

ITEM 4. DEVELOPMENT APPLICATION: 251-253 ELIZABETH STREET AND 238-240 CASTLEREAGH STREET, SYDNEY (HELLENIC CLUB & AUSTRALIAN WORKERS UNION (AWU) BUILDING)

FILE NO: D2003/00781

DATE: 7/12/04

SUMMARY

Date of Submission: Initial submission: 8 August 2003
Further submissions: 4 February 2004
30 September 2004

Development Application No: D2003/00781

Applicant: Hellenic Club Pty Ltd

Proposal: Stage 1 development application for a proposed 18 storey mixed use (commercial / club / retail) building envelope with a maximum height of 66m above Elizabeth Street (RL93.08m), and Floor Space Ratio of 13.42 : 1 (including the equivalent of 0.92 : 1 of Floor Space in the basement, which is proposed to be excluded), including: -

- (a) Retention and conservation of the Castlereagh Street façade of the Australian Workers Union (AWU) Building;
- (b) Demolition of all other buildings and structures on site;
- (c) Six (6) basement levels, including one (1) level for Club activities (B5) comprising approximately 828sqm of Floor Space Area, four (4) levels of car parking (B1 – B4) and 74 car spaces, and one (1) level for service and delivery vehicles;
- (d) Ground level retail / commercial uses, with the commercial entry from Elizabeth Street and the Club entrance from Castlereagh Street;
- (e) Two (2) levels of Club premises comprising approximately 1,590sqm of Floor Space Area;

- (f) 14 commercial office levels, with a stepped street frontage to Elizabeth Street from level 12 to level 17 comprising approximately 9,487sqm of Floor Space Area; and
- (g) Building plant at level 17.

Jurisdiction:

Council is the consent authority as the proposed building envelope exceeds three (3) storeys in height, and the cost of development is less than \$50 million.

Summary Recommendation:

The Stage 1 development application for a 18 storey mixed use (commercial/club/retail) building envelope with a maximum height of 66m above Elizabeth Street (RL93.08m), and Floor Space Ratio of 13.42 : 1 or 12.5:1 if the basement area is excluded. Approval is contingent on excluding the basement area, as its inclusion would necessitate a SEPP 1 objection being supported. 11,995sqm is recommended for approval.

It is recommended that the AWU Building be the subject of further heritage assessment prior to the submission of the Stage 2 application, and that a methodology for construction be certified by a Structural Engineer to ensure the retained portions of this building, such as the façade, are protected during construction.

Ten (10) objections were received, and 55 letters of support were received.

Attachments:

- A - Location Plan
- B - Selected Drawings

Development Controls:

- (i) Central Sydney Local Environmental Plan 1996
- (ii) Central Sydney Heritage Local Environmental Plan 2000
- (iii) Draft Central Sydney Local Environmental Plan 2002
- (iv) Central Sydney Development Control Plan 1996
- (v) City of Sydney Public Consultation Development Control Plan 2003
- (vi) City of Sydney Draft Contaminated Land Development Control Plan 2003

(vii) City of Sydney Access Development Control Plan 2004

(viii) SEPP 11 - Traffic Generating Development

BACKGROUND

The Site and Surrounding Development

1. The development site is comprised of two (2) parcels of adjoining land, these being the Hellenic Club at 251-253 Elizabeth Street, Sydney and the Australian Workers Union (AWU) Building at 238-240 Castlereagh Street, Sydney. Both parcels are located to the south of Bathurst Street, between Elizabeth and Castlereagh Streets.
2. The Castlereagh Street frontage of the site is 26.8 metres, and the Elizabeth Street frontage of the site is 15.4 metres. The combined site area is 893.7sqm.
3. The Hellenic Club is a six (6) storey building that is currently used for both Club and commercial office purposes. The four (4) storey AWU Building is presently unoccupied, and in a poor state of repair.
4. The Hellenic Club is adjoined by modern office buildings at 229-249 and 255-269 Elizabeth Street. These buildings both extend through to Castlereagh Street, and step back at higher levels to conform with the CSLEP 1996 Sun Access Plane provisions for Hyde Park West.
5. To the east of the site is Hyde Park and to the west of the site are the Castlereagh Street Fire Station and City South Telephone Exchange, both Heritage Items listed in Schedule 1 of the CSHLEP 2000.
6. Photos of the site are provided below.



Hellenic Club Building as viewed from the South east (Hyde Park side of Elizabeth Street)



Hellenic Club Building, illustrating height of adjoining property to the north at 231-249 Elizabeth Street



Hellenic Club Building, illustrating height of adjoining property to the south at 255-269 Elizabeth Street



Australian Workers Union (AWU) Building, at 238-240 Castlereagh Street, Sydney

History of Site and Development Applications Relevant to this Site

7. The Hellenic Club was incorporated in 1926. The building on the subject site, known as Hellenic House, was opened in October 1959 by the then Premier Mr J Cahill.
8. The AWU Building (Castlereagh Street) was constructed in 1878. It was originally known as Protestant Hall and is associated with the Irish Protestant movement in Australia. In 1937 the building was transferred to the Australian Workers Union, one of the first unions in Australia, who occupied the building for a number of years.
9. DA 91/00098 was approved for the redevelopment of the site by Council on 21 December 1991. The approved FSR was 11.59:1, within a 22 level mixed use commercial/club building, with 3 levels of basement parking and the retention of the façade of the AWU Building.
10. DA 99/01035 was approved on 15 June 2000 for a Rice Daubney Group designed mixed use office/hotel/club/residential tower with an FSR of 13.13:1. The consent for this application lapsed in June 2003. This application proposed the demolition of the AWU Building.
11. DA 03/00029 for the demolition of the AWU Building was lodged on 15 January 2003. This application was withdrawn by the applicant on 5 January 2004. Following this, officers advised that demolition was not the preferred approach.

PRESENT PROPOSAL

12. The original proposal was amended after concerns were raised in terms of the height of the proposed building envelope in relation to the two neighbouring buildings in Elizabeth Street, and the Floor Space Ratio of the proposal. The original plans included the retention of the façade of the AWU Building, and proposed a height of RL 98m, and FSR of 14.78:1.
13. A second set of plans were submitted which reduced the FSR to 14.54:1 (Floor Space Area of 13,000sqm), lowered the height, but proposed the demolition of the AWU Building and façade. This proposal was not considered acceptable and a report was prepared recommending refusal in March 2004. The applicant requested that determination of the matter be postponed, pending further discussion.
14. In September 2004 a final set of plans were received by Council. As part of this final scheme, two (2) options were put forward by the applicant. Option 1 proposes a maximum height of RL 89.66m, with a minimal (1m) setback from the AWU Building façade. Option 2 has a maximum height of RL 93.08m, but provides a 3-4m setback from the AWU Building façade.
15. The applicant has indicated a preference for Option 1. Council officers have a preference for Option 2, in view of heritage related concerns.

16. The amended proposal (Option 2) constitutes a Stage 1 development application for a proposed 18 storey mixed use (commercial/club/retail) building envelope with a maximum height of 66m above Elizabeth Street (RL93.08m), and Floor Space Ratio of 13.42 : 1 (including the equivalent of 0.92 : 1 of Floor Space in the basement, which is proposed to be excluded, in which case the FSR is 12.5:1), detailed as follows: -
- (a) Retention and conservation of the Castlereagh Street façade of the Australian Workers Union (AWU) Building;
 - (b) Demolition of all other buildings and structures on site;
 - (c) Six (6) basement levels, including one (1) level for Club activities (B5) comprising approximately 828sqm of Floor Space Area, four (4) levels of car parking (B1 – B4) and 74 car spaces, and one (1) level for service and delivery vehicles;
 - (d) Ground level retail / commercial uses, with the commercial entry from Elizabeth Street and the Club entrance from Castlereagh Street;
 - (e) Two (2) levels of Club premises comprising approximately 1,590sqm of Floor Space Area;
 - (f) 14 commercial office levels, with a stepped street frontage to Elizabeth Street from level 12 to level 17 comprising approximately 9,487sqm of Floor Space Area; and
 - (g) Building plant at level 17.

ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS

Section 79C Evaluation

17. An assessment of the proposal under Section 79C of the Environmental Planning and Assessment Act 1979 has been made, including the following:-

Section 79C(1)(a) Environmental Planning Instruments, DCPs and Draft Instruments

Central Sydney LEP 1996

18. Compliance of the proposal with the LEP controls is summarised below:

COMPLIANCE WITH CENTRAL SYDNEY LEP 1996

Development Controls	Permissible under Central Sydney LEP 1996	Proposal as assessed under Central Sydney LEP 1996
Consistency with Development Plan	Proposal is for a Stage 1 DA in the form of a development plan	Permissible with consent Proposal is for a Stage 1 DA (proposed building envelope has a height in excess of 55m)
Zoning	City Centre	Permissible with consent (mixed use development comprising commercial / club / retail uses)
Floor Space Area	11,171.25sqm	Permissible with consent, if the FSA for the club use in the basement is excluded 11,995sqm (11,167sqm if 828sqm of FSA is excluded within the basement on the basis that it fulfils a public/club use)
Floor Space Ratio (Site area 893.7sqm)	12.5:1 (subject to the satisfaction of the requirements of clause 35(1B) of the CSLEP 1996)	Permissible with consent, if the FSA for the club use in the basement is excluded 13.42 : 1 (12.5 : 1, if 0.92 : 1 of FSR is excluded within the basement on the basis that it fulfils a public/club use) (refer to 'issues' below)
Floor space to be Allocated	Subject to general LEP controls	Permissible with consent 2,837sqm of HFS would be required to be allocated to the site (50% of 4,017.4sqm and 100% of 828sqm) (refer to 'issues' below)

Development Controls	Permissible under Central Sydney LEP 1996	Proposal as assessed under Central Sydney LEP 1996
Height	<p>Stepped street frontage, in accordance with the Hyde Park West Sun Access Plane, subject to cl 32(1)</p> <p>(approximately 45-80m above street level, on the western alignment of Elizabeth Street)</p>	<p>Permissible with consent</p> <p>Stepped street frontage height of between 45m - 66m above Elizabeth Street (approximately 68m above Castlereagh Street) (RL 93.08m)</p> <p>The Stage 2 application shall be required to comply with the Hyde Park West Sun Access Plane provisions</p> <p>(the proposed building envelope does not wholly comply with the Sun Access Plane, refer to 'issues' below)</p>
Parking	<p>Maximum number of car space per use is: (a) 64 for club; (b) 15 for commercial; and (c) 1 for retail</p> <p>(80 car spaces in total)</p>	<p>Permissible with consent</p> <p>74 car spaces</p>

COMPLIANCE WITH LEP AMENDMENT NO. 8 – URBAN FORM

Matter to be Considered (clauses 28C(2))	Compliance	Comment
Design response to analysis of site & context	✓	Satisfactory: The building envelope is generally consistent with existing adjoining development, and is considered to be acceptable.

Matter to be Considered (clauses 28C(2))	Compliance	Comment
Site amalgamation	✓	<p>Satisfactory: The development site is comprised of the Hellenic Club at 251-253 Elizabeth Street, Sydney and the Australian Workers Union (AWU) Building at 238-240 Castlereagh Street, Sydney. The two (2) parcels of land which comprise the development site will be required to be amalgamated. An appropriate condition has been recommended.</p>
Uses, use mix & subdivision patterns	✓	<p>Satisfactory: The proposal is a mixed use development (commercial / club / retail), which is consistent with the provisions of Clause 18 of CSLEP 1996.</p>
Sensitivity to heritage issues & streetscape constraints	✓	<p>Satisfactory: The Castlereagh Street frontage of the site is opposite two Heritage items, these being the City South Telephone Exchange and the Metropolitan Fire Brigade Station at 211-217 and 219-227 Castlereagh Street respectively. The retention of the façade of the AWU Building is considered to have a positive streetscape impact.</p> <p>The proposed tower above the AWU Building is consistent with the pattern of development on the eastern side of Castlereagh Street, (south of Bathurst Street), which is characterised by commercial office towers with a street frontage height greater than 45 metres in height.</p>

Matter to be Considered (clauses 28C(2))	Compliance	Comment
Tower location on the site & relationship to other towers etc	✓	Satisfactory: The location of the tower has been established in terms of opportunities and constraints, including the location and design of the building adjacent and the Sun Access Plane for Hyde Park West.
Bulk, massing & building modulation	✓	Satisfactory: Refer to discussion below under “Urban Design/Form”.
Street frontage heights	✓	<p>Satisfactory: Street frontage heights within Central Sydney are required to be between 20 - 45 metres above average street level. The proposed podium envelope generally complies with the street frontage height provisions. The frontage to Elizabeth Street is 45metres in height (defined by the balustrade at level 12). This height is considered to be appropriate, given the street frontage heights of the neighbouring buildings along Elizabeth Street.</p> <p>The proposed street frontage height to Castlereagh Street is established by the height of the façade of the AWU Building, and is approximately 20.5 metres. This height is acceptable, given that the retention of this façade within the streetscape is a desired outcome of the development.</p> <p>It is noted that the street frontage height to Elizabeth Street may require minor adjustment at Stage 2, in order to comply with the Sun Access Plane for Hyde Park West.</p>

Matter to be Considered (clauses 28C(2))	Compliance	Comment
Environmental impacts – such as sustainable design, overshadowing, wind & reflectivity	✓	Able to comply: The recommendations of the Environmental Assessment Reports are supported. Refer to further discussion below.
Pedestrian, cycle, vehicular & service access, circulation & requirements	✓	Able to comply: The proposal is capable of complying with Council access requirements.
Impact on & improvements to the public domain	✓	Able to comply: Public domain improvement works will be required to be implemented at Stage 2.
Design excellence – result of a competitive process	✓	Satisfactory: The proposal is for a Stage 1 building envelope only. A design competition would be required to be carried out prior to the submission of the Stage 2 application.
Design excellence – process to ensure continuity & to ensure excellence is realised in completed building	✓	Able to comply: Conditions have been recommended to ensure that design excellence is achieved in the Stage 2 development of the site.

COMPLIANCE WITH LEP AMENDMENT NO. 8 – DESIGN EXCELLENCE

Matter to be Considered (clauses 28D)	Compliance	Comment
High standard of architectural design, materials & detailing	✓	Satisfactory: Subject to design development at Stage 2.
Form & external appearance of the building improves quality & amenity of the public domain	✓	Satisfactory: The application proposes to extend the existing colonnade along Elizabeth Street, which is considered to be a positive public domain outcome.
Design results from of a competitive process	✓	May be satisfactory: Conditions of consent are recommended in this respect.

Central Sydney Heritage LEP 2000

19. The site is a not a designated heritage item pursuant to the provisions of CSHLEP 2000.
20. A number of properties on the western side of Castlereagh Street (opposite the site) are listed in Schedule 1 of the Central Sydney Heritage Local Environmental Plan 2000. These properties include 211-217 Castlereagh Street, Sydney (Metropolitan Fire Brigade Building) and 219-277 Castlereagh Street, Sydney (City South Telephone Exchange).
21. Clause 13 of CSHLEP 2000 requires the consent authority to take into account the impact a development would have on the heritage significance of a neighbouring heritage item(s). The impact of the development on the Castlereagh Street items is acceptable, given the retention of the AWU Building's façade, and the important relationship between the style, design, period of construction and scale of the AWU Building together with the adjoining heritage items, and their collective streetscape qualities.



Façade of the AWU Building, fronting onto Castlereagh Street

Draft City of Sydney Local Environmental Plan 2002

22. The Draft City of Sydney Local Environmental Plan 2002 (DCSLEP2002) was placed on exhibition on 16 October 2002 for a period of 28 days and was re-exhibited from 26 January until 22 February 2004. Under the provisions of Section 79C1(a)(ii) of the Environmental Planning and Assessment Act, 1979 “*any draft Environmental Planning Instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority*” is required to be considered in the determination of any development application.
23. The Draft City of Sydney Local Environmental Plan 2002 proposes various operational amendments and to merge the relevant provisions of the Sydney Regional Environmental Plan 26 and Central Sydney Heritage LEP 2000 into one cohesive document.
24. Clause 10 (2)(b) of the Draft LEP 2002 restricts Floor Space Ratio (FSR) non compliance, to “*whichever is the greater of the floor space area of one floor in the building and 10% of the maximum floor space area of the building.*” A number of strict criteria are applied. If the floor area of basement level B5 were included in the total FSR, the proposed FSR would be approximately 7.4% above the maximum permitted FSR. Subject to conditions dealing with the use of the basement area, the FSR is considered to be acceptable. The proposed FSR is addressed below under ‘issues.’

25. It is noted that the Hellenic Club does not comply with the definition of “historic club” provided by Clause 59 of the Draft LEP 2002, due to the fact that “accommodation” has not been traditionally provided in the building. If it were an “historic club”, a reduction in the overall FSR calculation could have been permitted under this clause of the Draft LEP 2002 (of 2:1). However, it is accepted that the Club is of historic and cultural significance within the City of Sydney and its retention on the site is in the public interest. It is therefore considered eligible for FSR exclusion of the basement area.
26. It is noted that the proposed basement auditorium at level B5 is not considered to provide a “significant public benefit” (unless it becomes a cinema, recital hall or theatre), and therefore a reduction in HFS to be purchased under clause 63 of the Draft LEP 2002 would not apply in this instance.

Central Sydney DCP 1996

COMPLIANCE WITH THE CENTRAL SYDNEY DCP 1996

Matter to be Considered	Compliance	Comment
Building to the street alignment CI 2.1	✓	Complies: The building is built to its street alignment.
Street frontage heights CI 2.2	✓	<p>Complies: Street frontage heights within Central Sydney are required to be between 20 - 45 metres above average street level, in accordance with Clause 2.2.1. The proposed podium envelope generally complies with the street frontage height provisions. The frontage to Elizabeth Street is 45metres in height (defined by the balustrade at level 12). This height is considered to be appropriate, given the street frontage heights of the neighbouring buildings along Elizabeth Street.</p> <p>The street frontage height to Castlereagh Street is established by the height of the façade of the AWU Building, and is approximately 20.5 metres, which is permissible.</p>

Matter to be Considered	Compliance	Comment
Building setbacks – front; side and rear Cl 2.3	x	<p>Does not comply:</p> <p><i>Front setbacks:</i> Above the street frontage height, buildings are to be setback a weighted average of 8 metres. Setbacks greater than 10m are permissible. The setback to Elizabeth Street is a minimum of 4.0m and a maximum of 25.0m above street frontage height (street frontage height is 45m above street level), which is generally satisfactory, and follows the sun access plane, as most buildings along Elizabeth Street do. A 2.0m setback is proposed to the AWU Building's façade on Castlereagh Street, which is four (4) storeys in height. The front setback to Castlereagh Street does not comply with the numerical provisions of clause 2.3, but is consistent with existing adjoining development. As outlined above under street frontage height, this is considered to be acceptable, subject to the setback matching the alignment of adjacent buildings.</p>

Matter to be Considered	Compliance	Comment
Building setbacks – front; side and rear CI 2.3 (continued)		<p><i>Side and rear setbacks:</i> Above a height of 45.0m, windows or balconies of commercial buildings are to be set back at least 3.0m from side boundaries. No setbacks are proposed to the side boundaries, due to the fact that no windows or balconies are proposed to these elevations. This may be acceptable, providing there are no balconies or windows to the upper levels. In the event that balconies or windows are added at Stage 2, the development shall be required to comply with the minimum setback requirements.</p> <p>Appropriate conditions of consent have been recommended.</p>
Street frontage activities CI 2.5	✓	<p>Complies: The proposal will activate the site by providing retail/commercial uses at street level.</p>
Views CI 2.8	✓	<p>Complies: The proposal does not affect any identified views.</p>

Matter to be Considered	Compliance	Comment
<p>Vehicle access and footpath crossings CI 3.3</p>	<p>✓</p>	<p>Complies: A 3.5m wide vehicle crossing is proposed in Castlereagh Street, which is not identified as a major pedestrian street. The Statement of Environmental Effects notes that there is a vehicle crossing adjacent to the southern boundary of the site, which is reserved for the use of the building to the south. A request from the Hellenic Club to share the driveway was denied.</p> <p>The Sydney Traffic Committee recommended that the proposed vehicle crossing be increased in width from 3.5m to 5.5m, to accommodate two-way traffic.</p> <p>It is recommended that the width of the driveway be determined with the benefit of further investigation, to establish the impact of a wider driveway on the façade of the AWU Building in terms of heritage and structural engineering. Appropriate conditions have been recommended.</p>
<p>Awnings & colonnades CI 3.5</p>	<p>✓</p>	<p>Complies: Figure 3.9 of the DCP identifies that colonnades are to be retained and completed along the Elizabeth Street frontage of the site. The proposal includes the provision of a colonnade along the Elizabeth Street frontage of the site, which is considered an acceptable urban design outcome.</p>

Matter to be Considered	Compliance	Comment
Paving for street footpaths and public spaces CI 3.7	✓	Complies: Figure 3.11 of the DCP identifies that flagstone paving is to be provided along both street frontages of the site. An appropriate condition of consent has been recommended.
Easy access CI 3.8	✓	Able to comply: A continuous path of travel shall be required to be provided to the main entrances of the building as well as to the ground floor retail. Other levels of the building are to be accessed via lifts, which is acceptable. An appropriate condition of consent has been recommended.
Sunlight to public spaces CI 4.1	✓	Complies: The proposal overshadows Hyde Park in the late afternoon at the winter solstice (21 June). Given the proposed building envelope shall be required to comply with the Sun Access Plane provisions for Hyde Park West, the proposal is considered acceptable.
Wind standards CI 4.2	✓	Complies: A wind analysis report was submitted with the application. The report states that wind conditions along Elizabeth and Castlereagh Street are not expected to be affected. Impermeable balustrades are recommended for the proposed terraces fronting onto Elizabeth Street, to provide acceptable conditions on levels 12 and above.
Energy efficiency of buildings CI 4.3	✓	Able to comply: An Energy Efficiency Report shall be required to accompany the Stage 2 application. An appropriate condition has been recommended.

Matter to be Considered	Compliance	Comment
Reflectivity CI 4.5	✓	Able to comply: A Solar Reflectivity Analysis prepared by Windtech Consultants Pty Ltd was submitted with the application. The Analysis concludes that the visible light reflectivity of the new facades will not exceed 20%, as required by Clause 4.5 of the DCP.
Design & location of on-site parking CI 5.1	✓	Complies: A Traffic and Parking Statement was provided at Part C of the Statement of Environmental Effects. The Traffic and Parking Statement concludes that the traffic generation from the proposed development <i>“is not considered to be high, and is unlikely to have a significant impact on the operation, level of service or capacity of the surrounding roads and intersections.”</i>
Parking for people with mobility impairment CI 5.3	✓	Able to comply: In order to satisfy the provisions of the <i>City of Sydney Access Development Control Plan 2004</i> , the car spaces will be required to comply with AS 2890.1 (minimum of 1-2% disabled car spaces), AS 1428.1 (clause 13) and AS 1428.2 (clause 14). An appropriate condition has been recommended.
Delivery & service vehicles CI 5.4	✓	Able to comply: Five (5) spaces for delivery and service vehicles would be required to be provided on site. This shall be addressed by condition and detailed in the Stage 2 application. An appropriate condition has been recommended.

Matter to be Considered	Compliance	Comment
Bicycle/Motor cycle parking Cl 5.5 & 5.6	✓	Complies: Bicycle / motor cycle parking spaces shall be required to be provided at the rate of one car space for every 100 car spaces, or part thereof. An appropriate condition has been recommended.

Issues

27. The issues identified in the above instruments/policies as non-complying or requiring further discussion in the abovementioned tables are discussed in detail below:-

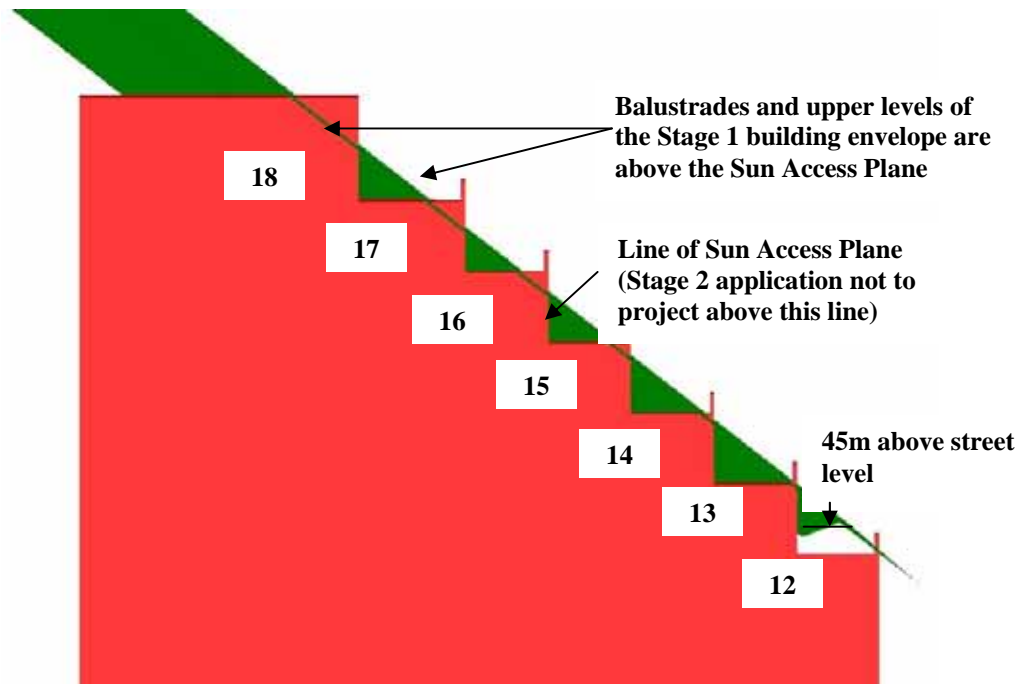
Floor Space Area

28. Schedule 1 of the CSLEP 1996 provides the definition of Floor Space Area (FSA) which applies to the subject development application. In accordance with this definition, the underground space occupied by “...cinemas, recital halls and theatres for public use and other *similar public uses or facilities*...” is **excluded** from the calculation.
29. Approximately 828sqm of FSA within basement level B5 of the proposed building will contain auditorium space for the Hellenic Club. The area is intended to be used for theatrical plays, as a museum and cultural centre for members and their guests. An exemption is sought for this floor space (that is, 828sqm of FSA at basement level B5), in accordance with the CSLEP 1996 definition of FSA cited above.
30. A SEPP 1 objection against strict compliance with the maximum permissible FSR for the site was lodged with the original application, but is not considered necessary in this instance given that the development will comply with the relevant controls if the auditorium space at basement level B5 is excluded from the FSR calculation.
31. The Hellenic Club was established in 1926, and is considered to be a legitimate social and cultural club within Central Sydney, primarily due to its long tradition of involvement with a wide range of organisations and individuals. Having regard to the above definition of FSA, it is considered appropriate to exclude the FSA of basement level B5, providing the area is occupied by an auditorium (or cinema, recital hall or theatre) for Club members and their guests, and is also available for use by the **general public**. This conclusion recognises that the basement FSA does not increase the development’s bulk above ground level. If these conditions are not met at Stage 2, the total FSR of the approved development should be reduced to 12.5:1. Appropriate conditions have been recommended.

32. Providing the FSA of basement level B5 is excluded from the calculation, for the reasons outlined above, the total FSR of the Stage 1 development application would be 12.5:1 (the equivalent of 11,167sqm FSA), which complies with the maximum permissible FSR.

Hyde Park West Sun Access Plane

33. The height of the building on the subject site is established by Clause 30 of the CSLEP 1996 - Sun Access Planes. The objective of sun access planes is to prohibit additional overshadowing to significant parks and community places at nominated times within Central Sydney (such as Hyde Park), as a result of development.
34. Pursuant to Clause 30(1), development that results in any part of a building projecting above a sun access planes is prohibited, if that building is situated on land shown on the Height Map as being affected by the sun access plane.
35. The proposed Stage 1 envelope has been found to exhibit minor non-compliances in terms of this control, due to the fact that small portions of the eastern elevation project above the Hyde Park West Sun Access Plane. However, as the extent of non-compliance is minor, it is considered appropriate to recommend a condition for the development to comply with this control at Stage 2.
36. Pursuant to Clause 30(4) of the CSLEP 1996, the provisions of SEPP No. do not apply to the sun access plane for Hyde Park West. Therefore, the sun access plane requirements act as a prohibition and must be complied with.
37. For reasons of clarity, the extent of non-compliance is indicated in the diagrams below.



Indicative section of the proposed building envelope, illustrating that the proposed balconies, and upper levels of the building are required to be modified so that no part of the building projects above the Sun Access Plane for Hyde Park West

Heritage

38. The AWU Building is not a heritage item. The building was on the City's Heritage List in the late 1980's, but was removed from the list following a review in 1992. The building remains on the Register of the National Trust (NSW).
39. The group of buildings on Castlereagh Street comprising the Fire Brigade Amenities Building, Fire Brigade Headquarters, City South Telephone Exchange (which are schedule 1 heritage items), and the AWU Building is considered by the National Trust to have architectural and historic interest. This is agreed.
40. A Heritage Impact Statement was provided with the application which assessed the impact of the development proposal on existing adjoining heritage items. The Statement concludes that the proposal "*will have no increased impact on the streetscape or adjacent heritage items*", principally due to the fact that the development site is located within a varied context which is characterised by larger buildings, and the façade of the AWU Building is proposed to be retained.
41. The Heritage Impact Statement mentioned above did not assess the impact of the proposal on the AWU Building, due to the fact that it is not a heritage item. However, Council's Heritage Specialist advised that the AWU Building has historic significance as a former Protestant Hall and home of the Australian Workers Union. Furthermore, in spite of the adjoining contemporary office buildings, the façade detailing and scale of the AWU Building relates strongly to the Schedule 1 Heritage Items opposite the site.

42. Council's Heritage Specialist has noted that the building is highly intact externally above awning level, and has raised concerns that the façade may not be structurally stable if the side walls which support it, and all internal walls, are removed. Furthermore, the Heritage Specialist recommends the retention of the existing internal lift and stairwell in the north-west corner of the building as a minimum.
43. Having regard to the above, conditions are recommended to ensure that the following matters are addressed by the Stage 2 application to the satisfaction of Council, namely:

That

- (a) the building's façade, internal stairs and lift be retained together with sufficient return walls to support the façade;
- (b) a heritage assessment be submitted to Council which clearly demonstrates that the remainder of the building does not have sufficient significance to warrant its retention;
- (c) an Interpretation Strategy be prepared which includes, but is not limited to, the provision of details, of public art interpretation through design and/or the display of selected artefacts and/or other material, appropriate to the education of the public in the history and significance of the site; and
- (d) a methodology for construction, and details of the proposed works to the AWU Building be prepared, which are to be accompanied by a Structural Engineer's Report prepared which certifies that the methodology for construction is suitable and appropriate to ensure the conservation of the retained portions of the building.

Urban Design/Urban Form

44. Council's Urban Design Co-ordinator concluded that the original proposal was satisfactory in terms of urban design, and made the following recommendations:

"The building envelope is generally supported subject to the design refinements suggested:

- (i) *Slight reduction in overall height so that the development mediated in height between the two adjacent buildings;*
- (ii) *Coordination with the stepping back at the upper levels to match the adjacent building(s) if possible;*
- (iii) *Setting the façade of the building tower in Castlereagh Street further back to maintain the integrity of the existing historical building."*

45. The amended plans have satisfied the above requirements, as follows: -

- (a) The height of the building has been reduced by 4.6m, from RL 97.68m to RL 93.08m. It is noted that the height of Telstra House to the north is approximately RL 94m, and the height of the building to the south is RL 90m.

- (b) With the reduction in the overall height of the development, the form of the building at the upper levels is more consistent with the adjacent buildings.
 - (c) The setback of the tower from the façade of the AWU Building has been increased from 1.5m to 2.0m. A condition recommends that the setback match the adjoining building to the north.
46. The proposal is considered to be generally satisfactory in terms of urban design, subject to further refinement at Stage 2.

Contamination Issues

47. The site does not have a history of uses associated with contamination.

Section 79C(1)(b) Other Impacts of the Development

48. No additional impacts beyond those discussed in this report are envisaged.

BCA Matters

49. The application could be conditioned to ensure compliance with the Building Code of Australia.
50. The BCA Classification of the proposed building is Class 5, 6, 7a and 9b.

Section 79C(1)(c) Suitability of the site for the development

51. The subject site is located within the Central Business District, and is suitable for the form of development proposed.

Section 79C(1)(e) Public Interest

52. The form of the development proposed, subject to appropriate conditions, is considered to be in the public interest.
53. Although a number of objections were received in relation to the original proposal (as discussed below), it is also considered that the reasons for objection have been adequately addressed in the amended scheme.

POLICY IMPLICATIONS

54. Not applicable to this report.

FINANCIAL IMPLICATIONS/SECTION 61 CONTRIBUTIONS

55. The cost of the development is in excess of \$200,000 and is therefore subject to a development levy pursuant to the Central Sydney (Section 61) Contributions Plan 1997.

56. As a Stage 1 consent does not provide for any building works, the development levy will be paid prior to release of the Construction Certificate for the building (that is, after the Stage 2 application has been approved).

CONSULTATION

Section 79C(1)(d)

Integrated Development

57. The proposal is not Integrated Development.

Internal Referrals

58. The application was referred to the Building Services Unit, Transport and Access Unit, Health Unit, Urban Design Coordinator, and the Heritage Specialist. No objection was raised to the proposed development, subject to the imposition of appropriate conditions.
59. Comments from Council's Senior Urban Designer and Heritage Specialist have been discussed above.

External Referrals

60. Adjoining and nearby owners and occupiers of residential buildings were notified of the original proposal and invited to comment. In addition, notices were placed on the site and the proposal was advertised in the daily press in accordance with the provisions of the City of Sydney Public Consultation DCP 2003.
61. In accordance with the provisions of clause 8.1 of the City of Sydney Public Consultation DCP 2003, the amended application was not re-notified as the amendments were not considered to result in additional environmental impacts.
62. Following the notification period, 65 submissions were received, 55 of which were 'form letters', and were supportive of the proposal. Ten (10) objections were received, including one from the National Trust. The reasons for objection are summarised as follows: -

(a) Proposed FSR is excessive

Comment:

The original development application sought a FSR of 14.74 : 1, which was considered excessive by Council officers. The amended application has specifically addressed the matter of FSR, and proposes a FSR of 13.42 : 1 (12.5:1 if the FSA at basement level B5 is excluded as recommended), which complies with the Central Sydney LEP 1996 providing 828sqm of FSA is excluded at basement level B5.

(b) Proposed height is excessive / loss of views

Comment:

The height of the amended proposal has been reduced by 4.6m, from RL 97.68m to RL 93.08m. The development has the ability to comply with the height limitations for the site, and is consistent with the height of existing adjoining development. Given the ability for the development to comply with height controls, the impact on views is not a valid reason for refusal in this instance.

(c) *Additional overshadowing of Hyde Park*

Comment:

Additional overshadowing would occur after 3.00pm on the winter solstice, which is acceptable (no overshadowing of Hyde Park is permitted by the sun access plane until after 2.00pm on the winter solstice). Compliance with the Building Height Plane will ensure minimal overshadowing impacts on the Park.

(d) *Setback of façade from AWU Building is required*

Comment:

The setback from the façade of the AWU Building is proposed to be 2.0 metres, in order to align with existing adjoining development. A condition has been recommended. As the building is not a heritage item, and due to limitations by the sun access plane, the proposed setback is considered to be acceptable.

(e) *Impact to balconies at 255 Elizabeth Street*

Comment:

The Stage 2 application will be required to comply with the side setback provisions of the Central Sydney DCP 1996. An appropriate condition has been recommended.

National Trust

63. The National Trust's comments on the development proposal are summarised as follows: -

"...whilst [the Trust] does not usually support the concept of façade retention, it is not possible from the information presented in the Heritage Impact Statement to consider whether the scheme is appropriate for the Worker building [AWU Building], or the site as a whole..."

...the Trust believes the Worker building is significant and is worthy of a proper assessment of its significance..."

64. The revised scheme includes the retention of the building's façade, and front lift and stair well, as discussed above under 'heritage.' Appropriate conditions have been recommended.

Sydney Traffic Committee / SEPP 11

65. Proposed commercial buildings with a gross floor area in excess of 10,000sqm are required to be referred to the Sydney Traffic Committee, pursuant to the provisions of SEPP 11 (the total FSA of the development exceeds 10,000sqm). The application was considered by the Sydney Traffic Committee on 17 September 2003. The Committee raised no objection to the Stage 1 application, subject to conditions that would address transport, traffic and pedestrian safety issues.

Energy Australia

66. Following Council's notification of the Development Application, no response was received from Energy Australia about the proposal.

RELEVANT LEGISLATION

67. The Environmental Planning and Assessment Act 1979.

OPTIONS

68. The Committee may or may not concur with the recommendation of this report.

CONCLUSION

69. The Stage 1 development application for a 18 storey mixed use (commercial / club / retail) building envelope with a maximum height of 66m above Elizabeth Street (RL93.08m), and Floor Space Ratio of 13.42 : 1 (or 12.5 : 1 if the basement area at level B5 is excluded as recommended) is generally appropriate. It is recommended that the AWU Building be the subject of further heritage assessment prior to the submission of the Stage 2 application, and that a methodology for construction be certified by a Structural Engineer to ensure the retained portions of this building, such as the façade, are protected during construction.

RECOMMENDATION:

That arising from consideration of a report by the Specialist Planner to the Planning Development and Transport Committee on 13 December 2004, in relation to Development Application D2003/00781 made by the Hellenic Club Pty Ltd for the site at 251-253 Elizabeth Street and 238-240 Castlereagh Street, Sydney, for retention and conservation of the Castlereagh Street façade of the Australian Workers Union (AWU) Building, demolition of all other buildings and structures, and a building envelope containing commercial, retail, club and car parking uses, it be resolved that:-

- (A) Council supports the proposal in terms of FSR only on the basis that the basement area be used as an auditorium for both the Hellenic Club members and the general public (or as a cinema, recital hall or theatre for public use). The Council also allows the exclusion based on it being administered by the Hellenic Club, which has long cultural associations with the City, and noting the desirability of retaining the Club; and
- (B) consent be granted subject to the following conditions: -

Schedule 1

Approved Development, Contributions and Covenants

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

Note 2: Prior to the issue of the Construction Certificate, sufficient information must be forwarded to the certifying authority (whether Council or a private accredited certifier) illustrating compliance with the relevant requirements of the Building Code of Australia (and a copy forwarded to Council where Council is not the certifying authority). If Council is to be the certifying authority, please contact the Building Unit to discuss the requirements prior to submission of the application for construction certificate.

APPROVED DEVELOPMENT

- (1) The Stage 2 development application must be in accordance with the following:
 - (a) Development Application No. D2003/00781 dated 8 August 2003, as modified by the plans submitted 30 September 2004 for Option 2, with drawing Nos. SK01, SK02A – SK08A, SK90A and SK10A (undated); and
 - (b) Statement of Environmental Effects and Traffic Parking Report prepared for the Hellenic Club by Gary Shiels & Associates Pty Ltd dated August 2003

and as amended by the following conditions:

STAGE 1 BUILDING ENVELOPE CONTROLS

- (2) The building envelope is only approved on the basis that it be amended to comply with the Sun Access Plane for Hyde Park West, and the Central Sydney DCP 1996 in respect of Clauses 2.3 (side setbacks), and that the ultimate building design will be wholly contained within the envelope and provide an appropriate relationship with neighbouring buildings. In addition, the setback of the proposed tower from the façade of the AWU Building shall match the setback of the adjoining building to the north.

The Stage 2 development application should demonstrate a consistency with the objectives and provisions of the Central Sydney Local Environmental Plan 1996 and Development Control Plan 1996 and the Central Sydney Heritage Local Environmental Plan 2000.

COMPETITIVE PROCESS

- (3) A competitive process or competition with at least three (3) architects shall be undertaken prior to the lodgement of a Stage 2 Development Application, in accordance with the relevant provisions of the Central Sydney Local Environmental Plan 1996 and Development Control Plan 1996.

FLOOR SPACE RATIO

- (4) The following applies to Floor Space Ratio:-
 - (a) The Floor Space Ratio of the proposal must not exceed 12.5 : 1 calculated in accordance with the Central Sydney Local Environmental Plan 1996. For the purpose of the calculation of FSR, the Floor Space Area of the development is 11,167sqm, and excludes 828sqm of Floor Space Area consisting of the Hellenic Club auditorium and cultural centre in basement level B5. This Floor Space Ratio is only approved on the basis that the basement area be used as an auditorium for use by the **general public** (or a cinema, recital hall or theatre for public use). If, in the opinion of Council, the Stage 2 application does not satisfy these criteria, then 828sqm shall not be excluded from the Floor Space Ratio calculation, and the total Floor Space Ratio of the development shall be 12.5 : 1 inclusive all of floor space within the development.
 - (b) **Prior to issue of an Occupation Certificate** under the Environmental Planning and Assessment Act 1979, a Registered Surveyor shall provide certification of the total and component Floor Space Areas (by use) in the development, utilising the definition under Central Sydney Local Environmental Plan 1996 applicable at the time of development consent to the satisfaction of the Principal Certifying Authority (PCA) (Council or a private accredited certifier).
 - (c) **Prior to issue of a Construction Certificate** under the Environmental Planning and Assessment Act 1979, documentary evidence (i.e. a Heritage Floor Space Allocation Certificate issued by Council) must be produced and acknowledged by Council that 2,837sqm of heritage floor

space was allocated (purchased and transferred) to the development, being that 50% of the floor space in excess of 8:1, and 100% of the floor space at level B5 (828sqm) as specified in the Central Sydney Local Environmental Plan 1996. This figure may vary if the Floor Space Ratio changes at Stage 2.

RESTRICTION ON CLUB

(5) The following applies to the Stage 2 development:-

- (a) In recognition of the long and historic association of the Hellenic Club with the land and the exclusion of 828sqm (being part of the area occupied by the club equivalent to an FSR of 0.92:1) from the FSR calculations, the Hellenic Club must continue to operate within the building on completion of construction of the development. The basement area must be open to use by the public (not just Club members and their guests).
- (b) The owners of the land must register with the Land Titles Office, **prior to the issue of Construction Certificate** under the Environmental Planning and Assessment Act 1979, a documentary restrictive covenant approved by Council to the effect that the area used as the Hellenic Club (828sqm) must not be used for any purpose other than the Hellenic Club. The restrictive covenant is to be registered on the title of the development site pursuant to Section 88E of the Conveyancing Act 1919. The covenant is to be created appurtenant to Council and at no cost to Council.

Note: The covenant will be noted on the data base for Section 149 certificates issued under the Environmental Planning and Assessment Act 1979.

BUILDING HEIGHT

(6) The height of the building (as defined in the Dictionary in the Central Sydney Local Environmental Plan 1996) must not exceed RL 93.08 (AHD), including plant.

Note: All parts of the building must comply with the Hyde Park West Sun Access Plane. A report prepared by a registered surveyor must be submitted with the Stage 2 application, which certifies that the development complies with the Hyde Park West Sun Access Plane.

HERITAGE – AWU BUILDING

(7) Prior to the submission of the Stage 2 application, the applicant shall commission an experienced conservation architect to prepare the following documents: -

- (a) An assessment report on the heritage significance of the AWU Building. The Report shall provide for the retention and conservation of the building's façade, internal stairs and lift, and shall clearly

demonstrates that the remainder of the building does not have sufficient significance to warrant its retention;

- (b) The heritage assessment report shall specifically address the likely impact of the driveway being increased from 3.5 metres, to 5.5 metres, as recommended by the Sydney Traffic Committee; and
 - (c) An Interpretation Strategy which includes, but is not limited to, the provision of details, of public art interpretation through design and/or the display of selected artefacts and/or other material, appropriate to the education of the public in the history and significance of the site.
- (8) Concurrent with the above condition, the applicant shall commission an accredited structural engineer (BEMIEAUS, Ceng and NPER) to prepare and certify a methodology for construction, and details of the proposed works to the AWU Building, to ensure the conservation of the retained portions of the building.

ENERGY EFFICIENCY OF BUILDINGS

- (9) The design of the building and its services must achieve a rating of 4.5 stars under the Sustainable Energy Development Authority's (SEDA's) *Australian Building Greenhouse Rating Scheme*. This can be demonstrated by:
- (a) Entering into a Commitment Agreement⁽ⁱ⁾ with SEDA, to deliver this star rating⁽ⁱⁱ⁾ for the base building⁽ⁱⁱⁱ⁾, being services traditionally supplied as 'common' to tenants^(iv), such as air conditioning, lifts and common area lighting) or for the whole building^(v) where there is to be one tenant to occupy the whole building. The applicant must provide a copy of the completed Commitment Agreement with their construction certificate application; and
 - (b) Providing a copy of the independent energy assessment report submitted to SEDA and submitted as part of the construction certificate application, that follows the current guidelines in SEDA's *Australian Building Greenhouse Rating Scheme Design Energy Efficiency Review* and the *Energy Efficiency Design Review.xls*. This report should be based on the same documents as submitted with the construction certificate.

Note:

- (a) Definitions referred to in clause 1(a) above:-
 - (i) *Commitment Agreement* means an agreement that is set out in accordance with SEDA's *Australian Building Greenhouse Rating Commitment Agreement*, which is made/signed between SEDA and the applicant/building owner/building manager, to design, build and commission the premises to an agreed star rating.

- (ii) *Star rating* refers to the benchmarking system applied by SEDA for measuring the energy efficiency of a building, and known as the *Australian Building Greenhouse Rating Scheme*.
- (iii) *Tenancies* means office space within a building covering tenant light and power. This may include tenancy air conditioning if this has been installed to service particular tenant loads, but does not include central services (Source: SEDA, September 2001).
- (iv) *Base building* means central services and common areas of a building (Source: SEDA, September 2001).
- (v) *Whole building* means all of the building, being the fabric of the building itself and all services and fit-outs (Source: SEDA, September 2001).

LOT CONSOLIDATION

- (10) All land titles within the site must be consolidated into one lot. A plan of consolidation in a form capable of registration shall be lodged with the Land Titles Office prior to issue of a Occupation Certificate for the Stage 2 application under the Environmental Planning and Assessment Act 1979.

CAR PARK AND SERVICE VEHICLE LAYOUT

- (11) The following traffic requirements will apply to the Stage 2 development:-
 - (a) The car parking and service vehicle provisions shall satisfy the relevant provisions of Council's Central Sydney LEP and DCP 1996.
 - (b) The width of the driveway shall be widened from 3.5m to 5.5m, providing the heritage and structural reports required by the above conditions conclude that a driveway of this width is acceptable.
 - (c) All vehicles shall enter and leave the site in a forward direction.
 - (d) "Stop" sign shall be installed at the exit point to require exiting vehicles to stop at the building line.
 - (e) The layout plan of the car park is to be in accordance with Australian Standard AS 2890.1 - 1993 "Parking Facilities Part 1: Off Street Car Parking", including disabled car spaces. All parking spaces are to be line marked.
 - (f) The gradients of the ramp between the driveway and the loading area on the first basement level shall comply with the requirements of Section 3.4 in AS 2890.1 – 1993.
 - (g) In addition to the condition above, the disabled car spaces shall be required to comply with AS 1428.1 (clause 13), and AS 1428.2 (clause 14), in accordance with the City of Sydney Access Development Control Plan 2004.

- (h) The layout of the service vehicle areas is to comply with Australian Standard AS 2890.2 - 1989 "Off Street Parking Part 2 - Commercial Vehicles Facilities".
- (i) Parking spaces for bicycles and motorcycles shall be required to be provided at the rate of one car space for every 100 car spaces, or part thereof.

The details shall be submitted to and approved by the certifying authority prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

- (12) All loading and unloading associated with construction must be accommodated on site.
 - (a) The structural design of the building shall be such as to permit the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development.
 - (b) If, during excavation, it is not feasible for loading and unloading to take place on site, the provision of a Work Zone may be considered by Council. The applicant shall submit a proposal to the Sydney Traffic Committee stating the justification for not complying.
 - (c) In addition to any approved Work Zone, provision must be made for loading and unloading to be accommodated on site once the development has reached ground level.
 - (d) If a Work Zone is warranted, such an application must be made to Council prior to commencement of work on the site. An approval for a Work Zone may be given for a specific period and certain hours of the days to reflect the particular need of the site for such facility at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.

MATERIALS AND SAMPLES BOARD

- (13) A complete materials board including all external finishes, colours and specifications including all glazing must be submitted with the Stage 2 development application for the approval of the Council. Quality materials, finishes and detailing are required to ensure that design excellence is realised in the completed building.

The selection of materials must be sympathetic to the character of the building fabric in the area to enhance the integration of the building with the neighbouring buildings.

SUSTAINABLE TIMBERS

- (14) To lessen the damage to the environment in the construction of the building(s) only structural timbers from sustainable, recycled or reused sources shall be

used. The type and source of timber to be used shall be submitted with the construction certificate and to Council.

The Principal certifying authority is to be satisfied on the basis of evidence submitted, that any new timber used is sourced from forests or plantations that are either:-

- (a) managed in accordance with laws, codes of practice or other sustainable management requirements of the country of origin, or
- (b) part of an area approved for timber production under a Regional Forest Agreement, or
- (c) managed to meet the requirements of a sustainable forest management standard or code e.g. Australian Forestry Standard (AS4708), Forest Stewardship Council, AS/NZS ISO 14001 or equivalent, or
- (d) certified by an independent third party certifier as complying with a reputable sustainable forest management certification scheme.

INSTALLATION OF WATER EFFICIENT TAPS

- (15) All taps and shower heads installed shall be water efficient with a minimum “AAA” rating. The details shall be submitted for the approval of the certifying authority, prior to the issue of a construction certificate for the development under the Environmental Planning and Assessment Act, 1979.

INSTALLATION OF DUAL-FLUSH TOILETS

- (16) All toilets installed within the development shall be of water efficient dual-flush capacity with a minimum “AAA” rating. The details shall be submitted for the approval of the certifying authority, prior to issue of a construction certificate for the building under the Environmental Planning and Assessment Act 1979.

PLANT ROOMS AND ROOF TOP DESIGN DETAILS

- (17) Full details of the mechanical services and plant required to service to the entire building is to be provided by a suitably qualified engineer for the approval of Council with the Stage 2 development application.
- (18) The design detail for all external plant rooms including materials and finishes are to be submitted with the Stage 2 application. The plant is not to exceed the maximum height limit for the site as defined by the Central Sydney Local Environmental Plan 1996 and all roof-top plant and associated equipment (including roof top plant rooms, parapets and screening devices) shall be located within the approved Stage 1 building envelope and fully integrated into the building design.

Note: In satisfying the Building Code of Australia provisions relating to such services, should the plant exceed the approved building envelope, then further approval is required from the consent authority.

- (19) Design details for all roof top areas are to have a high standard of finish and design. Rooftop gardens/terraces are encouraged and visual / acoustic privacy, security, safety and wind effects are to be considered in the design resolution of roof top areas.

CONSTRUCTION MANAGEMENT REPORT

- (20) A detailed Construction Management Plan is to be submitted with the Stage 2 application. The Plan must addressing the following matters:
- (a) The construction phasing of the development to minimise the impact of the surrounding pedestrian and traffic flows;
 - (b) To define the route for construction vehicular to and from the site, including the likely number of movements during the construction period;
 - (c) To indicate how construction vehicles will be managed to ensure that the impact on traffic flows along Pitt and Goulburn Streets and surrounding streets during the peak traffic times are minimized; and
 - (d) To provide details for pedestrian management in Pitt Street and Goulburn Street during the construction period including measures to ensure access to the adjoining buildings is not adversely affected.
 - (e) To assess the combined impacts of construction activities in the area and present recommendations to ameliorate the combined impacts.

GLAZING

- (21) The visible light reflectivity from building materials used on the facade of the building should not exceed 20% and must be otherwise designed so as not to result in glare that causes discomfort or threatens safety of pedestrians or drivers.

SHADOW DIAGRAMS

- (22) Detailed shadow diagrams are to be submitted with the Stage 2 development application to confirm compliance with the provisions of Part 4 of the Central Sydney LEP 1996.

ACCESS FOR PERSONS WITH A DISABILITY

- (23) Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the Building Code of Australia and Council's Access Development Control Plan 2004.

BCA MATTERS

- (24) A detailed BCA Report is to be submitted with the Stage 2 development application. This report is to be prepared by an appropriately qualified building surveyor and is to address relevant BCA legislation.

For areas **not** complying with the **deemed to satisfy** provisions of the BCA an **alternate solution** will be required to demonstrate compliance with the performance requirements stipulated in the BCA. The following information must be provided:-

- (a) Details of the performance requirements that the proposed alternative solution is intended to meet; and
- (b) Details of the assessment methods used to establish compliance with those performance requirements.

SIGNAGE STRATEGY

- (25) A Preliminary Signage Strategy which identifies the number, type, size and location of any signs (and their illumination as appropriate) to ensure adequate way finding, naming of buildings and tenancies within the development shall be submitted for the approval with the Stage 2 development application.

DEMOLITION/SITE RECTIFICATION

- (26) No demolition or construction shall commence in relation to this Stage 1 development until a Stage 2 development application is approved and an associated Construction Certificate.

- (27) The following conditions apply to the development:-

- (a) Demolition or excavation must not commence until a Construction Certificate has been issued under the Environmental Planning and Assessment Act 1979 for construction of the substantive building.
- (b) **Prior to issue of the Construction Certificate**, documentary evidence **must be provided to Council** that the owner of the site has entered into a Deed with Council, the cost of preparation and execution of such Deed (including stamp duty and registration fees) to be borne by the applicant, which contains such conditions as the General Manager of the Council reasonably requires to ensure the matters set out in this condition are adequately provided for.
- (c) Without limiting the generality of paragraph (b), the Deed must provide for:-
 - (i) a bank guarantee to be provided in the sum **\$500,000** as security for the costs of such works provided that:-

- a. the maximum liability under the Deed shall not exceed \$500,000; and
 - b. the Council may accept a lesser amount as security if substantiated by detailed design and costing for works which meet the objectives of the condition.
- (ii) Council to be given sufficient contractual rights to be able to ensure that in any of the following events namely:
- a. demolition of the existing building has commenced but not been completed;
 - b. the existing building has been demolished; or
 - c. the site has been excavated; or
 - d. the structure has commenced to be erected;

that it, or any person authorised by it, may enter the site and carry out such works at the cost of the applicant (or such other person as the consent authority may approve) as may be then appropriate in the circumstances in each of the abovementioned events, to:

- e. make the building safe and attractive at ground level;
- f. allow the ground level to be landscaped and made attractive from any public vantage point; or
- g. for the hole to be covered to allow it to be landscaped and made attractive from any public vantage point; or
- h. in the event that the new building is constructed beyond the ground floor, to allow any hoardings to be removed and the ground floor development to be completed to a tenable stage;

AND to call on such bank guarantee to cover the cost thereof.

- (d) If the site is commenced to be developed and there is suspension in activity for 6 months (or suspensions of activity which in the aggregate exceed 6 months), resulting in an unattractive building site appearance, then the Council will have the readily enforceable rights to:
- (i) require certain works including but not limited to those works necessary to achieve the results referred to in sub-clause (c) (ii)e. - h. to take place on the site; and
 - (ii) in the event of default, shall have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the cost of the works.

DEVELOPMENT COST- STAGE 2

- (28) A detailed Quantity Surveyors' Report costing and itemising all included and excluded elements in the Stage 2 development shall be submitted with the lodgement of the Stage 2 development application. This Report shall be consistent with administrative guidelines for defining development cost.

SECTION 61 CONTRIBUTIONS PAYABLE - REGISTERED QUANTITY SURVEYOR'S DETAILED COST REPORT - SUBMITTED AND VERIFIED PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

- (29) A cash contribution comprising 1% of the total cost of the development, is payable to the City of Sydney pursuant to section 61 of the City of Sydney Act and the "City of Sydney Section 61 Contributions Plan 1997" in accordance with the following:-
- (a) Prior to the release of the construction certificate, evidence must be provided of Council's written verification of the amount of the contribution as required in (b) below, and then that the levy has been paid to the Council in accordance with this condition. Payment shall be by **EFTPOS** (debit card only), **CASH** or a **BANK CHEQUE** made payable to the City of Sydney.
 - (b) The contribution shall not be paid to the City of Sydney until it is accompanied by separate written verification by the City of Sydney of the specific amount payable. In order to obtain such verification, the "**City of Sydney Registered Quantity Surveyor's Detailed Cost Report**" indicating the itemised cost of the development shall be completed and submitted to Council by the CERTIFYING AUTHORITY, together with copies of the plans the subject of the application for the construction certificate. A copy of the required format for the "**City of Sydney Registered Quantity Surveyor's Detailed Cost Report**" may be obtained from the City of Sydney One Stop Shop and the City of Sydney's website (www.cityofsydney.nsw.gov.au).
 - (c) The Council will consider the documentation submitted under subclause (b) and determine the cost of the proposed development having regard to the information submitted and to such other matters as it considers appropriate and will notify the CERTIFYING AUTHORITY accordingly.

- (d) The items to be included in the calculation of the cost of development are demolition works, site remediation including decontamination, excavation and site preparation, construction costs, fit out, professional fees as part of the design (including design competitions) documentation and implementation process, fixed building machinery, equipment and appliances, kitchens and bar areas, car parking, air conditioning plant and equipment, services (fire, mechanical ventilation, electrical, hydraulic), ceilings, fire protection devices, installation of services (power, water, sewer, telephone), lifts and other essential machinery, floor coverings, Building Code of Australia compliance works, replacement of existing materials, fixtures and fittings, construction related insurance, assessment and construction related fees, charges and GST and any other matter not expressly excluded in (e) below.
- (e) The items to be excluded in the calculation of the cost of development are the cost of land, marketing expenses (excluding display suites etc), finance and interest, building insurance after practical completion, drapery, commercial stock inventory, loose furniture, loose equipment, loose electrical appliances, minor maintenance of existing retained fixtures (patching, repainting) and stamp duty.

WIND ASSESSMENT

- (30) A full wind assessment report based on wind tunnel tests is to be completed prior to holding of the design competition and the results are to be included in the design brief. The design of the building lodged with the Stage 2 development application is to fully address all wind amelioration issues arising out to the wind report.

PUBLIC DOMAIN PLAN

- (31) The following requirements apply:-
 - (a) Three copies of a detailed Public Domain Plan shall be prepared by an architect, urban designer or landscape architect and shall **be approved by Council** (to be lodged with the Public Domain Officer at City Projects) prior to issue of a Construction Certificate for the Stage 2 application under the Environmental Planning and Assessment Act 1979. It is recommended that draft plans should be submitted for comment prior to formal submission for approval.
 - (b) The Public Domain Plan shall be as follows:-
 - (i) Drawn at 1:100 scale; 1:200 will be acceptable for larger sites of over 200m street frontage.
 - (ii) Show the entire layout and pattern of flagstone paving where this paving is required.

- (iii) Nominate the location, type and material of all existing and proposed public pavement elements including trees, paving, kerbs and gutters, pedestrian ramps, vehicle crossings, street furniture, (including city maps, notice boards, benches, bollards, bins, J C Deceaux kiosks, APT's and phone booths), utility poles, parking meters, pedestrian and traffic signals, service pits, stormwater pits and signage (including street nameplates, historical, parking and traffic).
- (iv) Include a longitudinal section of the pavement showing existing and proposed levels at 10 metre intervals at the building alignment, the kerb and the gutter on a common datum line. This longitudinal section is to be drawn at 1:100 horizontal scale and 1:10 (exaggerated) vertical scale. For larger sites of over 200m street frontage 1:200 horizontal scale and 1:20 (exaggerated) vertical scale is acceptable. This section is to ensure that any significant longitudinal gradient change, such as flattening for vehicle entries, occurs within the building line and not at the public pavement.
- (v) Include 1:50 scale cross sections through pedestrian ramps and vehicle crossings.
- (vi) Include specifications of the proposed works.
- (c) The Public Domain Plan shall comply with the specifications and details of the Central Sydney Paving Design Policy 1996 and Council's Specifications and the Central Sydney Street Tree Policy 1994.
- (d) The Public Domain Plan shall incorporate the standard specifications and detail of the Central Sydney Paving Design Policy 1996 and Council's Specifications adapted to suit the specific site requirements as advised by the Public Domain Officer and may include:-
 - (i) Adjustment to paving grades to provide a maximum crossfall of 2.5% from building line to top of kerb.
 - (ii) Repaving in accordance with Central Sydney Paving Design Policy 1996 and Council's Specifications. All granite paving (where applicable) is to be sealed in accordance with Council's specifications.
 - (iii) The relocation or provision of new vehicle crossovers and pedestrian ramps including the consequent relocation of existing service pits, traffic signals, kerb corner radii, signs, street furniture and street trees.
 - (iv) The retention of existing street trees and the provision of new street trees to comply with the Central Sydney Street Tree Policy 1994.

- (v) The repair and where required the resetting of all stone kerbing to a uniform grade of 150mm above the gutter grading and the replacement of concrete kerbing with stone kerbing. Where adjustments require substantial kerb and gutter demolition, the carriageway shall be reconstructed or resurfaced (as required) to the centre line of the carriageway or to sufficient distance from the kerb to achieve a uniform transition into the existing pavement profile.
 - (vi) The retention and repair of any existing pavement lights.
 - (vii) The retention and repair of any existing serviceable stone gutters to achieve a uniform kerb and gutter longitudinal grading free of vertical displacement of greater than 5mm between adjacent units.
 - (viii) The realignment and level adjustment of service pit lids to correspond to new kerb ramps and paving. New service pit lids in flagstone paving to be infill type, with stone infill to match stone paving surrounds. New service pit lids in asphalt paving to be infill type, with cement mortar infill coloured to match adjoining asphalt.
 - (ix) Protection or replacement by the developer of all City assets to be retained as part of Public Domain works and recovery and return of any City assets where such removal has been approved.
- (e) Random checks by Council officers may be made throughout the construction process to advise the contractor of non-complying elements. However, no parts of the work are to be considered approved until receipt of the City of Sydney Certificate of Completion. The City of Sydney will require all non complying parts to be rectified prior to issue of this letter.
- (f) An “Application for Approval of Footpath Levels and Gradients” must be submitted at the City’s One Stop Shop with the appropriate fee at the time of lodgement of the public domain proposal. The fee will be determined in accordance with the City of Sydney Schedule of Fees and Charges.

Note:

- (g) 3 Copies of the Public Domain Plan are to be lodged with the Manager Design, City Projects.

ELECTRICITY SUBSTATION

- (32) The applicant must liaise with Energy Australia regarding their requirements for any electrical substations on the site. (Details of the size, design and location of any substation/s shall be included in the Stage 2 development application to the satisfaction of Energy Australia and shall be incorporated within the building envelope.)

TELECOMMUNICATIONS PROVISIONS

- (33) The following requirements apply to telecommunication facilities in the building:-
- (a) Appropriate access and space within the plant area of the building shall be provided for a minimum of three telecommunication carriers or other providers of broad-band access by ground or satellite delivery.
 - (b) Appropriate ducting shall be provided for a minimum of three telecommunication carriers or other providers for telecommunication access and broad-band cabling to each apartment of the building.

The details of (a) and (b) above shall be submitted for the approval of Council with the Stage 2 application.

STORAGE AND HANDLING OF WASTE

- (34) The Stage 2 development must be designed to meet the following requirements for storage and waste handling:
- (a) The design of the building and the methods of storage and handling of waste and recyclable material must comply with Council's Code for Waste Handling in Buildings (adopted 17 October 1994). The Code requires the submission of a Waste Management Plan, except for minor partition work (Annexure "A" of the Code). A Preliminary Waste Management Plan shall be submitted with the Stage 2 application and must address compliance with the Waste Code including details of the following, where applicable:
 - (i) The location, design and construction of the garbage room, recycling rooms, bin washing areas and collection areas.
 - (ii) The natural or mechanical ventilation, in accordance with the Building Code of Australia and Australian Standard 1668.
 - (iii) The location and design of any garbage chutes or compaction units required by Council's Code.

- (iv) The proximity of waste handling facilities to commercial food areas or loading docks, with a view to avoiding cross contamination.

Note:

Certification will also be required on completion of the building, prior to issue of a Certificate.

(35) The following provisions apply to recycling areas:

- (a) The building design must incorporate separate garbage rooms constructed in accordance with Council's Code, for the separation of commercial waste from residential waste, including recyclable materials.
- (b) The building must incorporate design features which will allow waste to be minimised and managed within each individual unit or office, on each floor of the building, and within the garbage/recycling storage and collection area.
- (c) The building design must allow easy access to the garbage and recycling areas by residents and tenants, but prevent their use by non-residents/tenants.

SUBDIVISION APPROVAL

(36) A separate development application for any subdivision must be made to Council.

Schedule 2

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

(SGD) PENNY OXBY (7652)
Specialist Planner