Item 4.

Development Application: 1-11 Oxford Street, Paddington - D/2020/297

File No.: D/2020/297

Summary

Date of Submission:	1 April 2020; with amendments and additional information received on 12 June, 10 July, 23 July, 8 August, 12 August, 7 September and 17 September 2020.
Applicant:	Central Element Pty Ltd
Architect/Designer:	Tonkin Zulaikha Greer Architects Pty Ltd
Owner:	CE Boston Hotels Pty Ltd
Cost of Works:	$32,687,152
Zoning:	The site is located in the B2 Local Centre zone. The proposal is defined as a mixed-use development and is permissible with consent in the zone.
Proposal Summary:	Partial demolition of existing structures, retention of existing facades, supporting walls and foyer stairs, and construction of a 6-storey mixed use development with two basement levels. The application also includes a signage strategy, landscape works including the removal of trees, and associated public domain works. The proposed uses include 101 hotel rooms, a medical facility, a basement entertainment venue to be used as a multipurpose venue for performance, creative and cultural uses, a ground floor restaurant/cafe, and a rooftop restaurant/bar. The application is integrated development requiring the approval of Heritage NSW under the Heritage Act 1977. General Terms of Approval have been issued by Heritage NSW and form part of the recommended conditions under Schedule 3 of Attachment A. As an integrated development, this application was notified and advertised for 28 days between 9 April 2020 and 9 May 2020 in accordance with the City's Community Participation Plan 2019. A total of 32 submissions were received (26 objections including 1 petition, 5 support, 1 comment).

As the application received in excess of 25 unique submissions by way of objection, it is a 'contentious development' and determination is required by the Local Planning Panel.

The majority of objections raised concern with the potential use of Marshall Street park to facilitate redevelopment of the site. In response, it is confirmed with the City's Construction Liaison Unit that the use of the park will not be supported. Two (2) work zones can be established on the two (2) street frontages instead. A condition is also recommended to clearly exclude the use of the Marshall Street park to facilitate the redevelopment, except for the installation of the relocated substation.

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)

Attachments:

A. Recommended Conditions of Consent

B. Selected Drawings

Recommendation

It is resolved that consent be granted to Development Application No. D/2020/297 subject to the conditions of consent set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

(A) The development, subject to conditions, is consistent with the objectives of the B2 Local Centre zone.

(B) The development is consistent with the site-specific provisions for 1-11 Oxford Street Paddington under Clause 6.52 of Sydney Local Environmental Plan 2012 and the accompanying Section 6.3.18 of Sydney Development Control Plan 2012.

(C) The development, subject to conditions, will maintain the structural integrity and heritage significance of the state heritage item, the Busby's Bore, located underneath the site.

(D) The development, subject to conditions, will maintain the structural integrity and heritage significance of the adjoining heritage items - Rose Terrace (as a collective) and the retained portion of the existing building within the site.

(E) The development satisfies Clause 6.21 of Sydney Local Environmental Plan 2012 in that it demonstrates design excellence in terms of architectural design, materials and detailing appropriate to the existing building and its context.

(F) The development is respectful to the character and design of the existing building, which is identified as a contributory building to the Paddington Urban heritage conservation area.

(G) The development is consistent with the character and principles identified in the locality statement for Oxford Street Paddington.

(H) The development is within a Local Centre area and the hours of operation, subject to conditions, are consistent with the objectives and provisions of Sydney Development Control Plan 2012 Section 3.15.

Background

The Site and Surrounding Development

1. A site visit was carried out by staff in April and July 2020.

2. The site is commonly known as 1-11 Oxford Street, Paddington with a legal description of Lots 1 and 2, DP 130269, and Lot A, DP 377984.

3. The site is an irregularly shaped block located at the corner of Oxford Street and South Dowling Street. It has a 52m frontage to Oxford Street, a 27m frontage to South Dowling Street, and a 3m splay corner at the intersection of these streets.

4. The site has an area of approximately 1,574m² with a slight slope from the south-eastern corner towards the intersection of South Dowling Street and Oxford Street, while the Oxford Street frontage is relatively flat.

5. The existing three-storey Federation Free Style building was originally constructed in 1911 as a picture theatre and was formerly the Academy Twin Cinema. The building underwent substantial internal alterations in the late 1960s to accommodate the twin cinema complex. More recently, in February 2019, the 2 auditoriums were approved for internal alterations and temporary use as a private film and television screening space for Foxtel.

6. Despite successive remodelling, the building retains some original elements, including the original cinema entrance on the splay corner, the configuration of the main staircase, and the narrow band of rooms along the Oxford Street and South Dowling Street facades. The building is not a heritage item, but it is identified as a contributory building to the Paddington Urban heritage conservation area (C50).

7. Surrounding the site are a combination of residential and commercial land uses. St Vincent's Hospital, professional medical suites and the University of Notre Dame are located across Oxford Street to the north. The Darlinghurst Courthouse and the National Art School are located further northwest. A mixture of 2-3 storey retail premises and shop top housing are located to the northeast. A 3-storey residential flat building is located immediately east, and the Palace Verona cinema and the UNSW Art and Design campus are located further southeast. The Beauchamp Hotel, a 3-storey heritage listed pub, is located to the west across South Dowling Street.

8. Immediately to the south is the Marshall Street pocket park and the Rose Terrace, which features 5 groups of terraces constructed around a common triangular green - the Rose Terrace garden. The terraces are 2 storey Victorian Georgian style constructed in the mid-1870s. The 5 terrace groups are individually heritage listed as 1-17 Rose Terrace (I1102), 2-20 Rose Terrace (I1103), 260-262 South Dowling Street (I1105), 264-276 South Dowling Street (I1106), and 278-282 South Dowling Street (I1107).

9. Underneath the site is the Busby's Bore, which is both a state heritage item (SHR 00568) and a local heritage item (I1).

10. Photos of the site and surrounds are provided below:

Figure 1: Aerial image of subject site and surrounding area

Figure 2: Site viewed from the intersection of Oxford Street and Barcom Avenue

Figure 3: Site viewed from Oxford Street

Figure 4: Site viewed from South Dowling Street

Figure 5: View of Marshal Street park (foreground), the front facades of 260-262 South Dowling Street (background) and the existing rear wall of the subject building on site (left)

Proposal

11. Approval is sought for partial demolition of structures, retention of facades, supporting walls and foyer stairs, and construction of a 6-storey mixed use development with two basement levels consisting of:

    (a) Basement Levels 1 and 2:

        (i) A medical facility

        (ii) An entertainment venue

    (b) Ground Floor:

        (i) Entry to medical facility on Oxford Street

        (ii) Entry to entertainment venue on Oxford Street

        (iii) Entry to hotel

        (iv) Restaurant and cafe

        (v) Relocation of substation

(c) Levels 1 - 5:

(i) 101 hotel rooms

(ii) Rooftop restaurant/bar

12. The application also includes:

(a) a signage strategy for 8 signs;

(b) associated landscaping and public domain work; and

(c) dedication of land along the southern boundary to the adjoining Rose Terrace dwellings via an easement to allow the continued use of part of the site as their private open space after the redevelopment is complete.

13. Selected drawings of the proposed development are provided below.

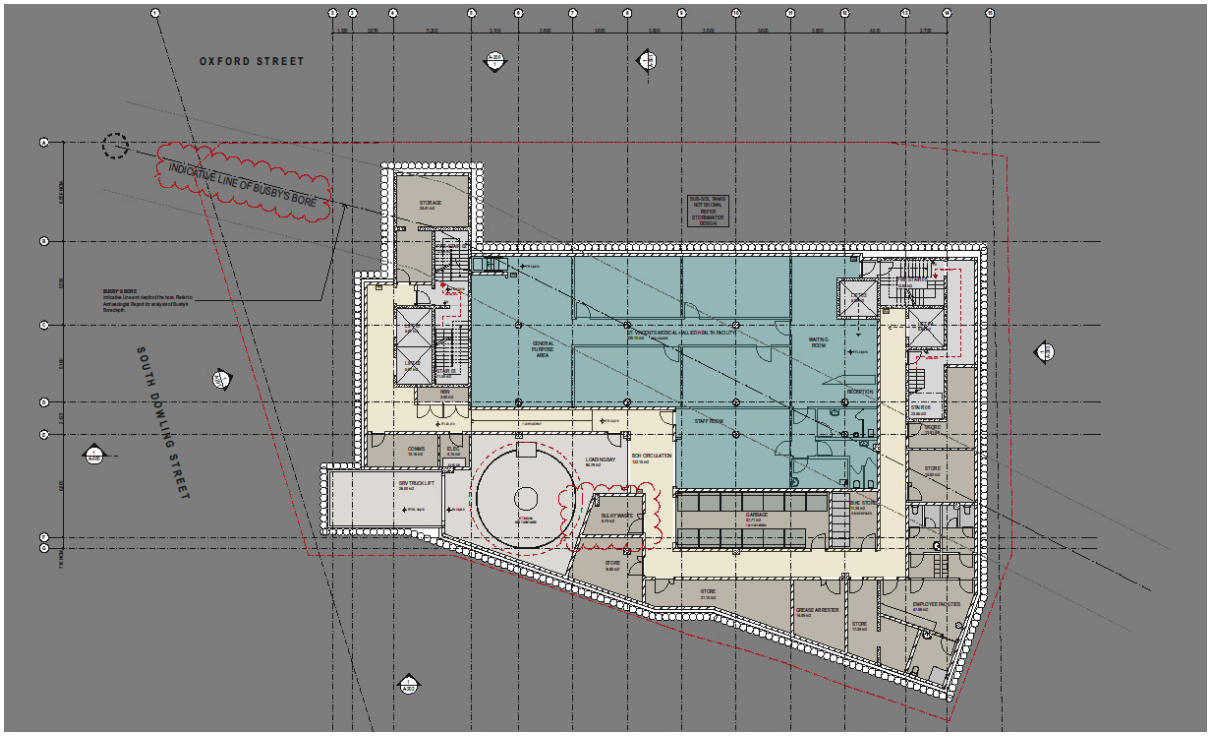

Figure 6: Proposed basement 2 floor plan

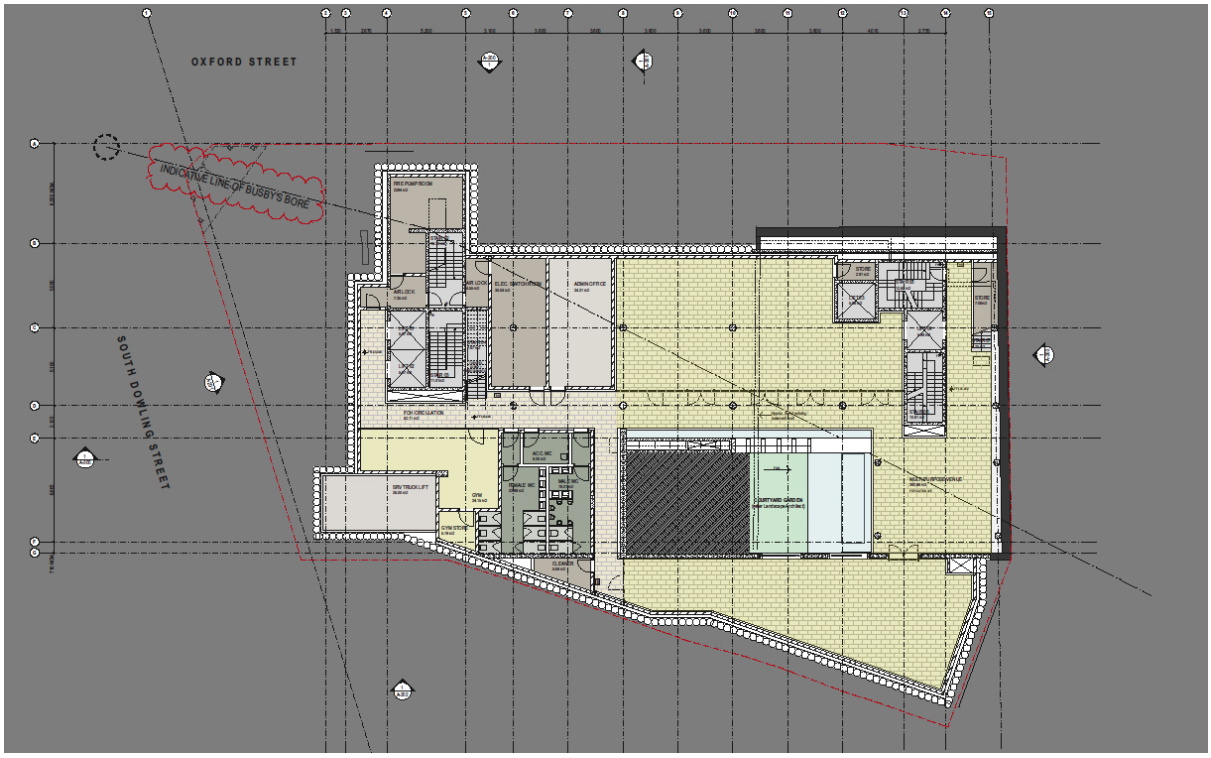

Figure 7: Proposed basement 1 floor plan

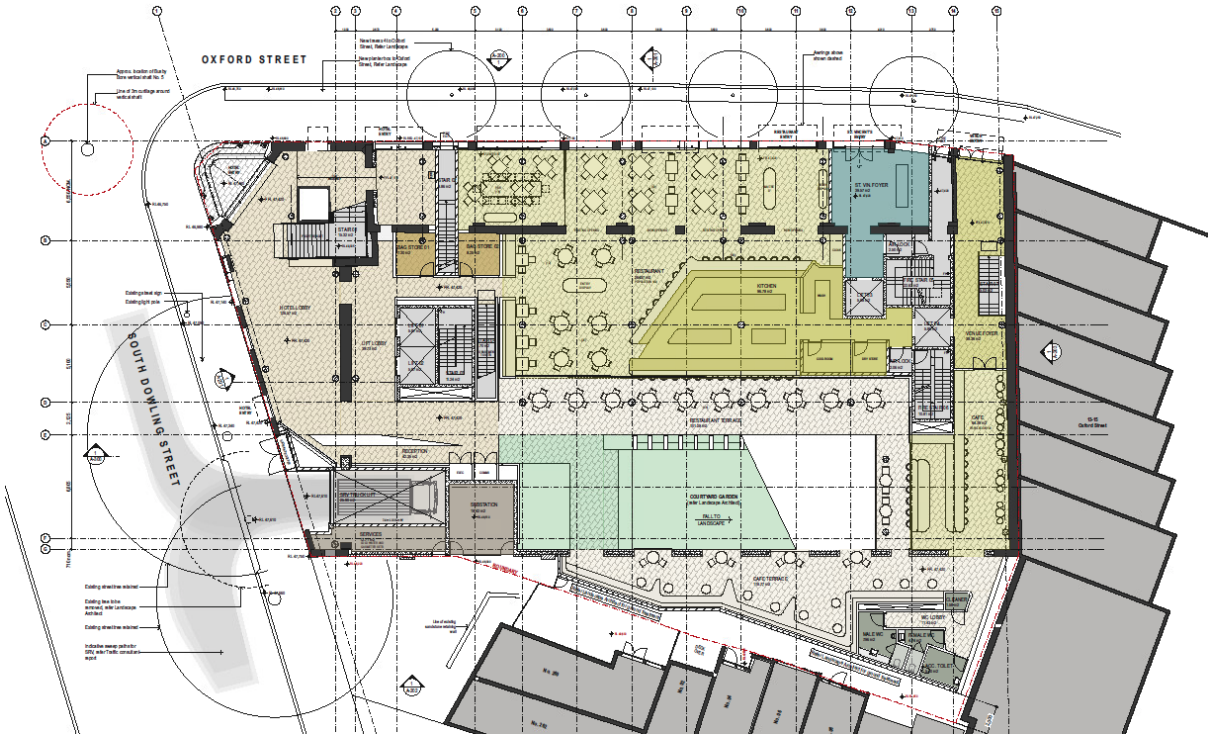

Figure 8: Proposed ground floor plan

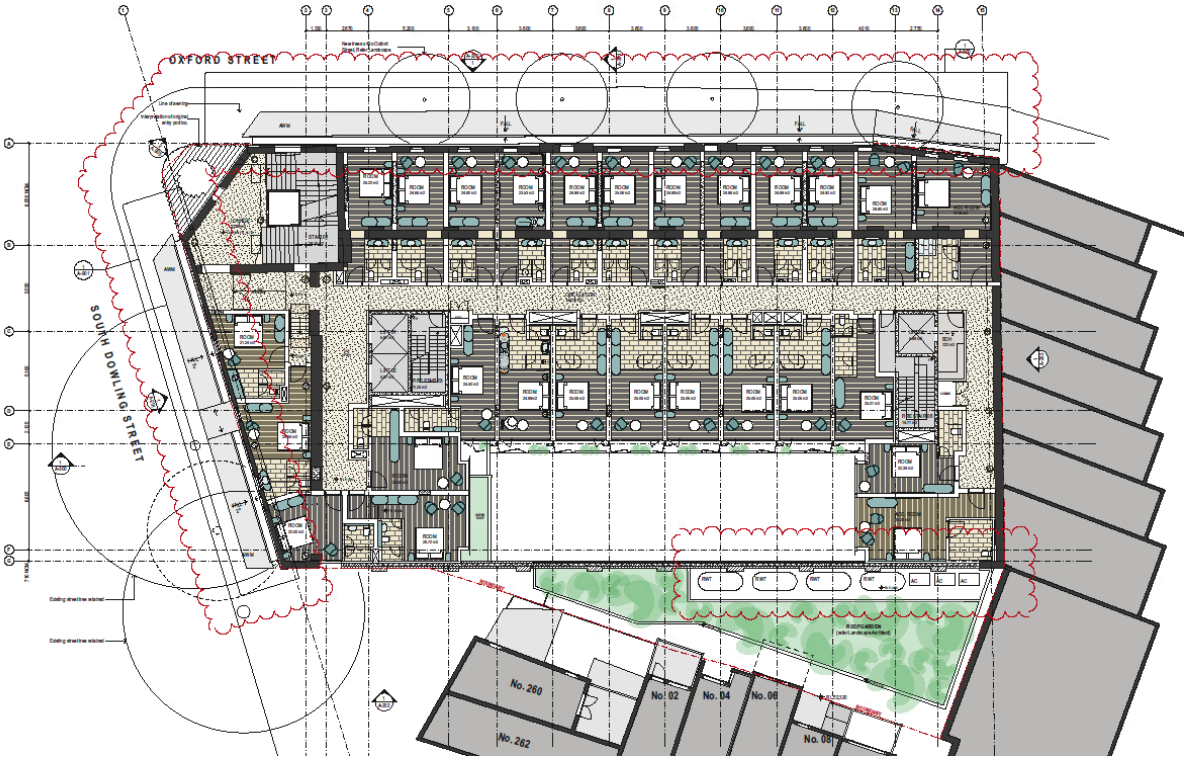

Figure 9: Proposed Level 01 floor plan

Figure 10: Proposed Level 02 floor plan

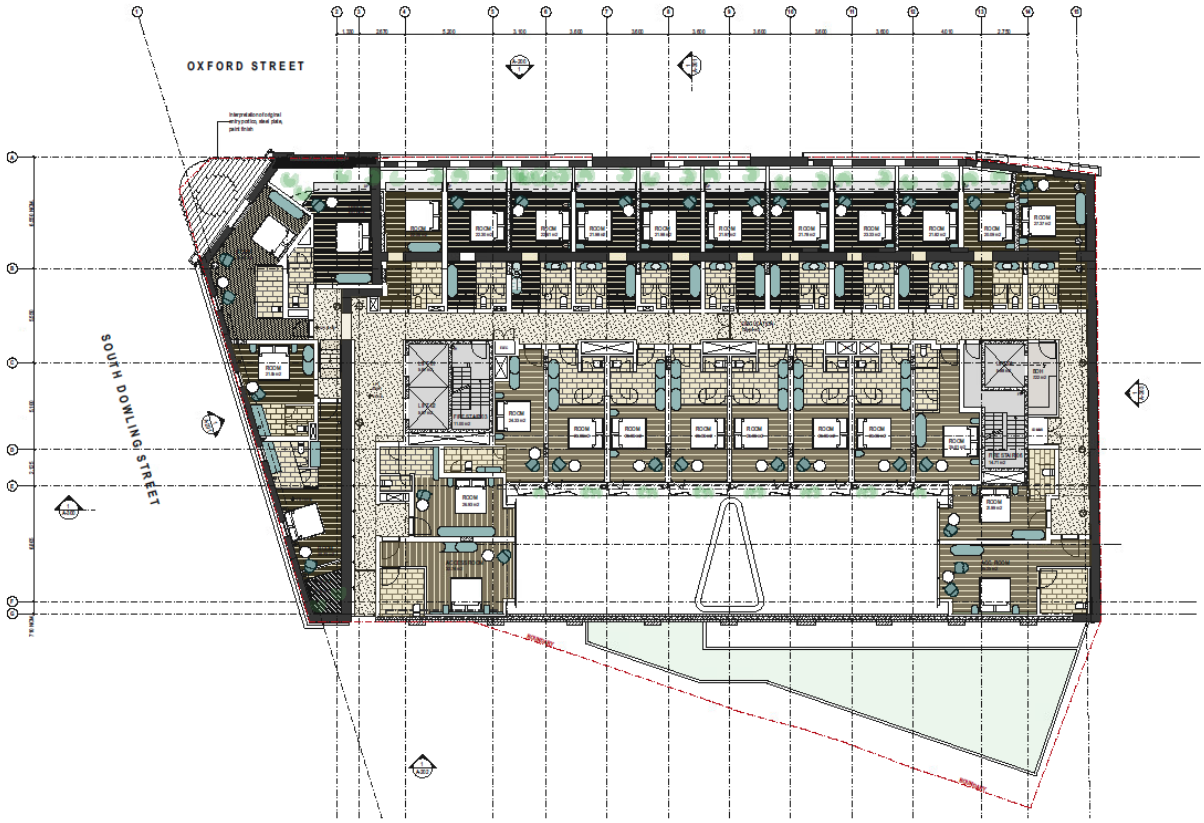

Figure 11: Proposed Level 03 floor plan

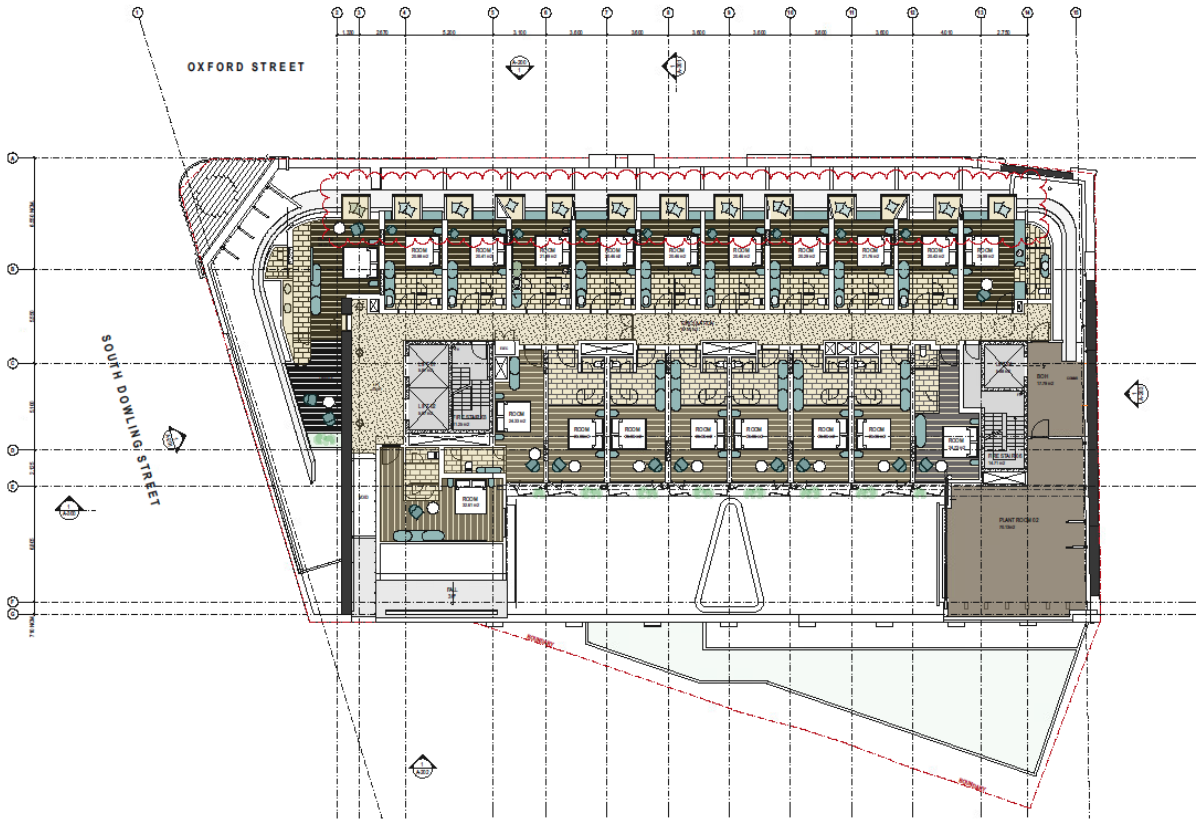

Figure 12: Proposed Level 04 floor plan

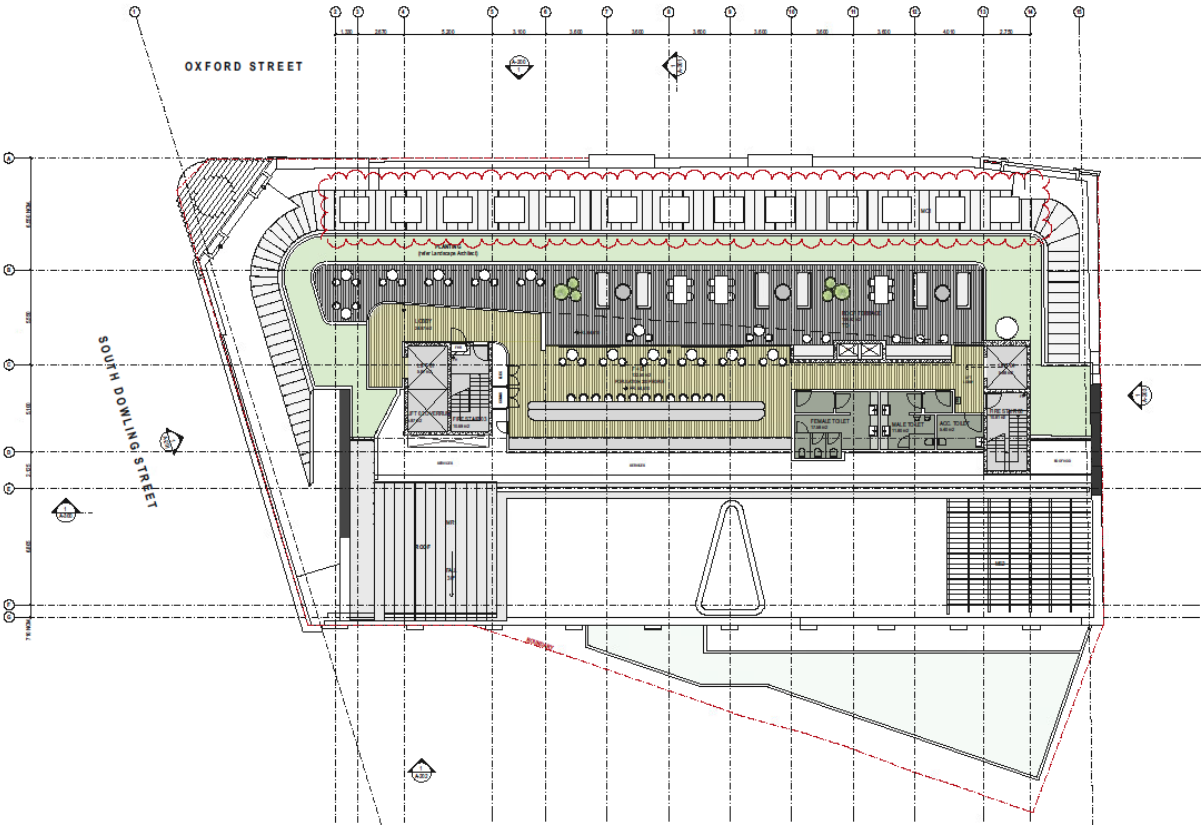

Figure 13: Proposed Level 05 floor plan

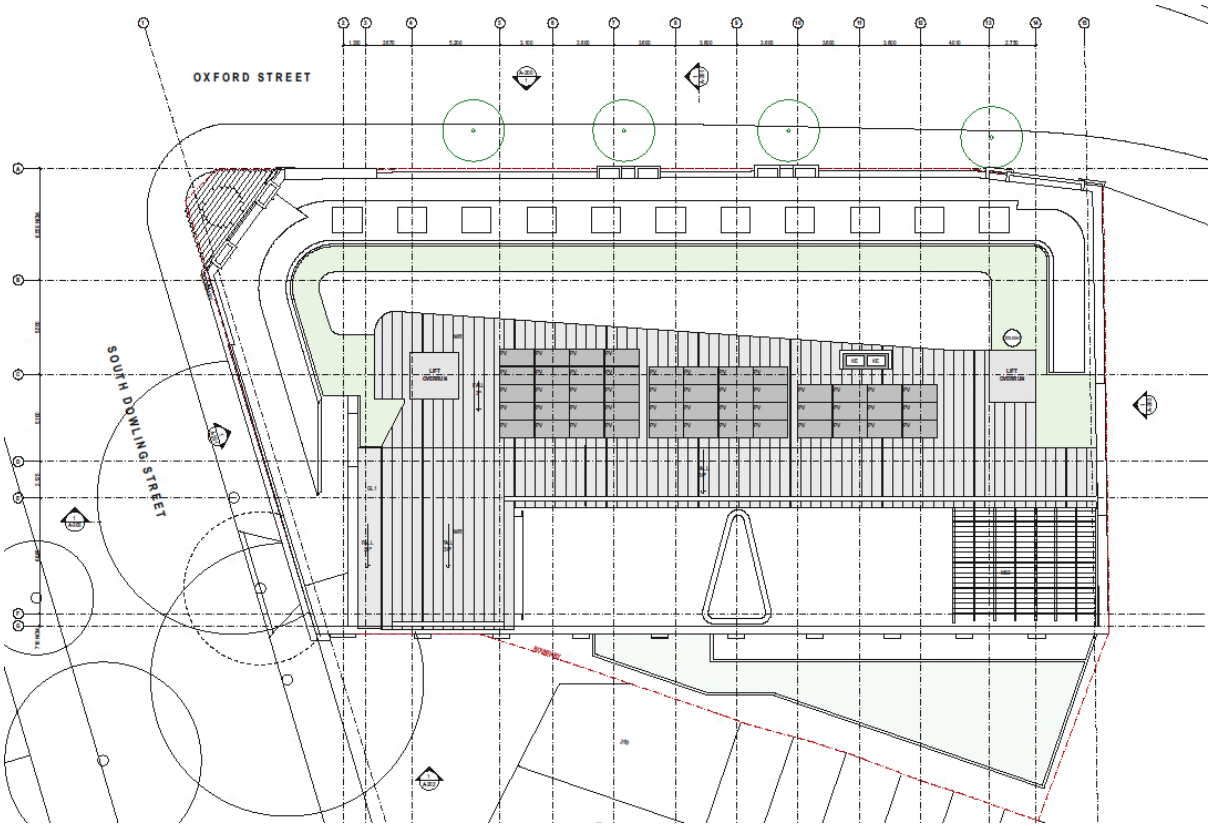

Figure 14: Proposed roof plan

Figure 15: Proposed Oxford Street elevation

Figure 16: Proposed South Dowling Street elevation

Figure 17: Proposed rear elevation

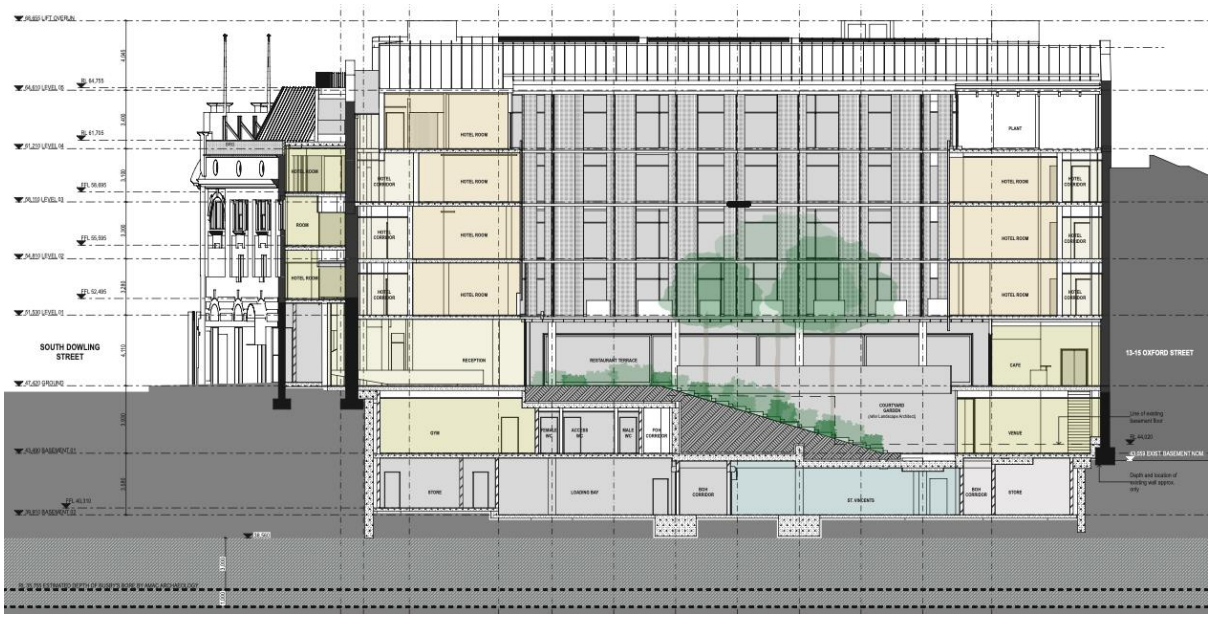

Figure 18: Proposed long section - through the internal 'viewing garden'

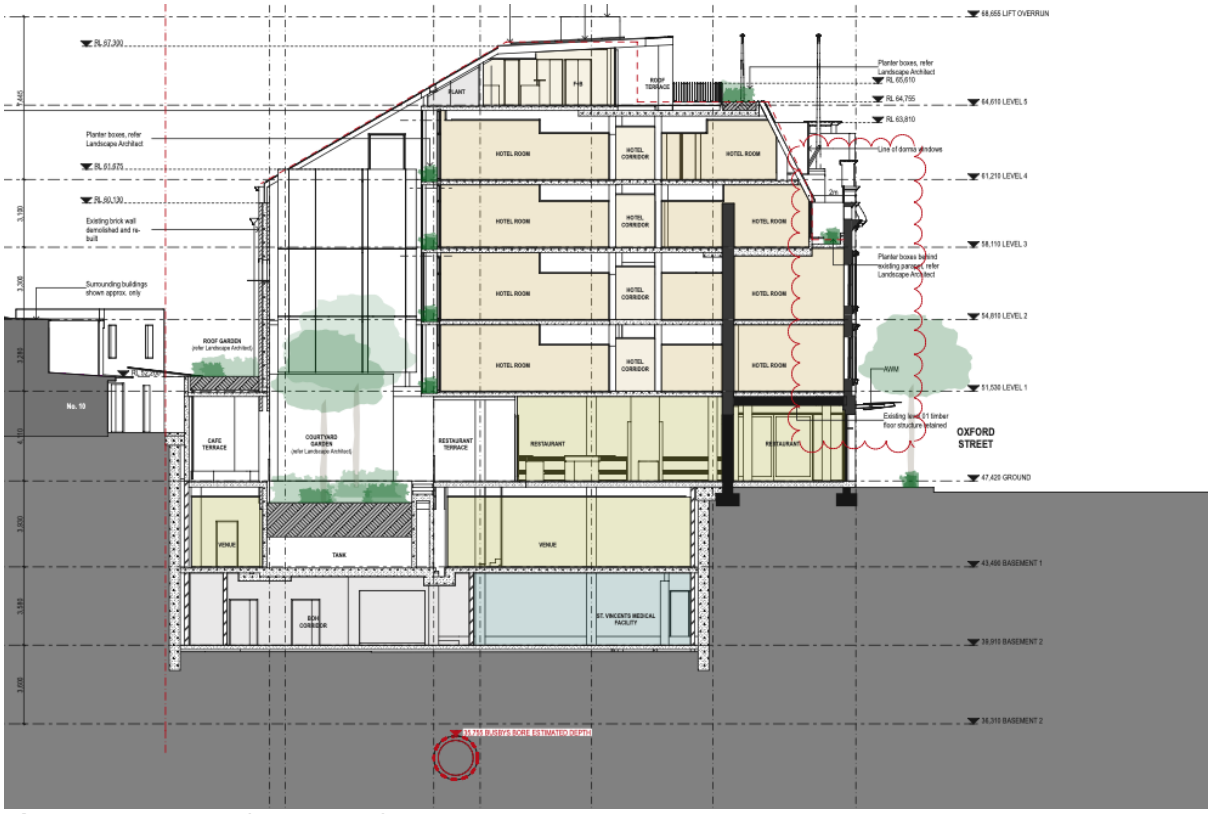

Figure 19: Proposed cross section

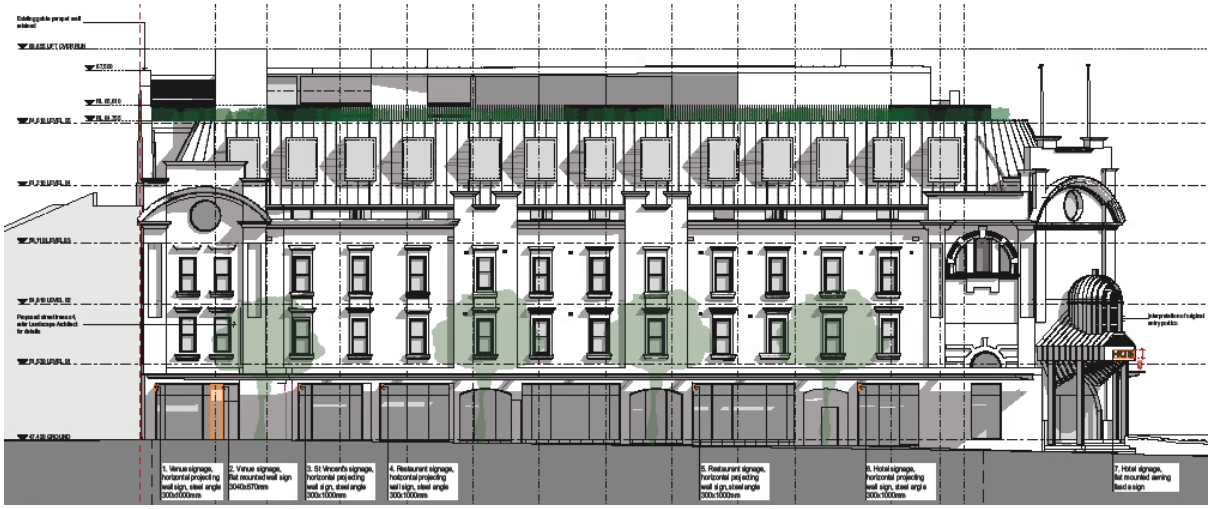

Figure 20: Proposed signage strategy - Oxford Street elevation

Figure 21: Proposed signage strategy - South Dowling Street elevation

History Relevant to the Development Application

Planning Proposal

14. On 11 December 2019, the Planning Proposal (**PP_2019_SYDNE_007_00**) received Gateway determination to amend Sydney LEP 2012 to increase the maximum building height and maximum floor space ratio subject to site specific provisions.

15. The planning proposal was exhibited for 28 days between 17 February 2020 and 16 March 2020 as required by the Gateway determination.

16. Subsequently, additional site specific provisions were included in the accompanying DCP, where appropriate, to address issues raised in the submissions. The additions include:

    (a) restricting access into the loading area to left-in left-out to minimise traffic impacts;

(b) requiring a setback up to 2m from the southern boundary to secure an area which will be made available for private recreation for each adjoining dwelling of Rose Terrace following redevelopment;

(c) identifying a minimum size for the green roof above the single storey structure on the southern part of the site; and

(d) requiring further consideration of the new substation location.

17. The Central Sydney Planning Committee resolved to approve the Planning Proposal on 14 May 2020, and the Council of the City of Sydney resolved to approve the Planning Proposal and DCP on 18 May 2020.

18. The site specific provisions, with amendments to the Sydney LEP 2012 and Sydney DCP 2012, came into effect on 7 August 2020.

19. A detailed assessment against the site specific provisions is provided within this report.

Amendments / Additional Information

20. On 28 April 2020, City's staff requested the applicant to provide the following items:

(a) a flood assessment report demonstrating compliance with the City's Interim Floodplain Management Policy;

(b) an updated stormwater management plan demonstrating acceptable stormwater disposal including consultation with Sydney Water regarding on-site detention requirements;

(c) additional traffic assessment to address preliminary comments made by Transport for NSW (TfNSW), including traffic modelling, detail of proposed treatment for vehicles crossing South Dowling Street, relocation of the kiss and ride area from Oxford Street to South Dowling Street, and a queuing assessment for the loading dock to demonstrate any potential impacts to the level of service of South Dowling Street;

(d) updated waste management plan including strategies for demolition and construction phase, and documentation demonstrating compliance with the City's Guidelines for Waste Management in New Developments;

(e) additional assessment in the Statement of Environmental Effects to address the draft site specific controls proposed by the Planning Proposal as exhibited, including diagrams demonstrating compliance with allowable building envelope;

(f) additional structural assessment, including reference to the submitted Geotechnical Assessment to give specific considerations to excavation close to the adjoining heritage listed Rose Terrace dwellings;

(g) clarification on the proposed acoustic treatments to the existing windows on the Oxford Street elevation, which are to be retained;

(h) clarification if the existing nightclub (inclusive of associated liquor license) will be retained, and additional information on the proposed liquor license type for the development; and

(i) additional information on the Operational Security Management Plan.

21. A further request for additional information was issued on 28 May 2020 for the following items:

    (a) design changes to the dormer window alignments, size of new openings, provision of continuous awning along Oxford Street, and additional detailed drawings for:

        (i) the interpretative corner portico, shop front design, entry awnings;

        (ii) location of existing pressed metal ceiling;

        (iii) interface with the adjoining Rose Terrace dwellings;

        (iv) potential privacy impacts to the adjoining Rose Terraces from the south facing hotel rooms, and how the rear wall would provide screening; and

        (v) detail of privacy screens to south facing hotel rooms.

    (b) updated physical materials and finishes sample board;

    (c) refinements of submitted sun's eye studies at half-hourly intervals to include more context of affected properties;

    (d) additional information on the substation location, including discussion with Ausgrid confirming that there are no alternative locations;

    (e) updated structural report to also include reference to the structural peer review, and a methodology to minimise impacts on adjoining properties, particularly the adjoining Rose Terrace dwellings and Busby's Bore;

    (f) conservation Management Strategy; and

    (g) Research Design and Excavation Methodology.

22. On 16 June 2020, documentation was received to address the City's first request for additional information. The relevant documentation includes:

    (a) updated Waste Management Plan;

    (b) detailed acoustic treatments to heritage windows;

    (c) responses to comments made by TfNSW.;

    (d) updated Operational and Security Management Plan.;

    (e) updated geotechnical assessment; and

    (f) appendix to submitted statement of environmental effects, including building envelope compliance diagram.

23. On 10 July 2020, documentation was received to address the City's second request for additional information. The documentation included:

    (a) an amended set of shadow diagrams;

    (b) additional and amended drawings as requested;

(c) revised Structural Report identifying specific vibration limits for excavation in close proximity to Rose Terrace);

(d) a letter by a Level 3 Accredited Service Provider supporting the proposed substation location;

(e) updated Stormwater Management Plan and a site specific Flood Impact Assessment;

(f) an Archaeological Research Design and Methodology to underpin the upcoming investigations required for the Busby's Bore;

(g) a Conservation Management Strategy; and

(h) updated Acoustic Report.

On 23 July 2020, preliminary investigation reports for the Busby's Bore were submitted for Heritage NSW to demonstrate the structural integrity of the Busby's Bore will not be impacted. Amended drawings were also submitted to revise the dormer window alignments to comply with the site-specific provisions of Sydney DCP 2012 Section 6.3.18.2.

24. On 3 August 2020, an Investigation Execution Plan was submitted demonstrating actions required to ensure the structural stability of Busby's Bore during redevelopment to the satisfaction of Heritage NSW.

25. On 12 August 2020, the applicant provided supporting calculations of development contributions applicable for the proposed development. These are discussed under the heading *S7.11 Contribution*.

26. On 7 September 2020, detailed investigation reports addressing comments made by Heritage NSW were received including:

    (a) updated Baseline Archaeological Assessment;

    (b) a Structural Impact Assessment specific to the Busby's Bore;

    (c) a Heritage Impact Statement specific to the Busby's Bore;

    (d) report on Numerical Modelling;

    (e) report on Geotechnical Investigation and Geophysical Survey Results; and

    (f) archaeology Monitoring Report.

27. On 17 September 2020, an updated signage strategy was received following the introduction of new awnings on Oxford Street and South Dowling Street.

28. The amended documentation is the subject of this report.

Heritage Act 1977

29. The proposed basement excavation will encroach into the 3m curtilage of the Busby's Bore, which is a state heritage item (SHR 00568). In accordance with Section 4.47 of the Environmental Planning and Assessment Act 1979, the application was forwarded to Heritage NSW as Integrated Development.

30. After reviewing the additional information specific to the Busby's Bore submitted on 7 September 2020, Heritage NSW provided their General Terms of Approval on 2 October 2020. These are included in Schedule 3 of Attachment A.

Economic/Social/Environmental Impacts

31. 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.

State Environmental Planning Policy No 55—Remediation of Land

32. The aim of SEPP 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.

33. The subject site was previously used for commercial uses, and the proposed development will not increase the land use sensitivity. A geotechnical report has also been provided, which does not identify any previous sources of potential contamination affecting the site. The report has been reviewed by the City's Environmental Health Unit, who is satisfied that the site is suitable for the proposed use subject to a precautionary condition.

State Environmental Planning Policy No 64—Advertising and Signage

34. The proposed signage strategy includes the following signs:

    (a) 1 x portico fascia sign at the splay corner

    (b) 5 x projecting wall signs (300mm x 1000mm) on Oxford Street

    (c) 1 x flat mounted wall sign, vertically proportioned, on Oxford Street

    (d) 1 x flat mounted wall sign, horizontally proportioned, on South Dowling Street

35. SEPP 64 was gazetted on 16 March 2001 and aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high-quality design and finish.

36. Clause 8 of SEPP 64 states the following:

    A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

    (a) that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and

(b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.

Assessment Criteria

37. The following table outlines the manner in which the proposed signage addresses the assessment criteria of SEPP 64.

1. Character of the area	**Comment**
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The signage strategy is compatible with the existing and desired future character of the area and is capable of allowing signage that will comply with the relevant provisions of Sydney DCP 2012, including the specific provisions for the signage precinct.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	

2. Special areas	**Comment**
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The signs included in the strategy are well integrated into the building design and read clearly as new elements to the retained facades. They will not detract from the quality of the Paddington Urban heritage conservation area, or the Oxford Street Paddington locality.

3. Views and vistas	**Comment**
Does the proposal obscure or compromise important views?	The proposed sign locations are limited to the ground floor, below or on the proposed awnings. As such, they do not result in additional visual bulk as to obscure any important views, reduce the quality of vistas, or impact on viewing rights of other advertisers.
Does the proposal dominate the skyline and reduce the quality of vistas?	
Does the proposal respect the viewing rights of other advertisers?	

4. Streetscape, setting or landscape	**Comment**
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The signs included in the strategy are of appropriate scale, proportion, and form for the streetscape, are suitably located on the

4. Streetscape, setting or landscape	**Comment**
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	building facades and add visual interest to the streetscape. The number of signs is also appropriate for the scale of the proposed mixed-use development and do not result in visual cluttering. The signs are limited to the ground floor, below or on the proposed awning. They do not protrude above the building envelope, or neighbouring structures and tree canopies. The proposal will not require ongoing vegetation management.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	
Does the proposal screen unsightliness?	
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	
Does the proposal require ongoing vegetation management?	

5. Site and building	**Comment**
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The signs are well integrated with the reinstated shopfront on Oxford Street, the new portico, and the entry on South Dowling Street. They also respect the important features of the retained facades and will facilitate the identification of future tenancies without resulting in visual cluttering.
Does the proposal respect important features of the site or building, or both?	
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	

6. Associated devices & logos with advertisements & advertising structures	**Comment**
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	No safety devices, platforms, lighting devices, or logos are proposed as an integral part of the signage.

7. Illumination	**Comment**
Would illumination result in unacceptable glare?	The signage strategy only proposes the sizes and locations of signs. The detailed design of signage will be subject to a separate development application.
Would illumination affect safety for pedestrians, vehicles or aircraft?	
Would illumination detract from the amenity of any residence or other form of accommodation?	
Can the intensity of the illumination be adjusted, if necessary?	
Is the illumination subject to a curfew?	

8. Safety	**Comment**
Would the proposal reduce the safety for any public road?	The signs will not obscure sightlines from public areas or reduce safety for any road users, including pedestrians and cyclists.
Would the proposal reduce the safety for pedestrians or bicyclists?	
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	

38. As demonstrated above, the proposed signage is consistent with the aims and objectives of Clause 3 of SEPP64 and therefore are supported.

State Environmental Planning Policy (Infrastructure) 2007

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

Clause 45

40. The application is subject to Clause 45 of the SEPP (Subdivision 2 Development likely to affect an electricity transmission or distribution network) as an electricity substation, located within the subject site needs relocation to facilitate the development.

41. In accordance with the Clause, the application has been referred to Ausgrid for a period of 21 days. Ausgrid responded on 14 May 2020 raising no objections to the development and the proposed new location, subject to recommended conditions, included in Attachment A.

42. To further address Sydney DCP 2012 Section 6.3.18.3(6), further correspondence was subsequently issued to Ausgrid to discuss if the proposed new location is the preferred option. A preliminary advice was received on 17 July 2020 noting that the proposed location should be certified by a Level 3 Accredited Service Provider. The applicant provided this documentation demonstrating compliance with the Ausgrid Network Standards.

Clause 101

43. The application is subject to Clause 101 of the SEPP as the site has frontage to Oxford Street and South Dowling Street, which are classified roads. The application has been reviewed by TfNSW, and satisfies Clause 101 of the Infrastructure SEPP as the proposed vehicular access point is appropriately located on South Dowling Street and will maintain the safety, efficiency and ongoing operation of the classified roads. The proposal also includes appropriate acoustic measures to ameliorate potential amenity impacts requiring consideration under this clause.

Clause 102

44. The application is subject to Clause 102 of the SEPP as the average daily traffic volume of Oxford Street is more than 40,000 vehicles. The application satisfies Clause 102 of the Infrastructure SEPP in that despite the proposed uses on the site are not those specified as being sensitive appropriate acoustic measures are included to ameliorate any road noise impacts.

Clause 104

45. The application is subject to Clause 104 of the SEPP as the proposed development is a commercial development with a gross floor area of over 2,500m². The application has been reviewed by TfNSW, including additional traffic assessment to address TfNSW's initial comments, and is acceptable subject to recommended conditions.

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

46. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.

47. 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; and

    (d) protect and rehabilitate riparian corridors and remnant vegetation.

48. 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 Local Environmental Plan 2012

49. The site is located within the B2 Local Centre zone. The proposed use is defined as a mixed-use development, comprising 'tourist and visitor accommodation', 'medical centre', 'entertainment facility', and 'food and drink premises', and is permissible.

50. The relevant matters under Sydney Local Environmental Plan 2012 for the proposal are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	Yes	A maximum height of 15m is permitted. However, subject to Clause 6.52 of Sydney LEP 2012, a greater height of RL 68.655 is permitted. A maximum height of RL 68.655m is proposed and complies with the site specific height control.
4.4 Floor Space Ratio	Yes	A maximum floor space ratio (FSR) of 2.5:1 is permitted. However, subject to Clause 6.52, a greater FSR of 2.95:1 above RL 47.455 (approximate ground level), is permitted. A total FSR of 3.57:1 is proposed, which includes a FSR of 2.95:1 above RL 47.455 and a FSR of 0.62:1 in the basements. The proposal complies with the site specific FSR control.
4.6 Exceptions to development standards	N/A	Following the gazettal of the *Sydney LEP 2012 (Amendment No. 58)*, the proposal is compliant with the building height and floor space ratio allowable under Clause 6.52(3). As such, the Clause 4.6 variation requests for height and FSR submitted with this application do not form part of this assessment.
5.10 Heritage conservation	Yes	The building is not a heritage item, but it is identified as a contributory building to the Paddington Urban heritage conservation area (C50).

Development Control	Compliance	Comment
		The Busby's Bore, which is both a state heritage item (SHR 00568) and a local heritage item (I1), also traverses underneath the site and requires consideration under the Heritage Act 1977. The application has been reviewed by the City's heritage specialist and Heritage NSW. Refer to discussion under the heading *Issues*.

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
6.21 Design excellence	Yes	The development is not subject to a competitive design process as it is not a development type identified under Clause 6.21(5). The proposed mix of uses are contextually established to support the operation of St Vincent's Hospital, the Creative Art Precinct of Oxford Street, and Oxford Street as a local neighbourhood centre consistent with the zone objectives. The proposed development achieves high standard of architectural design in a sensitive location. The project architect, who has been involved throughout the planning proposal stage, will be retained by condition to ensure the integrity of the proposed design is maintained. The proposed materials and finishes are considered appropriate for the retained portion of the theatre building, the Paddington Urban heritage conservation area, and the Oxford Street Paddington locality by the City's Heritage Specialists and Urban Designer.

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
		The proposed development will maintain original elements of the theatre building, largely contained along the Oxford Street and South Dowling Street frontages. The significant facades, including the original splay corner entrance, are retained. On the ground floor, a modern interpretation of the original c1912 Oxford Street shopfronts and corner portico will be provided. On the levels above, sympathetic alterations will provide new openings and acoustic treatments to the retained windows to provide high level of internal amenity to the hotel rooms. The mansard type roof addition with dormer windows along Oxford Street is also consistent with the requirements to the site-specific provisions of Sydney DCP 2012 Section 6.3.18, providing an addition that is respectful of the character of the existing building. Subject to conditions, these elements are supported. The proposed development, as supported by revised technical reports and subject to conditions, will safeguard the structural integrity of the state heritage item - the Busby's Bore and the adjoining heritage listed Rose Terrace (as a collective). The massing and scale is largely consistent with the allowable building envelope identified in Sydney DCP 2012 Section 6.3.18. All necessary services, plant, equipment, and acoustic and privacy screens are well integrated into the design of the building. They will not detract from the presentation of the development and will not create unsightliness when viewed from the adjoining properties to the south while adequately safeguarding amenities.

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
		The proposed landscape design is of a high quality and is well integrated with the building's architectural design. The internal ‘viewing garden’ will provide high amenity to the proposed development, while the green roof, as amended by condition, can contribute to the urban canopy and the amenity of the adjoining properties. The proposal will provide a new awning that is respectful to the significant facades of the existing building. New street trees will also be provided as part of the required public domain work along Oxford Street, and the existing palms in Marshall Street park will be reused in similar location when the park is temporarily altered for the installation of the relocated substation. The proposed development will also provide an easement along the southern boundary to dedicate land to each of the adjoining Rose Terrace dwellings. This acknowledges their ongoing informal use for private open space. Finally, the proposed development has the potential to achieve good sustainability goals. The attainment of the goals set out in Sydney DCP 2012 Section 6.3.18.4 is ensured by recommended conditions. The proposal demonstrates a high standard of architectural, urban and landscape design, satisfying the requirements of this clause.
6.52 site specific provisions - 1-11 Oxford Street, Paddington	Yes	The proposal is consistent with the objective of this clause, and the proposed alterations and additions to the existing building will result in a compliant height of RL 68.655 and a compliant floor space ratio of 2.95:1 above RL 47.455 (approximate ground level).

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
		The primary purpose of the proposed development is for hotel accommodation, with the amenity of each hotel room appropriately moderated to limit future opportunity for the rooms to be used as residential accommodation without significant modifications to satisfy the requirements of the Apartment Design Guide. The proposed development provides over 300m² of gross floor area for the purpose of an entertainment facility and over 300m² of gross floor area for the purpose of a health services facility within the 2 basement levels. Adequate information has been provided demonstrating that the proposal will not impact on the structural stability of the retained portion of the existing building or the Busby's Bore, the state heritage item underneath the site. Refer to discussions under the heading *Issues - Heritage*.

Part 7 Local Provisions - General	Compliance	Comment
7.9 Car parking ancillary to other land uses	Yes	No car parking spaces are provided. This is compliant and acceptable.
7.14 Acid Sulphate Soils	Yes	The site is identified as containing Class 5 Acid Sulfate Soils and is greater than 500m from a class 3 zone. The submitted geotechnical report has been reviewed by the City's Environmental Health Unit. The report does not identify any risk from potential acid sulfate soils. As such, an Acid Sulfate Soils Management Plan is not required.

Part 7 Local Provisions - General	Compliance	Comment
7.15 Flood planning	Yes	The site is affected by flooding within the Rushcutters Bay catchment. The City's Interim Floodplain Risk Management Policy requires all entry points to be either at or above the predicted Probable Maximum Flood Level (PMF) or 500mm above the 1% AEP flood level, whichever is greater. A site-specific flood risk management assessment has been submitted. The report concludes that all entry points comply with the policy except the new vehicular access point off South Dowling Street, which is above the PMF but less than 500mm above the 1% AEP flood level. The report submits that the proposed level is acceptable given it is above the PMF, and therefore it is unreasonable to require a higher level. This assessment is accepted by the City's Public Domain Unit.

Sydney Development Control Plan 2012

51. The relevant matters under Sydney Development Control Plan 2012 for the proposed development are outlined below.

2. Locality Statements – Oxford Street Paddington
The subject site is located in the Oxford Street Paddington locality. The proposed development is considered to be in keeping with the unique character of the area and design principles in that it sensitively responds to the character and heritage significance of the existing building to accommodate a range of contextual uses that can support St Vincent’s Hospital, contribute to the creative precinct vision and the vibrancy of Oxford Street, and support Oxford Street as a community hub for Paddington.

3. General Provisions	Compliance	Comment
3.5 Urban Ecology	Yes	The submitted arborist report identifies nine (9) trees will be impacted. The City's Tree Management Unit made the following comments: *Trees on Private Land* Within the site boundary, in an area currently utilised by an adjoining property to the south are a Wild Plum (Tree 1) and a Chinese Hackberry (Tree 2). The Wild Plum has a medium retention value but has structural defects. As such, its removal and replacement is supported. Replacement planting is required by condition. The Chinese Hackberry is an exempt species and may be removed without consent or permit. The site currently has approximately 5% canopy cover, and the removal of the Wild Plum will further reduce its contribution to urban canopy. While an internal 'viewing garden' is provided, it is within the proposed building and do not contribute to the wider urban canopy. As such, modifications to the green roof to accommodate more substantial tree plantings is required by condition. This will contribute to the 15% canopy cover and takes into consideration that the subject site cannot provide a deep soil zone given the proposed and allowable basement footprint covers vast majority of the site. In addition, as discussed above, a portion of the site is to be dedicated via an easement to the adjoining Rose Terrace dwellings for private recreation.

3. General Provisions	Compliance	Comment
		Street Trees Three (3) street trees, being London Plane (Trees 5-7), are located on the South Dowling Street frontage. In particular, Tree 6 in the middle is suppressed by the other two trees and has an underdeveloped canopy. In order to preserve the two higher value London Plane Trees, the removal and replacement of Tree 6 is recommended, which will also allow for the new driveway crossing. As required by Section 6.3.18.3, four (4) new Southern Hackberry are required along Oxford Street as per the City's Street Tree Master Plan. There is an opportunity to provide 1 additional street tree to compensate for the removal of Tree 6. This is required by condition. *Marshall Street Park* Four (4) Bangalow Palms are located in the Marshall Street Park. These trees are proposed to be removed to facilitate the installation of the relocated substation. As palm trees are a hardy and robust species they can be transplanted easily, the four palms are to be relocated and reused within the public domain in a similar location by conditions. *Landscape Plan* A landscape plan has also been provided, which is discussed under Section 4.2.3 below.
3.6 Ecologically Sustainable Development	Yes	Section 6.3.18.4 identifies specific sustainability targets which are to be secured by recommended conditions prepared by the City's Sustainability Planner.
3.7 Water and Flood Management	Yes	The site is identified as being flood prone land. As discussed under Clause 7.15 of Sydney LEP 2012, the proposed development is considered acceptable.

3. General Provisions	**Compliance**	**Comment**
3.9 Heritage	Yes	Refer to discussion under the heading *Issues*.
3.11 Transport and Parking	Yes	The proposal provides an on-site servicing and loading bay, bicycle parking spaces, and end of trip facilities on Basement 2. Standard conditions are recommended to ensure their compliance with the relevant Australian Standards. The new vehicular access point on South Dowling Street is also in accordance with the site-specific provision under Section 6.3.18.3, as discussed below.
3.14 Waste	Yes	A waste management plan has been provided to demonstrate acceptable construction and operational waste management. A condition is recommended to ensure compliance with the City of Sydney Guidelines for Waste Management in New Development.
3.15 Late Night Trading Management	Yes	Refer to discussion under the heading *Issues*.
3.16 Signage and Advertising	Yes	A signage strategy is lodged with this development application. The strategy generally accords with the requirements of this section as discussed below, noting that the detailed design of the signs are subject to a further approval processes.
3.16.1 Signage Strategy	Yes	The type and location of signage included in the signage strategy is acceptable and is appropriate for the signage precinct. A further development application is required for the detailed design of the signage.

3. General Provisions	**Compliance**	**Comment**
3.16.12.15 Mixed Use Village Main Street	Yes	The signage strategy provides for signage that identifies the entrances to the multiple uses accommodated by the proposed development to facilitate way finding. The locations are below the proposed awning and well integrated with the building. As such, the signage strategy is appropriate for the precinct.

4. Development Types **4.2 Residential flat, commercial and mixed-use developments**	**Compliance**	**Comment**
4.2.1 Building height 4.2.2 Building setbacks	N/A	The site is subject to site specific controls under Section 6.3.18, which are discussed below.
4.2.3 Amenity	Yes	*4.2.3.1 Solar Access* More detailed shadow diagrams, including 3D diagrams, have been provided and are included in **Attachment B**. These demonstrate the that the proposal will not result in unacceptable overshadowing impact in mid-winter, as detailed below: (a) Minor additional overshadowing to Rose Terrace garden between 9.00am - 9.30am, allowing the garden to continue to receive 4 hours of direct sunlight from 11.00am onwards. (b) 2-20 Rose Terrace & 1-17 Rose Terrace - no additional overshadowing to private open space and living room window.

4. Development Types 4.2 Residential flat, commercial and mixed-use developments	Compliance	Comment
		(c) 13-15 Oxford Street - minor additional overshadowing to the front balcony of apartment 1 which would continue to achieve over 2 hours of solar access between 11am - 2pm. No additional overshadowing to the private open space or living area windows of other apartments. (d) 260 South Dowling Street - no additional overshadowing to private open space and living room windows. (e) 262 South Dowling Street - no additional overshadowing to living room windows, which are south facing and the site has no private open space. (f) 264 South Dowling Street - no additional overshadowing to private open space. Additional overshadowing to the north facing glazing between 9.30aam - 10.30am, but the glazing will continue to receive over 2 hours of direct sunlight from 10.30am onwards. (g) 266 South Dowling Street - no additional overshadowing to private open space. Additional overshadowing at 9.30am to the east facing first floor glazing, which is not associated with a living room but a bedroom. That glazing will still receive direct sunlight between 10am - 10.30am.

4. Development Types **4.2 Residential flat, commercial and mixed-use developments**	**Compliance**	**Comment**
		(h) 268 South Dowling Street - additional overshadowing to the rear ground floor roof at 9.30am, and first floor rear window, which is not associated with a living area. No additional overshadowing to private open space and living room windows. (i) 270-272 South Dowling Street - additional overshadowing to rear first floor windows, which are not associated with a living area. No additional overshadowing to private open space (j) 274-276 South Dowling Street - no additional overshadowing to private open space and living room windows. *4.2.3.5 Landscaping* A landscape plan has been provided. It incorporates three key features: a central 'viewing garden', a green roof at the southern part of the site, and a roof terrace. The landscape plan has been reviewed by the City's Landscape Architect, and is considered to be well-considered and of a high quality but will require standard conditions on construction details, maintenance, and interface with heritage items.

4. Development Types 4.2 Residential flat, commercial and mixed-use developments	Compliance	Comment
		4.2.3.6 Deep Soil The site-specific provisions under Section 6.3.18 allow a basement footprint that will not accommodate 10% of the site area as a deep soil zone, regardless of the minimum dimension requirements. Notwithstanding, as discussed under Section 3.5 and Section 4.2.3.5 above, the site can provide a consolidated green roof to accommodate high quality landscaping including the planting of trees that can meaningfully contribute to the urban canopy. Appropriate conditions are recommended requiring modifications to the proposed landscape design, to satisfy the objectives of this section. *4.2.3.11 Acoustic Privacy* An acoustic report has been provided. As detailed under *State Environmental Planning Policy (Infrastructure) 2007* above, appropriate acoustic measures will be implemented and are acceptable subject to recommended conditions. Acoustic impacts to neighbouring properties are discussed in the responses to submissions received.

4. Development Types 4.4 Other development types and uses 4.4.8 Visitor accommodation	Compliance	Comment
4.4.8.1 General	Yes	The proposed hotel has direct access from the splay corner and on South Dowling Street, and does not rely on any common access ways shared with adjoining properties. The hotel will be staffed 24 hours a day.

4. Development Types 4.4 Other development types and uses 4.4.8 Visitor accommodation	Compliance	Comment
		A management plan has been provided and reviewed by the City's Licensed Premises Unit as acceptable. Compliance with the management plan is required by recommended condition.
4.4.8.3 Additional provisions for hotels, private hotels and motels	Yes	The proposed hotel rooms are appropriately sized, and appropriate facilities can be provided within the individual hotel rooms. Standard conditions are recommended, which include a maximum 3 month stay restriction and other standard requirements to ensure the hotel operates without unacceptable impacts on neighbouring properties.

6. Specific Sites	Compliance	Comment
6.3.18.1 Built form	Partial compliance	Elements of the proposed development fall outside the allowable building envelope. See discussion under the heading *Issues*.
6.3.18.2 Heritage conservation	Partial compliance	See discussion under the heading *Issues*.
6.3.18.3 Public domain, green roof, loading, servicing and access	Partial compliance	Entrances to the entertainment venue, the medical facility, and the hotel are provided along Oxford Street and at the splay corner. A ground floor restaurant/cafe is also provided along the Oxford Street frontage to provide visual interest to pedestrian to achieve active frontage. Continuous awnings are provided along the Oxford Street and South Dowling Street frontages to improve pedestrian amenity. The width of the awnings also allows new street trees to be planted along Oxford Street.

6. Specific Sites	Compliance	Comment
		Following the City's Tree Management Unit's recommendations, an additional street tree is also required on Oxford Street to compensate for the removal of one street tree on South Dowling Street. This results in a total of five new street trees to be provided on Oxford Street. The new street trees will be delivered as part of the required public domain works. A single vehicular driveway crossing off South Dowling Street is provided into the south-western corner of the building as per Figure 6.176, limiting impact to only one street tree. Vehicular movements are restricted to left-in-left-out, and the maximum vehicular size is a small rigid vehicle. These requirements are secured by conditions. The driveway crossing provides access to a loading/servicing bay, which also has a turntable to allow vehicles to enter and exit the site in a forward direction. A transport management plan is not required following consultation with TfNSW and the City's Transport and Access Unit as the information submitted with this application and the documentation required by recommended conditions will provide the same information as an overall transport management plan. An on-site substation is provided, and its location has been discussed with Ausgrid as detailed under the heading *State Environmental Planning Policy (Infrastructure) 2007* above. Detailed public domain plans are required by recommended conditions, to be submitted to and approved by the City's Public Domain Unit.

6. Specific Sites	Compliance	Comment
		A green roof with over 90m² (clear of the adjacent area for water tanks and air conditioning units) is provided south of the existing main building structure. The preliminary design of the green roof has been reviewed by the City's Landscape Architect, and is of a high quality. The final design is subject to further approval prior to Construction Certificate as per recommended conditions to allow coordination at documentation stage.
6.3.18.4 Sustainability	Yes	A sustainability report has been provided demonstrating that the proposal is capable of meeting the sustainability commitments identified in this section. Attainment of these commitments is recommended through conditions.

Issues

Bulk Form

52. Diagrams comparing the proposed scheme with the allowable building envelope shown in Figures 169-172 of Sydney DCP 2012 Section 6.3.18.1 have been provided and are reproduced in Figures 22 and 23 below.

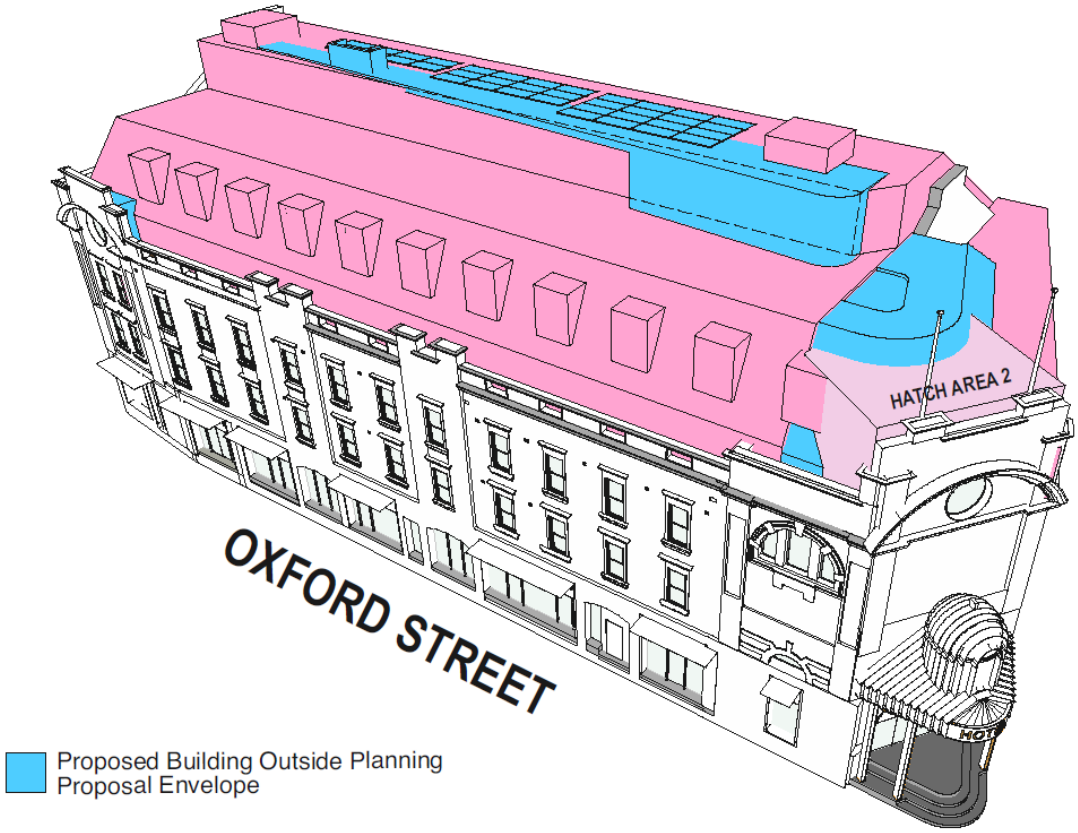

Figure 22: Building Envelope Comparison (source: Tonkin Zulaikha Greer Architects)

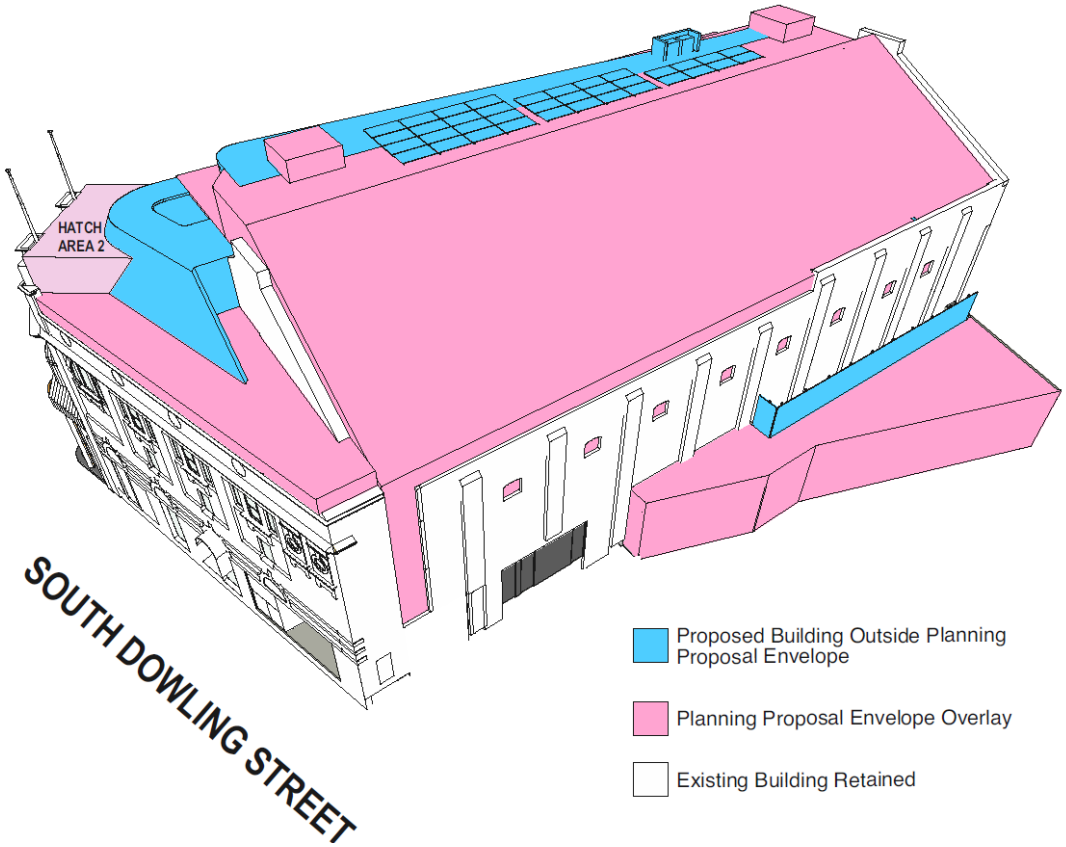

Figure 23: Building Envelope Comparison (source: Tonkin Zulaikha Greer Architects)

53. The proposal was discussed with the City's Heritage Specialists and Urban Designer. The scale and massing of the proposal is generally consistent with the allowable envelope, including:

    (a) The 2 lift overruns are appropriately located within the permissible location, with a compliant height. They are also integrated into the overall design and will not dominate or detract from the heritage significance of the retained building, the conservation area, or the surrounding streetscapes.

    (b) The dormers on the Oxford Street elevation are located within Hatch area 3, appropriately aligned, and set down from the apex. The sized and proportion of the dormer windows are required to be further refined by condition to be aligned with the outer edge of the label moulds above the first-floor windows on the Oxford Street elevation to better relates to their size and proportion.

54. There are four areas of non-compliance, as highlighted in blue in Figures 22 and 23. They are considered acceptable for the following reasons:

    (a) The level 3 easternmost hotel room extends to the parapet to connect with a proposed opening on the existing parapet. This will enhance light and outlook, without creating adverse visual bulk impacts when viewed from the public domain as it is largely concealed.

    (b) The north-west level 4 hotel room is curved and setback from the splayed parapet corner, which is a more refined extension of the roof form. This responds better to the angled parapet than the proposed Hatched area 2, which abuts the corner parapet and would be visible from the public domain.

    (c) The roofline of the rooftop restaurant/bar, inclusive of two co-located kitchen exhausts, results in increased height although this does not exceed the building development standard. This is acceptable, given the roofline and exhausts continue to comply with the maximum building height, are well integrated into the overall design, will not result in unacceptable additional shadowing, or unacceptable additional bulk.

    (d) The screening to the rainwater tanks and air-conditioning units on the southern end of the main building will not increase the perceivable visual bulk of the building from the public domain, and will be concealed by landscaping on the green roof when viewed from the upper floors of the adjoining Rose Terrace.

Heritage

Existing Building

55. The site is not a heritage item, but the existing building is identified as contributory to the Paddington Urban heritage conservation area (C50). As mentioned in Paragraphs 5 and 6, the existing three-storey Federation Free Style building has undergone successive remodelling over time to accommodate different uses. As a result, the original elements of the original picture theatre are limited to the original cinema entrance on the splay corner, the configuration of the main staircase, and the narrow band of rooms along the Oxford Street and South Dowling Street facades.

56. The Oxford Street and South Dowling Street facades have been retained, and the narrow band of rooms behind those facades are retained as per Sydney DCP 2012 Section 6.3.18.1.

57. Modifications to the two facades are proposed, and they are acceptable subject to conditions as below:

    (a) Two (2) large porthole windows are proposed, one at the splay corner above the new portico, and one at the easternmost bay of the Oxford Street elevation. These 2 new openings, despite amendments during assessment, remain out of proportion with the facade. As such, a condition recommended by the City's Heritage Specialist is included to reduce their sizes.

    (b) Nine (9) horizontal windows are proposed to the parapet on the Oxford Street elevation. They line up with the windows below and will only have a minor heritage impact and are acceptable.

    (c) Four (4) smaller porthole windows are proposed to the South Dowling Street elevation. They are symmetrically located and will line up with the windows below with no heritage concerns.

    (d) Three (3) new windows are proposed to the first floor of the South Dowling Street elevation, which is permitted by Section 6.3.18.2(3). They are appropriately located, sized, and proportioned.

58. The proposal seeks to provide a modern interpretation of the original shopfront design and the corner portico as originally constructed. A photo of the West's Pictures Olympia Theatre as constructed in c1912, and the proposed Oxford Street elevation are provided below:

Figure 24: View of the West's Picture Olympia Theatre as completed c1912 (source: Heritage Impact Statement by Urbis)

Figure 25: Proposed Oxford Street shopfront and portico design (source: Tonkin Zulaikha Greer Architects)

59. Detailed 1:20/1:50 drawings are provided for the shopfront and portico design. The shopfront design is appropriate, but the portico is detailed and complex compared to the original portico. As such, a condition recommended by the City's Heritage Specialist is included requiring simplification of the portico design.

60. It is noted that additional excavation below the Oxford Street facade is proposed to accommodate a fire pump room and a storage area in the basements below. A revised structural report demonstrates that additional structural support will be provided to ensure the structural integrity of the retained facade. While City's Heritage Specialist raised no objections to the additional excavation, further details of how the retained elements of the existing building will be protected is required to form part of a new construction management plan, which is to be submitted to and approved by Council prior to commencement of work.

61. A heritage interpretation plan and a conservation management strategy are also provided as required by Sydney DCP 2012 Section 6.3.18.2. Their implementation are required by conditions recommended by the City's Heritage Specialist.

Adjoining Heritage Item - Rose Terrace

62. Located to the south of the site is the Rose Terrace, which is a collective of terraces constructed around a common triangular green - the Rose Terrace garden. The terraces are two-storey Victorian Georgian style constructed in the mid-1870s, and are organised into five groups, each group individually heritage listed.

63. Given the proximity of the proposed excavation to these terraces, additional structural assessment was required by the City's staff. The updated structural report (prepared by BG&E, rev 3, dated 10 July 2020) includes specific assessment on the potential impacts to Rose Terrace. In particular, Section 2.1.1 provides specific measures to protect Rose Terrace, including a maximum PPVi vibrations for various frequencies ranges that aligns with the vibration limits quoted in several submissions made by the Rose Terrace residents, i.e. 1-10Hz (<3mm/s), 10-50 Hz (3-8mm/s), 50-100 Hz (8-10mm/s).

64. A condition is recommended for such protection measures to be incorporated into the construction management plan, which requires Council's approval prior to commencement of work to ensure Rose Terrace are adequately protected during the constriction process.

65. A separate condition is also recommended to require all contractors and subcontractors involved to be briefed on the heritage significance of the site, inclusive of the retained building and the Busby's Bore, and adjoining Rose Terrace to raise the awareness of all involved.

Busby's Bore

66. The Busby's Bore, which is both a state heritage item (SHR 00568) and a local heritage item (I1), is located underneath the site. As discussed under *Heritage Act 1977,* additional investigation works have been carried out to provide six detailed assessment reports to determine the location, alignment and status of the Busby's Bore.

67. The additional information has been reviewed by Heritage HSW, who is satisfied that the proposed excavation will not adversely impact on the structural integrity of the Bore subject to detailed conditions included in the General Terms of Approval, which forms part of the recommended conditions in Schedule 3 of Attachment A**.**

68. Sydney Water was also consulted about the Busby's Bore as the asset's owner. A response was received on 3 September 2020 raising no objections to the development, with Sydney Water being satisfied that the proposed development will protect and conserve the State significant structure despite the encroachment into the 3m heritage curtilage.

69. The proposed development, in particular the depth of excavation and its potential impact to the structure integrity of the Busby's Bore, is therefore considered acceptable despite non-compliance with the restrictions on excavation of Sydney DCP 2012 Section 6.3.18.2.

Visual Privacy

70. The visual privacy impacts of the proposed development are limited to the south-facing hotel rooms. The potential privacy impacts are adequately mitigated by:

    (a) the internal 'viewing garden' to provide separation of at least 12.5m between the hotel room glazing line to the closest point of any adjoining properties;

    (b) an external privacy screen and planter box to limit view from each room, as shown in Figures 24 and 25;

    (c) reconstructed rear wall to limit view through the small openings and above the wall; and

    (d) external horizontal privacy screens attached to the bottom of those openings to restrict downward view to the first-floor windows of adjoining properties;

71. Within the proposed development, overlooking between rooms at the internal corners are managed by external privacy screens to the south facing rooms.

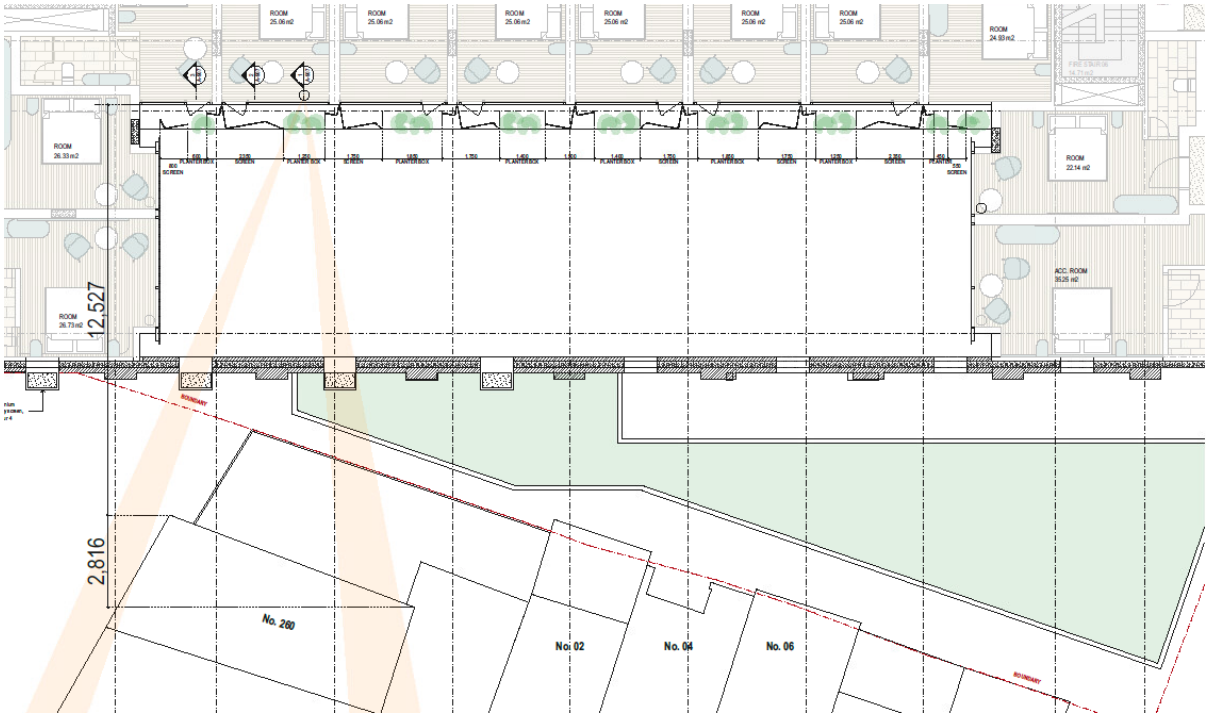

Figure 26: Hotel privacy screen plan (source: Tonkin Zulaikha Greer Architects)

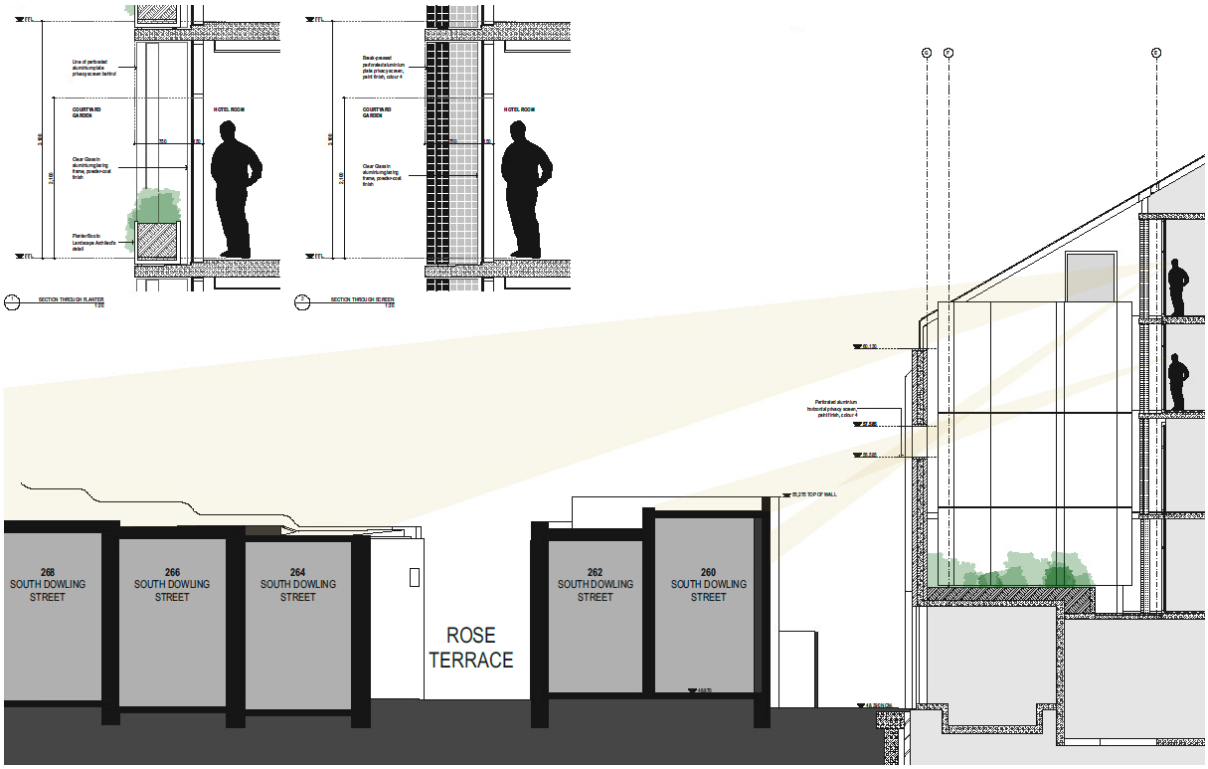

Figure 27: Hotel privacy screen section (source: Tonkin Zulaikha Greer Architects)

Proposed Uses, Liquor License, and Hours of Operation

72. The proposed development includes multiple uses, including a medical facility on Basement 2, an Entertainment Venue on Basement 1, a restaurant/cafe on the ground floor, and a restaurant/bar on the level 5. The respective hours of operation and patron capacity as stated in the Statement of Environmental Effects are as below:

	Indoor		Outdoor	
	Hours	Capacity	Hours	Capacity
Basement Medical Facility	*not specified in the application*			
Basement Entertainment Venue	7.00am - 3.00am (the following day)	245	-	-
Ground Floor Restaurant/Café	7.00am - 2.00am (the following day)	300	7.00am - 12.00midnight	100
Rooftop Restaurant/Bar	7.00am - 2.00am (the following day)	200	7.00am - 12.00midnight	80

73. According to Sydney DCP 2012 Section 3.15, the subject site is located within a Local Centre Area. The permissible hours for a Category B premises are:

	Base	Extended
Indoor	7.00am - 11.00pm	7.00am - 12.00midnight
Outdoor	7.00am - 8.00pm	7.00am - 10.00pm

74. Oxford Street is also identified as a 'main street'. If the entry and egress for the premises is onto Oxford Street and not onto a laneway that abuts residential properties or into a predominantly residential area, the permissible extended indoor hours are increased to 2.00am.

75. All extended hours are subject to a one-year trial to ensure that the uses can operate without amenity impacts and substantiated complaints. Any renewal of extended hours will be assessed against Sydney DCP 2012 Section 3.15.4(14) and (15).

Basement Medical Facility

76. The Statement of Environmental Effects does not specify the requested hours of operation for the basement medical facility. Given the site is located within a business zone, the standard trading hours of 7.00am - 10.00pm Monday to Sunday are recommended as per Sydney DCP 2012 Section 3.15.1(4).

Basement Entertainment Venue

77. The basement entertainment facility is intended to support Oxford Street as a creative precinct. The entertainment facility will be used as a multipurpose venue for performance, creative and cultural uses. With the proposed patron capacity of 245 people, it is a Category B premises.

78. The entry and egress for the facility is onto Oxford Street and is wholly indoor. Therefore, the permissible base hours are 7.00am - 11.00pm and the extended hours are 7.00am - 2.00am.

79. Section 3.15.4(16) further permits an additional indoor hour at closing time on a trial period for a Category B dedicated performance venue. This increases the extended hours to 7.00am - 3.00am.

Ground Floor Restaurant/Cafe

80. The ground floor restaurant/cafe has a total patron capacity of 300 and is a Category B premises, with entry and egress onto Oxford Street. It also has an outdoor area within the envelope of the proposed development, accommodating a maximum 100 patrons.

81. The permissible indoor base hours are 7.00am - 11.00pm, and the extended hours are 7.00am - 2.00am; and the outdoor base hours are 7.00am - 8.00pm, and extended hours are 7.00am - 10.00pm.

82. While the application seeks consent for extended outdoor hours till 12.00 midnight, such hours are not permissible by Sydney DCP 2012 Section 3.15, which was reviewed and updated in 2018.

83. It is noted that the Operational and Security Management Plan includes the recommendation of the acoustic report that all doors to be closed except for ingress and egress, after 12.00 midnight.

Rooftop Restaurant/Bar

84. The rooftop restaurant/bar, as clarified by the Statement of Environmental Effect, is intended as a Category B premises despite a patron capacity of over 120 patrons.

85. To meet such classification, a condition is recommended to clarify the primary purpose of the premises as a restaurant instead of a bar, which primary purpose would be considered as 'the sale or supply of liquor for consumption on the premises'. The latter would be classified as a Category A premises.

86. As a Category B premises, the permissible indoor base hours are 7.00am - 11.00pm, and the extended hours are 7.00am - 2.00am; and the outdoor base hours are 7.00am - 8.00pm, and extended hours are 7.00am - 10.00pm.

87. While the application seeks consent for extended outdoor hours till 12.00 midnight, such hours are not permissible by Sydney DCP 2012 Section 3.15, which was reviewed and updated in 2018.

88. The extended outdoor hours till 12.00 midnight are also contradictory to the noise management requirements included in the Operational and Security Management Plan for patron capacity to a maximum of 100 patrons for the entire level with all patrons indoors, and all glazed sliding doors are to be closed after 10.00pm.

License Type

89. The basement entertainment venue is not intended as a nightclub. The existing night-club license is required to be surrendered by condition as suggested by the applicant.

90. An On-premises Accommodation Liquor License will be sought from the Liquor Gaming NSW for the whole of the building. The license allows the sale of alcohol, with the primary service being accommodation to residents and their guests and can be tailored to suit a multipurpose business.

Operational and Security Management Plan

91. An operation and security management plan has been provided for the whole of the premises. The management plan has been reviewed by the City's Licensed Premises Unit and is acceptable.

92. The management plan includes recommendations made by the acoustic report for individual areas of the development. Some are specifically mentioned above for clarity. It also includes requirements for staff to manage patron behaviour, security measures, incident reporting, complaints handling and registering, waste management, and time for deliveries and servicing.

93. Compliance with the management plan is required by condition, and some key management requirements are further secured by separate conditions.

Construction - Site Access and Marshall Street park

94. A construction management plan (CMP) prepared by the applicant' traffic consultant has been submitted as part of this application. It proposes to use Marshall Street park to facilitate site access during demolition, excavation and construction. This resulted in significant concerns from nearby residents.

95. A CMP is often provided to Council for approval after a development consent is issued and a builder is selected through a tender process. This allows the selected builder to prepare the CMP in consultation with the City's Construction Liaison Unit to establish the necessary work zone(s) and site access. The use of public land to facilitate development is also subject to separate applications under the Local Government Act 1993 and/or the Roads Act 1993.

96. In this instance, the City's Construction Liaison Unit was able to discuss with TfNSW to establish two potential work zones on Oxford Street and South Dowling Street, which are both classified roads. These two work zones will eliminate the need to use Marshall Street park for site access. This has been communicated to the applicant, who has subsequently communicated with all the builders included in the tender process. The applicant has also confirmed that Marshall Street park will not be used as a work zone or for site access.

97. To provide certainty to the nearby residents, a condition is recommended to clarify that the submitted Construction Management Plan is not approved, and that Marshall Street park cannot be used as a work zone or for site access. Only temporary access to Marshall Street park is allowed, which is necessary to facilitate the installation of the new substation only. Any modifications to the Marshall Street will be at the cost of the applicant as part of their required public domain works.

Other Impacts of the Development

98. The proposed development is capable of complying with the BCA.

99. The proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to recommended conditions.

Suitability of the site for the Development

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

Internal Referrals

101. The application has been discussed with the Heritage Specialists, Urban Designer; Landscape Architect; Surveyor; Contribution Planners; Sustainability Planner; Environmental Health Unit; Transport and Access Unit; Public Domain Unit; Tree Management Unit; Licenced Premises Unit; Waste Management Unit; and Construction Liaison Unit. Relevant comments have been included in this report, and where appropriate, recommended conditions have been included in Attachment A**.**

External Referrals

Heritage NSW

102. As discussed under *Heritage Act 1977,* the application was referred to Heritage NSW as Integrated Development. The applicant has provided the necessary additional information underpinned by rigorous testing, subject to the current limitations of the site, to the satisfaction of Heritage NSW. General Terms of Approval have been issued on 2 October 2020 and are included in Schedule 3 of Attachment A.

Sydney Water

103. The application was referred to the Sydney Water on 5 August 2020 as an asset owner on the recommendation of Heritage NSW given the proposed development encroaches into the 3m curtilage of the Busby's Bore. A response was received on 3 September 2020 raising no objections to the development.

104. The response also provided standard conditions for managing stormwater, which would otherwise be addressed by Council's standard conditions. The conditions provided are included in Schedule 3 of Attachment A**.**

Transport for NSW (TfNSW)

105. The application was referred to TfNSW under the *State Environmental Planning Policy (Infrastructure) 2007*. The applicant has provided the necessary additional information to the satisfaction of TfNSW and the proposal is considered acceptable as discussed elsewhere in this report.

106. The conditions recommended by TfNSW are included in Schedule 3 of Attachment A**.**

Ausgrid

107. As discussed under the heading *State Environmental Planning Policy (Infrastructure) 2007*, the application was referred to Ausgrid for comment as the development is immediately adjacent to, and requires the relocation of an existing substation.

108. A response was received raising no objections to the new location subject to recommended conditions, which have been included in Schedule 3 of Attachment A**.**

Notification, Advertising and Delegation

109. The application constitutes integrated development and was notified and advertised for 28 days between 9 April 2020 and 9 May 2020 in accordance with the City's Community Participation Plan 2019. A total of 298 properties, including those located within the Woollahra local government area, were notified by letter, and an advertisement was placed in the local new paper and the Sydney Morning Herald. A total of 32 submissions were received, including 26 in objection (inclusive of one petition), five in support, and one comment.

110. The submissions in support raised the following issues:

    (a) The area is in continuing decline and is in desperately need investment and development to survive. The proposal is respectful of the existing building and the neighbours and will be a positive contributor to the community encouraging social and economic activity.

    (b) Realistically a hotel is probably one of the best options for this large site and the proposal will be a great positive for this part of the community.

    (c) Council should get behind the proposal, enable the location and building to move as an integrated whole into a use which once again contributes to the community and local economy.

    Response - The proposal is recommended for approval, subject to conditions to ensure adequate protection of heritage items during construction phase and good management of the premises when operational to protect nearby residential amenity.

    (d) Given the site constraints, including two facades being of heritage significance and both street frontages being arteries, it is extremely difficult to undertake the proposed development without utilising Marshall Street park. While it is acknowledged that the temporary loss of Marshall Street park will be an inconvenience to the Rose Terrace residents, the residents are not going to benefit from a more complicated / delay in the construction process. The use of Marshall Street park should therefore be supported to expedite the construction process and minimise impact to road users.

    Response - The use of Marshall Street park to facilitate the proposed development is not supported. However, the City's Construction Liaison Unit has communicated with TfNSW to allow 2 work zones to be established on the 2 street frontages. This has been communicated to the applicant to inform the tender process.

111. The submission in comment raised the following issues:

(a) A full photograph documentary recording of the building (original fabric and various modifications over time) should be undertaken perhaps as a condition of consent. Of particular interest is the idiosyncrasy of the 1970s twin-cinema inserted within the original building fabric, as well as the remnants of the theatre's earlier past including the staircase and the upper bar, in addition to the building's significance in the cultural narrative of 20th century Sydney.

Response - A condition for archival records is recommended by the City's Heritage Specialist, and is included in Attachment A. This is consistent with the comment received.

112. The submissions in objection raised the following issues:

Construction Issues - Use of Marshall Street park and Rose Terrace

(a) The construction management plan proposes using the Marshall Street Park to facilitate development of the subject site. The destruction of the Marshall Street park to facilitate a private development is not acceptable. Alternatives, including revision to the heritage requirements the site, should be investigated. The use of Marshall Street park as a heavy vehicle driveway also results in significant amenity impacts to residents and potential structural impacts to the heritage listed terraces.

Response - This issue has been discussed under the heading *Issues - Construction - Site Access.* The Marshall Street Park is no longer proposed to be used to facilitate redevelopment of the site.

(b) Use of Rose Terrace garden as work zone, while not included in the DA was mentioned to residents. This is not supported.

Response - The use of Rose Terrace was never mentioned as part of this application. Nonetheless, the use of Rose Terrace garden will not be supported to facilitate redevelopment of the site. Furthermore, no modifications to Rose Terrace garden are included in this application.

Construction Issues - Structural Impact to Rose Terrace

(c) Concern about structural damage to Rose Terrace, which are single-brick heritage listed terraces, during excavation. Council should impose German DIN vibration limits to reduce the likelihood of structural damage to Rose Terrace, which TfNSW commonly utilises.

Response - This issue is discussed above under the heading *Issues - Heritage - Adjoining Heritage Item - Rose Terrace.* Vibration limits consistent with the German DIN quoted in the submissions are adopted in the revised structural report.

(d) The architectural drawings also fail to clearly demonstrate the location of pile wall and capping beams, which will likely be less than 1m form the existing dwelling's rear facade. The footprint of excavation should be reduced to the southern edge of the main structure above to reduce possible damage.

Response - The southern alignment of the proposed basement is consistent with the allowable extent under the Sydney DCP 2012 Section 6.3.18, and additional sections have been provided to clearly demonstrate the location of the pile wall and capping beams. These are set back from the site's southern boundary and the rear facades of adjoining Rose Terrace.

As discussed above, a revised structural report has been provided specifying appropriate measures to minimise impacts to Rose Terrace. Appropriate conditions are recommended to ensure their implementation, and further details are required to be approved by Council prior to commencement of work to detail the treatment along the southern boundary of the site.

(e) The excavation in the southern part of the site is to provide storage areas for the development. Alternative locations should be provided within the expanded depth and height of the building.

Response - The depth of excavation for the site is limited by the location of the underground state heritage item, the Busby's Bore. The height and bulk of the building is also restricted to limit additional visual bulk and overshadowing to the adjoining terraces to the south. Given the proposed basement footprint is largely consistent with Sydney DCP 2012 Section 6.3.18, and the potential structural impacts can be adequately managed as discussed above, controlled excavation in the southern part of the site is acceptable.

(f) Dilapidation reports should be undertaken immediately prior to the commencement of work and should be available to all stakeholders.

Response - Dilapidation reports are required by condition.

Construction Issues - Demolition of the rear wall

(g) The retention of the rear wall will reduced noise and pollution.

Response - The rear wall is of little heritage significance, and the removal of the wall allows for more practical construction and excavation methodology. It also removes the risk of structural failure during excavation. The removal of the wall does not change the management requirements for the construction site in terms of noise, dust and other pollution. Detailed construction management plans, including the Construction Noise and Vibration Management Plan, are required by conditions, to be approved by Council prior to the commencement of works.

Construction Issues - Hours & Noise

(h) The Construction Management Plan proposes construction hours that are greater than the allowable hours under the City of Sydney Construction Hours /Noise Code of Practice 1992.

Response - The construction hours are restricted by the City's standard condition to comply with the abovementioned Code of Practice.

(i) The acoustic report and the Construction Management Plan lack consideration of construction noise generated by the development and its impact to surrounding residents.

Response - A Construction Noise and Vibration Management Plan is required by condition to be prepared and approved by Council prior to the commencement of works as per normal procedure.

(j) The use of noisy machinery, such as rock breakers, rock saws and pile machines should be restricted to Monday to Friday only.

Response - A condition is also imposed restricting the hours of use of high noise emission appliances, plant and/or machinery. Notification is also required to be given to adjoining neighbours at least 48 hours prior. Appropriate respite periods will need to be included in the Construction Noise and Vibration Management Plan required prior to commencement of works.

(k) Permanent monitoring equipment, and a dispute mechanism should also be in place.

Response - Details of noise monitoring and compliant handling mechanisms will form part of the required Construction Noise and Vibration Management Plan.

Construction Issues - Site Access

(l) The Construction Management Plan appears to have little consideration to access onto the site, storage of materials, plant and equipment, once the above-ground structures commence.

Response - Detailed construction management plans are required by conditions to be prepared and approved by Council prior to the commencement of works

Traffic - Traffic Generation

(m) The applicant is claiming that the traffic generated by the proposed development is going to be in some way equivalent to the current three-storey building, claiming that the development will not generate additional traffic or travel demands. The proposal generally fails to demonstrate the demand for transport generated by the development is managed in a sustainable manner.

(n) Council's transport objective and its encouragement for 'the use of alternate modes of transport in preference to private vehicle travel' has limited effectiveness and can already be measured by the way it impacts on residential streets, with people coming to St Vincent's Clinic and Hospital by private car driving around to look for a park. This has a particular impact to residents north of Oxford Street.

(o) Any impact on existing traffic is only exacerbated by the nature of the proposed development being a medical hotel, where additional visitation and people driving to the area with little knowledge of the limited amount of street parking or restrictions of timed parking.

Response - The proposal has been assessed as a 'traffic generating' development by TfNSW and the City's Transport and Access Unit, with additional information submitted to the satisfaction of TfNSW to quantify the impacts of the development on existing roads. The application is supported, subject to recommended conditions.

The City also has existing policy in place to manage the demand for on-street parking which includes clear parking signs and parking enforcement in proximity to the site

(p) There is a lack of overall transport management plan.

Response - As discussed under Sydney DCP 2012 Section 6.3.18.3, a transport management plan is not required following consultation with TfNSW and the City's Transport and Access Unit because the information submitted with the application and the detailed documentation required by the recommended conditions will provide the same information as an overall transport management plan, sufficient to manage the associated traffic impacts.

(q) If a tunnel connecting the subject site with St Vincent's Hospital is contemplated or other alternatives including a covered walkway, that would be undertaken as part of the first stage of development to reduce the need for any traffic ingress on South Dowling Street.

Response - No such connection is proposed as part of the development, and the potential associated traffic impacts are acceptable to TfNSW and the City's Transport and Access Unit.

Traffic - Vehicular Access, Parking, and Servicing

(r) The proposed development has no off-street parking. This will increase demand for on-street parking in neighbouring residential area and impact on residents.

Response - The City adopts a maximum car parking rates to encourage alternatives to private motor vehicles, such as public transport, walking and cycling. It does not require on-site car parking but spaces for servicing are required. Provision of car parking spaces also needs to manage heritage issues such as retaining the main structure of the existing building and traffic issues such as the corner location of the site on two busy classified roads.

The site is well served by frequent bus services along Oxford Street and there is a significant local catchment that would also provide patronage to the development, who can walk and cycle to the venue and support sustainability goals. Appropriate conditions recommended by TfNSW and the City's Transport and Access Unit are included in **Attachment A.**

(s) How will vehicles queuing be controlled to allow one vehicle at a time.

Response - A loading dock management plan is required by condition to demonstrate acceptable management of vehicles utilising the loading dock, and to avoid more than one vehicle attempting the use the loading dock at any one time. A signal light will also be installed to indicate if the loading dock is in use. No queuing is allowed.

(t) The proposed vehicular access point on South Dowling Street is inappropriate given local traffic conditions and crossing over lanes would be dangerous. A similar underground car parking to 13-15 Oxford Street should be provided with vehicular access point on Oxford Street.

Response - This issue was previously explored at planning proposal stage when the site-specific provisions were established. Given both frontages of the site are state roads, vehicular access is required by TfNSW to be provided on South Dowling Street and be as far from the signalised intersection as possible.

The proposed location is consistent with the site-specific provision, and vehicles utilising the new access point will be limited to left-in left-out.

It must also be noted that further excavation for underground car parking is also highly constrained given the location of the Busby's Bore.

(u) The level of servicing is inadequate given the number of uses proposed, particularly given the specific needs of a medical facility.

Response - As discussed above, the proposed loading dock is sufficient to accommodate the needs of the proposed development. The use of the loading dock will be managed through a management plan. Specific conditions are also recommended to ensure proper management of medical waste.

Traffic - Pick-up and Drop-off

(v) Onsite pick-up and drop-off facility should be provided, particularly given the nature of the proposed development as a medical hotel.

(w) No stopping' areas do not facilitate the stopping of any vehicles at any time, including taxi, and coaches to collect and drop off passengers. This issue is not addressed. Guests will expect and demand direct access to the entry, which is not possible given the current design.

Response - Given the heritage constraints, an on-site pick-up and drop-off facility could not be provided. Alternative pick-up and drop-off could occur form surrounding locations, including the bus lane on Oxford Street, which is allowed for taxis under NSW Road Rules r187. Also, public transport could be used given the accessible location.

Further investigation and consultation are underway to consider changing stopping restrictions to accommodate pick-up and set-down on South Dowling Street, subject to the support of TfNSW, who is the controlling authority of South Dowling Street, which is a classified road.

A Guest Pick-up and Drop-off Management Plan is required by condition.

Traffic - Surrounding Traffic Arrangements

(x) Despite public support, there is no mention in the application that further actions are in place to achieve the change of South Dowling Street to one-way traffic.

(y) Reconfiguration of the intersection of Oxford Street, South Dowling Street and Victoria Street should be a primary consideration to improve pedestrian access and safety, particularly given the access required between St Vincent's Hospital and the proposed medical hotel.

(z) A right-hand turn should be introduced where Flinders Street meets Taylor Square to reduce pressure on Oxford Street, South Dowling Street, Victoria Street and Barcom Avenue.

Response - Changes to local traffic conditions and arrangements are beyond the scope of a development application. Where classified roads are concerned, changes would also involve other stakeholders. In particular, Oxford Street and South Dowling Street are classified roads under the authority of TfNSW. While it is not a decision of the City, investigations are underway with TfNSW as part of the City's Oxford Street Strategic Review to advocate for change to make pedestrian access safer.

Amenity - General

(aa) The existing building was constructed with very little consideration for Rose Terrace, and the proposal continues to ignore the residents' need for sunlight, air and space, exacerbating poor historical precedents.

Response - The main bulk of the existing building was built c1912. It is reasonable to assess the proposed development based on the current site specific provisions and on the additional amenity impacts created.

(bb) The proposed development has not demonstrated the potential to disrupt lives and homes of nearby residents and negative impacts on the amenity of the surrounding communities.

Response - Sufficient information has been provided to enable an assessment of the proposal, including its amenity impacts to neighbouring properties. Appropriate conditions are recommended to manage the potential impacts of the development.

Amenity - Overshadowing and Visual bulk

(cc) The shadow diagrams suggesting that 264 South Dowling Street never receive morning sun is false.

(dd) There will be additional overshadowing to 260 and 266 South Dowling Street. A high wall approximately 2.5-3m will run along the boundary of Rose Terrace, and 260 South Dowling Street courtyards.

(ee) The new above ground structure along the southern boundary approximately 2.5-3m high will result in additional overshadowing. A buffer zone is required.

Response - The overshadowing impacts of the proposal to each affected building is discussed under Sydney DCP 2012 Section 4.2.3.

Given the height of the existing building bulk along Oxford Street, the single storey structure in the southern part of the site will not result in additional overshadowing to the adjoining Rose Terrace. A 2m setback is also provided as per Sydney DCP 2012 Section 6.3.18. The setback area will be dedicated via an easement to the adjoining Rose Terrace dwellings for their use as private open space. The creation of the easement is recommended by condition.

The proposed green roof, as amended by conditions, will also provide a better outlook to the neighbouring residents to replace the existing old cooling tower, elevated fire stair and ageing wall.

Amenity - Visual Privacy

(ff) There will be additional overlooking into Rose Terraces, inclusive of South Dowling Street terraces.

Response - Visual privacy impact is discussed under the heading *Issues - Visual Privacy.*

Amenity - Acoustic Privacy

(gg) Mechanical plant directly adjacent to existing residential dwelling, and the acoustic report fails to consider noise generated by the mechanical plant, underestimating the impact of the development.

Response - The mechanical plant (rainwater tanks and air-conditioning units) south of the rear wall are set back form the site's southern boundary, and will be surrounded by acoustic screening, and buffered by the green roof. An amended acoustic report has been provided identifying appropriate selection criteria to ensure the plants/equipment will not result in unacceptable acoustic impacts. Conditions recommended by the City's Environmental Health Unit are included in Attachment A**,** which include the requirement for acoustic verification reports to be approved by Council.

(hh) The development will contribute to additional noise in the neighbourhood and disturbance during development and later when operating, loading and unloading.

Response - Noise impacts associated with the development have been discussed above. Appropriate conditions are included in Attachment A**.**

Amenity - Exhausts

(ii) Kitchen exhausts leaving the roof could have amenity impacts to neighbouring residents.

Response - Standard conditions recommended by the City's Environmental Health Unit are included in Attachment A**.**

Rooftop Restaurant/Bar and Basement Entertainment Venue

(jj) The Good Bar has over the past 3 years cause excessive noise from patrons and music. The bar currently operates through the night until 10am and has constant issues with patrons fighting with security guards, and the operator definitely do not abide by the time restrictions.

(kk) Current noise impact, also patrons taking drugs, some, and other anti-social behaviours affecting Rose Terrace residents.

(ll) If the ‘Good Bar’ or an equivalent is to remain, it will either damage the reputation of the hotel or encourage undesirable behaviours from its patrons, which will ultimately impact the surrounding area.

(mm) Should the Rooftop bar adopt a similar management ethos to the current ‘Good Bar’, it should subject to a 10pm close every night.

Response - The issues above have been addressed under the heading *Issues - Proposed Uses, Liquor License, and Hours of Operation.*

(nn) Concerns that the proposal is asserting limited patron numbers to imply lower impact categorisation to gain consent for extended hours, with the ability to overpopulate the venue.

Response - Patron capacities are regulated by conditions of consent. Exceeding these would be subjected to compliance action.

Heritage

(oo) The development risks losing the heritage aspects of the building, particularly given the increased footprint of excavation and greater internal demolition.

Response - As discussed under the heading *Issues - Heritage - Existing Building*, the extent of demolition and footprint of excavation are acceptable and largely consistent with Sydney DCP 2012 Section 6.3.18.2. Minor departures in the building envelope control are acceptable.

(pp) Detailed investigation must be carried out to address and identify and impacts to the Busby's Bore and Rose Terrace, which are both heritage items. Any geotechnical and engineering limitations should also be a significant factor in determining if this application is premature.

Response - As detailed the subheading *Amendment / Additional Information*, revisions to submitted reports and additional investigations have been carried out by the applicant's consultants to address concerns raised by the City's staff, public submissions, and external authorities including TfNSW and Heritage NSW. The amendments and additional information submitted are sufficient to facilitate a full assessment of the proposal, including its impact to the existing building, the Busby's Bore, and the neighbouring Rose Terrace (as a collective).

Tree Removals and Landscaping

(qq) The proposed development will remove a mature tree, which provides significant canopy coverage to the south of the subject site. The internal courtyard provides no amenity to neighbouring residents. The proposed green roof also provides little amenity with no canopy coverage in lieu of the mature tree.

(rr) The proposal is not compliant with the 10% deep soil requirement of Sydney DCP 2012 Section 4.2.3.6.

Response - These issues have been discussed under Sydney DCP 2012 Sections 3.5 and 4.2.3. Conditions are recommended to modify the design of the green roof to ensure appropriate contribution to the urban canopy despite no deep soil zone is provided due to site constraints.

Public Domain

(ss) The existing Oxford Street awning should be retained, and be able to accommodate new street trees.

Response - The existing awning is not an original feature of the building as demonstrated in Figure 24 above. The proposal has been amended to provide new awnings that can provide amenity to pedestrians while respecting the facades of the building and accommodate new street trees along Oxford Street.

(tt) The proposal relocates the existing substation further up towards Marshall Street, which is directly adjacent to the front door and living areas of the terraces at 260 and 262 South Dowling Street. The amenity of the public domain will also likely be impacted.

Response - The proposed location of the substation has been discussed with Ausgrid as detailed under the heading *State Environmental Planning Policy (Infrastructure) 2007* above and is considered acceptable.

(uu) Council must insist that the quality of landscaping and planting be replaced by the development.

Response - The landscape architect commissioned to design the existing Marshall Street park is being recommissioned as part of the proposal.

Nature and Need of the Proposed Development

(vv) The link with St Vincent's Hospital now appears to be a sales pitch to get the development through its initial phases.

Response - The St Vincent's Hospital submitted a letter of support during the planning proposal stage, and this application continues to demonstrate a link with the St Vincent's Hospital for both medical and hotel uses.

(ww) There is an over-supply of medical offices in the area, many have never been filled since their repurposing. The patients staying at the hotel are also unlikely to need an open rooftop cocktail bar. The use of the site as a research facility is preferred, which will fit within the related uses in and near the hospital, and other collaborators and universities. The need for a research facility is even greater given COVID-19. The site could also be used as a rehabilitation facility if the ambulatory needs of all of its visitors could be accommodated.

Response - The proposed uses were contextually established as discussed above and are consistent with the zone objectives and the desired character envisaged in the relevant planning documents.

Overdevelopment

(xx) The development exceeds the applicable planning controls, including heights and floor space ratio etc.

Response - The proposal is compliant with the site-specific planning controls established by the preceding planning proposal.

(yy) The proposed development will remove the rear yard of Rose Terraces that abut the subject site to the south.

Response - The adjoining properties have informally enjoyed and maintained the space within the subject site. The space, however, is within the boundary of the development site and could be utilised as part of the proposed redevelopment. Notwithstanding, it is understood that the developer will provide a 2m easement to the adjoining property owner for private recreation. A 2m setback from the southern rear boundary is provided to accommodate that future easement, and the establishment of the easement is recommended by condition.

Standard of the development

(zz) While the architects involved are reputable, it is important that Council ensures they are not removed for cheaper options as soon as the DA is approved.

Response - A condition is imposed to require the project architect to continue to be engaged to ensure the delivery of a high-quality development.

(aaa) The design of the corner portico is a total eyesore, lacking any aesthetics.

Response - As discussed under the heading *Issues - Heritage*, the corner portico is a reinterpretation of the original lantern as shown in Figure 24. The design is considered acceptable subject to a condition for a simplified design.

(bbb) The development appears to be of poor standard, cramming over 100 hotel rooms into a very small area.

Response - The proposed room sizes are compliant with Sydney DCP 2012.

(ccc) Low cost building can result in low quality products, which raise concerns with fire prevention and safety.

Response - Given the complete redevelopment of the site, the development must achieve full compliance with the relevent fire regulations required by the National Construction Code.

Consultation

(ddd) The proposed development has been prepared with minimal consultation and discussion with the local community.

Response - This application has been exhibited and advertised in accordance with the City's Community Participation Plan 2019. The preceding planning proposal, which relied on a substantially similar scheme was also appropriately notified and advertised. These processes include relevant stakeholders in the adjoining Woollahra local government area.

Accountability during Covid-19

(eee) Concerned that Local Planning Panel (LPP) will act without public scrutiny and behind closed doors without public input in committee meetings.

Response - The LPP meeting remains an open meeting where residents can follow on the livestream online and/or register to address the committee. All who made a submission have been notified of the LPP meeting and have the opportunity to register to address the panel. A copy of all submissions has also been provided to the panel for consideration in accordance with the City's LPP procedures.

(fff) Poorly built development without oversight or adherence to regulation or scrutiny, exacerbated by disasters of Mascot Towers, and the outsourcing of traditional council functions and certification responsibilities.

Response - The project architect is to be retained to ensure a high-quality outcome. The certification process is outlined in the EP&A Act, and while not compulsory, Council remains an option as the principal certifier for the development.

Public Interest

113. The proposal will have no detrimental effect on the public interest, subject to recommended conditions included in Attachment A.

S7.11 Contribution

114. The development is subject of a S7.11 contribution under the provisions of the City of Sydney Development Contributions Plan 2015. This contribution is calculated on the basis of the development's net increase in resident, worker and/or visitor populations.

115. The applicant provided evidence for the calculation of applicable development contributions and available credits for the most recent past uses of the site.

116. The proposed development would result in the following uses:

    (a) 382.1m² of medical facility

    (b) 431.22m² of entertainment venue

    (c) 624.36m² of food and drink premises

    (d) 4186.85m² of hotel uses

117. According to Table 2 Item 8 of the City of Sydney Development Contributions Plan 2015, 'mid-scale and below hotel and motel accommodation with an average of 45m² or less of gross floor area (GFA) per key granted development consent before 30 June 2021' may be excluded from the need to pay a contribution for that part of the development.

118. For the calculation of the average GFA per key, it is necessary to identify all floor space linked to the hotel use. As clarified by footnote 10, restaurants, conference facilities, indoor swimming pools and the like should be included, while floor space not linked to the hotel use and is a separate tenancy in a mixed use development, such as retail premises, should be excluded.

119. The applicant has nominated in the information provided on 12 August 2020 to include the rooftop restaurant/bar as part of the hotel use, while the two basement tenancies, and the ground floor restaurant/cafe are to be excluded as separate tenancies within the mixed use development. By doing so, a GFA of less than 45m² per key can be achieved, allowing the hotel part of the development to be excluded.

120. It is accepted that the two basement tenancies should be treated as separate tenancies, and that the rooftop restaurant/bar should be part of the hotel as access required through the hotel lobby. However, the proposed ground floor plan, as shown in Figure 8, demonstrates that the ground floor restaurant/cafe is designed as part of the hotel use, with internal connections, and outdoor dining area within the internal 'viewing garden' at the core of the hotel. Therefore, the exclusion sought by the applicant is not supported, and development contributions are calculated for the whole of the development based on the GFA of each uses as below:

    (a) Hotel with 101 rooms (keys), inclusive of all food and drink premises, resulting in 40.4 workers and 131.1 visitors;

(b) 382.1m² of medical facility, resulting in 8.9 workers;

(c) 431.22m² of entertainment venue, resulting in 3.3 workers;

Resulting in a total of 52.6 workers and 131.3 visitors.

121. Credits have been applied for the most recent past uses of the site, which include:

(a) 472.87m² of food and drink premises, allowing for 22.5 workers

(b) 511.43m² of basement night club, allowing for 11.4 workers

(c) 84.2m² of retail premises, allowing for 1.5 works

(d) 1214.3m² of function space rented by Foxtel, allowing for 10.2 workers

(e) 369.8m² of office space, allowing for 11.2 workers.

Resulting in a total of 56.8 workers.

122. The following monetary contribution is required towards the cost of public amenities:

(a)	Open Space	$ 837,487.92
(b)	Community Facilities	$-5,040.83
(c)	Traffic and Transport	$ 25,582.58
(d)	Stormwater Drainage	$ 0
Total		$ 858,029.67

123. The *Environmental Planning and Assessment (Local Infrastructure Contributions - Timing of Payments Direction) 2020* has been extended. This allows development contributions to be paid after the issue of a Construction Certificate and prior to the issue of the first Occupation Certificate for developments:

(a) with an estimated cost of more than $10 million;

(b) not involving the subdivision of land, except for the procurement of a strata plan or strata plan of subdivision; and

(c) not a complying development.

124. As the proposed development meets the above criteria, an appropriate condition is recommended in Attachment A to allow the required contributions to be paid prior of the issue of the first Occupation Certificate.

Relevant Legislation

125. The Environmental Planning and Assessment Act 1979.

126. The Heritage Act 1977.

127. The Liquor Act 2007.

Conclusion

128. The subject site is highly constrained by road and heritage constraints around and below the site. The refined proposal sensitively and equitably deals with these constraints to provide much needed vitality to this part of Oxford Street. It also provides a suite of complementary land uses that are consistent with Council's strategic intent for the area.

129. Construction and operational matters including the protection of the Marshall Street park during construction and associated traffic management have been addressed in the amended proposal.

130. The development, subject to conditions, is consistent with the objectives of the B2 Local Centre zone.

131. The development is consistent with the site-specific provisions under Clause 6.52 of Sydney Local Environmental Plan 2012 and the accompanying Section 6.3.18 of Sydney Development Control Plan 2012.

132. The development, subject to conditions, will maintain the structural integrity and heritage significance of the state heritage item, the Busby's Bore, beneath the site.

133. The development, subject to conditions, will maintain the structural integrity and heritage significance of the adjoining heritage items - Rose Terrace (as a collective) and the retained portion of the existing building within the site.

134. The development satisfies Clause 6.21 of Sydney Local Environmental Plan 2012 in that it demonstrates acceptable standard of architectural design, materials and detailing appropriate to the existing building and the location.

135. The development is respectful to the character and design of the existing building, which is identified as a contributory building to the Paddington Urban heritage conservation area.

136. The development is consistent with the character and principles identified in the locality statement for Oxford Street Paddington.

137. The development within the Local Centre area and the hours of operation, subject to conditions of consent, are consistent with the objectives and in accordance with the recommended hours for this area for the proposed premises as identified in the Sydney Development Control Plan 2012.

GRAHAM JAHN AM

Director City Planning, Development and Transport

Bryan Li, Planner