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4 April 2023

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PUBLIC SUBMISSION D/2023/113
4-6 BLIGH STREET, SYDNEY

Attention: Ms Marie Burge

Dear Marie,

As the land owners of 1 Chifley Square, Sydney, we write to you in relation to the State Significant Development Application lodged at 4-6 Bligh Street, Sydney, which seeks approval for the construction of a 59-storey mixed-use hotel and commercial building with associated basement parking, food and drink premises and business identification signage.

Following a review of the Environmental Impact Statement (EIS) and accompanying documentation, we object to the proposal in its current form as it raises the following concerns:

- **Concern 1: Podium height** – The rear podium proposes a height of RL 36 adjacent to 1 Chifley Square whereas the site-specific provisions in the *Sydney Development Control Plan (DCP) 2012* indicated a podium height of RL 29.08. The impacts of the proposal to the existing light well and rear windows of 1 Chifley Square are unclear, and a section drawing is requested to understand this relationship.
- **Concern 2: Vertical garden setback** – A 1.68m-2.33m setback is proposed between the proposed vertical garden and 1 Chifley Square. A quantitative assessment of the daylight impacts to the light well at 1 Chifley Square has not been provided.
- **Concern 3: Heritage conservation** – The light well is identified as a significant feature of the heritage-listed Qantas House at 1 Chifley Square on the NSW State Heritage Inventory. In the absence of a quantified daylight assessment resulting from setback variations (built form and vertical garden), it is unclear whether the proposed variations compromise the heritage significance of Qantas House.
- **Concern 4: Dilapidation survey** – It is requested that a dilapidation survey is undertaken of the overall development, including the subject SSDA and D/2018/892 (early works DA).
- **Concern 5: Noise emissions from Level 2 plant** – The operational noise emissions from the Level 2 plant, which is directly adjacent to 1 Chifley Square, have not been considered in the Operational Noise and Vibration Impact Assessment.
- **Concern 6: Construction impacts** – Insufficient information has been provided within the Construction Noise and Vibration Management Plan regarding the predicted noise levels, post-implementation of mitigation measures. To minimise dust impacts, it is recommended that a condition of consent be imposed that requires a Construction Site Management Plan to detail the appropriate dust suppression and air quality control measures.
- **Concern 7: Building height variation** – The development proposes a building height of up to 206.43m, while the site-specific clause of the *Sydney Local Environmental Plan (LEP) 2012* limits building height to 205m. The SSDA has not been supported by a clause 4.6 variation written request to vary the development standard.

1.0 Background

Arcadia Funds Management

Arcadia is the investment manager of 1 Chifley Square on behalf of the owner, Commonwealth Superannuation Corporation (CSC). CSC is the registered owner of all the strata lots that comprise 1 Chifley Square (SP74556 & SP76390). Arcadia is authorised to act on behalf of CSC in relation to 1 Chifley Square.

1 Chifley Square, Sydney

1 Chifley Square (also known as 68-96 Hunter Street) is a commercial office building situated within the Sydney CBD. Located at the intersection of Elizabeth, Hunter and Phillip Streets, the building is 13 storeys with 3 lower basement levels. 1 Chifley Square sits to the south-east of 4-6 Bligh Street.

Pursuant to the Sydney LEP 2012, the site contains the *former 'Qantas House' including interiors*, which is a listed heritage item of State significance. The NSW State Heritage Inventory states the light well at the rear of the building ensures the penetration of light deep into the interior.

Qantas House has a void/lightwell above the second level that is adjacent to the boundary with 4-6 Bligh Street, supporting access to daylight and amenity for the office areas (see **Figures 2 and 3**). Elevations of the west and south light wells are provided at **Appendix A**.



Figure 1 1 Chifley Square (red) and 4-6 Bligh Street (blue)
Source: Nearmap

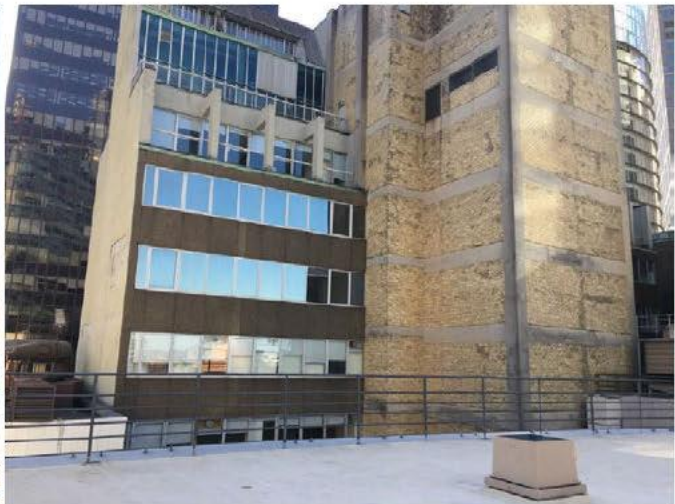


Figure 2 Lightwell/void at Qantas House
Source: Unknown



Figure 3 Glass blockwork facing the rear lightwell
Source: Conservation Management Plan

Planning Proposal at 4-6 Bligh Street

The land owners of 1 Chifley Square made a submission to the then Planning Proposal at 4-6 Bligh Street, raising concern for tower setbacks and the new podium setback control. **Table 1** provides an extract of the post-exhibition report to Council, which summarises the land owner's former submission and the Council officer's response to each matter. In response to the submission, Council acknowledged that the light well to the rear of 1 Chifley Square is a design feature of the heritage-listed building and is of significance.

In the Planning Proposal Finalisation Report, Council stated that the adopted site-specific controls within the Sydney DCP 2012 were 'revised to ensure the proposed development respects and reinforces the significance of the adjacent heritage items including maintaining daylight to the light well area at 1 Chifley Square.'

Table 1 Post-exhibition report extract

Source: City of Sydney

No.	Submitter	Submission	Response
4	On behalf of owner at 1 Chifley Square (QANTAS House)	No further reduction in tower setbacks. The draft DCP seeks a 4.9m to 6m tower setback control from the south eastern boundary. This is a reduced setback compared to the current Sydney DCP 2012 which has a 6m control for hotel buildings. There should be no further reduction in the proposed setback to ensure that a reasonable amount of light to 1 Chifley Square is retained.	Section 5.1.2 of SDCP2012 relates to setbacks, and defines a hotel as a commercial building. Above a height of 45m, windows and balconies of commercial buildings are to be set back at least 3m from side and rear property boundary. While the proposal does not comply with the building setbacks in the proposed Sydney DCP 2012 - Central Sydney amendment, the proposed DCP allows variation to side and rear setback if it provides equivalent or improved wind comfort, wind safety and daylight levels in adjacent public places. As part of the request, wind and daylight levels of the proposed built form demonstrates acceptable wind and daylight impacts on the public domain. The light well to the rear of 1 Chifley Square is a design feature of the heritage listed building and is of significance. DCP provisions have been clarified to ensure new development respect and reinforce the significance of the items including any significant light well areas.
		New podium setback control. The reference design has a 4m setback from the south-eastern boundary. However this is not reflected in the draft DCP. While the draft DCP conceptually indicates a podium setback, 4m is not specified. The draft DCP should be amended to include a podium setback diagram. If the podium setback control is not specified, the control could be unclear.	The proposal provides a building envelope within which articulation and heritage considerations can shape detail design, especially during the architectural design competition. The reference design is one example of how a proposed building on the site. As the light well to the rear of 1 Chifley Square is a design feature of the heritage listed building and is of significance. DCP provisions have been clarified to ensure new development adjacent to heritage items respect and reinforce the significance of the items including maintaining daylight to light well areas.

Sydney Development Control Plan 2012

As discussed, 4-6 Bligh Street is subject to site-specific provisions within Section 6.3.14 of the Sydney DCP 2012. Of particular relevance to 1 Chifley Square is a provision which suggests a 4m setback to Qantas House:

6.3.14.1 Setbacks

(2) The rear podium setback to adjacent heritage items is to respect the significant features of the item including maintaining daylight to light wells, particularly to QANTAS House 1 Chifley Square, where a setback of 4metres may be appropriate.

The indicative building envelope massing illustrates a podium RL 29.08, and rear setbacks to 1 Chifley Square (see **Figure 4**).

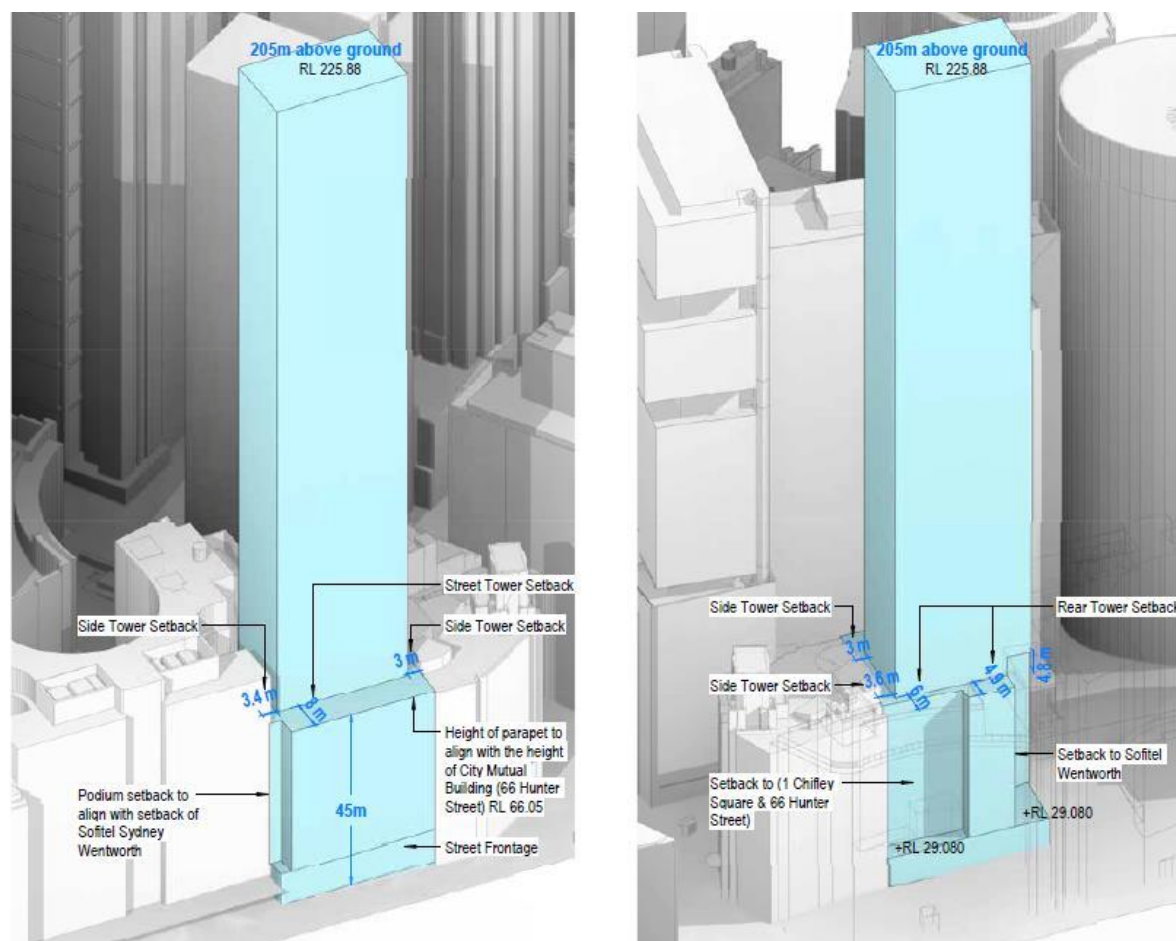


Figure 4 Indicative building envelope massing (Bligh Street (left) and rear (right))

Source: Sydney DCP 2012

2.0 Concerns for the current proposal

Concern 1: Podium height

The rear podium proposes a height of RL 36 adjacent to 1 Chifley Square whereas the site-specific DCP indicated a podium height of RL 29.08 (~7m difference).

The Proponent has provided massing studies on this relationship to 1 Chifley Square (**Figure 5**), and it is noted that RL 36 relates closely to RL 36.4 at 1 Chifley Square. However, the Proponent has not provided a section diagram illustrating the relationship of the proposal to the existing light well and rear windows of 1 Chifley Square, nor has it provided an analysis of the impact of the additional podium height on daylight access to 1 Chifley Square. It is therefore difficult to assess the impact of the podium height on 1 Chifley Square which is inconsistent with the envisaged built form upon the site under the Sydney DCP 2012.

It is requested that a section through the podium and tower is provided in the location illustrated in **Figure 6** to understand the relationship between 1 Chifley Square, illustrating the light well/void, windows, and vertical garden.

Further to the above, it is requested that Dwg. DA1005 is amended to illustrate proposed podium setbacks on Level 03 to 13, as this information is currently lacking on this drawing.

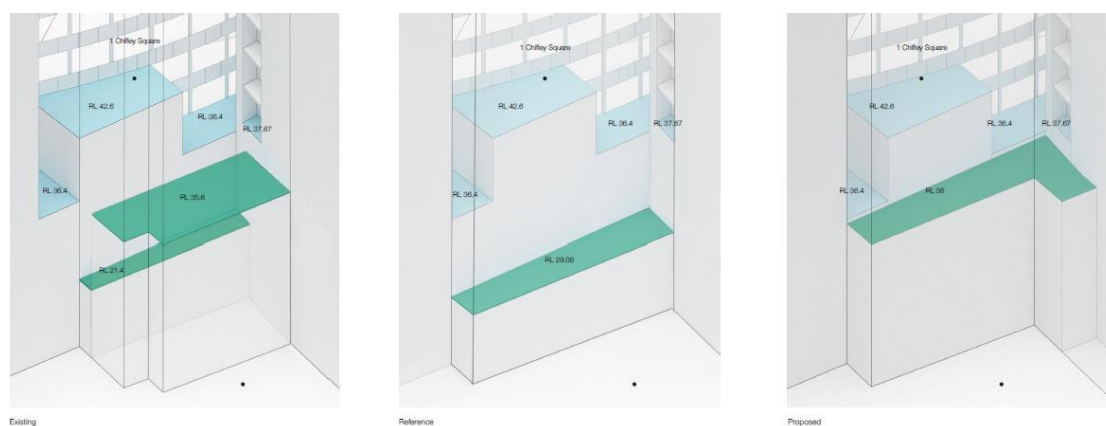


Figure 5 Massing study to the rear, adjacent to 1 Chifley Square

Source: Woods Bagot

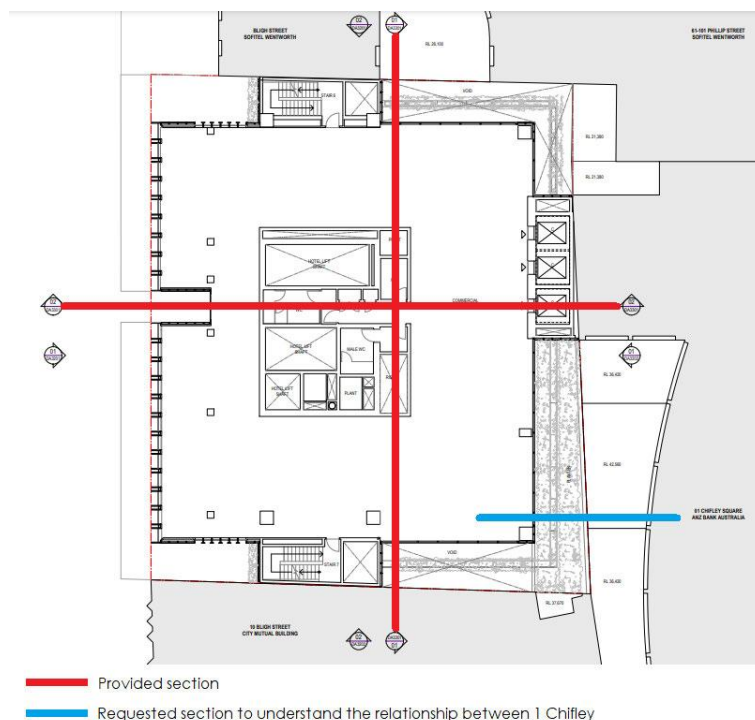


Figure 6 Requested section

Source: Woods Bagot, annotated by Arcadia

Concern 2: Vertical garden setback

A landscaped vertical garden is proposed on the south-eastern podium elevation from Level 2 to Level 10. The vertical garden sits independently to the podium of the building, and is proposed to be setback 1.68m-2.33m from the shared property boundary (**Figure 7**).

As discussed above, section 6.3.14.1 (2) of the Sydney DCP 2012 states that a 4m rear setback to Qantas House may be appropriate to respect the significant features of the heritage item including maintaining daylight to lightwells. Clause 2.10 of *State Environmental Planning Policy (Planning Systems) 2021* states that development control plans do not apply to SSD. While the site-specific DCP provisions are not strictly a relevant matter for consideration for SSDAs, we believe this is a relevant matter given the site-specific application of the Sydney DCP 2012, the merits of the proposal and potential impacts upon 1 Chifley Square relating to the light well and heritage conservation. Given that the site-specific DCP was prepared as part of the Planning Proposal process, we believe consideration of the DCP is relevant to considering the 'public interest' in section 4.15 of the EP&A Act.

The Proponent's Statutory Compliance Table at Appendix B to the EIS also does not address clause 6.3.14.1 (2) of the site-specific DCP, nor provide an assessment of how the proposal maintains daylight access to the light well of 1 Chifley Square.

The vertical garden is a substantial structure adjacent to the shared property boundary, which could diminish daylight access to the light well at 1 Chifley Square. The landscaped pergola is proposed to be setback a minimum of 1.68m from the boundary, while the site-specific DCP suggests a 4m setback may be appropriate. On this basis, it is requested that the Proponent undertakes a daylight study to the light well at 1 Chifley Square to understand the impacts of this setback. It is critical to quantify daylight impacts upon our site, and should these impacts be adverse, it is requested that the vertical garden adopts an increased setback, consistent with the Sydney DCP 2012.

Further to the above, the Design Report states that the visual amenity of the green trellis will benefit occupants on both sides (ie benefit both 4-6 Bligh Street and 1 Chifley Square). However, given the glass blockwork on the west and south light well elevations at 1 Chifley Square, there is likely to be limited outlook to this biophilic elevation from within our property. As such, the benefits outlined by the Proponent may not be realised.

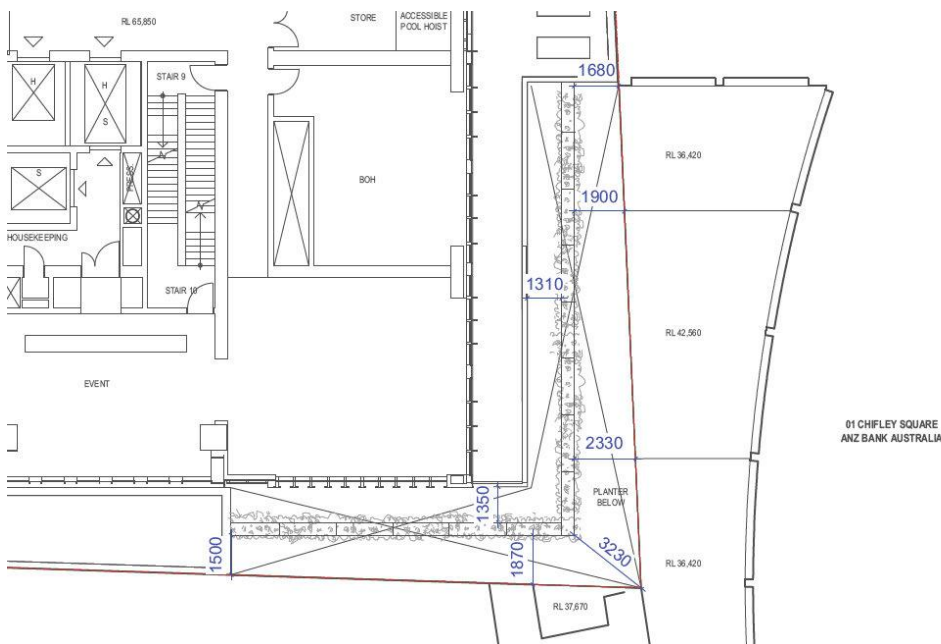


Figure 7 Vertical garden setback to 1 Chifley Square

Source: 360

Inconsistency between documentation

- The relationship between the vertical garden and podium level is unclear. As per **Figure 5**, the proposed podium height is at RL 36, however, the 'eastern boundary cross section' on page 11 of the Landscape Report illustrates a podium commencing at Level 2 at RL 30.53.
- Page 76 of the Design Report states that the vertical garden runs from Level 3-10, however, the landscape plans illustrate that the landscape garden commences at Level 2.

Concern 3: Heritage conservation

In addressing Section 6.3.14.1(2) of the Sydney DCP 2012, the Heritage Impact Statement states that the proposal 'includes significant light-well setbacks to the south, east and north to all of the adjoining heritage buildings in accordance with this requirement.'

Without quantifying the impacts associated with the reduced 3.3m rear building setback and 1.68m vertical garden setback, it is unclear whether adequate daylight access to the light well at 1 Chifley Square will be maintained to 'respect this significant feature of the heritage item'. In our view, the Heritage Impact Statement does not adequately consider, nor justify, the proposed variations to rear setbacks based on heritage grounds.

Concern 4: Dilapidation survey

As per Section 16 Dilapidation Survey of the Preliminary Construction Management Plan (CMP), we welcome a dilapidation survey, prior to works commencing on site and post completion. It is noted that the CMP references condition 6 of D/2018/892 (early works DA) which required a dilapidation survey. However, for the avoidance of doubt, we request that a dilapidation survey is undertaken post completion of the overall development, not just post completion of site preparation and basement excavation.

Concern 5: Noise emissions from Level 2 plant

The operational noise emissions from the Level 2 plant have not been considered in the Operational Noise and Vibration Impact Assessment. A preliminary analysis of the mechanical equipment had been conducted to determine the maximum cumulative noise level, and considered the plant rooms in the basement, rooftop, and on Levels 11, 13, 33 and 54 (see section 6.2.1 of the Assessment). However, this Assessment did not consider the impacts of the Level 2 plant which is of concern, given its adjacency to the shared boundary with 1 Chifley Square.

It is requested that this report is updated to consider the cumulative impacts of the development, including noise emissions from the plant room on Level 2.

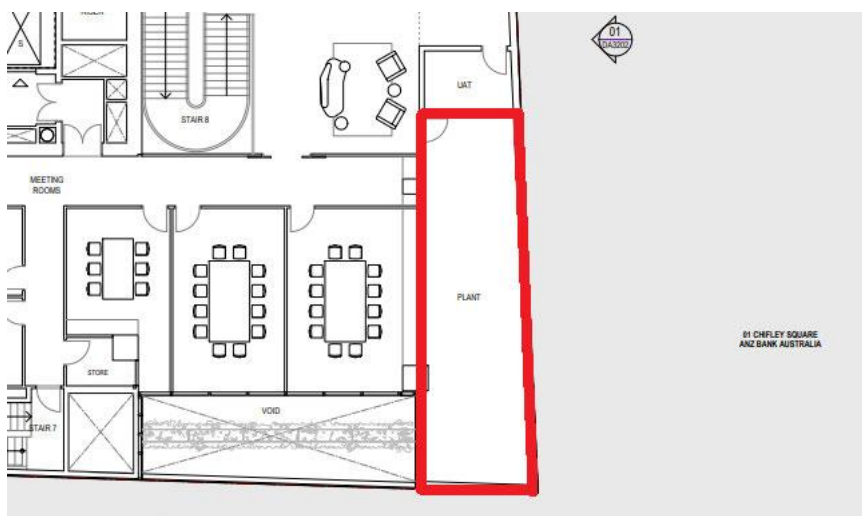


Figure 8 Location of Level 2 plant adjacent to 1 Chifley Square

Source: Woods Bagot, annotated by Arcadia

Concern 6: Construction impacts

The Construction Noise and Vibration Management Plan (CNVMP) identifies a predicted noise level exceedance of 10-12dB observed at 1 Chifley Square. Insufficient information has been provided within the CNVMP as while this Plan provides predicted noise levels pre-mitigation measures, it does not provide predicted noise levels post-mitigation measures. Without a quantified assessment, it is unclear the extent to which the mitigation measures will assist alleviating construction noise impacts at 1 Chifley Square, if at all.

Section 17 of the Preliminary Construction Management Plan (PCMP) states that 'Construction phase air quality impacts shall be minimised or avoided by incorporation of appropriate dust suppression and air quality control measures at various stages of the project.' To minimise dust impacts, it is recommended that a condition of consent be imposed that requires a Construction Site Management Plan prior to issue of a Construction

Certificate that details the appropriate dust suppression and air quality control measures at the relevant stages of the project.

Concern 7: Building height variation

Clause 6.44 of the Sydney LEP 2012 only permits a maximum FSR of 22:1 if the consent authority is satisfied that the building does not have a height greater than 205m.

The Sydney LEP 2012 defines building height as:

building height (or height of building) means—

- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,*

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

The survey plan identified a ground level (existing) of RL 19.45 at the driveway adjacent to Bligh Street. Based on the elevation, the top of the building is proposed at RL 225.88. This equates to a building height of 206.43m at some parts of the building, representing a 1.43m variation to the development standard.

It is acknowledged that the indicative building envelope under the Sydney DCP 2013 identifies a height of RL 225.88. The proposed development is consistent with RL 225.88, and is largely at or below the 205m height limit. However, based on the definition of building height under the LEP a minor portion of the development has a building height of 206.43m.

Clause 4.6 of the Sydney LEP 2012 states that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating –

- a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The EIS is not accompanied by a clause 4.6 written request that seeks to justify the contravention of the building height standard development standard. As such, the consent authority cannot grant consent to the proposed development unless a written request from the applicant has been provided that seeks to justify this contravention.

3.0 Conclusion

We would like to thank you for the opportunity to provide a submission to the SSDA lodged at 4-6 Bligh Street, Sydney. It is our view that the Environmental Impact Statement and supporting documentation have failed to fully consider the impacts of the proposed development upon our property at 1 Chifley Square. It is requested that Council considers our submission and requests additional information from the Proponent to understand the extent of impacts associated with the proposal.

Should Council require any further information in relation to the matters raised in this submission, please do not hesitate to contact the undersigned.

[Redacted]
Gerald Daly
Fund Manager
Arcadia Managed Investments Pty Limited

[Redacted]
cc: [Redacted]

Appendix A – Light well elevations

• TO BE READ IN CONJUNCTION WITH THE CONTRACT PRELIMINARIES, GENERAL CONDITIONS AND TECHNICAL SPECIFICATION

• NOT TO SCALE. DO NOT DIMENSION FROM DRAWINGS

	Issue	Date	By	TCW	FF	Appt
B	22-01-15			TCW	FF	FF
A	09-08-14			TCW	FF	FF

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150

JONES LANG LASALLE AS
AGENT FOR THE OWNERS OF
STRATA PLAN 74556

Job Title

1 CHIFLEY SQUARE, SYDNEY
FACADE MAINTENANCE WORK

Page 10

SCOPE OF WORK:
WEST LIGHT WELL ELEVATION

Only at 37

Discipline FACADE ENGINEERING

Drawing Station

FOR TENDER

Job No 233753/42	Drawing No 004	Issue B
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Do not scale

1009

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DATE: 22-01-15
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NOTES:

- TO BE READ IN CONJUNCTION WITH THE CONTRACT PRELIMINARIES, GENERAL CONDITIONS, AND TECHNICAL SPECIFICATION NOT TO SCALE. DO NOT DIMENSION FROM DRAWINGS



SURVEY RENDER AS CLAUSE 2.1
REPAIR RENDER AS CLAUSE 2.5
REPAINT AS CLAUSE 2.8
(TYPICAL)

CLEAN REMAINING AREAS OF FACADE AS CLAUSE 2.10

SCOPE OF STAGE 1 WORKS
STEEL SILL REPAIR AS CLAUSE 2 & 1

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AGENT FOR THE OWNERS OF
STRATA PLAN 74556

Job Title

1 CHIFLEY SQUARE, SYDNEY
FACADE MAINTENANCE WORK

Drawing Title

SCOPE OF WORK:
SOUTH LIGHT WELL ELEVATION

Scale of A3

Discipline FACADE ENGINEERING

Drawing Status

FOR TENDER

Job No 23375342 Drawing No 003 Issue B