part of a building's design	The architectural roof feature will be an integral part of the building form, function and overall design. The feature presents a unique opportunity for the design to emphasise the Soft-Core which provides soft services to tenancies distributed vertically throughout the tower's commercial floorplates. It will provide a consistent façade as seen on lower levels to screen the elevator machine rooms and effectively crown the building.

### 4.3 Clause 4.6(3)(b): Environmental planning grounds to justify contravening the development standard

Clause 4.6(3)(b) of the Sydney LEP 2012 requires the contravention of the development standard to be justified by demonstrating that there are sufficient environmental planning grounds to justify the contravention. The focus is on the aspect of the development that contravenes the development standard, not the development as a whole. Therefore, the environmental planning grounds advanced in the written request must justify the contravention of the development standard and not simply promote the benefits of carrying out the development as a whole (*Initial Action* at [24]).

In *Four2Five*, the Court found that the environmental planning grounds advanced by the applicant in a Clause 4.6 variation request must be particular to the circumstances of the proposed development on that site [60]. In this instance, the relevant aspect of the development is the architectural roof feature on the western component of the tower.

There are sufficient environmental planning grounds to justify contravention of the height of buildings development standard in this specific instance, as described under the relevant headings below.

#### Design excellence

In accordance with Section 3.5 of *City of Sydney Competitive Design Policy 2013*, an International Architectural Design Competition for the 55 Pitt Street project was held in late-2020/early-2021. The purpose of the design competition was to select the scheme that exhibited the highest quality architectural, landscape and urban design solution for the site in response to the Competition Brief.

Following the six competitor's submissions and presentations, the Jury invited two finalists (Tzannes and Woods Bagot + SHoP) to provide further refinements on their proposals. Subsequently, the Jury selected Woods Bagot + SHoP as the winning scheme given the proposal presented a distinctive character, and the strongest marketability and commercial presence noting the objectives of the Competition Brief.

Notably, one of the matters for consideration which was requested by the Jury before finalising their decision was the consideration of rooftop amenity and landscaping for tenant use. Woods Bagot + SHoP worked on improving the usability and amenity of the roof, providing an accessible rooftop space, with the lift and associated plant heightened to service this space. The proposed roof feature will provide adequate screening to the lift motor room, providing an opportunity to crown the building, and also extending the architecture of the Soft-Core, emphasising the verticality of this element in the skyline.

### **Architectural roof feature**

Clause 5.6 of Sydney LEP 2012 provides that architectural roof features are able to exceed the height limit for the site, provided certain criteria are met:

- (3) Development consent must not be granted to any such development unless the consent authority is satisfied that—*
- (a) the architectural roof feature—*
    - (i) comprises a decorative element on the uppermost portion of a building, and*
    - (ii) is not an advertising structure, and*
    - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and*
    - (iv) will cause minimal overshadowing, and*
  - (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.*

This criterion is addressed below.

#### **(i) comprises a decorative element on the uppermost portion of a building**

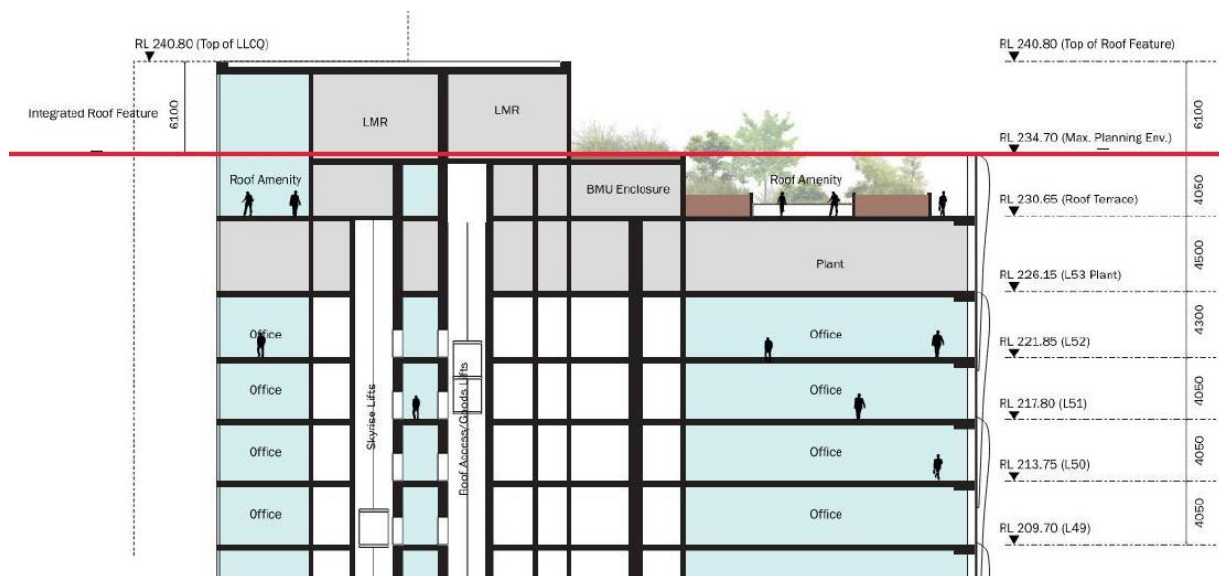
The architectural roof feature has been intentionally designed in a way to emphasise the verticality of the building form, acting as an extension of the strong linear façades, and appropriately concealing the building services. The feature will provide an opportunity to crown the building and extend the Soft-Core proportion of the massing, providing an interesting addition to the skyline. In contrast to the lower eastern wing of the tower, the western component asserts its independence with an alternative top of building resolution.

#### **(ii) is not an advertising structure**

The proposed architectural roof feature is not an advertising structure and is not proposed to be used as such at any time in the future.

#### **(iii) does not include floor space area and is not reasonably capable of modification to include floor space area**

The proposed architectural roof feature does not include any floor space, with all floor space located below the maximum height limit. As shown in **Figure 2**, the only elements which are contained within the rooftop feature include the lift motor room and plant material. The increased lift height and subsequent overrun will allow the lift to access the rooftop level, ensuring tenants and their visitors are able to use the rooftop terrace and maximise the amenity and usability of the building as a whole. The screening and all GFA associated with the rooftop terrace is located below the maximum height limit, as illustrated in **Figure 2**.



**Figure 2** Section through roof showing RL234.70 (232 metres) height plane and extent of height variation

Source: Woods Bagot

#### (iv) will cause minimal overshadowing

The proposed architectural roof feature will not result in any significant overshadowing, particularly given it is a small component of the overall built form. Sun eye diagrams are included in **Appendix B** of the SEE and demonstrate that the impact will be minimal.

#### (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

The architectural roof feature discretely screens equipment for servicing the building such as the lift motor room, of which will not be perceivable from ground floor and not obvious from neighbouring buildings.

### Environmental impacts

The proposed development, despite the contravention of the maximum height development standard, does not cause significant additional environmental impact which would render it incompatible with its surrounding land uses and ensures the proposal is appropriate for the context of the site. In particular, there will be no significant additional overshadowing impacts to the surrounding public realm or existing residential receivers surrounding the site. There will also be no significant additional impacts to the existing residential receivers surrounding the site in terms of overlooking and privacy.

### Consistency with Objects of the EP&A Act

In *Initial Action*, the Court stated that the phrase “*environmental planning grounds*” is not defined but would refer grounds that relate to the subject matter, scope and purpose of the EP&A Act, including the objects in section 1.3 of the Act. While this does not necessarily require that the proposed development should be consistent with the objects of the Act, nevertheless, as set out in **Table 3** the proposal is broadly consistent with each object, notwithstanding the proposed variation of the maximum height development standard.

**Table 3** Assessment of consistency of the proposed development with the Objects of the EP&A Act

Object	Comment
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources	The proposed height variation will promote the social and economic welfare of the community by enabling a higher performing building with enhanced amenity catering to tenants seeking to position themselves in the Sydney CBD. The proposed development as a whole will deliver 700 Full Time Equivalent (FTE) construction jobs and approximately 7,060 operational jobs when the building is fully occupied. This is a significant contribution to an area which is well serviced by public transport services.



Object	Comment
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment	The proposed variation allows for building services to be located above the maximum height limit. It will facilitate the usability of the rooftop terrace by future tenants and visitors, providing a highly sustainable development outcome. Furthermore, the height variation will have no negative impact on environmental and social considerations and will support the economic health of the Sydney CBD.
(c) to promote the orderly and economic use and development of land	<p>The site is significantly underutilised and outdated, occupied by older commercial office buildings. The site is strategically located within the Sydney CBD, in proximity to existing heavy rail, bus and ferry services as well as the future Martin Place Metro Station.</p> <p>When realised, the proposal will deliver 70,746m<sup>2</sup> of employment generating floor space. The proposed development will deliver approximately 700 Full Time Equivalent FTE construction jobs and approximately 7,060 operational jobs when the building is fully occupied.</p> <p>Strict compliance with the maximum building height control would be a lost opportunity to enable improved usability of the rooftop which will cater to future tenants and visitors and will add to the diversity of functional rooftops in Sydney's CBD.</p> <p>The proposal is a balanced and orderly design outcome that responds to the unique characteristics of the site and does not represent the over intensification of land as it does not comprise habitable commercial office floor space above the height limit.</p>
(d) to promote the delivery and maintenance of affordable housing	The proposal relates to non-residential uses, and therefore this object is not relevant.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats	The proposal will not have any impact on threatened species or ecological communities.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)	The proposal will not impact built or cultural heritage.
(g) to promote good design and amenity of the built environment	The proposal will promote good design and amenity of the built environment by exhibiting a high quality and sculptured design which adds to the architectural diversity of the Sydney CBD skyline.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants	The proposal will comply with the relevant provisions of the BCA and will promote the health and safety of occupants.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	This object is not relevant to this proposal, however, the proposal has adhered to the required planning processes for the site and scale of development, and implements the strategic planning priorities for employment growth in Central Sydney.
(j) to provide increased opportunity for community participation in environmental planning and assessment	The proposed development will be publicly exhibited in accordance with the requirements of Council's Community Participation Plan.

### 4.3.1 Conclusion on clause 4.6(3)(b)

There are sufficient environmental planning grounds to justify contravening the development standard as:

- The contravention will enable the design to respond to the comments made by the Jury during the design competition process which requested further consideration into the amenity of the rooftop and landscaping for tenant use.
- The roof feature responds to the criteria for architectural roof features contained in clause 5.6 of the Sydney LEP 2012, comprising a decorative top of building element which does not comprise floor space, screens plant, and is free of signage.
- The roof feature is consistent with the built form of the adjacent Lendlease CQ Tower which is currently under construction.

### 4.4 Clause 4.6(4)(a)(i): The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3)

This written request adequately and comprehensively addresses the matters required to be demonstrated by subclause (3).

### 4.5 Clause 4.6(4)(a)(ii): In the public interest because it is consistent with the objectives of the zone and development standard

In *Initial Action* at [27], it was held that it is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest. The proposal is in the public interest because it is consistent with the objectives of the development standard and the objectives of the zone.

#### Consistency Caselaw

Consistency has been defined throughout caselaw including the following Land and Environment Court cases:

- *Addenbrooke v Woollahra Municipal Council* [2008] NSWLEC 190
- *Schaffer Corporation v Hawkesbury City Council* (1992) 77 LGRA 21
- *Raassis v Randwick City Council* [2019] NSWLEC 1040
- *Abrams v Council of City of Sydney* [2018] NSWLEC 1648
- *Kingsland Developments v Parramatta Council* [2018] NSWLEC 1241
- *Dem Gillespies v Warringah Council* (2002) 124 LGERA 147

In these cases, consistency is considered to be different to that of 'achievement'. The term 'consistent' has been considered in a judgements of the Court in relation to zone objectives and has been interpreted to mean "compatible" or "capable of existing together in harmony" (*Dem Gillespies v Warringah Council* (2002) 124 LGERA 147; *Addenbrooke Pty Ltd v Woollahra Municipal Council* [2008] NSWLEC 190) or "not being antipathetic" (*Schaffer Corporation v Hawkesbury City Council* (1992) 77 LGRA 21). Whichever interpretation is adopted the test of "consistency", is less onerous than that of "achievement".

#### 4.5.1 Consistency with objectives of the development standard

The proposed development is consistent with the objectives of the height development standard, for the reasons discussed in **Section 4.2.2** of this report.

#### 4.5.2 Consistency with objectives of the zone

The proposed development is consistent with the objectives of the B8 Metropolitan Centre Zone, as it:

- Provides for a development that is of an intensity consistent and commensurate with the site's location in the Sydney CBD.

- Provides for a diversity of land uses complementary to Sydney's global status and will contribute to the strength of Sydney's status as a world city.
- Facilitates significant public benefit in the form of a public lane in the extended Queens Court, a new activated ground plane, and the upgrade of two utility buildings which contribute to the APDG precinct.
- Will provide commercial workspace which is well connected to major transport infrastructure such as heavy rail, bus and ferry services as well as the future Martin Place Metro Station.

#### 4.6 Other Matters for Consideration

Under clause 4.6(5), in deciding whether to grant concurrence, the Director-General must consider the following matters:

- (5) *In deciding whether to grant concurrence, the Secretary must consider:*
- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
  - (b) *the public benefit of maintaining the development standard, and*
  - (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

These matters are addressed in detail below.

##### 4.6.1 Clause 4.6(5)(a): Whether contravention of the development standard raises any matter of significance for State or regional environmental planning

The variation of the development standard does not raise any matter of significance for State or regional planning. As relevant to State and regional planning, the proposal is consistent with the Greater Sydney Regional Plan – A Metropolis of Three Cities and the Eastern City District Plan in that it:

- Supports and contributes to growing a stronger and more competitive Harbour CBD by providing new commercial office floor space and jobs in Central Sydney.
- Provides access to jobs within a location which is well serviced by primary transport modes such as bus, train, ferry and future metro services.
- Provides workers with access to a green rooftop which can be utilised throughout the working week.
- Exhibits design excellence, contributing to places within the Eastern City District that are enjoyable, attractive and functional.

Furthermore, the variation of the maximum height development standard does not result in any significant adverse impacts on the surrounding area, or surrounding residences, and enables a high quality design that provides a useable rooftop terrace for tenants.

##### 4.6.2 Clause 4.6(5)(b): The public benefit of maintaining the development standard

As outlined in **Section 4.3** above, there are sufficient environmental planning grounds to warrant contravention of the development standard and it is considered to be in the public interest for the variation to be supported in this case. As the architectural roof feature is provided partially in response to a recommendation of the Competition Jury for rooftop access in the proposal, it is considered appropriate and a positive strategy to provide access to the rooftop while screening lift overruns and plant. The proposed roof feature is provided in full compliance with clause 5.6 of the Sydney LEP 2012, and will ultimately provide an interesting and high quality addition to the skyline while improving the amenity and usability of the building for future tenants. As such, the proposed variation is in the public interest and necessary, and there is no foreseeable public benefit in maintaining the development standard.

##### 4.6.3 Clause 4.6(5)(c): Any other matters required to be taken into consideration by the Director-General before granting concurrence.

There are no other matters required to be taken into consideration.

## 5.0 Conclusion

The assessment above demonstrates that compliance with the maximum height development standard contained in clause 6.25(3) of the Sydney LEP 2012 (to be amended) is unreasonable and unnecessary in the circumstances of the case and that the justification is well founded. It is considered that the variation allows for the orderly and economic use of the land in an appropriate manner, whilst also allowing for a better outcome in planning terms.

This clause 4.6 variation request demonstrates that, notwithstanding the non-compliance with the development standard, the proposed development:

- Achieves the objective of clause 6.25 of the Sydney LEP 2012 by continuing to provide a development which aligns with the commercial uses of the APDG block while providing significant public benefit.
- Achieves the objectives of clause 4.3 of the Sydney LEP 2012 by:
  - Ensuring that the height of the development is in-keeping with the scale and character of neighbouring buildings and is of a form that will not result in any adverse environmental impacts.
  - Respecting the character appearance and scale of nearby heritage buildings.
  - Continuing to promote the sharing of views.
- Achieves the objectives of clause 5.6 of the Sydney LEP 2012 by:
  - Ensuring the architectural roof feature will not cause any adverse visual impacts nor adversely affect the amenity of neighbouring premises. Additionally, the proposed development will not impact on any significant view lines and vistas from the public domain.
  - Ensuring the architectural roof feature is a considered component in the overall proposed building design and integral in emphasising the verticality of the built form.
- Relates only to the screening of lift motor rooms and overruns, providing an opportunity to crown the building and extend the Soft-Core proportion of the massing, emphasising this element in the roofscape.
- Will have an appropriate impact, in terms of its scale, form and massing.
- Will promote the orderly and efficient use of land, in accordance with the objects of the Act.

The proposed development will maximise employment generation on the site consistent with the metropolitan and district plans as well as Council's Local Strategic Planning Statement. Therefore, the DA may be approved with the variation as proposed in accordance with the flexibility allowed under clause 4.6 and in accordance with clause 5.6 of the Sydney LEP 2012.

## **Item 6.**

### **Approved Variations to Development Standards Reported to the Department of Planning, Industry and Environment**

**File No:** S040864

#### **Summary**

This report is to inform CSPC of development applications determined where there has been a variation in standards under Clause 4.6 of the Sydney Local Environmental Plan 2012 in the last quarter.

#### **Recommendation**

It is resolved that the subject report be received and noted.

#### **Attachments**

**Attachment A.** Variations Approved by Council and Reported to the Department of Planning, Industry and Environment for the Period 1 July 2021 to 30 September 2021.

**Background**

1. On 24 June 2004 the Central Sydney Planning Committee (CSPC) delegated authority to the City of Sydney for the determination of development applications involving a variation to a development standard and costing less than \$50 million.
2. In accordance with planning circular PS 08-014 the City of Sydney is required to submit to the department a quarterly report of variations approved. A copy of this submission has been provided to the Central Sydney Planning Committee on a quarterly basis since October 2008.
3. The City also maintains a publicly available register of all variations to development in accordance with above circular.
4. Planning Circular PS 20-002 requires that a quarterly report of variations approved under delegation from Council is also to be provided to a meeting of Council.
5. Twenty-seven applications were approved where there has been a variation to development standards during the period of 1 July 2020 to 30 September 2021. Details of the applications are provided in Attachment A.

**Relevant Legislation**

6. Environmental Planning and Assessment Act 1979
7. City of Sydney Act 1988

**GRAHAM JAHN AM**

Director City Planning, Development and Transport

James Farrar, Information and Systems Officer

# **Attachment A**

**Variations Approved by Council and  
Reported to the Department of Planning  
and Environment for the Period 1 July 2021  
to 30 September 2021**



DA Number	No	Street name	Suburb	Zoning of land	Development standard to be varied	Extent of variation	Type of development	Justification of variation	Date Determined
D/2021/127	210	Wilson Street	NEWTOWN	R1 General Residential	Height	14.6%	1: Residential - Alterations & additions	Proposal will not have unreasonable impact on the amenity of the adjoining properties or the street scape	23/07/2021
D/2021/336	133	Baptist Street	REDFERN	R1 General Residential	Height, FSR	19.6%, 12.98%	1: Residential - Alterations & additions	Existing dwelling exceeds controls, proposal does not include works outside of existing envelope, no adverse amenity impacts.	14/07/2021
D/2021/362	55	Ferry Road	GLEBE	R1 General Residential	FSR	2.9%	1: Residential - Alterations & additions	Proposal will not have unreasonable impact on the amenity of the adjoining properties or the street scape	22/07/2021
D/2021/436	93	Stanley Street	DARLINGHURST	R1 General Residential	Height	3.9%	1: Residential - Alterations & additions	Minor variation to control and is consistent with existing height of dwelling	22/07/2021
D/2021/446	160	Barcom Avenue	DARLINGHURST	R1 General Residential	Height	8%	1: Residential - Alterations & additions	Proposal will not have unreasonable impact on the amenity of the adjoining properties or the street scape	01/07/2021
D/2021/504	15	Arcadia Road	GLEBE	R1 General Residential	Height	10.25%	1: Residential - Alterations & additions	Proposal will not have unreasonable impact on the amenity of the adjoining properties or the street scape	15/09/2021
D/2021/548	112	Surrey Street	DARLINGHURST	R1 General Residential	Height	37.8%	1: Residential - Alterations & additions	Existing building in breach of control. Proposal will not increase the height of the building or add substantial bulk or massing when viewed from the public domain.	17/08/2021
D/2021/562	402	Abercrombie Street	DARLINGTON	R1 General Residential	Height	10.42%	1: Residential - Alterations & additions	Proposal will not have unreasonable impact on the amenity of the adjoining properties or the street scape	12/07/2021
D/2021/591	28	Napier Street	PADDINGTON	R1 General Residential	FSR	9%	1: Residential - Alterations & additions	Proposal will not give rise to any additional or adverse environmental or amenity impacts.	15/07/2021
D/2021/598	101	Womerah Avenue	DARLINGHURST	R1 General Residential	Height	10%	1: Residential - Alterations & additions	Rear dormer contained within existing building envelope. Addition will not increase the existing height of the building.	16/07/2021
D/2021/684	241	Crown Street	DARLINGHURST	B4 Mixed Use	FSR, Height	26.76%, 10%	1: Residential - Alterations & additions	The proposal is considered not to have unreasonable impact on the amenity of the adjoining properties or the street scape	01/09/2021
D/2021/784	69	Stewart Street	PADDINGTON	R1 General Residential	Height	1.04%	1: Residential - Alterations & additions	Proposal will not have unreasonable impact on the amenity of the adjoining properties or the street scape	16/08/2021
D/2021/848	51	Boyce Street	GLEBE	R1 General Residential	Height	9.7%	1: Residential - Alterations & additions	Complies with the building height and zoning objectives	27/09/2021

DA Number	No	Street name	Suburb	Zoning of land	Development standard to be varied	Extent of variation	Type of development	Justification of variation	Date Determined
D/2021/905	586	Bourke Street	SURRY HILLS	R1 General Residential	Height	3.77%	1: Residential - Alterations & additions	Proposal will not have unreasonable impact on the amenity of the adjoining properties or the street scape	13/09/2021
D/2021/694	78	Quarry Street	ULTIMO	R1 General Residential	Height	5%	3: Residential - New second occupancy	Proposal will not have unreasonable impact on the amenity of the adjoining properties or the street scape	20/09/2021
D/2021/746	14	Cook Road	CENTENNIAL PARK	R1 General Residential	FSR	23%	3: Residential - New second occupancy	The proposed variation is consistent with the controls and streetscape character.	27/09/2021
D/2021/545	32	Bulwara Road	PYRMONT	R1 General Residential	FSR	48%	3: Residential - New second occupancy	No amenity impact, no increase in intensity of use of site, maintaining setbacks consistent with neighbours	04/08/2021
D/2021/703	25	Arundel Street	GLEBE	R1 General Residential	Motorcycle parking	100%	6: Residential - Other	No motorcycle parking spaces are proposed, which is acceptable as the site is in a highly accessible location	02/09/2021
D/2021/397	288	Wilson Street	DARLINGTON	R1 General Residential	Motorcycle parking	100%	6: Residential - Other	No motorcycle parking spaces are proposed, which is acceptable as the site is in a highly accessible location	08/07/2021
D/2021/802	142	Carillon Avenue	NEWTOWN	B4 Mixed Use	Motorcycle parking	100%	6: Residential - Other	Proposal aligns with the City's Transport and Access policies, which encourages the use of sustainable transport options	01/09/2021
D/2020/1288	38	Mountain Street	ULTIMO	B4 Mixed Use	FSR, Height	78%, 18%	8: Commercial / retail / office	Proposal will not have unreasonable impact on the amenity of the adjoining properties or the street scape	22/09/2021
D/2021/570	101	York Street	SYDNEY	B8 Metropolitan Centre	Height	104.48%	8: Commercial / retail / office	The building provides an existing contravention of 103.3% of the development standard. The application seeks a marginal increase in height of 0.7m. The written request has demonstrated the height objectives are achieved notwithstanding the non-compliance and proposal is consistent with the objectives of the zone. Compliance with the height development standard is considered unreasonable and unnecessary in the circumstances of the subject application.	20/07/2021
D/2021/600	309	Kent Street	SYDNEY	B8 Metropolitan Centre	FSR	0.89%	8: Commercial / retail / office	Proposed development maintains the approved FSR of 10.1:1 and GFA of 56,394sqm (variation of 0.89%) under previous Modification Application D/2017/528/D. The proposed additional FSR	26/07/2021

DA Number	No	Street name	Suburb	Zoning of land	Development standard to be varied	Extent of variation	Type of development	Justification of variation	Date Determined
								of 7.57sqm was already included in the GFA calculation of the entire building under D/2017/528/D. Notwithstanding, a Clause 4.6 variation request was submitted as the development exceeds the FSR development standard.	
D/2021/876	14	Buckland Street	CHIPPENDALE	B4 Mixed Use	Height, FSR	40.8%, 22%	8: Commercial / retail / office	Height is same as existing non-compliance. FSR is reduced	15/09/2021
D/2020/1386	413	Sussex Street	HAYMARKET	B8 Metropolitan Centre	Motorcycle parking, Height	100%, 19.75%	9: Mixed	Absorbs permissible FSR from adjoining heritage items/height above 55m roof feature. The proposed affordable housing bonus is applicable to the site even though the site contains heritage items. Motorcycle parking is not required as in sustainable metropolitan zone	22/07/2021
D/2020/1426	20	Allen Street	WATERLOO	B4 Mixed Use	Height	27.40%	9: Mixed	Consistent with the objectives of the zone and the development standard. No unreasonable amenity / streetscape impacts	01/09/2021
D/2020/916	18	Darlinghurst Road	POTTS POINT	B2 Local Centre	Height	28.90%	9: Mixed	Proposal will not have unreasonable impact on the amenity of the adjoining properties or the street scape	22/07/2021

**Item 7.****Summary of Applications to be Reported to the Central Sydney Planning Committee**

**File No:** S042755-02

**Summary**

The purpose of this report is to inform members of the Central Sydney Planning Committee of development applications being assessed that are to be determined by the Central Sydney Planning Committee. The list of current applications containing the target meeting date is provided in Attachment A.

**Recommendation**

It is resolved that the subject report be received and noted.

**Attachments**

- |                      |   |
|----------------------|---|
| <b>Attachment A.</b> | Applications to be Reported to the Central Sydney Planning Committee                                |
| <b>Attachment B.</b> | Statistical Information about Applications to be Reported to the Central Sydney Planning Committee. |

**Background**

1. There are currently 13 development applications and 2 modification applications (as at 27th February 2022) to be considered by Central Sydney Planning Committee CSPC. These applications are listed in Attachment A.
2. The current total stated value of all development applications currently under assessment is \$3.42 billion. The value of applications to be considered by the CPSC is \$2.58 billion with an average of 175 days from time of lodgement (as at 27th February 2022)
3. For comparison, there are 373 development applications outstanding to be determined under delegation or to be referred to the Local Planning Panel with a total value of \$835 million and with an average of 89 days from the time of lodgement. A further 192 development related applications are also under assessment including applications to modify or review a determination, subdivision certificates, heritage works and footway applications.
4. Trend graphs in Attachment B, show numbers and value of applications as well as average age of development applications to be considered by the CSPC at end of each quarter. The graphs represent the period from third quarter 2019/20 to second quarter 2021/22.

**GRAHAM JAHN AM**

Director City Planning, Development and Transport

James Farrar, Information Systems Officer

# **Attachment A**

**Applications to be Reported to the Central  
Sydney Planning Committee**

#### Applications to be considered by the Central Sydney Planning Committee

DA Number	Address	Lodged	Proposal	Cost \$m	Target meeting date
D/2021/665	49A-57 Pitt Street SYDNEY NSW 2000	16/06/2021	Site excavation and the construction of a mixed-use development with commercial land uses including a 56-storey podium and tower, to a maximum height of RL240.8m AHD, a new through site link between Dalley Street and Underwood Street and upgrade works to adjacent buildings. The application is an Integrated DA requiring approval under the Water Management Act 2000.	\$602	17/03/2022
D/2021/319	284 Wyndham Street ALEXANDRIA NSW 2015	08/04/2021	Construction of a mixed-use development including a two-storey commercial podium above the existing approved retail podium and two residential towers containing 255 residential apartments (including 92 dual-key apartments) with associated communal outdoor space and parking. Proposal also includes footpath widening on Bourke Street and Botany Road and land dedication on Bourke Street.	\$132	07/04/2022
D/2021/690	189-197 Kent Street SYDNEY NSW 2000	24/06/2021	Amendment of approved detailed design for a mixed-use development, including deletion of connecting link between towers, increased height of southern tower to 110 metres, increased ground level setbacks and through site link width, additional landscape areas and trees, reconfigured and relocated residential apartments, communal open spaces and commercial tenancies.	\$98	07/04/2022
D/2021/696	189-197 Kent Street SYDNEY NSW 2000	25/06/2021	Amendment of approved concept building envelopes for a mixed-use development, including deletion of connecting link between towers, increased height of southern tower to 110 metres and increased through site link width.	\$98	07/04/2022

DA Number	Address	Lodged	Proposal	Cost \$m	Target meeting date
D/2021/1504	372B Pitt Street SYDNEY NSW 2000	23/12/2021	Stage One (concept) DA for a new building envelope with a maximum height of RL 195.5 (approximately 56 storeys). Indicative hotel and residential land uses and retail premises at ground floor, and vehicular and loading access from Carruthers Place is proposed, with up to 3 basement levels proposed for excavation.	\$156	20/04/2022
D/2021/1245	3 Joynton Avenue ZETLAND NSW 2017	22/10/2021	Construction of an integrated community facility and public primary school (Kindergarten to Year 6) and associated works. This is a State Significant Development application, delegated to the City of Sydney for assessment and the Central Sydney Planning Committee for determination.	\$56	12/05/2022
D/2021/1058	38 Pirrama Road PYRMONT NSW 2009	22/09/2021	Alterations and additions to commercial development, including refurbishment and use of the REVY A and B buildings for office, new addition with basement excavation between the two buildings for office/food and drink premises, two new additions (plant equipment/tech pavilion) on Darling Island Road and a new addition (plant equipment) to Pirrama Road. The application is Integrated Development, requiring approval of Heritage Council of NSW under the Heritage Act 1977 and WaterNSW under the Water Management Act 2000.	\$71	12/05/2022
D/2016/989/C	205-213 Euston Road ALEXANDRIA NSW 2015	09/12/2021	Section 4.55(2) modification of consent to alter the height, setback, and size of the building envelopes, and alterations to associated conditions.  This application will supersede a previous Section 4.55(2) application (D/2016/989/B) that was publicly notified in April-May 2021. This application is to better align the building envelopes with the amended detailed design that is currently in front of the NSW Land and Environment Court.	\$0	12/05/2022



DA Number	Address	Lodged	Proposal	Cost \$m	Target meeting date
D/2019/817/B	23-27 Bourke Road ALEXANDRIA NSW 2015	05/09/2021	Section 4.55(2) modification including amendments to increase the height of the concept building envelope.	\$0	12/05/2022
D/2021/977	23-27 Bourke Road ALEXANDRIA NSW 2015	06/09/2021	Demolition, remediation, tree removal and construction of a 4-storey commercial building with basement car-parking and associated landscaping. Section 4.55 application D/2019/817 to modify the concept building envelope is being assessed concurrently. This is an Integrated Development Application requiring approval under the Water Management Act 2000.	\$82	12/05/2022
D/2021/894	6-12 O'Riordan Street ALEXANDRIA NSW 2015	15/08/2021	Demolition, excavation, remediation and construction of a mixed-use building up to 16 storeys containing office and retail with basement level car parking. The development is in association with a Voluntary Planning Agreement previously exhibited - which includes dedication of land and works for the future Transport Place. This is an Integrated Development application seeking approval under the Water Management Act 2000 to dewater the site.	\$141	23/06/2022
D/2021/1178	52-54 O'Riordan Street ALEXANDRIA NSW 2015	12/10/2021	Concept development application for two building envelopes with a maximum height of 19.8m and 1 basement level for commercial uses.	\$133	23/06/2022
D/2021/251	14-18 Lee Street HAYMARKET NSW 2000	19/03/2021	Demolition of existing office buildings and staged construction of two commercial towers (35 and 37 storeys) containing office and retail uses, basement parking (121 car spaces, end of trip facilities) and loading facilities (48 servicing spaces) with proposed basement connections to the adjoining Atlassian and future "over station development". Works are proposed to part of Henry Deane Plaza and	\$854	23/06/2022

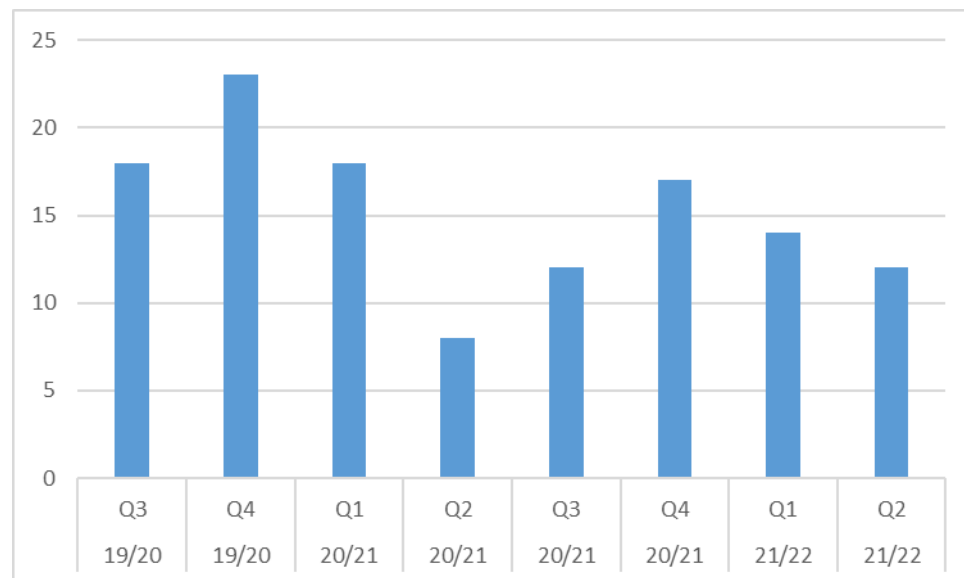
DA Number	Address	Lodged	Proposal	Cost \$m	Target meeting date
			above the existing Devonshire Street tunnel for an above ground connection to the future 'over station development'.		
D/2021/1484	330 Botany Road ALEXANDRIA NSW 2015	20/12/2021	Concept Development Application for a mixed-use development including concept envelopes up to approximately 40m in height, with vehicular access from the yet to be constructed Green Square to Ashmore Connector Road and indicative uses comprising basement car-parking, ground level retail and commercial tenancies, affordable housing (275 apartments) and public benefits including dedication of land for footpath widening to each of its three street frontages.	\$119	18/08/2022
D/2021/1415	903-921 Bourke Street WATERLOO NSW 2017	03/12/2021	Demolition of structures, construction of 6 x mixed-use buildings containing residential apartments (376 units) above commercial uses. The application is proposed to be Staged in 2 construction stages. The proposal includes public domain and site landscaping works and subdivision. The application is Integrated Development, pursuant to the Water Management Act 2000 and the Heritage Act 1977.	\$218	20/10/2022

List as at 27 February 2022.

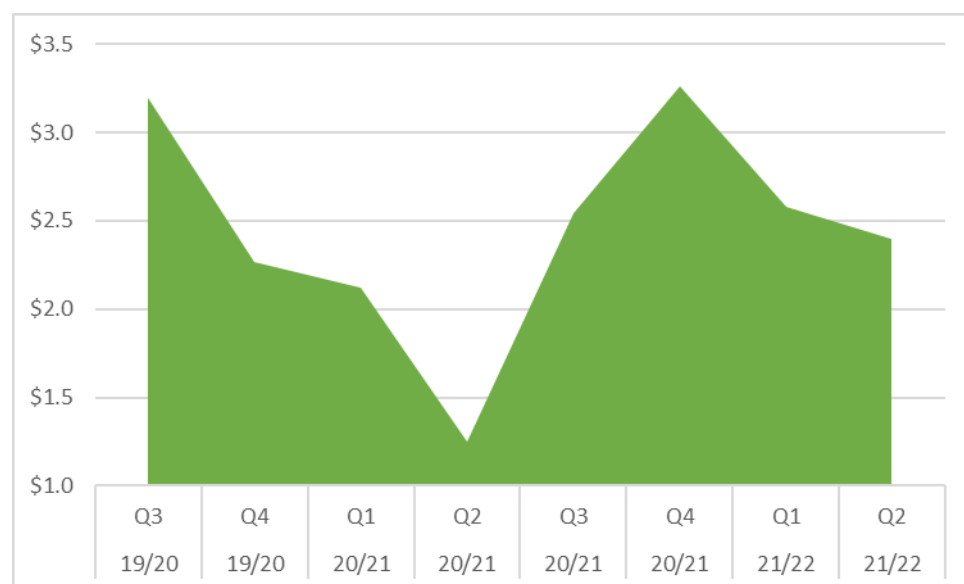
# **Attachment B**

**Statistical Information about Applications  
to be Reported to the Central Sydney  
Planning Committee**

### Number of applications to be reported to the CSPC



### Value of DAs under assessment to be reported to the CSPC (\$ billion)



**Average age of DAs under assessment to be reported to the CSPC (total days)**

