



planning consultants

18 May 2021
Our Ref: 21446A.BMcD_Council

Karl Fetterplace
Planning Assessment Group
NSW Department of Planning Industry and Environment
4 Parramatta Square
12 Darcy Street
PARRAMATTA NSW 2150

Dear Karl

**Re: Objection to State Significant Development Proposal (SSD – 10464)
Proposed New Hotel/Residential Building Stage 1 Development
Application
50 – 52 Phillip Street, Sydney**

DFP Planning Pty Ltd has prepared an objection in relation to the above development proposal on behalf of the Owners Strata Plan 31979 of the adjacent property at 56-70 Phillip Street, Sydney. This submission has been prepared by Brian McDonald, Principal Urban Designer and heritage Consultant, DFP Planning.

1.0 Significance of the Chief Secretary's Building and Public Works Department

The Statement of Heritage Impact seeks to make a distinction between the heritage significance of the Chief Secretary's Building and the Public Works Department Building to justify the proposal. Section 1.1 of the Statement of Heritage Impact sets out the background to the proposal. It is implied, in the following quote, that the Public Works Building is less worthy than the Chief Secretary's Building:

Built is well recognised for work in the refurbishment and restoration of iconic heritage properties across Australia. As such, a foremost principle of the project is to ensure that the integrity of the heritage listed Government building is not compromised. Rather, the heritage qualities of the building will be celebrated and revitalised for the people of NSW. The Chief Secretary's Building which fronts Bridge Street will not be leased as part of this redevelopment project, and it is intended to remain in Government ownership and control.

The first phase of construction, the "Colonial Secretary's Building", as it was called at the time, was completed in 1880 to the design of James Barnett, Colonial Architect. Additional offices for the Public Works Department were added in Phillip Street in 1889 followed shortly after by a second addition which proceeded seamlessly in 1890. From 1891 -1894, during the course of construction, Walter Vernon, Government Architect altered the upper two floors, added space within a Mansard roof and a caretaker's cottage. The Mansard roof and dome to the original building were completed.

From 1894 - 1896 a more extensive Mansard roof accommodating extra floor space and replacement central dome were built on the original Chief Secretary's Building following a fire to the roof. It is important to note that the overall building complex was constructed over a short period of time between 1880 and 1896.

The whole building has a high degree of architectural integrity. The pronounced cornices at each level were carried through the whole building. Window stone surround details are common throughout and the same stone detailing has been used at ground floor level. **Figures 1 to 3** demonstrate the architectural unity of the building.



Figure 1 Chief Secretary's Building viewed from Bridge Street. Note: The consistent sandstone material and the cornices are carried through the whole building.



Figure 2 The entrance to the original Chief Secretary's Building from Phillip Street. Note that the lettering on the arch denotes "SECRETARY FOR WORKS".

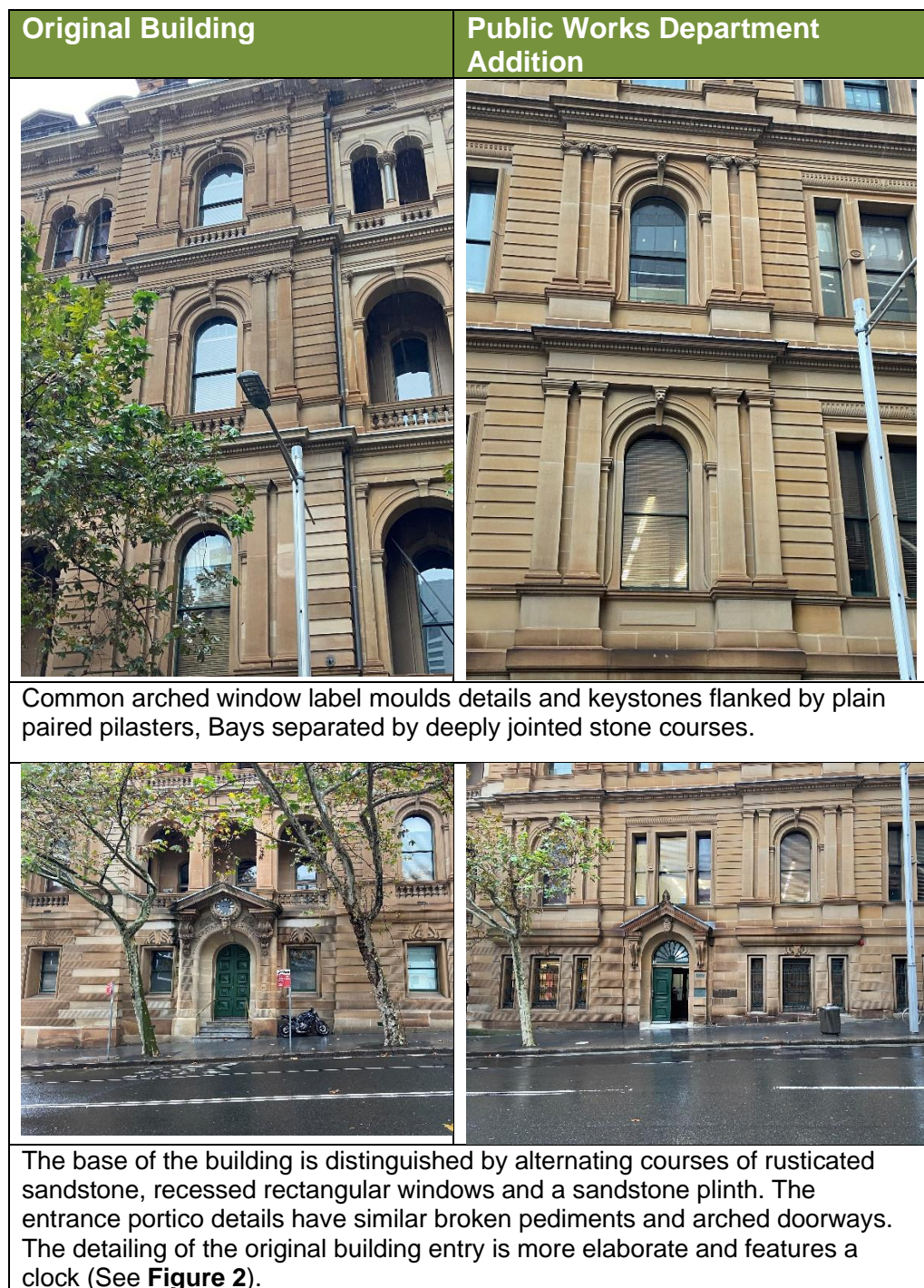


Figure 3 Comparison of architectural details and expression.

Up to 1967 the building was occupied by the Department of Public Works, the Government Architects Office and other smaller government agencies.

The integrity of the building as whole is recognised by its listing on the State Heritage Register. The building is described in the following terms:

In its existing configuration the Chief Secretary's Building consists of 2 major directly linked components. At Macquarie, Bridge and Phillip Streets - a four storey sandstone building, with a copper and slate roof mansard and a copper

clad dome. At Phillip Street - a five storey sandstone building with copper roofed mansards.

The statement of significance recognises the building as whole:

The building is one of the most significant late nineteenth century architectural works in Sydney. It embodies two of the most significant projects of Barnet and Vernon and was ranked, by contemporary accounts, with pre-eminent public works of the time such as the GPO. It remains a dominant element in the Victorian streetscapes of this part of Sydney.

The building is also listed as item I1872 in Schedule 5 of *Sydney Local Environmental Plan 2012* (the LEP).

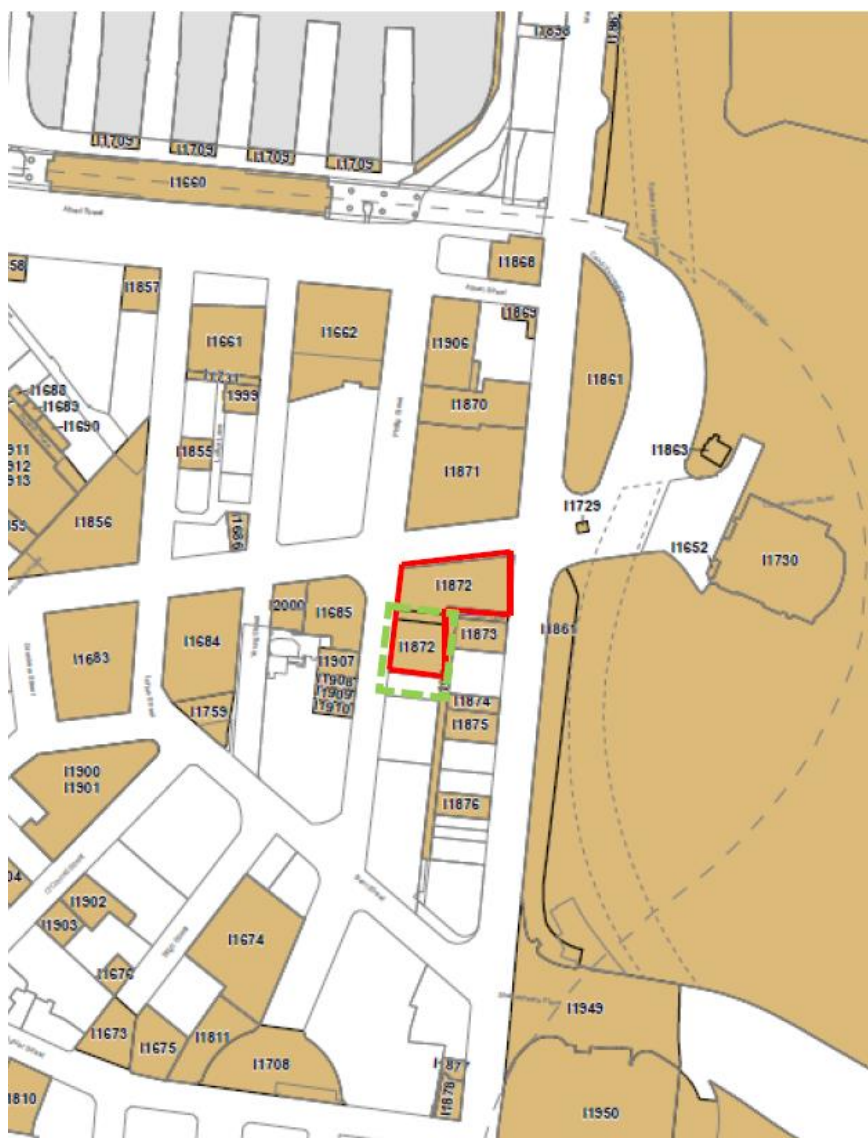


Figure 4 Extract from City of Sydney 2012 Map HER 014. The Chief Secretary's Building is outlined in red. The proposed development site is outlined in green.

It is also recognised by non-statutory listings in the Register of the National Estate and the register of The National Trust (NSW Branch).

From here on the building as a whole will be referred to as the Chief Secretary's Building.

2.0 Urban context

The Chief Secretary's Building, fronting Macquarie Street, Bridge Street and Phillip Street, is significant, not only in its own right but as an integral part of a State Government precinct of sandstone buildings that also includes the Lands Department Building, the Education Department Building, Transport House, the Treasury Building and the Premier's Department Building in Macquarie Street. Previous developments have diminished the setting of this heritage precinct. These include the dominant bulk and scale of the Intercontinental Hotel.

3.0 The Governors' Domain and Civic Precinct

This concentration of sandstone government buildings forms part of the Governors' Domain and Civic Precinct Macquarie Street, Sydney, which is a National Heritage item. The Governors' Domain extends down Bridge Street to Macquarie Place taking in the Lands Department Building and along Phillip Street encompassing the Police and Justice Museum to the Chief Secretary's Building.

The following extract from the part of the assessment of significance addressing Criterion A. Events, Processes, titled "*Founding civic instructions and emerging civic space*" recognises the contributions of NSW administrations from Governor Macquarie to the late Nineteenth Century. Emphasis added.

*Features expressing this value include but are not limited to the First Government House, the Obelisk in Macquarie Place, Macquarie Place, the Macquarie Stables, the Domain (old and new), Macquarie Street, Hyde Park Barracks, the NSW Supreme Court complex, the Mint, the remnant fabric of the Rum Hospital, the Nightingale Wing of Sydney Hospital, St James Church, St Mary's Cathedral, Hyde Park, the Australian Museum, the Sydney Grammar School, the NSW State Herbarium, the Royal Botanic Garden, the NSW State Library, the Lands Department Building, the NSW Education building, the NSW Government House and Garden, the NSW Parliament House, **the NSW Colonial Secretary's Building**, the NSW Treasury Building and the NSW (old) Registry Office and the Register General's Department Building (Land Titles Office).*

The Chief Secretary's Building is circled in blue in the map of the Governors' Domain and Civic Precinct (**Figure 5**).

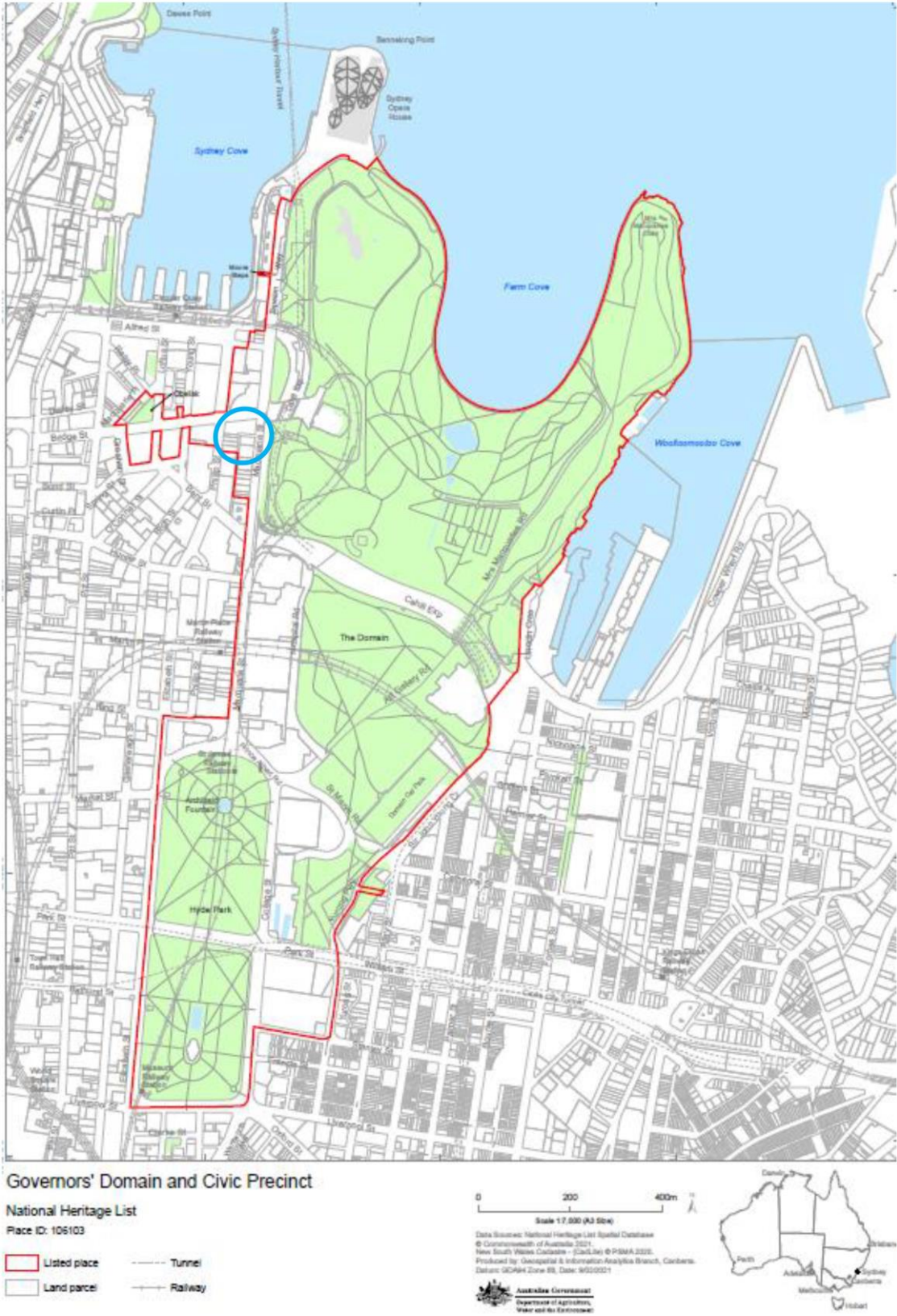


Figure 5 Governors' Domain and Civic Precinct Map.

Any large-scale development proposal that adversely impacts on the values of the Chief Secretary's Building must also be considered in the context of its impact on the Governors' Domain and Civic Precinct, which is statutorily recognised by listing on the National Heritage Register, the highest heritage status in Australia.

The proposed hotel and apartment tower will not only be visible over and adjacent to the Chief Secretary's Building from Phillip and Bridge Streets, but also from other vantage points along Macquarie Street and from parts of the domain in juxtaposition with the low scale sandstone buildings that contribute so significantly to the character of the precinct.

Evaluation of the significance of the precinct in the National Heritage Listing includes the following comment concerning the buildings.

The Governors' Domain and Civic Precinct contains an ensemble of public buildings established during the nineteenth and early twentieth centuries. These buildings, primarily constructed of Sydney sandstone and/or brick, form a grand civic presence on the eastern edge of the present CBD, set out along the ridge line of Macquarie Street and the slope of Bridge Street leading up to it. The Governors' Domain and Civic Precinct also includes a suite of buildings set in parkland, namely Government House and the numerous lodges and pavilions of the Royal Botanic Garden and the Domain.

4.0 Statutory considerations

The *NSW Heritage Act, 1977* applies to the Chief Secretary's Building. Assessment of a State Significant Development affecting a property listed on the State Heritage Register will be referred to the NSW Heritage Council for consultation.

The *City of Sydney Local Environmental Plan 2012* applies to the property under Clause 5.10 Heritage and Schedule 5. The City of Sydney may make representations in relation to applications affecting a listed heritage item. If a local government agency does not support a State Significant Development Proposal, it is referred to the Independent Planning Commission for determination.

The proposed development site falls within the Governors' Domain and Civic Precinct, a National Heritage Place. Under the *Environment Protection and Biodiversity Conservation Act, 1999* an action, referral to the Minister is required where an action is likely to affect the Significance of a National Heritage Place. A referral must assess the impacts of any proposal against the National Heritage Values of the place.

It is noted that neither the Conservation Management Plan nor the Statement of Heritage Impact address this issue. The Governors' Domain and Civic Precinct was listed on 10 February 2021. The Heritage Impact Statement and Environmental Impact Statement were completed in March 2021, yet both documents fail to address or assess the impacts on the national heritage values.

5.0 Dominance of built form to heritage items.

The proposed 48 Storey tower would stand immediately adjacent to and over the Department of Public Works component of the Chief Secretary's Building Complex. Concept drawing SK 11.16 prepared by FJMT Architects (**Figure 6**) illustrates the relationship of the proposed tower to the Chief Secretary's Building. It is interesting to note that the drawing indicates a site boundary separating the Public Works component of the building complex from the original building. Although there are other tall buildings in the locality none have such a disparate scale in relation to an adjacent heritage building. The Intercontinental Hotel adversely dominates the former Treasury Building,

former Premier's Building and Transport House but at 26 storeys it is half the height of the proposed building.

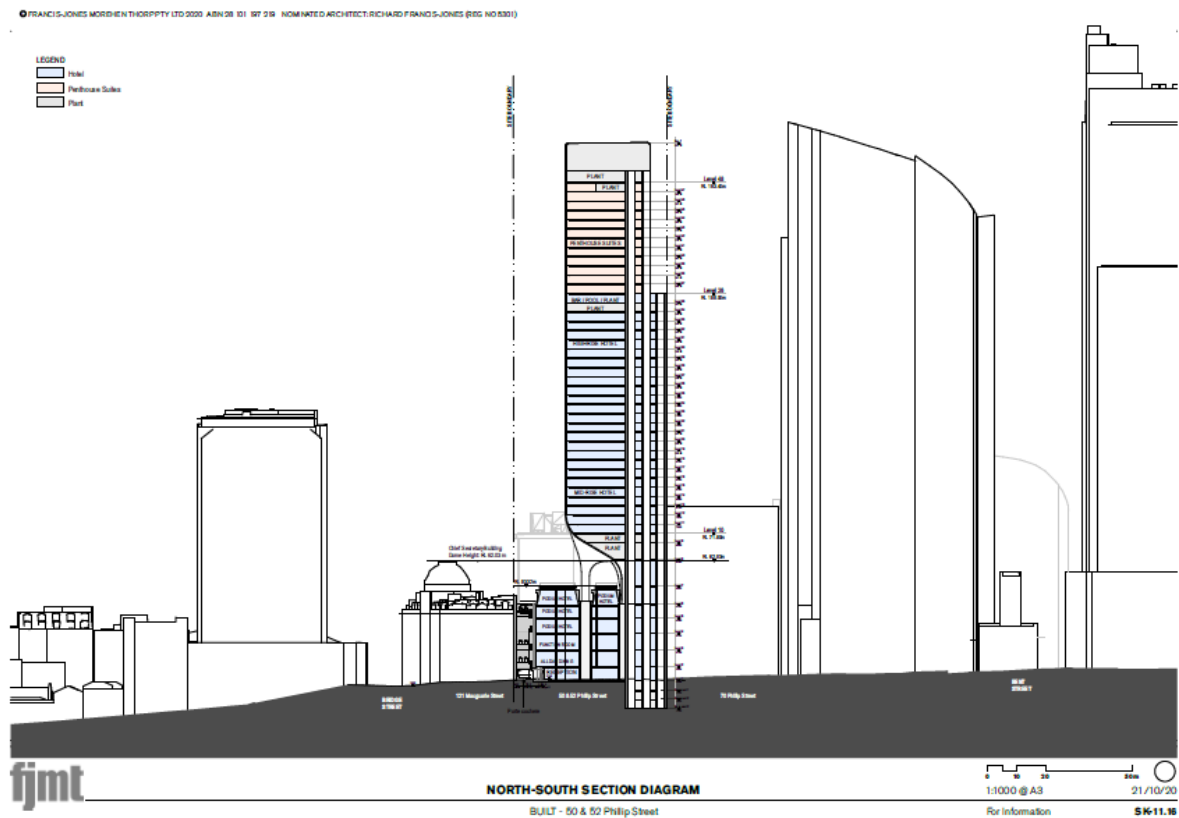


Figure 6 Concept Plan SK11.16 (FJMT)

It can be expected that tall buildings will be erected in the Sydney Central Business District. City of Sydney Council's planning provisions allow for this type of development. Nevertheless, building over the top of an important heritage listed building is a different matter compared with building in the vicinity of an important heritage listed building. Although Buildings such as Governor Phillip Tower, Governor Macquarie Tower, the AMP Building in Bridge Street and the Aurora Place Building at Bent Street intrude into the visual curtilage of the Chief Secretary's Building and the other sandstone former government buildings in the precinct, they do not tower over them as shown in the photomontage at **Figure 7** below.



Figure 7 Photomontage FJMT Architects

Government agencies and heritage practitioners follow the guidelines of the ICOMOS Australia Burra Charter (Burra Charter) in guiding and assessing proposals that would in any way affect heritage items and places. The Burra Charter's guidelines for heritage conservation are set out as a sequence of articles. Articles that are pertinent in this case are discussed below.

Article 5 – Values

5.1 Conservation of a place should identify and take into consideration all aspects of cultural and natural significance without unwarranted emphasis on any one value at the expense of others.

A major flaw in the heritage documentation accompanying the application is that both the Conservation Management Plan and the Statement of Heritage Impact prepared by GBA Heritage consider 50 Phillip Street in isolation. Notwithstanding this failing, the streetscape presentation of 50 Phillip Street is rated as having exceptional significance. It follows that the streetscape presentations of the whole of the Chief Secretary's Building

complex are of exceptional significance. The building has retained its architectural integrity and reads as whole, unified by the sandstone materiality, proportions and Victorian Classical character.

5.2 Relative degrees of significance may lead to different conservation actions at a place.

There are no relative degrees of significance of the exterior of the Chief Secretary's Building complex as far as streetscape presentation is concerned. It is rated as exceptional. The application's heritage framework attempts to differentiate between the original Chief Secretary's Building and the Department of Public Works addition (which followed soon after) to justify a proposal to excise that part of the building for the purpose of establishing a 99-year lease and construction of a tall tower above.

Article 8 – Setting

Conservation requires the retention of an appropriate visual setting and other relationships that contribute to the cultural significance of the place.

New construction, demolition, intrusions or other changes that adversely affect the setting or relationships are not appropriate.

The photomontage at **Figure 7** demonstrates the overbearing visual effect of an elegant slender tower that would have architectural merit somewhere else, but not where it would loom large over a heritage item such as the Chief Secretary's Building.

6.0 Structural risks

The application documents include a "*Heritage Structural Construction Methodology Report*" by TTW engineers, which provides a comprehensive description of the methodology for structural interventions that affect the fabric of the item. The main areas of concern regarding the structural interventions and the construction process are:

1. Basement excavation beside Astor Lane and at 50 Phillip Street;
2. Insertion of a large column in the narrow lightwell at the centre of the building (described in the report as a mega column); and
3. Protection of the roof form and materials.

The methodology to support existing masonry walls adjacent to excavation is not clear as to how the ground under the footings will be accessed to fabricate reinforcing and to pour transfer beams and whether the floor of the building would need to be taken up. On page 17 of the report, it is stated that "*Based on the geotechnical report provided by Golder, up to 7 m of retained fill and weathered sandstone should be allowed for prior to reaching Class I/II sandstone*". The report indicates that the risk of damage to critical building fabric can be mitigated, not eliminated. There is little information to provide confidence about mitigation measures.

The lightwell space is about 3.5 metres wide. The sketches in the report indicate that the permanent footing will occupy the entire ground level of the lightwell. The concept plans show approximately 500mm clearance between the column and the walls of the lightwell. It is not difficult to draw this form of construction. Building it is another matter. It is conceivable that the restricted space will necessitate greater intervention into the wall and window fabric to enable construction processes. A clue to the eventual outcome is that, where the lifts have previously been inserted, there are walls flanking the lift shaft that are not original as shown in the fabric analysis in the Conservation Management Plan.

The methodology outlined is deficient because it has not given due regard to issues arising from access to the very confined spaces for construction workers and equipment or detailed design of the proposed structural interventions.

Furthermore, windows will look at the large column 500mm away. There is no room for people to access the space for construction or maintenance afterwards. There would be non-structural consequences; not the least that the lightwell would no longer serve its originally intended purpose. It does have heritage significance for its function; the extant walls and windows are rated as high significance. It is not simply a hole in the building to facilitate construction of a very large column.

There is no information as to the extent, if any, of physical intervention into the roof or measures for protection during construction.

7.0 Conservation Management Plan and Heritage Impact Statement

The Conservation Management Plan by GBA Heritage Pty Ltd appears to have been written to justify a project of this kind. In Section 5.2 on page 96 of the Conservation Management Plan, in the discussion of issues arising from significance, the following initial statements are made:

- *Planning for the future reuse and additions to the building must respect and minimise changes to its high significance spatial arrangement and fabric.*
- *Development of the site to include high rise additions on top of the building is acceptable, if the proposed development respects the exceptional significant roofscape of the heritage building by providing an appropriate gap.*

Section 4.6 – Curtilage Analysis of the Conservation Management Plan contains no discussion about the streetscape context of the Chief Secretary's Building. There is nothing to inform whether, or how, any vertical additions should be considered. The discussion about high rise additions seems to have come from nowhere. Conversely, the discussions forming the rest of Section 5.2 can be interpreted to mean that a tower building above the Chief Secretary's building would cause an adverse impact to the building's setting.

Section 5.7 sets out Owners' Requirements. This Section begins with the statement that:

Although the building appears to be part of the Chief Secretary's Building, they currently function separately. The former Department of Public Works building is in the ownership of the NSW State Government and is currently used as offices for the NSW Department of Justice.

This simply was not always the case. From very early on the stages of the building were conjoined with connecting corridors. The Public Works Department and Government Architect's Office expanded from 50 Phillip Street into the original stage of the building. It is only after the Public Works Department and Government Architect's Office moved into the State Office Block in 1967, that the internal alterations were made to accommodate functions of the Justice Department. The evidence for the above statement includes my own experience as a member of the Government Architect's Office from 1961 to 1981. Corroborating evidence is provided by the inscription above the door to the original stage of the building in Phillip Street at **Figure 2**.

In Section 5.8 – Opportunities of the Conservation Management Plan, part of the discussion could be taken to anticipate a vertical addition of some substance, referring only to the part of the building at 50 Phillip Street:

- *Any new additions should be contained within the established footprint of the heritage building, being sympathetic to the design intent of the original architect and complementing the very distinctive architectural character of the heritage building.*
- *Any new additions should create a defined visual break between historic and new built elements to help to consolidate the visual identity of the former Department of Public Works building.*

Notwithstanding the implied guidelines above, it is hard to understand how the development in question could be considered sympathetic to the design intent of the original architect and complementing the very distinctive architectural character of the heritage building.

Section 5.9 on Constraints is very brief:

The building has some significant movable heritage items in various locations throughout the building. The number of identified movable heritage items such, for the adaptive reuse of the building, the report needs to be reviewed and existing movable heritage items need to be carefully catalogued and managed.

The absence of any discussion about constraints arising from the significance of the building's form and setting is a major omission.

Section 6 sets out the Conservation Policies. It is significant that the policy framework starts with policies that facilitate and do not inform the project:

The former Department of Public Works building has been identified as being of considerable heritage significance. Its long-term ownership is expected to remain with the NSW government, with a lease hold arrangement for new hotel.

Policy 6.2.1 states:

Those aspects of the former Department of Public Works building that make a defining contribution to its significance (see section 4.0) should be retained and respected in its adaptive reuse as a hotel facility and incorporated with a new sympathetic development. New development or change should aim to minimise adverse heritage impacts.

It is hard to see the proposed tower as minimising adverse heritage impacts on the Chief Secretary's Building.

On the other hand, there are policy sections that could be considered to constrain any development over the building. For instance:

Policy 6.2.2 states, in absence of any analysis of the visual catchment of the building:

Future changes to fabric, form and associated structural elements should respect its visual significance and architectural integrity and respond accordingly to the Grading of Significance (section 4.5).

Policy 6.2.2 states, also without any clear definition elsewhere of the significance of the form and visual significance in its context:

Future changes to fabric, form and associated structural elements should respect its visual significance and architectural integrity and respond accordingly to the Grading of Significance (section 4.5).

Policy 6.2.4 is important because it implies that changes should be assessed only within the existing building envelope.

Conservation of the former Department of Public Works building should be in the form of on-going or new compatible uses for the building, uses that respect and utilise the current scale, form and internal configuration of the building with minimal external changes to the structure or external envelope.

Policy 6.4.1 is not based on any proper assessment of the building's visual assessment.

The contribution of the building to its visual setting in this section of site should be retained and carefully managed in any future use and development of the building or the site through careful and sympathetic design.

It is difficult to understand how the proposed tower is consistent with Policy 6.4.1.

Any new additions on the combined 50-52 Phillip Street site must be planned and designed to maintain the visual presence of the heritage building.

References to hotel use are found throughout Section 6. It is not disputed that this may be an appropriate use within the building envelope. Examples of this approach are found at Pier One, the former Water Board Building in Pitt Street and the Grace Building at York and King Streets.

In Policy Section 6.5 it is stated that: *The State Government now wishes to consider the former Department of Public Works building in isolation from the CSB.*

This flies in the face of long-established conservation philosophy and practice. In failing to address the significance of the building as whole the Conservation Management Plan is deeply flawed.

Section 6.7 refers to curtilage. The preceding parts of the Conservation Management Plan do not provide any visual analysis of the significance of the Chief Secretary's Building in this sensitive precinct.

Policy 6.7.3 states:

When considering external changes, views to and from the former Department of Public Works building need to be analysed and managed, together with the views to the building roofscape from adjoining buildings.

Given the Conservation Management Plan pre-empts the proposed hotel and residential tower concept, this policy is somewhat after the event. The concept plan is accompanied by a Visual Impact Assessment. However, this assessment examines the visual impacts of that which is proposed. It does not make an assessment based on that which is there now, to explore whether such a proposal should proceed.

Section 6.15 – Adaptation/Alterations and Additions contains no guidance for the size location and nature of any additions. It does not address whether vertical additions are acceptable or in what form.

The current Statement of Heritage Impact is based on the policy framework set by the Conservation Management Plan. An item-by-item critique of the statement has not been made, to avoid repetition of the comments on the Conservation Management Plan. Like the Conservation Management Plan the statement also erroneously regards the Chief Secretary's Building and 50 Phillip Street as two distinct buildings and is lacking in an appreciation of the existing visual curtilage and wider historic context of the Chief Secretary's Building as a whole.

On page 88 of the Statement of Heritage Impact, responding to the SEARs, the following statement is made that encapsulates the approach to the heritage impact assessment of the proposed tower.

Chief Secretary's Building

The long history and multiple examples of tall buildings directly adjacent to low-scale heritage buildings in central Sydney, especially on street corners, has been noted and discussed in Section 3. The proposal is thus consistent with the nature of development in the city centre.

This statement reflects a trend that has caused irreversible adverse visual degradation of this historic precinct of the Sydney Central Business District. Tall buildings have progressively closed in on the medium-rise precinct of, mainly, former government buildings. To this time these incursions have not occurred along Bridge Street and the street spaces between these buildings (Loftus, Young and Phillip Streets), which is recognised by the street pattern of The Governors' Domain and Civic Precinct Map (**Figure 5**). Although the Intercontinental Hotel and AMP Building are exceptions, they should not be taken as precedents to justify further incursions by tall buildings. The proposed hotel and apartment tower would increase the detrimental visual dominance of the precinct by tall buildings.

8.0 Conclusion.

The Concept Design relies on structural works to create a basement and support the tower that cannot be guaranteed not to cause additional removal of significant fabric to facilitate the construction process, or to cause damage to the masonry structure.

There is an overwhelming case, in the public interest, for the application for the proposed tower over and adjacent to the Chief Secretary's Building not to proceed further. The application is based on heritage documentation that anticipates such a development rather than critically analysing the constraints that arise from the significance, not only of the Chief Secretary's Building as a whole, but one of the most important heritage precincts in Australia.

Yours faithfully

DFP PLANNING PTY LTD

A handwritten signature in black ink that reads 'Brian McDonald'.

**BRIAN MCDONALD
PRINCIPAL URBAN DESIGNER
AND HERITAGE CONSULTANT**

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