

Item 4.**Development Application: 125A Kent Street, Millers Point - D/2026/97****File Number:** D/2026/97**Summary****Date of Submission:** 4 February 2026**Applicant:** Mecone**Architect/Designer:** Cortese Gilder Architects**Owner:** Jeffrey International Investment Pty Ltd**Planning Consultant:** Mecone**Cost of Works:** \$3,792,771**Zoning:** SP5 Metropolitan Centre

Proposal Summary: Adaptive reuse of the existing 3 storey building including the retention of the existing 3 stories and construction of 5 storey addition above to the northern extent of the site to be used as a residential flat building (RFB) accommodating 5 apartments, communal open space on level 2 and the rooftop and 6 bike parking spaces.

The application has been referred to the Local Planning Panel for determination as it is considered both sensitive development (Development to which State Environmental Planning Policy (Housing) 2021, Chapter 4 (Design of residential apartment) applies and is 4 or more storeys in height), and contentious development receiving over 25 unique public submissions.

The application was notified for a period of 21 days and received 126 submissions.

The application is recommended for refusal for the following reasons:

- The proposal fails to comply with all relevant objectives of the SP5 Metropolitan Centre zone as it constrains adjoining development and undermines

the efficient and orderly development of land in a compact urban centre.

- The development does not appropriately respect and respond to adjoining heritage items and is therefore inconsistent with Clause 5.10 'Heritage conservation' of the Sydney Local Environmental Plan 2012 and applicable Sydney Development Control Plan 2012 provisions.
- The proposal provides inadequate residential amenity, particularly in regard to private open space, building separation, building setbacks, and visual privacy and is inconsistent with the Housing SEPP design principles, and relevant design criteria of the Apartment Design Guidelines and Sydney Development Control Plan 2012.
- The development fails to achieve Design Excellence under Clause 6.21C due to poor public domain contribution, inadequate heritage and environmental response, amongst other things.
- Insufficient information has been provided to properly assess impacts, including structural, landscaping, waste, acoustic, external works, and contextual impacts, resulting in non-compliance with both the Apartment Design Guidelines and Sydney Development Control Plan 2012.
- As a result of the above, the proposal is not in the public interest.

Summary Recommendation: This proposal is recommended for refusal.

Development Controls:

- (i) State Environmental Planning Policy (Housing) 2021
- (ii) State Environmental Planning Policy (Sustainable Buildings) 2022
- (iii) Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021
- (iv) Sydney Local Environmental Plan 2012
- (v) Sydney Development Control Plan 2012

Attachments:

- A. Selected Drawings
- B. BCA Compliance Statement
- C. Architectural Design Report

D. Submissions

Recommendation

It is resolved that consent be refused for Development Application Number D/2026/97.

Reasons for Recommendation

The application is recommended for refusal for the following reasons:

- (A) The application fails to satisfy all objectives of the SP5 Metropolitan Centre Zone of the Sydney LEP as it fetters development on adjoining sites and undermines the efficient and orderly development of land in a compact urban centre.
- (B) The proposed development does not appropriately respond to nor complement adjoining heritage items. The proposal is also inconsistent with the Conservation Management Plan for the adjoining heritage item at 123 Kent Street. The proposal is therefore contrary to Clause 5.10 of the Sydney Local Environmental Plan 2012 (SLEP 2012) and Sections 3.9.5(1)(c), 3.9.5(1)(4)(d), 3.9.5(1)(f), 3.9.5(1)(h) and 3.9.5(3) and 5.1.3.2 of the Sydney Development Control Plan 2012 (SDCP 2012).
- (C) The proposed development is contrary to principles 1 to 6 of the design principles for residential apartment development in Schedule 9 of the State Environmental Planning Policy (Housing) 2021 (Housing SEPP). The proposal provides inadequate amenity to apartments and unjustifiably impinges on the amenity of neighbouring residential buildings, due to non-compliance with multiple provisions of the ADG, including Objectives 2F, 3E, 3F, 4B and 4E.
- (D) The proposed development fails to exhibit Design Excellence pursuant to Clause 6.21C of the SLEP 2012 due to the following:
 - (i) The form and external appearance of the proposed development will not improve the quality of the public domain, inconsistent with Clause 6.21C(2)(b) and Clause 6.21C(2)(d)(x),
 - (ii) The application fails to appropriately address heritage issues and streetscape constraints, inconsistent with Clause 6.21C(2)(d)(iii),
 - (iii) The application fails to adequately address all environmental impacts, pursuant to the provisions outlined under Clause 6.21C(2)(d)(vii),
 - (iv) The application fails to adequately consider vehicular and service access and circulation requirements, inconsistent with Clause 6.21C(2)(d)(ix), and
 - (v) The proposed development does not achieve an appropriate interface at ground level between the building and the public domain, inconsistent with Clause 6.21C(2)(d)(xii).
- (E) The development does not provide appropriate amenity for residents. The development does not provide adequate building setbacks, private open space, internal common area or tree canopy. Poor outlook is also provided to apartments on the ground floor and level one due to proximity to the site boundary and proposed screening. As such, the proposal is non-compliant with Sections 3.5, 4.2.3.3, 4.2.3.6, 4.2.3.7, 4.2.3.10, 5.1.1.3(7) and 5.1.2 of the SDCP 2012.

- (F) The primary building entrance is recessed and concealed. The development fails to activate the street frontage and address the public domain. As such, the proposal is contrary to Section 3.2 of the SDCP 2012.
- (G) Inadequate information has been submitted to properly assess the application and the proposed development therefore fails to satisfy the following requirements:
 - (i) The application provides insufficient information to determine the impacts of potential footing reinforcement works upon the structural integrity of neighbouring heritage buildings, inconsistent with Section 3.9.13 of the SDCP 2012.
 - (ii) The application fails to demonstrate 15% tree canopy coverage within 10 years of completion, inconsistent with Sections 3.5.1 and 3.5.2 of the SDCP 2012.
 - (iii) The application fails to demonstrate compliance with the City of Sydney Guidelines for Waste Management in New Development and Section 3.11.13(3) of the SDCP 2012.
 - (iv) The Acoustic Report assesses the proposal against the incorrect criteria. As such, the proposal has not demonstrated compliance with Provision 4.2.3.11 of the SDCP 2012, and it remains unclear whether the proposal is capable of compliance with the City's Acoustic privacy controls.
 - (v) The proposal lacks certainty regarding works outside the site and is therefore contrary to provision 5.1.1.3(7) of the SDCP 2012.
 - (vi) The proposal is incongruent with the established pattern of scale and form in the context of the site and is likely to impact views from and to the setting of Observatory Hills and Millers Point. As such, insufficient information has been provided to satisfy Provision 5.1.8(4) of the SDCP 2012.
- (H) The development is unsatisfactory when assessed pursuant to the matters for consideration at section 4.15(1)(e) of the EP&A Act and is therefore not in the public interest.

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) Contentious Development
 - (b) Sensitive Development
2. The development application falls within the category of Contentious Development as it has received more than 25 unique submissions by way of objection.
3. The development application falls within the category of Sensitive Development as it is development to which State Environmental Planning Policy (Housing) 2021, Chapter 4 (Design of residential apartment) applies and is 4 or more storeys in height.

The Site and Surrounding Development

4. The site has a legal description of Lot 3 in DP 737194, and is known as 125A Kent Street, Millers Point. It is irregular in shape with area of approximately 154sqm. Primary pedestrian access to the site is provided via a 1.525m wide x 28m long easement for light, air & access from Kent Street. Secondary access for servicing and vehicle access is provided via Jenkins Street.
5. The site contains a three-storey brick and concrete commercial building. The site was originally a terrace house which was replaced with a laboratory for Esso Australia.
6. The surrounding area is characterised by a mixture of land uses, primarily being residential and commercial. The site is land locked to the north, east and west with the immediate surrounding context consisting of the following:
 - North – State & Local Heritage Terrace Duplexes 3, 5, 7 & 9 High Street, Millers Point
 - North-East – State & Local Heritage Terraces 115, 117, 119 & 121 Kent Street, Millers Point
 - East – State & Local Heritage Terraces 123 & 125 Kent Street, Millers Point
 - South-East – 127-153 Kent Street, multi-storey residential flat building known as 'Highgate' Apartments
 - South – Jenkins Street
 - West – 20-24 Hickson Road, multi-storey commercial building known as the 'Bond Store'
7. The site is not a heritage item nor is it located within a heritage conservation area. However, as noted above, the site adjoins both state and locally listed heritage items and heritage conservation areas to the north and north-east.
8. The site is located within Central Sydney and borders the Millers Point Locality.

9. The site is not identified as being subject to flooding.
10. A site visit was carried out on 17 February 2026. Photos of the site and surrounds are provided below.

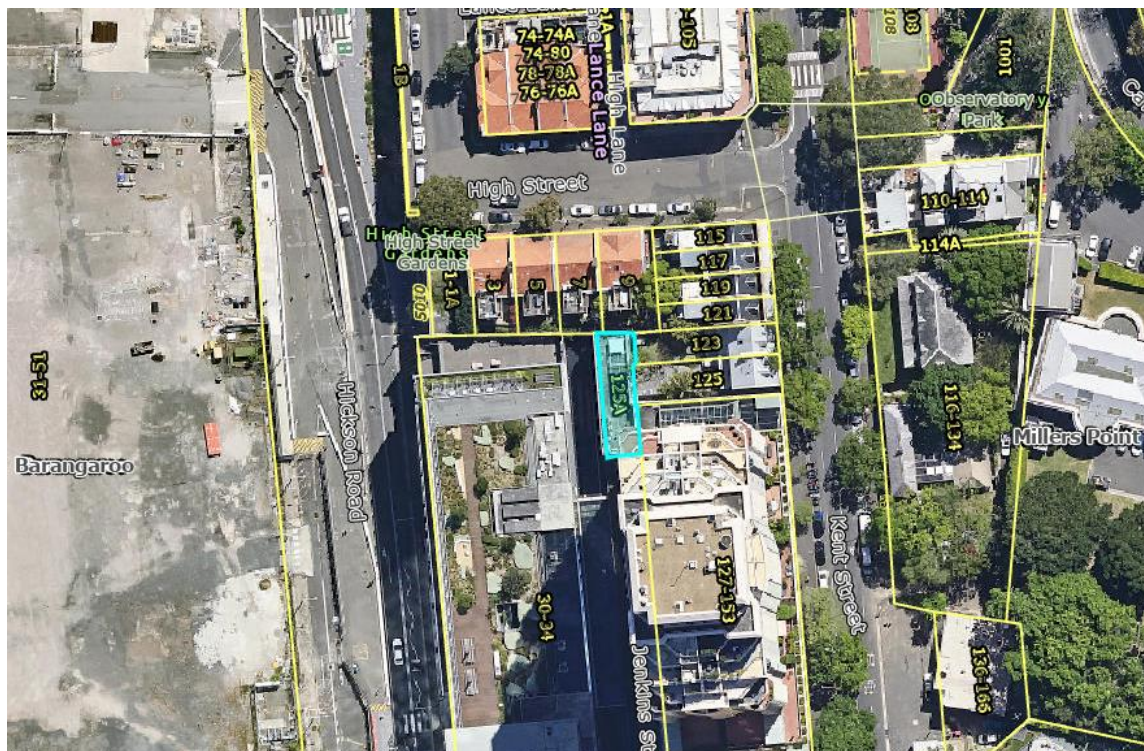


Figure 1: Aerial view of site and surrounds



Figure 2: Left: Existing site access from Kent Street, Right: View east towards Kent Street (easement for light, air & access)



Figure 3: View west of existing building entrance and eastern facade



Figure 4: Site viewed from Jenkins Street/Southern elevation

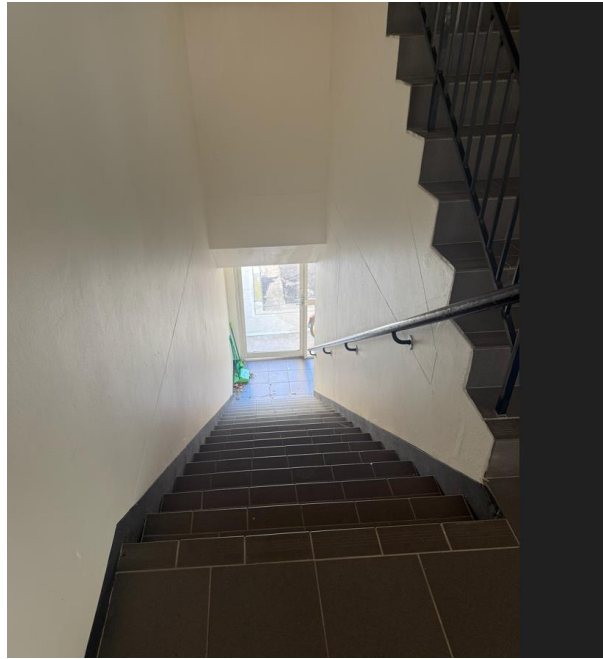


Figure 5: Left: Existing ground floor Right: Existing stairs to lower ground

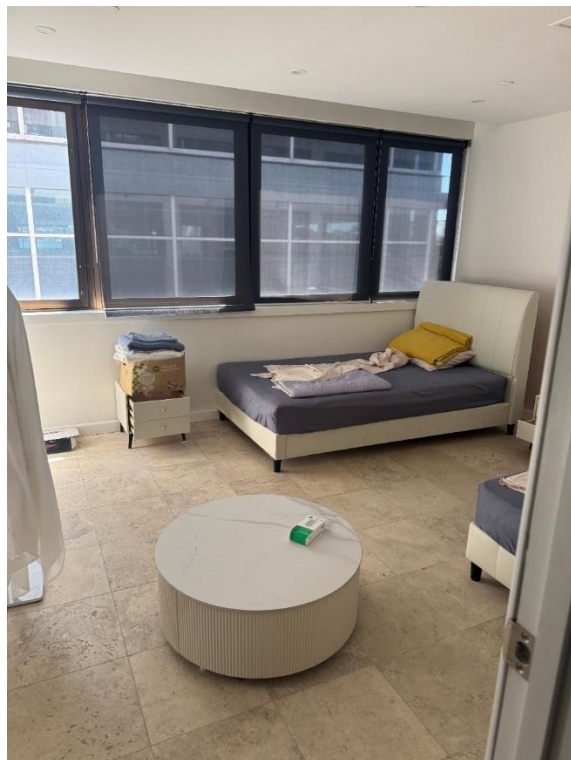


Figure 6: Left: Existing lower ground, Right: Existing level 1



Figure 7: View north-west from within subject site at level 1



Figure 8:Right: View north-west from 'Highgate' apartment balcony

History Relevant to the Development Application

Development Applications

11. The following applications are relevant to the current proposal:

- **PDA/2023/96** – Pre-DA advice was provided on 18 August 2023 for the adaptive reuse and expansion of the site to be used as a residential flat building. Council Officer's advised that given the site constraints and lack of established easement for light and air, the proposed residential land use would result in unacceptable built form and amenity impacts and would likely not be supported. It was recommended that a commercial development be explored.
- **PDA/2023/200** – Pre-DA advice was provided on 28 November 2023. The advice provided was consistent with that provided for PDA/2023/96, noting the ill-suitability of the site for a residential development and recommending investigation of commercial development options.
- **D/1999/857** – Stage 1 Development Application, construction of two new residential/commercial buildings, conservation and adaptive reuse of existing buildings .

Under this application the subject site known as 30-38 Hickson Road & 1 High Street Millers Point included 30-24 Hickson Road (the 'Bond' Store), 36-38 Hickson Road, 125A Kent Street and 1 High Street.

The application was withdrawn on 14 April 2000 for demolition.

Amendments

12. Following a preliminary assessment of the proposed development, Council Officers issued a letter to the applicant advising the application was not supported on 12 March 2026.
13. The letter detailed the extent of issues associated with the proposal and advised that if not withdrawn, the application would be determined based on the information submitted.
14. The applicant did not elect to withdraw the application.

Proposed Development

15. The application seeks consent for the adaptive reuse and retention of the existing 3 storey building and construction of a 5-storey addition above to the northern extent of the site to be used as a residential flat building (RFB). The RFB will include the following:
 - 5 apartments:
 - 1 x studio – Ground Floor
 - 1 x 1-bedroom – Ground Floor

- 1 x 2-bedroom (single storey) – Level 1
- 2 x 2-bedroom (split level) – Levels 2, 3, 4 & 5
- Communal open space on level 2 (25sqm), the level 6 rooftop (50sqm) and common internal space on lower ground level (40sqm) and
- 6 bike parking spaces (5 residential, 1 visitor).

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

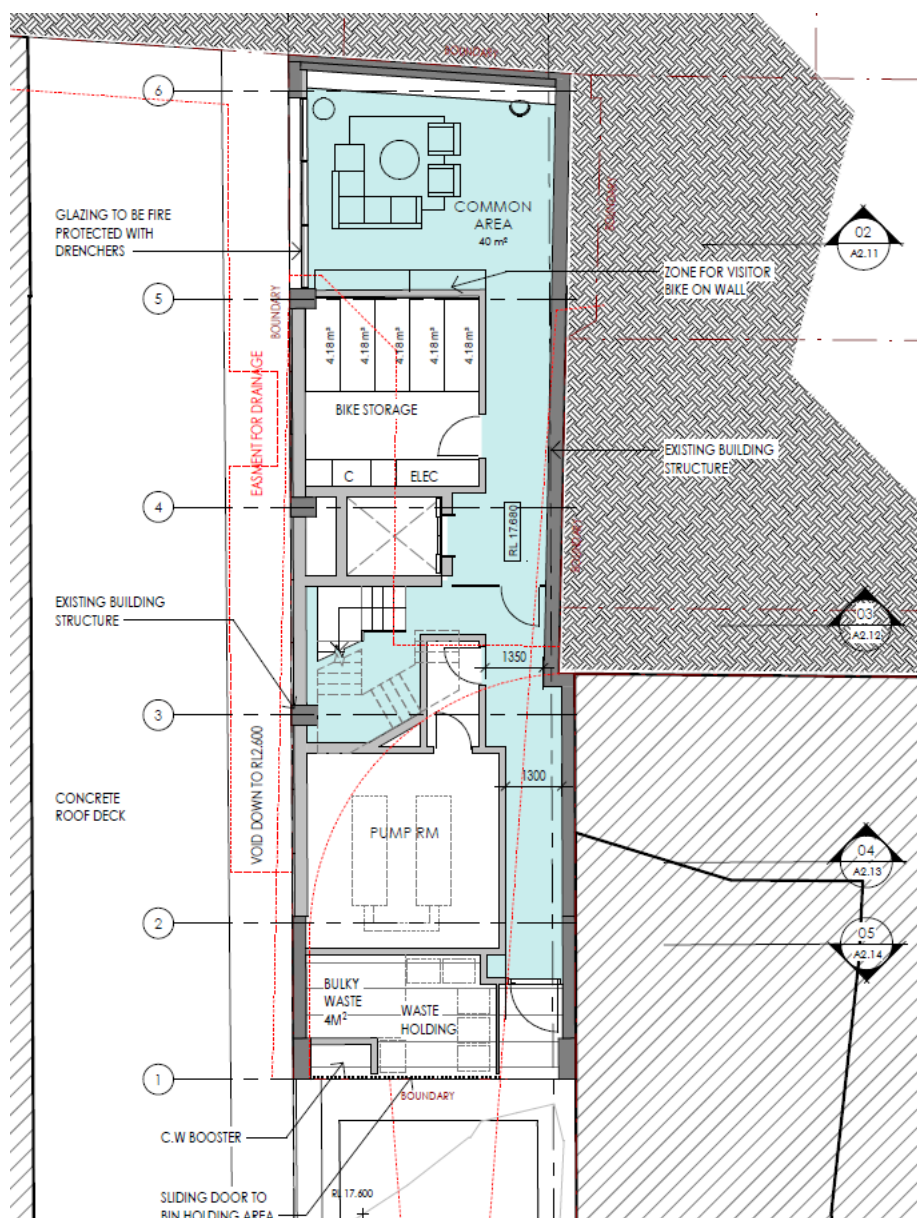


Figure 9: Proposed Lower Ground Plan

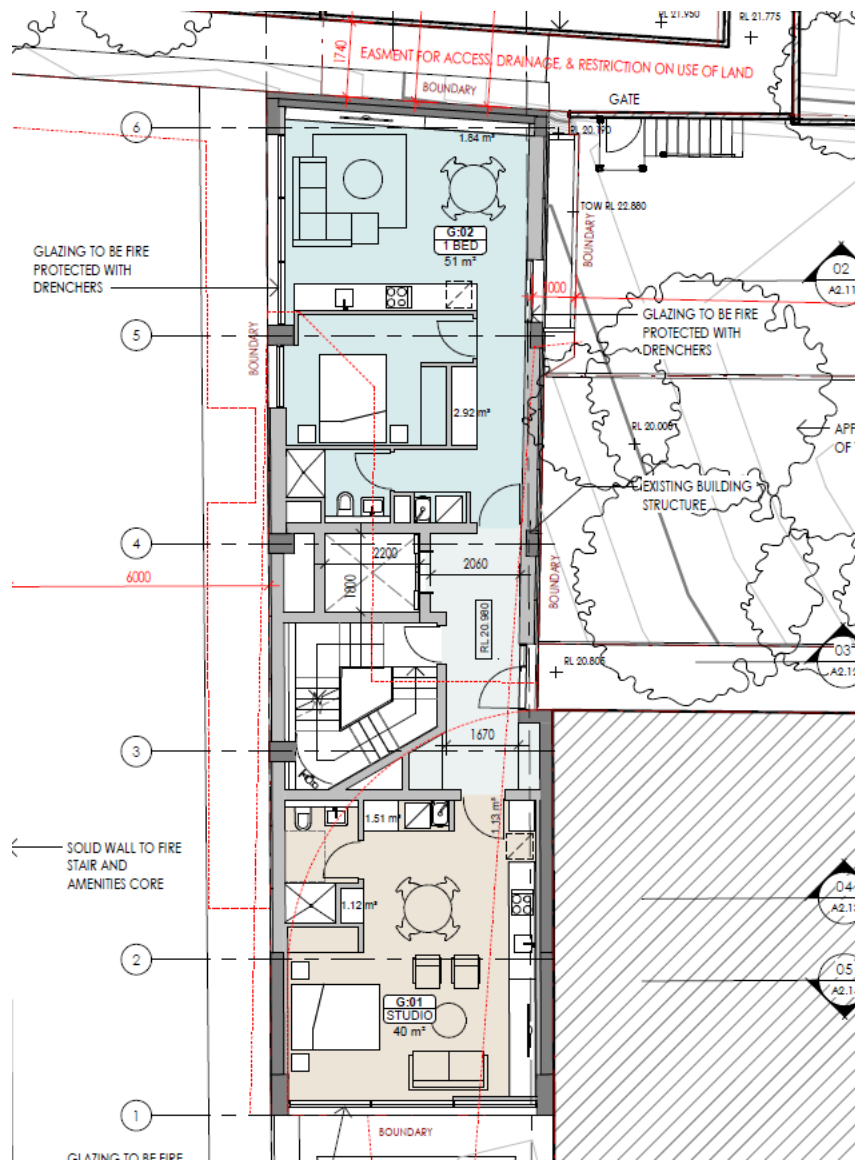
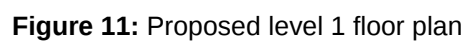


Figure 10: Proposed Ground Floor Plan



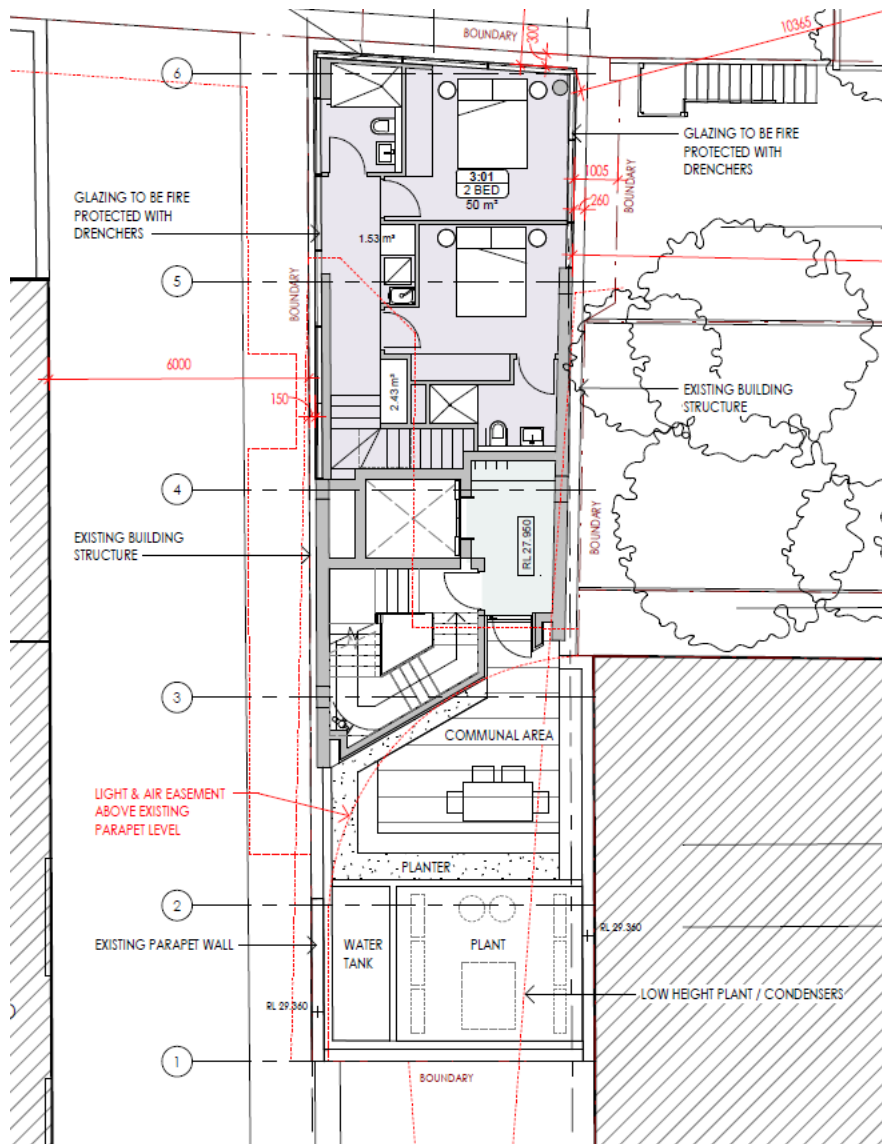


Figure 12: Proposed level 2 floor plan

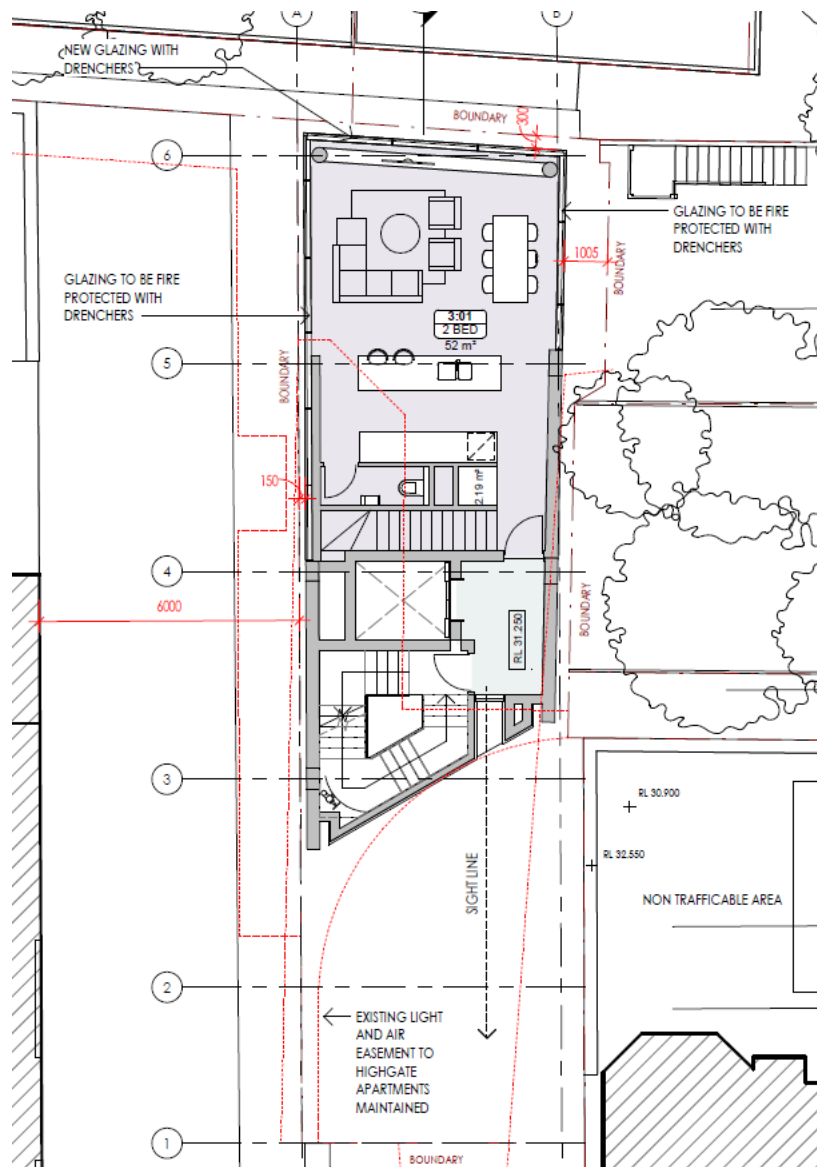


Figure 13: Proposed level 3 floor plan

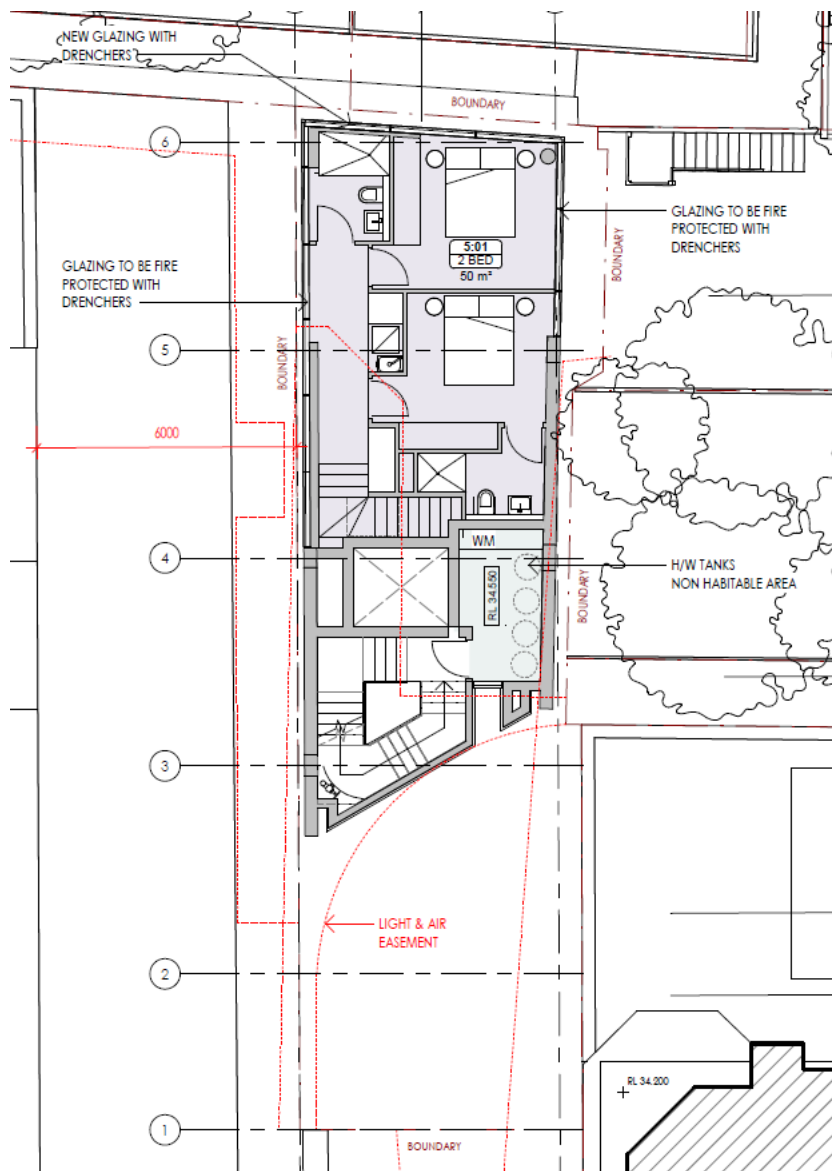


Figure 14: Proposed level 4 floor plan

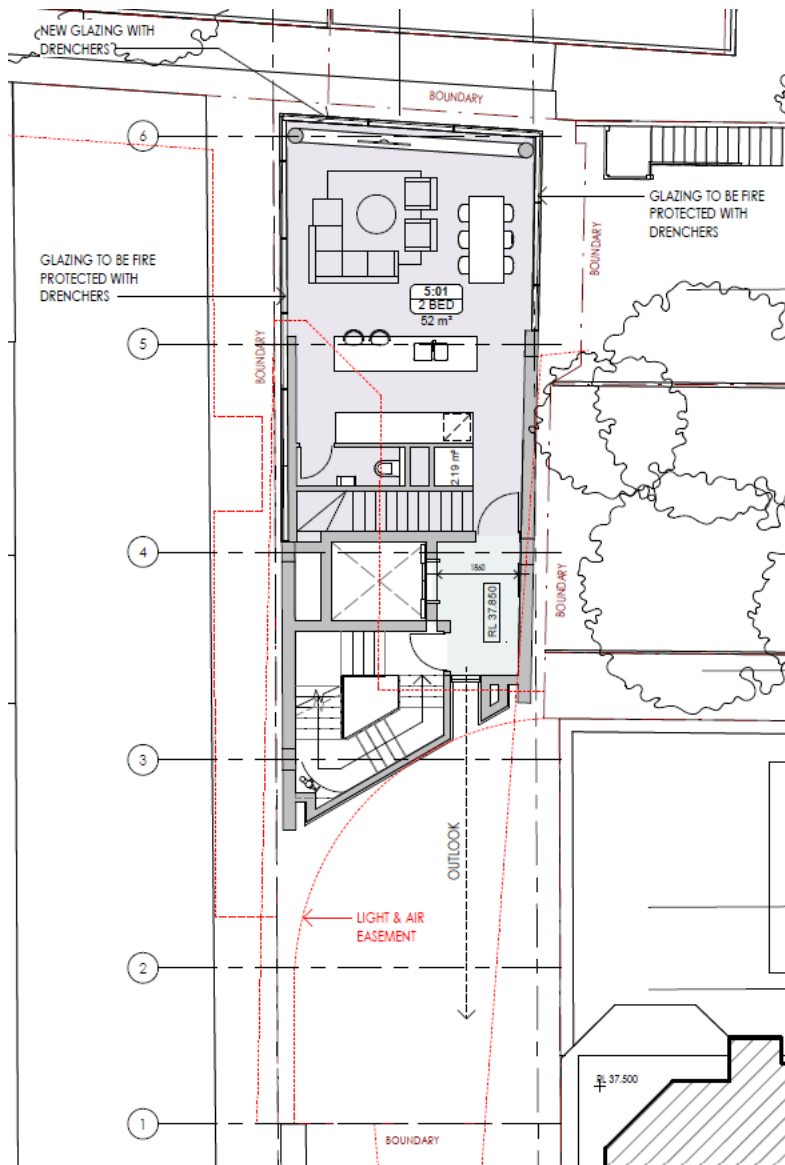


Figure 15: Proposed level 5 floor plan

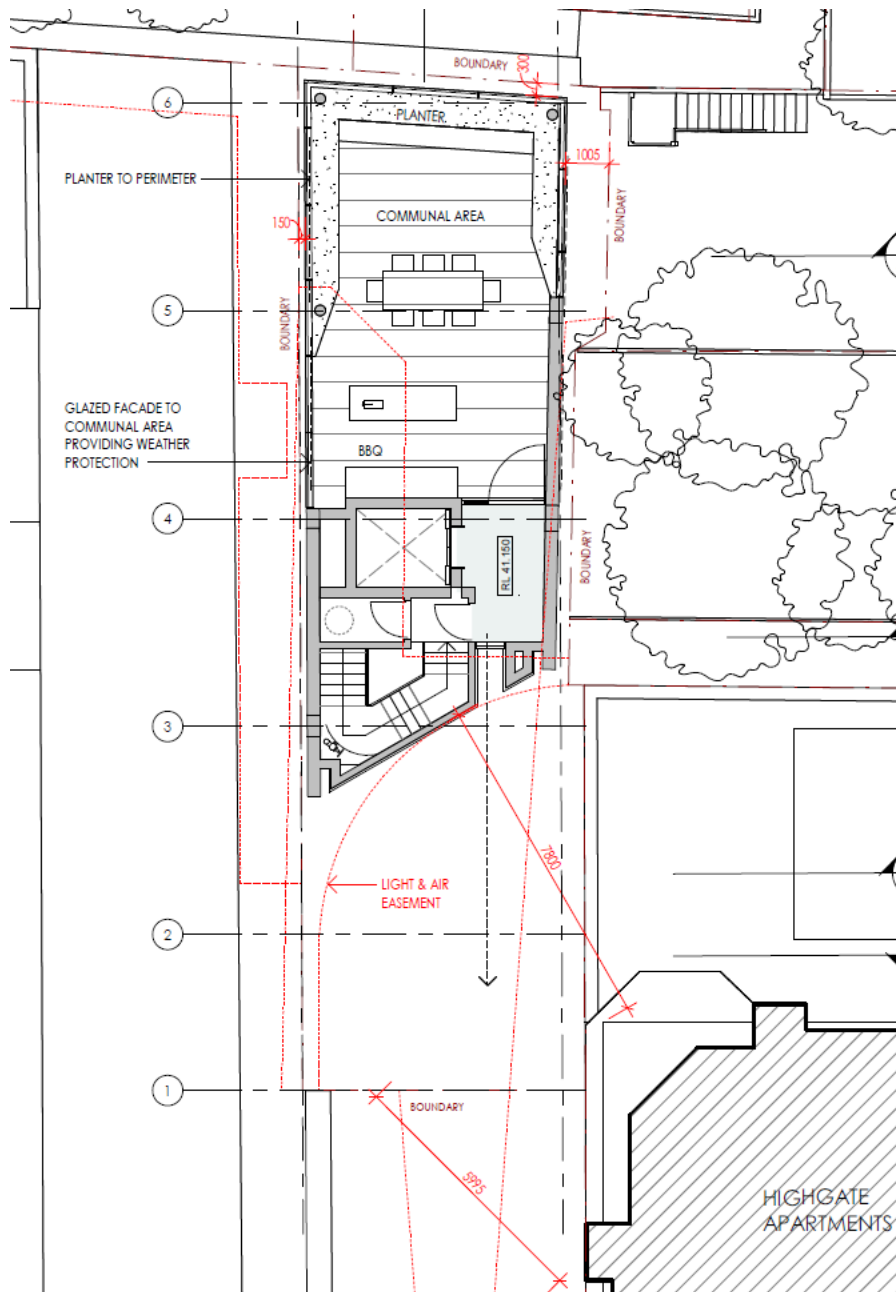


Figure 16: Proposed level 6 floor plan

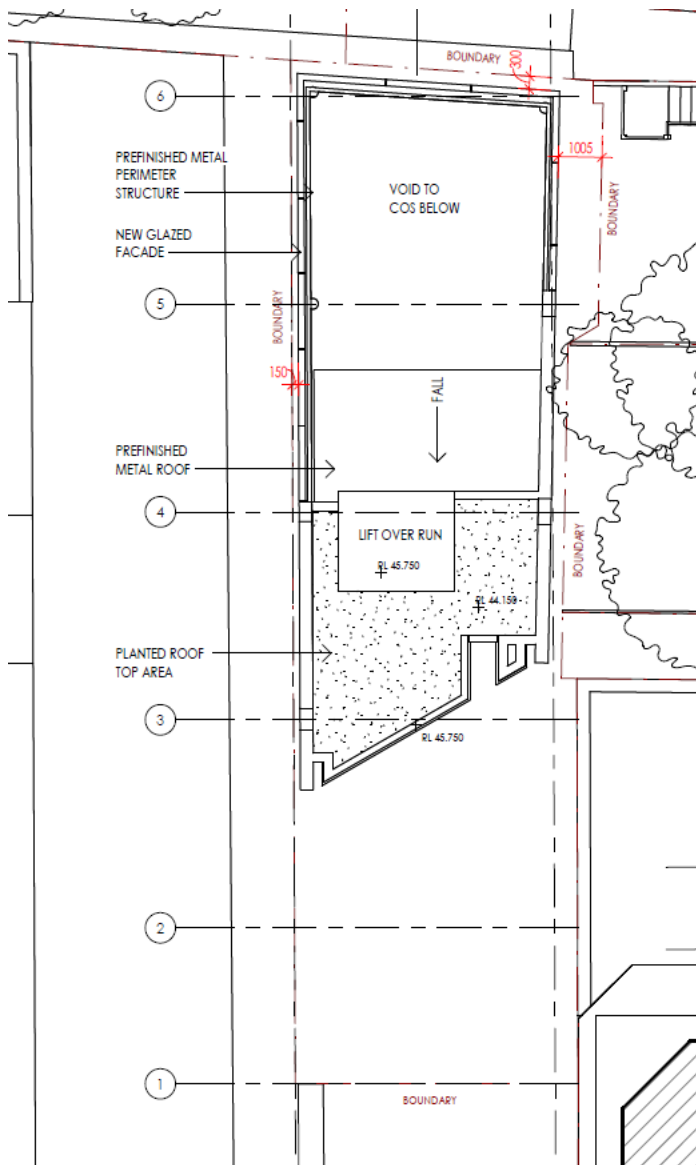


Figure 17: Proposed roof plan

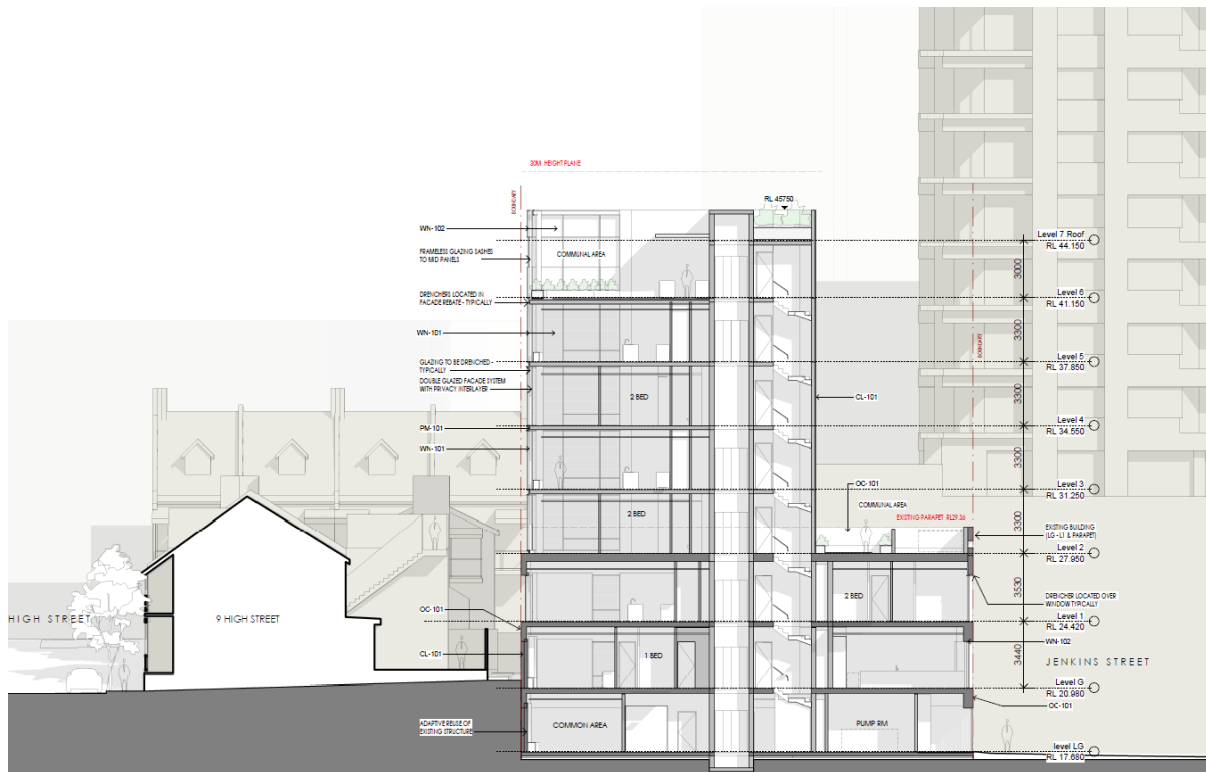


Figure 18: Proposed long section plan

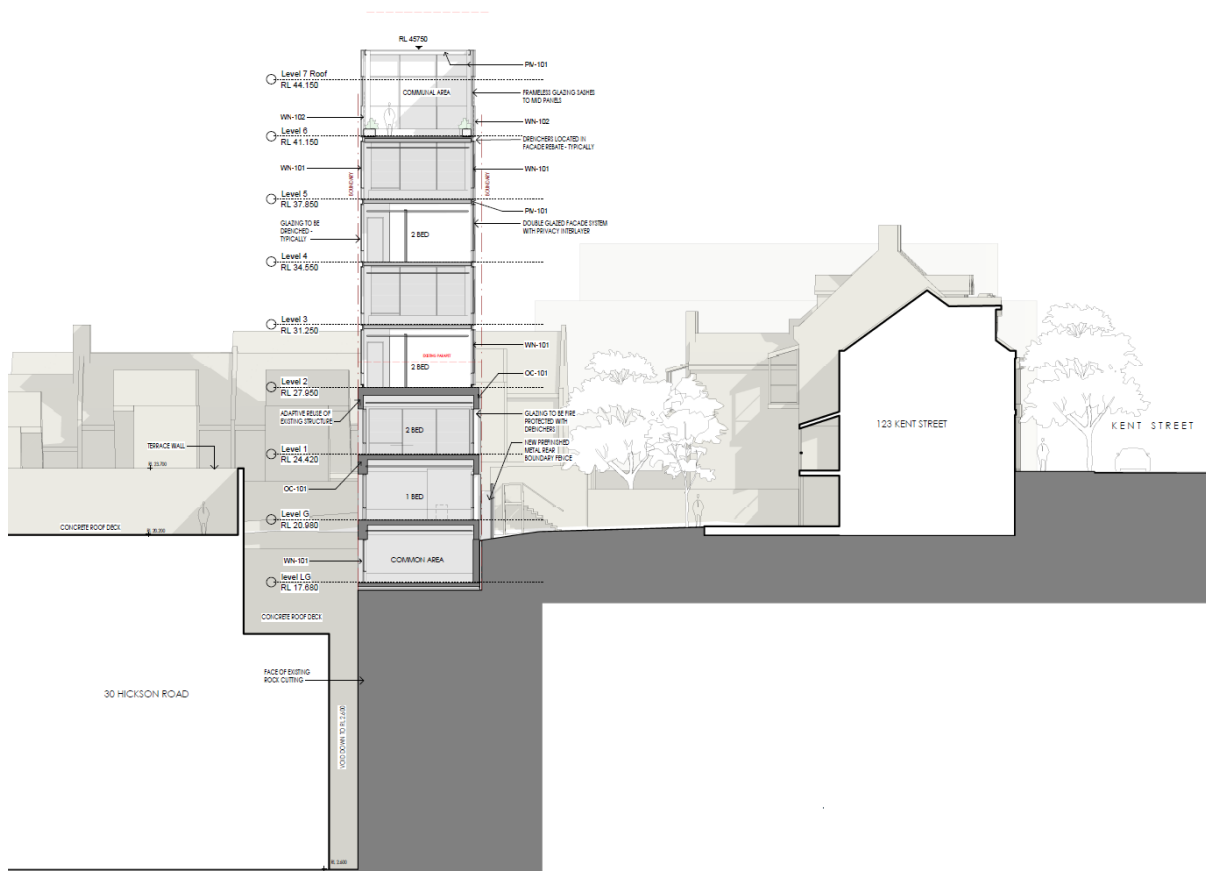


Figure 19: Proposed short section plan

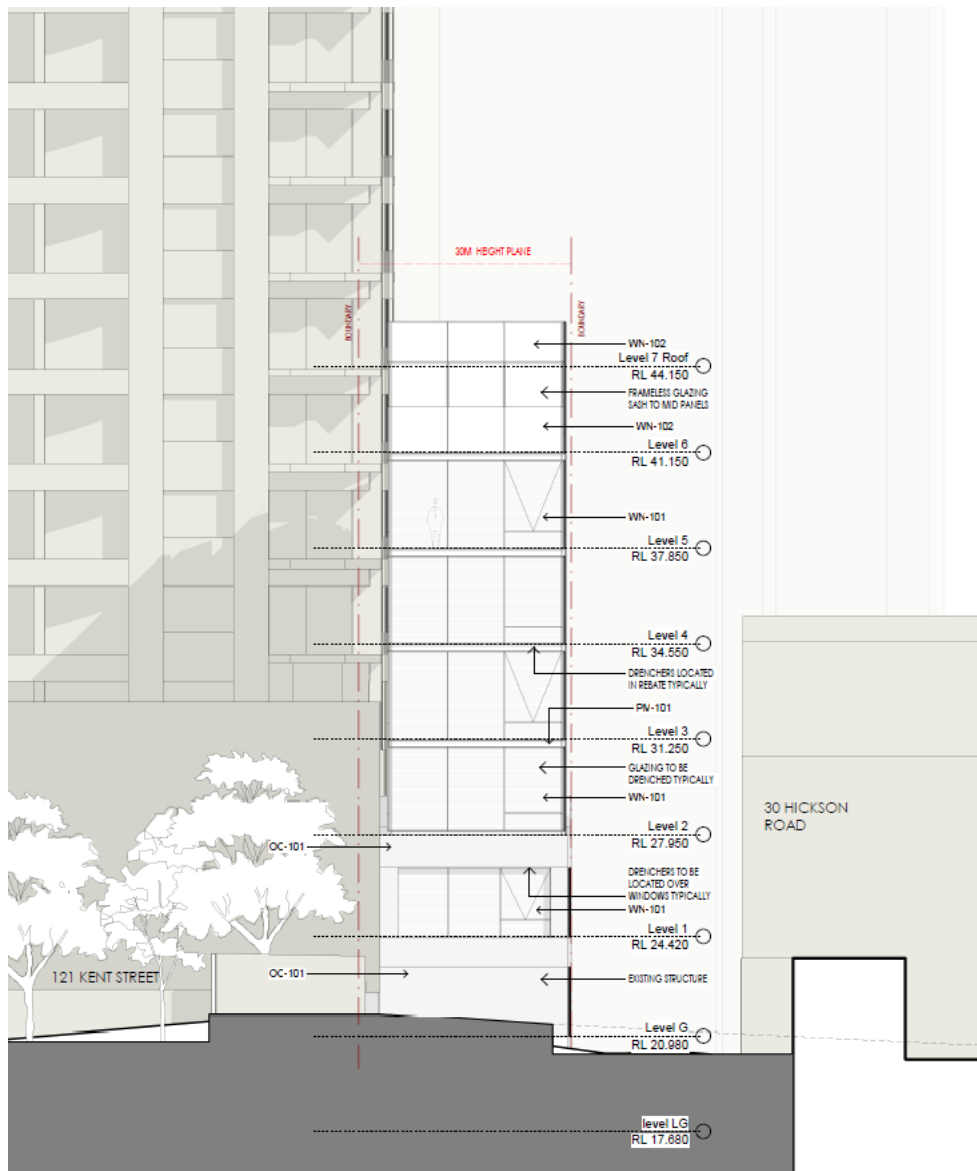


Figure 20: Proposed north elevation plan

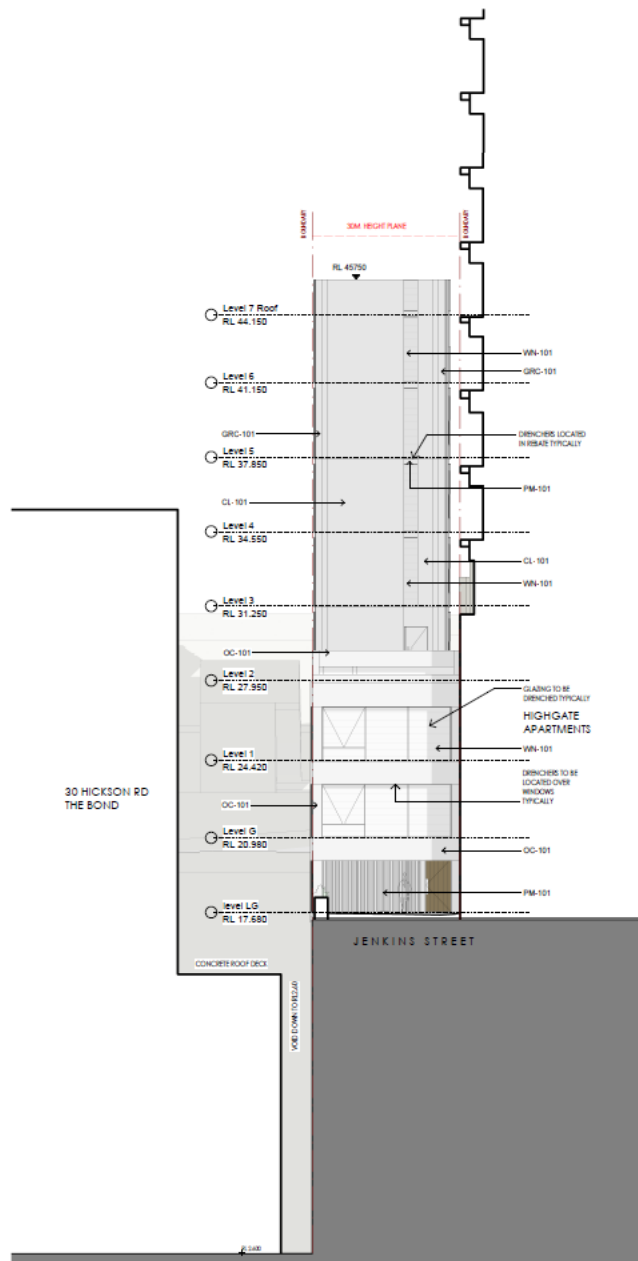


Figure 21: Proposed south elevation plan

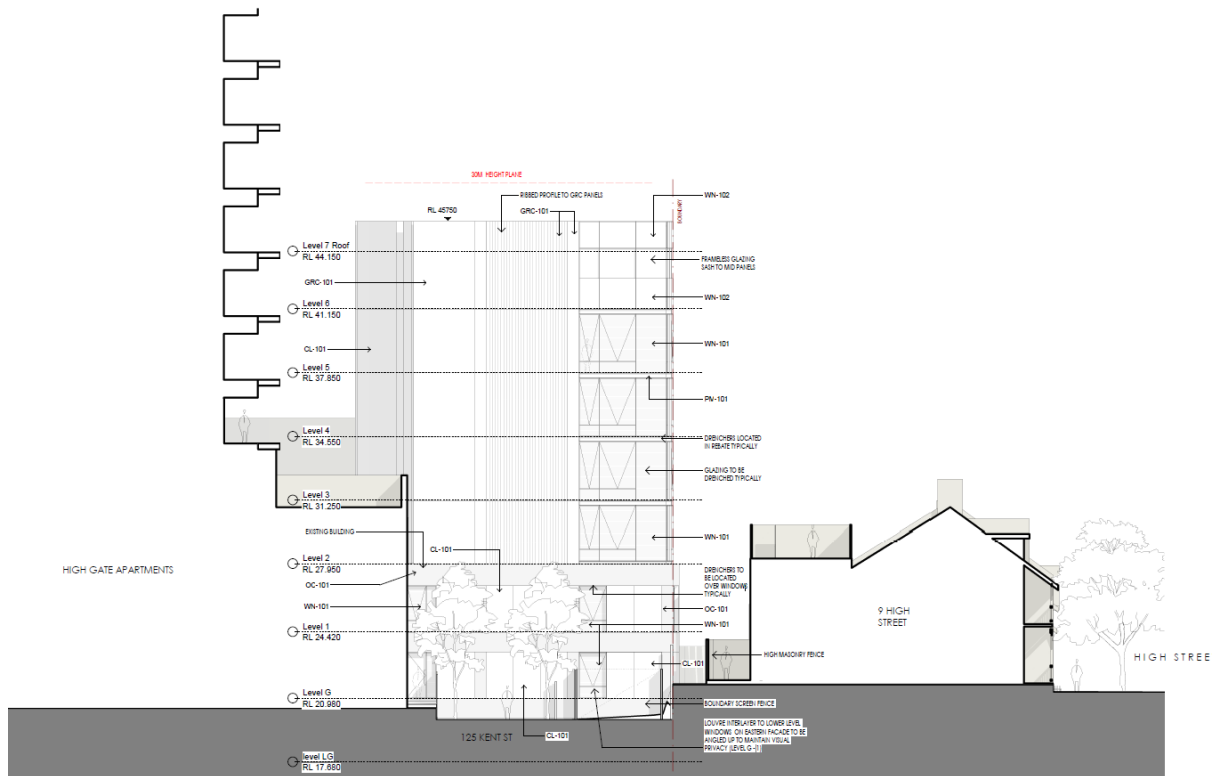


Figure 22: Proposed east elevation plan

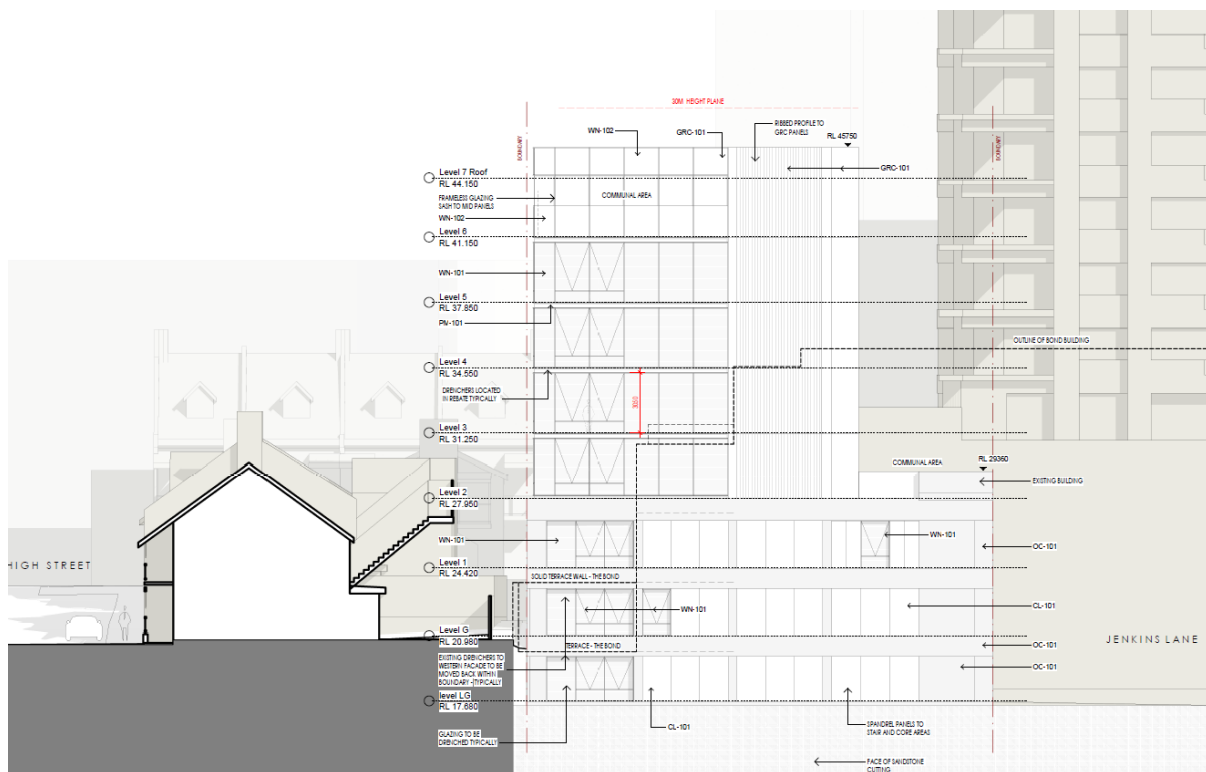


Figure 23: Proposed west elevation plan



Figure 24: Photomontage view north on Jenkins Street



Figure 25: Photomontage view south east from High Street



Figure 26: Photomontage view southwest from the corner of High Street and Kent Street

Assessment

17. 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 (Housing) 2021

18. 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.
19. Section 7.32 of the EP&A Act and 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.

Chapter 4 - Design of Residential Apartment Development

20. The aim of Chapter 4 is to improve the design quality of residential apartment development in New South Wales.
21. When determining an application for a residential flat development of 3 or more floors and containing 4 or more apartments, the SEPP requires the consent authority take into consideration a number of matters relating to design quality, including the design quality principles as set out in Schedule 9.
22. The applicant has submitted a design verification statement and design report prepared by Andrew Cortese (Architect REG No: 6652) with the application, addressing the design quality principles and the objectives of parts 3 and 4 of the Apartment Design Guide. The statement is deemed to satisfy Clause 29 of the Environmental Planning and Assessment Regulation 2021.
23. An assessment of the proposal against the design quality is provided as follows:
 - (a) Principle 1: Context and Neighbourhood Character
 - (b) Principle 2: Built Form and Scale
 - (c) Principle 3: Density
 - (d) Principle 4: Sustainability
 - (e) Principle 5: Landscape
 - (f) Principle 6: Amenity
 - (g) Principle 7: Safety
 - (h) Principle 8: Housing Diversity and Social Interaction
 - (i) Principle 9: Aesthetics
24. The development is unacceptable when assessed against the SEPP including the above stated principles and the associated Apartment Design Guide (ADG). These controls are generally replicated within the apartment design controls under the Sydney Development Control Plan 2012. A detailed assessment of the proposal against the ADG is provided below.

2E Building Depth	Consistency	Comment
12-18m (glass to glass)	Yes	The apartments provide acceptable levels of glass to glass depth.

2F Building Separation	Consistency	Comment
Up to four storeys (approximately 12m):	No	The development is 8 stories in height. The proposal does not provide the required building separation from

2F Building Separation	Consistency	Comment
• 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms 5 to 8 storeys (approximately 25 metres): • 18m between habitable rooms / balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms		adjoining residential developments to the north and east. Refer to 'Building Setbacks & Separation' subheading in the 'Discussion' section below for further assessment.
At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m.	No	The subject site is within the SP5 Metropolitan Zone and adjoins the R1 General residential zone to the immediate north and east. The proposal does not provide a 3m setback from the boundary with the lower density residential zone.

3D Communal and Public Open Space	Consistency	Comment
Communal open space has a minimum area equal to 25% of the site.	Yes	The proposal provides 75sqm (49%) communal open space which complies.
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Yes	The primary communal open space located on the rooftop receives a minimum of 2 hours of direct sunlight between 9am and 3pm on June 21.

3F Visual Privacy	Consistency	Comment
Up to 4 storeys (25 metres): 6m between habitable rooms / balconies 3 between non-habitable rooms 5 to 8 storeys (25 metres): 9m between habitable rooms / balconies 4.5m between non-habitable rooms	No	The development is 8 stories in height. The proposal does not provide the required separation from adjoining residential developments. Refer to 'Building Setbacks & Separation' subheading in the 'Discussion' section below for further assessment.
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	Yes	Bedrooms, living spaces and other habitable rooms are separated from the building's circulation spaces.

4A Solar and Daylight Access	Consistency	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	4 of 5 apartments (80%) receive at least 2 hours of direct sunlight to living room windows between 9am and 3pm at mid-winter.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	None of the apartments receive no direct solar access between 9am and 3pm at mid-winter.

4B Natural Ventilation	Consistency	Comment
All habitable rooms are naturally ventilated.	Partial	The architectural plans state that all habitable rooms are naturally ventilated. However, the BCA Report creates ambiguity in relation to the nature of these windows due to the lack of required setbacks. As such, it is unclear if the proposal complies with this control.

4B Natural Ventilation	Consistency	Comment
		Refer to 'Building Setbacks & Separation' subheading in the 'Discussion' section below.
Minimum 60% of apartments in the first 9 storeys of the building are naturally cross ventilated.	Partial	The architectural plans indicate that 67% of apartments are naturally cross ventilated. However, the BCA Report creates ambiguity in relation to the nature of these windows due to the lack of required setbacks. As such, it is unclear if the proposal complies with this control. Refer to 'Building Setbacks & Separation' subheading in the 'Discussion' section below.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Partial	Cross through apartment depths are less than 18m measured from glass line to glass line for all apartments except the level 1 2-bedroom apartment which measures 23m, from glass (north) to glass (south).

4C Ceiling Heights	Consistency	Comment
Habitable rooms: 2.7m	Yes	All apartments have a minimum floor to ceiling height of 3.3 metres.
Non-habitable rooms: 2.4m	Yes	All apartments have a minimum floor to ceiling height of 3.3 metres.
2-storey apartments: 2.7m for main living area floor, 2.4m for second floor, where it does not exceed 50% of the apartment area.	Yes	All apartments including the 2-storey apartments, have a minimum floor to ceiling height of 3.3 metres.
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	Yes	The ground floor provides a 3.440m floor to ceiling height.

4D Apartment Size and Layout	Consistency	Comment
Minimum unit sizes: • Studio: 35sqm • 1 bed: 50sqm • 2 bed: 70sqm • 3 bed: 90sqm The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12sqm each.	Yes	All apartments achieve the minimum required unit sizes as follows: • Ground Floor Studio: 40sqm • Ground Floor one-bedroom: 51sqm • Level 1 two-bedroom: 103sqm • Level 2/3 two-bedroom: 102sqm • Level 4/5 two-bedroom: 102sqm
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	All habitable rooms have a window within an external wall with an area of at least 10% of the room's floor area.
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	All habitable rooms have a depth less than 2.5m x the ceiling height of the apartment.
8m maximum depth for open plan layouts.	Yes	All open plan spaces have a maximum depth of 8m from a window.
Minimum area for bedrooms (excluding wardrobes): • master bedroom: 10sqm • all other bedrooms: 9sqm Minimum dimension of any bedroom is 3m (excluding wardrobes).	Yes	All bedrooms meet the minimum size requirements and are at least 3m in depth.

4D Apartment Size and Layout	Consistency	Comment
Living and living/dining rooms minimum widths: • Studio and one-bedroom: 3.6m • 2-bedroom or more: 4m	Yes	The studio, one-bedroom and two-bedroom apartments provide the minimum widths for living/dining rooms.
4m minimum width for cross over and cross through apartments.	Yes	All apartments provide a 4m minimum width for cross over/through.

4E Private Open Space and Balconies	Consistency	Comment
Studio apartments are to have a minimum balcony area of 4sqm with a minimum depth of 1m. One bed apartments are to have a minimum balcony area of 8sqm with a minimum depth of 2m. 2 bed apartments are to have a minimum balcony area of 10sqm with a minimum depth of 2m. 3 bed apartments are to have a minimum balcony area of 12sqm with a minimum depth of 2.4m.	No	The proposal does not provide any areas of private open space for the five apartments.
Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15sqm and a minimum depth of 3m.	No	

4F Common Circulation and Spaces	Consistency	Comment
The maximum number of apartments off a circulation core on a single level is 8.	Yes	The development has a maximum of two apartments on one level and therefore complies.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	Primary living room and bedroom windows do not open directly onto common circulation spaces for any of the apartments.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	All common circulation areas are naturally ventilated.

4G Storage	Consistency	Comment
Minimum storage provision facilities: • Studio: 4m³ • 1 bed: 6m³ • 2 bed: 8m³ • 3 bed: 10m³ (Minimum 50% storage area located within unit)	Yes	The following storage areas are provided within the units: • Ground Floor Studio: 2.63m³ • Ground Floor one-bedroom: 4.76m³ • Level 1 two-bedroom: 6.59 m³ • Level 2/3 two-bedroom: 6.15m³ • Level 4/5 two-bedroom: 6.15m³ Each unit has a 4.18 m³ storage space on lower ground. As such, the proposed storage complies with the control.

4J Noise and Pollution	Consistency	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	Glazing performance solutions are proposed to mitigate external noise sources to comply with the acoustic requirements of the BCA.

State Environmental Planning Policy (Sustainable Buildings) 2022

25. 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

26. A BASIX Certificate has been submitted with the development application 1823466M.
27. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal.

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

28. 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.
29. 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, with the exception of 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**

30. 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	No	The site is located in the SP5 Metropolitan Centre zone. The proposed development is defined as a Residential Flat Building (RFB) and is permissible with consent in the zone. However, the proposal is inconsistent with the following objective of the zone: To promote the efficient and orderly development of land in a compact urban centre. The proposal fetters development on adjoining sites and therefore does not promote the efficient and orderly development of land.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	A maximum building height of 30m is permitted. A height of 28m is proposed. The proposed development complies with the maximum height of buildings development standard.
4.4 Floor space ratio	Yes	A maximum floor space ratio of 7.5:1 or 1157sqm is permitted. A floor space ratio of 3.49:1 or 540sqm is proposed. The proposed development complies with the maximum floor space ratio development standard.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	No	The site is not a heritage item nor is it located within a Heritage Conservation Area. However, it is located in close proximity to a number of state and locally listed heritage items and adjoins the Millers Point conservation area.

Provision	Compliance	Comment
		The proposed development will have a detrimental impact on the heritage significance of surrounding items and Millers Point Heritage Conservation Area. See further details in the 'Discussion' section below.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 3 Height of buildings and overshadowing		
6.17 Sun access planes	Yes	The site is identified as land affected by a Sun access plane. Council's Model Unit have reviewed the proposal and advised that the maximum height complies with the sun access plane.
Division 4 Design excellence		
6.21 Design excellence	No	The proposed development uses high quality materials and detailing. It is also noted that the internal unit planning is generally well resolved. However, the development is not considered compatible with the surrounding context and does not have regard for the amenity of the surrounding area. The proposed development does not demonstrate design excellence. See further details under the 'Design Excellence' heading in the 'Discussion' section below.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.5 Residential flat buildings, dual occupancies and multi dwelling housing	Yes	The proposed development does not include any car parking spaces and therefore complies with the relevant development standards.

Provision	Compliance	Comment
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

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

Section 3 – General Provisions

Provision	Compliance	Comment
3.2. Defining the Public Domain	No	The development's primary building entrance is not located on a street frontage but rather set back from Kent Street via a 28m, varied level narrow easement. The primary building entry is concealed via a separate gate on Kent Street and does not maximise visibility from the public domain. The development's only street frontage to Jenkins Street is a secondary frontage which provides access to the lower ground floor. The Jenkins Street frontage is fortified with access primarily designed for waste collection and service vehicles. As such, the building is not considered to successfully activate the street frontage and address the public domain.
3.5 Urban Ecology	Partial compliance	The proposed development does not involve the removal of any trees. However, it is noted that the proposal does not meet the requirements of Section 3.5.2 in relation to providing 15% canopy cover, enhancing the urban environment and mitigating urban heat.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.

Provision	Compliance	Comment
3.7 Water and Flood Management	Yes	The site is not identified as being on flood prone land.
3.9 Heritage	No	The site is not a heritage item nor is it located within a Heritage Conservation Area. However, it is located in close proximity to a number of state and locally listed heritage items and adjoins the Millers Point conservation area. The proposed development will have a detrimental impact on the heritage significance of surrounding items and Millers Point Heritage Conservation Area. See further details in the 'Discussion' section below.
3.11 Transport and Parking	Partial compliance	The proposal includes five resident bicycle parking spaces on lower ground floor with access from Jenkins Street. However, the proposal fails to demonstrate how waste collection vehicles can access the waste room in a forward direction.
3.12 Accessible Design	Yes	The Access Report prepared by Accessible Building Solutions, submitted with the proposal confirms compliance with the access requirements of the BCA including D4D2 Requirements for Access for people with a disability.
3.13 Social and Environmental Responsibilities	Partial compliance	The development's only street frontage to Jenkins Street is a secondary frontage which provides access to the lower ground floor. The primary building entry via Kent Street is recessed and not clearly identifiable from the street. Due to the building's location, the development does not provide adequate passive surveillance and is unable to achieve the CPTED design principles.
3.14 Waste	Partial compliance	The proposal provides adequate general waste and recycling bins and a suitably sized storage area on the lower ground floor level. However, the proposed waste access and collection strategy is problematic

Provision	Compliance	Comment
		given the nominated waste collection point on Jenkins Street. Council's Waste Management Unit have reviewed the proposal and advised that given the change of use to residential development, the site must be able to be serviced by Council's Waste Trucks which will only service sites in a forward-forward direction. The proposal has not demonstrated that Council's standard 10.6m waste trucks would be capable of servicing the site without reversing.

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	4 of 5 apartments (80%) receive at least 2 hours of direct sunlight to living room windows between 9am and 3pm at mid-winter. The proposal maintains 2 hours of direct solar access to the neighbouring residential properties.
4.2.3.3 Internal common areas	Partial compliance	The lift lobbies have access to daylight and have been designed with adequate dimensions. The common corridor on Lower ground provides the required corridor width of 2m. However, the corridors on levels 2-6 have a width of 1.8m which is non-compliant.
4.2.3.5 Landscaping	Partial compliance	Landscaping is proposed on level 2 and the rooftop communal open space. Insufficient information has been provided to confirm the suitability of the proposed landscaping. However, it is noted that the proposal does not provide the required 15% canopy cover.

Provision	Compliance	Comment
4.2.3.7 Private open space and balconies	No	The proposal does not provide any private open space for the individual apartments. It is noted that up to 25% of dwellings may have juliet balconies only or a floor to ceiling window with a balustrade. However, this is also not provided.
4.2.3.8 Common open space	Yes	Refer to the assessment provided in relation to Part 3D of the Apartment Design Guide in the compliance table above.
4.2.3.9 Ventilation	Yes	5 out of 6 apartments (83.3%) are naturally cross-ventilated and most are dual aspect to promote natural airflow.
4.2.3.10 Outlook	Partial compliance	Short range outlook from the ground and level 1 apartments is poor. Similarly, the apartments above will have outlook directly into the neighbouring properties private open space and drying racks resulting in visual privacy impacts.
4.2.3.11 Acoustic privacy	No	The Acoustic Report submitted assesses the proposal against the acoustic criteria of the State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport SEPP). As the site is not located adjacent to a main road with traffic volumes greater than >20000 cars per day, these controls are not applicable. As the site is adjacent to Kent Street and Hickson Road, the proposal should be assessed against the noise criteria of the SDCP 2012. It is noted that the SDCP 2012 acoustic controls are stricter than the criteria of the Transport SEPP. It is also noted that the Acoustic Report incorrectly references North Sydney Council. Given the missing information, it is unclear whether the proposal is capable

Provision	Compliance	Comment
		of compliance with the City's Acoustic privacy controls.
4.2.6 Waste and recycling Management	Partial compliance	Refer to the assessment provided under Section 3.14 above.
4.2.7 Heating and cooling infrastructure	Yes	The proposal incorporates a pump room on the lower ground floor level of the building and therefore complies.
4.2.8 Letterboxes	Partial compliance	The letter boxes are proposed to be located within the easement for access behind the Kent Street access gate. It is noted that the relevant owner's consent has not been provided to enable these physical works.

Section 5 – Specific Areas

Provision	Compliance	Comment
5.1 Central Sydney		
5.1.1 Built Form Controls 5.1.1.1 Street frontage height and street setbacks	Yes	The proposal provides a compliant street wall frontage height of 10m which is setback more than 3m to Jenkins Street.
5.1.1.3 Side and rear setbacks and building form separations	Partial compliance	As the proposed building height is less than 55m, no side or rear setbacks are required under provision 5.1.1.3(2), however in accordance with provision 5.1.1.3(7), the facades containing windows are required to be set back from the side and rear site boundaries by a minimum of 2m to allow for maintenance of the facade unless an easement exists for maintenance over the adjoining land. The proposal does not provide the required 2m setback from the side and rear boundaries where windows are proposed and no easement for access and maintenance has been established.
5.1.2 Development outlook and demonstrating amenity compliance	Partial compliance	Section 5.1.2 requires all developments to provide adequate setbacks within their development sites so as to guarantee their own minimum outlook

Provision	Compliance	Comment
		and not unreasonably borrow amenity from neighbouring sites including access to views and sunlight. Provision (1) requires a minimum outlook depth of: • 6m (to primary windows to living spaces and associated balconies) at a height upto 12m; • 9m (to primary windows to living spaces and associated balconies) at a height from >12m up to 25m; and • 12m (to primary windows to living spaces and associated balconies) at a height from >25 upto 45m. The Design Report submitted with the proposal notes that most of the apartments will reach an outlook field of at least 90 degrees. However, due to the site constraints, the development proposes use of a closed cavity window system to manage outlook and maintain visual amenity of surrounding areas. It is unclear whether the required outlook field is provided.
5.1.3 Heritage items, warehouses and special character areas 5.1.3.2 Development adjacent to heritage items	No	As noted in the 'Heritage' discussion below, the proposal does not respect nor reinforce the historic scale, form and modulation to the adjacent heritage items. The development dominates the skyline above the heritage items, and therefore has a negative impact on the setting of these heritage items.
5.1.4 Building exteriors	Partial compliance	It is noted that the proposed building exteriors use high quality materials, however the development does not positively respond to the existing site context nor public domain for the reasons outlined elsewhere in this report.
5.1.8 Views from public places	Partial compliance	The Statement of Environmental Effects submitted with the proposal states that views from Observatory Hill to Sydney

Provision	Compliance	Comment
		Harbour will be maintained. However, there is no mention of the impacts of the proposal on views from Observatory Hill to Millers Point, adjoining areas and distant views to the east, west and north. It is noted that Provision 5.1.8 (4) states that new buildings in Millers Point should be limited and that no new building should exceed the established pattern of scale and form, nor should it have an adverse impact on any identified views or the setting of Observatory Hill and Millers Point. The proposal exceeds the established pattern of scale and form in the context of the site and may impact views from and/or the setting of Observatory Hill and Millers Point.

Discussion

Design Excellence

32. Whilst it is acknowledged that the development uses high quality materials and incorporates well-resolved internal unit planning, overall, the proposal is not considered to exhibit design excellence for the following reasons:
- Clause 6.21C (2)(b) 'whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain' - The development's primary building entry is concealed via a separate gate on Kent Street and does not maximise visibility from the public domain. The development's only street frontage to Jenkins Street is a secondary frontage which provides access to the lower ground floor. The Jenkins Street frontage is fortified with access primarily designed for waste collection and service vehicles. As such, the building is not considered to successfully activate the street frontage and address the public domain.
 - Clause 6.21C (2)(d) (i) 'how the proposed development addresses the suitability of the land for development' - As noted throughout this report, the site is land locked on three frontages and does not provide the required building separation or setbacks. The proposal lacks certainty in relation to the future amenity of both the subject property and surrounding residential uses and is therefore not considered a suitable development of the land.
 - Clause 6.21C (2)(d)(ii) 'how the proposed development addresses the existing and proposed uses and land mix' - The proposed residential land use is not considered compatible with the subject site due to the existing site constraints.

- Clause 6.21C (2)(d)(iii) 'how the proposed development addresses any heritage issues and streetscape constraints' - As noted in the 'Heritage' discussion below, the proposal is incompatible with the surrounding heritage context and results in a number of heritage issues.
 - Clause 6.21C (2)(d)(vii) 'how the proposed development addresses - As detailed in the ADG and SDCP 2012 assessment tables above and Discussion section below, the proposal will have unacceptable environmental impacts.
 - Clause 6.21C (2)(d)(viii) 'how the proposed development addresses environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity' - It is unclear whether the proposed glazing system will sufficiently mitigate against radiant heat gain. It is noted that the BCA report notes that performance solutions will be required at the CC stage to manage the reduced building setbacks. This may result in an unacceptable building design in relation to sustainable performance.
 - Clause 6.21C (2)(d)(ix) 'how the proposed development addresses pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network' - As noted under Section 3.14 above, the proposal does not demonstrate compliance with vehicular and service access and circulation requirements.
 - Clause 6.21C (2)(d)(x) 'how the proposed development addresses the impact on, and any proposed improvements to, the public domain & (xii) achieving appropriate interfaces at ground level between the building and the public domain' - As noted under Section 3.2 above, the building is not considered to successfully activate the street frontage and address the public domain.
33. For the reasons summarised above and detailed further throughout this report, the development is not considered to exhibit design excellence.

Building Setbacks & Separation

34. There are discrepancies between the Architectural Plans and BCA Report in relation to the operability of windows on the boundary and compliance with the Natural Cross Ventilation (NCV) requirements of the Apartment Design Guidelines (ADG). The Architectural Plans prepared by Cortese Associates, depicts a number of operable windows on the northern, eastern and western facades of the building. Operable windows on the northern facade appear to be on the boundary on ground floor and level 1. A minor 300mm setback is then introduced for levels 2 and above. The operable windows to the east are setback 1m from the boundary whilst the windows to the west are built on the boundary.
35. The BCA Report prepared by Steve Watson Partners identifies the lack of sufficient setbacks to the boundaries as a significant constraint of the project. Unlike the Architectural Plans, the report indicates that most windows are proposed to be fixed, with apartments relying on mechanical ventilation for air. The Report states that a Performance Solution will be required at the Construction Certificate (CC) Stage of the project to justify the reduced window setbacks, however this solution will likely require input from a planning lawyer and or the creation of light/air easements, and is therefore not considered an appropriate performance solution.

36. The applicant provided a letter of advice prepared by Mills Oakley dated 2 January 2026. The legal advice provided by the applicant concludes that there is “no principle of property law that prevents a building being erected with windows close to (but not extending across) a property boundary merely because there is no easement for ‘light and air’”. Whilst it is acknowledged that Council Officer’s cannot legally condition the establishment of an easement for light and air on an adjacent property, it is noted that impacts on the development potential of adjoining sites are a matter for consideration under Clause 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 (EPAA 1979) and in the absence of secured easements for light and air, or appropriate set backs, the proposal is considered to be effectively borrowing amenity from adjoining properties.
37. The letter of advice from Mills Oakley states that “there is no real chance or possibility that the heritage properties to the north and east will be re-developed (beyond their current envelopes). Similarly, there is no such chance or possibility that the ‘Bond’ office building will be re-developed to bring it (or a new building) closer to the boundary line”.
38. Council Officer’s do not agree with this assertion, noting that development of Heritage items is not unlikely, and that development would; if proposed on such a site be focused to the rear of the property to avoid impacts on the original heritage fabric of the item. It is also possible that the commercial building known as the ‘Bond’, be redeveloped closer to the property boundary with the subject site.

Heritage Issues & Impacts

39. It is noted that whilst the site is not identified as a heritage item or being within a conservation area, it is located in close proximity to the following items of heritage significance:

State Significance:

- North: 3, 5, 7 & 9 High Street, Millers Point – SHR#00918 ‘Terrace Duplexes’
- North-East: 115, 117, 119 & 121 Kent Street, Millers Point – SHR#00908 ‘Terrace’
- East: 123 & 125 Kent Street, Millers Point – SHR#00901 ‘Terrace’
- North: Millers Point Conservation Area – SHR#00884
- East: Millers Point & Dawes Point Village Precinct – SHR#01682

Local Significance:

- North: 3, 5, 7 & 9 High Street, Millers Point – I884 ‘Terrace duplex group including interiors’
- North-East: 115, 117, 119 & 121 Kent Street, Millers Point – ‘Terrace group (115–121 Kent Street) including interiors’
- East: 123 & 125 Kent Street, Millers Point – I924 ‘Terrace group including interiors’

- South: 5010 Jenkins Street, Millers Point – 1890 'Lane off Gas Lane including sandstone walls and wrought iron streetlight'
 - North & East – Millers Point Heritage Conservation Area #C35
40. In accordance with Clause 5.10(4) of the SLEP 2012, the consent authority is required to consider the effect of the proposed development on the heritage significance of the area concerned, noting objective (b) of Clause 5.10(1) which states "to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views".
41. Council's Heritage Specialist has reviewed the proposal and accompanying Heritage Impact Statement (HIS) prepared by Weir Phillips Heritage. It is noted that the existing concrete and brick three storey building on the site relates well to the scale of the adjoining heritage listed duplexes and terraces. The Bond Store commercial building located west of the site at 30-40 Hickson Road, also steps down in height to the north which respects the scale of the duplexes on High Street.
42. The proposed 5-storey addition will result in a dominant 8 storey building adjoining the rear yards of the terrace pair at 123 and 125 Kent Street and the duplexes at 3-9 High Street. The addition will also be particularly close to the drying decks and private open space of 7A and 9A High Street. Provision 3.9.5(1)(c) of the SDCP 2012 states that development affecting a heritage item is to enable the interpretation of each of the significant values of the item, through the treatment of the item's fabric, spaces and setting. The addition does not comply with this provision due to it being a contemporary building dominating the visual setting. This will have an adverse the heritage setting of these items.
43. The State Heritage Inventory Statement of Significance for the Millers Point & Dawes Point Village Precinct states:
- It's ability of the precinct to demonstrate in its physical forms, historical layering, documentary and archaeological records and social composition, the development of colonial and post-colonial settlement in Sydney and New South Wales. The natural rocky terrain, despite much alteration, remains the dominant physical element in this significant urban cultural landscape in which land and water, nature and culture are intimately connected historically, socially, visually and functionally.
44. The proposed development will alter the physical and visual landscape of the area and is therefore considered to have an adverse impact on the significance of the Millers Point HCA
45. Expanding on this, the proposal will also have an overbearing visual impact, particularly when viewed from these heritage items as well as from High Street. The proposed additions will result in an over scaled building, which will have an unacceptable impact on the setting and views to and from the surrounding heritage items and conservation area. This is contrary to provisions 3.9.5(1)(f) and 3.9.5(1)(4)(d) of the SDCP 2012 which requires development affecting a heritage item to not reduce or obscure the heritage significance of the item(s).

46. Provision 3.9.5(1)(h) of the SDCP 2012 requires development affecting a heritage item to be consistent with an appropriate Conservation Management Plan (CMP), policy or guidelines contained in the Heritage Inventory Assessment report for the item. A CMP for 123 Kent Street, Millers Point, one of the adjoining Heritage Items is of relevance to the proposal. Section 6.5.3 Setting, of the CMP for 123 Kent Street states the following in relation to site context and setting:

“Setting” means the immediate or extended environment of a place that is part of or contributes to its cultural significance and distinctive character.

Part of the significance of Millers Point arises from the remarkably intact late nineteenth and early twentieth century houses that form historically important streetscapes. The maintenance of the current scale and appearance of the terraces and houses in these streetscapes and broader settings requires consideration of the impacts of changes beyond individual property boundaries and ownerships. The setting of Millers Point houses is broad as well as intimate...

In summary, consideration of the impact of development on the setting of Millers Point buildings requires equal care and consideration as changes to the building itself. The sum of the parts is greater than the whole in this conservation area”.

47. The CMP goes on to state that “Development in the vicinity of 123 Kent Street and its pair 125 Kent Street should have regard to the heritage significance and setting of this pair of Victorian Georgian terraces”.
48. The proposal does not maintain the current distinctive character nor is it considered to positively contribute to the setting of the Millers Point HCA. As such, the proposal does not sufficiently consider the provisions of this CMP and does not comply with provision 3.9.5(1)(h) of the SDCP 2012.
49. The overall design of the building is not considered to respect nor complement the surrounding heritage items in terms of the proposed building envelope, proportions, materials and building and street alignment. As such, the proposal does not comply with provision 3.9.5(3) of the SDCP 2012.

Easements

50. The proposal indicates works within the existing easement for light, air and access which runs between 125 Kent Street and 127-153 Kent Street. This easement benefits the owners of 125A Kent Street. As such the construction of the proposed letterboxes, fire booster and platform lift within the easement will require owner’s consent from the relevant property owner which has not been provided.
51. It is also noted that the proposal has not indicated whether an agreement has been established with the affected adjoining property owners to enable maintenance of the facades in accordance with provision 5.1.1.3(7) of the SDCP 2012.

Privacy

52. The proposal utilises a closed cavity façade system and extensive glazing. There is insufficient information provided regarding the closed cavity system and whilst the subject site may be afforded privacy by the proposed privacy system, neighbouring properties will have no control of the extent of apparent overlooking and/or light spill at night and are likely to experience reduced privacy and amenity.

53. It is also noted that the proposal fails to provide the required building setbacks as per ADG guideline 3F. As such, the proposal fails to provide sufficient visual privacy measures to safeguard the amenity of existing surrounding development.

Structural Buildability

54. The structural report submitted with the proposal identifies that strengthening of the existing footings is likely to be required to accommodate the additional load generated by the proposed 5 stories above the current building. However, the footings are understood to be accessible only from within the subject site, and the proposal does not include demolition or removal of the existing slab to facilitate these works.
55. Accordingly, it is unclear how the necessary structural upgrades would be undertaken in practice. Further detailed investigation and information would be required to demonstrate the feasibility of the proposed works and to confirm that the required footing stability works can be achieved without unreasonable construction impacts, particularly on the surrounding heritage items.
56. It is noted that if excavation is required to strengthen the existing footings, in accordance with Provision 3.9.13(1) of the Sydney DCP 2012 both a Structural Engineering Report and Geotechnical Report would be required.

Consultation

Design Advisory Panel Residential Subcommittee

57. The proposal was presented to the Design Advisory Panel Residential Subcommittee on 3rd March 2026.
58. The Panel considered the site to be highly constrained and unsuitable for the proposed residential development, with the scheme relying heavily on borrowed amenity from neighbouring properties and resulting in unacceptable impacts on privacy, outlook, light and acoustic conditions. In particular, the Panel noted the following:
- Significant concern regarding overlooking and cross-viewing due to the extent and proximity of glazing, noting that even with the proposed louvre and/or curtains, adjoining terraces houses are likely to experience reduced privacy. It is also noted that neighbouring properties will have no control of the extent of apparent overlooking and/or light spill at night.
 - The development is considered out of character with the established urban pattern and does not sit comfortably within the heritage context, resulting in poor urban coherence.
 - The proposal fails to adequately resolve key planning and design issues, including setbacks, building separation, deep soil provision, private open space, waste management, servicing, and façade access.
 - Amenity within the development itself is also questionable, with concerns regarding natural ventilation, acoustic privacy, solar heat gain, and reliance on mechanical systems.

- The proposed glazing system will not adequately mitigate against radiant heat gain. Constrained window operation and use of double glazing will reduce the ability to purge heat during day or night. External shading to the east, north and west would be required to manage solar loads on the proposed extent of glazing.
 - Technical and design uncertainties remain, including fire egress, structural capacity, and inconsistencies in submitted documentation.
59. In summary, whilst the Panel acknowledged that the architectural expression and internal planning is of a high quality, the fundamental site constraints and resulting impacts are not capable of being resolved. As such, the Panel concurred with Council's previous advice to the applicant, being that the site is not suitable for residential development.

Internal Referrals

60. The application was discussed with Council's:
- (a) Building Services Unit;
 - (b) Environmental Health Unit;
 - (c) Heritage and Urban Design Unit;
 - (d) Public Domain Unit;
 - (e) Surveyors;
 - (f) Transport and Access Unit;
 - (g) Environmental Projects Unit;
 - (h) Tree Management Unit; and
 - (i) Waste Management Unit.
61. The above Unit's raised concerns with the proposed development which are discussed in the assessment tables and 'Discussion' section above.

Advertising and Notification

62. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 21 days between 5 February 2026 and 27 February 2026. A total of 274 properties were notified and 126 submissions were received.

63. The submissions raised the following issues:

(a) Issue: Overdevelopment & Scale

- The proposal adds multiple upper levels to a small, constrained site, producing a dominant, monolithic form that is out of character with surrounding low-rise terraces. The development results in excessive height and bulk which is not suitable for the site.
- The proposal provides little to no upper-level setbacks which reduces visual separation and increases perceived massing.
- The design prioritises apartment yield rather than a context-sensitive outcome.

Response: As noted in the 'Discussion' section above, the proposed built form results in unacceptable heritage and environmental impacts and is not supported.

(b) Issue: Heritage and Streetscape Impact

- The addition interrupts the consistent low-rise roofline and visually overwhelms the Millers Point Conservation Area. The development will visually dominate the surrounding heritage listed terraces.
- The Statement of Heritage Impact understates the proposal's incompatibility with adjacent heritage items and is inadequate.

Response: As noted in the heritage discussion above, the proposal results in unacceptable heritage outcomes and is not supported.

(c) Issue: Neighbouring Amenity (Privacy, Overshadowing & Noise)

- Adjacent terraces and lower-level apartments will have reduced sunlight as a result of the proposal.
- The development's excessive windows and communal open area with minimal separation distances will have substantial privacy impacts for surrounding residents.
- The proposal will result in negative acoustic impacts associated with the rooftop use, plant equipment and increased activity such as potential rooftop parties.

Response: As discussed throughout this report, the proposal does not safeguard amenity of the subject site or surrounding properties and is therefore recommended for refusal.

(d) Issue: Access, Traffic & Servicing

- The primary vehicular access point to the property is narrow and would only be accessible in a singular direction. Additional construction vehicles and waste collection will impede garage access for neighbouring properties and result in congestion.
- The proposal does not include any on-site parking which may result in illegal parking, blocked access and increased local congestion.

Response: In accordance with Clause 7.5 of the Sydney LEP 2012, the proposal is not required to provide any on-site car parking. However, it is noted that the proposal fails to demonstrate adequate waste servicing of the site. For this reason and others outlined throughout this report, the proposal is recommended for refusal.

(e) Issue: Planning compliance and design quality

- The application does not comply with all relevant planning controls under the Sydney LEP 2012, Sydney DCP 2012 and the NSW Apartment Design Guidelines including but not limited to internal corridor space, private open space, landscaping, setbacks and building separation.
- The proposed glazed, monolithic façade is inappropriate for the heritage streetscape and likely to cause glare and wind effects.

Response: As discussed in the ADG and DCP assessment tables above, the proposal does not comply with all relevant planning controls. For this reason and others outlined throughout this report, the proposal is recommended for refusal.

(f) Issue: Technical, easement and safety issues

- It is unclear whether existing easements legitimately support the proposed servicing, access and increased use.
- Construction and safety risks have not been addressed in the proposal which is concerning given the close proximity to neighbouring properties.
- Condensers and plant equipment is sited too close to neighbouring balconies and windows. This may result in excessive heat, noise and vibration impacts.

Response: The subject site is highly constrained resulting in a number of technical issues which have not been addressed nor resolved. For this reason and others outlined throughout this report, the proposal is recommended for refusal.

Financial Contributions

Levy under Section 7.12 of the Environmental Planning and Assessment Regulation 2000

64. If approval were to be recommended, the development would be subject to a contribution under the Central Sydney Development Contributions Plan 2020 as the cost of development is over \$250,000.

Contribution under Section 7.11 of the EP&A Act 1979

65. If approval were to be recommended, the development would not be subject to a contribution under the City of Sydney Development Contributions Plan 2015 as the Plan does not apply to the site.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

66. If approval were to be granted, the development would be subject to a contribution as it is located on land within Central Sydney and involves the creation of more than 100 square metres of GFA and a change of use of existing commercial floor area to residential accommodation.

Housing and Productivity Contribution

67. If approval were to be granted, the development would be subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.
68. The site is located with the Greater Sydney region, the development is a type of residential development to which the Housing and Productivity Contribution applies, and the development is not of a type that is exempt from paying a contribution.

Relevant Legislation

69. Environmental Planning and Assessment Act 1979.

Conclusion

70. The application seeks consent for the adaptive reuse of the existing 3 storey building including the retention of the existing 3 stories and construction of 5 storey addition above to the northern extent of the site to be used as a residential flat building (RFB) accommodating five apartments, communal open space on levels 2 and the rooftop and 6 bike parking spaces.
71. The application has been referred to the Local Planning Panel for determination as it is considered both sensitive development (State Environmental Planning Policy (Housing) 2021, Chapter 4 (Design of residential apartment) applies and is 4 or more storeys in height) and contentious development receiving over 25 unique public submissions.
72. The proposal fails to comply with all relevant objectives of the SP5 Metropolitan Centre zone as it constrains adjoining development and undermines orderly development.

73. The development does not appropriately respond to adjoining heritage items and is inconsistent with Clause 5.10 of the Sydney Local Environmental Plan 2012 and applicable Sydney Development Control Plan 2012 provisions.
74. The proposal provides inadequate residential amenity and is inconsistent with the Housing SEPP design principles, and relevant design criteria of the Apartment Design Guidelines and Sydney Development Control Plan 2012.
75. The development fails to achieve Design Excellence under Clause 6.21C due to poor public domain contribution, inadequate heritage and environmental response.
76. Insufficient information has been provided to properly assess impacts, including structural, landscaping, waste, acoustic, external works, and contextual impacts, resulting in non-compliance with both the Apartment Design Guidelines and Sydney Development Control Plan 2012.
77. For the above reasons, the proposal is not considered to be in the public interest and the application is recommended for refusal.

ANDREW THOMAS

Executive Manager Planning and Development

Elizabeth Jones, Specialist Planner