

**ITEM 7. DEVELOPMENT APPLICATION: 141-143 ELIZABETH STREET  
SYDNEY**

**FILE NO: D/2009/1965**

**SUMMARY**

**Date of Submission:** Lodged 24 November 2009, additional information submitted 15 March 2010 and 5 May 2010

**Applicant:** Priland Investments Australia P/L

**Architect:** Tony Owen Partners

**Developer:** Edward Doueihy, Priland Investments Australia Pty Ltd

**Summary:** Construction of a 16 storey residential building comprising 19 residential units and one ground level retail outlet plus 5 basement car parking levels accessed via the neighbouring 'Sheraton on the Park' site.

There is a valid development consent on the site for a 16 storey residential flat building of a similar building envelope to that proposed. The principal differences between the approved and proposed schemes are a change to the design of the facade, an increase in the overall number of units, a greater mix of unit types and increase in the number of basement parking levels.

The originally proposed vehicular entry onto Elizabeth Street has been deleted from the scheme and vehicles will now access the basement levels via the 'Sheraton on the Park' site to the south, in the same way as the previously approved scheme.

Non compliances with the scheme relate to the dimensions of the proposed lightwell and the absence of private outdoor space for a small number of the apartments. These minor deviations are considered acceptable from both an internal amenity and streetscape point of view.

No submissions from the surrounding properties were received regarding the application.

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

- Development Controls:**
- (i) SEPP 55 (Remediation of Land)
  - (ii) SEPP 65 (Design Quality of Residential Flat Development) & Residential Flat Design Code
  - (iii) Sydney Local Environmental Plan 2005
  - (iv) Central Sydney DCP 1996
  - (v) City of Sydney Access DCP 2004
  - (vi) City of Sydney Contaminated Land DCP 2004
  - (vii) City of Sydney Awnings Policy 2000
  - (viii) Central Sydney Paving Design Policy 1996

**Attachments:** A - Selected Drawings

**RECOMMENDATION**

It is resolved that consent be granted subject to the following conditions:

**SCHEDULE 1A**

**Approved Development/Design Modifications/Covenants and Contributions/Use and Operation**

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

**(1) APPROVED DEVELOPMENT**

- (a) Development must be in accordance with Development Application No. D/2009/1965 dated 24 November 2009 and with the supplementary application information received at Council on 15 March 2010 and with the following drawings prepared by Tony Owen Partners:

<b>Drawing Number</b>	<b>Drawing title</b>	<b>Date</b>
A002 revision 03	Site plan	19.11.2009
A003 revision 03	Site analysis	19.11.2009
A100 revision 05	Basement level 1	20.01.2010
A101 revision 05	Basement level 2	20.01.2010
A102 revision 05	Basement level 3	20.01.2010
A103 revision 05	Basement level 4-5	20.01.2010
A105 revision 05	Basement level 6	20.01.2010
A200 revision 06	Ground floor plan	20.01.2010
A201 revision 03	Level 1 plan	19.11.2009
A202 revision 03	Typical plan level 2-3	19.11.2009
A204 revision 03	Level 4 plan	19.11.2009
A205 revision 03	Level 5 plan	19.11.2009
A206 revision 03	Level 6 plan – transition	19.11.2009
A207 revision 03	Level 7 plan – transition	19.11.2009
A208 revision 03	Level 8 plan	19.11.2009
A209 revision 03	Level 9 plan	19.11.2009
A210 revision 03	Level 10 plan	19.11.2009
A211 revision 03	Level 11 plan	19.11.2009
A212 revision 03	Level 12 plan	19.11.2009
A213 revision 03	Level 13 plan – transition	19.11.2009
A214 revision 03	Penthouse plan level 14	19.11.2009
A215 revision 03	Penthouse plan level 15	19.11.2009

<b>Drawing Number</b>	<b>Drawing title</b>	<b>Date</b>
A216 revision 03	Level 16 plan	19.11.2009
A217 revision 03	Roof plan	19.11.2009
A300 revision 04	East elevation	20.01.2010
A301 revision 03	North elevation	19.11.2009
A302 revision 03	West elevation	19.11.2009
A303 revision 03	South elevation	19.11.2009
A350 revision 05	Section A-A	20.01.2010

and as amended by the conditions of this consent.

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

**(2) DESIGN DETAILS – PROTOTYPE MODEL**

- (a) The applicant shall provide detailed architectural drawings and a full size model to demonstrate a section of the façade which includes the resolution of the glazing of the wintergardens and the sandstone detailing in order to demonstrate the buildability of the proposed development and design finesse.
- (b) These drawings and model shall be prepared for review for the approval of the Director of Planning in writing prior to the issue of a Construction Certificate.

**(3) DESIGN DETAILS – MATERIALS**

The design details of the proposed building facade including all external finishes, colours and glazing must be in accordance with the materials schedule and sample board and specification submitted with the application prepared by Tony Owen Partners dated October 2009.

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

**(5) ACCESSIBLE CAR PARKING SPACES**

Of the required car parking spaces, at least 1 must be 3.8m x 5.5m minimum (with a minimum headroom of 2.5m) and must be clearly marked and appropriately located as accessible parking for people with mobility impairment. The design and layout of accessible car parking for people with mobility impairment is to be provided in accordance with Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking and the *City of Sydney Access Development Control Plan 2004*. The details must be submitted to and approved by the Certifying Authority prior to a Construction Certificate being issued.

**(6) ALLOCATION FOR CAR WASH BAYS**

**(7) ALLOCATION FOR VISITOR PARKING**

**(8) ALLOCATION OF ACCESSIBLE CAR PARKING SPACES**

**(9) ALLOCATION OF PARKING**

The approved parking spaces must be allocated as detailed below. All spaces must be appropriately line-marked and labelled according to this requirement prior to the issue of an Occupation Certificate or the use commencing, whichever is earlier. If the development is to be strata subdivided, the car park layout must respect the required allocation:

(a) 30 residential parking spaces.

(b) 1 commercial parking space.

**(10) ASSOCIATED ROADWAY COSTS**

**(11) BICYCLE PARKING**

The layout, design and security of bicycle facilities either on-street or off-street must comply with the minimum requirements of Australian Standard AS 2890.3 – 1993 Parking Facilities Part 3: Bicycle Parking Facilities.

**(12) CAR PARKING SPACES AND DIMENSIONS**

A maximum of 31 off-street car parking spaces must be provided. The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking and Council's Development Control Plan. The details must be submitted to and approved by the Principal Certifying Authority prior to a Construction Certificate being issued.

**(13) COST OF SIGNPOSTING**

**(14) HOLDING AREAS**

**(15) INTERCOM FOR VISITORS**

**(16) LOADING WITHIN SITE**

**(17) LOADING/PARKING KEPT CLEAR**

**(18) LOCATION OF ACCESSIBLE CAR PARKING SPACES**

**(19) PROHIBITION ON PARTICIPATION IN RESIDENT PARKING PERMIT SCHEME APPLICATION OF CITY OF SYDNEY PERMIT PARKING POLICY - INELIGIBILITY FOR RESIDENT PARKING PERMITS**

**(20) REMOVAL VEHICLES**

All developments either partly or wholly residential must provide a removal truck management plan. The owner of the dwelling must distribute a copy of the approved plan to all intending owners, tenants and occupiers of the dwelling and provide a copy, or access to a copy, at the time of entering into a purchase / lease / occupancy agreement.

**(21) SIGNAGE TO INDICATE NON PARTICIPATION IN RESIDENT PARKING PERMIT SCHEME**

**(22) TRAFFIC WORKS**

**(23) VEHICLE FOOTWAY CROSSING**

**(24) VEHICLE ACCESS**

**(25) RTA CONDITIONS**

- (a) The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) shall be in accordance with AS 2890.1 – 2004.
- (b) The swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTRROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
- (c) A Demolition and Construction Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control shall be submitted to Council for approval, prior to the issue of a Construction Certificate.
- (d) The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
- (e) All works associated with the proposed development shall be at no cost to the RTA.

**(26) RESTRICTION ON RESIDENTIAL DEVELOPMENT**

The following restriction applies to buildings approved for residential use:

- (a) The accommodation portion of the building (levels 1 to 16) must be used as permanent residential accommodation only and not for the purpose of a hotel, motel, serviced apartments, private hotel, boarding house, tourist accommodation or the like, other than in accordance with the Sydney Local Environmental Plan 2005.

- (b) A restrictive covenant is to be registered on the title of the development site in the above terms and restricting any change of use of those levels from 'residential' as defined in the Sydney Local Environmental Plan 2005. The covenant is to be registered on title prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, to the satisfaction of the Council. All costs of the preparation and registration of all associated documentation are to be borne by the applicant.
- (c) An owner, tenant or Owners Corporation shall not permit a Building Manager or agent to advertise or organise for short term accommodation or share accommodation in the building.
- (d) If a unit contains tenants, it must be subject to a residential tenancy agreement for a term of at least three months.

**(27) RESTRICTION ON USE OF CAR SPACES - RESIDENTIAL**

**(28) DESIGN QUALITY EXCELLENCE**

**(29) USE - SEPARATE DA REQUIRED**

A separate development application for the fit out and use of the ground level retail tenancy must be submitted to and approved by Council prior to that fit out or use commencing.

**(30) CARE OF BUILDING SURROUNDS**

**(31) NO SPEAKERS OR MUSIC OUTSIDE**

**(32) REMOVAL OF GRAFFITI**

**(33) AIR CONDITIONERS IN RESIDENTIAL BUILDINGS**

**(34) NOISE - GENERAL**

**(35) NOISE - MECHANICAL PLANT AND EQUIPMENT**

Noise associated with the use of mechanical plant and equipment must not give rise to any one or more of the following:

- (a) Transmission of "*offensive noise*" as defined in the *Protection of the Environment Operations Act 1997* to any affected receiver.
- (b) A sound pressure level at the boundary of any affected receiver that exceeds the background ( $L_{A90, 15\text{minutes}}$ ) noise level by more than 5dB. The background noise level must be measured in the absence of noise emitted from the use in accordance with Australian Standard AS1055.

**(36) NOISE MANAGEMENT PLAN - DEMOLITION, EXCAVATION AND CONSTRUCTION**

A site specific noise management plan shall be submitted to the Council for approval and comment prior to any works commencing on site. The plan should include but not be limited to the following:-

- (a) Confirmation of the level of community consultation that has is and will be undertaken with Building Managers/occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- (b) Confirmation of noise, vibration and dust monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria contained within City's Construction Noise Code.
- (c) What course of action will be undertaken following receipt of a complaint concerning site noise, dust and vibration.
- (d) Details of any noise mitigation measures that have been outlined by an acoustic engineer or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring property to a minimum.
- (e) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

**(37) BUILDING HEIGHT**

- (a) The height of the building must not exceed RL 66.56 upon the eastern elevation and RL 77.65 upon the western elevation.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifying Authority.

**(38) FLOOR SPACE RATIO - CENTRAL SYDNEY**

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio of the proposal must not exceed 12.13:1 calculated in accordance with the *Sydney Local Environmental Plan 2005*. For the purpose of the calculation of FSR, the Floor Space Area of the approved development is 3400.39 sqm.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Floor Space Areas (by use) in the development, utilising the definition under *Sydney Local Environmental Plan 2005* applicable at the time of development consent, to the satisfaction of the Principal Certifying Authority.

**SCHEDULE 1B**

**Prior to Construction Certificate/Commencement of Work/Health and Building**

**Note:** 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.

**(39) EMISSIONS**

**(40) CLASSIFICATION OF WASTE**

Prior to the exportation of waste from the site, the waste materials must be classified to determine where the waste may be legally taken. The Protection of the Environment Operations Act 1997 provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility.

**(41) ANNUAL FIRE SAFETY STATEMENT FORM**

An **annual Fire Safety Statement** must be given to Council and the NSW Fire Brigade commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued.

**(42) BCA - NEW BUILDINGS WORKS - CLASS 2-9 BUILDINGS**

- (a) Pursuant to Clause 98 of the Environmental Planning and Assessment Regulation 2000, the proposed building work must comply with the Building Code of Australia (BCA) including:
- (i) Structural provisions - Part B1;
  - (ii) Fire resistance and stability - Part C1;
  - (iii) Compartmentation and separation - Part C2;
  - (iv) Protection of openings - Part C3;
  - (v) Provision for escape (access and egress) - Part D1;
  - (vi) Construction of exits - Part D2;
  - (vii) Access for people with disabilities - Part D3;
  - (viii) Fire fighting equipment - Part E1;
  - (ix) Smoke hazard management - Part E2;
  - (x) Lift installation - Part E3;
  - (xi) Emergency lighting, exit signs and warning systems - Part E4;
  - (xii) Damp and weatherproofing - Part F1;

(xiii) Sanitary and other facilities - Part F2;

Note: For restaurants, cafes, bars and the like, sanitary facilities (including accessible facilities for persons with disabilities complying with AS 1428.1) must be provided for customers where more than 20 seats are provided, including seating for any future footway dining facilities.

(xiv) Room sizes - Part F3;

(xv) Light and ventilation - Part F4;

(xvi) Sound transmission and insulation - Part F5;

(xvii) Energy Efficiency – Building fabric - Part J1;

(xviii) Energy Efficiency – External glazing - Part J2

(xix) Energy Efficiency – Building sealing - Part J3

(xx) Energy Efficiency – Air movement - Part J4

(xxi) Energy Efficiency – Air-conditioning and ventilation - Part J5

(xxii) Energy Efficiency – Artificial lighting and power - Part J6

(xxiii) Energy Efficiency – Hot water supply - Part J7

(xxiv) Energy Efficiency – Access for maintenance - Part J8

(b) If compliance with the deemed-to-satisfy provisions of the BCA and the matters listed in condition (1) above cannot be achieved, an alternate solution in accordance with Part A0 of the BCA must be prepared by a suitably qualified and accredited person and be submitted to the Certifying Authority illustrating how the relevant performance requirements of the BCA are to be satisfied. Prior to a Construction Certificate being issued, the Certifying Authority must ensure that the building complies with the Building Code of Australia.

(c) The BCA matters identified in this condition are not an exhaustive list of non-compliances with the BCA. Any design amendments required to achieve compliance with the BCA must be submitted to Council. Significant amendments may require an application under Section 96 of the Act to be lodged with Council to amend the development approved in this consent.

Note: The provisions of Clause 94 of the Environmental Planning and Assessment Regulation 2000 have been considered in the assessment of the proposed development.

#### **(43) FIRE SAFETY CERTIFICATE TO BE SUBMITTED**

A Fire Safety Certificate must be submitted to the Principal Certifying Authority for all of the items listed in the Fire Safety Schedule prior to an Occupation Certificate being issued.

**(44) FLASHINGS TO BOUNDARY WALLS**

A flashing must be provided to prevent water entering between the proposed and existing external boundary walls of the adjoining properties. The consent of the adjoining property owner/s must first be obtained for connecting the flashing/s to the building/s.

**(45) GEOTECHNICAL REPORT AND CERTIFICATION**

Prior to commencement of any foundation or bulk excavation, a Geotechnical Report must be submitted to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy submitted to Council (if it is not the Principal Certifying Authority).

**(46) SPRINKLER SYSTEM**

The efficient coverage and operation of any sprinkler system must not be impaired by the partitioning layout and/or the efficient coverage and operation of any fire and smoke detection system must not be impaired by the partitioning layout. Any alterations to the existing sprinkler installation must comply with the *Building Code of Australia*.

**(47) STRUCTURAL CERTIFICATION FOR DESIGN - BCA (ALL BUILDING CLASSES)**

**(48) PHYSICAL MODELS**

**(49) SUBMISSION OF ELECTRONIC MODELS PRIOR TO CONSTRUCTION CERTIFICATE AND PRIOR TO OCCUPATION CERTIFICATE**

**(50) CONSTRUCTION TRAFFIC MANAGEMENT PLAN**

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

(b) Due to the construction constraints related to the site, it is recommended that the applicant arranges a meeting with Council's Area Traffic Engineer to discuss the Construction Traffic Management Plan with Council, prior to its submission.

**(51) DEMOLITION, EXCAVATION AND CONSTRUCTION MANAGEMENT**

**(52) EROSION AND SEDIMENT CONTROL - BETWEEN 250 AND 2,500SQM**

Prior to the commencement of excavation and construction work, an Erosion and Sediment Control Plan (ESCP) must be submitted to and be approved by the Principal Certifying Authority. The ESCP must:

(a) Conform to the specifications and standards contained in *Managing Urban Stormwater: Soils and Construction* (Landcom, 2004); the *Guidelines for Erosion and Sediment Control on Building Sites* (City of Sydney, 2004); and the *NSW Protection of the Environment Operations Act 1997*.

(b) Include a drawing(s) that clearly shows:

- (i) location of site boundaries and adjoining roads
  - (ii) approximate grades and indications of direction(s) of fall
  - (iii) approximate location of trees and other vegetation, showing items for removal or retention
  - (iv) location of site access, proposed roads and other impervious areas
  - (v) existing and proposed drainage patterns with stormwater discharge points
  - (vi) north point and scale
- (c) Specify how soil conservation measures will be conducted on site including:
- (i) timing of works
  - (ii) locations of lands where a protective ground cover will, as far as is practicable, be maintained
  - (iii) access protection measures
  - (iv) nature and extent of earthworks, including the amount of any cut and fill
  - (v) where applicable, the diversion of runoff from upslope lands around the disturbed areas
  - (vi) location of all soil and other material stockpiles including topsoil storage, protection and reuse methodology
  - (vii) procedures by which stormwater is to be collected and treated prior to discharge including details of any proposed pollution control device(s)
  - (viii) frequency and nature of any maintenance program
  - (ix) other site-specific soil or water conservation structures.

**(53) NO DEMOLITION PRIOR TO A CONSTRUCTION CERTIFICATE**

**(54) ROAD OPENING PERMIT**

**(55) TEMPORARY GROUND ANCHORS, TEMPORARY SHORING AND PERMANENT BASEMENT/RETAINING WALLS AFFECTING THE ROAD RESERVE**

**(56) CONTAMINATION**

**(57) LANDSCAPING OF THE SITE**

- (a) A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by Council prior to the issue of a Construction Certificate. The plan must include:
- (i) Details of mounding, retaining walls and planter boxes;
- Note: The minimum soil depth for planting on slab shall be 1000mm for trees, 600mm for shrubs and 300mm for turf and grasses, over and above all drainage materials. Reduced planter depth may be acceptable for moveable planter boxes, and others pending approval of the planter bed width, depth, irrigation and species selection by Council.
- (ii) Location, numbers and type of plant species;
  - (iii) Details of planting procedure and maintenance;
  - (iv) Details of drainage and watering systems.
- (b) Prior to the issue of a Construction Certificate, a maintenance plan is to be submitted and approved by the Principal Certifying Authority. The maintenance plan is to be complied with during occupation of the property.
- (c) All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued.

**(58) GREEN WALL LANDSCAPING OF THE SITE**

- (a) Prior to the issue of a Construction Certificate for the new building the following design details of the proposed Greenwall must be submitted to and approval by The Director of Planning:
- (i) Detailed drawings demonstrating how the greenwall is constructed, including proposed materials, planter dimensions, and integration into the wall structure.
  - (ii) Details of the proposed growing medium, including soil depth and method of soil temperature control (if applicable).
  - (iii) Location, numbers, species and size of plants
  - (iv) Drainage, irrigation and waterproofing details
  - (v) Details of an ongoing maintenance plan for the structure and planting, including how access to the wall and soil is provided.
  - (vi) Details outlining the intended strategy for decommissioning the planting works should plants fail. This strategy is to ensure that the finish to the wall is well maintained and attractive through its life.

- (b) The design of the green wall and plant selection must demonstrate the response to the site conditions, including in particular light availability and wind impacts.

**(59) LETTERBOXES**

**(60) CAR PARK VENTILATION**

**(61) CONTROL OF LEGIONNAIRES DISEASE**

**(62) MECHANICAL VENTILATION**

**(63) MICROBIAL CONTROL**

**(64) PAVING MATERIALS**

**(65) PUBLIC DOMAIN PLAN**

Three copies of a detailed Public Domain Plan must be prepared by an architect, urban designer or landscape architect and must be approved by Council prior to a Construction Certificate being issued for any new building work excluding approved preparatory, demolition or shoring work. It is recommended that draft plans should be submitted for comment prior to formal submission for approval.

The Public Domain Plan must be prepared in accordance with the City of Sydney's Public Domain Manual. The works to the public domain are to be completed in accordance with the approved plan and the Public Domain Manual before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.

Note: A security deposit will be required for the public domain works, in accordance with the City of Sydney's adopted fees and charges. You should contact Council to determine deposit amount prior to payment.

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

**(67) ACOUSTIC PRIVACY BETWEEN UNITS**

**(68) PROTECTION OF AMENITY OF RESIDENTS FROM EXTERNAL NOISE**

- (a) The report from Acoustic Logic dated 18<sup>th</sup> November 2010 2009002/1811A/R0/BW refers to road traffic noise and includes an acoustic survey of a one hour peak traffic levels between 4.30pm and 5.30pm on 17<sup>th</sup> November 2009, together with recommendations for acoustic measures to be incorporated to all facades within table 3 of the report. The design criteria quoted is required to meet the acoustic objectives within the Central Sydney Development Control Plan 1996.
- (b) The recommendations within table 3 of the above report shall be fully implemented prior to any residential part of the building being occupied.

- (c) The applicant must provide the Principal Certifying Authority with a statement from an accredited acoustic consultant certifying that the acoustic mitigation measures identified in the noise assessment report prepared by Benjamin White of Acoustic Logic are suitably incorporated into the development, and the noise criteria in the subject report have been met prior to the issue of an Occupation Certificate.

**(69) FLOOR TO CEILING HEIGHT**

Prior to a Construction Certificate being issued, the Certifying Authority must ensure that all living rooms and bedrooms in sole occupancy units must have a minimum finished floor to ceiling height of not less than 2.7 metres.

**(70) APPLICATION FOR HOARDINGS AND SCAFFOLDING ON A PUBLIC PLACE**

**(71) BARRICADE PERMIT**

**(72) FOOTPATH DAMAGE BANK GUARANTEE**

Prior to a Construction Certificate being issued the owner of the site must provide a bank guarantee for the sum to be determined based on the City of Sydney's Schedule of Fees and Charges as security for rectification of any damage to the public way.

Note: The bank guarantee required by this condition does not need to be provided if a separate bank guarantee is lodged as part of an approval for a hoarding over the public way. However neither bank guarantee will be released until all development works are complete to the satisfaction of the City, including rectification of damage to the public way. You should contact Council to determine the bank guarantee amount prior to payment.

**(73) SUBDIVISION – SEPARATE DA REQUIRED**

Any proposal involving the strata subdivision of the building will require separate development consent and therefore the lodgment of a separate development application and subsequent approval from the Council of the plan of subdivision under Part 4A of the *Environmental Planning and Assessment Act 1979*.

**(74) INSTALLATION OF DUAL-FLUSH TOILETS**

**(75) INSTALLATION OF WATER EFFICIENT TAPS**

**(76) MINIMISE IMPACT OF POOL ON NEIGHBOURING PROPERTIES**

**(77) ELECTRICITY SUBSTATION**

**(78) WASTE AND RECYCLING COLLECTION CONTRACT**

**(79) WASTE AND RECYCLING MANAGEMENT - RESIDENTIAL**

- (a) A Waste Management Plan is to be submitted to and approved by Council prior to a Construction Certificate being issued. The plan must comply with the Council's Policy for Waste Minimisation in New Developments 2005. All requirements of the approved Waste Management Plan must be implemented during construction of the development.
- (b) The building must incorporate designated areas or separate garbage rooms constructed in accordance with Council's Policy for Waste Minimisation in New Developments 2005, to facilitate the separation of commercial waste and recycling from residential waste and recycling.

**UPON COMPLETION OF THE DEVELOPMENT**

- (c) Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifying Authority must obtain Council's approval of the waste and recycling management facilities provided in the development and ensure arrangements are in place for domestic waste collection by Council.

**SCHEDULE 1C**

**During Construction/Prior to Occupation/Completion**

- (80) BASIX**
- (81) HOURS OF WORK AND NOISE – CBD**
- (82) LIGHTING OF SITE OUTSIDE OF STANDARD CONSTRUCTION HOURS**
- (83) NOTIFICATION OF EXCAVATION WORKS**
- (84) ROCK CUTTING INTO BLOCKS**
- (85) SITE NOTICE OF PROJECTS DETAILS AND APPROVALS**
- (86) USE OF APPLIANCE OF A HIGHLY INTRUSIVE NATURE**

This development consent does not extend to the use of appliances which emit noise of a highly intrusive nature (such as pile - drivers and hydraulic hammers) or are not listed in Groups B, C, D, E or F of Schedule 1 of the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436-1981 "Guide to Noise Control on Construction, Maintenance and Demolition Sites". A separate application for approval to use any of these appliances must be made to Council.

**(87) REGISTRATION OF EASEMENT**

Prior to the issue of an Occupation Certificate, a documentary right of carriageway must be created in favour of 141-143 Elizabeth Street over those parts of the driveway of the Sheraton on the Park that are required to provide access to the basement parking of 141-143 Elizabeth Street. The terms of the right of carriageway must be to the satisfaction of Council.

**(88) ENCROACHMENTS – PUBLIC WAY**

**(89) SURVEY CERTIFICATE AT COMPLETION**

**(90) COVERING OF LOADS**

**(91) EROSION AND SEDIMENT CONTROL**

**(92) HAZARDOUS AND INDUSTRIAL WASTE**

**(93) PROTECTION OF STREET TREES DURING CONSTRUCTION**

**(94) VEHICLE CLEANSING**

**(95) RAINWATER RECYCLING**

- (a) The applicant shall provide additional details to the Council for the installation of the water collection tank and pipe work and details of ongoing maintenance of the system and tanks as well as filtration and decontamination processes for the water and confirmation of the end usage of the water, for example irrigation, water cooling purposes.
- (b) In providing the details, the applicant should refer to the New South Wales Government Guidance 'Management of Private Recycled Water Schemes' \* and include details of an assessment of the risks to human health resulting from the end usage and appropriate control measures.
- (c) The rainwater collection system shall be constantly maintained in accordance with the manufacturers' instructions so as to prevent risk of pathogenic microbial contamination including legionella and organisms from wildlife including birds.
- (d) Usage shall not be commenced until all required details have been received by the City's Planning Department and agreed in writing.

\*Note: The applicant should refer to the following links for further information:  
<http://www.health.nsw.gov.au/PublicHealth/environment/water/wastewater.asp>  
<http://www.waterforlife.nsw.gov.au/recycling/guidelines>

**(96) RAINWATER TANKS**

**(97) STREET NUMBERING – MAJOR DEVELOPMENT**

**(98) SYDNEY WATER CERTIFICATE**

**(99) ACCESS DRIVEWAYS TO BE CONSTRUCTED**

**(100) LOADING AND UNLOADING DURING CONSTRUCTION**

**(101) NO OBSTRUCTION OF PUBLIC WAY**

**(102) USE OF MOBILE CRANES**

**SCHEDULE 2**

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

Clause 98 Compliance with *Building Code of Australia* and insurance requirements under the *Home Building Act 1989*

Clause 98A Erection of signs

Clause 98B Notification of *Home Building Act 1989* requirements

Clause 98C Conditions relating to entertainment venues

Clause 98D Conditions relating to maximum capacity signage

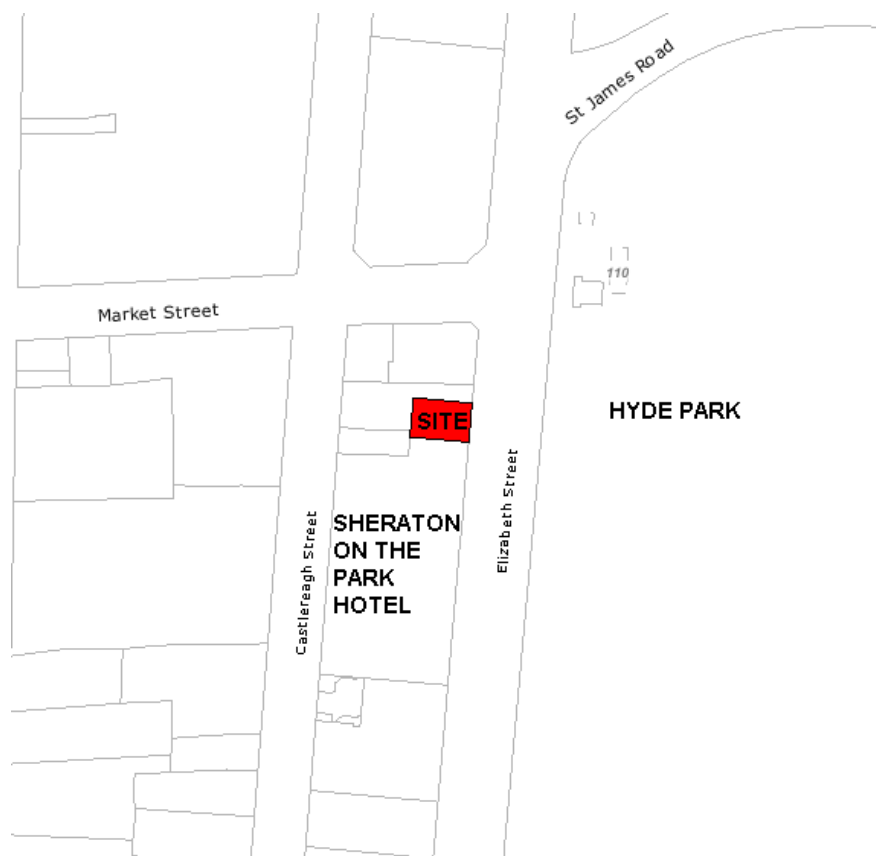
Clause 98E Conditions relating to shoring and adequacy of adjoining property

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

## **BACKGROUND**

### **The Site and Surrounding Development**

1. The site is located on the western side of Elizabeth Street, approximately 30 metres south of the junction with Market Street. It lies immediately to the west of the northern section of Hyde Park, separated from it by Elizabeth Street. The surrounding area is predominantly commercial in nature although there are other residential uses nearby along Elizabeth Street and Liverpool Street.
2. The site is currently vacant, the previous eight storey commercial building having been demolished following previous development consent on the site. This previous approval granted consent for a similar 16 storey residential apartment building, the details of which are outlined further within this report.
3. The site lies within a central location, in close proximity to amenities and public transport links including two railway stations at the northern and southern end of Hyde Park and a bus hub immediately adjacent to the site upon Elizabeth Street. The site benefits from the views and outdoor space afforded by Hyde Park. Images of the site are provided below:



**Figure 1:** Location of the application site



Figure 2: Currently vacant application site (taken from Hyde Park)

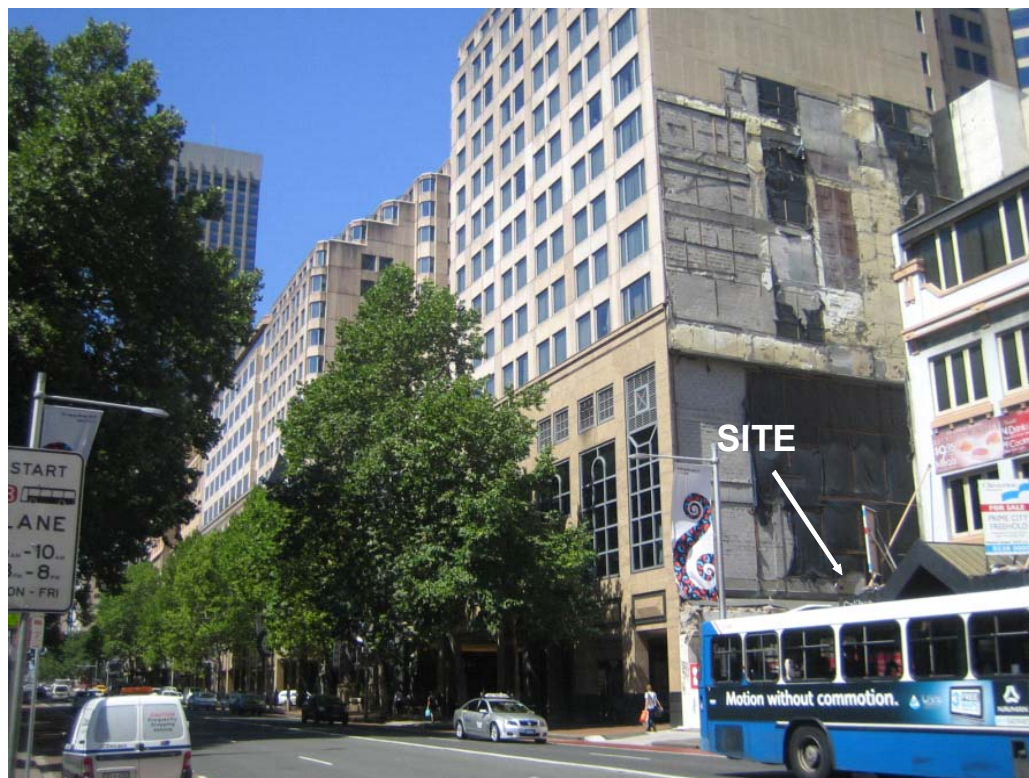


Figure 3: Sheraton on the Park Hotel to the south of the site



Figure 4: Existing development to the north of the site

### History of Development Applications Relevant to this Site

4. Development consent D/2003/341 granted consent for the demolition of the existing eight storey commercial building on the site and the erection of a 16 storey residential building with three basement car parking levels and the provision of 15 car parking spaces, provided within a car stacker system. The application proposed seven apartments, each including 4+ bedrooms and across two levels. Vehicular access was proposed through a basement level of the neighbouring Sheraton on the Park Hotel site, eliminating the need for a vehicular access onto Elizabeth Street.
5. This consent was amended a number of times by Section 96 applications resulting in changes to the approved height, FSR, car stacker arrangements, easement and covenant requirements and an extension to the lapsing of the consent.
6. The consent was enacted by the demolition of the commercial building and remains valid, however works upon the approved building have not commenced.

### PROPOSAL

7. The development application seeks consent for the construction of a 16 storey residential flat building comprising 19 apartments (10 x 2 bedroom and 9 x 4 bedroom units) and 6 basement levels comprising plant, garbage areas, storage and car parking which is accessed via the Sheraton on the Park Hotel. The proposal also includes a ground level concierge/lobby area, ground level retail unit and a full length awning.

8. The current proposal is largely similar to that approved under D/2003/341 (as amended) in terms of its height, bulk, upper level set back, use and basement parking, but differs from it in terms of its facade design and the amount and mix of units. The previously approved car stacker has also been deleted from the scheme and a car lift will be used instead. This results in the requirement for three extra basement levels. Figure 5 below demonstrates the previously approved development and the development now proposed:



**Figure 5:** Photomontage showing the approved development and proposed development (from applicant's submission)

## **IMPLICATIONS OF THE PROPOSAL**

### **Section 79C Evaluation**

9. 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**

### **STATE ENVIRONMENT PLANNING POLICIES (SEPPs)**

10. The following State Environmental Planning Policies are relevant to the proposed development:

**SEPP 55 – Remediation of Land**

11. For development proposals involving a change of use to residential uses, the SEPP requires that the consent authority considers whether the site is contaminated, and if so, whether it is suitable for the proposed development and whether it can be satisfactorily remediated. The SEPP requires the applicant to provide a preliminary assessment of the condition of the site and requires the consent authority to consider this as part of the development assessment.
12. The development history on the site does not include uses which would immediately be linked to a contamination of the land. The applicant has provided a site contamination report which concludes that the site soils present a low risk to human health, the environment or the aesthetic enjoyment of the land, and that the site is suitable for residential use. Given that the report has concluded that the site is uncontaminated, and given that there are no historic uses upon the site which would suggest contamination, it is considered that the information provided is sufficient for the determination of the development application.

**SEPP 65 – Design Quality of Residential Flat Development**

13. SEPP 65 applies to residential flat buildings which include three or more floors and containing four or more apartments and seeks to improve the design quality of residential flat buildings. It requires that a design verification statement by a registered architect is provided with the application. The submission includes such a statement from Tony Owen, who is a registered architect. The SEPP requires that the consent authority take into consideration a number of matters relating to design quality, including 10 design quality principles, being:

(a) **Principle 1: Context**

The site is located immediately opposite Hyde Park and the principal living areas of each of the proposed apartments are oriented eastwards to maximise these views. The buildings on either side of the subject site include a distinct banding at the third and fourth storey level which assists in forming the character of the streetscape. The proposed building continues this line, with the lower 4 storeys of the building being designed in sandstone and distinctly different in design to the upper floors. The site is also located in close proximity to bus and rail links meaning that future residents can opt for more sustainable travel choices.

(b) **Principle 2: Scale**

The proposed building is of largely the same bulk, scale and height as that approved under D/2003/341. It is of a scale appropriate within this streetscape and in relation to the development on either side of the site and to the rear of it.

(c) **Principle 3: Built Form**

The design of the proposed building offers a distinctive and innovative facade to Elizabeth Street and Hyde Park, which fits with the form of development within the area. The design, scale and detailing of the building will complement the surrounding area and will not harm the special qualities of Hyde Park.

(d) **Principle 4: Density**

The proposal is located in a part of the city which is considered prestigious due to its Hyde Park views and the proposal offers a mix of two bedroom and four bedroom apartments. The current proposal is considered an improvement upon the previously approved development which consisted of two storey 4+ bedroom apartments which did not cater for the needs and budget of a large proportion of the community.

(e) **Principle 5: Resource, energy and water efficiency**

The proposed building has been designed to maximise daylight, sunlight and views from the east and north reducing the need for mechanical heating, cooling and lighting of the building. Grey water from the roof is to be reused and bicycle parking is included within the basement to enable more sustainable travel choices to be made.

(f) **Principle 6: Landscape**

The roof of the building will be utilised as private open space for the penthouse apartment and will include soft landscaping. A bioclimatic wall is proposed within the lower 4 levels of the lightwell at the north western corner of the building which includes deep soil planting zones, trailing plants and a reticulated irrigation system. The residents of the apartments will also benefit from the views and open space afforded by Hyde Park, immediately opposite.

(g) **Principle 7: Amenity**

The proposed apartments have been designed with generous room sizes and sufficient space for easy circulation. The apartments have been designed with the principal living spaces oriented towards the east and north in order to maximise natural light, outlook and ventilation, with the sleeping areas towards the rear to minimise potential noise disturbance from the road and the park. Each apartment will be dual aspect and benefit from natural cross ventilation. The apartments benefit from visual and acoustic privacy, as well as ample storage spaces both within apartments, and within the basement levels. The majority of the apartments have been designed with a balcony overlooking Hyde Park as well as a lightwell at the rear and some with small courtyard/winter gardens. Some apartments do not have trafficable balconies however there are floor-to-ceiling openable doors which allow residents to benefit from outdoor areas. This is further discussed within the 'issues' section of this report.

(h) **Principle 8: Safety and Security**

The principal living areas and balconies of the proposed apartments overlook Hyde Park and Elizabeth Street allowing natural surveillance of the surrounding area. Pedestrians enter the site on Elizabeth Street which is well lit and is separate from the vehicular access which is gained via the Sheraton on the Park site. There are various internal security measures to restrict access to the apartments.

(i) **Principle 9: Social Dimensions**

The proposal offers a mix of housing types to cater for different budgets and housing needs within the community. The proposed scheme is an improvement upon the previously approved scheme which catered only for the upper end of the housing market.

(j) **Principle 10: Aesthetics**

The design of the proposed building in terms of its external appearance, bulk and scale and detailing are considered a positive inclusion to the streetscape and will not detrimentally impact upon the Hyde Park Special Area.

14. The development is considered generally acceptable when assessed against the above stated principles and the SEPP generally, which are replicated in large part within Council's planning controls.

**SEPP (Building Sustainability Index: BASIX) 2004**

15. The SEPP requires that any application relating to residential development is accompanied by a list of commitments by the applicant as to the manner in which the development will be carried out, to ensure that the development is sustainable. The applicant has provided a BASIX certificate as part of the application and a condition is included within the consent to require that the development is carried out in accordance with this document.

**SREP Sydney Harbour Catchment 2005**

16. The SREP aims to ensure that the Sydney Harbour Catchment is protected, enhanced and maintained. It also aims to achieve a high quality and ecologically sustainable urban environment and encourage a culturally rich and vibrant place for people. The application site is not located in the immediate vicinity of the harbour and its construction is likely to have a minimal impact upon it. The proposal is considered to be consistent with the aims and objectives of the SREP.

**Sydney LEP 2005**

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

**COMPLIANCE WITH SYDNEY LEP 2005**

<b>Development Controls</b>	<b>Permissible under Sydney LEP 2005</b>	<b>Proposal as assessed under Sydney LEP 2005</b>
<b>Zoning</b>	City Centre: residential development is permissible	permissible
<b>Floor Space Area</b>	3914.39m <sup>2</sup>	3400.39 m <sup>2</sup>  (3344.77 m <sup>2</sup> residential and 55.62 m <sup>2</sup> commercial)

Development Controls	Permissible under Sydney LEP 2005	Proposal as assessed under Sydney LEP 2005
<b>Floor Space Ratio</b>  (Site area = 280.20 m <sup>2</sup> )	13.97:1	12.13:1
<b>Height</b>	No specified height limit  Hyde Park West sun access plane allows 45m upon the eastern boundary increasing to 60m upon western boundary	Eastern elevation 43.1m (RL 66.56)  Western elevation 54.2m (RL 77.65)
<b>Parking</b>	31 spaces  (1 space per 2 bedroom unit plus 1 additional space per 5 apartments  2 spaces per 3+ bedroom unit  1 space for the commercial tenancy)	31 spaces  (30 residential, 1 commercial)
<b>Special Areas</b>	Hyde Park Special Area	Proposed development considered acceptable in terms of impact upon the Special Area.

**COMPLIANCE WITH LEP Chapter 1 PART 5 Division 2 – DESIGN EXCELLENCE**

Matter to be Considered (clause 26)	Complies	Comment
High standard of architectural design, materials & detailing	✓	<b>Complies:</b> The architectural design is supported and was reviewed by Council's Design Advisory Panel; a condition is included relating to detailing of the facade.
Form & external appearance of the building improves quality & amenity of the public domain	✓	<b>Complies:</b> The bulk and height of the building is appropriate within its context. The facade design contributes positively to the streetscape.
Impacts on view corridors	✓	<b>Complies:</b> Will not block view corridors

Matter to be Considered (clause 26)	Complies	Comment
Process established to ensure continuity & to ensure excellence is realised in completed building.	✓	<b>Complies:</b> A condition requiring a full size prototype of a section of the facade is included.

**COMPLIANCE WITH LEP Chapter 1 PART 5 Division 3 – ENVIRONMENTAL DESIGN**

Matter to be Considered (clause 26)	Complies	Comment
Principles of ecologically sustainable development	✓	<b>Complies:</b> the building has been designed to maximise daylight and sunlight, reducing the need for mechanical heating, cooling and lighting. Water from the roof is to be re-used and a bioclimatic wall is proposed within the lightwell.
Building design and orientation	✓	<b>Complies:</b> The apartments have been designed to maximise the sunlight from the north and east within the principal habitable rooms.
Passive solar design and daylighting	✓	<b>Complies:</b> The principal habitable rooms are oriented to the east and north to take advantage of daylight and sunlight.
Natural ventilation	✓	<b>Complies:</b> Each apartment is naturally cross ventilated
Energy efficiency and energy conservation	✓	<b>Complies:</b> Natural ventilation and apartment orientation reduce the need for mechanical heating, cooling and lighting
Water conservation and grey water re-use	✓	<b>Complies:</b> Grey water from the roof is to be re-used. A condition relating to the installation of water efficient devices is included within the suggested conditions.
Waste minimisation and recycling	✓	<b>Complies:</b> Recycling facilities are to be provided on site. Garbage chutes are proposed within each unit leading directly to the garbage room to minimise lift movements.

<b>Matter to be Considered (clause 26)</b>	<b>Complies</b>	<b>Comment</b>
Reduction of car dependence	✓	<b>Complies:</b> Site is centrally located enabling residents to walk or use public transport. Bicycle and motorcycle facilities are included within the basement levels.

**LEP PART 7 – SPECIAL AREA PROVISIONS**

18. The LEP seeks to protect Special Areas from development which is incompatible with the existing character of the area, to reinforce the existing distinctive attributes, to protect views and sunlight and to encourage active street frontages. The proposed development is considered to respect the existing character of the Special Area in terms of bulk, height and design, and will not result in a loss of views or daylight. The proposed retail unit at ground level will assist in activating the street level frontage of the building.
19. Schedule 6 of the LEP discusses the Hyde Park Special Area specifically and requires that buildings are built to the street frontage, built to the same height as others flanking Hyde Park and maintain views to St Mary's Cathedral and Centre Point tower. The proposed building will be built to the street frontage, respects the heights and set backs of the existing surrounding development and will not interrupt views to the cathedral or Centre Point tower.

**Central Sydney DCP 1996**

**COMPLIANCE WITH THE CENTRAL SYDNEY DCP 1996**

<b>Matter to be Considered</b>	<b>Complies</b>	<b>Comment</b>
Building to the street alignment Cl 2.1	✓	<b>Complies:</b> The proposed development will be built to the street frontage.
Street frontage heights Cl 2.2	✓	<b>Complies:</b> The eastern elevation is between 20m and 45m in height. Above this, the building is set back.
Building setbacks – front; side and rear Cl 2.3	✓	<b>Complies:</b> The eastern elevation of the building is less than 45m in height. Above this, the building is set back.
Street frontage activities Cl 2.5	✓	<b>Complies:</b> The ground level retail unit assists in activating the street level of the building
Building bulk Cl 2.6	✓	<b>Complies:</b> no floorplate exceeds 1,200 m <sup>2</sup> and the frontage of the building does not exceed 40m

Matter to be Considered	Complies	Comment
Building exteriors CI 2.7	✓	<b>Complies:</b> The lower section of the building reinforces the predominant masonry character of the area. Balconies are provided which overlook the park. The design does not utilise extensive expanses of glazing.
Views CI 2.8	✓	<b>Complies:</b> The proposed development will not encroach upon views or vistas into Hyde Park or silhouettes of major heritage buildings.
Access to mixed use development CI 2.13	✓	<b>Complies:</b> The retail unit is wholly separate from the residential units. No shared areas will exist in this regard.
Vehicle access and footpath crossings CI 3.3	✓	<b>Complies:</b> Vehicular access will be gained via the Sheraton on the Park site, as previously approved. Pedestrian access will be from Elizabeth Street.
Awnings & colonnades CI 3.5	✓	<b>Complies:</b> a continuous awning is proposed providing weather protection and forming a design feature at the entrance of the building.
Paving for street footpaths and public spaces CI 3.7	✓	<b>Complies:</b> The application proposes type 2 flagstone paving for any areas adjacent to Council footpath.
Easy access CI 3.8	✓	<b>Complies:</b> the whole building has been designed to be fully accessible.
Sunlight to public spaces CI 4.1	✓	<b>Complies:</b> The submitted shadow diagrams show that only a very small part of Hyde Park is likely to receive shade as a result of the building, in a similar manner to the neighbouring buildings and the building previously approved.

Matter to be Considered	Complies	Comment
Wind standards CI 4.2	✓	<b>Complies:</b> The wind effects statement submitted with the application concludes that the impact upon pedestrians will be acceptable.
Energy efficiency of buildings CI 4.3	✓	<b>Complies:</b> A number of measures have been employed to ensure that light and ventilation are maximised and green spaces are provided.
Noise reduction CI 4.4	✓	<b>Complies:</b> The apartments have been designed with daytime areas located at the front of the premises and sleeping areas at the rear to minimise noise from Elizabeth Street. The standard construction hours condition is included.
Reflectivity CI 4.5	✓	<b>Complies:</b> whilst glazing is utilised within the upper levels of the building, this is broken up with other design features and will not result in an unacceptable level of glare.
Design & location of on-site parking CI 5.1	✓	<b>Complies:</b> The proposed on-site parking is located below ground and is accessed through the basement level of the neighbouring site allowing improved pedestrian access on Elizabeth Street and eliminating traffic conflicts.
Parking for people with mobility impairment CI 5.3	✓	<b>Complies:</b> 2 of the 31 parking spaces are designated as disabled parking spaces.
Delivery & service vehicles CI 5.4	✓	<b>Complies:</b> 1 commercial parking space is provided, service and delivery vehicles are able to access the basement levels through the Sheraton on the Park site.
Bicycle parking CI 5.5	✓	<b>Complies:</b> Bicycle parking facilities are located within the basement of the building.
Motor cycle parking CI 5.6	✓	<b>Complies:</b> Motorcycle parking is provided within the basement of the building.

<b>Amenity for residential buildings and serviced apartments (Amendment No. 5) (DCP Clause 6)</b>		
Daylight CI 6.1.1	✓	<b>Complies:</b> The apartments will benefit from good levels of daylight from both the main eastern aspect and secondary windows upon the northern elevation.
Lightwells and internal courtyards CI 6.1.3	✗	<b>Does not comply:</b> The proposed lightwell does not meet the requirements specified. This is discussed within the 'Issues' section of this report.
Sun access CI 6.1.4/5/6	✓	<b>Complies:</b> The units have principal rooms and private open space with good sun access. All habitable rooms are less than 10m from a source of natural light and air.
Ventilation CI 6.1.7/8/9	✓	<b>Complies:</b> each apartment has natural cross ventilation.
Visual privacy CI 6.1.10	✓	<b>Complies:</b> Units will not overlook each other or other buildings. Bedrooms include screening where necessary.
Outlook CI 6.1.11/6.1.12	✓	<b>Complies:</b> The majority of apartments will include windows which look in different directions. The lightwell will include a green wall which will improve outlook from the rear bedrooms.
Acoustic privacy CI 6.1.13/14/15/16	✓	<b>Complies:</b> The proposal includes soundproofing between apartments and acoustic glazing. The sleeping rooms are located away from Elizabeth Street and Hyde Park to minimise noise impacts.
Design of roof top areas CI 6.1.17/18	✓	<b>Complies:</b> The roof will be used as a rooftop garden for the penthouse apartment and include a lap pool for recreation. The roof will include soft landscaping.
Floor to ceiling heights CI 6.1.20/21	✓	<b>Complies:</b> Each unit has a floor to ceiling height in excess of 2.7m

<b>Amenity for residential buildings and serviced apartments (Amendment No. 5) (DCP Clause 6)</b>		
Storage CI 6.1.22/23	✓	<b>Complies:</b> Every 2 bedroom unit has in excess of 10 m <sup>2</sup> storage and every 3+ bed unit has in excess of 12 m <sup>2</sup> storage. This is divided between space within the units and designated areas within the basement levels. More than 50% of the storage will be within the apartments.
Safety & design CI 6.1.24/25/26	✓	<b>Complies:</b> The orientation of principal living spaces and balconies provides passive surveillance of the street and park. A number of measures are provided within the building including a concierge service and restricted access through the car parking and entry points.
Mix of units within a residential development CI 6.1.27/28/29	✓	<b>Complies:</b> There are less than 20 units within the proposed development.
Size of units CI 6.1.34/35	✓	<b>Complies:</b> each of the 2 bed apartments are in excess of 80 m <sup>2</sup> and each of the 3+ bed units are in excess of 100 m <sup>2</sup>
Maximum no. of units accessible from a common lobby CI 6.1.36/37	✓	<b>Complies:</b> The maximum number of units accessed from a common lobby is 2.
Internal unit design CI 6.1.38/39	✓	<b>Complies:</b> Each habitable room has direct ventilation and daylight.

### City of Sydney Contaminated Land DCP 2003

20. The DCP seeks to ensure that changes of land use will not result in a risk to health or to the environment. It is linked to SEPP 55 (discussed above) in that it requires Council to consider whether a site is contaminated, and if so whether the site is suitable for the proposed development and whether such contamination can be remediated. As discussed above, the site has been tested and found to be uncontaminated. The proposed development is acceptable in this respect.

**City of Sydney Access DCP 2004**

21. The proposed building has been designed to be fully accessible. It includes a level pedestrian access leading to a series of lifts accessing the apartments. Two of the proposed 31 parking spaces are designated as disabled parking spaces and one of the apartments has been designed to be adaptable. The remaining apartments are also accessible in terms of level access and circulation spaces. A condition is included to ensure that the mailboxes are at a suitable height for access by those using a wheelchair.

**City of Sydney Awnings Policy 2000**

22. The policy encourages the use of continuous awnings in order to provide weather protection and to reduce the perceived scale of tall buildings. Awnings should be of a high architectural quality. The proposed awning provides continuous weather protection, improving the amenity of pedestrians entering the building and patrons of the ground level retail unit. The awning is also a design element in its own right, echoing the wider design of the facade.

**The Central Sydney Paving Design Policy 1996**

23. The policy requires any new footpath paving adjacent to Council footpath areas to be in accordance with specified materials and designs. The application proposes to use type 2 flagstone style paving in areas adjacent to the Council footpath.

**Issues**

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

**Private Outdoor Space**

25. SEPP 65 (Design and Quality of Residential Development) and its associated Residential Flat Design Code recommend that each residential apartment has an area of private outdoor space in the form of a balcony adjoining the principal living areas, with secondary balconies or operable walls used for additional amenity. It is recommended that balconies have a minimum depth of 2 metres to ensure adequate useable space.
26. The proposed development includes high levels of amenity for the majority of apartments including a roof garden for the penthouse apartment and large 2 metre deep balconies for the upper apartments. Two of the 4 bedroom apartments, however, and all of the 2 bedroom apartments do not have a trafficable balcony. Instead, the Elizabeth Street elevation includes an expansive glazed operable wall which will enable residents to use the principal habitable rooms as indoor/outdoor spaces. In addition to this, apartments will benefit from small courtyard/winter garden areas adjoining the lightwell at the north western corner of the building. The lightwell will include a bioclimatic wall which will improve the amenity of these areas.
27. This arrangement is considered acceptable in this instance given the amenity which these operable walls will afford, the secondary courtyard areas, the potential for noise and pollution to lower level balconies from Elizabeth Street, and given Hyde Park lies immediately opposite the site.

**Lightwells and internal courtyards**

28. Section 6.1.3 of the Central Sydney DCP 1996 states that lightwells may be employed as a source of daylight, ventilation, outlook and sunlight provided that they are not the sole source of outlook for principal living areas and provided that they meet minimum size requirements. This section also states that building services should not be visible within this lightwell area.
29. The DCP requires that for lightwells exceeding 45 metres in height, the minimum plan dimension is 24 metres. The proposed lightwell, which measures 3.6m x 5.4m, does not meet these recommended size requirements due to the constraints of this relatively small infill site. However, the principal living spaces will look eastwards and northwards over the park, and the daylight, sunlight, ventilation and outlook afforded by the lightwell are secondary sources, designed to improve the amenity of the units, which is already of a high level. The rooms which will look onto the lightwell will not view building services, but a bioclimatic wall which includes deep soil planting and trailing plants which will improve outlook from this position. The proposed lightwell is therefore considered acceptable in this instance.

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

30. The proposed development will provide new housing within this central city location which caters for different household types, needs and budgets. The design of the building is considered appropriate within the existing built environment and in relation to the natural environment of Hyde Park opposite.

**BCA Matters**

31. The application was assessed by Council's Building Unit who has confirmed that the proposal can comply with the BCA with a number of exceptions. The applicant has been made aware of these exceptions and has confirmed that an alternative solution will be put forward at the Construction Certificate stage.
32. The BCA Classification of the building is Class 2.

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

33. The site is considered suitable for residential development of the proposed mix and density. The prestigious location of the site lends itself to larger, more luxurious units. The proposed apartments will benefit from good levels of amenity resulting from the open and natural character of Hyde Park immediately opposite and good access to sustainable forms of travel.

**Section 79C(1)(e) Public Interest**

34. The design of building achieves design excellence and makes a positive contribution to the streetscape. The building provides a mix of residential accommodation which will encourage city living.

**POLICY IMPLICATIONS**

35. Not applicable to this report.

**FINANCIAL IMPLICATIONS/SECTION 61 CONTRIBUTIONS**

36. 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 2003. An appropriate condition has been included in the recommendation of this report.

**PUBLIC CONSULTATION**

**Section 79C(1)(d)**

**EXTERNAL REFERRALS**

37. Adjoining and nearby owners and occupiers of residential buildings were notified of the 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 Notification of Planning and Development Applications DCP 2005. No submissions were received in response to this notification and advertisement.

**Roads and Traffic Authority**

38. The application was referred to the RTA who expressed concern regarding the vehicle access point from Elizabeth Street, which could cause disruption to bus operations and traffic flow on Elizabeth Street. The proposal was subsequently amended to remove this vehicular access and access will now be afforded through the basement of the neighbouring Sheraton on the Park Hotel site, immediately to the south, in the same way as that approved within the previous consent. The RTA has also requested that a number of conditions are included within the consent.

**Railcorp**

39. The application was referred to Railcorp who responded with no objections or suggested conditions, other than a 'dial before you dig' requirement. This has been included within the consent.

**INTERNAL REFERRALS**

40. The application was reviewed by Council's Design Advisory Panel on 16 February 2010. The panel generally supported the innovative approach to the facade but expressed concerns regarding the buildability of the proposal, and in particular the resolution of the glazing of the winter gardens and sandstone details. The panel recommended that a condition be included in any consent granted, requiring the preparation of a full size prototype of a section of the facade to demonstrate buildability and design finesse. Such a condition is included.
41. The application was referred to the Urban Design Unit which generally supports the application, but raised concern regarding the proposed vehicular access upon Elizabeth Street. This has now been deleted from the scheme.

42. The application was referred to Council's Building Unit who noted a number of areas which were unlikely to comply with the deemed-to-satisfy provisions of the BCA. No objection was raised however, subject to conditions which have been included within this report. The applicant has been made aware of the areas which are not able to comply; the applicant has indicated that an alternative solution will be proposed at the Construction Certificate stage.
43. The application was referred to Council's Health Compliance Unit who requested that a Site Contamination Report be submitted to Council. Such a report was submitted and concludes that the site is uncontaminated.
44. The application was also referred to Council's Traffic Operations Unit and Public Domain Unit, both of which raise no objections subject to the imposition of conditions which are included within this report.

### **RELEVANT LEGISLATION**

45. The Environmental Planning and Assessment Act 1979.

### **CONCLUSION**

46. The application proposes the construction of a 16 storey residential flat building comprising 19 apartments plus basement car parking accessed via the neighbouring Sheraton on the Park site, immediately to the south. The application also proposes a ground level retail unit, ground level concierge/lobby area and an awning spanning the full width of the site.
47. Compliance with both State and Local planning controls has been demonstrated within this report. Where non-compliances exist, these have been identified and discussed, and found to be acceptable.
48. It is recommended that the application is approved, subject to the recommended conditions above.

### **GRAHAM JAHN**

Director City Planning and Regulatory Services

(Cheryl Mayo, Planner)