

**Item 7.****Development Application: 161 Castlereagh Street, Sydney****File No.: D/2018/269****Summary****Date of Submission:** 20 March 2018**Applicant:** Tristan Pidd, CBRE**Architect:** BVN**Owner:** GPT Funds Management Limited and The Trust Company (RE Services) Limited**Cost of Works:** \$325,324**Proposal Summary:** Remove a staircase and infill two voids on Level 29 with a structural slab resulting in additional floor space of 35.82sqm.

The application is referred to the Local Planning Panel for determination as the development varies the FSR standard by more than 10%.

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

- (i) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
- (ii) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)
- (iii) City of Sydney Development Contributions Plan 2015.

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected Drawings

## Recommendation

It is resolved that:

1. The variation sought to Clause 4.4 Floor Space Ratio development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be supported in this instance; and
2. Consent be granted to Development Application D/2018/269 subject to the conditions set out in Attachment A to this report.

## Reasons for Recommendation

The reasons for the recommendation are as follows:

- (A) The proposed development is consistent with section 4.15 of the Environmental Planning and Assessment Act 1979 in that it satisfies the provisions of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012 and for the reasons outlined in the report submitted to the Local Planning Panel.
- (B) The proposed additional internal floor space of 35.82 sqm results in a 1% increase in gross floor area over that previously approved increasing the FSR for the site from 14.51:1 to 14.52:1.
- (C) The increase in floor space has no impact on any external building envelope on the site.
- (D) The additional floor space will have no adverse impact on the amenity of the locality.

## Background

### The Site and Surrounding Development

1. A site visit was carried out by staff on 11 April 2018.
2. The subject site is described as Lot 1 in DP 1183173, no. 161 Castlereagh Street, Sydney (it has an alternative address of no. 242 Pitt Street). The site is located within the city block bounded by Market Street to the north, Castlereagh Street to the east, Park Street to the south and Pitt Street to the west. It is irregular in shape and has dual frontages to Pitt Street and Castlereagh Street, with a land area of 4,487sqm.
3. Redevelopment of the site was completed in 2013 and it is presently occupied by a 43 level office tower (ANZ tower), a three storey office/retail building, a four storey heritage listed building with a two storey addition above (Legion House), a pavilion building on the northern end and a public plaza (Liberty Place). Legion House, the three storey podium building at no. 167 and the public plaza have frontage to Castlereagh Street. There is a through-site link providing pedestrian connection between Pitt and Castlereagh Streets.
4. The subject proposal relates to Level 29 of the ANZ tower.
5. Photos of the site and surrounds are provided below:

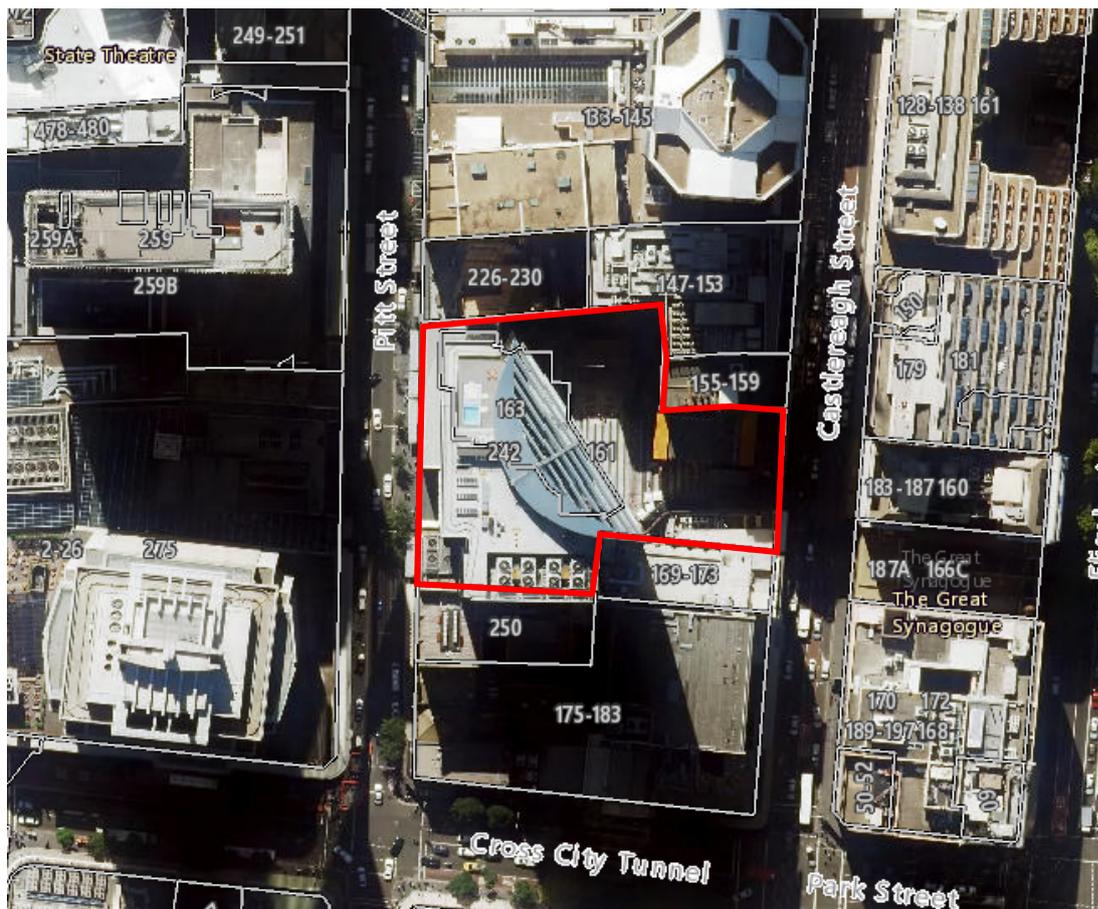


Figure 1: Aerial image of subject site and surrounding area



**Figure 2:** Site viewed from Castlereagh Street



**Figure 3:** Looking at the western void on Level 29 with stair and balustrades to be removed, and void filled in



**Figure 4:** Looking at the eastern void on Level 29 with balustrade to be removed, stair retained and void to be filled in

## Proposal

6. The application seeks consent to infill the eastern and western voids on Level 29 of the ANZ tower with a structural slab resulting in an increase of 35.82sqm of additional floor space. The associated works will include:
  - (a) Remove vertical fire curtain
  - (b) Remove balustrade
  - (c) Remove horizontal fire curtain
  - (d) Remove stair leading up to Level 29
  - (e) Infill slab
  - (f) Retain void on Level 28 and balustrade. Patch existing gap in balustrade where stair previously met void edge (new balustrade to match remaining balustrade).
7. The increase in gross floor area is as a result of removing stairs and filling in void areas that are not counted as floor space under the definition of Gross Floor Area under Sydney Local Environmental Plan 2012.

8. Plans of the proposed development are provided below.

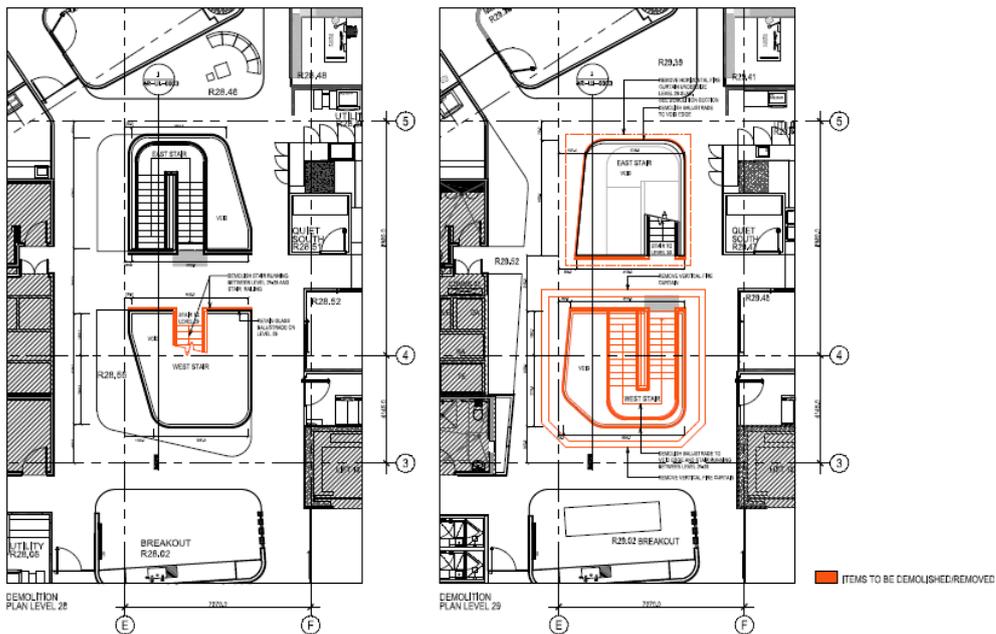


Figure 5: Proposed demolition to Levels 28 and 29 shown in red N

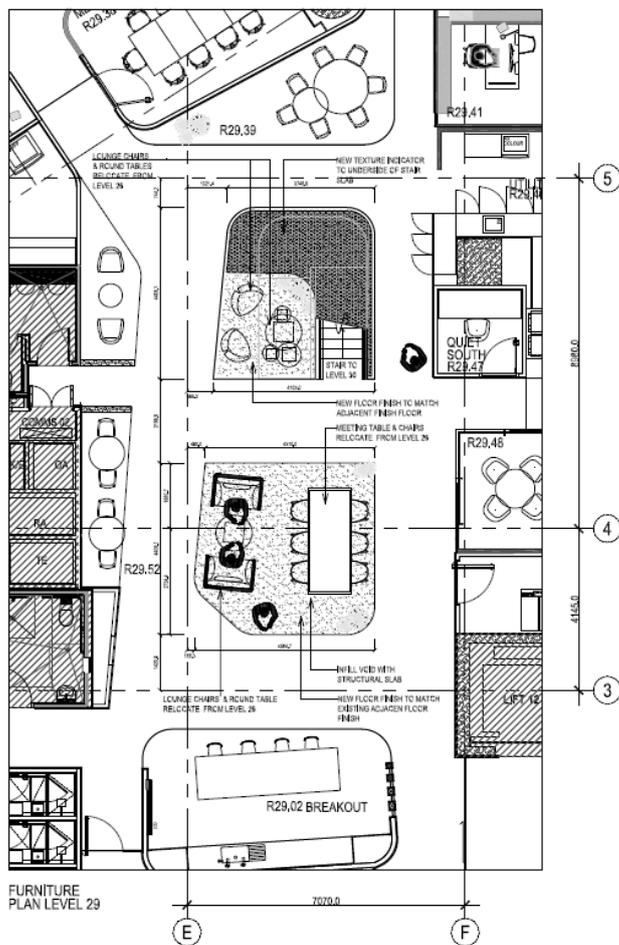


Figure 6: Proposed layout to Level 29

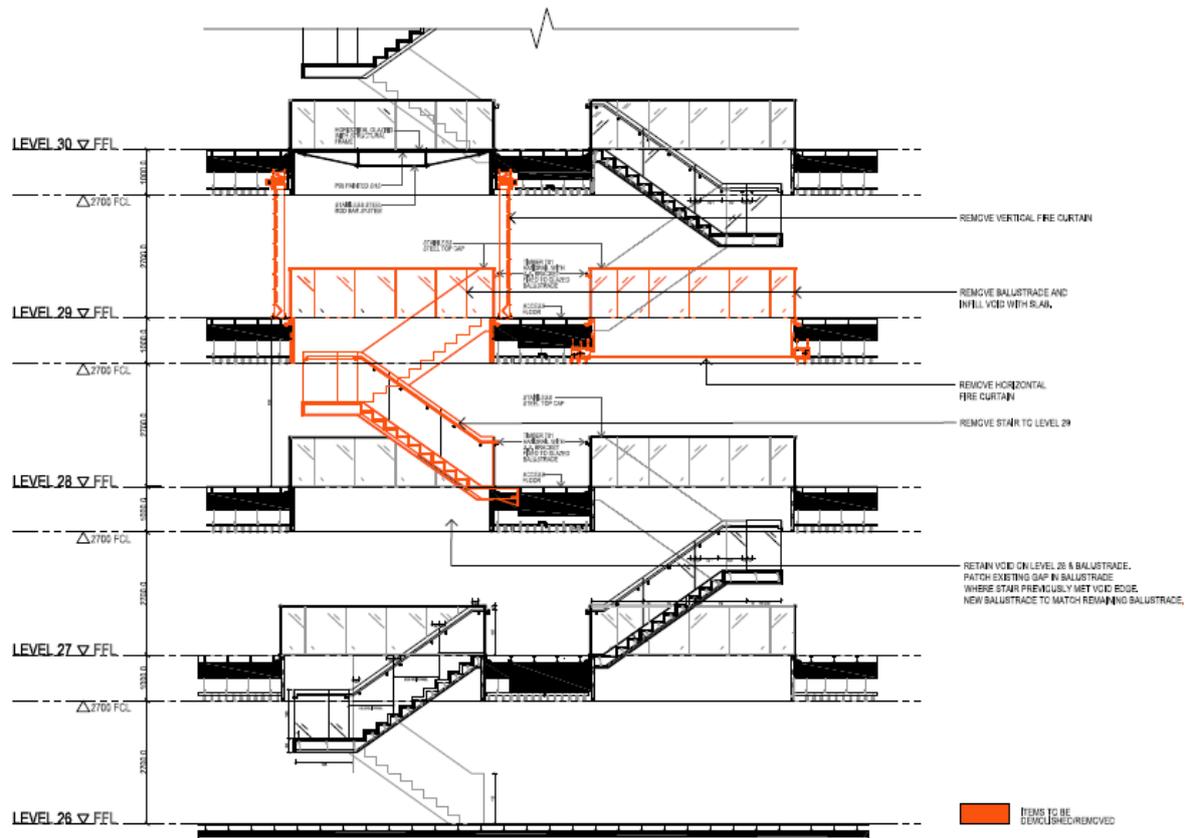


Figure 7: Section showing proposed demolition to Levels 28 and 29 in orange

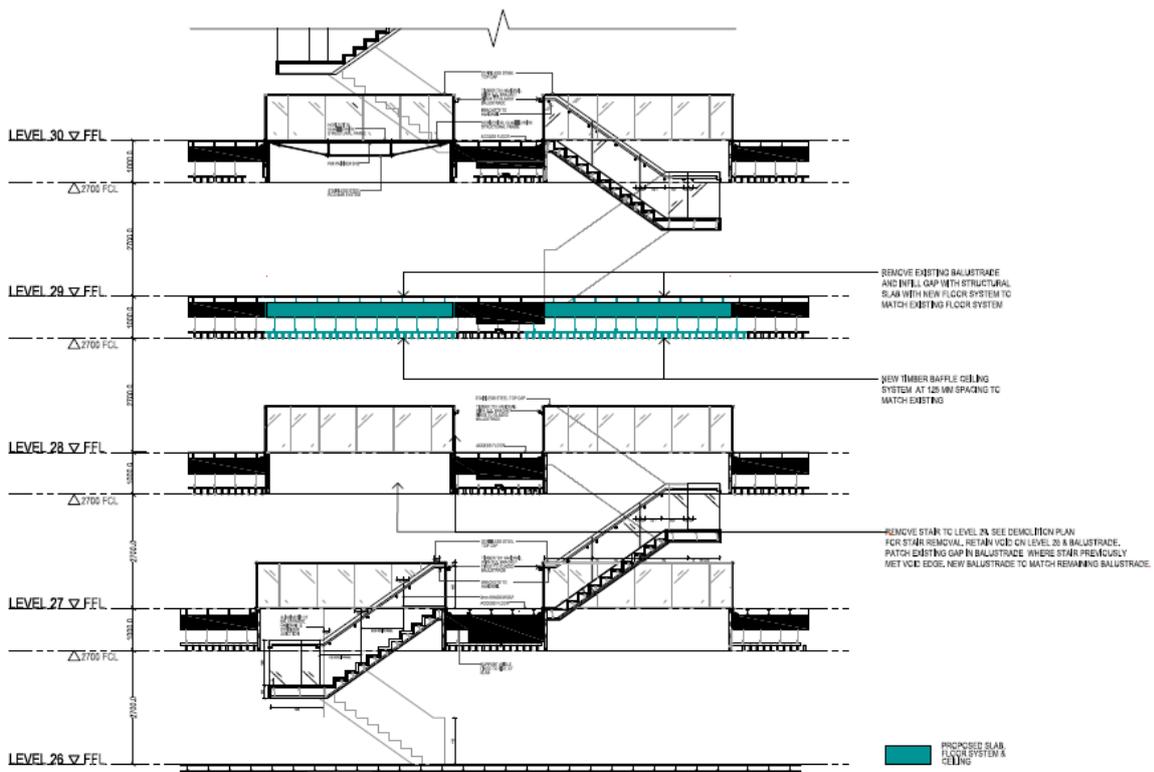


Figure 8: Section showing proposed works to Level 29 in green

## History Relevant to the Development Application

9. On 9 January 2002, the Central Sydney Planning Committee (CSPC) approved a Stage 1 Development Application (DA) (D/2001/654) for a 40 storey commercial tower development on this site.
10. On 12 December 2002, the CSPC approved a new Stage 1 DA (D/2002/748) which expanded the site to include the Grand United Building (GUB) site. The approved development comprised a commercial tower to a height of 168m (RL 190.1) with four levels of basement parking for 116 vehicles.
11. On 27 February 2003, the CSPC approved a Stage 2 DA (D/2002/842) for a 43 storey commercial tower, with ground and basement retail, a mid-block link from Castlereagh Street to Pitt Street, three basement levels for 116 car spaces, retention and restoration of Legion House, retention of the GUB, a new pedestrian link into Piccadilly Plaza and staged facade works, demolition of all other buildings and site amalgamation into one title, excluding the GUB site.
12. On 6 December 2007, the CSPC approved a Stage 2 DA (D/2007/1792) that essentially followed the previous approval, but removed the GUB from the development site and reduced the parking to 90 cars spaces. This original consent approved a FSR of 14.2:1.
13. A number of Section 96 applications to D/2007/1792 have been lodged and determined including D/2007/1792/H, D/2007/1792/M and D/2007/1792/N being the most recent modifications discussed below.
14. D/2012/402 approved by the CSPC on 10 May 2012 for office use and internal fitout works to Levels 26 to 37. The proposed fitout included internal interconnecting stairs with void areas around the stairs.
15. D/2007/1792/H approved by the CSPC on 1 December 2011 approved a maximum FSR increase for the site from 14.2:1 to 14.51:1 (Condition (16) Floor Space Ratio). New condition (16A) Heritage Floor Space required confirmation that 1,218sqm of heritage floor space was allocated (purchased and transferred) to the development, being that floor space in excess of 14.2:1.
16. D/2007/1792/M to reconfigure the internal floor plate to provide floor space within an approved void area on Levels 1 and 2 of the 167 Castlereagh Street podium building was approved on 3 May 2013. No change to Condition (16) Floor Space Ratio which specifies a maximum FSR of 14.51:1 (as a result of new voids created at other levels).
17. D/2007/1792/N to delete the recently approved redistribution of floor space on Levels 1 and 2 of the 167 Castlereagh Street podium building was approved on 16 May 2013. No change to Condition (16) Floor Space Ratio which specifies a maximum FSR of 14.51:1.

## Economic/Social/Environmental Impacts

18. The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:
  - (a) Environmental Planning Instruments and DCPs.

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

19. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.
20. The Sydney Harbour Catchment Planning Principles must be considered in the carrying out of development within the catchment. The key relevant principles include:
  - (a) protect and improve hydrological, ecological and geomorphologic processes;
  - (b) consider cumulative impacts of development within the catchment;
  - (c) improve water quality of urban runoff and reduce quantity and frequency of urban run-off;
  - (d) protect and rehabilitate riparian corridors and remnant vegetation.
21. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development. The development is consistent with the controls contained with the deemed SEPP.

**Sydney LEP 2012**

22. The site is located within the B8 - Metropolitan Centre zone. The proposed use is defined as office premises and is permissible.
23. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

## Compliance Tables

<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
4.3 Height of Buildings	Yes	There is no change proposed to the height of the existing tower building. All proposed works are internal to this building.
4.4 Floor Space Ratio	No	<p>A maximum FSR of 12.5:1 (base 8:1 plus 4.5:1 accommodation floor space) is permitted for the site.</p> <p>A maximum FSR of 14.51:1 is permitted for the site under condition (16) Floor Space Ratio of D/2007/1792/N which equates to a floor area of 65,103.4sqm. The currently proposed addition of 35.82sqm. will result in a FSR of 14.52:1 which equates to a floor area of 65,139.11sqm.</p> <p>See discussion under the heading Issues.</p>
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the development standard prescribed under Clause 4.4 Floor Space Ratio of Sydney LEP 2012.</p> <p>See discussion under the heading Issues.</p>

<b>Part 6 Local Provisions - Height and Floor Space</b>	<b>Compliance</b>	<b>Comment</b>
Division 1 Additional floor space in Central Sydney	Yes	See discussion under Heritage Floor Space under the heading Issues.

**Sydney DCP 2012**

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

3. General Provisions	Compliance	Comment
3.14 Waste	Yes	A condition has been recommended for the proposed development to comply with the relevant provisions of the City of Sydney Code for Waste Minimisation in New Developments 2005.

**Issues****Heritage Floor Space**

25. Clause 6.11 of SLEP 2012 specifies that utilisation of certain additional floor space requires allocation of heritage floor space.

26. However clause 6.11(4) indicates that:

“No heritage floor space is required to be allocated in the case of development that is an alteration or addition to an existing building if the development does not increase the gross floor area of the building by more than 100 square metres.”

27. The proposal will increase the gross floor area of the existing building by 35.82sqm. Therefore, heritage floor space is not required to be allocated in this instance.

**Floor Space Ratio**

28. The LEP in force at the time of the most recent modification to Condition 16 Floor Space Ratio under D/2007/1792/H was the Central Sydney Local Environmental Plan 1996. The definition of Floor space area under SLEP 1996 is as follows:

**Floor space area** of a building means the sum of the gross horizontal areas of each floor of the building contained within the inner faces of the outer walls measured at a height of 1.5 metres above the floor, including the space occupied by internal walls, staircases, lobbies, corridors and toilets, but excluding:

(a) the horizontal cross section area of lift shafts and vertical service ducts measured between the wall faces internal to the lift shaft or duct,

(b) any underground space permanently set aside within the building for:

- (i) parking (other than spaces used for public car parking),
- (ii) the unloading or loading of vehicles, including ramps or other means of access,
- (iii) grocery and convenience retailing located on one floor,

- (iv) storage space that is linked to a residential dwelling or serviced apartment by an appropriate strata plan,
  - (v) cinemas, recital halls and theatres for public use and other similar public uses or facilities,
- (c) any space for the accommodation of mechanical or electrical plant or equipment servicing the building,
- (d) any terraces and balconies with walls less than 1.5 metres high,
- (e) void spaces in a floor,
- (f) floor area set aside for communal recreational use within a residential building (not exceeding 5 per cent of the floor space area of the building, calculated on the basis that this area has not been excluded).

The current definition under SLEP2012 is as follows:

**gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,

but excludes:

- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement:
  - (vi) storage, and
  - (vii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

29. The consent for the site is and remains essentially for commercial and retail uses with one residential apartment. The calculation of floor space for these types of uses is generally the same between SLEP 1996 and SLEP 2012.

30. The SLEP 2012 Floor Space Ratio for Buildings map specifies a maximum floor space ratio (FSR) for the site of 8:1. Clause 6.4 Accommodation floor space of SLEP 2012 specifies that the building is eligible for an additional 4.5:1 accommodation floor space resulting in a maximum FSR of 12.5:1 permitted for the site.
31. A maximum FSR of 14.51:1 is permitted for the site under Condition (16) Floor Space Ratio of D/2007/1792/N which equates to a floor space area of 65,103.4sqm The currently proposed addition of 35.82sqm will result in a FSR of 14.52:1 which equates to a floor area of 65,139.11sqm
32. The applicant is relying on the provisions of Clause 4.6 of SLEP 2012 to seek a variation to the FSR standard.
33. Clause 4.6 allows the consent authority to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.
34. In order to demonstrate whether strict numerical compliance is unreasonable and unnecessary in this instance, the proposed exception to the FSR standard has been considered against the objectives and provisions of Clause 4.6 below.
35. A written request, pursuant to Clause 4.6(4)(a)(i) has been submitted to Council justifying the proposed contravention of the FSR development standard on the following basis:
  - (a) The proposed development is consistent with the objectives of the B8 Metropolitan Centre zone.
  - (b) Compliance with the development standard is unreasonable given that the existing development has previously been approved with an FSR of 14.51:1 which demonstrates an existing non-compliance with the FSR standard. The proposed works will include a minor increase in the gross floor area of the building by 35.82sqm and will have no undue impact on the streetscape or surrounding development.
  - (c) The proposed development results in an increase in FSR from 14.51:1 to 14.517:1 which represents a 1.005% increase from the current FSR. As such, the proposed development is representative of a minor increase from the existing non-compliance with Clause 4.4 of SLEP 2012.
  - (d) The proposal entails infill of an existing stair void on Level 29. The proposal will not impact upon the bulk and scale of the existing site as the works will be internal.
  - (e) The proposed development will integrate with the existing built form and will not impact on the amenity of the subject site or surrounding locality.
  - (f) The proposed development will not intensify the use of the site.

36. It is considered that in this instance, strict compliance with the floor space ratio development standard specified by clause 4.4 of SLEP 2012 is unreasonable and unnecessary pursuant to Clause 4.6(4)(a)(ii) because:
- (a) The proposal is consistent with the objectives of the B8 Metropolitan Centre zone in that it:
    - (i) Provides for the pre-eminent role of business and office use
    - (ii) Provides for a minor intensification of the land use
    - (iii) Is within walking distance of public transport and is near cycle tracks.
  - (b) The proposal is consistent with the objectives of the floor space ratio development standard as:
    - (i) It provides additional office floor space to meet anticipated future need
    - (ii) Will not alter the built form of the development
    - (iii) The minor increase in intensity can be supported by existing infrastructure
    - (iv) The additional floor space will have no adverse impact on the amenity of the locality.
37. It is considered that the written statement provided by the applicant has sufficiently justified that strict numerical compliance with the floor space ratio development standard is unreasonable and unnecessary in this instance.
38. The proposed additional 35.82sqm of floor space is considered acceptable as it will not result in any adverse amenity impacts. The proposed additional floor space results in a 0.05% increase in gross floor area over that previously approved.
39. The increase has no impact on any external building envelope on the site and is purely internal.
40. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the floor space ratio development standard and it is recommended that a Clause 4.6 exemption be granted.
41. A condition of consent indicates the new approved FSR.

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

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

#### **Suitability of the site for the Development**

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

### **Internal Referrals**

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

### **Notification, Advertising and Delegation (No Notification)**

46. In accordance with Schedule 1, the proposed development is not required to be notified or advertised development under the Sydney DCP 2012. As such the application was not notified as it is by way of scale, character and operation is likely to have minimal or acceptable impacts.

### **Public Interest**

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

### **S61 Contribution**

48. The cost of the development is in excess of \$200,000 and is therefore subject to a development levy pursuant to the Central Sydney (Section 61) Contributions Plan 2015. An appropriate condition has been included in the recommendation of this report.

### **Relevant Legislation**

49. The Environmental Planning and Assessment Act 1979.

### **Conclusion**

50. The proposal is to remove a staircase and infill two voids on Level 29 with a structural slab resulting in additional floor space of 35.82sqm.
51. The proposed additional floor space results in a 1% increase in gross floor area over that previously approved increasing the FSR for the site from 14.51:1 to 14.52:1.
52. The increase in floor space has no impact on any external building envelope on the site and is purely internal.
53. The additional floor space will have no adverse impact on the amenity of the locality.

### **GRAHAM JAHN, AM**

Director City Planning, Development and Transport

Claire Elek, Specialist Planner