

Item 4.**Development Application: 18-28 Briggs Street, Camperdown - D/2025/385**

File Number: D/2025/385

Summary

| | |
|---|---|
| Date of Submission and amendments: | 19 May 2025 Amended plans received 22 August and 17 September 2025. |
| Applicant: | ACE CAMPERDOWN PTY LTD |
| Architect: | COX Architecture |
| Developer/Owner: | ACE CAMPERDOWN PTY LTD |
| Planning Consultant: | The PLANNING HUB |
| DAPRS: | 1 July 2025 |
| Cost of Works: | \$15,895,000.00 |
| Zoning: | The site is located within the MU1 - Mixed Use zone. The use is defined as "co-living" and is permissible with consent within the zone. |
| Proposal Summary: | <p>Demolition of existing structures and construction of co-living housing containing 54 rooms over 4 storeys with 2 levels of basement.</p> <p>The application is referred to the Local Planning Panel as the proposal includes a request to vary the height of buildings development standard within the Sydney Local Environmental Plan 2012 by more than 10%.</p> <p>The application also includes a request to vary the Floor Space Ratio development standard within the Sydney Local Environmental Plan 2012 by 9.69%.</p> <p>The application was reviewed by the Design Advisory Panel Residential Subcommittee on 1 July 2025. Comments and suggestions provided by the subcommittee have been addressed by the amended plans.</p> |

The application was notified between 19 May and 10 June and received 18 submissions.

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

Development Controls:

- (i) SEPP (Resilience and Hazards) 2021
- (ii) SEPP (Biodiversity and Conservation) 2021
- (iii) SEPP (Housing) 2021
- (iv) SEPP (Sustainable Buildings) 2021
- (v) SEPP (Transport and Infrastructure) 2021
- (vi) Sydney Local Environmental Plan 2012
- (vii) Sydney Development Control Plan 2012

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request - Height of Buildings
- D. Clause 4.6 Variation Request - Floor Space Ratio
- E. Submissions

Recommendation

It is resolved that:

- (A) the Local Planning Panel is satisfied that the Applicant has demonstrated that compliance with Clause 4.3 (Height of Buildings) in of the Sydney Local Environmental Plan 2012 is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the contravention of the development standard in accordance with the requirements of clause 4.6(3) of the Sydney LEP 2012;
- (B) the Local Planning Panel is satisfied that the Applicant has demonstrated that compliance with Clause 4.4 (Floor Space Ratio) of the Sydney Local Environmental Plan 2012 is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the contravention of the development standard in accordance with the requirements of clause 4.6(3) of the Sydney LEP 2012; and
- (C) consent be granted to Development Application Number D/2025/385 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposed development is consistent with the objectives of the MU1 Mixed Use zone.
- (B) The proposed development satisfies the relevant objectives and provisions of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (C) Having considered the matters in Clause 6.21 of the Sydney LEP 2012, the proposal exhibits design excellence.
- (D) The proposal is consistent with the standards for co-living housing under Chapter 3 Part 3 Section 68 and Section 69 of State Environmental Planning Policy (Housing) 2021.
- (E) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the Height of Buildings and Floor Space Ratio development standards is unreasonable or unnecessary, and that there are sufficient planning grounds to justify contravening clause 4.3 and 4.4 of the Sydney LEP 2012.
- (F) The proposal will not unreasonably compromise the amenity of the surrounding area and is in the public interest, subject to the recommended conditions.

Background

The Reason the Application is Reported to the Local Planning Panel

1. The application is reported to the Local Planning Panel for determination as it is identified in Schedule 3 of the Local Planning Panels Direction of 3 March 2024 as being within the following category(s):
 - (a) Departure from Development Standards
2. The development application falls within the category of Departure from Development Standard as the the Height of Buildings Standard within the Sydney Local Environmental Plan 2012 is proposed to be varied by 23.58%.

The Site and Surrounding Development

3. The site has a legal description of Lot 1 in DP 1311479, known as 18-28 Briggs Street, Camperdown. It is rectangular in shape with area of approximately 1009sqm. It has a primary street frontage of 41 metres to Briggs Street. The site is in the middle of the block which is defined by Church Street to the west, Missenden Road to the east and Marsden Street to the north. There is no significant level change on the site.
4. The site contains a single storey factory building. The eastern portion of the site contains a brick facade warehouse with steel window joinery, an exposed concrete lintel, roller doors, a porthole window and a sawtooth roof with clerestory windows. To the west, attached to the original building is a c.1970s addition with hardstand parking bay fronting Briggs Street.
5. The surrounding area is characterised by a mixture of land uses, primarily being residential, health, commercial, educational and mixed use. Development adjoining the site includes:
 - (a) to the west at 12-16 Briggs a row of three 2-storey residential dwellings
 - (b) to the east is a driveway for 19-25 Marsden Street, a 2-storey former industrial building used for commercial and business purposes
 - (c) to the north is 15-17 Marsden Street which is a 4-storey residential flat building
 - (d) on the southern side of Briggs Street are residential dwellings of 1-2 stories, and residential flat buildings of 2-4 stories.
6. The site is not within a heritage conservation area but is close to local heritage items I41 and I42 (terraces houses) and I43 and I44 (terrace groups) which are opposite the site on the southern side of Briggs Street.
7. The site is located within the Camperdown locality and is identified as being subject to flooding.
8. A site visit was carried out on 21 May 2025.
9. Photos of the site and surrounds are provided below.

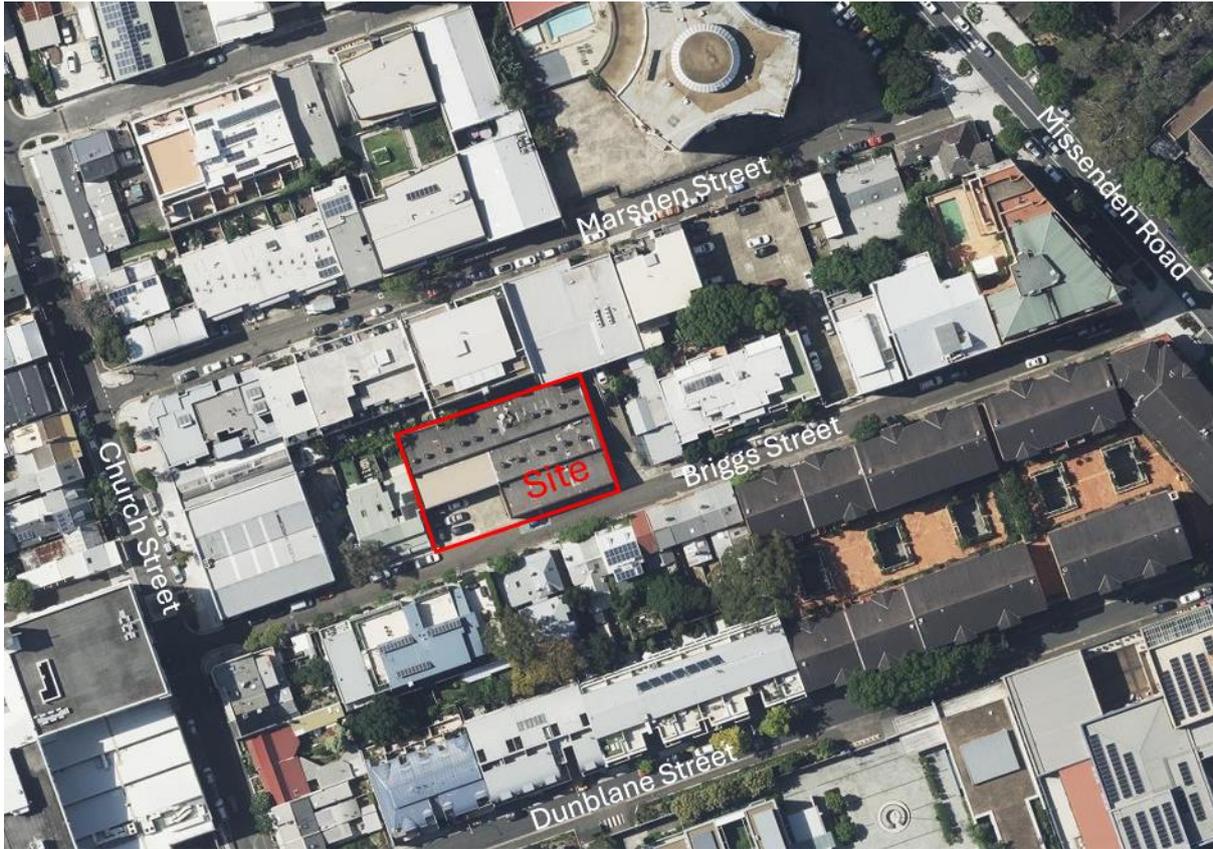


Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Briggs Street facing north-east. 1970s addition and hardstand on the left and original building in the right side of the photo.

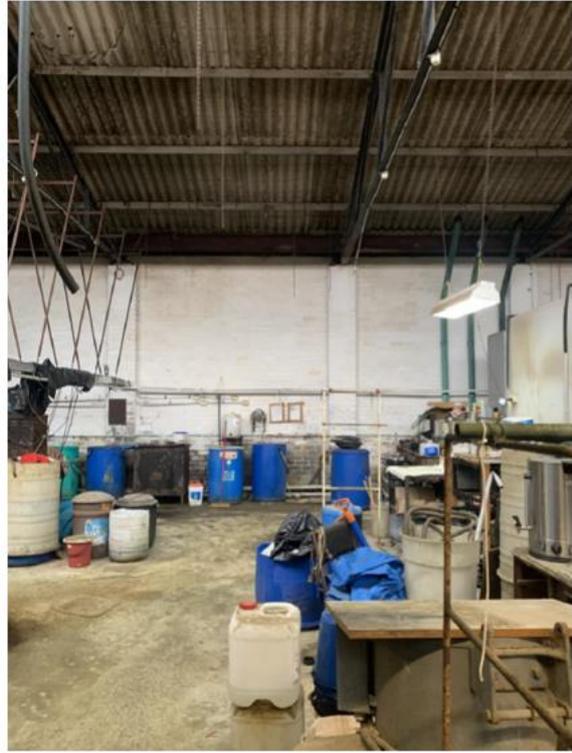


Figure 3: Internal view of 1970s addition facing east and north

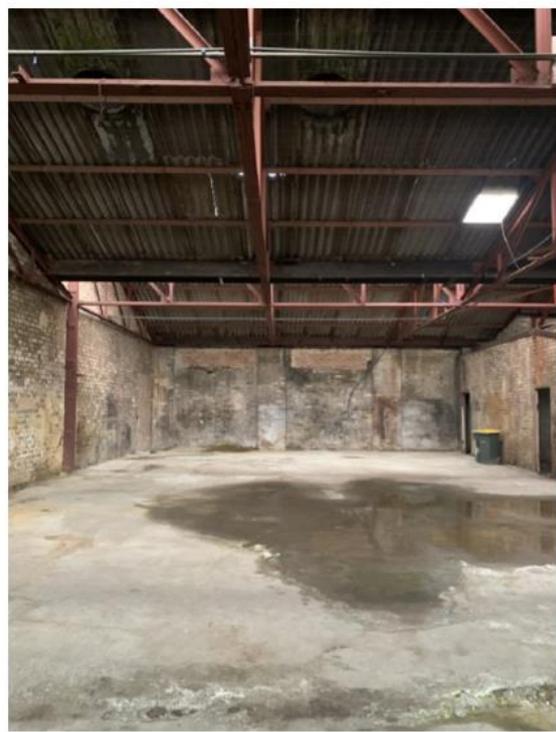


Figure 4: Internal view of original building facing east and north



Figure 5: View of development on the southern side of Briggs Street facing west (towards Church St) and east (towards Missenden Rd)

History Relevant to the Development Application

Design Advisory Panel Residential Subcommittee

10. The development application was reviewed by the Design Advisory Panel Residential Subcommittee (DAPRS) on 1 July 2025. The panel supported the proposal with recommendations given for amended facade design and expression, visual privacy treatment on the northern facade, natural ventilation, weather protection and consideration of Floor Space Ratio and landscaping. These items were addressed in design amendments.

Amendments

11. Following a preliminary assessment of the proposed development by Council Officers and DAPRS review the proposal has been amended to address and refine the following:
 - privacy screening, colours, materials and finishes, room design, communal area design and opening of stairway
 - landscape amendments including deep soil provision, green wall and communal open space design for rooftop level

Proposed Development

12. Development approval is sought for the demolition of existing buildings on the site and construction of a 3 to 4 storey co-living development with 54 rooms, comprised of:

Basement levels 1 and 2

- vehicle access from Briggs Street, storage, plant, bulky waste storage, 62 bicycle parking spaces and 17 carparking spaces

Ground Floor

- communal open space near southeast building entrance, 2 communal living spaces, one on the southside facing Briggs Street, and one on the northwest side with communal outdoor space
- bin room near southwest building entrance, car access to basement
- 8 co-living rooms

Levels 1 and 2

- 36 co-living rooms (18 on each level)

Level 3

- 10 co-living rooms
- enclosed common living space and communal open space with landscaping and a pergola

Roof

- AC condenser units, photovoltaic panels, roof cowl and carpark exhaust

13. Plans and elevations of the proposed development are provided below.

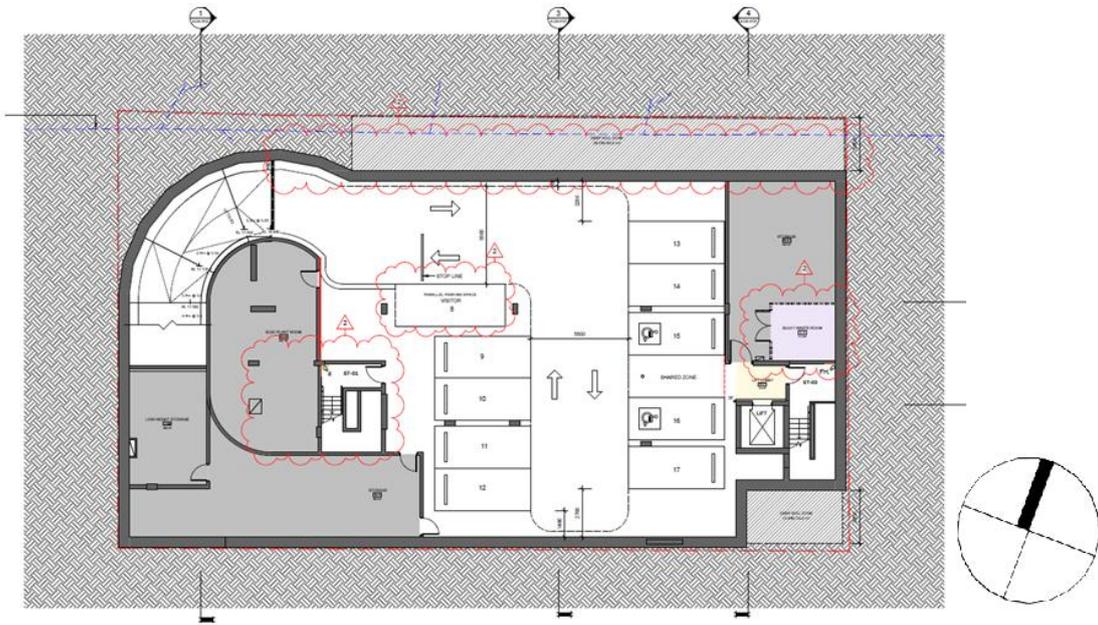


Figure 6: Proposed basement 2 plan

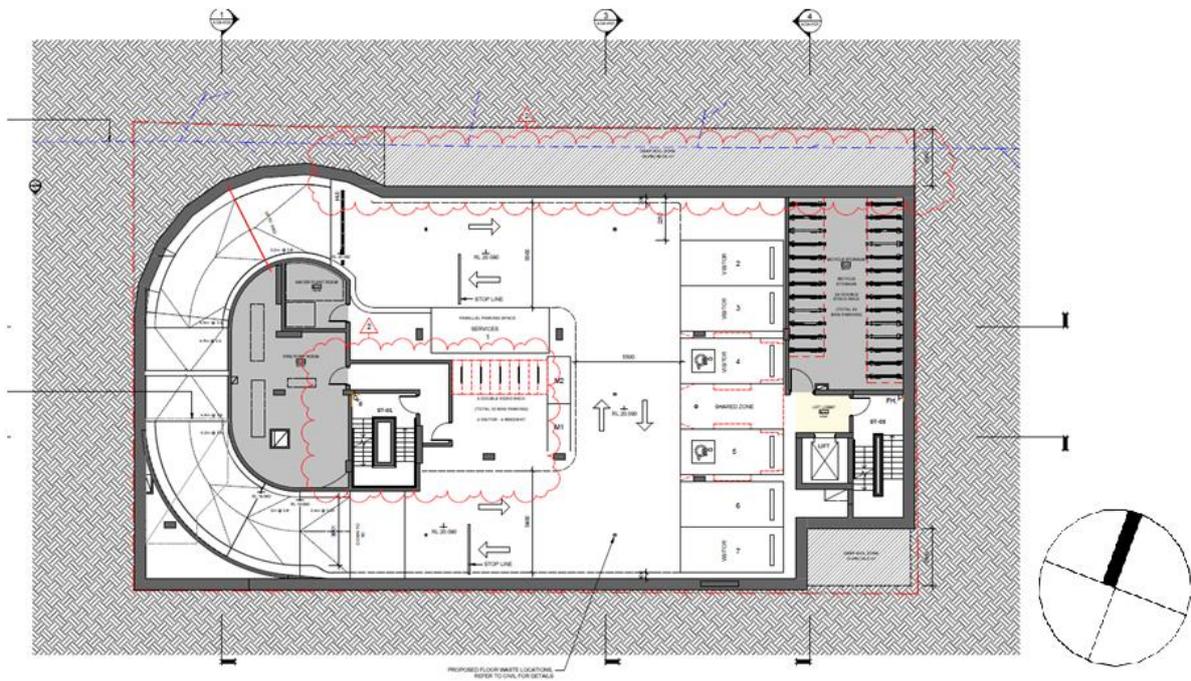


Figure 7: Proposed basement 1 plan



Figure 8: Proposed ground floor plan



Figure 9: Proposed level 1 plan



Figure 10: Proposed level 2 plan

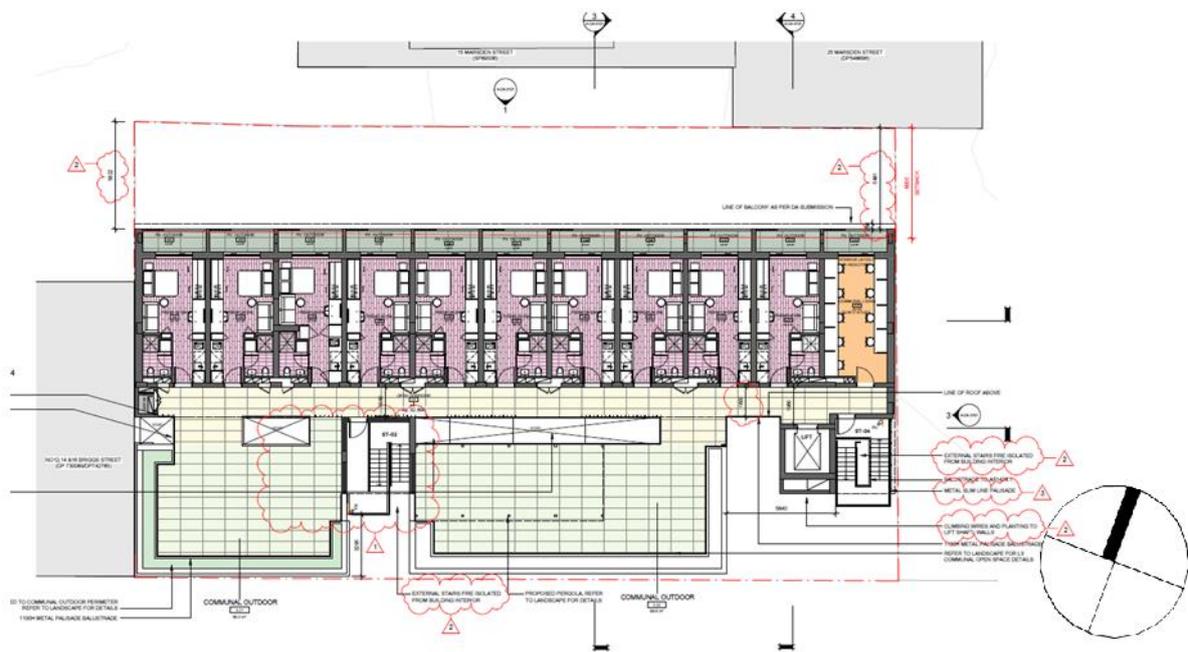


Figure 11: Proposed level 3 plan

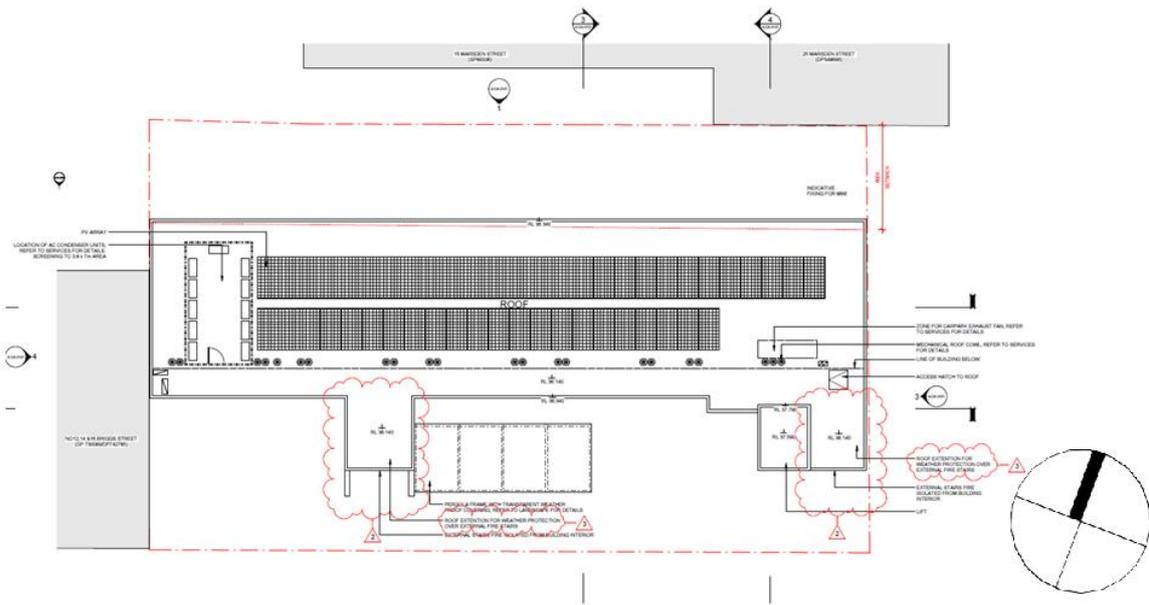


Figure 12: Proposed roof plan

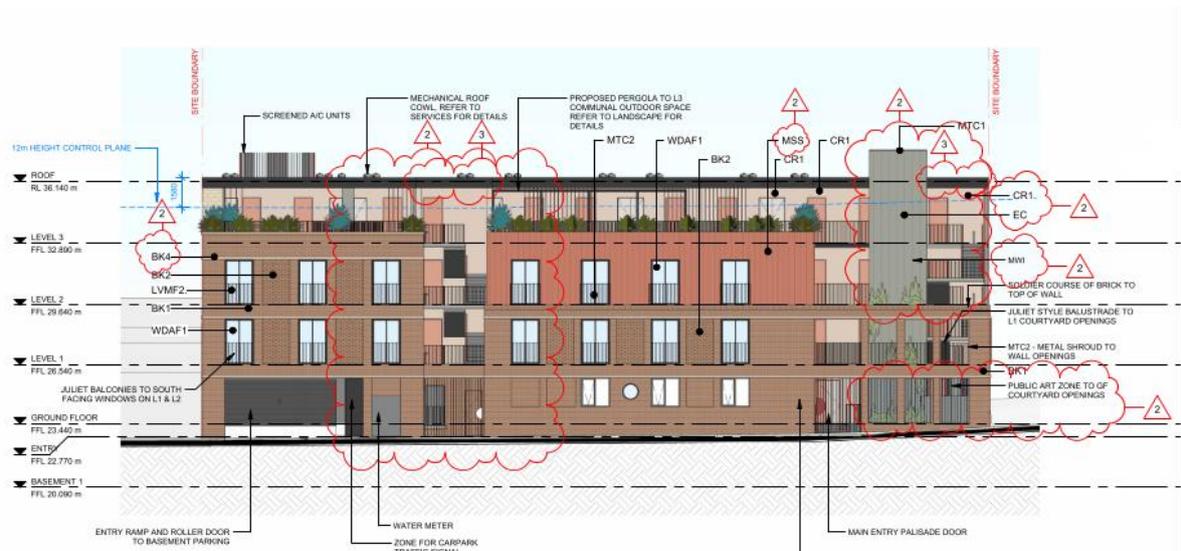


Figure 13: Proposed south (Street) elevation



Figure 14: Proposed north elevation

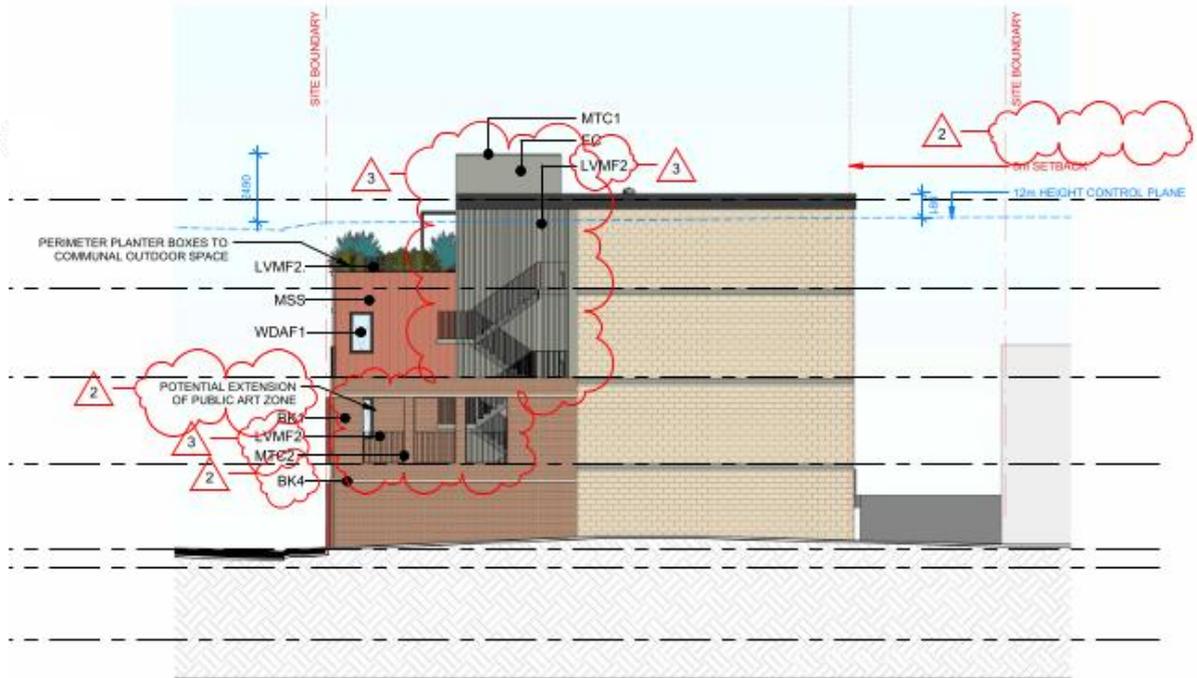


Figure 15: Proposed east elevation

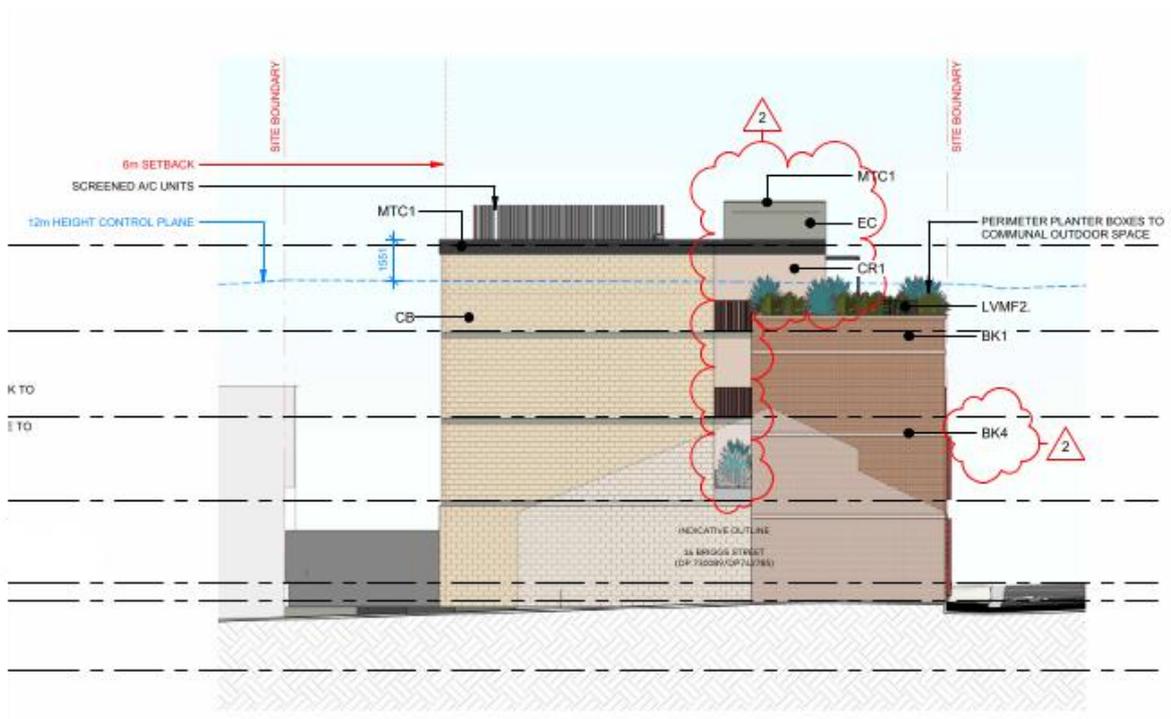


Figure 16: Proposed west elevation

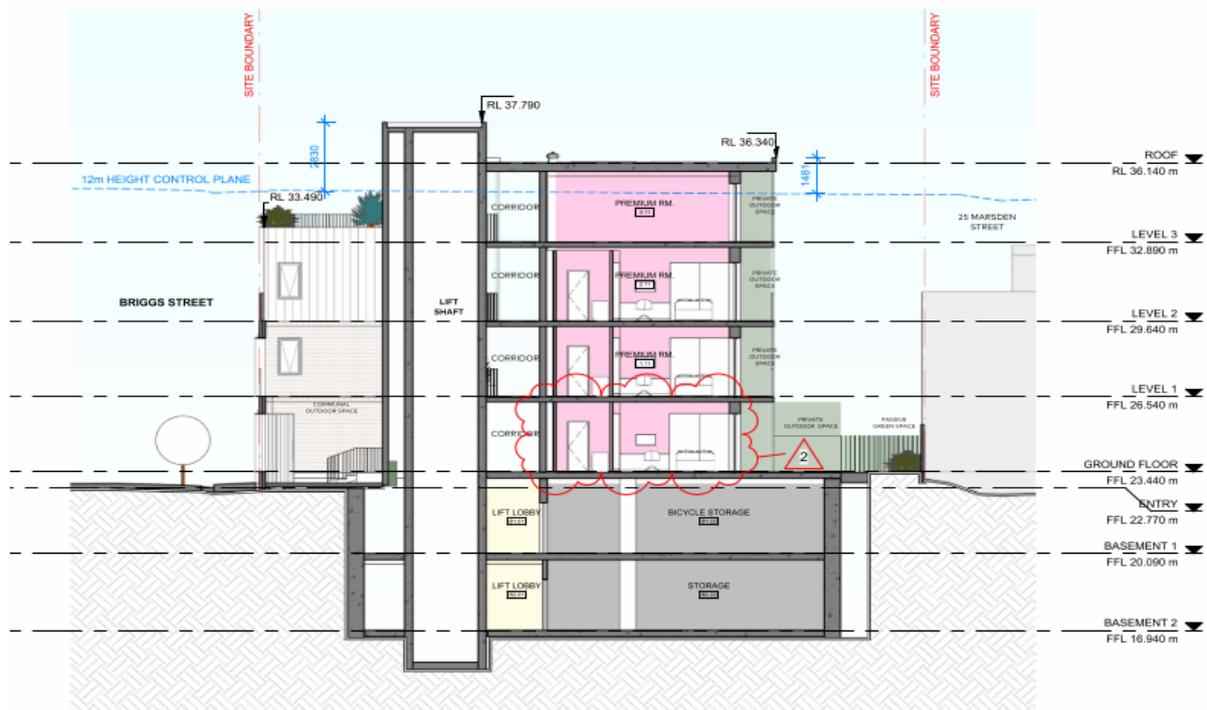


Figure 17: Proposed north-south short section



Figure 18: Proposed photomontage looking west along Briggs Street (top) and looking east along Briggs Street (bottom)

Assessment

14. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

State Environmental Planning Policies

State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land

32. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.

33. Site investigations have identified a number of contaminants resulting from the site's current use as a metal plating business in addition to hazardous material potentially contained in the building structure and soil fill.
34. An Interim Audit Advice (IAA) letter and a Framework Remediation Action Plan (FRAP) has been provided with the application. The IAA and the FRAP indicate there are data gaps, requiring the partial demolition of the building, installation of groundwater wells, and sample collection to inform the scope of remedial works required.
35. The site auditor has advised the above approach is appropriate and the site can be made suitable for its proposed use, subject to remediation.
36. Council's Health Unit has reviewed the information provided and recommends conditions of consent to ensure compliance with the remediation measures outlined, and for Council to be notified should there be any changes to the strategy for remediation.
37. Council is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

State Environmental Planning Policy (Housing) 2021

Chapter 2 Affordable Housing

38. The aim of SEPP (Housing) 2021 is to provide a consistent planning regime for the provision and maintenance of affordable rental housing and to facilitate the delivery of new affordable rental housing.
39. Section 7.32 of the EP&A Act states that where the consent authority is satisfied that the development meets certain criteria, and a Local Environmental Plan authorises an affordable housing condition to be imposed, such a condition should be imposed so that mixed and balanced communities are created.
40. Clause 7.13 (Contribution for purpose of affordable housing) of the Sydney Local Environmental Plan 2012 allows for circumstances where an affordable housing contribution may be levied for development of land in residual lands.
41. This matter is discussed in further detail under the heading Financial Contributions below.

Chapter 3 Diverse Housing

Part 3 Co-living Housing

Clause 68 – Non discretionary development standards

42. Under clause 68, compliance with any of the following standards must not be used to refuse consent for co-living housing and the consent authority cannot require more onerous standards for the matters.

Standards that cannot be used to refuse a co-living housing

| Provision | Compliance | Comment |
|---|-------------------|--|
| <p>Density and scale expressed as floor space ratio</p> <p>FSR of up to 1.5:1 plus 10% is permitted, if floor space is used for co-living.</p> | No | <p>The site has a maximum floor space ratio control of 1.65:1.</p> <p>The application proposes a floor space ratio of 1.81:1 which is a variation of 9.83%.</p> <p>A request to vary the floor space ratio development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.</p> |
| <p>Communal living area</p> <p>For co-living containing more than 6 private rooms a total of at least 30m² plus 2m² per additional room and a minimum dimension of 3m</p> | Yes | <p>A total of 128sqm is required.</p> <p>Areas totalling 138sqm is provided.</p> |
| <p>Communal open space</p> <p>Communal open space with a total area of at least 20% of the site area and a minimum dimension of 3m</p> | Yes | <p>A total of 201sqm is required.</p> <p>Areas totalling 251sqm is provided.</p> |
| <p>Parking</p> <p>0.2 spaces per room in an accessible area, totalling 10.8 spaces</p> | Yes | <p>17 carparking spaces are provided, which exceeds the requirement.</p> <p>The Sydney LEP 2012 does not specify or require a minimum parking provision for co-living development.</p> <p>The drafted LEP amendments do however specify parking rates which this proposal exceeds, please refer to 'discussion' section.</p> |

43. The proposed development complies with the relevant provisions of clause 68, except for the floor space ratio variation.

Clauses 69 (1) – Standards for co-living housing

44. Clause 69 (1) states that a consent authority must not grant development consent for the purpose of co-living unless it is satisfied of each of the following provisions.

| Provision | Compliance | Comment |
|---|------------|---|
| 1(a) No private room is to have a gross floor area (excluding private kitchen or bathroom facilities) of more than 25m ² and less than 12m ² for a single occupancy or 16m ² otherwise | Yes | All private rooms are less than 25sqm. |
| 1(b) the minimum lot size is no less than 800sqm | Yes | The site has an area of 1008.9sqm |
| 1(c) in R2 zone the or equivalent the co-living housing will not contain more than 12 private rooms and will be in an accessible area | N/A | N/A - not located in a R2 zone |
| 1(d) the co-living housing will contain an appropriate workspace for the manager, either within the communal living area or in a separate space | Yes | The communal areas contain adequate space to accommodate a manager's workspace. |
| (1e) for co-living in a business zone no part of the ground floor that fronts a street is to be used for residential purposes unless another environmental planning instrument permits the use | N/A | N/A - not located in an economic (business) zone. |
| 1(f) adequate bathroom, laundry and kitchen facilities will be available within the co-living housing for the use of each occupant | Yes | Bathroom, kitchen and laundry facilities are provided in each room. |
| 1(g) each private room will be used by no more than 2 occupants | Yes | Maximum occupancy of 2 persons per room. |
| 1(h) the co-living housing will include adequate bicycle and motorcycle parking spaces. | Yes | 62 bicycle spaces provided - no motorcycle parking provided. |

Clauses 69 (2) – Matters for consideration

45. Clause 69 (2) states that a consent authority must not grant development consent for the purpose of co-living unless it considers the following matters.

| Provision | Compliance | Comment |
|--|------------|---|
| 2(a) in R2 zone the front, side and rear setbacks are no less than those required for multi dwelling housing in another relevant planning instrument | N/A | N/A - not located in R2 zone |
| 2(b) if the co-living has at least 3 storeys the building complies with the minimum building separation distances in the Apartment Design Guide | No | <p>The development is 3 and 4 storeys and contains nil separation to the street (south) and side elevations (east, west) which is acceptable.</p> <p>The development has a rear separation to the northern boundary of 5.48m, which represents a 0.519m shortfall from the ADG requirement.</p> <p>Refer to 'discussion' section below.</p> |
| 2(c) at least 3 hours of solar access will be provided between 9.00am and 3.00pm at mid winter in at least one communal living area | Yes | The development satisfies this requirement by providing a communal living room on the northwest corner of the fourth floor. |
| 2(f) the design of the building is compatible with the desirable elements of the character of the local area or for precincts undergoing transition the desired future character of the precinct | Yes | <p>The proposal relates to the character of the existing and nearby buildings within the locality which includes heritage items, old warehouses and contemporary infill residential development by incorporating a sympathetic material palate and façade.</p> <p>The design is both compatible with the desirable elements of the local area and desired future character of the locality.</p> |

46. Clause 70 provides that development consent must not be granted for the subdivision of the co-living housing. A condition confirming that the co-living housing cannot be sub divided is recommended.

State Environmental Planning Policy (Sustainable Buildings) 2022

47. The aims of this Policy are as follows—
- (a) to encourage the design and delivery of sustainable buildings,
 - (b) to ensure consistent assessment of the sustainability of buildings,
 - (c) to record accurate data about the sustainability of buildings, to enable improvements to be monitored,
 - (d) to monitor the embodied emissions of materials used in construction of buildings,
 - (e) to minimise the consumption of energy,
 - (f) to reduce greenhouse gas emissions,
 - (g) to minimise the consumption of mains-supplied potable water,
 - (h) to ensure good thermal performance of buildings.

Chapter 2 Standards for residential development - BASIX

48. While a BASIX Certificate is generally required for residential development, the Environmental Planning and Assessment Regulation 2021 (Regs) define a "BASIX building" as:
- " a building that contains at least one dwelling but does not include the following— (a) hotel or motel accommodation, (b) a boarding house, hostel or co-living housing that— (i) accommodates more than 12 residents, or (ii) has a gross floor area exceeding 300 square metres".
49. As the residential portion of the development is for co-living accommodation that comprises more than 12 rooms and exceeds 300 sqm, the proposal is not required to address BASIX requirements under Chapter 2 of the SEPP.

Chapter 3 Standards for non-residential development

50. Chapter 3 of the SEPP applies to development, other than development for the purposes of residential accommodation, that involves:-
- (a) the erection of a new building, if the development has an estimated development cost of \$5 million or more, or
 - (b) alterations, enlargement or extension of an existing building, if the development has an estimated development cost of \$10 million or more.

Section 3.2 Development Consent for non-residential development

51. Section 3.2 Development consent for non-residential development provides that:
- (1) In deciding whether to grant development consent to non-residential development, the consent authority must consider whether the development is designed to enable the following—
- (a) the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials,

- (b) a reduction in peak demand for electricity, including through the use of energy efficient technology,
 - (c) a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design,
 - (d) the generation and storage of renewable energy,
 - (e) the metering and monitoring of energy consumption,
 - (f) the minimisation of the consumption of potable water.
- (2) Development consent must not be granted to non-residential development unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.
52. With regard to the above matters the applicant has submitted a City of Sydney Design for Environmental Performance report template to address the above. The template identifies design and technology responses for environmental performance that the applicant proposes to be incorporated in the development. This includes:
- (a) energy efficient LED lighting throughout with appropriate motion and daylight controls
 - (b) air cooled HVAC systems
 - (c) solar PV system to provide a portion of the site's power
 - (d) a light roof that reduces the sites contribution to the urban heat island effect, also lowering internal temperatures by minimising the heat transfer through the building fabric
 - (e) unglazed eastern and western facades along with horizontal shading to the northern windows
 - (f) suitably performing glazing for each facade, protecting from hot ambient air during summer whilst allowing heat to be kept inside during winter
 - (g) Centralised Gas Domestic Hot Water System
 - (h) 80% of construction waste by weight being diverted from landfill
 - (i) water efficient fixtures
53. With regard to section (2) above the applicant has adequately quantified the embodied emissions attributable to the development. Section 35B of the Environmental Planning and Assessment Regulation determines the form in which embodied emissions are to be quantified. The embodied emissions attributable to the development have been appropriately quantified using the NABERS embodied energy form published on the NSW Planning Portal and certified by an appropriately qualified person as required by the regulations.

State Environmental Planning Policy (Transport and Infrastructure) 2021

54. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network

Clause 2.48 Determination of development applications – other development

55. The application is subject to Clause 2.48 of the SEPP as the development will be carried out within 5m of an exposed overhead electricity power line.
56. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 6 Water Catchments

57. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.
58. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, except for the objective of improved water quality, the objectives of the SEPP are not applicable to the proposed development.

Local Environmental Plans

Sydney Local Environmental Plan 2012

59. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

| Provision | Compliance | Comment |
|--|------------|---|
| 2.3 Zone objectives and Land Use Table | Yes | The site is in the MU1 Mixed Use zone. The proposed development is defined as co-living and is permissible with consent in the zone. The proposal meets the objectives of the zone. |

Part 4 Principal development standards

| Provision | Compliance | Comment |
|-------------------------|------------|---|
| 4.3 Height of buildings | No | The proposed development does not comply with the maximum height of buildings development standard. A maximum building height of 12m is permitted. |

| Provision | Compliance | Comment |
|---|------------|--|
| | | <p>A maximum height of 14.83m (RL 37.79) is proposed to the lift overrun, and a height of 13.48 (RL 36.34) is proposed to the roof of the northern part of the building.</p> <p>A request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.</p> |
| 4.4 Floor space ratio | No | <p>The proposed development does not comply with the maximum floor space ratio development standard.</p> <p>A maximum floor space ratio of 1.65:1 or 1664.6sqm is permitted (base FSR of 1.5:1 plus an additional 10% under Cl 68(2)(a)(ii) of the Housing SEPP).</p> <p>A floor space ratio of 1.81:1 or 1828.25sqm of gross floor area is proposed.</p> <p>A request to vary the floor space ratio development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.</p> |
| 4.6 Exceptions to development standards | Yes | <p>The proposed development seeks to vary the development standard prescribed under Clause 4.3 and Clause 4.4 of the Sydney LEP. Clause 4.6 variation requests have been submitted with the application.</p> <p>See further details in the 'Discussion' section below.</p> |

Part 5 Miscellaneous provisions

| Provision | Compliance | Comment |
|----------------------------|------------|---|
| 5.10 Heritage conservation | Yes | <p>The site is close to local heritage items I41, I42, I43 and I44 Briggs Street which are opposite the site on the south side of Briggs Street.</p> <p>The proposal including demolition of the existing building will not have a detrimental impact on the heritage</p> |

| Provision | Compliance | Comment |
|---------------------|------------|---|
| | | <p>significance of the nearby heritage items.</p> <p>The City's Heritage Specialist reviewed the proposal and is generally supportive, subject to the imposition of a condition relating to the submission of photographic archival recording of the building.</p> |
| 5.21 Flood planning | Yes | <p>The site is identified as being subject to flooding in the probable maximum flood level.</p> <p>The application proposes development at or below the flood planning level. A flood report accompanies the application demonstrating that the development can comply with the City's Interim Floodplain Management Policy and satisfies the provisions of the standard.</p> |

Part 6 Local provisions – height and floor space

| Provision | Compliance | Comment |
|------------------------------|------------|---|
| Division 4 Design excellence | | |
| 6.21 Design excellence | Yes | <p>The proposed development is of a high standard and uses materials and detailing which are compatible with the existing development along the street and will contribute positively to the character of the area.</p> <p>The development achieves the principle of ecologically sustainable development and has an acceptable environmental impact regarding the amenity of the surrounding area and future occupants.</p> <p>The development therefore achieves design excellence.</p> |

Part 7 Local provisions – general

| Provision | Compliance | Comment |
|---|------------|---|
| Division 1 Car parking ancillary to other development | | |
| Other land uses | Yes | <p>The proposed development includes 17 car parking spaces.</p> <p>The Sydney Local Environmental Plan 2012 does not specify an amount of car parking spaces permitted for Co-living development.</p> <p>Clause 68 of the Housing SEPP contains a non-discretionary development standard for minimum parking provision, which the application satisfies.</p> <p>The drafted LEP amendments do however specify parking rates which this proposal exceeds. Refer to the 'discussion' section below.</p> |
| Division 3 Affordable housing | | |
| 7.13 Contribution for purpose of affordable housing | Yes | A contribution for affordable housing applies to the proposal. Refer to 'Financial Contributions' below. |
| Division 4 Miscellaneous | | |
| 7.14 Acid Sulfate Soils | Yes | The site is located on land with class 5 Acid Sulfate Soils. The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan. |

Development Control Plans**Sydney Development Control Plan 2012**

60. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

Section 2 – Locality Statements

61. The site is located within the Camperdown locality. The proposed development is in keeping with the unique character and the design principles of the locality.

Section 3 – General Provisions

| Provision | Compliance | Comment |
|---------------------------------|------------|--|
| 3.1.5 Public Domain Elements | Yes | <p>As the estimated cost of works exceeds \$10 million, public art is required to be provided in accordance with the City of Sydney Guidelines for Public Art in Private Development and the Public Art Policy.</p> <p>A Preliminary Public Art Plan prepared by UAP has been submitted which identifies an opportunity for public art along the northeastern corner of the building.</p> <p>The art is composed of perforated screen or sculptural attachments to the metal palisade fencing on the Briggs Street facade.</p> <p>The preliminary public art plan is supported by Council's Public Art team subject to appropriate conditions requiring a detailed public art plan be submitted to and approved by Council prior to issue of a construction certificate.</p> |
| 3.2. Defining the Public Domain | Yes | <p>Briggs Street is not identified as an active frontage under the DCP controls.</p> <p>The site does not provide an awning or illumination of the public domain, nor will have any adverse wind effect.</p> <p>The site contains 2 entries and a consistent pattern of openings to common rooms, private rooms and communal open space to activate the street.</p> <p>The side elevations have been amended to an alternate material which is of higher quality, and a more visually interesting finish than originally proposed.</p> |
| 3.5 Urban Ecology | Yes | <p>The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology.</p> <p>The proposal will include tree plantings within the site at the ground level.</p> |

| Provision | Compliance | Comment |
|--|------------|--|
| | | The proposal was referred to Council's Tree Management team, who recommend appropriate conditions of consent to ensure the provision of trees to meet the city's canopy target. |
| 3.6 Ecologically Sustainable Development | Yes | Refer to SEPP (Sustainable Buildings) section. |
| 3.7 Water and Flood Management | Yes | Refer to discussion under 7.15 of the LEP compliance table above. |
| 3.9 Heritage | Yes | Refer to discussion under 5.10 of the LEP compliance table above. |
| 3.10 Significant Architectural Building Types | Yes | The site is not within a conservation area, so the control does not apply. |
| 3.11 Transport and Parking | Yes | <p>17 carparking spaces are provided (11 resident, 3 accessible, 5 visitor, one accessible, and one service space) which has been justified by the applicant in their traffic report.</p> <p>62 bicycle spaces (56 Resident, 6 visitor) have been provided which complies with the rate specified within the Sydney DCP 2012.</p> <p>The City's Transport Unit reviewed the proposal and advised that it is acceptable subject to standard conditions of consent.</p> <p>A condition of consent is also recommended for conditions to provide a signal for the entering vehicles and update the design to clearly indicate the driveway on the plans, to ensure a 5.9m width for 2-way flow.</p> |
| 3.12 Accessible Design | Yes | The BCA assessment report and access report provided with the application outlines compliance with relevant standards and legislated requirements. |
| 3.13 Social and Environmental Responsibilities | Yes | The proposed development provides adequate passive surveillance and is designed in accordance with the CPTED principles. |

| Provision | Compliance | Comment |
|------------|------------|---|
| 3.14 Waste | Yes | <p>The proposal is acceptable subject to conditions of consent to comply with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p> <p>Council's Cleansing and Waste team have also recommended design modification conditions for the waste store area to improve storage and configuration of waste room.</p> |

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

| Provision | Compliance | Comment |
|---|------------|---|
| 4.2.1 Building height | | |
| 4.2.1.1 Height in storeys and street frontage height in storeys | No | <p>The site is permitted a maximum building height of 3 storeys. The site is not subject to a street frontage height control.</p> <p>The proposed development is 4 and 4 storeys in height and does not comply.</p> <p>The height of the proposal is consistent with neighbouring multi-storey residential buildings in the surrounding area.</p> <p>Amendments to the design have reduced the massing of the circulation areas, reducing the overall visual bulk of the development.</p> <p>In addition, the fourth storey is set back from Briggs Street which reduces the visual bulk of the development and amenity impacts to surrounding properties.</p> <p>The additional storey is considered appropriate given the context of the street, height of surrounding infill development and acceptable amenity impacts on neighbouring development.</p> |

| Provision | Compliance | Comment |
|---|--------------------|--|
| 4.2.1.2 Floor to ceiling heights and floor to floor heights | Yes | <p>The proposed development achieves the minimum floor to floor heights of 3.1-3.25m and floor to ceiling heights of 2.8m for residential uses. The proposed building does not contain a commercial tenancy, and is purpose built for co-living housing.</p> <p>The private rooms and common spaces are afforded good amenity.</p> |
| 4.2.2 Building setbacks | No | <p>The proposal includes nil setbacks to side and front boundaries and a rear setback of 5.5m.</p> <p>Development along Briggs Street contains a varied rear alignment pattern with the immediately adjacent western and eastern development having an 8.7m and 8.6m setback, respectively.</p> <p>It is noted that neighbouring multi-storey residential buildings in the surrounding area contain similar or lesser rear setbacks.</p> <p>Refer to 'Discussion' section below.</p> |
| 4.2.3 Amenity | | |
| 4.2.3.1 Solar access | Partial compliance | <p>The submitted sun eye diagrams demonstrate units on levels 1 to 3 on the northern elevation receive solar access between 10:00am and 3:00pm in midwinter.</p> <p>The rooftop common open space will receive adequate solar access between 10:00am and 2:00pm.</p> <p>Sun eye diagrams indicate that development on the southern side of Briggs Street continue to receive solar access to habitable windows for at least 2 hours, except for Nos 19, 17, and 13-15 13 Briggs Street. See discussion section below.</p> <p>No.16 Briggs Street receives solar access to at least 1sqm of north facing habitable windows between 12:00pm-</p> |

| Provision | Compliance | Comment |
|--|--------------------|--|
| | | <p>3pm and solar access to northern private open space in the afternoon.</p> <p>The apartment building at 1-11 Briggs Street contains winter gardens facing Briggs Street which all receive solar access during various parts of the day, in line with the DCP requirements.</p> <p>The dwellings on the southern side of Briggs Street from Nos. 13-29 contain their private open space behind the building alignment in southern corner of their sites which are not impacted by the proposal.</p> |
| 4.2.3.2 Lightwells | Yes | <p>A series of lightwells is provided to the circulation area to improve natural light and ventilation.</p> <p>No rooms contain lightwells.</p> |
| 4.2.3.3 Internal common areas | Partial compliance | <p>Internal common areas, and circulation area have access to natural ventilation and light as the building contains several lightwells and is open on the east and southern elevations from levels 1 to 3.</p> <p>The corridor clearance is only 1.96m, not 2m as specified, but is considered appropriate as it is only a minor shortfall of 4cm.</p> |
| 4.2.3.4 Design features to manage solar access | Yes | <p>The northern elevation contains screens to balconies on levels 1-3 to manage solar access. Further, extensive canopy tree planting on the northern elevation is proposed which will provide shading.</p> |
| 4.2.3.5 Landscaping | Yes | <p>The proposal includes:</p> <ul style="list-style-type: none"> • Planters, turf and paving to the Ground floor co-living rooms. • An entry courtyard with water feature and layered planting • Raised planters on level 1 with sun access through the void. |

| Provision | Compliance | Comment |
|-------------------|--------------------|---|
| | | <ul style="list-style-type: none"> • Green wall with trailing vines • Perimeter plantings and a pergola on the level 3 rooftop communal open space. <p>The landscaping elements of the proposal are supported by Council's Landscape team, subject to conditions of consent.</p> |
| 4.2.3.6 Deep Soil | Partial compliance | <p>The DCP requires a minimum of 10% (101sqm) of the site area provided as deep soil, consolidated into a single area with a minimum dimension of 10sqm.</p> <p>In total, 156sqm of landscaping is proposed, of which 101sqm is deep soil.</p> <p>The basement entry/exit ramp impedes locating all deep soil in one consolidated area, with the majority (85sqm) located to the rear, and the remainder required (16sqm) located in the front courtyard area in the southeast corner of the site.</p> <p>The area where the basement ramp/exit ramp contains 55sqm of landscaping but is not considered deep soil.</p> <p>The proposed deep soil is supported despite not containing a consolidated area as:</p> <ul style="list-style-type: none"> (a) The site is constrained with a narrow depth. (b) Amendments were made during the assessment to improve the width of the deep soil zone at the rear of the site. (c) Additional non-deep soil landscaping is provided above the ramp to basement levels. (d) The majority of deep soil is located in a single area. |

| Provision | Compliance | Comment |
|--|------------|--|
| 4.2.3.7 Private open space and balconies | Yes | <p>Balconies are 4sqm and provided to rooms on the northern elevation.</p> <p>Rooms on the southern elevation contain Juliet balconies.</p> <p>Ground floor rooms on the northern elevation have private open space of 13.2sqm</p> |
| 4.2.3.8 Common open space | N/A | SEPP Housing 2021 communal open space provisions prevail. See discussion above. |
| 4.2.3.10 Outlook | Yes | <p>All units contain a pleasant outlook.</p> <p>The proposed development is not known to block any known views, and all adjacent residential development shall still receive a pleasant outlook.</p> |
| 4.2.3.11 Acoustic privacy | Yes | An acoustic report has been submitted with the proposal. The City's Health Unit have reviewed this report and advised that subject to conditions, the proposal will not have an unacceptable impact to adjoining developments and will provide suitable acoustic amenity for the co-living rooms. |
| 4.2.4 Fine grain, architectural diversity and articulation | Yes | <p>The street elevation incorporates fine grain articulation, breaking the building into 2 distinct masses. This is achieved by incorporating the following into the design:</p> <ul style="list-style-type: none"> • vertical and horizontal articulation • consistent pattern of window openings • varied materials and textured wall treatments • human scale and street activation through solid-to-void, street-art and sympathetic facade treatment and material palette |

| Provision | Compliance | Comment |
|--|------------|---|
| 4.2.6 Waste and recycling Management | Yes | Refer to Section 3.14 above of the DCP compliance table. A condition has been recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development. |
| 4.2.7 Heating and cooling infrastructure | Yes | The mechanical plant and services are located within a consolidated screened area on the roof. Standard consent conditions are recommended for the operation of the mechanical plant equipment to comply with appropriate noise emission requirements. |
| 4.2.8 Letterboxes | Yes | A condition of consent is recommended for letterboxes to be provided within the lobby of the building. |

4.4 Other Development Types and Uses

4.4.1 Boarding houses and student accommodation

| Provision | Compliance | Comment |
|---|------------|--|
| 4.4.1.1 Subdivision | Yes | No subdivision of the co-living housing is proposed as required by SEPP Housing 2021. |
| 4.4.1.2 Bedrooms | Yes | All bedrooms meet the minimum size requirements of Clause 69(1) of the Housing SEPP. All bedrooms have access to natural light. |
| 4.4.1.3 Communal kitchen areas | Yes | Kitchenettes are provided in all rooms. |
| 4.4.1.4 Communal living areas and open space | N/A | SEPP Housing 2021 provisions prevail. See discussion above. |
| 4.4.1.5 Bathroom, laundry and drying facilities | Yes | Bathrooms and laundry facilities are provided in each room. |

| Provision | Compliance | Comment |
|-------------------------------------|------------|--|
| 4.4.1.6 Amenity, safety and privacy | Yes | Communal spaces are well located, safe and accessible. Rooms contain good acoustic amenity and visual privacy. The use of the communal area is dictated by the plan of management which restricts the number of people who can use the space until 10pm. |
| 4.4.1.7 Plan of Management | Yes | A condition is recommended for the co-living use to be managed in accordance with the submitted plan of management |

Discussion

Clause 4.6 Request to Vary a Development Standard - Height of Buildings

62. The site is subject to a maximum Height of Buildings standard of 12m. The proposed development has a height of 14.83m or a 23.58% variation (RL 37.79) to the lift overrun, and a height of 13.48 or a 12.3% variation (RL 36.34) to the roof of the northern part of the building.
63. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking 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 standard;

Applicant's Written Request - Clause 4.6(3)(a) and (b)

64. The applicant seeks to justify the contravention of the Height of Building development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) The proposed development will result in the consolidation of the 3 existing land parcels to facilitate the delivery of a single development that provides a building height that is compatible with the area. The proposed development will replace the existing factory building on the site with a built form and land use that is far more compatible with the adjoining and surrounding established residential land uses. The design and scale of the building, coupled with the proposed landscape design will improve the appearance and amenity of the existing area, acknowledging the current diversity in built form and building heights along Briggs Street and within the surrounding locality.

- (ii) The proposed development will deliver a built form and land use that will encourage pedestrian traffic by providing accommodation for students and hospital workers in an accessible location. The proposed materiality and colour palette, as well as the opportunity for future integration of public art into the built form, will further enhance the vibrancy of the streetscape and public domain. The rationalisation of vehicular access points to the site, improves the functionality of Briggs Street. The demolition of the existing building and construction of the co-living development will contribute to urban growth in proximity to public transport and open space. On this basis, compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.
- (b) That there are sufficient environmental planning grounds to justify contravention of the standard:
- (i) The development is consistent with the objectives of the MU1 Mixed Use zone, facilitating the delivery of accommodation for students and hospital workers, acknowledging the proximity of the site to the Sydney University Campus and Royal Prince Alfred Hospital.
 - (ii) The proposal has been designed to comply with the flood constraints of the site which has necessitated the building height to be increased.
 - (iii) The development meets the objectives of Clause 4.3 of the SLEP 2012.
 - (iv) The proposed development is consistent with the Camperdown precinct locality statement, which envisages a “transformation from industrial uses to a vibrant high density mixed-use neighbourhood.”
 - (v) The proposed development acknowledges the site’s central location in the ‘Camperdown Health, Education and Innovation Precinct’ of the future ‘Tech Central’ district and its potential to support the operation of the university and hospital, through the delivery of accommodation for students and hospital workers.
 - (vi) The development will contribute to alleviating pressure on the broader residential rental market, by delivering a housing choice for students and hospital workers in proximity to the university campus and hospital.
 - (vii) The proposal is responsive to current market demand, acknowledging the current low rental vacancy rates.
 - (viii) The proposed development will deliver accommodation in an accessible location; that will encourage use of public transport as well as walking and cycling to the Sydney University Campus and Royal Prince Alfred Hospital.
 - (ix) The proposed development is contextually appropriate for the site, noting the varied scale of buildings in the immediate and surrounding locality.
 - (x) The proposed development would engender a neutral impact on the heritage significance of the heritage items in the vicinity of the site, as detailed in the accompanying Statement of Heritage Impact.

- (xi) The development has been designed to mitigate amenity impacts on adjoining properties having regard to overlooking, overshadowing and acoustic impacts.
- (xii) The development of the site will not preclude the future development of the adjoining land.
- (xiii) The proposed variation will not set an undesirable precedent for the locality, acknowledging the fact that there is no distinct uniform built form across the precinct, but rather a mix of building heights and built forms, which the proposed development is compatible with.

Consideration of Applicant's Written Request - Clause 4.6 (3)

65. Development consent must not be granted unless the consent authority is satisfied that that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard.

Does the written request adequately address those issues at Clause 4.6(3) (a)?

66. The applicant's written request refers to the test established in *Wehbe v Pittwater* to demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. In this instance, compliance with the standard is demonstrated to be unreasonable and unnecessary as the proposal meets the objectives of the building height standard under clause 4.3 of the Sydney LEP, regardless of the noncompliance.

Does the written request adequately address those issues at clause 4.6(3)(b)?

67. The applicant's written request adequately demonstrates that there are sufficient environmental planning grounds to justify contravening the standard.
68. The height variation is consistent with the objectives of the height of buildings standard under clause 4.3 of the Sydney LEP 2012 and the MU1 Mixed Use Zone.
69. The design proposed by the applicant is a rationalised, well-considered design which does not create an inappropriate height transition along Briggs Street and within the broader area.
70. The area of height non-compliance is set back from the street frontage and does not result in adverse amenity impacts such as overshadowing, nor obstruct any views.

Conclusion

71. For the reasons provided above the requested variation to the height of buildings development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012.

Clause 4.6 Request to Vary a Development Standard - Floor Space Ratio

72. The site is subject to a maximum Floor Space Ratio (FSR) standard of 1.65:1. The proposed development has a FSR of 1.81:1 (variation of 9.69%) or 1828.25sqm of gross floor area.

73. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking 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 standard;

Applicant's Written Request - Clause 4.6(3)(a) and (b)

74. The applicant seeks to justify the contravention of the Floor Space Ratio development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) The consistency of the proposal against the objectives of the Mixed Use zone is outlined below:
 - (ii) The proposed development will deliver accommodation for students and hospital workers within a built form that is consistent with the mixed-use setting of the site.
 - (iii) The design of the development encourages activation of the Briggs Street frontage with pedestrian access off this frontage and the placement of habitable room windows, including communal living room windows, at the ground level.
 - (iv) The proposed land use seeks to support the viability of Sydney University and the Royal Prince Alfred Hospital to the east of the site, by providing accommodation for students and hospital workers in an accessible location; to encourage use of public transport as well as walking and cycling to the campus and hospital.
 - (v) The proposed development acknowledges the site's central location in the 'Camperdown Health, Education and Innovation Precinct' of the future 'Tech Central' district and its potential to support the operation of the university and hospital, through the delivery of co-living accommodation.
 - (vi) The consistency of the proposal against the objectives of the development standard is outlined below:
 - (b) That there are sufficient environmental planning grounds to justify contravention of the standard:
 - (i) The development is consistent with the objectives of the MU1 Mixed Use zone, facilitating the delivery of accommodation for students and hospital workers, acknowledging the proximity of the site to the Sydney University Campus and Royal Prince Alfred Hospital.
 - (ii) The development meets the objectives of Section 4.4 of the SLEP 2012.

- (iii) The proposed development is consistent with the Camperdown precinct locality statement, which envisages a “transformation from industrial uses to a vibrant high density mixed-use neighbourhood.”
- (iv) The proposed development acknowledges the site’s central location in the ‘Camperdown Health, Education and Innovation Precinct’ of the future ‘Tech Central’ district and its potential to support the operation of the university and hospital, through the delivery of accommodation for students and hospital workers.
- (v) The development will contribute to alleviating pressure on the broader residential rental market, by delivering a housing choice for students and hospital workers in proximity to the university campus and hospital.
- (vi) The proposal is responsive to current market demand, acknowledging the current low rental vacancy rates.
- (vii) The proposed development will deliver accommodation in an accessible location; that will encourage use of public transport as well as walking and cycling to the Sydney University Campus and Royal Prince Alfred Hospital.
- (viii) The proposed development is contextually appropriate for the site, noting the varied scale of buildings in the immediate and surrounding locality.
- (ix) The proposed development would engender a neutral impact on the heritage significance of the heritage items in the vicinity of the site, as detailed in the accompanying Statement of Heritage Impact.
- (x) The development has been designed to mitigate amenity impacts on adjoining properties having regard to overlooking, overshadowing and acoustic impacts.
- (xi) The development of the site will not preclude the future development of the adjoining land.
- (xii) The proposed variation will not set an undesirable precedent for the locality, acknowledging the fact that there is no distinct uniform built form across the precinct, but rather a mix of building heights and built forms; which the proposed development is compatible with.

Consideration of Applicant's Written Request - Clause 4.6 (3)

75. Development consent must not be granted unless the consent authority is satisfied that that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard.

Does the written request adequately address those issues at Clause 4.6(3) (a)?

76. The applicant's written request refers to the test established in *Wehbe v Pittwater* to demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. In this instance, the applicant's request has adequately demonstrated that compliance with the Floor Space Ratio development standard is unreasonable or unnecessary in the circumstances as the proposal is compliant with the relevant objectives of the standard, notwithstanding the numerical noncompliance.

Does the written request adequately address those issues at clause 4.6(3)(b)?

77. The applicant's written request adequately demonstrates that there are sufficient environmental planning grounds to justify contravening the standard.
78. The design proposed by the applicant is a rationalised, well-considered design which bulk and scale commensurate with neighbouring multi-residential developments in the immediate vicinity. The proposal will provide adequate internal amenity and communal areas for the proposed co-living housing.
79. The proposal is in keeping with the objectives of the MU1 Mixed Use Zone, as it will provide residential accommodation.
80. The massing of the proposed building is well articulated and separated to have a minimal impact on the amenity of neighbouring development.

Conclusion

81. For the reasons provided above the requested variation to the floor space ratio development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012.

Building Separation and Rear Alignment

82. The proposed development does not comply with the building separation required under Clause 69(2)(b) of the Housing SEPP. Clause 69(2)(b) reads as follows:
 - (b) if the co-living housing has at least 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide.
83. Design Criteria No. 1, Objective 3F-1 of the Apartment Design Guide (ADG) sets out that a 4 storey building is to have a separation of 6m.
84. The proposed building contains nil setbacks to the street (south) and side elevations (east, west), and a 5.481m to 5.822m rear building setback which increases in separation from the northeastern to the northwestern corner of the site. This is a 0.519m to 0.178m shortfall to the standard. Refer to figure 19 below:

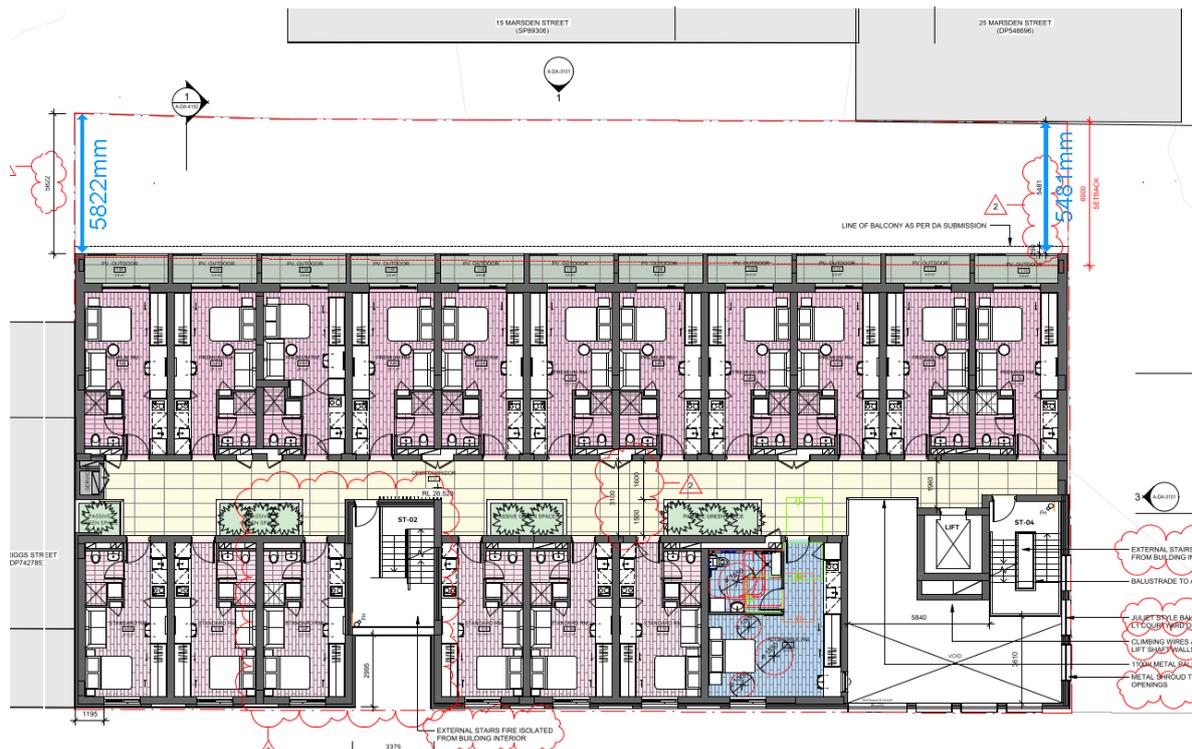


Figure 19: Rear building separation from boundary excerpted from level 1 plan

85. The DCP contains building setback controls within 4.2.2.1 which requires:
- Setbacks to be consistent with adjoining buildings, and when the setback or alignment varies, either the adjacent or average front setback or alignment is to be adopted.
86. Whilst the application does not comply with the building separation distance and setback controls for rear alignment, it is supported as:
- Contemporary multi residential development in the immediate vicinity contains similar or lesser rear setbacks, including 9-13 and 15-17 Marsden St, and 36-46 Briggs Street.
 - The immediate adjoining residential development to the west and east receives adequate solar access to rear facing glazing and private open space.
 - The northern elevation contains privacy screening to mitigate overlooking between neighbouring habitable rooms.
 - The development was amended during assessment which increased the building separation by 260mm.
 - The site contains ample private open space, deep soil and opportunity for canopy tree growth.
87. For these reasons, the non-compliance with the building separation distance specified by the Housing SEPP and the Sydney DCP rear alignment control are considered acceptable on merit.

Solar Access and Overshadowing

88. Section 4.2.3.1(2) of the Sydney DCP 2012 recommends development applications are to achieve a minimum of 2 hours' direct sunlight between 9am and 3pm on 21 June onto at least 1sqm of living room windows and a minimum 50% of the required minimum area of private open space of the site's apartments and neighbouring developments.
89. Section 4.2.3.1(3) States new development must not create any additional overshadowing onto a neighbouring dwelling where that dwelling currently receives less than 2 hours' direct sunlight to habitable rooms and 50% of the private open space between 9am and 3pm on 21 June.
90. The site and neighbouring buildings at 16 Briggs Street and 3-11 Briggs Street continue to receive adequate solar access to living room windows and private open space during midwinter, meeting the requirements of the (3) and (4) of Section 4.2.3.1 of the Sydney DCP.
91. The applicant has provided a solar access report with hourly, half-hourly and 15-minute intervals which outline the solar access to neighbouring buildings.
92. The solar access report and shadow diagrams have confirmed units 1 and 4 of 13-15 Briggs Street, 17 Briggs Street and 19 Briggs Street will not receive solar access to living room windows during midwinter to meet the controls of the DCP. The private open spaces of these properties are not impacted by this development as they are located behind the rear building line. The impact to solar access is described below:

Unit 1 and 4/ 13-15 Briggs Street

- (a) Unit 1/13-15 Briggs Street receives solar access from 9am to 9:45am to living room and bedroom windows facing Briggs Street.
- (b) Unit 4/13-15 Briggs Street receives no solar access to the living room window facing Briggs Street during midwinter.

Nos. 17 and 19 Briggs Street

- (c) Nos. 17 and 19 Briggs Street receive no solar access to its ground floor bedroom windows facing Briggs Street during midwinter.
93. Despite the departure from the DCP control, the loss of solar access to neighbouring living room windows is considered acceptable for the following reasons:
 - (a) Briggs Street is a narrow street and the low angle of the sun during midwinter makes sun access to windows to strictly comply with the DCP control particularly challenging.
 - (b) Whilst the building contains a 4th storey which breaches the height development standard and height in stories DCP control, it is well separated from the street wall which only contains 3 stories and is compliant with the 12m height development standard.
 - (c) The sun eye diagrams provided indicate the non-compliant 4th storey only overshadows the subject site in the afternoon and falls within areas of shadow cast by the 3 storey element of the building and does not result in additional impact to already overshadowed neighbouring development in the afternoon.

- (d) During the assessment, the solidity of the eastern stair core was reduced to improve sun access through the eastern part of the building.
- (e) Nos. 17 and 19 Briggs Street and units 1 and 4/13-15 Briggs Street are oriented south of the subject site and would be particularly impacted by any redevelopment of the subject site.
- (f) Between 9am and 10am, Nos. 17 and 19 Briggs are shaded by their veranda roof, blade walls and neighbouring development within the southern part of the row, not the proposed development.
- (g) The windows to rooms in Nos.17 and 19 Briggs Street overshadowed by the proposal are bedrooms, which are of a lower traffic and use than living spaces and are not protected by the Sydney DCP solar access controls.
- (h) Unit 1/13-15 Briggs Street contains a skylight which will provide light access during midwinter.
- (i) The proposal results in a lesser impact for solar access during other times of the year, particularly during solstice in December and equinox in September.

Draft LEP and DCP controls

Draft LEP car parking standards

- 94. The proposed development contains 17 carparking spaces, which is above the requirement for 11 spaces within Clause 68(2)(e) of the Housing SEPP.
- 95. The non-discretionary development standard is interpreted to be a minimum amount, and therefore the proposed provision is satisfactory.
- 96. Notwithstanding, the proposed amendments to the City of Sydney's Local Environmental Plan contain parking provisions for co-living development.
- 97. The new parking provision would limit this development to providing no more than 8 car parking spaces.
- 98. However as the LEP amendments contain saving provisions, the application is not affected by the draft LEP amendments.

Draft DCP controls for co-living rooms

- 99. Proposed amendments to the Sydney DCP 2012 include additional controls for co-living housing under Section 4.4.1. The draft DCP amendments were placed on public exhibition between 17 December 2024 and 14 March 2025 and subsequently endorsed by the Central Sydney Planning Committee (CSPC) on 19 June 2025. While the proposed amendments to the DCP are yet to come into effect, and are not a formal consideration under the Act, some consideration of the draft controls is given in the assessment of the subject application.

100. While the proposal is consistent with the draft DCP controls for co-living and can comply with the specific detailed design requirements for amenities within private rooms, it is noted that the draft controls include the following requirements which the rooms do not comply with:
- (a) The minimum dimension of a private room is to be 3.5 metres.
101. Except for the DDA units, rooms are between 3350-3375mm wide, 125-150mm short of the required room width.
102. This is considered acceptable as the width is some 125-150mm short of the required width the rooms are:
- (a) Shown to be well arranged to contain adequate furniture.
 - (b) Contain more than the minimum space required under the Housing SEPP.
 - (c) Contain good internal amenity.
 - (d) Rooms are improved by the provision of balconies, terraces or juliet balconies.

Internal Referrals

103. The application was discussed with Council's:

- (a) Construction and Building Unit
- (b) Environmental Projects Unit
- (c) Landscaping Unit
- (d) Public Art Unit
- (e) Environmental Health Unit
- (f) Heritage and Urban Design Unit
- (g) Public Domain Unit
- (h) Transport and Access Unit
- (i) Tree Management Unit
- (j) Cleansing and Waste Management Unit

104. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

External Referrals

Ausgrid

105. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.
106. A response was received raising no objections to the proposed development.

Advertising and Notification

107. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 21 days between 19 May 2025 and 10 June 2025. A total of 254 properties were notified and 20 submissions were received.

108. The submissions raised the following issues:

- (a) **Issue:** Height bulk and articulation

Response: The proposed height exceedance relates to the lift overrun (23.58% variation) and the roof of the third level (12.3% variation). Whilst the development standard is varied, it is supported as the applicant has adequately justified that there are sufficient environmental planning grounds and compliance is unreasonable or unnecessary in the circumstances, which are accepted by Council. The building also does not comply with the DCP height in stories control which is considered acceptable given the proposal is consistent in height and massing with multi-storey residential buildings in the surrounding area and was amended during the course of the assessment to reduce the bulk and improve the articulation of the building.

- (b) **Issue:** Floor Space Ratio

Response: The proposal was amended to include the corridor in the floor space ratio calculation. Whilst the floor space ratio is varied, it is supported as the applicant has provided there are sufficient environmental planning grounds and compliance is unreasonable or unnecessary in the circumstances which are accepted by Council.

- (c) **Issue:** Heritage impacts

Response: The proposal is a well-considered design which does not have a negative impact on the heritage significance of the listed heritage items across the street.

- (d) **Issue:** Solar Access

Response: The impact of overshadowing to neighbouring development has been considered. Nos. 17 and 19 and units 1 and 4/13-15 Briggs Street are affected by the development, and the noncompliance with the Sydney DCP provisions for sun access to habitable room windows have been considered acceptable for various reasons in the discussion section above.

- (e) **Issue:** Loss of warehouse building

Response: The provisions and objectives of 3.10.1 Warehouses and industrial buildings older than 50 years which numerous submissions refer to do not apply to this site as it is not a listed heritage item, a draft heritage item or within a heritage conservation area within schedule 5 of the Sydney Local Environmental Plan 2012. Nevertheless, both the applicant's heritage consultant and the City's heritage specialist have considered the sites' heritage merit and conclude it is of limited significance and heritage value.

- (f) **Issue:** Rear building separation

Response: The shortfall from complying with the Housing SEPP standard is 519mm. As discussed above, it is considered acceptable on merit as all units from level 1 contain privacy screening to help mitigate overlooking between properties. Further, the setback has been increased from the original proposal and contains a greater or similar rear building separation as other nearby multiple residential developments.

- (g) **Issue:** Visual privacy

Response: The north elevation contains adequate vertical screening to mitigate overlooking to the neighbouring building to the north. The rooms on the southern elevation are adequately separated from neighbouring buildings and maintains a reasonable standard of visual privacy, subject to a condition requiring a more solid balustrade or introduction of opaque glazing. The rooftop common area is separated from neighbouring buildings by Briggs Street and contains landscape planter boxes which creates a separation from the building perimeter reduce downward looking. The landscape plan also nominates large plants to help screen views.

- (h) **Issue:** Acoustic impacts

Response: The acoustic report and plan of management contain adequate measures of minimising noise from the future occupants of the building including limiting use of common areas to 7am and 10pm and location of mechanical plant to the roof. Furthermore, conditions of consent will be imposed for the development to comply with the recommendations of the acoustic report, the use operate in accordance with the plan of management and the noise of the commercial plant to not exceed the levels specified within the EPA's noise policy.

- (i) **Issue:** Traffic and parking

Response: There are no parking provisions for co-living developments within the Sydney Local Environmental Plan 2012. The provision of 17 carparking spaces complies with the Housing SEPP and Council's Access and Transport team have considered the amended proposal and find it acceptable, subject to conditions of consent.

- (j) **Issue:** Contamination

Response: As discussed in the SEPP Resilience and Hazards Section, the site is contaminated. The full scope of contamination remediation works is to be after the partial demolition of the building, installation of groundwater wells, and sample collection which is supported by the Site auditor and Council's Health and Building Unit.

- (k) **Issue:** Construction noise and dust

Response: Standard conditions of consent relating to construction noise and dust have been recommended.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

109. The City of Sydney Development Contributions Plan 2015 applies to the site. The development is subject to a section 7.11 local infrastructure contribution under this Plan.
110. A condition relating to this local infrastructure contribution has been included in the recommended conditions of consent. The condition requires the contribution to be paid prior to the issue of a construction certificate.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

111. The site is located within the residual lands affordable housing contribution area. As the proposed development includes a change of use from industrial to residential accommodation (co-living), a contribution is required at a rate of \$11,646.80 for 3% of the residential Total Floor Area (TFA). The TFA plans provided by the applicant show the site contains 3055.52 sqm of residential TFA, resulting in a contribution of \$1,067,610.91. A condition of consent is recommended requiring payment prior to the issue of a construction certificate.
112. Section 7.32 of the Act outlines that the consent authority may grant consent to a development application subject to a condition requiring dedication of part of the land for the purpose of providing affordable housing, or payment of a monetary contribution to be used for the purpose of providing affordable housing where the section of the Act applies.
113. The Act applies with respect to a development application for consent to carry out development within an area if a State Environmental Planning Policy identifies that there is a need for affordable housing within the area. Clause 14 of the Housing SEPP identifies that there is a need for affordable housing within each area of the State.
114. An affordable housing condition may be reasonably imposed under Section 7.32(3) of the Act subject to consideration of the following:
- (a) the condition complies with all relevant requirements made by a State environmental planning policy with respect to the imposition of conditions under this section, and

- (b) the condition is authorised to be imposed by a local environmental plan, and is in accordance with a scheme for dedications or contributions set out in or adopted by such a plan, and
- (c) the condition requires a reasonable dedication or contribution, having regard to the following -
 - (i) any other dedication or contribution required to be made by the applicant under this section or section 7.11.

115. Having regard to the provisions of Section 7.32 of the Act, the imposition of an affordable housing contribution is reasonable. A condition of consent is recommended requiring the payment of an affordable housing contribution prior to the issue of a construction certificate.

Housing and Productivity Contribution

116. The development is subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2024.
117. Co-living is defined as a type of commercial development under Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2024.
118. The site is located with the Greater Sydney region and contains co-living which is a type of commercial development to which the Housing and Productivity Contribution applies. There are no applicable exemptions under the order, and a contribution of \$59,303.33 applies.
119. A condition relating to the Housing and Productivity Contribution has been included in the recommended conditions of consent.

Relevant Legislation

120. Environmental Planning and Assessment Act 1979.

Conclusion

121. The application seeks approval for the demolition of existing structures and construction of co-living housing containing 54 rooms over 4 storeys with 2 levels of basement.
122. The applicant has submitted written requests pursuant to Clause 4.6 of the Sydney LEP 2012 which relates to the height of buildings development standard (Clause 4.3 of the Sydney LEP 2012), and the floor space ratio development standard (Clause 4.4 of the Sydney LEP 2012). The requests to vary the development standards are supported.
123. The proposal will not result in unreasonable adverse impact in terms of overshadowing or visual privacy and is of an appropriate bulk and scale within the context of the subject site and streetscape.

124. The proposed co-living use is suitable within the context of the site and desired future character of the area and responds to the demand for housing.
125. The proposed development exhibits design excellence in accordance with the provisions of Clause 6.21C of the Sydney LEP 2012.
126. Subject to conditions, the development is in the public interest and recommended for approval.

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