# Item 3.

## Development Application: 17 Randle Street, Surry Hills - D/2026/409

**File Number: D/2026/409**

## Summary

| | |
|---|---|
| **Date of submission:** | 4 May 2026, amended 12 June 2026 |
| **Applicant:** | The Trustee for the Cirillo Planning Trust |
| **Architect:** | SJB Architects |
| **Developer:** | Mr David Brown |
| **Owner:** | Mr David Brown |
| **Planning consultant:** | Planning Lab |
| **Heritage consultant:** | Urbis |
| **Cost of works:** | $2,857,214.80 |
| **Zoning:** | MU1 Mixed Use zone<br><br>The proposed development is for a dwelling within a mixed-use development, both of which are permissible with consent in the MU1 Mixed Use zone under the Sydney Local Environmental Plan 2012. |
| **Proposal summary:** | The application seeks development consent for:<br><br>• demolition of the internal fit out of level 5, the roof and roof plant above<br><br>• alterations and additions and change of use to level 5 and the addition of a new storey with an outdoor terrace and landscaping works above at level 6 to create a new 2-storey dwelling<br><br>• replacement of existing windows at level 5 with new acoustically treated windows<br><br>• construction of a new architectural roof feature |

- construction of a plant enclosure, concrete wall and acoustic screen along the northern boundary at level 6.

The application is referred to the Local Planning Panel for determination as the proposed development includes a departure from the maximum height of buildings development standard by more than 10%.

The proposed additions have a height of 29.92 metres, representing a variation of 2.92 metres, or 10.8%, from the 27m development standard.

The proposed development also includes a departure from the maximum floor space ratio (FSR) development standard. The proposed FSR of the new residential addition and existing mixed-use development is 6.54:1, with a total of 2,073 square metres of gross floor area (GFA), representing a variation of 173 square metres of GFA, or 9.1%, from the 6:1 standard.

The applicant has submitted variations to these standards pursuant to Clause 4.6 of the Sydney Local Environmental Plan 2012.

The variations are supported in the circumstances of the application.

The requirements under Clause 6.21D and Clause 7.20 of the Sydney Local Environmental Plan 2012 requiring a competitive design process and site specific development control plan are recommended to be waived on the basis that they are unreasonable or unnecessary in the circumstances of the proposal.

The application was placed on public exhibition for a period between 5 May 2026 and 20 May 2026 in accordance with the City of Sydney Community Engagement Strategy and Community Participation Plan 2025-2029. A total of 141 properties were notified, and no submissions were received by Council.

An assessment of the application by Council staff identified concerns relating to the lack of three dimensional electronic and physical models, intermingling of residential and commercial uses, balustrade and glazed curtain wall design, noise and ventilation, materials and finishes, landscaping treatment, waste storage facilities, and services relocation.

These issues have been largely addressed through the submission of models, amended drawings and additional information.

Subject to the recommended conditions, the amended proposal presents an improved outcome to the existing condition of the site, will achieve a high standard of architectural design and comprises an acceptable response to the conditions of the site and locality.

The amended proposal is generally satisfactory regarding the objectives of the relevant planning controls, and results in a form and scale that achieves the desired future character of the area.

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

**Development controls:**

(i) Sydney Local Environmental Plan 2012 (Sydney LEP 2012)

(ii) Sydney Development Control Plan 2012 (Sydney DCP 2012)

(iii) State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP)

(iv) State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)

(v) State Environmental Planning Policy (Transport and Infrastructure 2021 (Transport and Infrastructure SEPP)

(vi) City of Sydney Landscape Code Volume 1: Single Dwellings

(vii) City of Sydney Interim Floodplain Management Policy

(viii) City of Sydney Guidelines for Waste Management in New Developments

(ix) Central Sydney Development Contributions Plan 2020

(x) City of Sydney Affordable Housing Program

(xi) City of Sydney Community Engagement Strategy and Community Participation Plan 2025-2029

**Attachments:**

A. Recommended conditions of consent

B. Selected drawings

C. Clause 4.6 variation - Height of buildings

D. Clause 4.6 variation - Floor space ratio

## Recommendation

It is resolved that:

(A) the variation requested to Clause 4.3 'Height of buildings' in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld

(B) the variation requested to Clause 4.4 'Floor space ratio' in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld

(C) the requirement under Clause 6.21D 'Competitive design process' of the Sydney Local Environmental Plan 2012 for a competitive design process is unreasonable or unnecessary in the circumstances

(D) the requirement under Clause 7.20 'Development requiring or authorising preparation of a development control plan' of the Sydney Local Environmental Plan 2012 for the preparation of a site specific development control plan or concept development consent is unreasonable or unnecessary in the circumstances

(E) consent be granted to Development Application Number D/2026/409 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 proposal satisfies the objectives of the Environmental Planning and Assessment Act, 1979, in that, subject to the imposition of conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Local Planning Panel.

(B) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:

  (i) the applicant has demonstrated that compliance with the 'Height of buildings' development standard in Clause 4.3 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 Local Environmental Plan 2012 and

  (ii) the proposal is in the public interest because it is consistent with the objectives of the MU1 Mixed Use zone and the 'Height of buildings' development standard.

(C) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:

  (i) the applicant has demonstrated that compliance with the 'Floor space ratio' development standard in Clause 4.4 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 Local Environmental Plan 2012 and

(ii) the proposal is in the public interest because it is consistent with the objectives of the MU1 Mixed Use zone and the Floor space ratio' development standard.

(D) The proposal otherwise generally satisfies the relevant objectives and provisions of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012.

(E) The proposal is consistent with the objectives of the MU1 Mixed Use zone.

(F) The proposal will conserve the heritage significance of nearby heritage items within the vicinity of the site, in accordance with Clause 5.10 of the Sydney Local Environmental Plan 2012.

(G) The articulation, materiality and architectural contribution of the proposal combine to exhibit design excellence in accordance with the relevant provisions and matters for consideration in Clause 6.21C of the Sydney Local Environmental Plan 2012.

(H) The proposed development will have a height, scale and form suitable for the site and its context, and subject to conditions, satisfactorily addresses the heights and setbacks of neighbouring developments, is appropriate in the streetscape context and setting of the broader locality.

(I) The proposed development will result in a mixture of compatible land uses which will support the vitality of the area and will not result in any significantly adverse environmental or amenity impacts on either the subject or surrounding properties, the public domain or the broader Surry Hills locality, subject to the recommended conditions.

(J) Subject to the recommended conditions of consent, the proposed development achieves an acceptable level of amenity for the existing and future occupants of the subject and adjoining sites.

(K) The public interest is served by the approval of the proposal, as amendments to the proposed development have generally addressed the matters raised by Council staff, subject to recommended conditions imposed relating to the appropriate management of the potential environmental impacts associated with the development.

## Background

### 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):

    - Departure from Development Standards

2. The development application falls within the category of Departure from Development Standard as the proposal is for purposes other than a "dwelling house", "dual occupancy" or "attached dwelling", and contravenes the maximum 'Height of buildings' development standard applicable to the site under Clause 4.3 of the Sydney LEP 2012, by more than 10%.

### Site and surrounding development

3. The site has a legal description of Lot 10 in Deposited Plan 1063353, Lots 1-2 in Strata Plan 71953, and Lots 4-12 in Strata Plan 75275, and is commonly known as 17 Randle Street, Surry Hills. It is irregular in shape, with an area of approximately 316.6 square metres. It has street frontages to Randle Street and Chalmers Street. The site is located at the intersection of Randle Street and Chalmers Street. Levels on the site fall from east to west across the site by 3.48 metres from its Randle Street frontage to its Chalmers Street frontage.

4. The site contains a 7-storey commercial building, which has a ground floor take away food and drink premises trading as 'Domino's Pizza' fronting Chalmers Street, and office premises on each of the levels above. The main building entrance, lift access and fire stairs are located on the Randle Street frontage. There is no car parking or loading and servicing areas provided on-site.

5. The surrounding area is characterised by a mixture of land uses, primarily being commercial premises and residential accommodation.

6. Directly adjoining the site to the north is a part 8, part 9-storey mixed use development at 38 Chalmers Street, Surry Hills, comprising ground floor retail premises and residential apartments above. Farther to the north at 30 Chalmers Street is a 9-storey mixed use development at 30 Chalmers Street, Surry Hills, which has ground floor retail premises and residential apartments above.

7. To the north-east of the site on the opposite side of Randle Lane, is a construction site at 7-15 Randle Street, Surry Hills. To the east of the site on the opposite side of Randle Street is a part 6, part 7-storey commercial building known as 'Newspoll House', containing office premises at 407-419 Elizabeth Street, Surry Hills. To the south of the site on the opposite side of Randle Street is a 3-storey pub known as the Madison hotel at 52-54 Devonshire Street, Surry Hills.

8. Directly to the west of the site along Chalmers Street is the CBD and South East Light Rail line, with Central Station located on the opposite side of Chalmers Street.

9. The site is not identified as a heritage item or as being located within a heritage conservation area.

10. The site is identified in the State Heritage Register and the Sydney LEP 2012 as being located within the Railway Square/Central Station Special Character Area and within the vicinity of several State and local heritage items, including the:

    (a) ‘Central Railway Station group, including buildings, station yard, viaducts and building interiors’ at 1 Eddy Avenue, Haymarket (SHR 01255 and LEP I824)

    (b) 'Former “Metro Goldwyn Mayer” including interior' at 20-28 Chalmers Street, Surry Hills (LEP I1470)

    (c) ‘Royal Exhibition Hotel including interior' at 86-92 Chalmers Street, Surry Hills (LEP I1471)

    (d) ‘Former “Railways Institute” building including fence and interior’ at 101 Chalmers Street, Surry Hills (SHR 01257 and LEP I1472)

    (e) 'Former RC Henderson Ltd factory including interiors' at 11-13 Randle Street, Surry Hills (LEP I2270)

11. Due to a mapping peculiarity, although the site is not identified on the Locality and Site Identification Map in the Sydney LEP 2012 as being located within Central Sydney, it is identified in Figure 2.1 of the Sydney DCP 2012 as being located within Central Sydney, and in Section 2.1.11 of the Sydney DCP 2012 as being located withing the Railway Square and Central Station locality.

12. The site is not identified as being subject to flooding.

13. A site visit was carried out on 19 May 2026.

14. Photographs of the subject site and its surroundings are reproduced in the figures provided below.

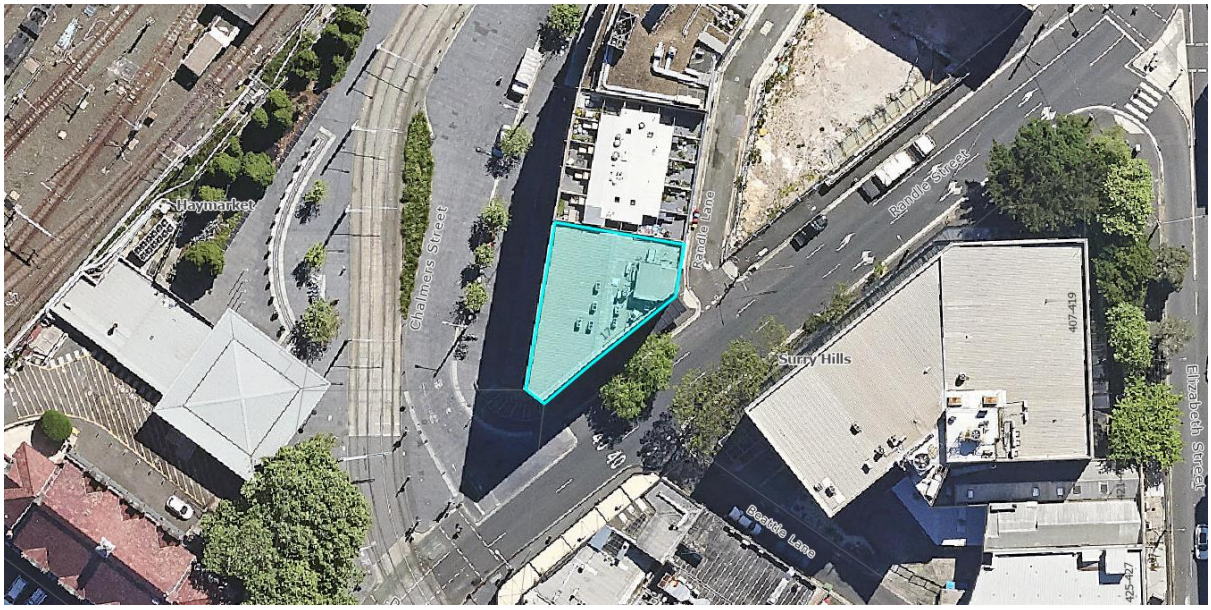


**Figure 1:** Aerial view of the subject site (shown shaded in blue) and its surroundings

**Figure 2**: The subject site viewed from the south-eastern side of Randle Street, facing west

**Figure 3:** The subject site viewed from the southern side of Devonshire Street, facing north

**Figure 4:** The subject site viewed from the western side of Chalmers Street, facing east

## History relevant to the development application

Relevant **applications**

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

    (a) DU*/*2003/76 – Development consent was granted on 10 June 2003 for the refurbishment of the existing building including a rooftop addition and the staged strata subdivision of the building into 11 commercial lots.

        The consent was activated in 2004 and the works subject to a staged construction certificate issued on 14 January 2004.

(b) DU/2003/76/A – A modification application was approved on 12 September 2003 for amendment of the development description to refer to the staged strata subdivision of the building.

(c) DU/2003/76/B – A modification application was approved on 10 November 2003 for amendment of conditions to refer to the approved staged strata subdivision plans and strata development contract.

(d) DU/2003/76/C – A modification application was withdrawn on 24 February 2004 for an extension of the consent lapsing date.

(e) DU/2003/76/D – A modification application was approved on 3 March 2017 for amended stair access and associated building envelope extension, truncation of the southern corner of the addition, reconfiguration of the northern and eastern windows/walls, modified toilet location, deletion of internal partitioning.

(f) DU/2003/76/E – A modification application was approved on 16 August 2023 for amendments to the level 5 and level 6 layout, including addition of internal staircase, level 6 glazing, facade and height changes and new access arrangements to the level 6 terrace.

(g) PDA/2025/256 – A pre-lodgement meeting was held on 3 December 2025 between the applicant, architect, owner and Council staff in relation to a proposal for alterations and additions to change the use to a new 2-storey dwelling at level 5 and 6 of the existing building.

16. Although the building has been strata subdivided in accordance with DU/2003/76, the approved single storey rooftop commercial addition has not been constructed.

17. A condition requiring the surrender of development consent DU/2003/76 (as amended) prior to the issue of any construction certificate is recommended in Attachment A, to ensure the orderly development of the subject land.

**Compliance action**

18. The site is not subject to any current compliance investigation or action.

**Amendments**

19. Following receipt of the application, a request was sent to the applicant for three dimensional electronic and physical models on 5 May 2026.

20. These models were received on 18 and 19 June 2026 respectively.

21. Following the completion of a preliminary assessment of the proposed development by Council staff, a request for additional information and amendments was sent to the applicant on 22 May 2026. This request was for the following:

(a) detail on safety and security measures related to the intermingling of residential and commercial tenants

(b) detail on balustrade design, materiality and finish

(c) glazing specifications

(d) copper roof details, including soffit materiality

(e) additional landscape details, including soil volume, structural certification, maintenance information and a stormwater plan

(f) an updated acoustic report, including acoustic privacy screen details

(g) additional waste storage facilities

(h) a services report

22. The applicant responded to the request 12 June 2026, and submitted the following information:

(a) amended architectural drawings addressing the issues raised above

(b) an amended landscape drawing

(c) an updated acoustic report

(d) an updated waste management plan

(e) a stormwater drainage plan

(f) a services report

(g) a structural engineering report

## Proposed development

23. The application seeks consent for the following:

(a) demolition of the internal fit out of level 5, the roof and roof plant above

(b) alterations and additions and change of use to level 5 and the addition of a new storey with an outdoor terrace and landscaping works above at level 6 to create a new 2-storey dwelling

(c) replacement of existing windows at level 5 with new acoustically treated windows

(d) construction of a new architectural roof feature

(e) construction of a plant enclosure, concrete wall and acoustic screen along the northern boundary at level 6

24. Selected plan, elevation, section, material, axonometric and photomontage drawing extracts of the proposed development are reproduced in the figures provided below.

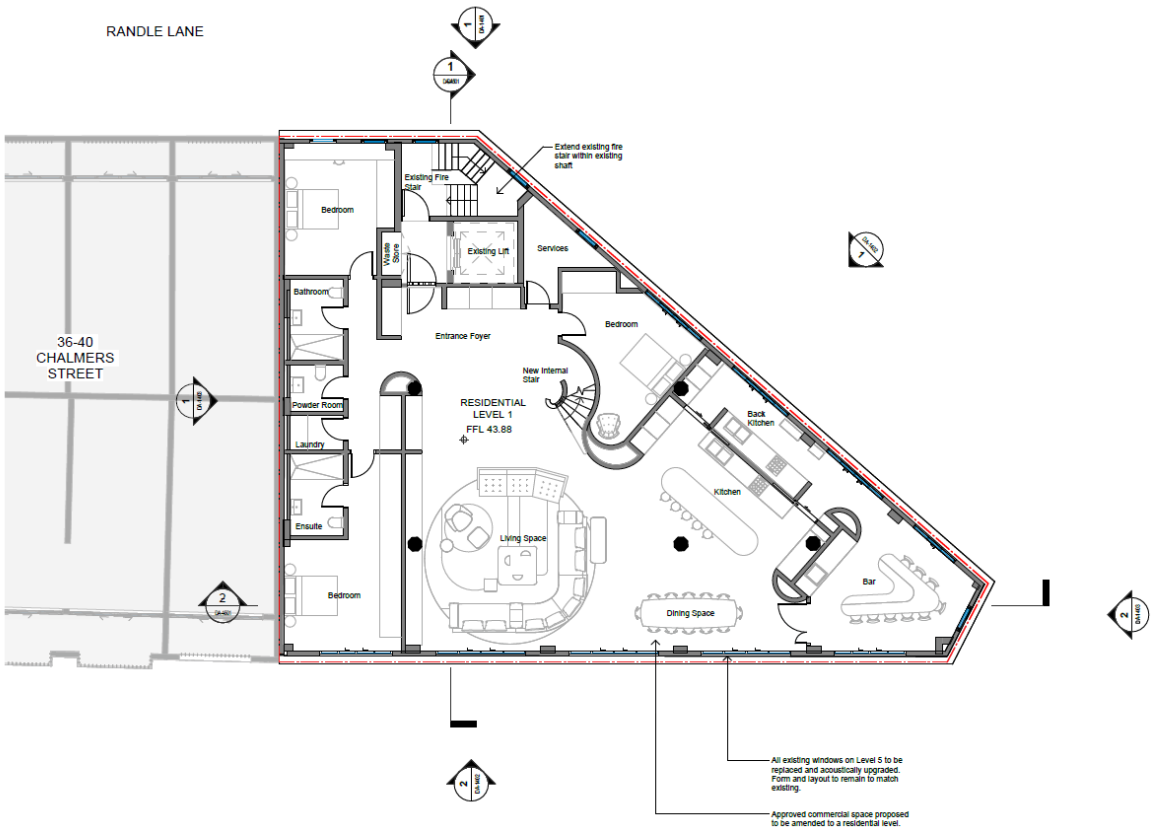


**Figure 5:** Proposed level 5 floor plan

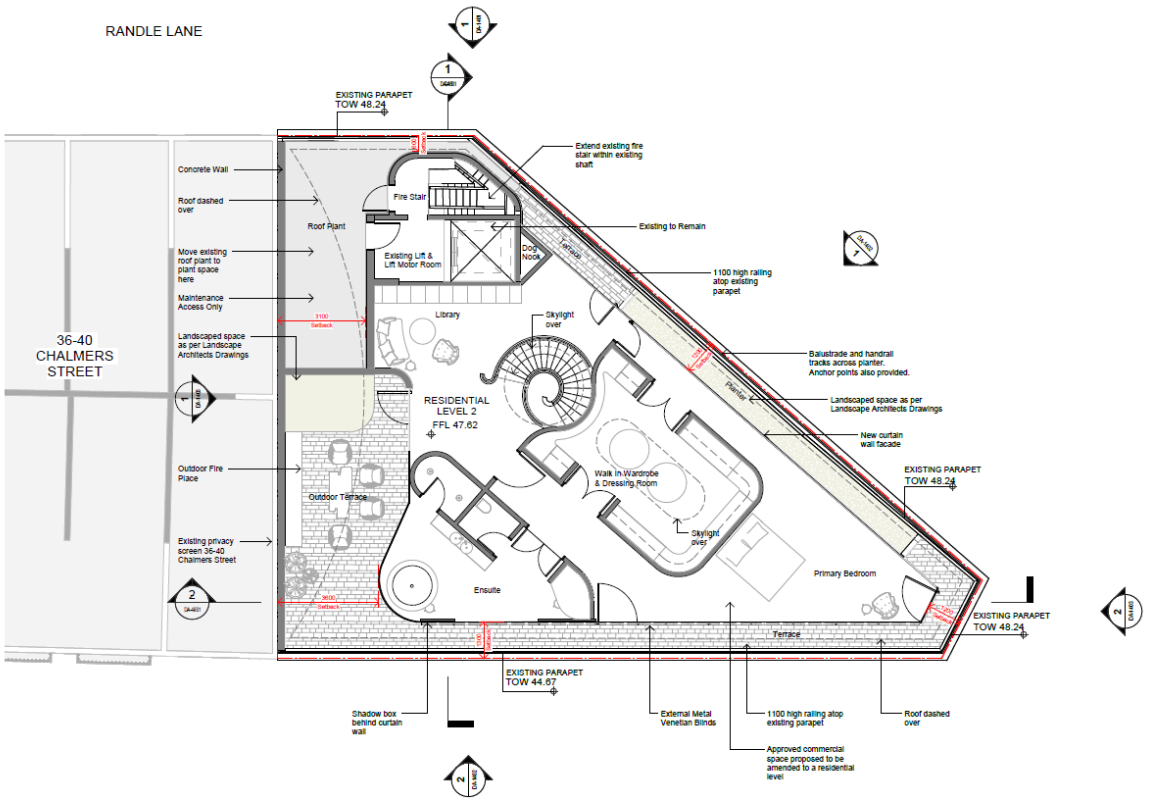


**Figure 6**: Proposed level 6 floor plan

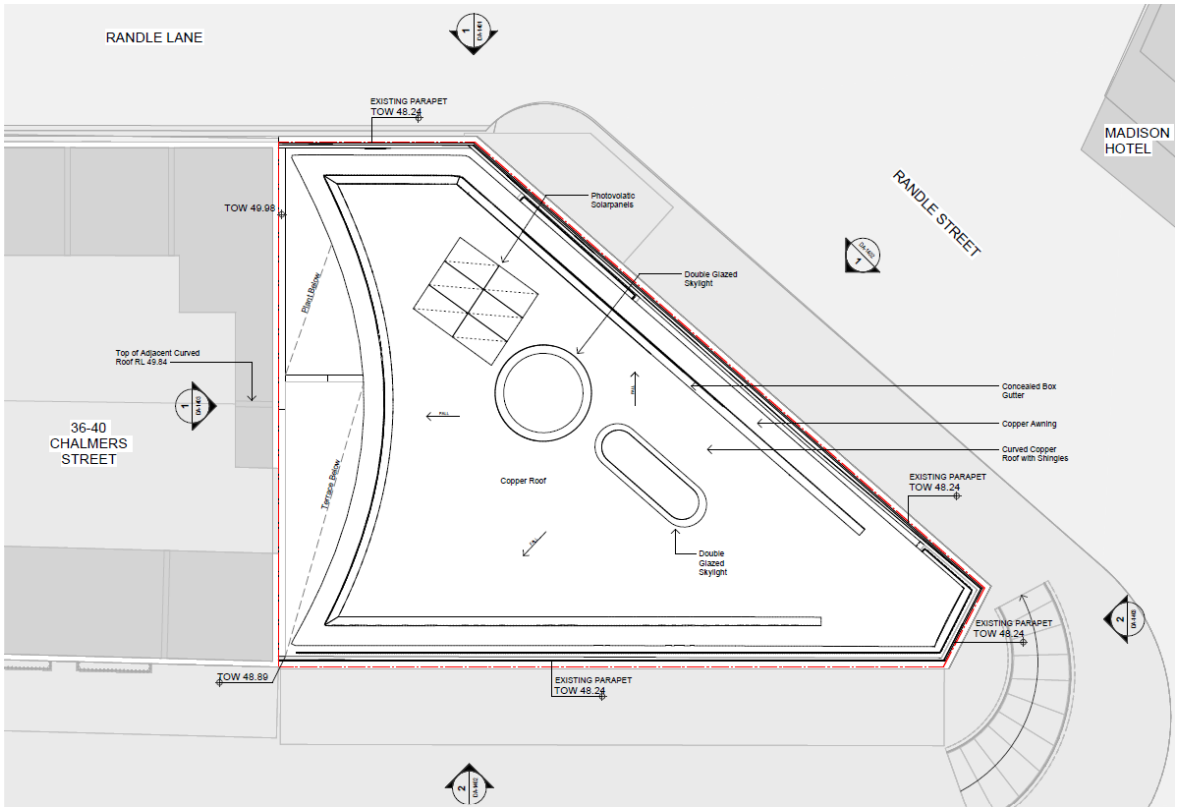


**Figure 7**: Proposed roof plan

**Figure 8:** Proposed east elevation

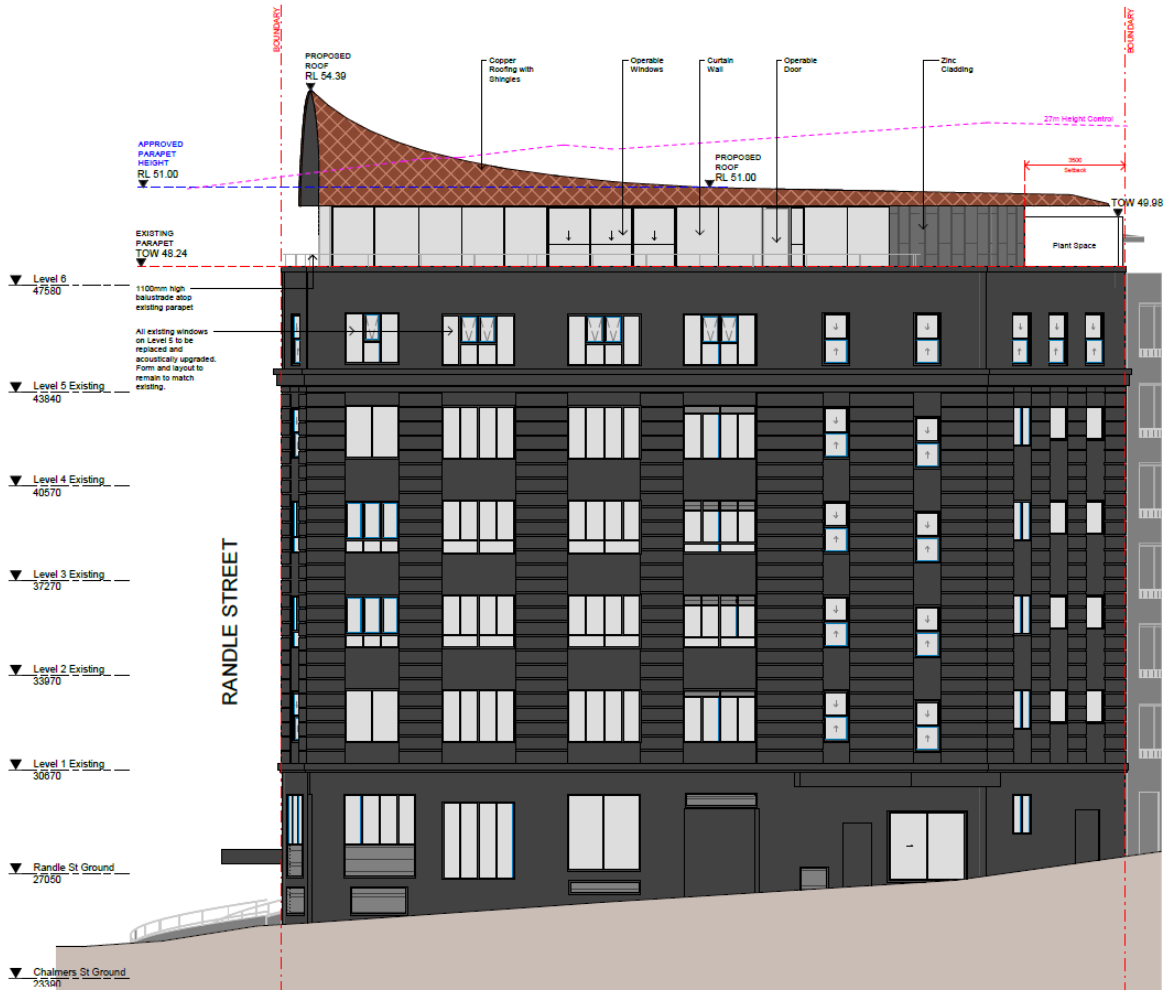


**Figure 9:** Proposed south-east elevation

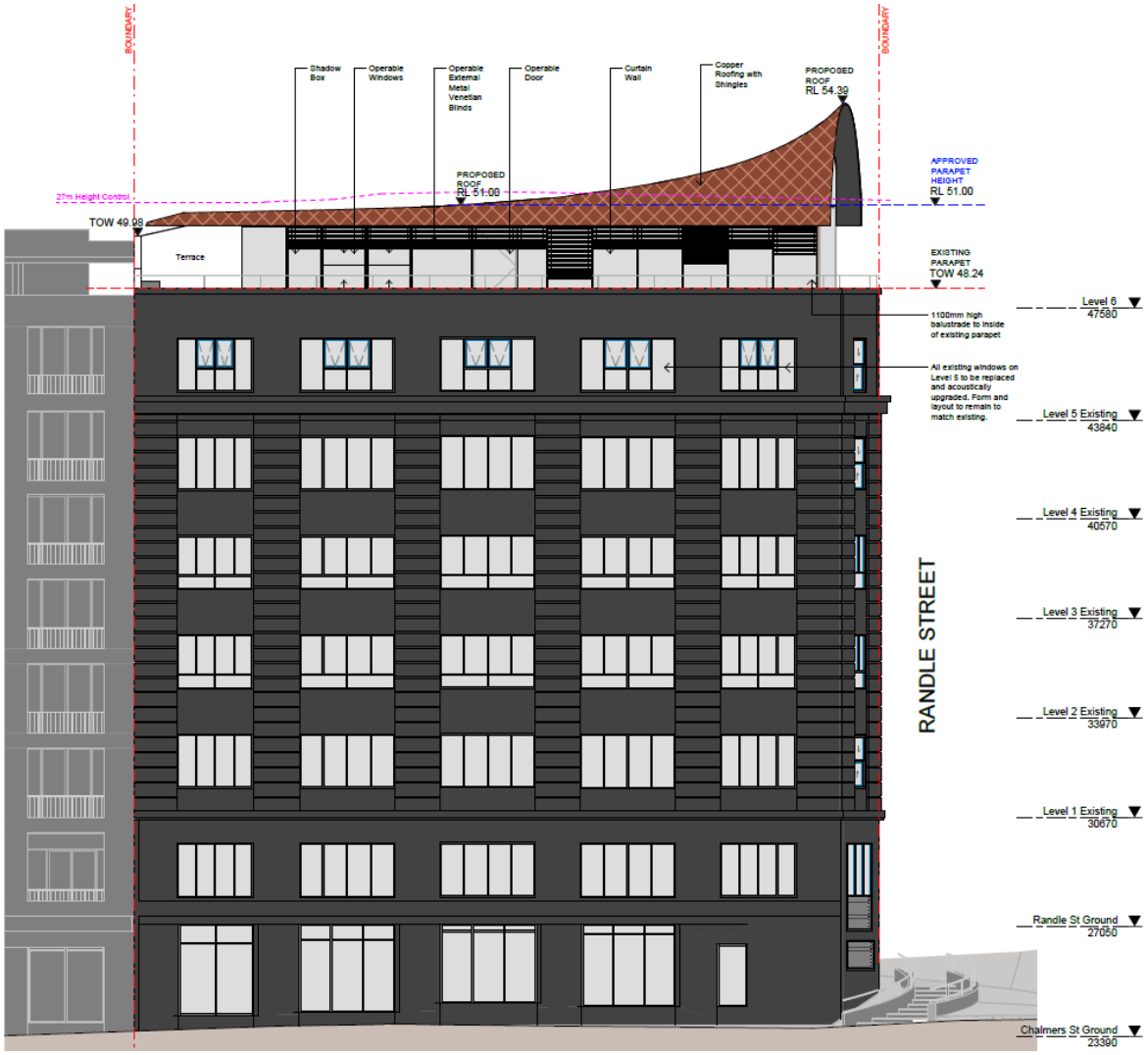


**Figure 10**: Proposed west elevation

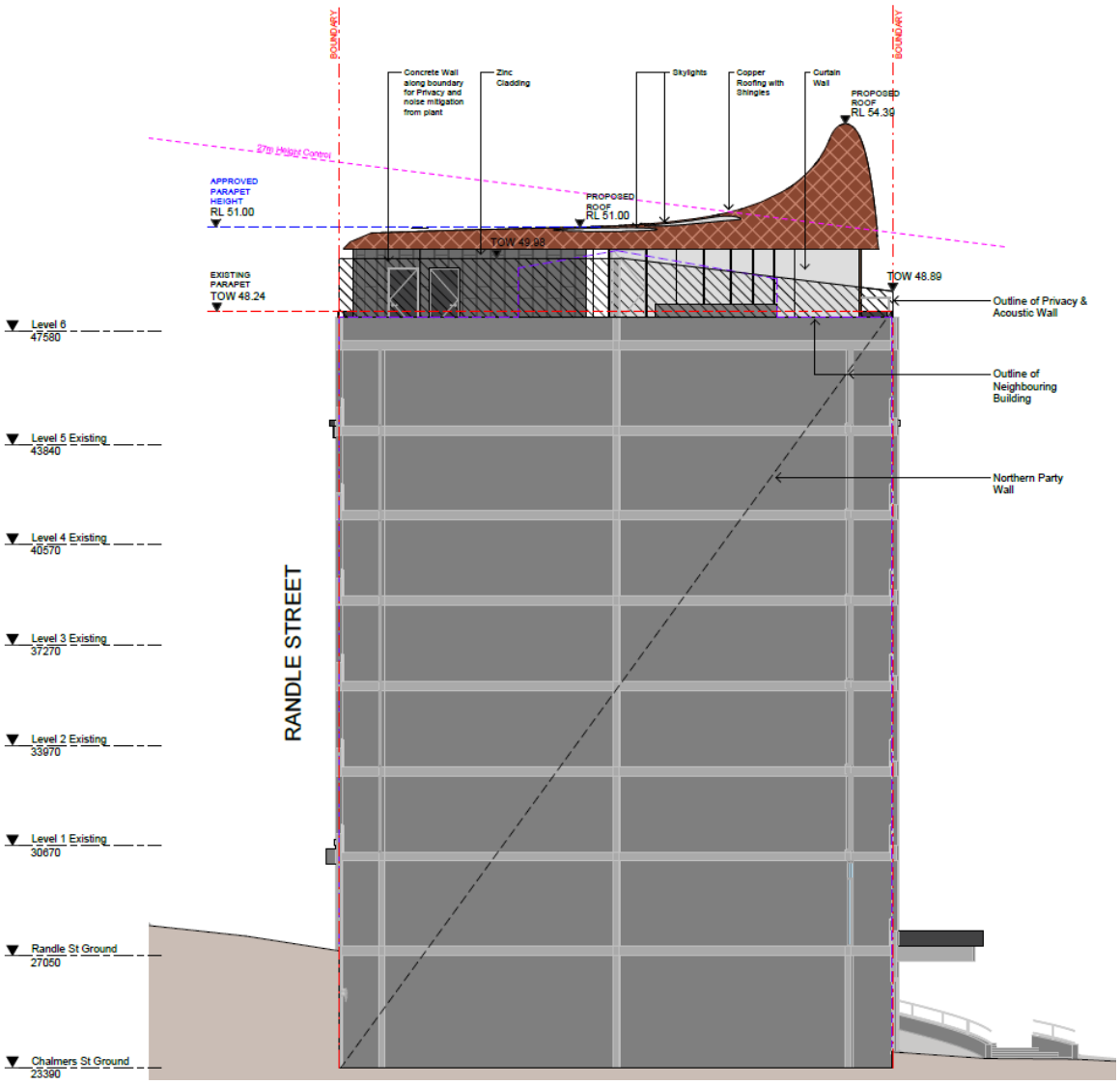


**Figure 11**: Proposed north elevation

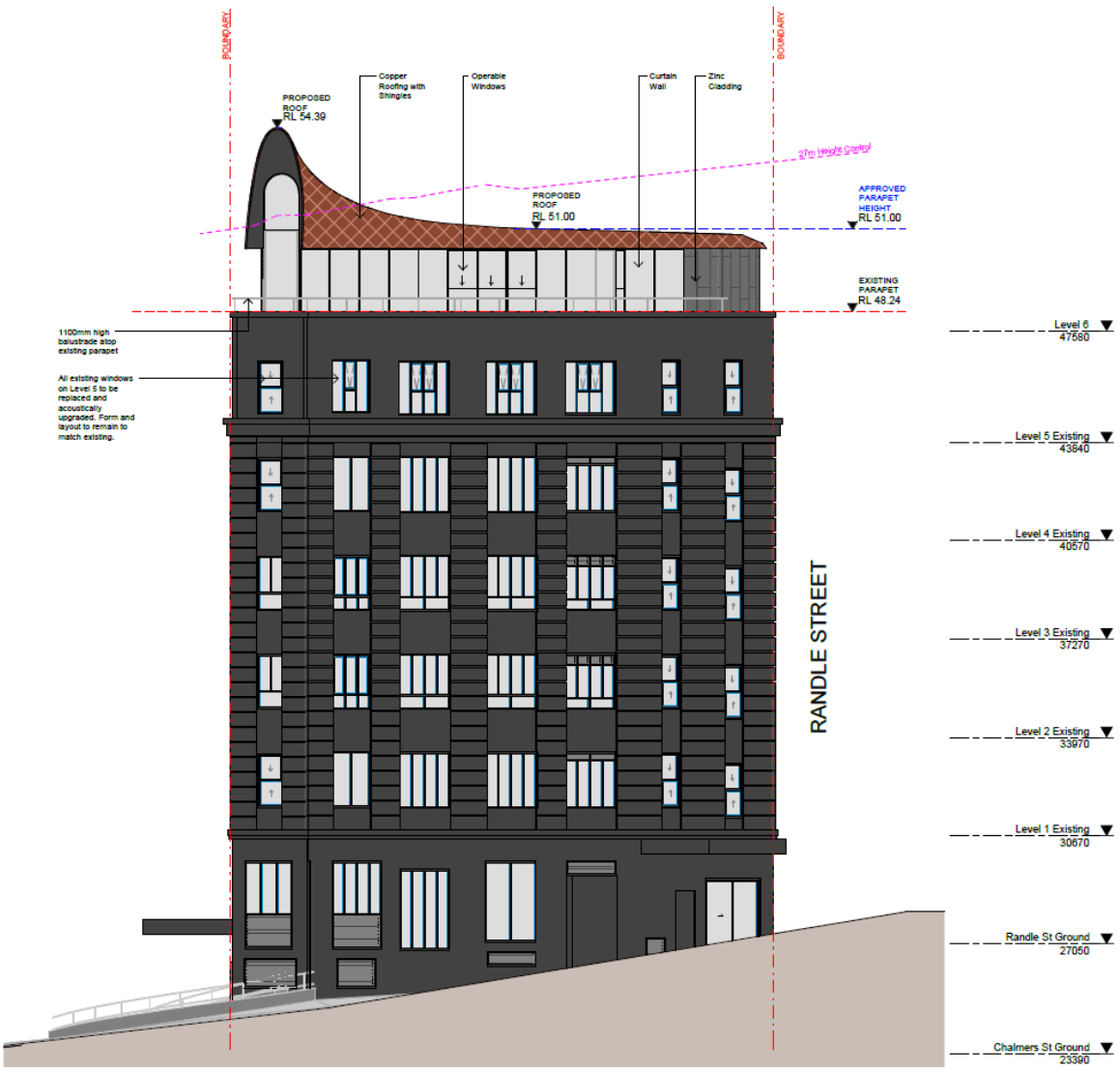


**Figure 12**: Proposed south elevation

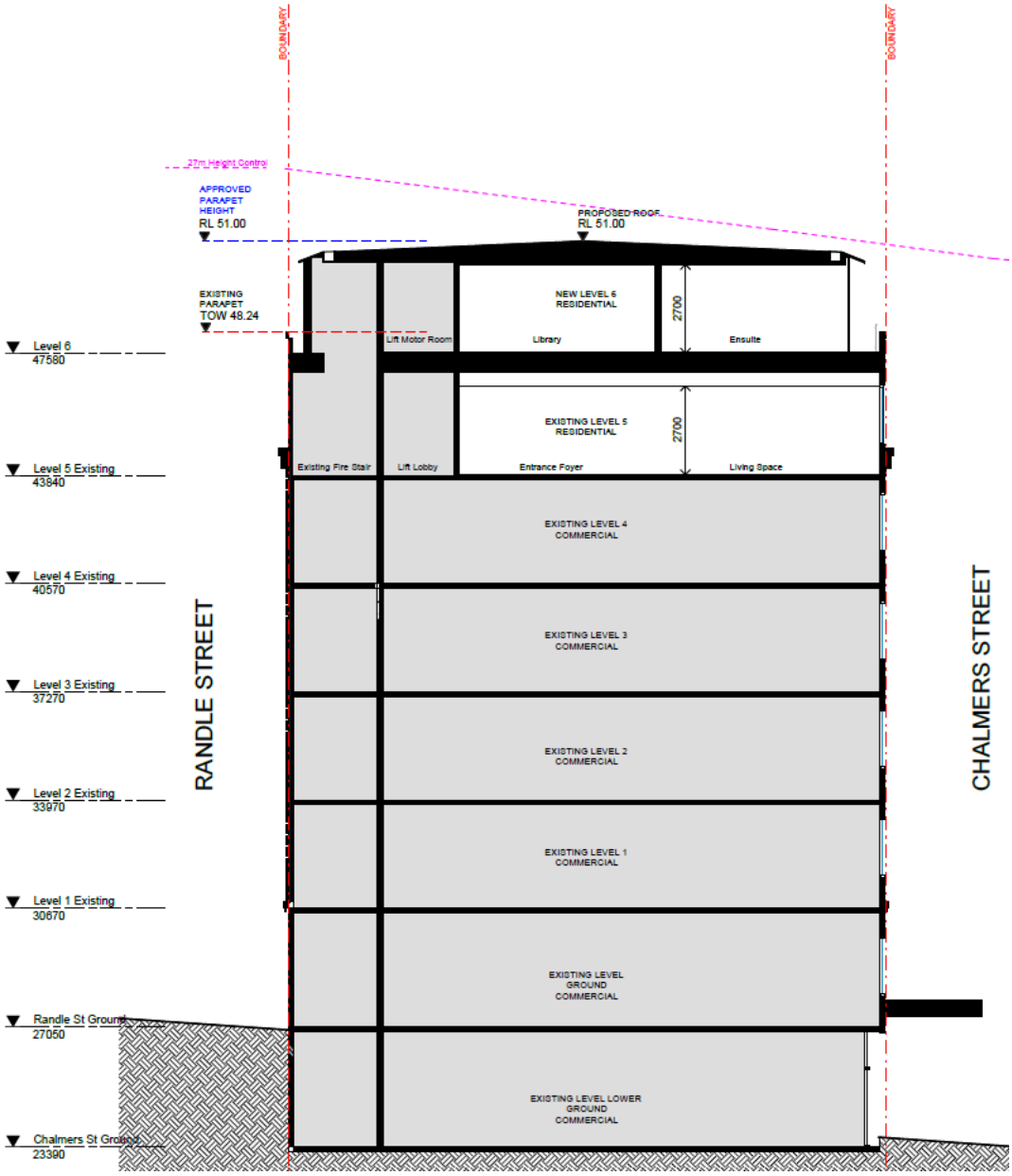


**Figure 13**: Proposed short section

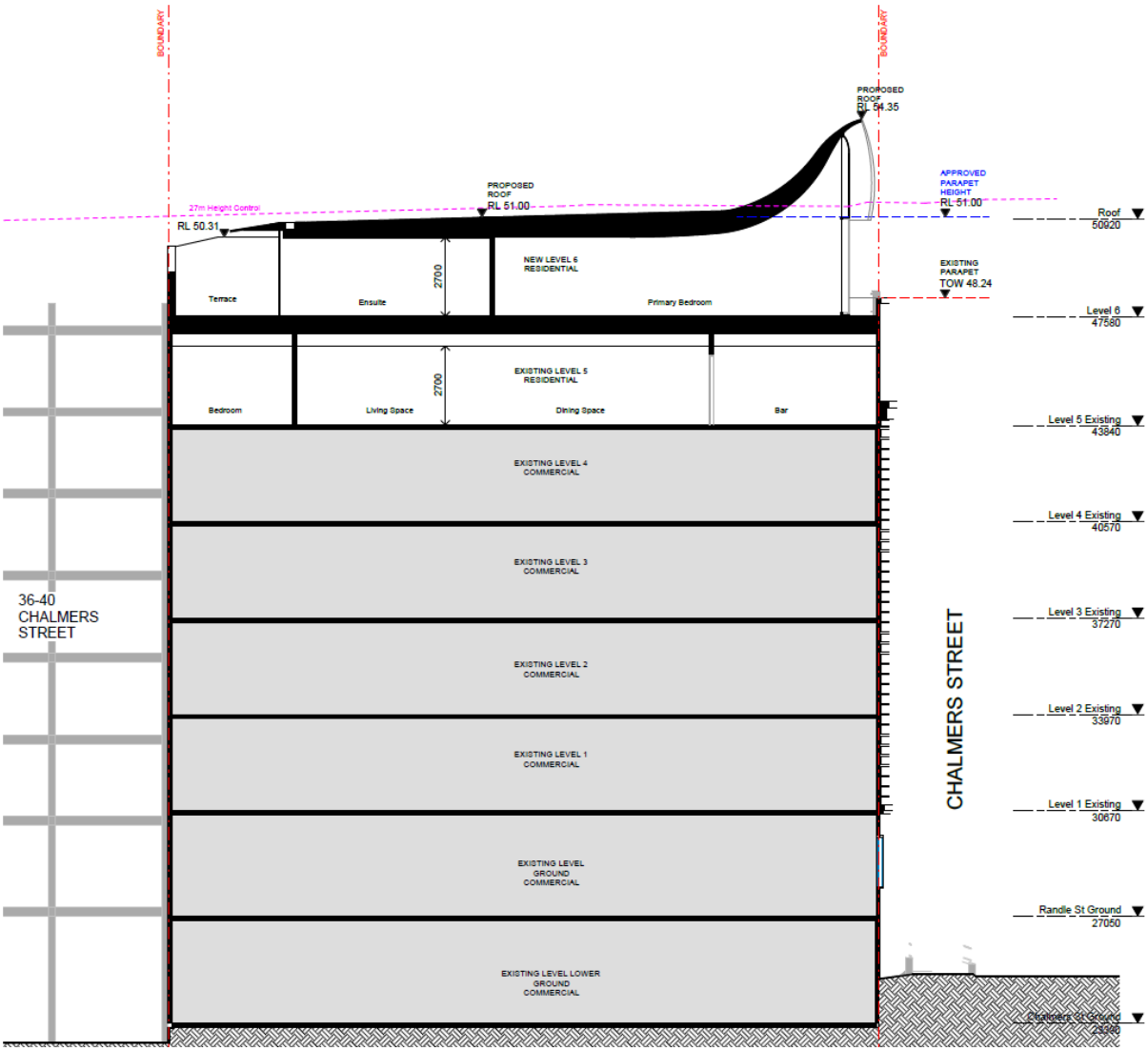


**Figure 14**: Proposed long section

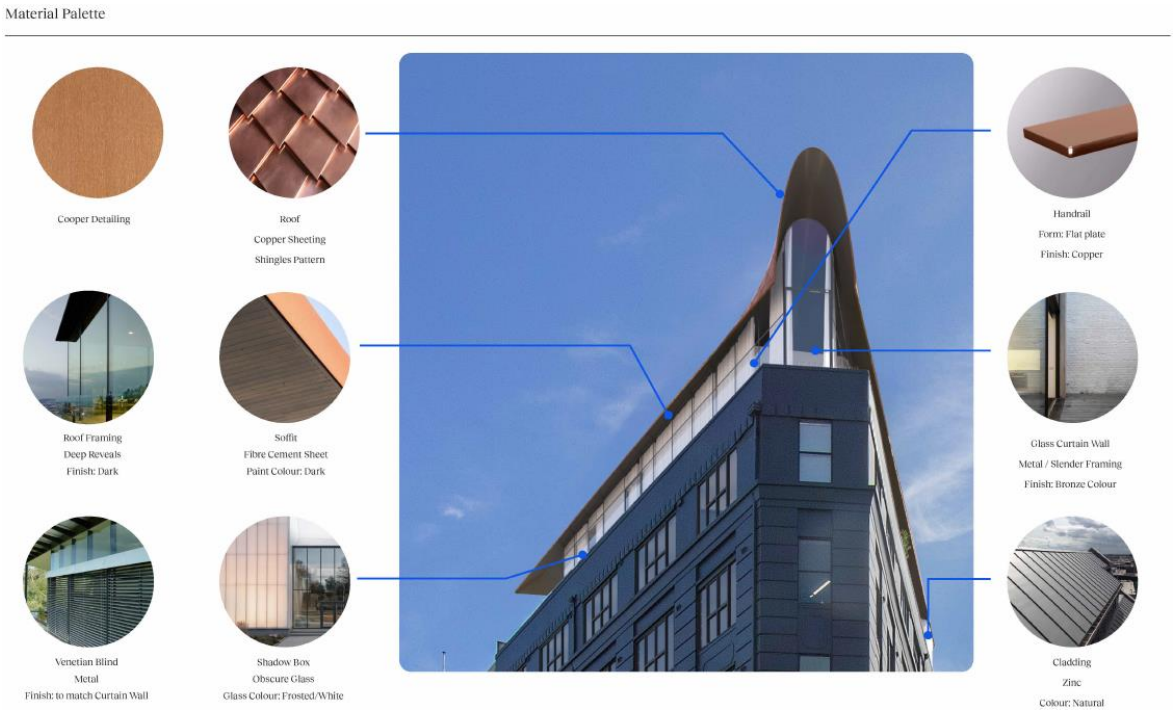


**Figure 15**: Proposed material palette

**Figure 16**: Three dimensional axonometric

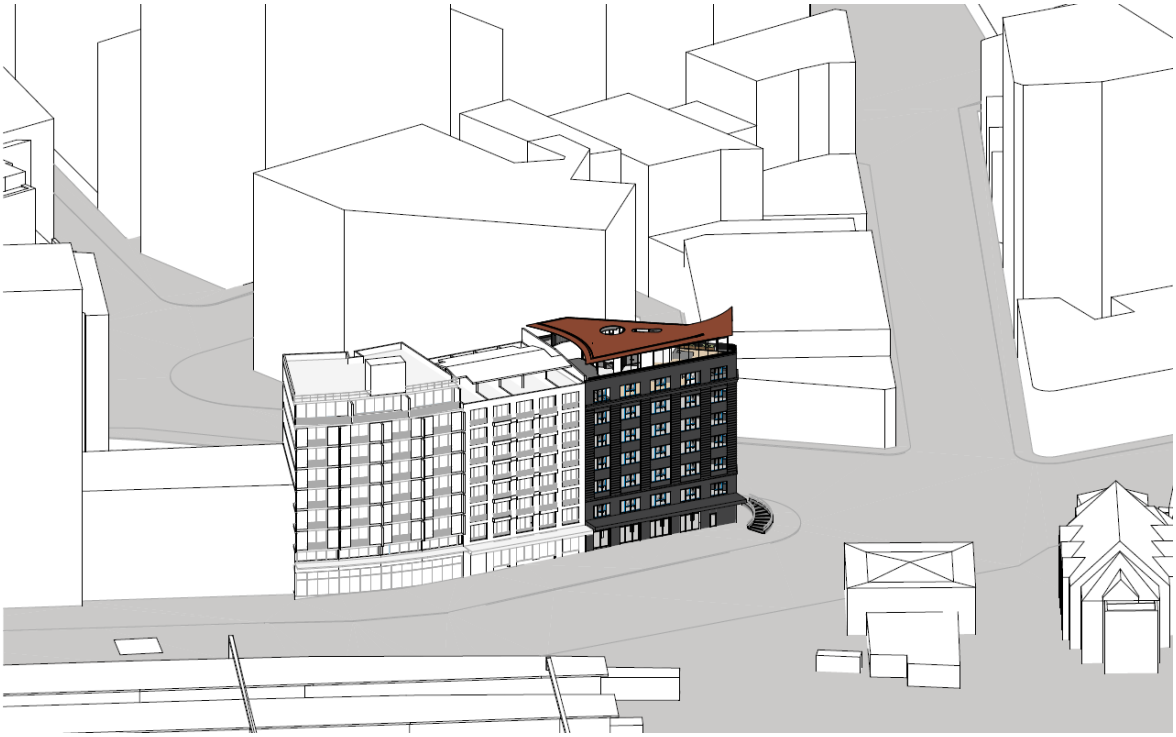

**Figure 17**: Three dimensional axonometric

**Figure 18**: Photomontage

**Figure 19**: Photomontage

## Assessment

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

### Sydney Water Act 1994

26. Section 78 of the Sydney Water Act, 1994 sets out various requirements for the notification of development applications to the Sydney Water Corporation (SWC).

27. The application was referred to the SWC in accordance with the Act.

28. A response was received from the SWC, raising no objections to the proposal, subject to the recommended conditions.

## State Environmental Planning Policies

### Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP)

29. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of Chapter 6 of the Biodiversity and Conservation SEPP. In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the controls set out in Division 2.

30. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour.

31. The site is not located in the Foreshores Waterways Area or adjacent to a waterway however and, apart from the controls for improved water quality and quantity, the controls set out in Division 2 of the Biodiversity and Conservation SEPP are not applicable to the proposed development.

32. The proposal achieves the relevant objective of the Biodiversity and Conservation SEPP, subject to the recommended conditions relating to stormwater management.

**State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)**

33. The aim of Chapter 4 of the Resilience and Hazards SEPP 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.

34. The site has been historically used for commercial office and retail purposes. The proposal maintains a ground level retail premises use and office premises in the levels above, with a change to a residential accommodation use on the uppermost level.

35. The subject site is not located on land within an investigation area, nor is there any record of the site having been used for any land use activity listed in Table 1 of the Managing Land.

36. The proposal is therefore acceptable regarding the relevant provisions of the Resilience and Hazards SEPP and the site is suitable for the proposed development and land use.

**State Environmental Planning Policy (Sustainable Buildings) 2022 (Sustainable Buildings SEPP)**

37. 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

38. The proposal is consistent with these aims, given that it has been accompanied by a valid BASIX certificate, as outlined under the heading below.

**Chapter 2 Standards for residential development - BASIX**

39. BASIX certificate 1838466M has been submitted with the development application.

40. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal.

41. Appropriate conditions of consent are recommended to ensure that the measures detailed in the BASIX certificate are implemented.

**State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)**

42. The relevant provisions of the Transport and Infrastructure SEPP have been considered in the assessment of the development application under each of the headings below.

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

**Clause 2.48 Determination of development applications – other development**

43. The application is subject to Clause 2.48 of the Transport and Infrastructure SEPP as the development may affect existing electricity infrastructure within and adjoining to the site.

44. In accordance with the requirements of the Clause, the application was referred to Ausgrid.

45. Ausgrid provided a response, raising no objections to the proposed development subject to several recommended conditions which are included in Attachment A.

**Division 15, Subdivision 2: Development in or adjacent to rail corridors and interim rail corridors**

**Clause 2.97 – Development adjacent to rail corridors**

46. The subject site is adjacent to the Central Business District and South East Light Rail corridor and is subject to Clause 2.97 of the Transport and Infrastructure SEPP.

47. In accordance with the requirements of the Clause, the application was referred to Transport for NSW (TfNSW) for comment.

48. TfNSW provided a response, raising no objections to the proposed development, subject to several recommended conditions which are included in Attachment A.

**Division 17, Subdivision 2: Impact of road noise or vibration on non-road development**

**Clause 2.120 – Impact of road noise or vibration on non-road development**

49. The subject site is adjacent to Randle Street which is identified on map 12D of the TfNSW 'Traffic Volume Maps for Noise Assessment for Building on Land Adjacent to Busy Roads' as having an annual average daily traffic volume of more than 20,000 vehicles, and the proposal includes a residential accommodation use which is likely to be adversely affected by road noise or vibration.

50. An acoustic report prepared by an appropriately qualified acoustic consultant was submitted with the application. It recommends appropriate measures to ensure that the following LAeq levels are not exceeded:

    (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am

    (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time

51. The report has been reviewed by Council's Health and Building staff who have advised that the proposal is acceptable on this basis, subject to the recommended conditions requiring compliance with the recommendations of the acoustic report.

## Local Environmental Plans

### Sydney Local Environmental Plan 2012 (Sydney LEP 2012)

52. An assessment of the proposed development against the relevant provisions of the Sydney LEP 2012 is provided under the following headings.

**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.<br><br>The proposed development is defined as a dwelling within a mixed use development and is permissible with consent in the zone.<br><br>The proposal generally meets the objectives of the zone. |

**Part 4 Principal development standards**

| Provision | Compliance | Comment |
|---|---|---|
| 4.3 Height of buildings | No | A maximum building height of 27 metres is permitted. A height of 29.92 metres is proposed.<br><br>The proposed development does not comply with the maximum height of buildings development standard.<br><br>A request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted with the application. |

| Provision | Compliance | Comment |
|---|---|---|
| | | Refer to the further assessment provided under the 'Discussion' heading below. |
| 4.4 Floor space ratio | No | A maximum floor space ratio (FSR) of 6:1, or 1,899.6 square metres of gross floor area (GFA) is permitted.<br><br>An FSR of 6.54:1, or 2,073 square metres of GFA, is proposed.<br><br>The proposed development does not comply with the maximum floor space ratio development standard.<br><br>A request to vary the FSR development standard in accordance with Clause 4.6 has been submitted with the application.<br><br>Refer to the further assessment provided under the 'Discussion' heading below. |
| 4.6 Exceptions to development standards | Yes | The proposed development seeks to vary the development standards prescribed under Clauses 4.3 and 4.4.<br><br>Clause 4.6 variation requests have been submitted with the application.<br><br>Refer to the further assessment provided under the 'Discussion' heading below. |

**Part 5 Miscellaneous provisions**

| Provision | Compliance | Comment |
|---|---|---|
| 5.6 Architectural roof features | Yes | The maximum height limit is exceeded by the proposed architectural roof feature.<br><br>The feature is acceptable as it:<br><br>• comprises a decorative element on the uppermost portion of the proposed roof to the building<br><br>• is not an advertising structure |

| Provision | Compliance | Comment |
|---|---|---|
| | | • does not include floor space area and is not reasonably capable of modification to include floor space area<br>• will cause minimal overshadowing<br>• does not incorporate any building identification signage<br>• does not contain any equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) |
| 5.10 Heritage conservation | Yes | The site is located within the vicinity of several State and local heritage items.<br><br>Council's Heritage Specialist has advised that the proposed development will not have detrimental impact on the heritage significance of these items. |

**Part 6 Local provisions – height and floor space**

| Provision | Compliance | Comment |
|---|---|---|
| Division 4 Design excellence | | |
| 6.21C Design excellence | Yes | The proposal exhibits design excellence for the following reasons:<br>• It is generally of a high standard that proposes high quality materials and detailing<br>• The form and external appearance will improve the quality and amenity of the public domain to its street frontages<br>• It will not significantly impact any view corridors<br>• The site is suitable for the proposed land use considering the zoning applying to the land |

| Provision | Compliance | Comment |
|---|---|---|
| | | • It is compatible with the existing development along Randle Street and Chalmers Street and will contribute positively to the character of the locality<br><br>• The bulk, massing, modulation and height of the proposal does not present any significant visual or environmental impacts<br><br>• It has generally acceptable environmental impacts regarding the amenity of the neighbouring properties and the surrounding area in terms of overshadowing, solar access, visual and acoustic privacy, noise and reflectivity<br><br>• It achieves the principle of ecologically sustainable development (ESD)<br><br>• The proposal does not have any significant impacts on the Railway Square/Central Special Character Area<br><br>• The public domain interface between the site and the street frontages of the site is appropriate and acceptable.<br><br>• The landscape design is integrated with the architectural scheme, which will provide acceptable landscape amenity to the subject site. |
| 6.21D Competitive design process | Yes | The proposed development is on land outside of Central Sydney and which will have a height greater than 25 metres in height and therefore a competitive design process is required to be held.<br><br>A competitive design process has not been carried out for the proposed development. |

| Provision | Compliance | Comment |
|---|---|---|
| | | Refer to the further assessment provided under the 'Discussion' heading below. |

**Part 7 Local provisions – general**

| Provision | Compliance | Comment |
|---|---|---|
| Division 3 Affordable housing | | |
| 7.13 Contribution for purpose of affordable housing | Yes | The proposal involves development on residual land that involves a change of use of existing floor area from other than residential accommodation to residential accommodation.<br><br>A condition requiring an affordable housing levy contribution may therefore be imposed by the consent authority when granting development consent to the application.<br><br>Refer to the further assessment provided under the 'Financial Contributions' heading below. |
| 7.20 Development requiring or authorising preparation of a development control plan | Yes | The proposed development is on land outside of Central Sydney and which will have a height greater than 25 metres in height and therefore a development control plan is required to be prepared for the land.<br><br>A site specific development control plan has not been prepared for the land, nor has a concept development consent been granted for the proposal.<br><br>Refer to the further assessment provided under the 'Discussion' heading below. |

## Development Control Plans

### Sydney Development Control Plan 2012 (Sydney DCP 2012)

53. An assessment of the proposed development against the relevant provisions within the Sydney DCP 2012 is provided under the following headings.

**Section 2 – Locality Statements**

54. The site is identified in Section 2.1.11 as being located within the Railway Square and Central Station locality.

55. The proposed development is generally in keeping with the character and the design principles of the Railway Square and Central Station locality in the following manner:

    (a) It complements the nearby heritage buildings with a high quality contemporary building form and design

    (b) It maintains a high level of daylight to the open spaces on the western side of Chalmers Street associated with Central Station

    (c) It maintains the visual prominence and landmark significance of the Central Railway Station clock tower and terminus building

    (d) It maintains vistas to and from Central Railway Station, including from its concourse

    (e) It reinforces the urban character and scale of the Railway Square/Central Station Special Character Area by:

        (i) retaining the existing street frontage height of the existing building

        (ii) adopting complimentary building form and solid high quality building materials

        (iii) providing a building setback above the street frontage height

    (f) It retains and reuses the existing early twentieth century commercial building on the site

    (g) It has no impact on the visual connections between the Central Station complex and the surrounding heritage buildings or the Haymarket Special Character Area

**Section 1 – Introduction**

| Provision | Compliance | Comment |
|---|---|---|
| 1.3 Aims of this DCP | Yes | The proposal is generally consistent with the relevant aims of the Sydney DCP 2012. |

**Section 3 – General Provisions**

| Provision | Compliance | Comment |
|---|---|---|
| 3.2. Defining the Public Domain | Yes | The proposal does result in any significant overshadowing of publicly accessible open space or significantly impede views from the public domain to highly utilised public places, parks, Sydney Harbour or heritage buildings and monuments.<br><br>The proposed development has been designed to positively address the surrounding streets and provide for surveillance of the adjacent streets and public domain.<br><br>A condition is recommended to ensure that light reflectivity from the materials used in the proposed development does not exceed 20%.<br><br>External lighting to the proposed landscape works are acceptable subject to a recommended condition, which will ensure compliance with the relevant Australian standards for external illumination. |
| 3.5 Urban Ecology | Partial compliance, but acceptable | The proposal will not provide 15% canopy cover of the site within 10 years in accordance with the applicable provisions.<br><br>This is acceptable however, given:<br><br>• The site contains a building occupying the entirety of the site, which cannot provide any capacity for significant canopy cover without significant structural interventions<br><br>• The proposal provides an improvement in terms of contribution to urban vegetation than that presented by the existing development<br><br>The proposed development does not involve the removal of any trees and will not have a significantly adverse impact on the local urban ecology. |

| Provision | Compliance | Comment |
|---|---|---|
| | | The application was referred to the City's Landscape Assessment Officer who advised that, subject to the recommended conditions, the proposal will provide acceptable landscape amenity. |
| 3.6 Ecologically Sustainable Development | Yes | The proposal satisfies BASIX and environmental requirements.<br><br>Refer to the further assessment provided under the 'State Environmental Planning Policy (Sustainable Buildings) 2022' heading above. |
| 3.7 Water and Flood Management | Yes | The site is not identified as being flood prone.<br><br>The proposal is acceptable, subject to the recommended conditions relating to stormwater drainage management. |
| 3.8 Subdivision, Strata Subdivision and Consolidation | Yes | The proposed development will require the amendment of the existing strata plans for the site, or a new strata plan to be made.<br><br>Council's Specialist Surveyor has reviewed the application and recommended appropriate conditions of consent, which are included in Attachment A. |
| 3.9 Heritage | Yes | The site is located within the vicinity of several State and local heritage items, as identified elsewhere in this assessment report.<br><br>Council's Heritage Specialist has advised that the proposed development will not have detrimental impact on the heritage significance of these items. |
| 3.11 Transport and Parking | Yes | No vehicle parking facilities are proposed.<br><br>The proposal includes sufficient storage space to accommodate a bicycle parking space. |

| Provision | Compliance | Comment |
|---|---|---|
| 3.12 Accessible Design | Yes | An appropriate condition is recommended to ensure that the proposed development provides an appropriate level of access and facilities for persons with disabilities. |
| 3.13 Social and Environmental Responsibilities | Yes | The safety and security of the public domain within the locality will be enhanced by the proposed activity within the site and casual surveillance of the surrounding streets from the development.<br><br>The proposal provides a secure entrance to the dwelling, passive surveillance and other security measures. It has generally been designed in accordance with the 'Crime Prevention Through Environmental Design' (CPTED) principles and is acceptable on this basis. |
| 3.14 Waste | Yes | The proposed development was accompanied by an updated Waste Management Plan (WMP), which accords with the objectives and provisions set out under Section 3.14 of the Sydney DCP 2012.<br><br>The application was referred to the City's Cleansing and Waste Unit.<br><br>The advice received was generally supportive regarding waste management considerations.<br><br>This is subject to conditions to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development. |
| 3.18 Acoustic Amenity | Yes | The site is located on land identified as 'Sensitive receivers – Radius 1' on the Entertainment Sound Management Map.<br><br>An acoustic report has been submitted with the application which includes measures designed to achieve compliance with the criteria for entertainment sound. |

| Provision | Compliance | Comment |
|---|---|---|
| | | Council's Health and Building staff have reviewed the report and have advised that the proposal is acceptable on this basis, subject to the recommended conditions requiring compliance with the recommendations of the acoustic report. |

**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 | Yes | The site is permitted a maximum building height of 8 storeys.<br><br>The proposed development is 8 storeys in height and complies. |
| 4.2.1.2 Floor to ceiling heights and floor to floor heights | Yes | The proposed development achieves the floor to ceiling height of 2.7 metres. |
| 4.2.2 Building setbacks | Acceptable | The proposal incorporates setbacks ranging between 1.2 metres to Randle Street and 1.3 metres to Chalmers Street above the street frontage height.<br><br>Although these do not comply with the minimum requirement for a 3 metre setback, the non-compliance is acceptable given that they are generally compatible with the existing adjacent patterns of building setbacks within the street. |
| 4.2.3 Amenity | | |
| 4.2.3.1 Solar access | Yes | The application was accompanied by shadow diagrams and sun's eye view diagrams which demonstrate that the proposal does not result in any significant overshadowing of adjoining or nearby dwellings, and that the proposed dwelling receives adequate direct sunlight to living room windows and private open space at midwinter. |

| Provision | Compliance | Comment |
|---|---|---|
| 4.2.3.3 Internal common areas | Acceptable | Daylight access and outlook is not provided to the existing internal common stairs and lift lobbies, which is acceptable given that:<br>• The existing fire stair and lift lobby floor levels and structure are proposed to be retained.<br>• Requiring compliance with the controls would require significant demolition of existing building fabric. |
| 4.2.3.4 Design features to manage solar access | Yes | The design of the development balances appropriate access to direct sunlight, daylight, natural ventilation and view amenity, and cooling and heating efficiency through the roof awnings, landscape design, fenestration and internal and external blinds.<br><br>Additional access to natural light is provided through skylights in the proposed roof. |
| 4.2.3.5 Landscaping | Yes | The application is accompanied by a landscape plan prepared by an appropriately qualified landscape architect, which provides for a range of landscape features and planting to the uppermost level of the development.<br><br>The plan has been reviewed by the Council's Landscape Assessment officer, who has advised that it is acceptable, subject to the recommended conditions. |
| 4.2.3.7 Private open space and balconies | Yes | The proposal provides a consolidated terrace area of approximately 30 square metres, which is accessible from one of the living areas of the proposed dwelling.<br><br>The acoustic wall and screen to the northern boundary of the terrace does not serve to enclose the space. |

| Provision | Compliance | Comment |
|---|---|---|
| 4.2.3.9 Ventilation | Yes | Adequate natural ventilation is provided to the proposed dwelling.<br><br>Natural cross ventilation is achieved by having window openings facing towards each of the site's street and lane frontages. |
| 4.2.3.10 Outlook | Yes | A pleasant outlook is provided from the proposed apartment.<br><br>The proposal does not result in any significant view or outlook impacts from existing residential development. |
| 4.2.3.11 Acoustic privacy | Yes | An acoustic report was submitted with the application in support of the proposed development.<br><br>The application was referred to the City's Health and Building staff.<br><br>The advice received is that the conclusions and recommendations of the acoustic report are generally acceptable.<br><br>Conditions are recommended to ensure that appropriate noise control measures are implemented in relation to the proposed uses of the site. |
| 4.2.5 Types of development | Yes | The site has a frontage to Randle Street, which is a busy road that carries more than 20,000 vehicles a day.<br><br>The design of the proposed development has been informed by the recommendations of the acoustic report submitted with the application to minimise road noise impacts.<br><br>Conditions have been recommended by Council's Health and Building staff to ensure that appropriate noise control measures are implemented in relation to the proposed uses of the site. |
| 4.2.6 Waste and recycling Management | Yes | The proposed waste and recycling management facilities within the |

| Provision | Compliance | Comment |
|---|---|---|
| | | development generally accord with the requirements set out in Section 4.2.6 of the Sydney DCP 2012.<br><br>The application was referred to the City's Cleansing and Waste staff.<br><br>The advice received was supportive subject to recommended conditions to ensure compliance with the City of Sydney Guidelines for Waste Management in New Development. |
| 4.2.7 Heating and cooling infrastructure | Yes | The proposed heating and cooling infrastructure is indicated to be consolidated within a rooftop location.<br><br>This will assist in achieving energy efficiency and allow for accommodation of future heating and cooling technology.<br><br>Appropriate conditions are recommended to preclude facade and balcony-mounted air conditioning units and require the acoustic screening of plant. |
| 4.2.8 Letterboxes | Yes | A letterbox is not indicated on the drawings submitted with the application.<br><br>A condition is recommended to require that a letterbox is provided within the lobby of the building and that it is installed with a non-master key lock for security. |

**Section 5 – Specific Areas**

**5.1 Central Sydney**

| Provision | Compliance | Comment |
|---|---|---|
| 5.1.1 Built form controls | Acceptable | Figure 5.13 in Section 5.1.1.2 of the Sydney DCP 2012 identifies a maximum street frontage height of 25 metres for the subject site.<br><br>The existing 7-storey commercial building already has a street frontage height slightly exceeding 25 metres. |

| Provision | Compliance | Comment |
|---|---|---|
| | | The site is also subject to a development consent, DU/2003/76 which involved a similar adaptive re-use of the existing level 5 and erection of a new level 6 at the current roof level for a commercial use, as compared to the proposed residential use of the current application.<br>The proposal is acceptable on this basis as it:<br>• Does not propose any increase to the street frontage height<br>• Provides adequate setbacks from all site boundaries to minimise impacts on the visual and streetscape appearance of the surrounding Special Character Area<br>• Enhances the streetscape appearance of the site through an architecturally designed roof feature. |
| 5.1.2 Development outlook and demonstrating amenity compliance | Yes | The primary residential apartment windows and terraces, as proposed under the subject application, provide Outlook Field depths and positions which comply with the provisions in Section 5.1.2 of the Sydney DCP 2012. |
| 5.1.3 Heritage items, warehouses and special character areas | Yes | The site is located within the vicinity of several State and local heritage items.<br>Council's Heritage Specialist has advised that the proposed development will not have any detrimental impact on the significance of these heritage items, including Central Station to the west of the site. |
| 5.1.4 Building exteriors | Yes | The proposal will contribute positively to the streetscape with high quality architecture, meeting the objectives in Section 5.1.4 of the Sydney DCP 2012.<br>The materiality and design of the development are distinctive and exhibit design excellence. |

| Provision | Compliance | Comment |
|---|---|---|
| | | Conditions are recommended in Attachment A to ensure that reflectivity impacts are minimised, and that a materials and samples board is provided, to ensure that the design quality intent of the proposed building exteriors is carried through to the certification and construction phases. |

## Discussion

### Contravention of the Height of Buildings Development Standard Pursuant to Clause 4.6 of the Sydney LEP

56. The site is subject to a maximum height of buildings development standard of 27 metres.

57. The proposed development has a height of 29.92 metres.

58. Pursuant to the requirements of Regulation 35B of the Environmental Planning and Assessment Regulation, 2021, the application has been accompanied by a document setting out the grounds on which the applicant seeks to demonstrate:

    (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

    (b) that there are sufficient environmental planning grounds to justify contravening the standard

### Applicant's regulation 35B document

59. The applicant seeks to justify the contravention of the height of buildings development standard on the following basis:

    (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:

        (i) Compliance with the building height development standard is unreasonable or unnecessary in the circumstances of this case because the objectives of the development standard are achieved, notwithstanding non-compliance with the standard.

        (ii) Demonstrating that the proposal will have no adverse amenity impacts is, therefore, one way of showing consistency with the objectives of a development standard.

        (iii) As identified in the Sydney LEP 2012 Height of Buildings Map, the subject site and the blocks immediately to the north, north-east and east have a maximum height of 27 metres. Lower height limits of 12 metres and 9 metres are identified for properties located to the south-east along Devonshire Street.

(iv) A similar pattern of restrictions has been applied through the Height in Storeys Map in the Sydney DCP 2012, with 8 storeys being the prevailing, immediately surrounding control. The actual existing built form and approved DAs of the subject site and surrounding properties have heights ranging from 7 to 9 stories, and up to 29 metres.

(v) Importantly, Council has already approved a DA for a rooftop addition to the commercial building on the subject site (DU/2003/76) up to 8-storeys and 27.71 metres. The current DA for a residential roof top addition and adaptive use proposes an 8-storey building, with a slightly higher maximum height of 29.92 metres, which primarily derives from providing a more attractive and roof form, which is shaped to rise up to its highest point on the south-east corner of the building.

(vi) It is therefore considered that the proposed height and design is highly appropriate for its current context, with minimal environmental impacts for adjoining and surrounding properties and the public domain.

(vii) In terms of Clause 5.10 of the Sydney LEP 2012 relating to heritage conservation, the site is neither a heritage item nor located within a heritage conservation area. It is located adjacent to the local and state heritage item known as the 'Central Railway Group', and in the vicinity of other nearby items. This significance is addressed in an accompanying Heritage Impact Statement which concludes:

"The proposed development has been assessed to have a positive heritage impact on the heritage items in the vicinity. The proposed works are confined to the upper levels of the building and will not result in intrusion, overhang or adverse impacts on nearby heritage items, surrounding hardscape, archaeological resources, or views to and from Central Railway Station. Overall, the proposal is appropriately designed to protect the heritage significance of the surrounding area while supporting its continued evolution."

(viii) Given the primary focus of the scale and orientation of the subject commercial building to the south and south-east, and being well separated from buildings to the north and north-east, and south and east by adjoining streets, and the open visual landscape of the light rail and heavy rail corridors to the west, the proposed roof top addition will have minimal to negligible impact on existing view corridors to the more iconic locations of Sydney Harbour and the CBD to the north, thereby maintaining a satisfactory level of view sharing in the locality.

(ix) As identified in relation to each of the objectives above, the proposed height of the proposal is highly consistent and substantially compliant with the controls in the Sydney LEP 2012 and Sydney DCP 2012, as well as the scale, urban form and character of the locality.

(x) Compliance with the maximum building height development standard is therefore unreasonable or unnecessary in the circumstances of this case because the objectives of the standard are achieved, and the non-compliance will not result in any major adverse environmental impact.

(b) That there are sufficient environmental planning grounds to justify contravention of the standard:

(i) The mid-winter shadow diagrams that accompany the application demonstrate that the extent of additional overshadowing created for surrounding residents and the public domain by the exceedance of the Sydney LEP 2012 maximum height of 27 metres will be compliant with the controls in the Sydney DCP 2012 and provide relatively minimal overshadowing impacts across the following parts of the day.

(ii) Given the site's solar orientation, separation from surrounding buildings by multiple street frontages, and the proposed sensitively scaled and design roof top addition, there will be minimal overshadowing impacts for both surrounding properties and the public domain.

(iii) The most significant additional overshadowing is expected to occur between 9-10am mid-winter and only impacts on a limited section of the adjoining roads to the south.

(iv) Substantive efforts have been made in the design to provide suitable building setbacks, and orient the main living areas and windows of the proposed roof level residential building to the main west and south street elevations, in order to minimise any unreasonable noise impacts and overlooking of the more sensitive areas of roof level living areas and private open space terraces of residential units of the adjoining mixed-use building to the north, 38 Chalmers Street.

(v) It is proposed to further reduce privacy impacts for the adjoining properties to the north and north-east by constructing a concrete wall along the entire length of the site's northern boundary.

(vi) It is therefore considered that the area of exceeded height limit of the proposed building addition roof, which primarily occurs in the south-east corner of the site will have negligible noise and privacy impact on adjoining and surrounding residential and commercial buildings.

(vii) A key design strategy of the application is to minimise the upper level building bulk through generous building setbacks for the proposed roof level residential addition and to provide a more interesting and visually appealing roof form above this addition, when compared to the parapet style, flat roof form above the approved roof level commercial addition of DU/2003/76.

(viii) As shown in Figure 20 below, the proposed new roof form has been designed to gradually rise up to a high point in the south-east corner of the site. At that point the proposal exceeds the LEP's 27 metre height limit by 2.92 metres.

(ix) This gradual increase in the roof plane to its highest point provides and elegant, sculptural architectural roof feature to the building, in that part of the site well separated from the surrounding built form, and enhancing the visual character of this locality.

(x) Furthermore, the extent of the roof's exceeded LEP height limit (up to 2.92 metres), does not result in any unreasonable impact on the visual amenity or view corridors of surrounding private properties and the public domain.

(xi) In summary, there are sufficient environmental planning grounds to justify the proposed variation of the LEP maximum building height development standard.

**Figure 20:** Photomontage of proposed roof form from the south

**Precondition to granting consent where a development standard has been contravened**

60. Development consent must not be granted unless the consent authority is satisfied that the applicant has demonstrated 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.

61. The applicant has demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the standard for the following reasons:

(a) The breach of the 27-metre height of buildings standard is confined to the proposed architectural roof feature as depicted in the height plane diagram extract reproduced in the figure below.

(b) Clause 5.6(2) of the Sydney LEP 2012 permits a development that includes an architectural roof feature to exceed the height limits set by the plan with development consent.

(c) The overall height of the proposal is appropriate within the context of the site and surrounding development, including the adjoining 9-storey development to the north, the future 9-storey development at 7-15 Randle Street, Surry Hills which is currently under construction, and the 6 and 7-storey development opposite the site on the eastern side of Randle Street.

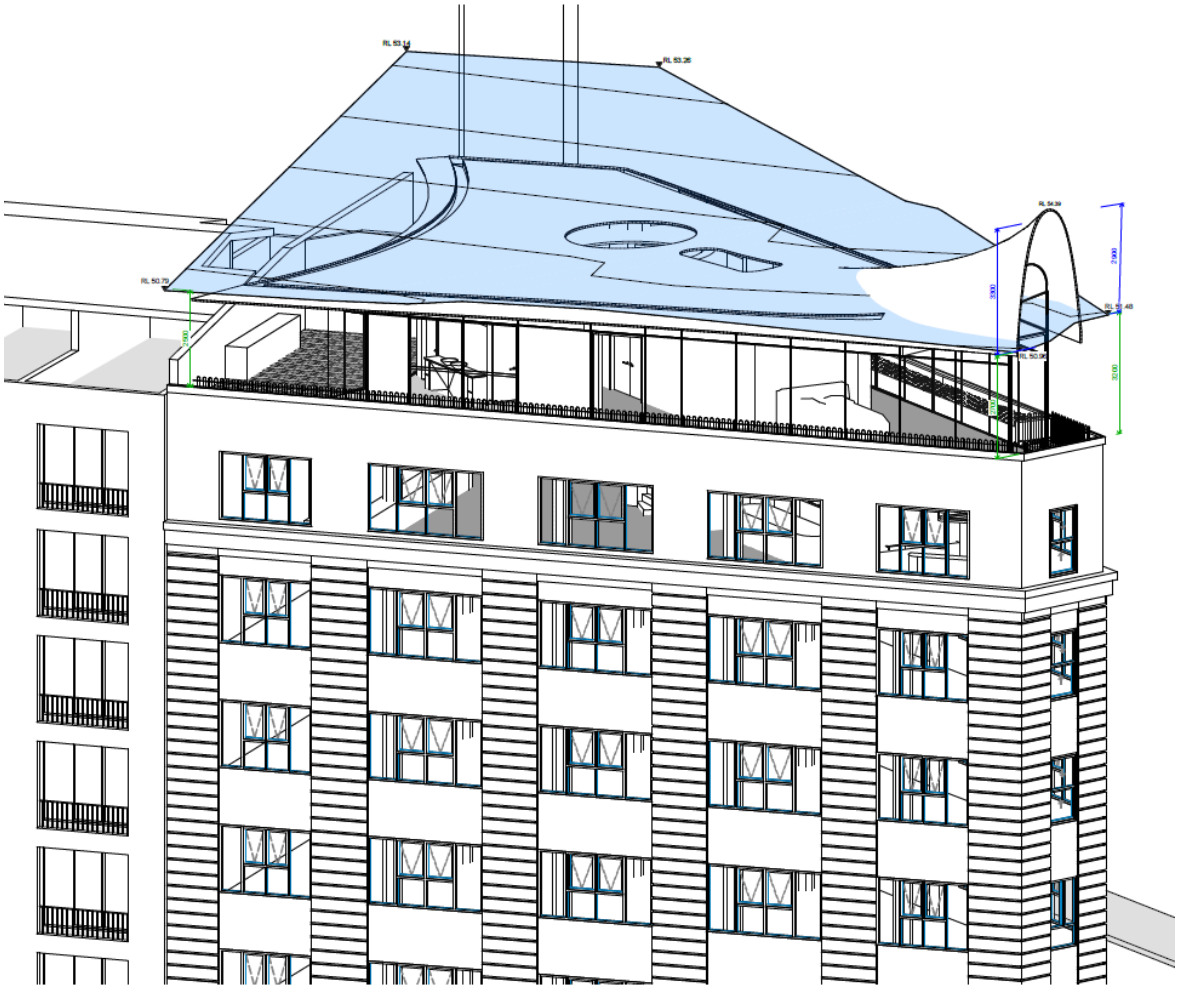

**Figure 21:** Height plane diagram extract depicting the extent of the proposed architectural roof feature in white above the 27 metre height plane (in blue)

(d) The overall height of the proposed development is generally consistent with the previously approved building envelope for a commercial building on the site under DU/2003/76, which has a maximum approved height of 27.71 metres.

(e) The portion of the development which breaches the height control will not result in any unreasonable overshadowing or visual privacy impacts to surrounding properties.

(f) The proposal does not obstruct any significant views from surrounding properties.

(g) The proposal provides an appropriate transition from the buildings along Chalmers Street to the north and to the lower scale buildings around Central Station and Devonshire Street to the south and west, to the lower scale buildings along Elizabeth Street to the east.

(h) The proposal is in keeping with the objectives of the MU1 Mixed Use Zone, as it will provide residential accommodation within an accessible area.

(i) The proposal is of an appropriate bulk and scale within the context of the site and surrounding development and complies with the minimum floor to ceiling heights of the Sydney DCP 2012.

**Conclusion**

62. For the reasons provided above the variation to the height of buildings development standard is supported as the applicant has demonstrated the matters required to be addressed by Clause 4.6 of the Sydney LEP 2012.

**Contravention of the Floor Space Ratio Development Standard Pursuant to Clause 4.6 of the Sydney LEP**

63. The site is subject to a maximum FSR development standard of 6:1.

64. The proposed development has a FSR of 6.54:1.

65. Pursuant to the requirements of Regulation 35B of the Environmental Planning and Assessment Regulation, 2021, the application has been accompanied by a document setting out the grounds on which the applicant seeks to demonstrate:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

(b) that there are sufficient environmental planning grounds to justify contravening the standard

**Applicant's regulation 35B document**

66. The applicant seeks to justify the contravention of the FSR development standard on the following basis:

(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:

(i) Compliance with the maximum FSR development standard is unreasonable or unnecessary in the circumstances of this case because the objectives of the development standard are achieved, notwithstanding non-compliance with the standard.

(ii) Demonstrating that the proposal will have no adverse amenity impacts is, therefore, one way of showing consistency with the objectives of a development standard.

(iii) The Sydney LEP 2012 provides a maximum FSR of 6:1 for the site and surrounding area, complemented by an 8-storey Sydney DCP 2012 maximum which enables a suitable flexibility for maximising FSR yield in an area characterised by boundary-to-boundary built forms. It also provides a scale that reflects the former warehouse and commercial character of the heritage of this precinct. The MU1 Mixed Use zone also facilitates a flexibility in the use of these sites, ensuring that their maximum potential can be achieved in a form that meets the housing and employment needs of this transitional part of the City of Sydney.

(iv) The density, built form and land use intensity of the proposed adaptive re-use (level 5) and roof top addition for a new 2-storey residence is entirely appropriate for the existing 7-storey commercial building and surrounding mixed use area, given the building's previous history of mixed hotel, commercial office, pub and retail uses, its general consistency with the Sydney LEP 2012 and Sydney DCP 2012 maximum height, FSR, number of storeys and Special Character Area, and Council's previous support for a variation to the Sydney LEP 2012 maximum height and FSR controls for a similar commercial use roof top addition for the development consent DU/2003/76. The proposed single residential use at Levels 5 and 6 will also have minimal impact on the extent of vehicular and pedestrian movement to the site.

(v) The subject proposal to convert Level 5 from commercial office and construct a roof level addition for a new 2-storey dwelling will have minimal impact of the capacity of existing and planned infrastructure in this part of the City of Sydney, which is already highly accessible and in close proximity to a wide range of public transport, retail, commercial, community and public open space facilities and services.

(vi) The proposal is highly complementary to the desired character and function of the MU1 Mixed Use zone and the Railway Square/Central Station Special Character Area, with a roof top addition design that minimizes the bulk and potential amenity impacts on adjoining and surrounding residential and commercial uses to the north and north-east by providing generous setbacks and an orientation of its main livings areas and windows to the south and west of the site along its Chalmers and Randle Street frontages, and an elegant and architectural roof feature that provides a gradual increase in height to its highest point in the south-east of the site, further protecting the amenity of surrounding land uses, and providing a lively and interesting visual focal point for the public domain in this highly active, transport hub precinct.

(vii) Compliance with the maximum building height development standard is therefore unreasonable or unnecessary in the circumstances of this case because the objectives of the standard are achieved, and the non-compliance will not result in any major adverse environmental impact.

(b) That there are sufficient environmental planning grounds to justify contravention of the standard:

(i) The mid-winter shadow diagrams that accompany the application demonstrate that the extent of additional overshadowing created for surrounding residents and the public domain by the exceedance of the Sydney LEP 2012 maximum height of 27 metres will be compliant with the controls in the Sydney DCP 2012 and provide relatively minimal overshadowing impacts across the following parts of the day.

(ii) Given the site's solar orientation, separation from surrounding buildings by multiple street frontages, and the proposed sensitively scaled and design roof top addition, there will be minimal overshadowing impacts for both surrounding properties and the public domain.

(iii) The most significant additional overshadowing is expected to occur between 9-10am mid-winter and only impacts on a limited section of the adjoining roads to the south.

(iv) Substantive efforts have been made in the design to provide suitable building setbacks, and orient the main living areas and windows of the proposed roof level residential building to the main west and south street elevations, in order to minimise any unreasonable noise impacts and overlooking of the more sensitive areas of roof level living areas and private open space terraces of residential units of the adjoining mixed-use building to the north, 38 Chalmers Street.

(v) It is proposed to further reduce privacy impacts for the adjoining properties to the north and north-east by constructing a concrete wall along the entire length of the site's northern boundary.

(vi) It is therefore considered that the area of exceeded FSR within the proposed addition at the roof level will have negligible noise and privacy impact on adjoining and surrounding residential and commercial buildings.

(vii) A key design strategy of this DA is to minimise the upper level building bulk through generous building setbacks for the proposed roof level residential addition and to provide a more interesting and visually appealing roof form above this addition, when compared to the parapet style, flat roof form above the approved roof level commercial addition of DU/2003/76.

(viii) The proposed new sculptural architectural roof feature has been designed to gradually rise up to a high point in the south-east corner of the site. At that point the proposal exceeds the LEP's 27 metre height limit by 2.92 metres.

(ix) This gradual increase in the roof plane to its highest point provides and elegant, sculptural architectural roof feature to the building, in that part of the site well separated from the surrounding built form and enhancing the visual character of this locality.

(x) Furthermore, the extent of the roof's exceeded LEP height limit (up to 2.92 metres) and exceeded 6:1 FSR, does not result in any unreasonable impact on the visual amenity or view corridors of surrounding private properties and the public domain.

(xi) In summary, there are sufficient environmental planning grounds to justify the proposed variation of the LEP maximum FSR development standard.

**Precondition to granting consent where a development standard has been contravened**

67. Development consent must not be granted unless the consent authority is satisfied that the applicant has demonstrated 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.

68. The applicant has demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the standard for the following reasons:

(a) The proposal does not seek consent for any additional GFA and FSR beyond that granted consent by Council to DU/2003/76 for a similar development.

(b) The proposed development seeks an increase in FSR which anticipates the future needs of the area for residential space.

(c) The proposed density has a bulk, scale and massing that is generally consistent with the adjoining and nearby development nearby, is consistent with the relevant controls in the Sydney DCP 2012 and the existing footprint of the building is maintained.

(d) The proposed development is within the capacity of existing and planned infrastructure of the location. The proximity of the development to both Central Station and the Sydney CBD and South East Light Rail corridor means the locality is well equipped to facilitate the proposed increase in residential floor space.

(e) The proposal reflects the desired character of the Railway Square and Central Station Special Character Area and locality, and is consistent with the scale of the adjoining and nearby developments.

(f) The proposed increase in FSR has been considered with a design that is sensitive to the surrounding neighbourhood ensuring no significantly adverse impacts on the amenity of the locality.

(g) The proposed development is consistent with the height of the adjoining development and the permissible height and height in storeys in the Sydney LEP 2012 and Sydney DCP 2012.

**Conclusion**

69. For the reasons provided above the variation to the floor space ratio development standard is supported as the applicant has demonstrated the matters required to be addressed by Clause 4.6 of the Sydney LEP 2012.

## Site specific development control plan and competitive design process

70. The site is located on land outside of Central Sydney and the proposal exceeds a height of 25 metres.

71. The proposal triggers requirements for a site specific development control plan (DCP) and competitive design process, under the provisions of Clauses 7.20(2)(b) and 6.21D(1)(a)(ii) of the Sydney LEP 2012, respectively.

72. Clause 7.20(3) and Clause 6.21D(2) of the Sydney LEP 2012 also specify that these requirements can be waived if the consent authority is satisfied that such a process would be unreasonable or unnecessary in the circumstances of the development.

73. The applicant has requested that the requirements for the preparation of a site specific DCP and competitive design process be waived for the following reasons:

    (a) The subject application only involves the following alterations and additions to the existing commercial building:

        (i) internal demolition of the existing fitout of Level 5 and the Roof Level above

        (ii) alterations and additions and change of use to Level 5 and the addition of a new storey above with an outdoor terrace (Level 6) creating a 2-storey dwelling (Levels 5 and 6)

        (iii) replacement of existing windows and new acoustically treated windows along the Randle and Chalmers Street elevations of Level 5

        (iv) a new architectural roof feature above the new Level 6

        (v) a new concrete wall located along the northern boundary (adjoining 38 Chalmers Street).

    (b) An important planning and design reference for the current DA is the previous development consent for the site, DU/2003/76, which involved a relatively similar adaptive re-use of the existing Level 5 and erection of a new Level 6 at the current Roof Level for a commercial use, as compared to the proposed residential use of the current application.

    (c) DU/2003/76 also included a flat roof form with a maximum height of RL 51.00 at the parapet level.

    (d) This maximum level has been used as a reference point in the design of the proposed residential addition in the current application, which retains the approved parapet height of RL 51.00, but provides a curved architectural roof feature above.

    (e) It is also important to note that DU/2003/76 included the approval of the following variation of Sydney LEP 2012 development standards:

        (i) Clause 4.3 – Maximum Height of Building – 27 metres

A section of the western elevation of the upper roof level addition enabled a maximum a maximum height of 27.71 metres, a variation of 0.71 metres, or 2.63%.

(ii) Clause 4.4 – Maximum Floor Space Ratio – 6:1

The approved total GFA for the modified building was 2,072 square metres, resulting in a FSR of 6.54:1, a variation 172.4 square metres, or 9%.

(f) In assessing the current proposal against SLEP 2012, it is firstly recognised that the proposed new 2-storey dwelling is located directly above existing commercial premises uses and is defined as 'shop top housing", which is permissible with consent and is consistent with the LEP's MU1 Mixed Use zone objectives.

(g) Similar to the most recently modified development consent DU/2003/76, the current DA seeks approval for the variation of the following key development standards:

(i) Clause 4.3 – Maximum Height of Building – 27 metres

The proposed maximum height of the roof of the new residential addition is RL 54.39, representing a maximum vertical height of the existing ground level of 29.92 metres, a variation of 2.92 metres, or a margin of 10.8% of the existing LEP maximum of 27 metres

(ii) Clause 4.4 – Maximum Floor Space Ratio – 6:1

The additional gross floor area (GFA) of the proposed roof level addition contributes to an overall site FSR of 6.54:1, and total GFA of 2,073 square metres, representing a variation to the LEP 6:1 maximum FSR of 173 square metres, or a margin of 9.1 %.

(h) The application is accompanied by variations under Clause 4.6 of the Sydney LEP 2012, which verify that strict compliance with the maximum building height and FSR is unreasonable and unnecessary in this instance.

(i) These variations of these development standards do not represent a significant increase in either the height or GFA of the existing building.

(j) The main environmental impact issue is the relationship of the proposed residential addition with the roof level of the adjoining residential apartments at 38 Chalmers Street. Careful attention has been paid to design treatments to minimise these impacts. The proposed residential roof level addition provides generous setbacks ranging from 3.1 to 3.4 metres to the northern, common boundary with 38 Chalmers Street, allocating a private open space terrace, and area for future plant equipment. The proposed roof structure extends closer to the boundary, approximately 1 to 1.5 metres.

(k) To minimise the potential visual, privacy and noise impacts between the 2 roof levels, it is proposed to construct a concrete wall along the entire northern elevation, with a height varying between 1.2 metres and 2.4 metres. The accompanying acoustic report also identifies that additional noise treatment can be applied if needed to that section of the wall that adjoins the proposed plant equipment area. The amenity impacts for the residents of 38 Chalmers Street have been further minimised by the location and orientation of the main living areas and windows of the proposed roof level residence to the west and south elevations.

(l) These building and design features will also act to minimise any impacts on the environmental amenity of the emerging mixed-use redevelopment located opposite to the north-east at 7-15 Randle Street.

(m) Shadow diagrams have been submitted to accompany this application, and given the site's solar orientation, separation from surrounding buildings by multiple street frontages, and the proposed sensitively scaled and design roof top addition, there will be minimal overshadowing impacts for both surrounding properties and the public domain. The most significant additional overshadowing is expected to occur between 9-10am mid-winter, and only impacts on a limited section of the adjoining roads to the south.

(n) The proposal is highly consistent with the current and desired future mixed use character of this locality, providing a sensitively designed residential and roof level addition above the retained distinctive commercial building.

(o) The proposal maintains a suitable visual bulk and scale for this prominent streetscape location, and minimising any overshadowing, privacy, view vistas and visual impacts for both the adjoining mixed use buildings to the north, and the public domain and heritage qualities of the Central Station entrance and forecourt opposite.

(p) Building setbacks up to 1 metre have been provided at roof level along the south and west elevations, including landscaped planter boxes to reduce the building bulk when viewed from the adjoining public domain and historically significant Central Railway precinct.

(q) It is also important to note that a well advanced Council Planning Proposal seeks to amend the requirements of the Sydney LEP 2012 to increase the maximum height criteria applying to this site under these clauses from 25 metres to 35 metres, which would exclude the current proposal.

74. In the specific circumstances of the proposed development, the requirement for the preparation of a DCP and competitive design process are unreasonable or unnecessary for the following reasons:

(a) The proposed development satisfies the design excellence criteria in Clause 6.21D of Sydney LEP 2012 as discussed elsewhere in this report.

(b) The proposal does not seek the any award of up to 10% additional height or FSR available under the City's design excellence provisions.

(c) The proposal does not exceed a height of 55 metres, or a capital investment value of $100,000,000, which are separate triggers for the preparation of a development control plan and competitive design process.

(d) The trigger for the requirement for a site-specific DCP and a competitive design process is Clause 7.20(2)(a) where the land is outside of Central Sydney and the height of the proposed development exceeds 25 metres. The applicant submits that the alterations and additions proposed to the existing building also satisfy the relevant provisions of Clause 7.20(3)(a), (b), (c) and (d) and Clause 6.21D(2)(a), (b), (c) and (d), given that they:

(i) include only alterations and additions to existing building

(ii) do not significantly increase the height or gross floor area of the existing building

(iii) do not result in any significantly adverse impacts on adjoining buildings or the public domain

(iv) do not significantly alter views of the building from public places.

(e) The development proposes a building height that is appropriate and compatible for the site, designed in accordance with the context of the locality, ensuring building elements achieve an appropriate transition in height to neighbouring buildings.

(f) The density of the proposal is proportionate with the existing development within the locality.

(g) Shadow diagrams demonstrate that it will not result in any significant overshadowing to certain public spaces, notably the open areas associate with Central Station on the western side of Chalmers Street.

(h) The proposal is generally acceptable regarding other planning controls prescribed in the Sydney LEP 2012 and Sydney DCP 2012, as outlined in the tables provided above.

(i) The development provides an acceptable degree of amenity for future occupants and does not result in significantly adverse impacts on the neighbouring properties and the locality.

75. Clause 7.20(4) of the Sydney LEP 2012 sets out matters must be addressed in a site specific development control plan. The proposal satisfies the criteria in Clause 7.20(4) as detailed below:

(a) requirements as to the form and external appearance of proposed development so as to improve the quality and amenity of the public domain

The proposed form and external appearance of the development will provide a positive contribution to the public domain. It is appropriate to its context and is compatible with the surrounding development.

(b) requirements to minimise the detrimental impact of proposed development on view corridors

The proposed development will not result in any significantly detrimental impacts on view corridors

(c) how proposed development addresses the following matters—

(i) the suitability of the land for development,

(ii) the existing and proposed uses and use mix,

(iii) any heritage issues and streetscape constraints,

(iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,

(v) the bulk, massing and modulation of buildings,

(vi) street frontage heights,

(vii) environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,

(viii) the achievement of the principles of ecologically sustainable development,

(ix) the impact on, and any proposed improvements to, the public domain,

(x) the impact on any special character area,

(xi) achieving appropriate interface at ground level between the building and the public domain,

(xii) the excellence and integration of landscape design,

(xiii) the incorporation of high quality public art into the fabric of buildings in the public domain or in other areas to which the public has access.

76. The proposal addresses the above matters in the following manner:

(a) It comprises a dwelling within an existing mixed-use development, including retail and office premises, which are all permissible within the MU1 Mixed Use zone.

(b) The proposed use will replace existing office premises with a residential accommodation land use, which is consistent with the objectives of the land use zone by integrating it with a mix of other land uses in an accessible location that maximises public transport patronage and encourages walking and cycling.

(c) The proposed bulk, scale and massing of the development, including its street frontage height, responds appropriately to the existing adjoining development and is consistent with the character of the streetscape.

(d) Subject to the recommended conditions in Attachment A, it will not have adverse environmental impacts by way of overshadowing, visual and acoustic privacy, noise, wind and reflectivity.

(e) The application is accompanied by a valid BASIX certificate which requires a range of sustainability measures to be incorporated in the development, including energy efficiency and water use reduction initiatives.

(f) The proposed development is sympathetic to and compatible with the heritage items within the vicinity of the site nearby heritage items and the surrounding Railway Square/Central Station Special Character Area.

(g) It will provide a positive contribution to the public domain and visual interest along Chalmers Street and Randle Street.

(h) The development will provide passive surveillance of the surrounding street network.

(i) While there are limited opportunities for landscaping due to the constraints posed by the context of the existing building beneath the proposed development, the outdoor terrace located on level 6 is proposed to be provided with landscape works and plantings.

77. Clause 6.21C(2) of the Sydney LEP 2012 sets out matters which are required to be addressed for a development to be considered to exhibit design excellence, which are consistent with the provisions in Clause 7.20(4) set out above.

78. As discussed in the assessment provided in the compliance table and regarding Clause 7.20(4) of the Sydney LEP 2012, the proposed development is suitable for the site and demonstrates a high standard of architectural design, materials and detailing appropriate to the building type and location, subject to the recommended conditions in Attachment A.

79. In terms of form, bulk and scale, the proposal does not result in any significant impacts on view corridors and responds positively to both the public domain, adjoining development and heritage items and the surrounding land uses.

80. It incorporates appropriate Ecologically Sustainable Development (ESD) measures.

81. On this basis and given that the proposal demonstrates an appropriate response to the matters for consideration under Clause 7.20 and 6.21D of the Sydney LEP 2012 as detailed above, it is unlikely that a better design outcome would be achieved through imposing the requirements for site specific development control plan and a competitive design competition in this case.

82. Considering the above circumstances, there are sufficient reasons as to why a site-specific development control plan and a competitive design process is unreasonable or unnecessary in the circumstances of this development application. Pursuant to Clauses 7.20(3) and 6.21D(2) of SLEP 2012, it is recommended that these requirements are waived in this instance.

## Consultation

### Internal referrals

83. The application was discussed with Council's:

(a) Cleansing and Waste Unit

(b) Construction and Building Unit

(c) Health and Building Unit

(d) Heritage and Urban Design Specialists

(e) Landscape Assessment Officer

(f) Specialist Surveyor

84. The above advised that the proposal is acceptable subject to conditions.

85. Where appropriate, these conditions are included in the Recommended conditions of consent, shown at Attachment A to the subject report.

## External referrals

### Ausgrid

86. As outlined under the 'State Environmental Planning Policy (Transport and Infrastructure) 2021' heading above, pursuant to Section 2.48 of the Transport and Infrastructure SEPP, the application was referred to Ausgrid for comment.

87. A response was received raising no objections to the proposed development, subject to several recommended conditions.

### Sydney Water

88. As outlined under the 'Sydney Water Act 1994' heading above, pursuant to Section 78 of that Act, the application was referred to Sydney Water for comment.

89. A response was received raising no objections to the proposed development, subject to several recommended conditions.

### Transport for NSW

90. As outlined under the 'State Environmental Planning Policy (Transport and Infrastructure) 2021' heading above, pursuant to Section 2.97 of the Transport and Infrastructure SEPP, the application was referred to TfNSW for concurrence.

91. Concurrence was received on 20 May 2026. Conditions of consent were recommended which are included in Attachment A.

## Advertising and notification

92. In accordance with the City of Sydney Community Participation Plan 2025, the proposed development was notified for a period of 14 days between 5 May 2026 and 20 May 2026.

93. A total of 85 properties were notified, and no submissions were received by the Council in response to the public exhibition of the application.

## Financial contributions

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

94. The Central Sydney Development Contributions Plan 2020 applies to the site. The cost of the development is over $250,000.

95. The development is therefore subject to a Section 7.12 contribution under this Plan.

96. A condition relating to this contribution has been included in the recommended conditions. 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

97. The site is located within the residual lands affordable housing contribution area.

98. As the proposed development involves a change of use of existing floor area from other than residential accommodation to residential accommodation, a contribution is required at a rate of $11,223.28 multiplied by 3% of the total residential floor area of 588 square metres, totalling $197,978.66.

99. A condition of consent is recommended requiring payment prior to the issue of a construction certificate.

100. 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.

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 State Environmental Planning Policy (Housing) 2021 identifies that there is a need for affordable housing within each area of the State.

102. 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.

103. Having regard to the provisions of Section 7.32 of the Act, the imposition of an affordable housing contribution is reasonable.

**Housing and productivity contribution**

104. The development is not subject to a Housing and Productivity Contribution under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2024.

105. While the site is located within the Greater Sydney region, the development is not a type of residential development to which the Housing and Productivity Contribution applies.

## Relevant legislation

106. Environmental Planning and Assessment Act, 1979.

107. Roads Act, 1993.

108. Sydney Water Act, 1994

## Conclusion

109. The applicant seeks development consent for alterations and additions to change the use to a new 2-storey dwelling at level 5 and 6 of the existing building at 17 Randle Street, Surry Hills.

    Works include demolition of the internal fit out of level 5, the roof and roof plant above, alterations and additions and change of use to level 5 and the addition of a new storey with an outdoor terrace and landscaping works above at level 6 to create a new 2-storey dwelling, replacement of existing windows at level 5 with new acoustically treated windows, construction of a new architectural roof feature, and construction of a plant enclosure, concrete wall and acoustic screen along the northern boundary at level 6.

111. The proposal was amended to address Council's concerns relating to safety and security measures related to the intermingling of residential and commercial tenants, balustrade design, glazing specifications, roof details, landscape details, acoustic privacy, waste management and accommodation of existing services. The amended proposal is satisfactory, subject to the recommended conditions.

112. The proposed height of the development exceeds the maximum 27 metre height of buildings development standard by 2.92 metres (or 10.8% of the standard) and the proposed FSR exceeds the maximum 6:1 FSR standard by 173 square metres of GFA (or 9.1% of the standard)

113. Requests to vary the Clause 4.3 'Height of buildings' and Clause 4.4 'Floor space ratio development standards have been submitted with the application in accordance with Clause 4.6 of the Sydney LEP 2012. The statements demonstrate that compliance with the standards is unreasonable and unnecessary, and that there are sufficient environmental planning grounds to justify contravening the standards.

114. The applicant has submitted a request to waive the requirements in Clause 7.20 and 6.21D of the Sydney LEP 2012 for the preparation of a site-specific development control plan and a competitive design process. This request is supported in the specific circumstances of the proposed development.

115. The proposal is generally consistent with the objectives of the land use zones applicable to the site, and the objectives of the height and FSR development standards, and the proposed departure to building height and density is supported in the particular circumstances of the site and proposed development.

116. The proposal is generally consistent with other applicable planning provisions including the Sydney LEP 2012 and the Sydney DCP 2012. Proposed variations to controls have been assessed as having merit in this case and are addressed in the report. Conditions are recommended to address non-compliances where appropriate.

117. The proposal does not pose any other significant or unreasonable impacts upon the existing or likely future development surrounding the site and exhibits design excellence in accordance with Clause 6.21C of the Sydney LEP 2012.

118. The proposal will provide for a new residential accommodation use within an existing mixed use development, on a site which is highly accessible to existing and planned employment, services, public transport infrastructure and community facilities.

    Subject to the recommendation of this report, and the imposition of the conditions in Attachment A, the proposed development responds appropriately to the site constraints and will contribute positively to the existing and desired future character of the locality.

**ANDREW THOMAS**

Executive Manager Planning and Development

David Reynolds, Area Coordinator