

**Item 3.****Development Application: 67-69 Murray Street, Pyrmont**

File No.: D/2017/1348

**Summary**

<b>Date of Submission:</b>	29 September 2017  Amended plans and additional information submitted on 9 March, 4 April, 6 June and 2 July 2018.
<b>Applicant:</b>	Addenbrooke Pty Ltd c/o SJB Planning
<b>Architect:</b>	SJB Architects
<b>Developer:</b>	Addenbrooke Pty Ltd
<b>Owner:</b>	Mr D A Aroney and Mr T Finlayson and AFCS Pty Limited
<b>Cost of Works:</b>	\$7,260,000
<b>Land Use:</b>	Residential flat building and retail - permissible in B4 Mixed Use zone.
<b>Proposal Summary:</b>	<p>Integrated development application for the demolition of the existing building, excavation for basement car parking, construction of eight storey building comprising ground floor retail tenancy, seven apartments and roof top terrace.</p> <p>The application is referred to the Local Planning Panel for determination as the application is an application to which SEPP 65 applies.</p> <p>The preliminary assessment of the application, including consideration of the proposal by the Design Advisory Panel, identified issues relating to compliance with SEPP 65 and the Apartment Design Guide. This included solar access requirements, a need to incorporate / respond to the precinct's masonry warehouse character, visual privacy, and the provision of blank walls at ground level. The proposal has been amended to address these issues.</p> <p>The development in its amended form complies with the primary built form controls of Sydney LEP 2012 and is consistent with the design quality principles of SEPP 65.</p>

**Proposal Summary:****(continued)**

Due to the fall in the land, the building is partly over 25m in height and accordingly the provisions of Clause 6.21 of the Sydney LEP 2012 which requires a competitive design process to be held, and Clause 7.20 of the Sydney LEP 2012 which requires a site specific development control plan (or concept development application) to be prepared apply. The applicant has submitted a request that the consent authority find that these provisions are unreasonable or unnecessary in the circumstances and waive the requirement for these processes to be carried out. The applicant's request in this instance is supported.

The application was advertised and notified for a period of 30 days from 20 October to 20 November 2017. The amended plans were re-notified for 14 days between 14 June and 29 June 2018. In response to the initial advertising and notification period, a total of seven submissions were received. Four submissions were received during the re-notification period. The issues raised include the demolition of the existing building, the compatibility of the height and building design with the character of the area, overshadowing, privacy, noise, view loss, traffic impacts, and sandstone extraction.

The application is Integrated Development as it comprises an aquifer interference activity that is likely to intercept groundwater, and requires approval under the Water Management Act 2000. General Terms of Approval have been provided by Water NSW to the application.

**Summary Recommendation:**

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

**Development Controls:**

- (i) Sydney Local Environmental Plan 2012 (Gazetted 12 December 2012, as amended)
- (ii) Sydney Development Control Plan 2012 (in force on 12 December 2012, as amended)
- (iii) State Environmental Planning Policy No 55 - Remediation of Land
- (iv) State Environmental Planning Policy No 65 - Design Quality of Residential Flat Buildings
- (v) State Environmental Planning Policy (Infrastructure) 2007

**Attachments:**

- A. Recommended Conditions of Consent
- B. Proposed Drawings

## Recommendation

It is resolved that:

- (A) the competitive design process provisions of Clause 6.21 (Design Excellence) of the Sydney Local Environmental Plan 2012 is unreasonable or unnecessary in the circumstances;
- (B) the requirement for a site specific development control plan provisions of Clause 7.20 (Development requiring or authorising preparation of a development control plan) of the Sydney Local Environmental Plan 2012 is unreasonable or unnecessary in the circumstances; and
- (C) consent be granted to Development Application No. D/2017/1348, 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 development, subject to the imposition of appropriate conditions as recommended in Attachment A, is consistent with the objectives of the planning controls for the site for the reasons outlined in the report to the Local Planning Panel.
- (B) The requirement for a competitive design process is considered to be unreasonable and unnecessary in the circumstances as the exceedance of 25 metres in height is partial and minor and as the proposal is considered to achieve design excellence.
- (C) The requirement for a site specific DCP is considered to be unreasonable and unnecessary in the circumstances as the exceedance of 25 metres in height is partial and minor and as the proposal is consistent with the built form controls that apply to the site.
- (D) The proposed development is generally consistent with the provisions of the Apartment Design Guide (ADG) and will achieve a high level of amenity for the future residents of the building.
- (E) The proposal, subject to conditions, will not adversely impact the amenity of neighbouring properties and is in the public interest.

## Background

### The Site and Surrounding Development

1. The site has a legal description of Lot 1 DP 1050768 and is commonly known as 67-69 Murray Street, Pyrmont.
2. The site is generally rectangular in shape, with splayed corners where Bunn Street meets with both Murray Street and Harwood Lane. The site has an area of 290sqm. The site slopes from Harwood Lane down to Bunn Street by approximately 3m.
3. Existing on site is a three storey commercial building with full site coverage.
4. The surrounding area is characterised by a mixture of land uses, including commercial, hotel, and residential uses.
5. The site is at the southern end of a street block containing three other sites, which each contain four storey masonry warehouse buildings. The two sites at the northern end of the block are heritage items with 51-53 Murray Street (Item I1245) being a former warehouse "HS Bird & Co" including interiors, and 47-49 Murray Street (Item I1244) being a former warehouse "Harry Lesnie Pty Ltd" including interiors.
6. On the opposite side of Murray Street is the 12-storey 'Ibis' hotel.
7. On the opposite side of Bunn Street is the 10 storey 'Mirage' residential flat building.
8. On the opposite side of Harwood Lane is the nine storey 'Arena' residential flat building.
9. The site is not a heritage item and not located within a heritage conservation area. The site is located in the vicinity of two heritage items at 51-53 Murray Street (Item I1245) and 47-49 Murray Street (Item I1244).
10. Photos of the site and surrounds are provided below:



Figure 1: Aerial image of subject site and surrounding area



Figure 2: Site viewed from the corner of Bunn Street and Murray Street.



Figure 3: Looking south along Murray Street.



Figure 4: Looking south along Murray Street.



**Figure 5:** Site viewed from the corner of Harwood Lane and Bunn Street.



**Figure 6:** The 9 storey 'Arena' residential flat building at 32-34 Bunn Street at the rear.



**Figure 7:** The 10 storey 'Mirage' residential flat building at 1-29 Bunn Street. This building includes a communal roof terrace.

## Proposal

11. The application seeks consent for the demolition of the existing building, excavation for basement car parking and construction of 8 storey building. The new building includes a ground floor retail tenancy, 7 residential apartments and use of the rooftop for both communal and private open space. Amendments to the proposal have been outlined in the history section below.
12. In detail, consent is sought for the following:
  - (a) **Basement Level 1**
    - (i) Parking for eight cars and 10 bicycles accessed via car stacker.
  - (b) **Ground Floor**
    - (i) One retail tenancy of 71sqm;
    - (ii) Waste Room;
    - (iii) Residential storage; and
    - (iv) Plant;

- (c) **Level 1**
    - (i) Residential lobby accessed from the corner of Bunn Street and Harwood Lane;
    - (ii) One residential apartment (two bedroom);
    - (iii) Car stacker entry; and
    - (iv) Loading dock;
  - (d) **Levels 2-7**
    - (i) Six residential apartments (three bed), with one per level;
  - (e) **Roof level**
    - (i) Communal roof terrace (40sqm);
    - (ii) Private roof terrace (40sqm) for Level 7 apartment; and
    - (iii) Roof top plant.
13. The proposed materials include a facebrick facade with metal panelling to the upper two levels.
14. Photomontages of the amended development proposal are provided in Figure 8. A full set of plans is provided at Attachment B to this report.



**Figure 8:** Photomontages as viewed from Murray Street.

## **History Relevant to the Development Application**

### **Previous Development Applications**

15. There are no previous development applications that are relevant to the application.

### **Current Development Application**

16. The development application was lodged on 29 September 2017.

17. Photomontages of the original application are shown in Figure 9 below.



**Figure 9:** Photomontages of the original proposal as viewed from the Murray Street and the rear from Bunn Street.

18. The development application was presented to the Design Advisory Panel (DAP) on 9 November 2017. DAP advised that:
  - (a) Lack of compliance with SEPP 65 provisions and the Apartment Design Guide, particularly solar and ventilation requirements. The building is overshadowed by the Ibis for most of the day.
  - (b) The floor to ceiling glass facade should be reconsidered due to limited privacy to apartments and potentially poor environmental performance and sustainability outcomes.
  - (c) The development lacks contextual response to the precinct's masonry warehouse character.
  - (d) The proposal meets the ground poorly. The building addresses the street with blank walls, which is detrimental to the streetscape.
19. The applicant has addressed these issues through submitting a series of amended plans. The final amendments satisfy the issues raised by the Design Advisory Panel.
20. The amendments include:
  - (a) Reduction in the number of dwellings from 13 to 7;
  - (b) Internal re-configuration to provide one apartment per level;

- (c) Setback of the seventh and eighth storey to provide a six storey street wall height to Murray Street;
  - (d) Reduction in Gross Floor Area;
  - (e) Increase the floor to floor heights of Level 1;
  - (f) Material change to the building facade to provide brick and metal cladding;
  - (g) Shopfront glazing to Bunn Street;
  - (h) Reconfigure ground floor layout;
  - (i) Increase balcony sizes, and reconfigure design and location;
  - (j) Reconfigure loading dock and car stacker entrance;
  - (k) Relocate bicycle parking to the basement level; and
  - (l) Reconfigure communal roof terrace.
21. The assessment of the application is based on the amended plans submitted on 2 July 2018.

### **Economic/Social/Environmental Impacts**

22. The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act), including consideration of the following matters:
- (a) Integrated Development - Section 4.46 EP&A Act

### **Water Management Act 2000**

23. The application was referred to the NSW Office of Water on 25 October 2017 as the proposal involves a redevelopment that is classified as Integrated Development under Section 4.46 of the EP&A Act.
24. The groundwater table will be intercepted as a result of excavation for the proposed basement car park. The construction dewatering proposed for the project is deemed to be an aquifer interference activity. An authorisation to intercept or extract groundwater is required to be authorised under water management legislation.
25. The NSW Office of Water have provided General Terms of Approval (GTA) appropriate to the proposed aquifer interference activity on 23 March 2018.
- (a) Environmental Planning Instruments and DCPs.

### **State Environmental Planning Policy No 55—Remediation of Land**

26. The aim of SEPP 55 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.

27. A Detailed Environmental Site Investigation (DESI) has been submitted. The site was previously used for printing works between 1928 and 1961; however, the site investigation did not identify soil contamination presenting a risk to future occupants. The DESI has been reviewed by an Accredited Site Auditor who has prepared a Site Audit Statement which confirms that the site is suitable for the residential use. The City's Health Unit has reviewed this information and confirmed that the site is suitable for the proposed use.

### **State Environmental Planning Policy No 65—Design Quality of Residential Flat Development**

28. SEPP 65 provides that in determining an application for a residential flat development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality, including nine design quality principles, being:

(a) **Principle 1: Context and Neighbourhood Character**

Complies: The locality has a strong masonry character. The amended proposal incorporates masonry facade and is considered to be appropriate within the context of the site and the desired future character of the area.

(b) **Principle 2: Built Form and Scale**

Complies: The built form and scale of the proposed development is considered appropriate for the site. It is noted that the site complies with floor space requirements, height control and provides a six storey street wall height to Murray Street as detailed in the compliance table of this report.

(c) **Principle 3: Density**

Complies: The proposal complies with the maximum permitted gross floor area (GFA) applicable to the site. The proposed density responds well to the existing and future context of the area, and does not have an unreasonable impact on adjoining development.

(d) **Principle 4: Sustainability**

Complies: The proposal satisfies BASIX requirements and a condition is recommended to ensure the BASIX commitments are implemented.

The design provides for sustainable development, utilising passive solar design principles, thermal massing, and achieves natural cross ventilation to all dwellings within the development.

(e) **Principle 5: Landscape**

Due to the size of the site and the need to provide active built frontages, the ability to provide landscaped areas at ground level is limited. Rooftop landscaping is proposed as part of the roof terrace design. A condition is recommended requiring a detailed landscape plan to be prepared.

(f) **Principle 6: Amenity**

Complies: An acceptable level of amenity is provided for the occupants of the development. The proposal includes substantial dwelling sizes and practical room dimensions and configurations, storage space, and indoor and outdoor space. Compliance with the amenity controls of the Apartment Design Guide (ADG) are detailed in the compliance table below.

(g) **Principle 7: Safety**

Complies: The safety and security of the public domain is enhanced by increased activity on the site and casual surveillance provided from the windows and balconies located along Murray Street.

(h) **Principle 8: Housing Diversity and Social Interaction**

The development provides an appropriate mix of two bedroom (14.3%) and 3 bedroom (85.7%) dwellings which complies with the dwelling mix provisions within Part 4.2 of the Sydney DCP 2012. For this reason it is considered that the development responds positively to the housing needs of the local community.

(i) **Principle 9: Aesthetics**

The proposed development provides for a contemporary range of building form that is compatible with the existing masonry character of the area. The proposal provides a modern, high quality and visually dynamic building which is well articulated and uses a variety of building materials.

29. The development is considered generally acceptable when assessed against the SEPP Principles as outlined above. An assessment against the associated Apartment Design Guidelines that support these Principles is provided in the following Table. It is noted that these provisions correlate with and are largely replicated within the design and amenity standards of Council's own planning controls.

## Apartment Design Guide

<b>2E Building Depth</b>	<b>Compliance</b>	<b>Comment</b>
12-18m (glass to glass)	Yes	The building depth from Bunn Street is 12m. The building depth between Murray Street and Harwood Lane is 19m for Levels 2-5 and 15m for Levels 6-7.

2F Building Separation	Compliance	Comment
<p>Up to four storeys (approximately 12 metres):</p> <ul style="list-style-type: none"> <li>• 12m between habitable rooms / balconies</li> <li>• 9m between habitable and non-habitable rooms</li> <li>• 6m between non-habitable rooms</li> </ul>	Partial compliance	<p>The application provides building separation to the 9 storey residential flat building on the opposite side of Harwood Lane of:</p> <p>Level 1 - 10.65m.</p> <p>Levels 2-3 - 13.35m</p> <p>Building separation is discussed further in the Issues section below.</p>
<p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> <li>• 18m between habitable rooms / balconies</li> <li>• 12m between habitable and non-habitable rooms</li> <li>• 9m between non-habitable rooms</li> </ul>	No	<p>The application provides building separation to the 9 storey residential flat building on the opposite side of Harwood Lane of:</p> <p>Levels 4-7 - 13.35m.</p> <p>Building separation is discussed further in the Issues section below.</p>

3B Orientation	Compliance	Comment
<p>Building types and layouts respond to the streetscape and site while optimising solar access within the development.</p> <p>Overshadowing of neighbouring properties is minimised during midwinter.</p>	Yes	<p>The building orientation has ensured that overshadowing of neighbouring properties is minimised during midwinter.</p>

<b>3D Communal and Public Open Space</b>	<b>Compliance</b>	<b>Comment</b>
Communal open space has a minimum area equal to 25% of the site.	No	<p>72.5sqm of communal open space is required.</p> <p>A communal roof top terrace is proposed, however the usable area is limited to 40sqm (13.8%) which is considered to be unsatisfactory.</p> <p>This is discussed in the issues section below.</p>
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Yes	Two hours direct sunlight is provided to the communal open space area at midwinter.

<b>3E Deep Soil Zones</b>	<b>Compliance</b>	<b>Comment</b>
Deep soil zones are to have a minimum area equivalent to 7% of the site	No	<p>No deep soil zone is proposed.</p> <p>This is acceptable due to the limited site area of 290sqm and as the proposed built form has full site coverage which is consistent with the context.</p>

3F Visual Privacy	Compliance	Comment
Separation between windows and balconies is required to ensure visual privacy is achieved. Minimum separation distances from buildings to the side and rear boundaries are outlined below.		
Up to four storeys (12 metres): <ul style="list-style-type: none"> <li>• 6m between habitable rooms / balconies</li> <li>• 3m between non-habitable rooms</li> </ul>	No	The application provides building separation to the 9 storey residential flat building on the opposite side of Harwood Lane of:  Level 1 - 10.65m Levels 2-3 - 13.35m  Visual privacy to the rear of the site is discussed further in the Issues section below.
Five to eight storeys (25 metres): <ul style="list-style-type: none"> <li>• 9m between habitable rooms / balconies</li> <li>• 4.5m between non-habitable rooms</li> </ul>	No	The application provides building separation to the 9 storey residential flat building on the opposite side of Harwood Lane of:  Levels 4-7 - 13.35m  Visual privacy to the rear of the site is discussed further in the Issues section below.

4A Solar and Daylight Access	Compliance	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Partial compliance	85.7% (6 out of 7) of apartments receive 2 hours of direct sunlight to living rooms.  28.5% (2 out of 7) of apartments receive 2 hours of direct sunlight to private open space. The balconies are primarily provided to the Murray Street frontage. Solar access is achieved to the Murray Street frontage for less than 1 hour at 11am, with the Harwood Lane frontage receiving a greater level of solar access. The location of balconies to the Murray Street frontage is appropriate as it minimises privacy impacts to Harwood Lane.  Refer to discussion in the Issues section below.

<b>4A Solar and Daylight Access</b>	<b>Compliance</b>	<b>Comment</b>
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	All apartments receive at least 15 minutes of direct sunlight.

<b>4B Natural Ventilation</b>	<b>Compliance</b>	<b>Comment</b>
All habitable rooms are naturally ventilated.	Yes	All habitable rooms are naturally ventilated.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	All apartments are cross ventilated.

Measured from finished floor level to finished ceiling level, minimum ceiling heights are as follows in the table below.

<b>4C Ceiling Heights</b>	<b>Compliance</b>	<b>Comment</b>
Habitable rooms: 2.7m	Yes	2.7m for all habitable rooms.
Non-habitable rooms: 2.4m	Yes	2.4m for all non-habitable rooms.
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	Partial compliance	3.6m at ground floor and 3.2m at first floor which is considered to be acceptable as the first floor has been designed for residential use and minimises the overall height of the development.

<b>4D Apartment Size and Layout</b>	<b>Compliance</b>	<b>Comment</b>
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> <li>• 2 bed: 70m<sup>2</sup></li> <li>• 3 bed: 90m<sup>2</sup></li> </ul> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p>	Yes	The 2 bedroom apartment is 80sqm and 3 bedroom apartments are 144sqm or greater.

<b>4D Apartment Size and Layout</b>	<b>Compliance</b>	<b>Comment</b>
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Partial compliance	All habitable rooms have a window in an external wall except for study nooks located on Levels 2-5. These rooms are not enclosed by a door.
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	Habitable rooms have appropriate depths.
8m maximum depth for open plan layouts.	Yes	Habitable rooms are no more than 8m from any window.
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> <li>• master bedroom: 10m<sup>2</sup></li> <li>• all other bedrooms: 9m<sup>2</sup></li> </ul> <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p>	Yes	All bedrooms comply.
<p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> <li>• Studio and one-bedroom: 3.6m</li> <li>• Two-bedroom or more: 4m</li> </ul>	Yes	All living rooms comply.

<b>4E Private Open Space and Balconies</b>	<b>Compliance</b>	<b>Comment</b>
<p>Two bed apartments are to have a minimum balcony area of 10m<sup>2</sup> with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12m<sup>2</sup> with a minimum depth of 2.4m.</p>	Partial compliance	<p>All apartments achieve the minimum area. The balcony to the top floor unit (No.7.01) is not directly adjacent to the living room. This is discussed further in the issues section below.</p> <p>The three bedroom apartments on Levels 3-5 have a minimum depth of 2.25m.</p>

<b>4F Common Circulation and Spaces</b>	<b>Compliance</b>	<b>Comment</b>
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	One apartment per level is provided.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	There are no windows that open onto common circulation spaces.
Daylight and natural ventilation are provided to all common circulation spaces.	No	Common circulation spaces are located in the centre of the site and do not allow for daylight or natural ventilation to be provided. As there is one unit per floor this is considered to be acceptable.

<b>4G Storage</b>	<b>Compliance</b>	<b>Comment</b>
Minimum storage provision facilities: <ul style="list-style-type: none"> <li>• 2 bed: 8m<sup>3</sup></li> <li>• 3 bed: 10m<sup>3</sup></li> </ul> (Minimum 50% storage area located within unit)	Yes	The minimum required storage is provided for each unit, within the apartment and ground level storage cages.

<b>4M Facades</b>	<b>Compliance</b>	<b>Comment</b>
Building facades provide visual interest along the street while respecting the character of the local area.	Yes	The amended proposal provides a masonry facade which is consistent masonry warehouse character of the area.

#### **State Environmental Planning Policy (Infrastructure) 2007**

30. The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.

## Clause 45

31. The application is subject to Clause 45 (Subdivision 2 Development likely to affect an electricity transmission or distribution network) of the SEPP as the development will involve the penetration of ground within 2m of an electricity distribution pole and is adjacent to an electricity substation.
32. In accordance with the Clause, the application was referred to Energy Australia for a period of 21 days and no objection was raised subject to conditions.

**Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)**

33. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.
34. The Sydney Harbour Catchment Planning Principles must be considered in the carrying out of development within the catchment. The key relevant principles include:
  - (a) protect and improve hydrological, ecological and geomorphologic processes;
  - (b) consider cumulative impacts of development within the catchment;
  - (c) improve water quality of urban runoff and reduce quantity and frequency of urban run-off; and
  - (d) protect and rehabilitate riparian corridors and remnant vegetation.
35. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and, therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development.
36. The development is consistent with the controls contained with the deemed SEPP.

**State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

37. The BASIX Certificate has been submitted with the development application.
38. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal. A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.

**Sydney Local Environmental Plan 2012**

39. The site is located within the B4 Mixed Use zone. The proposed use is defined as retail premises and residential accommodation and is permissible.
40. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

## Compliance Tables

<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
4.3 Height of Buildings	Yes	A maximum height of 30m is permitted. A height of 28.75m is proposed.
4.4 Floor Space Ratio	Yes	A maximum FSR of 4:1 is permitted. A FSR of 4:1 is proposed.
5.10 Heritage conservation	Yes	The site is located within the vicinity of heritage items at 51-53 Murray Street and 47-49 Murray Street which are 36m to the north of the site.  The development will relate sympathetically to the heritage items through an appropriate use of materials.

<b>Part 6 Local Provisions - Height and Floor Space</b>	<b>Compliance</b>	<b>Comment</b>
6.21 Design excellence	Yes	The amended proposal is considered to achieve a high standard of architectural design, materials and detailing and is considered to satisfy design excellence requirements, subject to recommended conditions discussed in this report.  The development exceeds a height of 25m which triggers the requirement to carry out a competitive design process. The 25m height is exceeded by part of the top floor, roof top terrace and lift overrun. This issue is discussed further in the Issues section below.

Part 7 Local Provisions - General	Compliance	Comment
Division 1 Car parking ancillary to other development	Yes	A maximum of 8 car parking spaces is permitted.  8 car parking spaces are proposed.
Division 3 Affordable housing	Able to comply	A contribution for the purposes of affordable housing is required for land in Ultimo-Pyrmont. An appropriate condition has been recommended.
7.14 Acid Sulphate Soils	Yes	The site is identified as containing class 5 Acid Sulphate Soil and is 50m from an adjoining class. The proposal is unlikely to lower the water table in an adjoining class.
7.15 Flood planning	Yes	The proposal is not in a flood affected area and is able to comply with flood planning requirements.
7.20 Development requiring preparation of a development control plan	Yes	The development exceeds the 25m height control that triggers the requirement to prepare a development control plan (or submit a concept DA). The height control is exceeded by part of the top floor, roof top terrace and lift overrun.  This issue is discussed further in the Issues section below.
7.24 Development near Cross City Tunnel ventilation stack	Yes	The site is located near the Cross City Tunnel ventilation stack which is approximately 500m from the site and has a height of 65 metres above ground.  An air quality assessment report has been submitted which demonstrates that the provisions of the clause will be satisfied.

### Sydney Development Control Plan 2012

41. The relevant matters to be considered under Sydney Development Control Plan 2012 for the proposed development are outlined below.

## 2. Locality Statements – Pymont

The subject site is located in the Pymont locality.

The character statement signifies that buildings in the area provide a strong physical definition of streets and public spaces and that this is to be maintained. New development is to align with the street, address the street and respond to the detail and character of existing historic buildings.

The principles for the locality include that development is to respond to and complement heritage items, and use compatible materials including sandstone (where sustainable) and face brick.

The amended proposal is consistent with the character statement and principles of the Pymont locality as the proposed development has appropriately responded to the details and character of the existing historic buildings including the use of face brick.

Additionally, a high quality public domain interface has been provided at ground level.

3. General Provisions	Compliance	Comment
3.2 Defining the Public Domain	Yes	The proposal is required to address the street and the public domain.  The proposal has been amended to improve the Bunn Street interface and is acceptable.
3.3 Design Excellence and Competitive Design Processes	Acceptable	The proposed development has not been subject to a competitive design process.  This is discussed further in the Issues section below.
3.5 Urban Ecology	Yes	The proposed development does not involve the removal of any trees.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.7 Water and Flood Management	Yes	The site is not identified as being on flood prone land and is capable of satisfying stormwater requirements.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	No subdivision is proposed.

3. General Provisions	Compliance	Comment
3.9 Heritage	Yes	<p>The building is not heritage listed nor located in a heritage conservation area, however it forms part of a group of 20th century masonry warehouses that are older than 50 years old.</p> <p>The application proposes the demolition of the building and the DCP requires consideration of the heritage significance of the building and the impact that the proposed development has on the building and its setting.</p> <p>The demolition of the existing building is supported as it is not of individual significance and a suitable replacement building has been designed for the site. The design of the proposed replacement building has adequately considered its setting through the use of appropriate materials and satisfies the heritage controls.</p>
3.11 Transport and Parking	Yes	<p>The application proposes to provide parking and bicycle parking spaces within the basement level that are transferred via a car stacker.</p> <p>Access to the stacker is at street level and bicycle or vehicle users do not enter the basement. This arrangement has been reviewed by the City's Transport planners and is considered to be acceptable.</p>
3.12 Accessible Design	Yes	<p>As only seven apartments are proposed an adaptable dwelling is not required.</p> <p>Accessible access is provided to the communal roof terrace in the form of lift access.</p>

<b>3. General Provisions</b>	<b>Compliance</b>	<b>Comment</b>
3.13 Social and Environmental Responsibilities	Yes	<p>The site is located near the Cross City Tunnel ventilation stack which is approximately 500m from the site and has a height of 65 metres above ground.</p> <p>An air quality assessment report has been submitted which demonstrates that the provisions of the clause will be satisfied.</p>
3.14 Waste	Yes	The proposal is capable of complying with the relevant provisions of the City of Sydney Code for Waste Minimisation in New Developments 2005.
3.16 Signage and Advertising	Yes	No signage is proposed.

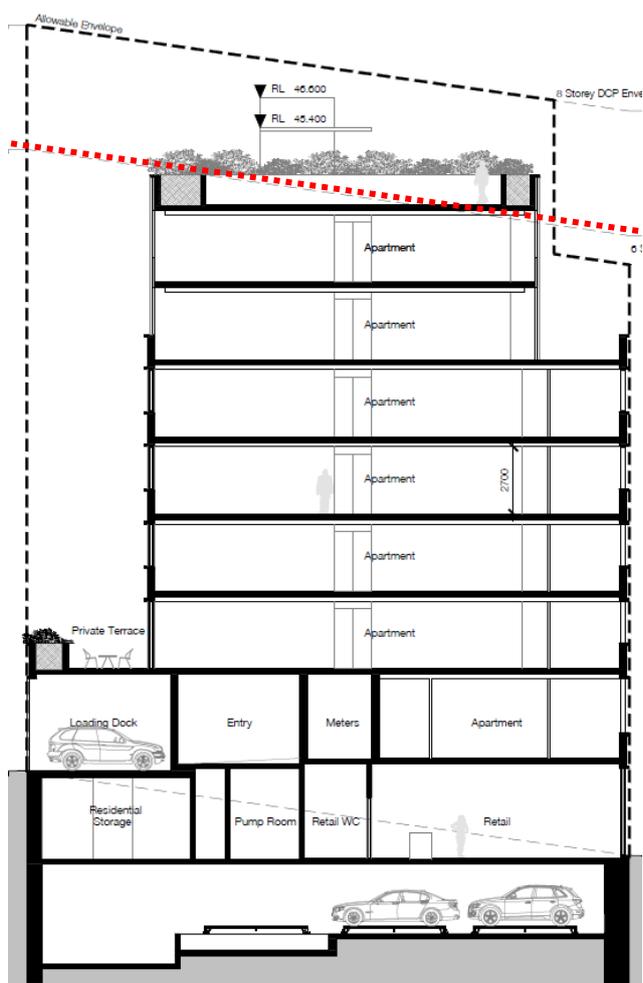
<b>4. Development Types</b>	<b>Compliance</b>	<b>Comment</b>
<b>4.2 Residential flat, commercial and mixed use developments</b>		
4.2.1 Building height	Partial compliance	<p>The site is subject to a maximum height in stories of eight, and a maximum street frontage height of six stories to Murray Street and Bunn Street.</p> <p>The proposal is eight stories, and provides a six storey street frontage, which is set back by 3.65m to Murray Street and 345mm to Bunn Street.</p> <p>The street frontage height setback to Bunn Street is less than the 3 metres required by the DCP; however, it is consistent with the prevailing street setbacks along Bunn Street. It has also been differentiated from the levels below through the application of metal panelling to these two levels.</p>
4.2.2 Building setbacks	Yes	The alignment to Murray Street and Bunn Street is consistent with adjoining developments.

4. Development Types  4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.3 Amenity	Yes	<p>The proposal's amenity with regard to landscaping and open space, ventilation, outlook and noise was addressed in the SEPP 65 and ADG section of this report, and considered to be acceptable.</p> <p>The apartment mix proposed complies with the desired mix within the City's DCP.</p>
4.2.4 Fine grain, architectural diversity and articulation	Yes	The proposal achieves fine grain diversity through modulation of the facade both in terms of materials and setbacks, and provision of balconies.
4.2.6 Waste minimisation	Yes	<p>Each dwelling has adequate space to manage waste.</p> <p>Waste collection is proposed from Harwood Lane via the City's waste collection vehicles with the loading dock to be used as a bin holding area on collection days.</p>
4.2.7 Heating and Cooling Infrastructure	Yes	The applicant has not provided any details of air conditioning for the apartments. Conditions of consent are recommended to require further approval for any plant extending above the approved rooftop envelope and to restrict the location of air conditioning units and ensure they are appropriately screened from the public domain.
4.2.8 Letterboxes	Yes	Provision has been made for letterboxes near the main building lobby.

## Issues

### Competitive Design Process and Development Control Plan requirements

42. Clause 6.21(5) (Design Excellence) of the Sydney LEP 2012 outlines that development consent must not be granted to development in respect of a building that will have a height above ground level (existing) greater than 25m unless a competitive design process has been held in relation to the proposed development.
43. Clause 7.20(2) (Development requiring or authorising preparation of a development control plan) of the Sydney LEP 2012 requires that development consent must not be granted to development in respect of a building that will have a height above ground level (existing) greater than 25m unless a development control plan (or concept DA) has been prepared for the land.
44. The proposal has a height of 28.75m and these clauses apply.
45. A small section of the proposal exceeds the 25m competition / DCP trigger. This includes a small portion of the upper level apartment, the parapet to the roof top terraces and the lift overrun. This is shown in Figure 10 below. It is noted that the proposal does not exceed the 30m height of buildings control for the site.



**Figure 10:** A section through the development showing the 25m height trigger.

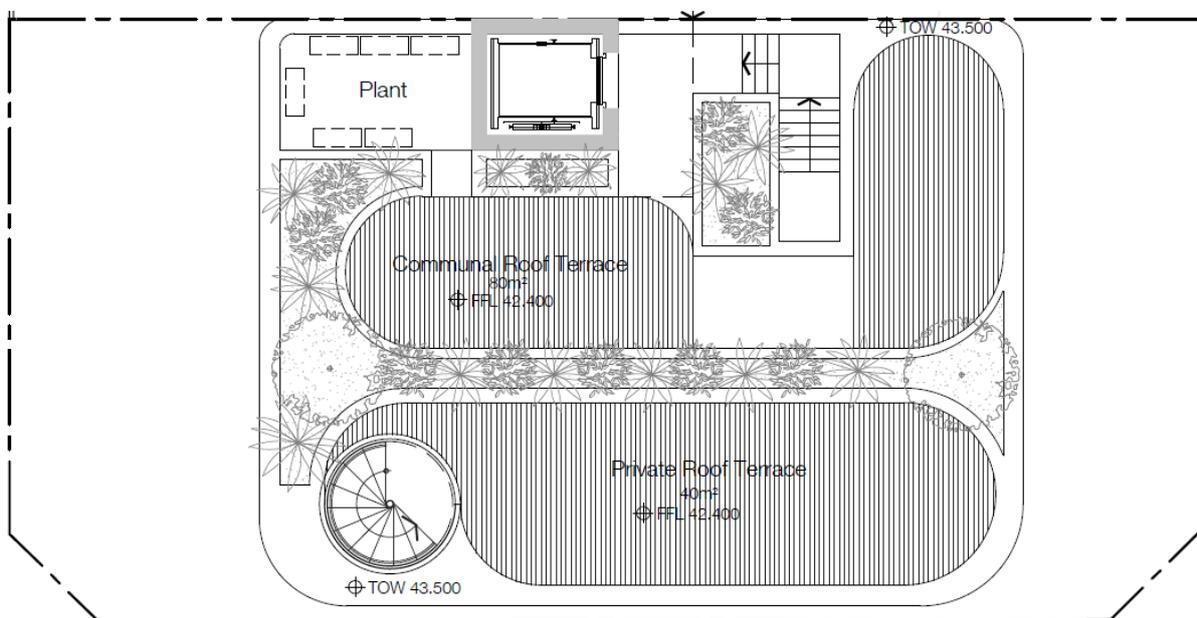
46. Both clauses outline that this process is not required if the consent authority is satisfied that such a process would be unreasonable or unnecessary in the circumstances.
47. The applicant submits that the requirement is unreasonable and unnecessary for the following reasons:
- (a) The proposed building only exceeds the 25m building height by a minor amount;
  - (b) The lift and stair core to the centre of the building is not visible from street level, and will not impact upon the excellence of the architectural design;
  - (c) The development that exceeds the 25m height control does not detract from the excellence of the design that has been achieved;
  - (d) The proposed development is consistent with the overall building height control set out in the LEP and the height in storeys control set out in the DCP;
  - (e) The proposed development is consistent with the FSR control for the site set out in the LEP;
  - (f) The proposed development integrates high quality landscaping into the built form, which will provide urban greening to the building structure, and have a positive impact on the locality, further demonstrating the design excellence of the proposed residential building;
  - (g) The competitive design process and architectural variety anticipated by Clause 6.21 of the LEP is aimed at larger sites, which can take advantage of the 10% bonus FSR, which can then be distributed across the site as required. No bonus is sought in this instance; and
  - (h) The proposed development will have minimal impact on the surrounding existing buildings, having carefully considered the impacts of overshadowing and view sharing impacts resulting from the proposal.
48. The request is supported for the following reasons:
- (a) The proposal exceeds the 25m threshold by 750mm to the roof of the building. The remainder of the exceedance results from the parapet to the communal roof terrace, rooftop structures and lift overrun.
  - (b) The competitive design process enables multiple design options to be considered. In this instance two design options have been prepared for the site and the amended proposal achieves an appropriate design outcome for the site.
  - (c) The proposal is considered to achieve design excellence.
49. The applicant submits that the requirement for a site specific DCP is unreasonable and unnecessary for the following reasons:
- (a) The site is a small development site of 290sqm. The requirement for a provision of DCP is disproportionate to the scale of development permitted and proposed, consistent with the applicable planning regime;

- (b) The requirement is only triggered by a minor incursion of the building beyond the 25m height trigger. The permitted height for the site under LEP is 30m. The proposed elements of the building above 25m are the parapet to Murray Street, and the lift overrun and stairs, which provide access to rooftop open space areas;
  - (c) The development is consistent with the statutory development standards contained in SLEP 2012;
  - (d) The Sydney DCP 2012, SEPP 65 and the Apartment Design Guide provide adequate controls and guidance for the assessment of the proposed development;
  - (e) The development proposed is within, and less than, the building envelope envisioned by the suite of development controls; and
  - (f) The proposed development is consistent with the impacts envisaged by the relevant controls.
50. The request is supported for the following reasons:
- (a) The proposal exceeds the 25m threshold by 750mm to the roof of the building. The remainder of the exceedance results from the parapet to the communal roof terrace, rooftop structures and lift overrun.
  - (b) Section 3.3.8 of the Sydney DCP 2012 requires that as part of a site specific development control plan or concept development application, there is to be a site, context and development options analysis provided which is to document at least three different and realistic site development options and is to provide an analysis of each option. The applicant has considered multiple design options through this current development application, and the proposal has been amended to provide a suitable option for the site.
  - (c) The proposed built form is consistent with the planning controls for the site. The proposal was amended to provide a six storey street frontage height to Murray Street which is consistent with the DCP.
  - (d) The limited size of the site at 290sqm limits the opportunity for alternate built forms that are consistent with the planning controls to be achieved. This limits the benefit of analysis of different built form options during the preparation of a site specific DCP (or concept DA).

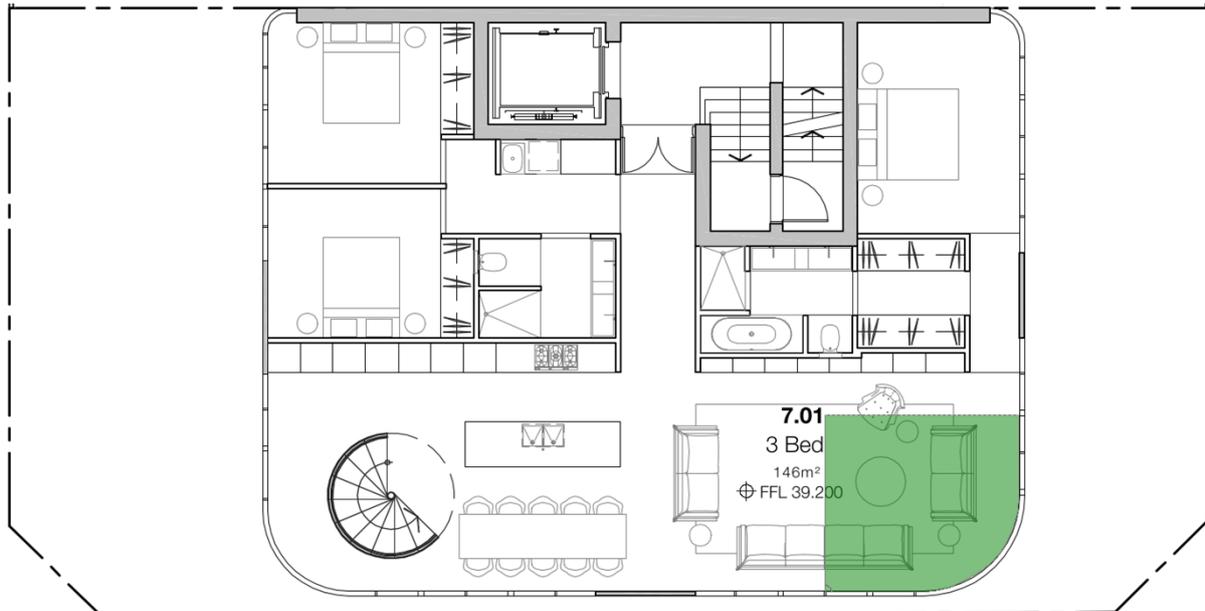
### **Communal open space**

- 51. Part 3D of the Apartment Design Guide (ADG) requires 25% (72.5sqm) of the site area to be provided as a communal open space area.
- 52. The application proposes a communal roof terrace (as shown in Figure 11 below) which provides only 40sqm as usable area, with the remainder being planter boxes. This does not satisfy the ADG requirements.
- 53. A 40sqm private roof terrace servicing unit 7.01 is also proposed at rooftop level.
- 54. A condition is recommended that the private roof terrace be assimilated into the communal area. This would then nearly double the size of the communal space to a compliant 72.5sqm.

55. Unit 7.01 contains three bedrooms and bathrooms (as shown in Figure 12 below) and the ADG requires a minimum size of 95sqm, with a minimum private open space area of 12sqm. The proposed unit size is 146sqm, and therefore there is sufficient space to re-design the apartment to provide a 12sqm balcony within the existing floor plate.
56. This will allow the private open space for Unit 7.01 to be located directly adjacent to the living room which satisfies the requirements of Part 4E (Private open space and balconies) of the ADG. Additionally, the recommended design modification will provide an amenity benefit by removing the spiral stair which takes up a large portion of the western part of the living area, which is also adjacent to the facade that receives 2+ hours of solar access at midwinter.
57. A condition is also recommended that the design be modified so that a 12sqm private balcony with a minimum depth of 2.4m is to be provided to unit 7.01 in the south-eastern corner and located within the existing floorplate. The location of the balcony in the south-eastern corner is consistent with the other balconies within the building and does not result in unreasonable privacy impacts to neighbouring properties. This is illustrated in Figures 11 and 12 below.



**Figure 11:** The roof top floor plan. It is recommended that these areas be joined to form one compliant area of communal open space.



**Figure 12:** The Level 7 (Unit 7.01) floor plan, illustrating the recommended balcony location highlighted. The spiral staircase would also be removed allowing increased living space.

### Building separation and privacy

58. The site is located on the western side of Harwood Lane which is 8.695m in width. On the opposite side of Harwood Lane is an existing eight storey residential flat building at 32-34 Bunn Street which is built to the Harwood Lane boundary.
59. The ADG requires 12m building separation between habitable rooms/balconies for buildings up to 4 stories in height and 18m separation for the levels of buildings up to 5-8 stories.
60. The application proposes 13.35m of building separation (as shown in Figure 12 below) which is inconsistent with the requirements of the ADG. It is acknowledged that it is difficult to achieve the required building separation due to the lack of setback provided by the building opposite. Notwithstanding this, there has been insufficient mitigation of privacy impacts through the design of the building. In particular the northern bedroom on the western facade has full window coverage to its western wall. This will result in a poor amenity outcome for both the future occupants of the site and the occupants of the neighbouring site.
61. A condition is recommended that horizontal external operable louvres are to be provided to the southern window on the western facade of the northern bedroom across Levels 2-7 (as shown in Figures 14 and 15 below). This will minimise privacy impacts between the site and existing residential flat building at 32-34 Bunn Street.
62. There is a private terrace of 36sqm in size located at the rear of Level 2. The provision of a 1.6m wide planter that runs the length of the rear of the site will minimise privacy impacts to the opposite side of Harwood Lane.

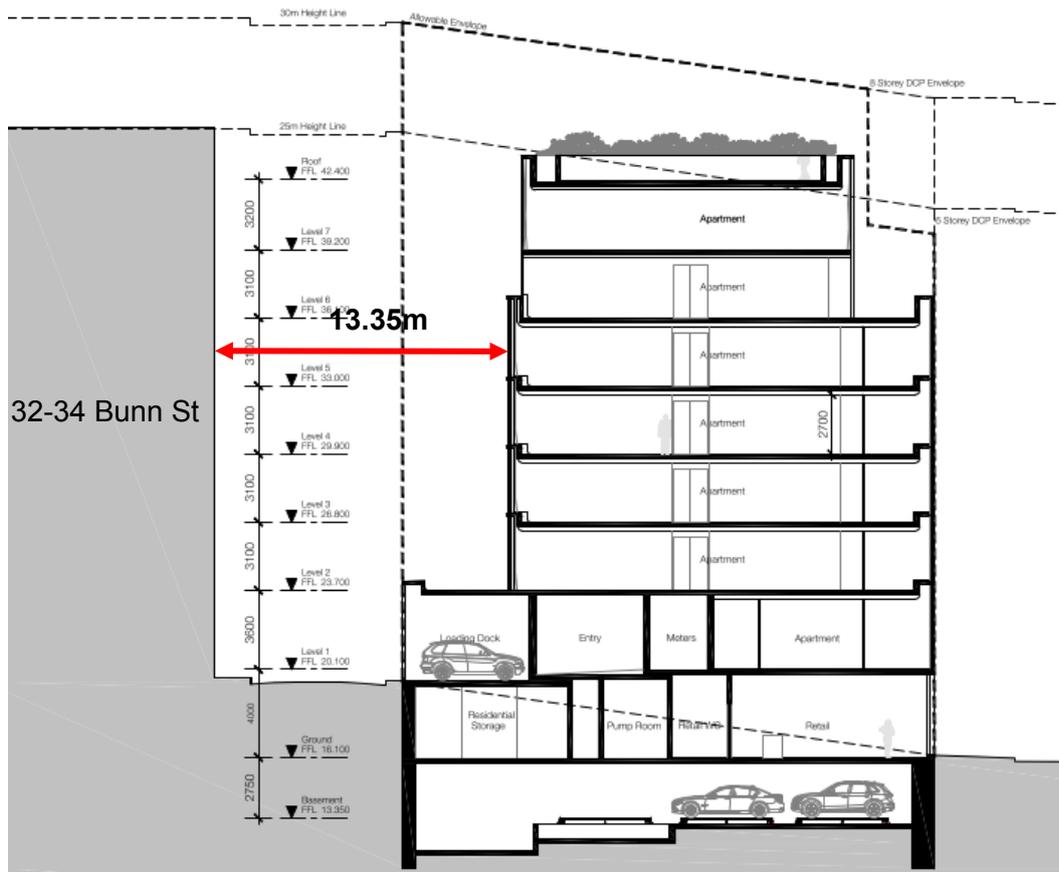


Figure 13: A section showing the building separation across Harwood Lane.

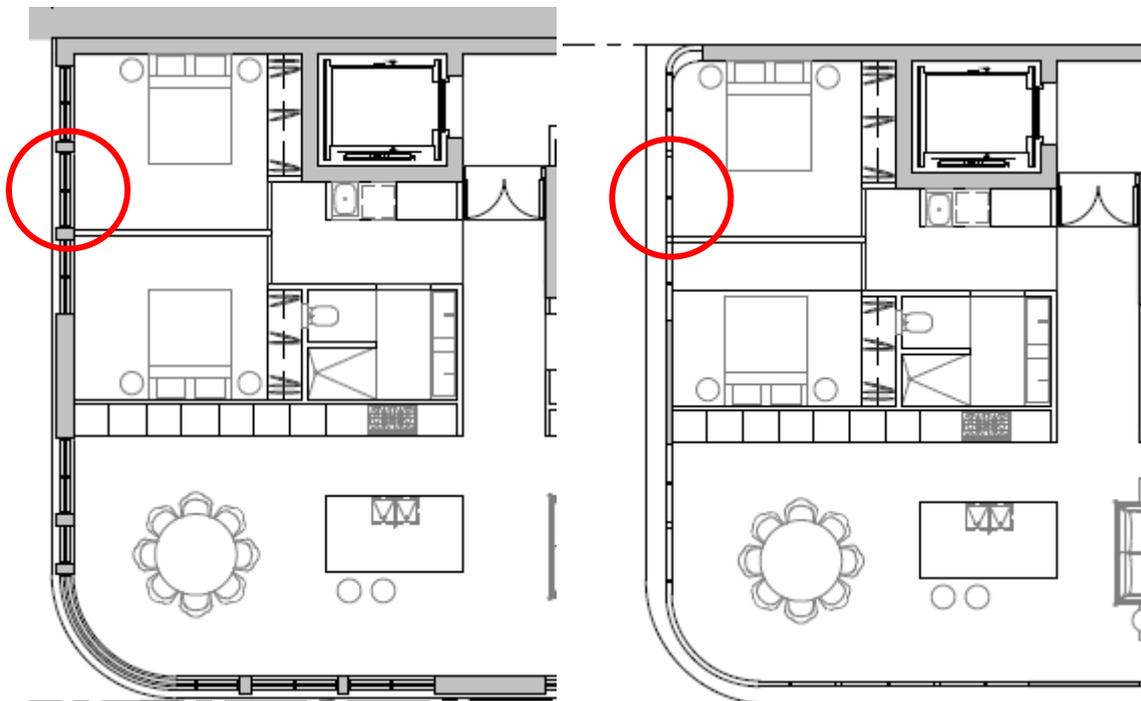
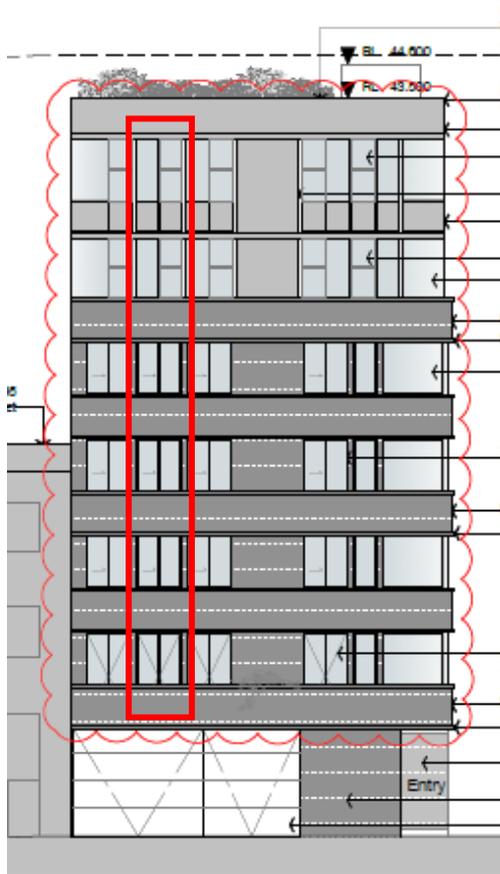


Figure 14: The floor plan of Levels 2-5 and 6-7, with location indicated for recommended louvres.

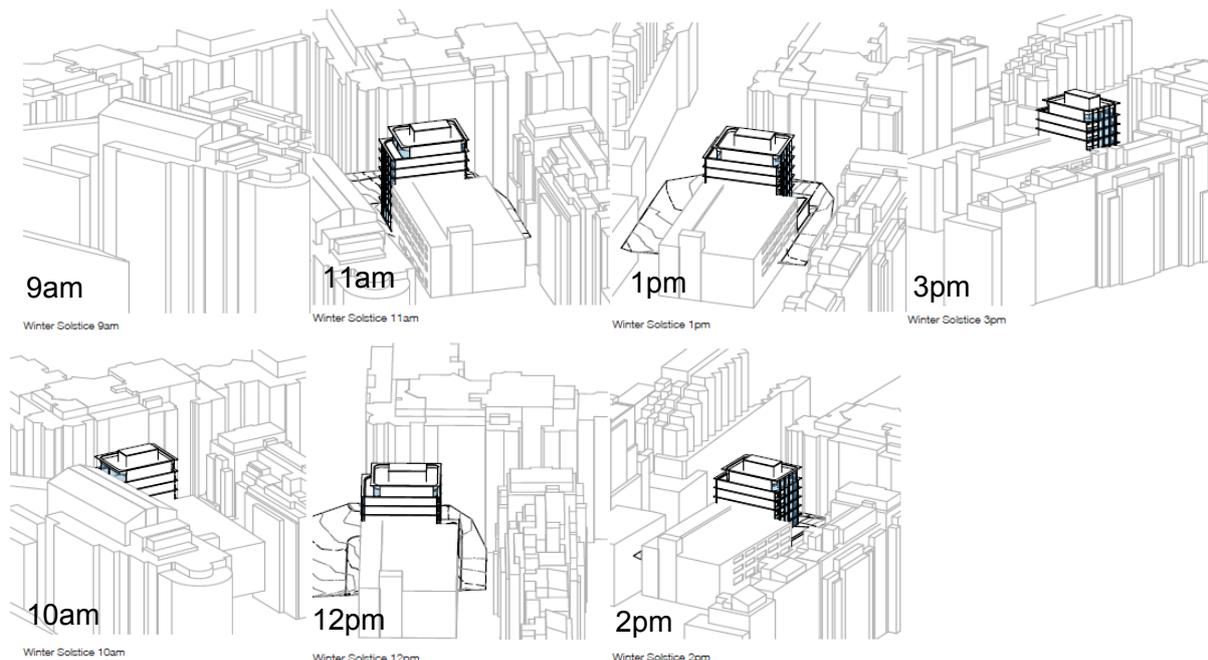


**Figure 15:** Location of recommended privacy louvres.

### Solar access

63. The site is at the southern end of the street block, with the 12-storey 'Ibis' hotel to the east and a residential flat building to the west. As a result of the location the site receives limited solar access at midwinter.
64. The Apartment Design Guide (ADG) requires that 70% of units are to receive a minimum of 2 hours of direct sunlight in midwinter to both living rooms and private open space.
65. The applicant has submitted views from the sun diagrams which demonstrate the level of direct sunlight provided between 9am and 3pm at midwinter. These diagrams are provided in Figure 16 below.
66. The solar diagrams have demonstrated that the north facing apartments of 1-29 Bunn Street maintain two hours of direct sunlight at midwinter.
67. The application originally proposed 13 apartments with living rooms and private open space areas facing Murray Street. None of these achieved two hours of direct sunlight at midwinter as required by the ADG.

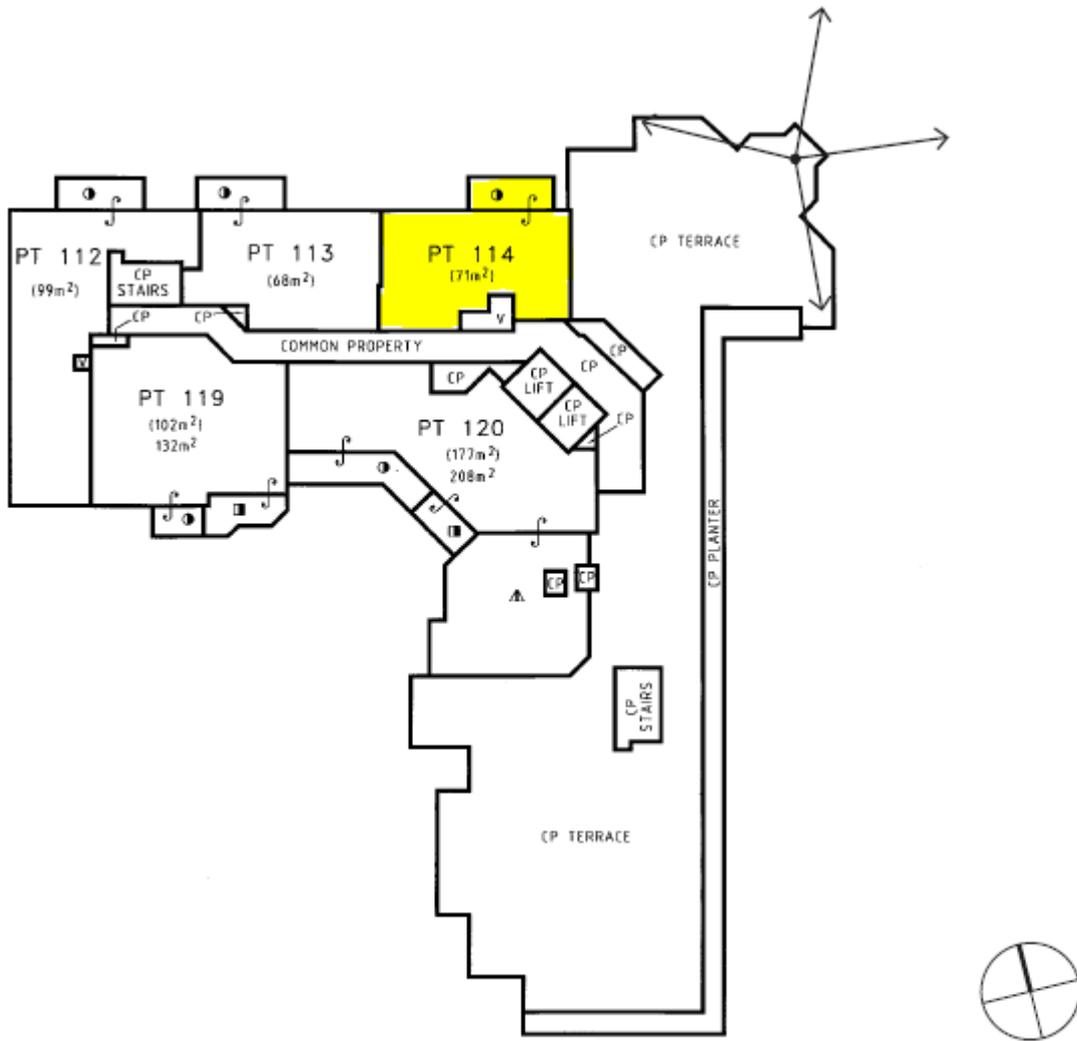
68. The application was amended to reduce the number of apartments to seven and relocated the living rooms to the southern edge of the building and extending to the western frontage. The amendments ensure that 85.7% (6 out of 7) of apartments receive two hours of direct sunlight to living rooms, however only 28.5% (2 out of 7) of apartments receive 2 hours of direct sunlight to the private open space, as the balconies are located on the south-eastern corner which faces Murray Street.
69. If the balconies were to be relocated to the western facade to achieve two hours of direct sunlight then it would result in additional privacy impacts to apartments on the opposite side of Harwood Lane and would also restrict the level of solar access achieved to the living room. In this instance the proposed design is considered to be acceptable.



**Figure 16:** The midwinter views from the sun.

### View loss

70. Submissions were received objecting to the proposal due to the loss of harbour and district views from the north facing apartments and the communal roof terrace of 1-29 Bunn Street. Figure 17 below shows the location of the communal roof terrace and Lot 114, which is a double storey apartment with living room on Level 10 and bedrooms on Level 11. Lot 115 is located below the communal roof terrace.
71. These views are currently obtained by looking across Bunn Street and over the subject site towards the north.



**Figure 17:** Location plan of views from 1-29 Bunn Street showing communal roof terrace (arrows) and location of Lot 114 (highlighted).



Figure 18: View from the living room on Level 10 of Lot 114 of 1-29 Bunn Street.



Figure 19: View from the balcony on Level 10 of Lot 114 of 1-29 Bunn Street.



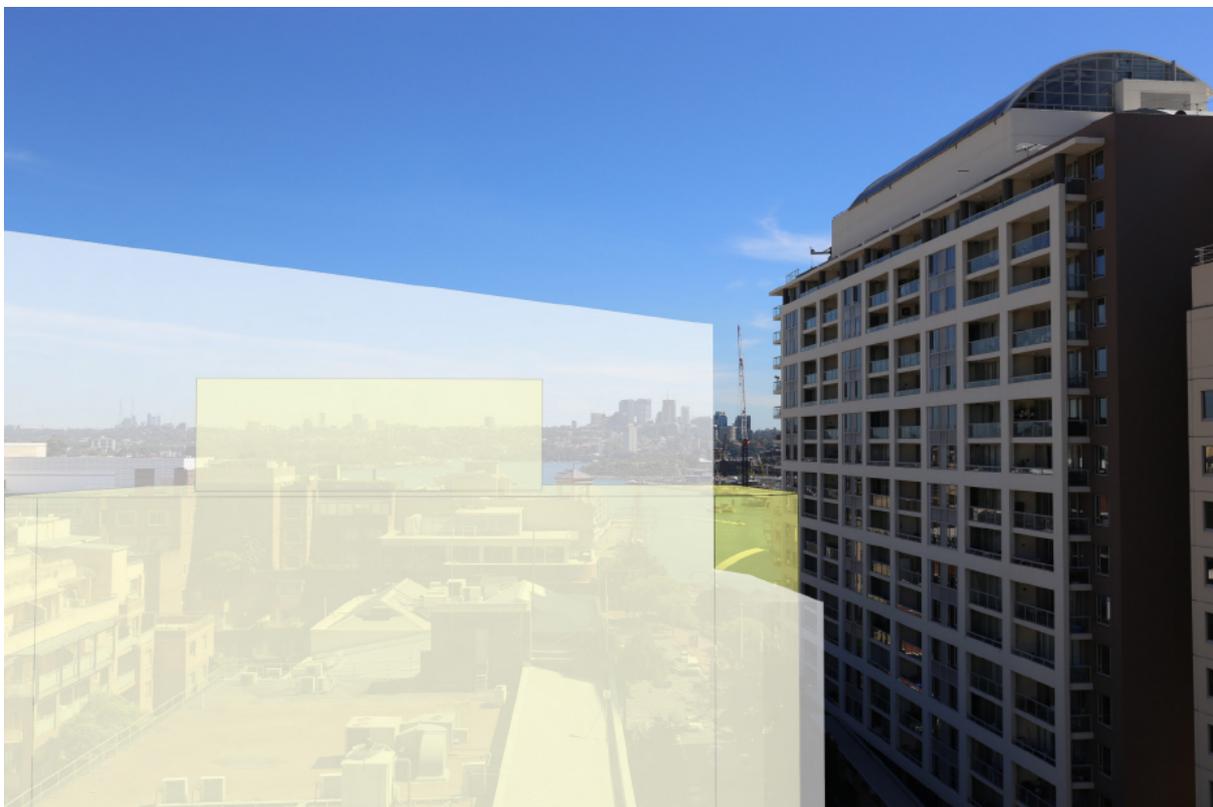
Figure 20: View from the balcony (to bedrooms) on Level 11 of Lot 114 of 1-29 Bunn Street.



Figure 21: View looking north from the communal roof terrace.



**Figure 22:** View looking east from the communal roof terrace.



**Figure 23:** View analysis of the original proposal from the communal roof terrace. Light shading indicates height controls, with yellow shading indicating the original proposal.



**Figure 24:** View analysis of the amended proposal from the communal roof terrace. Light shading indicates height controls, with blue shading indicating the amended building envelope.

72. The 'Tenacity' planning principle provides guidance when assessing view loss impact based on a number of steps to be considered. This is discussed in the table below:

Planning principle	Comment
<p>Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.</p>	<p>A partial water view is received from the living room and balcony of the north facing apartments located on Level 10-11. It is not an iconic view.</p> <p>The harbour is 328m to the north of the 1-29 Bunn Street.</p> <p>The communal roof terrace currently receives partial water views to the north and to the east towards the city.</p>

Planning principle	Comment
<p>The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.</p>	<p>The apartments affected are two-storey with living room and primary balcony on Level 10, with bedrooms located on Level 11. The apartments face Bunn Street.</p> <p>The photos above are taken from a standing position.</p>
<p>The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.</p>	<p>It is anticipated that the proposed development will block the water views of Lot 114.</p> <p>The water view and district view to the north will be partially obscured. The eastern water view from the communal roof terrace will not be impacted.</p>
<p>The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.</p>	<p>The development complies with the development standards relating to height of buildings and floor space ratio. The development has been amended to provide a 6 storey street frontage height to Murray Street which reduces the view loss from the communal roof terrace.</p> <p>There is no other reasonable design alternative that would allow for the retention of these views other than the removal of the upper level of the development.</p>

73. The proposal is consistent with the height, floor space and building setback controls, and the views from the apartments are partial views. There is no other reasonable design alternative that would allow for the retention of these views and it is considered unreasonable to require further modifications to the building.
74. The impact to the communal roof terrace is considered to be acceptable, given that it is a partial view loss and the roof terrace currently achieves views towards the city which will not be impacted by the proposal.

### Other Impacts of the Development

75. The proposed development is capable of complying with the BCA.
76. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

### Suitability of the site for the Development

77. The proposal is of a nature in keeping with the overall function of the site. The premises are in a commercial/residential surrounding and amongst similar uses to that proposed.

### Internal Referrals

78. The application was discussed with the Urban Design Specialist; Heritage Specialist; Building Services Unit; Environmental Health; Public Domain; Surveyors; Transport and Access; Tree Management; Waste Management. Their comments have been discussed in the body of the report where relevant.

### External Referrals

#### Notification, Advertising and Delegation (Submissions Received)

79. The application constitutes integrated development and as such the application was notified and advertised for 30 days between 20 October 2017 and 20 November 2017 in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of this notification, seven submissions were received.
80. Amended plans were re-notified for 14 days between 14 June 2018 and 29 June 2018. As a result of this notification, four submissions were received.
81. The issues raised in the submission are as follows:
  - (a) The demolition of the existing building, as the site is part of a row of Heritage Items, being 43-69 Murray Street, Pyrmont.

**Response** - The site is part of a row of buildings 43-69 Murray Street (Bunn Street to the Pyrmont Hotel) that has a Heritage Inventory Report issued by the Office of Environment & Heritage, however the site is not listed as an individual heritage item. The demolition of the existing building is supported and suitable replacement building has been proposed.

- (b) The building design is out of character with and twice the height of other historic 3 and 4 storey commercial buildings in the block.

**Response** - The planning controls for the site permit a 30 metre/ 8 storey building with a 6 storey street wall height to Murray Street. The amended proposal complies with these controls. The use of a brick facade ensures that the proposal is compatible with the masonry character of the area.

- (c) The height is disproportionate to the width of the block.

**Response** - The proposal complies with the 30m and 8 storey height control.

- (d) The proposal exceeds the FSR control for the site due to the miscalculation of Gross Floor Area.

**Response** - The amended proposal complies with the 4:1 FSR control for the site.

- (e) The proposal is inconsistent with the street frontage height requirements of the Sydney DCP 2012 which require a six storey street frontage height with the upper levels setback.

**Response** - The amended proposal sets back the 7th and 8th stories by 345mm to Bunn Street. The street frontage height setback to Bunn Street is less than the 3 metres required by the DCP, however it is consistent with the prevailing street setbacks along Bunn Street, and it has been differentiated from the levels below through the use of metal panelling to these two levels. Therefore the street frontage height and setbacks are considered to be acceptable.

- (f) The proposal does not satisfy the deep soil requirements of 10% of the site prescribed by the Sydney DCP 2012, or 7% of the site prescribed by the Apartment Design Guide.

**Response** - No deep soil zone is proposed. This is acceptable due to the limited site area of 290sqm and as the proposed built form has full site coverage which is consistent with the context.

- (g) Overshadowing impacts to north facing apartments of 1-29 Bunn Street. The building does not taper down in size to minimise overshadowing.

**Response** - Shadow diagrams of the amended proposal have been provided which demonstrate that each apartment of 1-29 Bunn Street maintains 2 hours of direct sunlight at midwinter to the Bunn Street facade.

- (h) Privacy impacts through overlooking into neighbouring apartments.

**Response** - The proposal has been amended to ensure that privacy impacts are minimised and a condition is recommended to ensure additional privacy screening facing Harwood Lane.

- (i) Loss of harbour and district views from apartments (Lot 114 and Lot 115) on Level 10-11 of 1-29 Bunn Street and from the communal roof terrace.

**Response** - As discussed above, the 'Tenacity' planning principle sets out criteria to be considered when assessing view loss. The proposal is consistent with the height, floor space and building setback controls will result in the loss of these views, and as such it is not reasonable that these views be retained.

- (j) That the proposal should be re-designed to redistribute the building bulk from level 7 to the western end of levels 2-5 to enable view sharing.

**Response** - The redistribution of bulk to levels 2-5 would not be possible due to building separation requirements to the residential flat building on the opposite side of Harwood Lane.

- (k) The floor to ceiling heights of the ground level should be lowered to reduce the building and rooftop height.

**Response** - Part 4.2.1.2 of the Sydney DCP 2012 requires a minimum floor to floor height of 4.5m at ground level and a floor to ceiling height of 3.3m at first floor level. The application proposes a floor to floor height of 4m at ground floor level to enable vehicle entry on Level 1. A floor to ceiling height of Level 1 varies between 3.2m and 3.8m due to a split level to cater for heights required for the loading dock and vehicle entry. The proposed floor to ceiling heights are considered to result in an appropriate design outcome and as they are lower than the control it consequently lowers the height of the building.

- (l) That no vegetation, structures, awnings, lattice, umbrellas or facilities be permitted on the rooftop terrace, as they would restrict view sharing. Balustrading should be transparent.

**Response** - The application does not propose awnings or other structures to the roof terrace. The rooftop terrace will include landscape planting and a detailed landscape plan is required as a condition of consent. This condition requires that the planting be low level planting.

- (m) Noise from the use of the roof top terrace. The rooftop terrace should be restricted so that it is not used after 10pm and be non-smoking.

**Response** - Communal roof top terraces are typical of the area and building type and is not considered to result in an unreasonable noise impact. Restriction on the hours to roof terraces of residential flat buildings is not required by the planning controls. Smoking is not controlled through the development application process.

- (n) Illumination on the rooftop terrace is to be low level.

**Response** - Illumination to the roof terrace must comply with Australian Standards.

- (o) Reflectivity from the glazed facade.

**Response** - A condition is recommended requiring a reflectivity report be prepared to ensure that visible light reflectivity from the building materials do not exceed 20%.

- (p) Light pollution due to the glazed facade.

**Response** - The proposal has been amended and an entirely glazed facade is no longer proposed.

- (q) Sandstone should be extracted by the blocking out method to preserve the sandstone resources.

**Response** - A condition relating to sandstone extraction is recommended.

- (r) Noise impacts during construction.

**Response** - Conditions relating to construction hours and noise are recommended.

- (s) Traffic impacts including blocking Harwood Lane due to the use of a car stacker and loading dock.

**Response** - The applicant has submitted traffic modelling and the proposal is not considered to result in unreasonable traffic impacts.

- (t) Inaccurate modelling within the air quality assessment.

**Response** - The air quality assessment has been reviewed by Council's Health surveyor's and is considered to be acceptable.

- (u) Insufficient parking.

**Response** - The Sydney LEP 2012 parking controls are maximum controls, with no minimum level of parking required. The proposal is consistent with these controls.

- (v) Construction impacts including dust and contaminants.

**Response** - Conditions to minimise the impacts during construction have been recommended.

### Public Interest

82. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

### S7.11 Contribution

83. The development is subject of a S7.11 contribution under the provisions of the City of Sydney Development Contributions Plan 2015.

84. The following monetary contribution is required towards the cost of public amenities:

(a) Open Space	\$95,139.70
(b) Community Facilities	\$31,575.58
(c) Traffic and Transport	\$151.95
(d) Stormwater Drainage	\$0.00
Total	\$126,867.23

### **Affordable Housing Contribution**

85. Pursuant to the provisions of Clause 7.13 of the Sydney LEP 2012 and the Revised City West Affordable Housing program, the development is subject to the levying of an affordable housing contribution. A condition has been recommended for imposition requiring a contribution of \$53,649.01. This contribution amount is based on the indexation rate at the time of determination, being the applicable rate between 1 July 2018 and 30 June 2019, and is subject to indexation.

### **Relevant Legislation**

86. The Environmental Planning and Assessment Act 1979.

### **Conclusion**

87. The application proposes the demolition of the existing building and construction of an eight-storey residential flat building with ground floor retail tenancy and one level of basement parking.
88. The proposed development is generally consistent with the development standards and zone objectives of the Sydney LEP 2012.
89. The amended proposal performs well against the built form controls of the Sydney DCP 2012 and the design principles in SEPP 65. The proposal has been amended to address concerns raised by Council officers.
90. The proposal provides seven residential units and the new units have acceptable levels of amenity for future occupiers and the development does not unreasonably affect the amenity of the surrounding area.
91. The requirements for a site specific DCP and competitive design process are considered to be unreasonable or unnecessary on this site for the reasons outlined above.

92. Accordingly, the proposal is recommended for approval, subject to the imposition of the recommended conditions.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

Matthew Girvan, Specialist Planner