

**Item 4.****Development Application: 6-8 Orwell Street, Potts Point - D/2020/65****File No.:** D/2020/65**Summary**

<b>Date of Submission:</b>	29 January 2020. Amended plans and additional information submitted 11 June 2020.
<b>Applicant:</b>	Tricon Management Group P/L
<b>Architect/Designer:</b>	Nordon Jago Architects
<b>Developer:</b>	Tricon Management Group P/L
<b>Owner:</b>	Australian Village No. 9 - Orwell Street P/L
<b>Cost of Works:</b>	\$5,211,328.00
<b>Zoning:</b>	B4 Mixed Use zone - Affordable housing is permissible with consent within the zone.
<b>Proposal Summary:</b>	<p>Approval is sought for alterations and additions to an existing 3 storey building with conversion into a 6 storey affordable housing residential flat building with 15 residential units, a communal hub/lobby and bicycle storage area.</p> <p>The application has been made pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009, and seeks to utilise a 0.6 bonus floor space ratio. The total amended FSR proposed complies with the maximum floor space ratio of 3.6:1 permitted for the site.</p> <p>The affordable housing units will be managed by St George Community Housing (SGCH) a national Tier 1 Community Housing Provider with a commitment to operate for a minimum of 25 years.</p> <p>The site is not identified as a heritage item but is a contributory building and is located within a heritage conservation area.</p>

The application was notified for a period of 28 days between 11 February and 11 March 2020. As a result of the notification 56 submissions were received. The key issues raised in the submissions relate to height, floor space ratio, privacy impacts from roof top terrace, noise impacts, view impacts, overshadowing, safety and crime, amenity, housing diversity, heritage impact and economic impacts.

The application was presented to the Design Advisory Panel - Residential Subcommittee on 7 April 2020. The Panel raised concerns in relation to the following:

- non-compliant height, FSR and setbacks;
- facade expression and relationship to the existing contributory item;
- floor plans and apartment layouts; and
- design of services and ground floor configuration.

The applicant submitted amended plans and information on 11 June 2020 addressing the issues raised by the residential subcommittee and the community. The amended design includes deletion of the roof top terrace, compliant height and FSR, 3m setback above the street frontage height to Orwell Street and reconfiguration of ground floor layout to increase amenity for occupants.

The amended application was re-notified for a period of 14 days from 10 June and 29 submissions were received. The issues raised to relate to height, floor space ratio, view impacts and overshadowing impacts.

The amended scheme complies with the maximum height control permitted under the Sydney Local Environmental Plan 2012 (LEP) and maximum FSR permitted under the SEPP Affordable Rental Housing. The amended scheme provides acceptable amenity for future residents with acceptable amenity and physical impacts on neighbouring development. The amended scheme provides an appropriate form that responds to its context and exhibits design excellence subject to conditions.

- Summary Recommendation:** The development application is recommended for approval, subject to conditions.
- Development Controls:**
- State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development
  - State Environmental Planning Policy (Affordable Rental Housing) 2009
  - State Environmental Planning Policy (BASIX) 2004
  - Sydney Local Environmental Plan 2012
  - Sydney Development Control Plan 2012
- Attachments:**
- A. Recommended Conditions of Consent
  - B. Selected Drawings

**Recommendation**

It is resolved that consent be granted to Development Application No. D/2020/65 subject to the conditions set out in Attachment A to the subject report.

**Reasons for Recommendation**

The application is recommended for approval for the following reasons:

- (A) The proposed development is consistent with the objectives of the B4 Mixed Use zone.
- (B) The proposed development is generally consistent with the relevant objectives and controls within State Environmental Planning Policy (Affordable Rental Housing) 2009, Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (C) The proposed development improves the presentation of the site to Orwell Street and revitalises a building into a legitimate new affordable housing development for older socially disadvantaged women and women experiencing domestic violence.
- (D) The affordable housing provider is committed to provide accommodation as well as management services for a period of 25 years with no breaks.
- (E) Suitable conditions of consent have been applied and the development is in the public interest.

## Background

### The Site and Surrounding Development

1. A site visit was carried out by staff on 17 March 2020.
2. The site is located at 6-8 Orwell Street, Potts Point. The site is legally described as Lot 1 DP45027.
3. The site is a corner allotment, located on the northern side of Orwell Street and the eastern side of Hughes Lane and southern side of Hughes Place.
4. It has an area of approximately 241sqm, with an approximate 10m frontage to Orwell Street (southern boundary), 24m frontage to Hughes Lane (western boundary) and 11m frontage to Hughes Place (northern boundary).
5. On site is a 3 storey building with roof top terrace built to the boundary and is currently used for backpacker accommodation (106 beds). There is no vegetation.
6. Existing pedestrian access is directly from Orwell Street and no vehicular access is provided.
7. The surrounding area is characterised by a mix of uses including commercial uses, tourist and residential development.
8. Adjoining to the north is Hughes Place which provides rear lane access to six, two storey terrace developments which front Hughes Street.
9. Adjoining to the East is a four storey residential apartment building and further east is Orwell Lodge, a four storey development providing short-term tourist accommodation. Further east along Orwell Street are a number of three and four storey residential developments.
10. To the south across Orwell Street is a 13-storey mixed use residential development known as Springfield Apartments with ground floor retail. The site forms part of Springfield Gardens which accommodates a public open space area and a number of retail premises.
11. West of the site is Hughes Lane which is characterised by two and three storey terraces built to the rear boundary alignment. Hughes Lane runs north-south from the corner of Orwell Street towards Hughes Street.
12. The site is not listed as a heritage item but is identified as a contributory item. It is located within the Potts Point Heritage Conservation Area (C51) and is within the vicinity of locally listed heritage items at 28-30 Orwell Street and 120-124 Victoria Street, Potts Point.
13. Photos of the site and surrounds are provided below:



**Figure 1:** Aerial image of subject site and surrounding area



**Figure 2:** Subject site - 6-8 Orwell Street





**Figure 3:** View west along Orwell Street





**Figure 4:** Development south of site directly across Orwell Street 'Springfield Apartments'



**Figure 5:** View north Hughes Lane



**Figure 6:** View south - Hughes Lane





**Figure 7:** View east - Hughes Place



**Figure 8:** Looking east along Hughes Place - residential development to north of Hughes Place

### Initial Proposal

14. Approval is sought for alterations and additions to an existing 3 storey building with rooftop (currently used as a backpacker's accommodation) and its conversion into a 6 storey affordable housing building with rooftop terrace comprising 16 X one (1) bedroom affordable housing residential units consisting:

**(a) Ground Floor:**

- (i) new awning;
- (ii) entry to residential apartments;
- (iii) new lobby/common open space;

- (iv) bicycle storage;
- (v) 1 x one bedroom affordable housing unit facing Hughes Lane;
- (vi) lift;
- (vii) bin room; and
- (viii) pump room.

**(b) Levels 1 - 5**

- (i) 15 x one bedroom affordable housing units; and
- (ii) lift.

**(c) Level 6 Roof terrace**

- (i) communal open space;
- (ii) shade canopy;
- (iii) storage area; and
- (iv) lift.

15. St George Community Housing (SGCH), a Tier 1 provider under the National Regulatory System for Community Housing and a not-for-profit organisation, was awarded a service agreement to deliver 260 dwellings as part of the Social Affordable Housing Fund 2 program. SGCH have identified six specific sites in high demand locations where vulnerable households, particularly older women and women experiencing domestic violence, have a strong growing need for community housing. The subject site is one of these six sites for community housing dwellings with a focus on older women and women experiencing domestic violence.
16. The Social and Affordable Housing Fund Stage Phase 2 (SAHF 2) program from Family and Community Services (FACS) is a 25-year program for the provision of accommodation as well as management of services. The contract between SGCH and FACS will guarantee social and affordable housing for a 25-year period with no breaks.





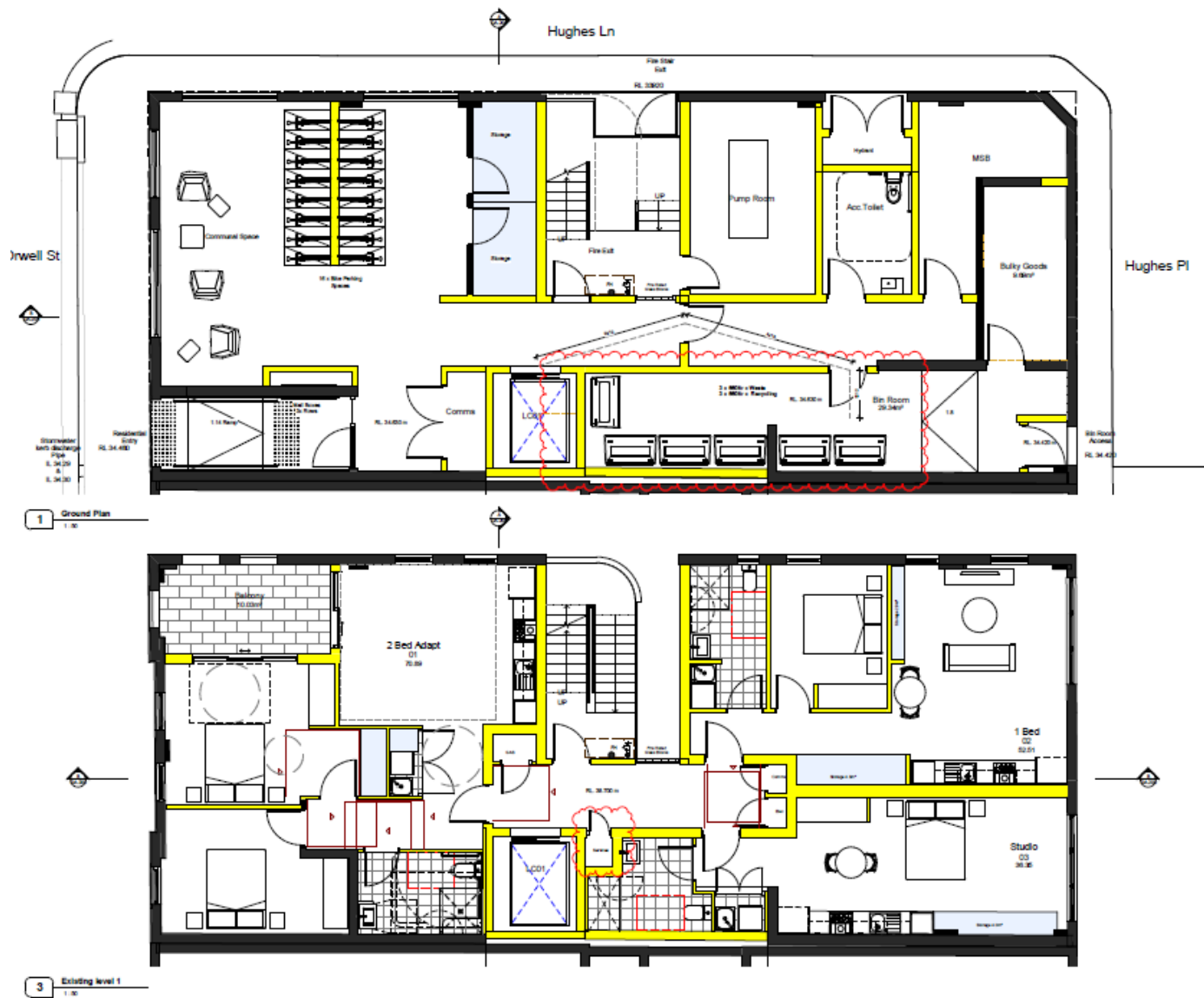
**Figure 9:** 3D view of *original* proposal - View east along Orwell Street



**Figure 10:** 3D view of *original* proposal - View west along Orwell Street

## Amended Proposal

17. The application was amended 2 June 2020 in response to issues raised by Council. The key amendments include:
- (a) Reduction of the Floor Space Ratio with a total GFA of 857.04m<sup>2</sup> or 3.56:1 FSR. This is compliant with the maximum permissible floor area of 866.16sqm and GFA of 3.6:1 allowable for the proposed use.
  - (b) Removal of the private open space on the roof top which previously exceeded the height control.
  - (a) Height reduction to comply with the maximum 22m building height limit in accordance with the SLEP2012 (the amended scheme now proposes a maximum height of RL55.400m (lift overrun) above ground floor RL34.450 (20.95m)).
  - (b) Incorporation of a 3m setback above the street frontage height on Orwell Street.
  - (a) Full sized balconies on the northern elevation are replaced with Juliet balconies to reduce overlooking and privacy impacts.
  - (a) Removal of the residential apartment from the ground floor replacing it with an indoor communal space area, plant room, storage, bicycle parking, communications services, bin room and utilities.
  - (b) Revised facade detailing, and colours now comprise a lighter, natural colour scheme for the existing building and comprise a darker colour scheme for the new addition. This results in a visually recessive addition when viewed from the public domain that retains the existing building as the focal point.
  - (c) The fire hydrant relocated from the primary entrance to a recessed cavity on Hughes Lane.
  - (d) Detailed solar access plans, both in plan and elevation. These illustrate the existing and revised shadow impact on neighbouring development at hourly intervals between 9.00am and 12.00noon and 3.00pm on 22 March and 21 June. Additional shadow studies have also been included for the 21 December.
  - (e) Removal of the awning.
  - (f) Incorporation of downpipes within the property boundary so they no longer encroaching within the footway.
  - (g) The primary communal open space relocated to the ground level.
  - (h) Updated Waste Management Plan submitted.
18. The amended plans and documentation are the subject of this report.
19. Plans of the proposed development as amended are provided below.



**Figure 11:** Proposed ground floor and proposed level 1 plan



Figure 12: Proposed level 2 and proposed level 3 plan

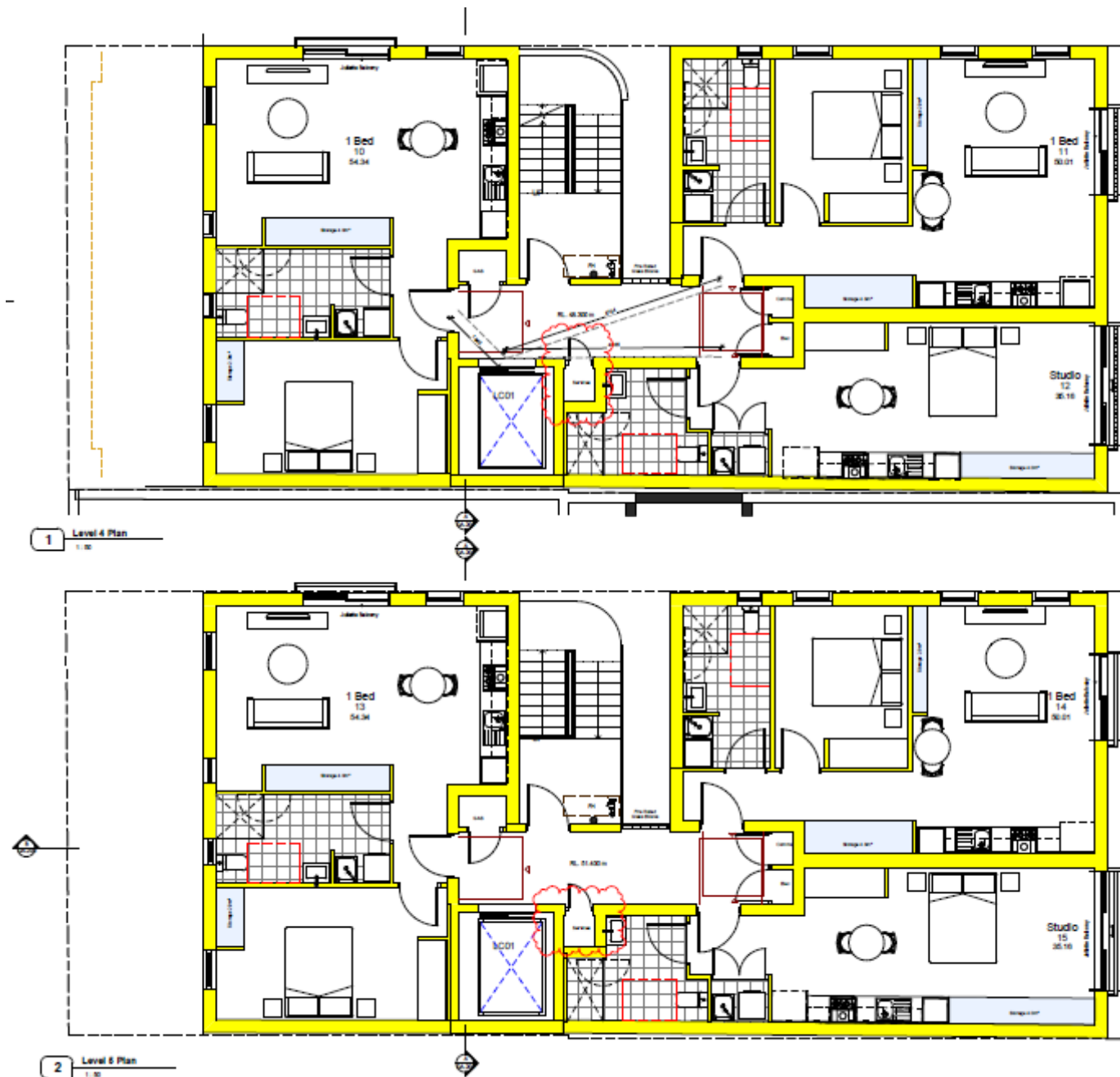
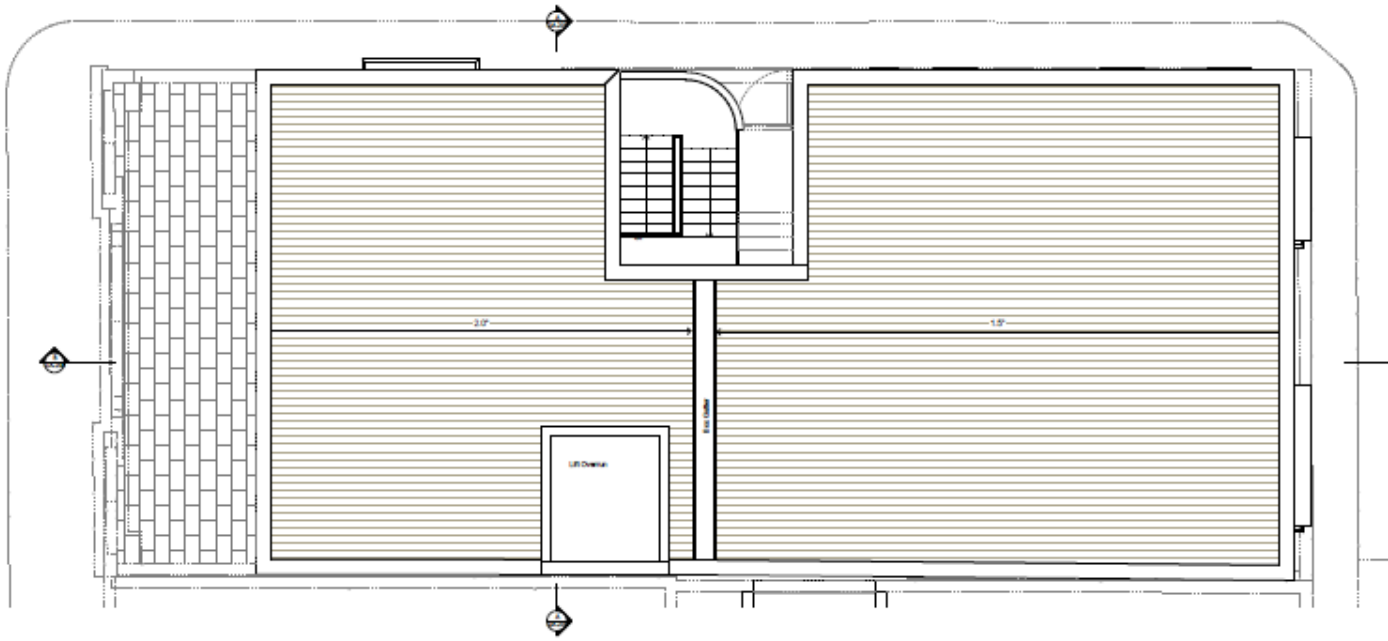
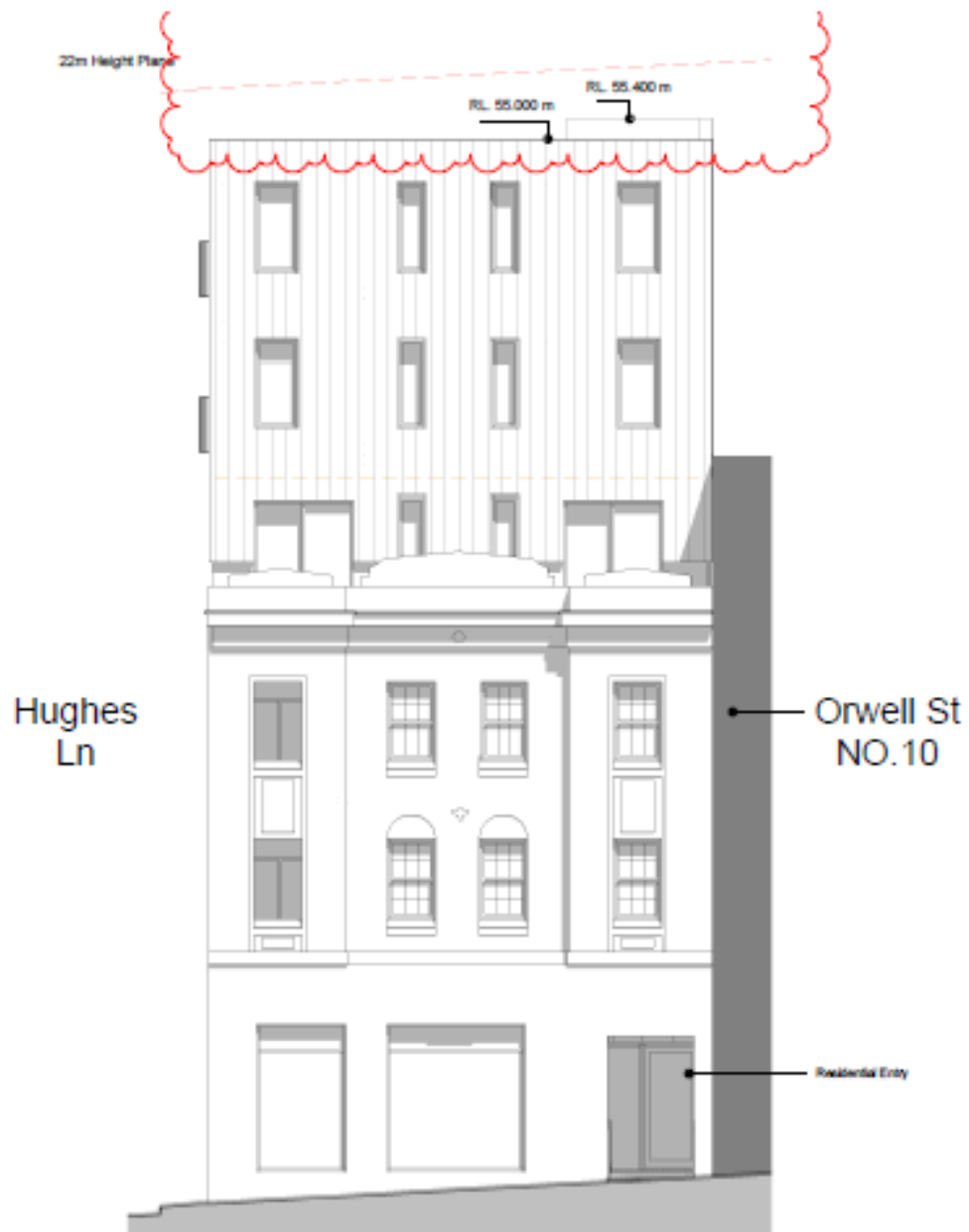


Figure 13: Proposed level 4 and proposed level 5 plan





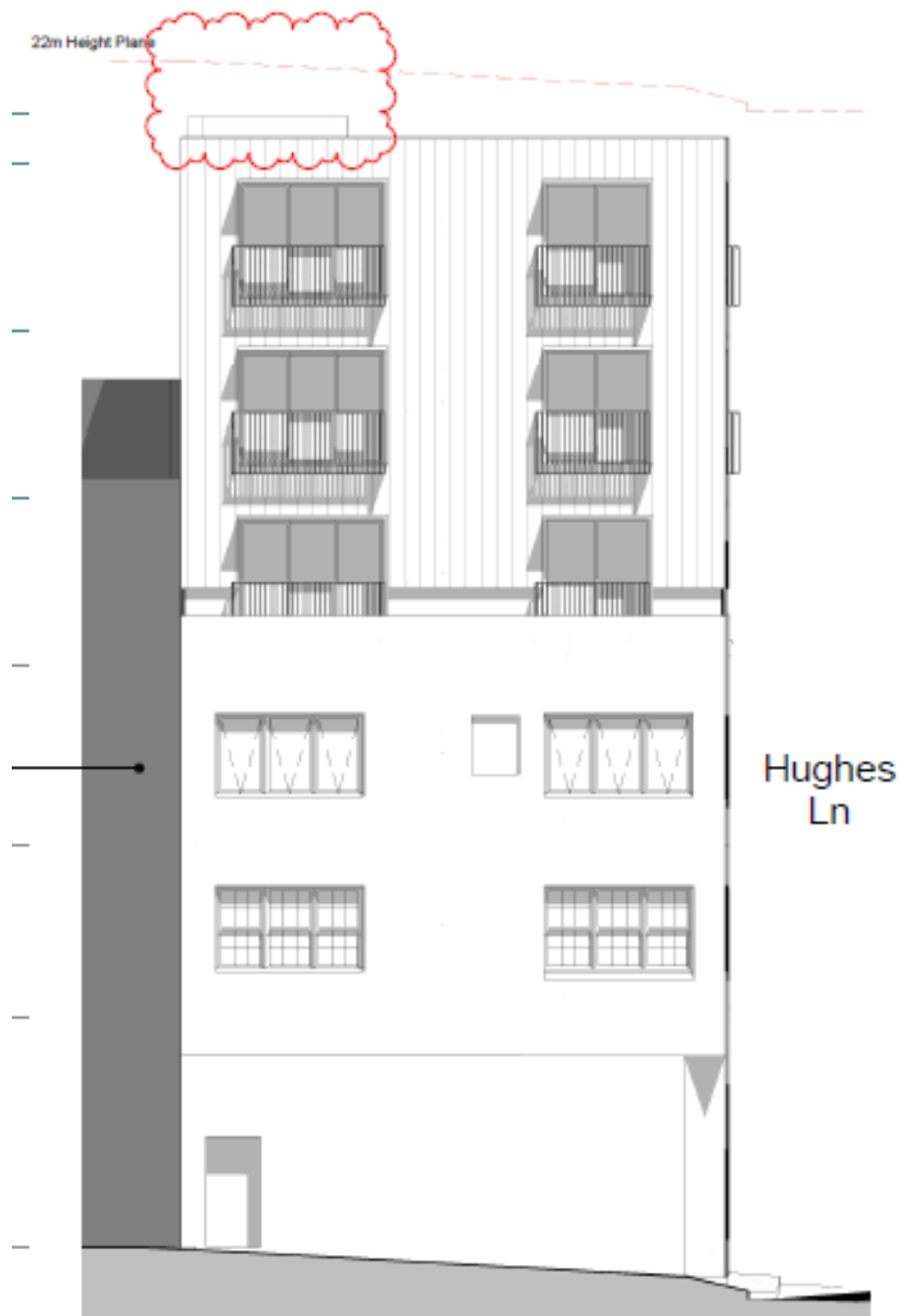
**Figure 14:** Proposed roof plan



**Figure 15:** Orwell Street elevation (south elevation)



**Figure 16:** Hughes Lane elevation (west elevation)



**Figure 17:** Hughes Place elevation (north elevation)



**Figure 18:** Orwell Street - streetscape elevation



**Figure 19:** Orwell Street - 3D view



**Figure 20:** Orwell Street looking east - 3D view

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

20. D/2002/1353 - Development consent granted on 18 August 2003 for the addition of a common room to the roof terrace. The application was subsequently modified to reconfigure the additions.
21. D/2016/63 - Development consent granted on 20 June 2016 for alterations and additions to a backpackers' hostel including a roof top addition and internal reconfiguration.



## Economic/Social/Environmental Impacts

22. The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:

- (a) Environmental Planning Instruments and DCPs.

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

23. 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 9 design quality principles, being:

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

The site is well connected to public transport with a bus stop located at the corner of Orwell and Macleay Streets (170m walk) and Kings Cross Station 4 is a minute walk providing access to the CBD and other transport interchanges. The subject site allows future residents to conveniently access various modes of public transport.

The development is proposed within the B4 Mixed Use zone and is generally consistent with the aims and objectives of the Sydney Local Environmental Plan 2012, the Sydney Development Control Plan 2012 and ARH SEPP.

The proposal seeks to maintain the contributory item within its prominent corner setting and enhance the characteristics that contribute to the immediate streetscape and Potts Point HCA generally.

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

The design of the building including setbacks, height, FSR and building depth ensures that the density is appropriate for the area and will not unreasonably affect the amenity of adjoining buildings.

- (c) **Principle 3: Density**

The proposed residential building is BASIX compliant and a condition is recommended to ensure the development complies with the commitments in the BASIX certificate.

The number of proposed units is appropriate having regard to the overall development for the site.

- (d) **Principle 4: Sustainability**

The proposed floor plans demonstrate that the development is generally compliant with cross ventilation and solar access requirements.

- (e) **Principle 5: Landscape**

It is noted that within the high-density inner-city context, site area and setbacks established by surrounding development generally preclude the provision for ground level open space and/or deep soil planting.

(f) **Principle 6: Amenity**

The proposed development is able to achieve natural cross ventilation for 66.7% (where 60% is required) and 100% of units will receive a minimum of 2 hours direct sunlight (where 70% is required).

Amenity concerns relating to individual apartments and building elements are identified and discussed in detail in the relevant sections of this report. The identified concerns are addressed through the recommended conditions.

(g) **Principle 7: Safety**

The development provides new opportunities for passive surveillance on Orwell Street by locating the communal space facing Orwell Street. The lower level apartments will provide passive surveillance at street level to Hughes Place and Hughes Lane reducing opportunities for anti-social behaviour.

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

The proposal provides a mix of housing types. The proposed mix is responsive to the needs of those on waiting lists for affordable housing. The proposed mix is therefore acceptable in the specific context of an affordable housing development.

(i) **Principle 9: Aesthetics**

The proposed materials and design of the new addition are acceptable. The overall design will positively contribute to the aesthetics of the qualities of the streetscape.

24. The development is generally acceptable when assessed against the SEPP including the above stated principles and the associated Apartment Design Guide (ADG). These controls are generally replicated within the apartment design controls under the Sydney DCP 2012. Consequently, compliance with the SEPP generally implies compliance with Council's own controls. A detailed assessment of the proposal of against the ADG is provided below.

## Apartment Design Guide

2E Building Depth	Compliance	Comment
12-18m (glass to glass)	No	The existing building occupies the entire site. The adaptive re-use of the existing building and alterations and additions above proposes a building depth of between 24m and 20m. Notwithstanding the non-compliance with the building depth control the proposed building is able to meet the solar access and ventilation requirements. The variation to the requirements of this provision is acceptable in this instance.

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>	No, but acceptable.	<p>Hughes Lane: Level 1-4: 6.15m building separation distance is proposed between habitable rooms to development facing Hughes Lane. Development across Hughes Lane is built to the boundary alignment and is a mixture of residential and hotel uses.</p> <p>Hughes Place: Level 1-4: 6m - 6.3m building separation distance to boundary of development on Hughes Place is provided. Development across Hughes Place is residential development with predominantly rear garages built to the boundary alignment.</p> <p>Orwell Street: Level 1-4: 5m-9.8-13m m building separation distance can be provided to development across Orwell Street to the south and complies.</p> <p>Common boundary (east): The proposed building will have zero setback to the eastern boundary which is a continuation of the existing relationship within an established, high density streetscape and is acceptable.</p>

2F Building Separation	Compliance	Comment
		<p>Building separation cannot be achieved to Hughes Lane (west) or Hughes Place (north) of the site given the existing development is built to the boundary alignment and adjacent development is built to the boundary alignment. In addition, the separation distances to the boundary are already below the minimum required. Given the numerical non-compliances, the building is still able to achieve the objectives of the building separation control and this is further discussed in the issues section of this report.</p> <p>Refer to 3F Visual Privacy for discussion on visual impact and privacy impacts.</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>Building separation to adjoining boundary alignments cannot be achieved above 5 storeys as the separation distance between existing development is less than what is required given the built-up nature of the surrounding area - refer above.</p> <p>Refer to 3F Visual Privacy for discussion on visual impact and privacy impacts.</p>
<p>At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m.</p>	No	<p>The zoning of land directly north of the subject site is R1 - Residential.</p> <p>As mentioned above, minimum building separation cannot be achieved due to the built up nature of the surrounding area.</p>

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	No, but acceptable.	A communal area at roof level was originally proposed. This resulted in and unsatisfactory non-compliance of the building height control and has since been deleted. The amended proposal deleted the roof top communal open space and replaced this with a ground floor internal common area. This room will result in less impacts to adjoining neighbours. It also complements the operational needs of the use. With regards to the site's location and the constraints of an adaptive reuse development, a variation to the requirement of communal open space is acceptable. The applicant is St George Community Housing a Tier 1 community housing provider and they have confirmed that the use of the communal open area will be used for a range of purposes including education and training workshops for residents, break-out space, counselling services and meeting area.

3E Deep Soil Zones	Compliance	Comment
Deep soil zones are to have a minimum area equivalent to 7%. (Note: sites with an area of less than 650sqm do not have minimum dimensions for deep soil zones).	No	Given the site's urban character and the existing building occupies the entire site, it is acceptable that no deep soil is provided. A variation to the requirements of this provision is acceptable.

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.

3F Visual Privacy	Compliance	Comment
<p>Up to four storeys (12 metres):</p> <ul style="list-style-type: none"> <li>6m between habitable rooms / balconies</li> <li>3m between non-habitable rooms</li> </ul>	Yes	<p>Building separation is constrained by the built-up nature of development along Hughes Place and therefore compliance cannot physically be achieved as the proposal is unable to comply with the minimum building separation controls which in turn relate to separation between windows and balconies.</p>
<p>Five to eight storeys (25 metres):</p> <ul style="list-style-type: none"> <li>9m between habitable rooms / balconies</li> <li>4.5m between non-habitable rooms</li> </ul>	Yes	<p>Sunshades have been incorporated into the northern facade design.</p> <p>Small sunshade projections are proposed on the western elevation as the windows contain deeper reveals and to ensure that the shades do not encroach on the boundary. No sunshades are proposed on the southern elevation.</p> <p>The proposed balconies on the northern elevation have also been amended. Instead of full-size balconies, the development now proposes Juliet balconies which will reduce overlooking and privacy impacts.</p> <p>This is discussed under the “Building Separation” section of this report above.</p> <p>See discussion in the Issues section.</p>

4A Solar and Daylight Access	Compliance	Comment
<p>70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.</p>	Yes	<p>100% of apartments receive a minimum of 2 hours of direct sunlight.</p>



4B Natural Ventilation	Compliance	Comment
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	66.7% of all apartments achieve cross flow ventilation.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	The maximum depth of apartments proposed do not exceed 18m.

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

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Yes	A minimum 2.7m floor to ceiling height is proposed in all habitable rooms.
Non-habitable rooms: 2.4m	Yes	Minimum ceiling heights are provided in all non-habitable rooms.

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> <li>• Studio: 35m<sup>2</sup></li> <li>• 1 bed: 50m<sup>2</sup></li> <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> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.</p>	Yes	<p>Apartment sizes are proposed as follows:</p> <ul style="list-style-type: none"> <li>• Studio: 35.16 – 36.45sqmm</li> <li>• 1 bed: 50.01 – 54.34sqm</li> <li>• 2 bed: 70.84sqm</li> </ul>

4D Apartment Size and Layout	Compliance	Comment
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	All habitable rooms have access to an external window.
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	The habitable room depths are generally not greater than 8m.
8m maximum depth for open plan layouts.	Yes	All dwellings offer an open plan style layout and a maximum building depth of 8m from a window generally complies.
<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 apartments are able to comply with the minimum bedroom size.
<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>	Partial compliance	All apartments comply with the exception of the studio apartments (studio apartments proposed 3.5m wide).
4m minimum width for cross over and cross through apartments.	Partial compliance	All apartments comply with the exception of the studio apartments (studio width between 3.5-3.6m widths).

4E Private Open Space and Balconies	Compliance	Comment
<p>Studio apartments are to have a minimum balcony area of 4m<sup>2</sup> with a minimum depth of 1m.</p> <p>One bed apartments are to have a minimum balcony area of 8m<sup>2</sup> with a minimum depth of 2m.</p> <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>Given the constraints of the site and built up nature of the surrounding area, not all apartments have been designed to meet the minimum balcony area. Juliet balconies are proposed to apartments facing north to reduce overlooking impacts and to increase internal amenity.</p> <p>Apartments 8, 9, 10, 11, 12, 14 and, 15 will include Juliet balconies. This style of balcony type provides a mix of private open spaces whilst permitting more flexibility in the internal spatial arrangements. Where full balconies are proposed, they comprise an area of 8sqm with a depth of 2m. All apartments are provided with balconies (and this includes Juliet style balconies).</p>

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	No more than 4 apartments are accessed from the lift core.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	Windows are provided to the lift corridors and provide access to daylight.

4G Storage	Compliance	Comment
<p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> <li>• Studio: 4m3</li> <li>• 1 bed: 6m3</li> <li>• 2 bed: 8m3</li> <li>• 3 bed: 10m3</li> </ul> <p>(Minimum 50% storage area located within unit)</p>	Yes	Adequate storage is provided within each apartment.

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

25. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.
26. 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.
27. 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. The development is consistent with the controls contained with the deemed SEPP.

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

28. A BASIX Certificate has been submitted with the development application.
29. 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.

### **State Environmental Planning Policy (Affordable Rental Housing) 2009**

30. The application has been made pursuant to the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP). The relevant provision of the SEPP (Division 1 In-fill affordable housing) are addressed in the table below:

Development Control	Compliance	Comment
10 Development to which this Division applies	Yes	Permissible in the zone.
13 Floor space ratio	Yes	<p>A maximum FSR of 3:1 is permitted under the SLEP 2012.</p> <p>Under the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP 2009) the development is eligible for an additional 20% (0.6:1) which can be applied to the maximum FSR control under Clause 13(2)(b)(1) of the ARH SEPP as the proposed development will allocate more than 50% of the gross floor area to affordable housing.</p> <p>The site has a maximum FSR provision of 3.6:1 under the ARH SEPP.</p> <p>The revised scheme proposes an FSR of 3.56:1 and complies with the development standard for this use.</p>
14 (1) Standards that cannot be used to refuse consent:	N/A	
(a) repealed		
(b) site area At least 450sqm.	No	The site area is 241sqm.
(c) landscaped area At least 35 square metres of landscaped area per dwelling is provided.	No	The amended scheme has deleted the roof top terrace from the proposal and therefore, landscaping can no longer be achieved. This design amendment is acceptable given the high-density context around the site and reduced physical impacts on surrounding development.
(d) deep soil zones (i) there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15 per cent of the	No	Given the dense urban location and the existing building built to all boundary alignments, deep soil cannot be achieved at ground level.

Development Control	Compliance	Comment
<p>site area (the deep soil zone), and</p> <p>(ii) each area forming part of the deep soil zone has a minimum dimension of 3 metres, and</p> <p>(iii) if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area,</p>		
<p>(e) solar access</p> <p>A minimum of 70 per cent of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.</p>	Yes	All apartments are able to receive solar access between 9am and 3pm in mid-winter.
<p>14(2) General</p> <p>(a) parking</p> <p>(i) in the case of a development application made by a social housing provider for development on land in an accessible area—at least 0.4 parking spaces are provided for each dwelling containing 1 bedroom, at least 0.5 parking spaces are provided for each dwelling containing 2 bedrooms and at least 1 parking space is provided for each dwelling containing 3 or more bedrooms,</p>	No	No car parking is proposed. This is acceptable given the urban environment and proximity to public transport. In addition, the development proposes bicycle parking which is acceptable.
<p>(b) dwelling size</p> <p>if each dwelling has a gross floor area of at least—</p> <p>(i) 35 square metres in the case of a bedsitter or studio, or</p>	Yes	<p>Apartment sizes are proposed as follows:</p> <ul style="list-style-type: none"> <li>• Studio: 35.16 – 36.45sqmm</li> <li>• 1 bed: 50.01 – 54.34sqm</li> <li>• 2 bed: 70.84sqm</li> </ul>

Development Control	Compliance	Comment
<p>(ii) 50 square metres in the case of a dwelling having 1 bedroom, or</p> <p>(iii) 70 square metres in the case of a dwelling having 2 bedrooms, or</p> <p>(iv) 95 square metres in the case of a dwelling having 3 or more bedrooms.</p>		
<p>14(3) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2) above.</p>		
15 Design requirements	Yes	The proposed residential development will provide 15 new community housing dwelling apartments for older women and women experiencing domestic violence.
16 Continued application of SEPP 65	Yes	The affordable housing building has been assessed against SEPP 65.
16A Character of local area	Yes	The amended proposal is consistent with the character of the local area as it has been reduced in height and scale to comply with the maximum permitted height and floor space controls. The proposal retains the facade of the existing building and its contribution to the conservation area. The vertical extension has been appropriately setback to ensure it is recessive to the existing contributory structure on the lower levels as well as to the nearby contributory buildings in the vicinity of the subject site.

Development Control	Compliance	Comment
17 Must be used for affordable housing for 10 years	Yes	<p>The SAHF 2 program from Family and Community Services (FACS) is a 25-year program for the provision of accommodation as well as management of services. The contract between SGCH and FACS will guarantee social and affordable housing for a 25-year period with no breaks.</p> <p>A condition is recommended to comply with the provisions of the SEPP i.e. the development must be used for affordable housing for a minimum of 10 years from the date of the issue of the occupation certificate.</p>
18 Subdivision	Yes	The proposal does not include subdivision.

### Sydney Local Environmental Plan 2012

31. The site is located within the B4 Mixed Use zone. The proposed use is defined as affordable housing and is permissible.
32. The relevant matters under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

### Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	Yes	<p>A maximum height of 22m is permitted.</p> <p>A height of 22m is proposed.</p>
4.4 Floor Space Ratio	Yes	<p>A maximum FSR of 3:1 is permitted.</p> <p>Under the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP 2009) the development is eligible for an additional 20% (0.6:1) which can be applied to the maximum FSR control under Clause 13(2)(b)(1) of the ARH SEPP as the proposed development will allocate more than 50% of the gross floor area to affordable housing.</p>



Development Control	Compliance	Comment
		<p>The site has a maximum FSR provision of 3.6:1 under the ARH SEPP.</p> <p>The revised scheme proposes an FSR of 3.56:1 and complies with the development standard for the proposed use.</p>
5.10 Heritage conservation	Yes	<p>The subject site is not a heritage item but is identified as a contributory building and is located within a heritage conservation area. The subject site is within the vicinity of the following heritage items;</p> <ul style="list-style-type: none"> <li>• 'Terrace group including interiors and front fencing', 120- 124 Victoria Street, item no. I1179;</li> <li>• 'Flat building "Melton Flats" including interiors and front fence', 116- 118 Victoria Street, item no. I1177;</li> <li>• 'Minerva Theatre, former "The Metro" including interior', 28- 30 Orwell Street, item no I1150;</li> <li>• 'Electrical substation No. 166', 1 Orwell Lane, item no. I1149;</li> <li>• 'Flat building "Corrowong" including interior', 1 Springfield Avenue, item no. I1156;</li> <li>• 'Commercial building "The Roosevelt", former 2KY Radio Station including interior', 32-34 Orwell Street, item no. I1151</li> <li>• 105-111 Macleay Street, item no. I1144;</li> <li>• 'Flat building "Byron Hall" including interior', 97-99 Macleay Street, item no. I1143.</li> </ul> <p>See discussion under the heading Issues.</p>

Part 7 Local Provisions - General	Compliance	Comment
Division 1 Car parking ancillary to other development	Yes	No car parking is proposed and this complies with the LEP maximum car parking rates for the site.  The amended design proposes 16 bicycle parking spaces for 15 affordable units.
7.15 Flood planning	Yes	The site is not affected by the 1% AEP but is affected by the PMF.  The revised plans have been amended to address the City's Interim Floodplain Management Policy and is supported by Council's Public Domain Unit.

### Sydney Development Control Plan 2012

33. The relevant matters under Sydney Development Control Plan 2012 for the proposed development are outlined below.

#### 2. Locality Statements – City East - Kings Cross

The subject site is located in the Kings Cross locality. The proposed affordable housing residential development building is in keeping with the unique character of the area and design principles in that it will encourage an inclusive community and mixture of accommodation and services for local needs of the community. The proposed development will enhance and update the contributory building to ensure it continues to contribute positively to the heritage conservation area.

3. General Provisions	Compliance	Comment
3.2 Defining the Public Domain	Yes	Overall the proposed development will enhance the public domain by upgrading the existing building, appropriate setbacks for the new addition from Orwell Street and is able to ensure adequate sun access to publicly accessible spaces and considering public views.  The revised scheme and shadow diagrams show no additional overshadowing occurs over the Springfield open space area.

3. General Provisions	Compliance	Comment
		The building has been designed to maintain the location of existing entries in respect to the original building. Active street frontages are provided in the form full height glazing to Orwell Street and will ensure a direct line of sight to the main entry from the ground floor common space hub and lobby as well as residential units above; and by strategically locating the common open space area at ground level with views to the street.
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, however as the proposal includes the demolition and reconstruction of the floor and internal walls at the ground floor level the floor level is to comply with the City's Interim Floodplain Management Policy i.e. the ground floor level is to be minimum of 300mm above the gutter invert adjacent the Orwell Street entry point in accordance with the Policy. The amended proposal has been designed to comply and is satisfactory subject to recommended conditions.
3.8 Subdivision, Strata Subdivision and Consolidation	NA	Strata subdivision is not proposed as part of the application.
3.9 Heritage	Yes	The existing building is a contributory building and within a heritage conservation area, see discussion under the heading Issues.
3.11 Transport and Parking	Yes	1 bike parking space is required per dwelling.  16 bicycle parking spaces are proposed within the ground level of the building for 15 residential apartments and complies.

3. General Provisions	Compliance	Comment
3.12 Accessible Design	Yes	A condition is recommended to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles in that the building configuration and window openings to the street will increase natural and passive surveillance to Orwell Street, Hughes Lane and Hughes Place.
3.14 Waste	Yes	<p>Waste Management has reviewed the amended application and supports the proposal subject to conditions.</p> <p>A condition is recommended to comply with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p>

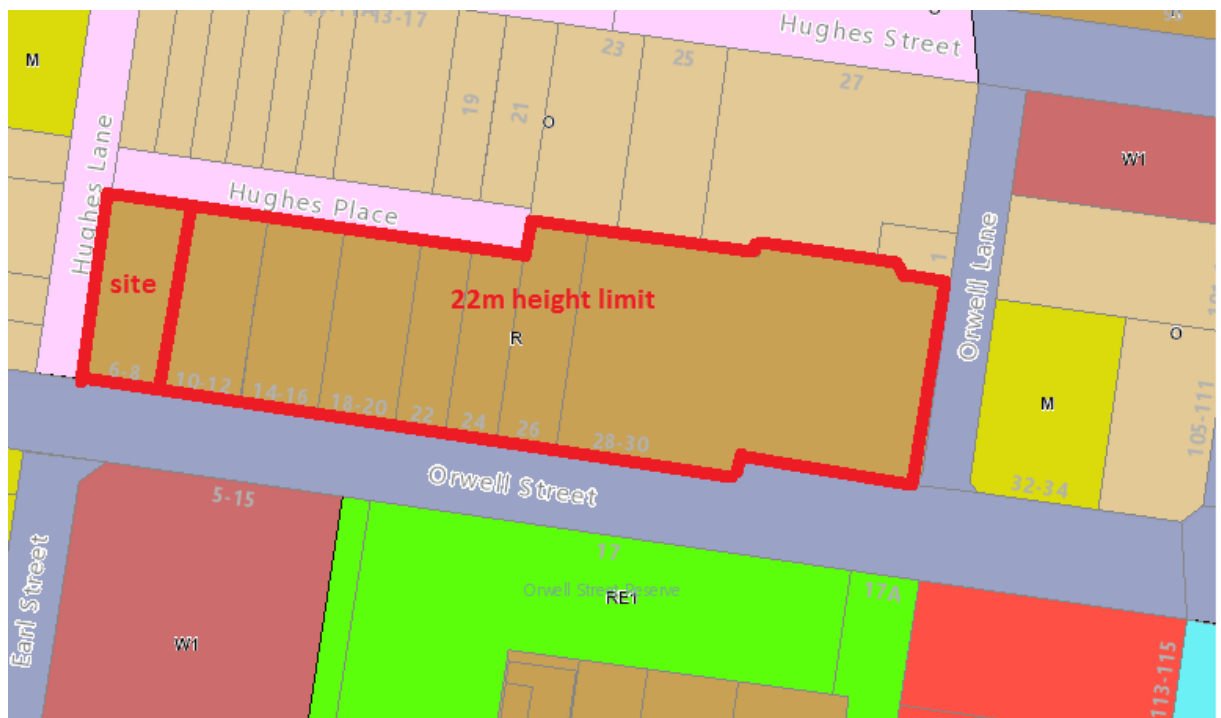
4. Development Types	Compliance	Comment
<b>4.2 Residential flat, commercial and mixed use developments</b>		
4.2.1 Building height	Yes	<p>A maximum of 6 storeys is permitted.</p> <p>The development proposes a 6-storey building height and 3 storey street frontage height and complies.</p>
4.2.2 Building setbacks	Partially complies	<p>The setback above the street frontage height is to be a minimum of 3m.</p> <p>A setback of 3m above the street frontage height is proposed to Orwell Street and complies.</p> <p>No setback provided to Hughes Place and Hughes Lane, see discussion under the heading Issues.</p>

<b>4. Development Types</b>  <b>4.2 Residential flat, commercial and mixed use developments</b>	<b>Compliance</b>	<b>Comment</b>
4.2.3 Amenity	Assessed as acceptable. Refer to Issues section	<p>Solar access</p> <p>See discussion under the heading Issues.</p> <p>Landscaping</p> <p>The roof top landscaping area has been deleted to address the non-compliance with the maximum height control and to address privacy concerns raised by the public.</p> <p>Deep soil</p> <p>Given the high-density context of the site to all street boundaries deep soil zones cannot be achieved at ground level.</p> <p>Common open space</p> <p>Considering the urban environment it is acknowledged there is limited area to achieve large areas of communal open space.</p> <p>See discussion under the heading Issues.</p>
4.2.6 Waste and Recycling Management	Yes	The application is supported by a Waste Management Plan and is considered acceptable subject to conditions.
4.2.8 Letterboxes	Yes	Letter boxes are proposed at found floor and have direct access to the street.

## Issues

### View Loss

34. The application proposes alterations and additions to the existing building resulting in a 6-storey building.
35. The site has a maximum building height of 22 metres and FSR of 3:1 with a bonus FSR of 0.6:1 permitted under the SEPP ARH for affordable housing. The proposed development is below the 22 metre maximum building height limit and proposes an FSR consistent with the SEPP ARH of 3.56:1.
36. The subject site and street block between Orwell Lane, Orwell Street and Hughes Lane and Hughes Place has a permitted height limit of 22m under the Sydney LEP.
37. Views from buildings to the south of the subject site have views across the site in part as a result of the subject block not being developed and the existing buildings are at a level far below the permitted height limits.



**Figure 21:** Building height map showing street block with 22m height limit control

38. An assessment of view impact is undertaken based on the principals of view sharing established in *Tenacity Consulting v Warringah Council [2004] NSWLEC 140*. The four-step assessment is as follows:
  - (a) The first step is the assessment of views to be affected. Water views are valued more highly than land views. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

- (b) 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. The expectation to retain side views is often unrealistic.
  - (c) 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.
  - (d) 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.
39. The impact on views from 5-15 Orwell Street, Potts Point (located to the south of the subject site) are discussed below:
- (a) Views: Views north across the subject site towards the city skyline, Circular Quay and partial view of the Sydney Harbour Bridge pylon and arch.
  - (b) Part of property viewed from: Balcony, living room and kitchen, sitting and standing on balcony and standing in kitchen - view across northern boundary.
  - (c) Extent of impact: As a result of the proposed development, the extent of the impact will be moderate as the existing view of the Sydney Harbour Bridge is only a partial view/glimpse and is interrupted by a number of buildings, however, city skyline views will be maintained.
  - (d) Reasonableness of proposal: The only way to protect views from 5-15 Orwell Street is to prohibit any development above the height of the existing building. The revised scheme proposes a 3m setback to Orwell Street and is compliant with the maximum building height control and FSR control permitted for the site and therefore the impact on views is considered reasonable in this instance.



**Figure 22:** View from Apartment 602, 5-15 Orwell Street (photo source: Resident)





**Figure 23:** View from Apartment 603, 5-15 Orwell Street (photo source: Resident). View of city sky line to north west will be retained.



**Figure 24:** View from Apartment 302, 5-15 Orwell Street (photo source: Resident)

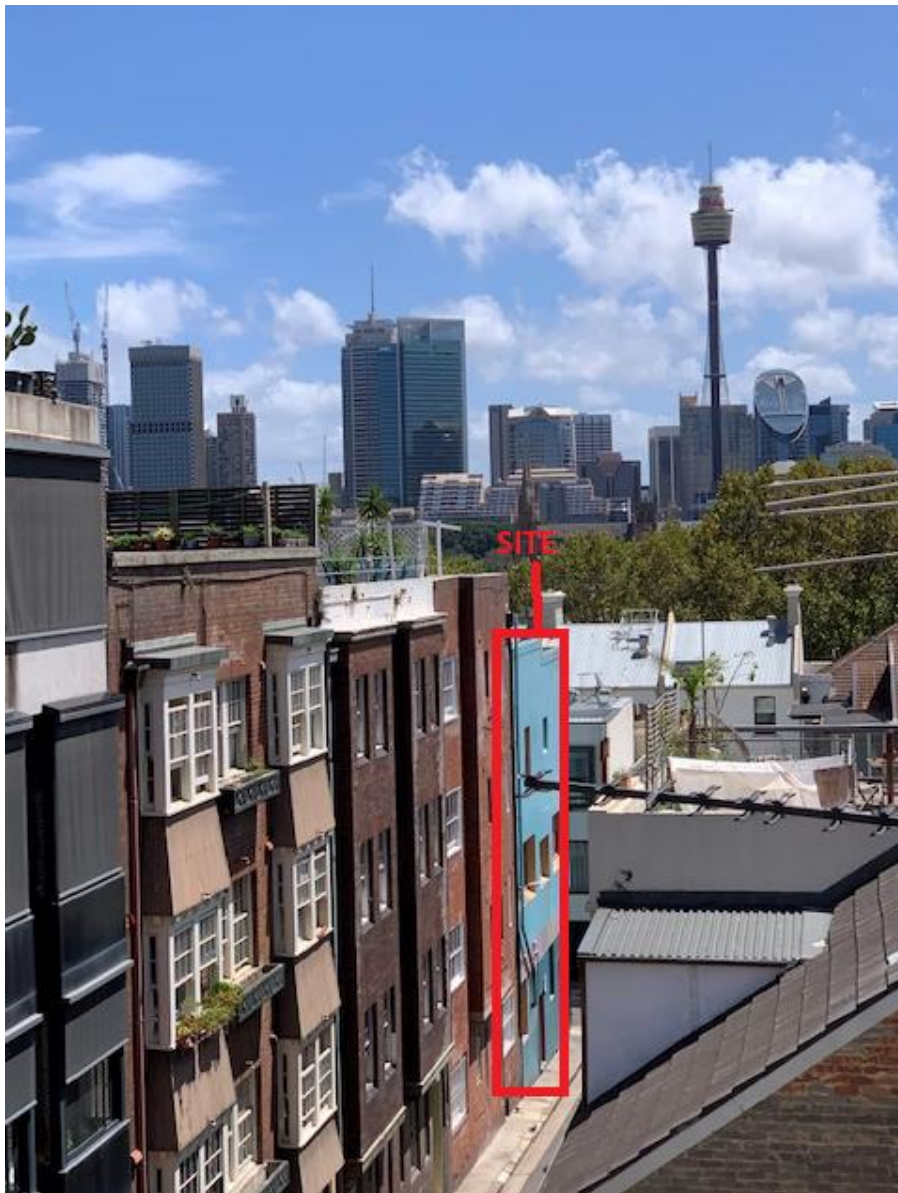


**Figure 25:** View from Apartment 402, 5-15 Orwell Street (photo source: Resident)

40. From the photos provided by residents at 5-15 Orwell Street it is clear that the views to Circular Quay and the portion of the Sydney Harbour Bridge are considered partial views through narrow view corridors and between buildings. It is also noted from the photos provided that some existing elements interrupt the scope of the Sydney Harbour Bridge view.
41. Development along Orwell Street has a permitted height of 22m. The partial views to the north currently enjoyed by residents are a result of the adjoining sites not being developed to their permitted potential.
42. The view loss is a result of a development compliant with the LEP height and floor space controls and is assessed as being acceptable as views of the city skyline will be maintained in particular views to the west/north-west towards the city skyline will not be impacted upon.



43. The impact of views from 25 Hughes Street, Potts Point (located to the north-east of the subject site)
- (a) Views: City skyline and Sydney Tower - Views west along Hughes Place towards the City skyline and Sydney Tower.
  - (b) Part of property viewed from: Roof top terrace - view west across side boundary of subject site.
  - (c) Extent of impact: As a result of the proposed development, the extent of the impact will be low i.e. only part of the City skyline to the south-west will be impacted upon and not the iconic view of the Sydney Tower.
  - (d) Reasonableness of proposal: Protection of views is unreasonable as the proposed is compliant with the maximum building height control and FSR control permitted for the site.



**Figure 26:** View from rooftop of 25 Hughes Street (photo source: Resident). View of Westfield Tower, northern CBD skyline and view of Sydney Tower to be retained.

44. From the photos provided by residents at 25 Hughes Street it is clear that the views to west of the CBD are present from the side boundary of the property with clear and uninterrupted views of the Sydney Tower.
45. As mentioned above, the proposed revised scheme results in a compliant FSR and building height control with a 3m setback to Orwell Street.
46. The views impacted upon are from the side boundary view. Side boundary views are difficult to protect. It is however noted that some views of the CBD across the side boundary of the to the west and south west will be lost as a result of the proposed development, however the high value iconic views of the Sydney Tower will not be impacted upon at all by the development.
47. The view loss is low impact and is a result of a compliant proposal and therefore acceptable in this instance.

#### **Residential Amenity / Privacy (Building Separation)**

48. The Apartment Design Guide (ADG) states that building separation is measured from the outer face of the building envelope which includes balconies. Building separation controls assist in providing residential amenity including visual and acoustic privacy, natural ventilation, sunlight and daylight access and outlook.
49. The ADG states that where applying separation to buildings on adjoining sites, apply half the separation distance measured to the boundary.
50. The required distance depends upon density and whether windows are at the same level and directly facing each other. Privacy is hardest to achieve in developments that face each other at the same level, and this is the case along Hughes Place where development on the adjoining site and the subject site are built to the boundary alignment.
51. Apart from adequate separation, the most effective way to protect privacy is by the off-set arrangement of windows and the use of devices such as fixed louvres, high and/or deep sills. To enhance privacy and potential overlooking impacts between apartments a number of window treatments have been proposed such as:
  - (a) limiting the number of single aspect apartments facing Hughes Place and Hughes Lane;
  - (b) restriction in the size and extent of glazing;
  - (c) reduction in balconies to minimise impacts of the development across the street to manage and reduce overlooking; and
  - (d) deep set windows and use of integrated Juliet balconies in lieu of standard balconies.

52. Notwithstanding the above, further design measures are required to be conditioned to minimise potential amenity impacts as outlined below:
- (a) All north-facing openings on levels 3-5 are to be amended to incorporate the following:
    - (i) a box frame that projects 450mm from the external façade to provide weather protection, privacy mitigation and promote passive sun control for the glazed openings forming the Juliet balconies.
    - (ii) a balustrade that sits adjacent the sliding doors in line with the external wall.
    - (iii) one panel of the sliding doors is to be provided as an operable panel to promote airflow whilst managing safety.
    - (iv) a maximum opening width of 1800mm.
  - (b) The facades are to be amended as follows:
    - (i) north facing openings on levels 1 and 2 are to incorporate a bi-folding screen system that provides passive sun control and promotes privacy. Drawings are to demonstrate compliance with provision (1)(a) of Schedule 4 of the DCP 2012.
    - (ii) south facing openings to living and bedroom areas on levels 3 to 5 are to incorporate weather protection.
    - (iii) west facing openings to living and bedroom windows on levels 1 and 2 are to incorporate sliding or shuttered screens that provide passive sun control and promote privacy.
    - (iv) west facing openings to living and bedroom windows on levels 3 to 5 are to incorporate sliding or shuttered screens that provide passive sun control and promotes privacy. Weather protection is also to be provided.
    - (v) The two west facing openings to the inset balcony on levels 1 and 2 are to be replaced with a single opening having a width of at least 3m.
  - (c) The west facing Juliet balconies are to be amended by recommended design modification conditions to incorporate:
    - (i) weather protection, privacy mitigation and promote passive sun control measures.
    - (ii) one panel of the sliding doors is to be provided as an operable panel to promote airflow whilst managing security and privacy.
    - (iii) a maximum opening width of 1800mm is required.
53. As detailed in the Apartment Design Guide, degrees of privacy are also influenced by a number of factors including the activities or each of the spaces where overlooking may occur, the times and frequency these spaces will be used.

54. Notwithstanding the numerical non-compliance with the minimum building separation guidelines in the ADG, the proposal is able to maintain appropriate levels of residential privacy to development sharing the laneway interface. Subject to conditions the overall design achieves acceptable environmental impacts given the high-density context of the immediate area.

### **Overshadowing Impacts**

55. The ADG and Part 4.2.3.1(1) of the DCP requires the proposed development and neighbouring developments to achieve a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June onto at least 1sqm of living room windows and a minimum of 50% of the requirement minimum area of private open space area.
56. The applicant has undertaken a detailed overshadowing analysis in plan and elevation that show solar access to proposed apartments and the shadow impact on development surrounding the site on 22 March, 21 June. Additional shadow studies have also been included for the 21 December (summer).
57. It should be noted that access to sunlight for habitable rooms and private open space is measured in mid-winter (21 June) as this is when the sun is lowest in the sky, representing the 'worst case' scenario for solar access.

#### *21 June overshadowing impacts*

58. The overshadowing analysis shows that some additional overshadowing will occur to 10-12 Orwell Street, 5-15 Orwell Street and from 3pm over the roof of 14-16 Orwell Street.
- (a) 5-15 Orwell Street: The overshadowing plans show that there will be some additional shadows cast over the communal area and pool between 10am and 12pm in mid-winter, however the amended scheme ensures that the communal open space will receive 50% solar access for 2 hours between 9am and 3pm.
  - (b) 10-12 Orwell Street: The overshadowing plans show that the open space area on the roof retains more than 2 hours of solar access to 50% of the private open space for 2 hours between 9am and 3pm.
  - (c) 14-16 Orwell Street: The overshadowing plans show that the communal open space area will receive 50% solar access for 2 hours between 9am and 3pm.
  - (d) Springfield Open Space: The overshadowing plans show that no additional overshadowing over the existing shadows will occur.
  - (e) Residences to the west of the subject site (facing Victoria Street): the overshadowing plans show that there is some minor overshadowing impacts between 9am and 10m, however will not impact the original overshadowing impacts this development already receives.
59. Additional overshadowing plans indicate the extent of any impact in the middle of summer over the pool area at 5-15 Orwell Street. The overshadowing plans submitted show that the development as amended will not result in any additional overshadowing to the pool or communal open space at 5-15 Orwell Street on the 21 December.

60. In addition to the above overshadowing analysis provided by the applicant further elevation studies at half hourly intervals was requested to be provided to a number of affected properties / facades surrounding the site to further assess the shadows created by the existing and proposed development and is discussed below.

(a) The additional elevation shadow analysis study confirms the following:

Affected property	Impact	Affected elevations/additional information
5-15 Orwell Street	Level 2 podium communal open space and pool area	<ul style="list-style-type: none"> <li>- The podium is almost in full sun from 11am to 3pm.</li> <li>- The proposal will not create additional overshadowing of the pool or level 2 podium common open space in midsummer.</li> <li>- The pool achieves good midsummer solar access between 12pm and 3pm.</li> </ul>
	Level 1, 2 and 3 NE and NW apartments.	<ul style="list-style-type: none"> <li>- A review of shadow plan studies against floor plans for the building show that all apartments except the two level 1 north facing apartments will achieve a minimum of 2 hours solar access (i.e. east facing from 9am-11am and west facing from 1pm - 3pm).</li> <li>- Given the proposal also complies with the maximum LEP building height, and that in excess of 70% of apartments (5-15 Orwell Street) will still be able to achieve 2 hours solar access to living area glazing and to private open spaces, these impacts are acceptable.</li> </ul>



Affected property	Impact	Affected elevations/additional information
126 Victoria Street	9.30am shadows to roof area and level 3 living area	The additional overshadowing will reduce the quantum of daylight at 9.30am, but will not affect the solar compliance of the level 3 east facing unit. The east living area glazing currently achieves 1 hour of daylight in midwinter from 10-11am and the proposal will not affect this.
128 Victoria Street	The shadows appear to affect the roof and east elevation at 10am.	The impacted glazing does not adjoin a living space.
1 Earl Street	Impacted between 9am - 10.30am.	The impacted glazing does not adjoin a living space.
3 Orwell Street	Impacted between 9am - 10.30am.	<ul style="list-style-type: none"> <li>- The affected glazing on the east façade does not adjoin a living space.</li> <li>- The additional overshadowing will reduce the quantum of daylight reaching the north façade (units 2 and 3), but will not impact the solar compliance of either unit as both north facing private open spaces will achieve direct solar access from 11am onwards, and the living area glazing does not currently achieve a minimum 1sqm solar access during midwinter.</li> </ul>
3 Earl Street	Impact at 9am	The additional shadow falls on the roof only.

Affected property	Impact	Affected elevations/additional information
140 Victoria Street	Impact at 9am to roof terrace	The majority of the roof terrace achieves good quality solar access from 10am onwards.
130-136 Victoria Street	Eastern facade at level 1 and 2 will be overshadowed at 9am.	Level 1 - At 9am each opening will be overshadowed by the proposal. However, each window will still achieve 1.5 hours of daylight in midwinter.  - Level 2 - At 9am each opening on level 2 will receive good daylight access for 2 hours in midwinter.
138 Victoria Street	The northern most level 1 window on the east facade will be impacted at 9am.	The additional overshadowing will not affect the solar compliance of the dwelling as the window does not currently achieve 1sqm of solar access at 9am.
10-12 and 14-16 Orwell Street	Rooftop terrace adjoins the subject site	Both terraces achieve good solar access for a minimum of 2 hours in midwinter.

61. The overshadowing analysis confirms that as a result of the amended design scheme that development surrounding the site will achieve acceptable levels of solar access compared to the original scheme and is consistent with the DCP.

#### Setbacks above Street Frontage

62. The DCP sets out the minimum setbacks above the street frontage height. The street frontage height in storeys is the vertical height of the part of the building closest to the street boundary.
63. Part 4.2.1.1(3) of the DCP states that the street frontage height must not exceed the maximum height on the Building street frontage height in storeys map.

64. The street frontage heights identified for the site are as follows:
- (a) Orwell Street: 3 storey street frontage height. Above the street frontage height along Orwell Street buildings are required to be setback 3m or follow adjacent building upper level setbacks in accordance with Part 4.2.2.2(2) of the DCP.
  - (b) Hughes Lane and Hughes Place: 2 storey street frontage height. Above the street frontage along Hughes Lane and Hughes Place buildings are required to be setback 3m or follow adjacent building upper level setbacks.
65. The proposal seeks the adaptive re-use of an existing 3 storey interwar building. The existing building is above the 2 storey street frontage height control that applies to Hughes Lane and Hughes Place. The existing building is a 3 storey building built to the boundary on all three street frontages.
66. The amended design scheme proposes a 3 metre setback above the street frontage height along the primary street frontage - Orwell Street. This compliant street frontage setback results in reduced environmental impacts to development south of the site and will establish the street frontage setback of upper levels along Orwell Street.
67. The new addition is setback approximately 0.328 metres from the boundary along Hughes Place to the rear and no setback is proposed to Hughes Lane. The 0.328 metre setback to Hughes Place is minor but allows for some building articulation on the facade facing Hughes Place and the existing 3 storey street wall height to be defined.
68. The design of the new addition allows the existing 3 storey building below to be discerned and the design of the building is clearly viewed as a 3 storey building with new addition above. The character of development surrounding the site to Hughes Lane and Hughes Place is development that is predominantly built to the street alignment.
69. There are a number of constraints to setting back the new addition above the street frontage height to Hughes Place and Hughes Lane as the proposal intends to maintain the existing floors and ceilings and any further setbacks to the structure below has the potential to pose structural constraints involved in retaining the internal aesthetic architectural features of the building and poses significant structural intervention into the building which will limit and restrict possible re-use opportunities of the site resulting in significant loss of internal fabric and floors levels.
70. In addition to the above, the non-compliance with the setbacks to Hughes Place and Hughes Lane is considered acceptable in this instance as there will be no overshadowing impacts to development north of the site and the overshadowing plans provided show that any overshadowing impacts to development west of the site (across Hughes Place) is compliant with the solar access requirements detailed in the DCP and considered acceptable.

### **Heritage and Urban Design**

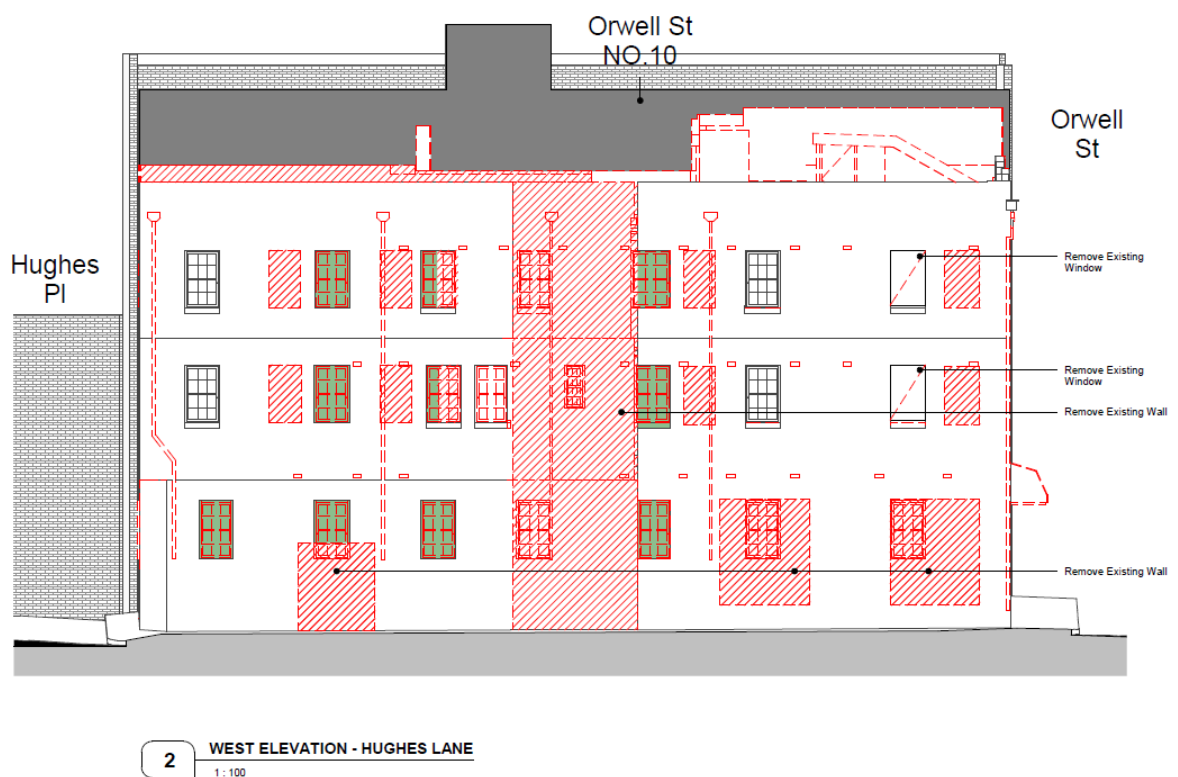
71. The subject site is not identified as a heritage item but is a contributory building within a heritage conservation area.
72. A Heritage Impact Statement has been submitted and reviewed as part of the assessment. The subject site is within close proximity to a number of heritage items within the precinct; however the proposal does not have any material impact on the heritage significance of those items or the heritage conservation area.

73. Council's Heritage Specialist has raised the following concerns with regards to the proposed development and proposed material and colour palette:
- (a) The number of existing windows proposed to be removed is considered a significant loss for the contributory building and has a negative impact on the existing fenestration of the building and the original window openings and locations should be reinstated.
  - (b) The proposed colour palette of "monument" proposed for the upper floor addition has no contextual relationship with the adjoining buildings. The colour palette should be revised to fit in with the warm earthy tones inspired from exposed brick within the vicinity of the site.
  - (c) The applicant is stating that the proposed works will comprise demolition of the internal walls with the retention of ceilings as they contain decorative features which will retain the character of the building. There is a lack of information provided with the application to understand how the original decorative ceilings are to be retained.
74. Contributory buildings make an important and significant contribution to the character of the area and the subject building although not heritage listed forms part of an intact group of interwar apartment buildings with their primary frontage facing Orwell Street.



**Figure 27:** Subject site and adjoining development along Orwell Street

75. The proposed development includes the realignment and reconstruction of a high proportion of windows to the secondary frontages of the building namely the northern and western elevation as part of the adaptive reuse of the contributory building (refer to Figure 24) including a new external stairwell. The realignment of the windows on Hughes Lane and Hughes Place is a direct result of the challenges with improving the internal living conditions whilst retaining the external fabric of the building. The design and rhythm of the new window openings on the northern and western elevation have been carefully designed out of the symmetry of the original building openings and to respond to the relationship of the site and to the development across the laneway. The ground floor window openings are designed to allow light into the new ground floor communal area and to activate the laneway, however the size of the windows should be reduced. Although quite significant the proposed external works to the buildings' fenestration is considered acceptable in this instance and an appropriate condition is recommended to reduce the size of the two large window openings to complement the existing and proposed openings on the western elevation.



**Figure 28:** Subject site - west elevation demolition plan



2

WEST ELEVATION - HUGHES LANE

1 : 100

**Figure 29:** Subject site - west elevation proposed plan

76. The original scheme proposed a lighter colour scheme for the upper floor addition. The amended scheme proposes dark metal cladding to the addition and will provide too great a contrast with the light colour proposed for the contributory building. A lighter colour which is less intrusive to the contributory building and that will promote better ESD outcomes should be provided. A condition is recommended to provide an updated schedule of materials, colours and finishes to include earthy tones more sympathetic to the conservation area.
77. A condition is recommended to request a reflected ceiling plans for the first and second floors within the existing building to be provided to demonstrate the retention of all existing decorative ceilings.

#### *Urban Design*

78. The following concerns have been raised by Council's Urban Designer:
  - (a) The revised scheme has amended the ground floor layout and deleted the ground floor apartment to create a more user friendly and efficient space, however further design refinement is required.
  - (b) The bike parking and comms cupboard are intrusive elements in the entry and common area. Both should be relocated to a less prominent area (to the north side of the lift core if space permits) to provide a more dignified and inviting entry.

79. The common area is to be amended to provide amenity in the form of:
- (a) seating for both individual recreation and social interaction;
  - (b) facilities including a small kitchenette;
  - (c) a space where children and young people are safe and contained; and
  - (d) the accessible toilet is to be relocated closer to the common area if space permits. The entry door is not to be directly opposite the door to the waste room.
80. A condition is recommended to address the above concerns raised with the ground floor common area.

### **Communal Internal Space**

81. The ADG requires that communal open space has a minimum area equal to 25% of the site.
82. The re-location of the communal space from the roof top to the ground floor addresses a number of concerns raised by adjoining residential development and results in a reduction in the height of the building to a compliant height.
83. The re-location of the open space area originally located on the roof to the ground floor indoor area results in no outdoor communal open space being proposed.
84. The location of the communal space on the ground level is well suited to the affordable housing development use and, subject to appropriate design, will provide a safe and accessible breakout space for the future users of the affordable housing development which is intended in particular for older women.
85. The applicant has confirmed that the activity and use of the communal area will be for the enjoyment of occupants and to provide a safe environment for the following uses:
- (a) Education and training area for women to attend workshops designed to assist in re-entry into the workforce;
  - (b) Break-out area for tenants to get to know each other and form relationships which is particularly important given many of these women have been socially isolated for long periods of time;
  - (c) Quiet space at certain times of the day for tenants to read, watch electronic devices and undertake other activities within a quiet space; and
  - (d) Meeting area for tenant meetings etc.
86. The removal of the open space area from the roof top (which originally exceeded the height control and posed privacy and overshadowing concerns) to the ground floor is acceptable in this instance as the indoor communal area will result in less impacts to adjoining neighbours and will, subject to appropriate design, complement the operational needs of the affordable housing use.
87. As discussed above a condition is recommended to redesign this area to provide an appropriate level of amenity.

**Private Open Space and Balconies**

88. The ADG requires apartments to have a primary balcony, however, also states that in certain circumstances where the development is resulting in an adaptive reuse of existing buildings, Juliet balconies can be provided.
89. Primary balconies are proposed to 3 out of the 15 apartments with all other apartments proposing Juliet balconies and therefore the proposed design does not technically comply with the number of balconies required under the ADG.
90. The benefit of Juliet balconies in this location is that they will allow the rooms to be filled with light and provide a high level of amenity whilst maintaining privacy to adjoining properties and allowing larger internal areas to be achieved to the apartments.
91. The non-compliance with the ADG balcony control is considered acceptable in this instance. The apartments that do not have open space/balconies have Juliet balconies which provide a good level of light and ventilation to the apartments. In addition, residents have access to public open space in close proximity to the subject site. Springfield Gardens located at 17 Orwell Street directly across the road from the subject site.

**Access**

92. It is recommended via condition that disabled access be provided in accordance with the provisions of the DCP.

**Other Impacts of the Development**

93. The proposed development is capable of complying with the BCA.
94. 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**

95. 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**

96. The conditions of other sections of Council have been included in the proposed conditions.
97. The application was discussed with the Heritage and Urban Design Specialists; Building Services Unit; Environmental Health; Public Domain; Surveyors; Transport and Access; Waste Management who advised that the proposal is acceptable subject to the recommended conditions.



## External Referrals

### Notification, Advertising and Delegation

98. In accordance the Community Participation Plan 2019 the proposed development is required to be notified and advertised. As such the application was notified and advertised for a period of 28 days between 11 February 2020 and 11 March 2020. As a result of this notification a total of 1603 properties were notified and there were 56 submission(s) received.

### Re-Notification and Delegation

99. In accordance with the City's Community Participation Plan 2019, the proposed amendments to the development were required to be notified. As such the application was re-notified for a period of 14 days and notification sent to previous objectors. As a result of this re-notification 29 submissions were received.

100. The submissions are discussed below:

- (a) Non-compliant building height, 6 storeys is too high.

**Response** - A 22 metre maximum height control applies to the subject site in accordance with the Sydney LEP 2012 and the site is subject to a maximum 6 storey height in storeys control in accordance with the *Building height in storeys map* contained within the DCP.

The revised design complies with the 22m height control, 6 storey height control and 3 storey street frontage height control to Orwell Street. The additional 3 levels above the street frontage height have been setback 3m behind the parapet on the front facade on Orwell Street and an additional 328mm planter box setback to Hughes Place. No rooftop terrace is proposed in the amended proposal.

- (b) Non-compliant floor space ratio

**Response** - The site has a maximum base FSR control of 3:1 under the Sydney LEP 2012. Under the Affordable Housing SEPP 2009 (ARH SEPP 2009) the development is eligible for an additional 20% (0.6:1) which can be applied to the maximum FSR control under Clause 13(2)(b)(1) of the ARH SEPP as the proposed development will allocate more than 50% of the gross floor area to affordable housing. Therefore, the site has a maximum FSR provision of 3.6:1 under the ARH SEPP.

The original scheme proposed an FSR of 4:1 which was not supported. The revised proposal has reduced the floor space ratio resulting in a total FSR of 3.56:1 and is now compliant with the maximum permissible FSR of 3.6:1.

- (c) Overdevelopment of site - development will dominate the narrow street, wind tunnel effect and privacy impacts to terraces on Hughes Street with rear yards facing the development.

**Response** - The revised design scheme complies with the core development standards that apply to the site i.e. height and floor space and complies with the maximum height in storeys control.

Concerns relating to privacy and overlooking impacts have been addressed in the 'issues' section of this report. A number of design modification measures are recommended to windows on the northern and western elevation to ensure the design of the development will maintain appropriate levels of residential privacy to development sharing the laneway interface.

- (d) Roof top terrace: Noise impacts and privacy impacts

**Response** - The amended design scheme has deleted the roof top terrace from the proposal.

- (e) Overshadowing - overshadowing of communal open space, pool area and dwellings including balconies to the development to the south and to Springfield Gardens.

**Response** - The height of the overall development has been reduced to comply with the allowable maximum building height control and the development has been setback 3m from Orwell Street. The updated overshadowing plans provided show that there will be some overshadowing impacts to the pool in mid-winter but the new shadows cast will not result in more than 50% of the open space area to be impacted upon. Notwithstanding, the proposed development will not impact the pool or communal open space area in summer when the area will be highly utilised. Refer to the Issues section of this report for a detailed assessment.

- (f) Overlooking of the Springfield Tower common pool and communal open space area.

**Response** - The revised design scheme has setback the building 3m from the Orwell Street frontage resulting in acceptable building separation. No balconies are proposed above Level 3 to allow occupants to be unreasonably overlook the common pool and communal open space area.

- (g) View loss of City skyline and view loss to Harbour Bridge as a result of the height of the development.

**Response** - There will be some view loss to the Harbour Bridge and northern views as a result of the development of the subject site. Refer to Issues section.

- (h) Architectural design is out of character with streetscape

**Response** - The proposed revised scheme complies with the maximum height limit control and maximum floor space ratio control applicable to the site.

The proposed development and adaptive reuse of the contributory building will retain the character of the existing building whilst upgrading it to provide for the needs of the community. The colour palette proposed for the new addition is not in keeping with the conservation area and an appropriate condition will be recommended to propose more earthy tones.

- (i) No car parking proposed - traffic impacts and parking and pedestrian congestion

**Response** - The proposed development results in a reduction in the number of occupants that currently use the site. The existing backpackers has approximately 106 beds and this will be reduced to 15 apartments resulting in a less intensive use of the site.

The Sydney LEP 2012 parking rates are based on providing maximum car parking numbers. The proposed development is not proposing car parking and therefore complies. Notwithstanding, the proposed development proposes bicycle parking and is within close proximity to available transportation and utilities.

- (j) Affordable housing - is this legitimate and how long will this use be available

**Response** - The proposal has been assessed under SEPP Affordable Rental Housing and will be required to be used for affordable housing for a minimum of 10 years. Under the SEPP, specific conditions are imposed requiring all dwellings within the development to be used for affordable housing and for all affordable housing accommodation to be managed by a registered housing provider.

The proposal seeks to provide new social and affordable housing (community housing) under the Social and Affordable Housing Fund Stage Phase 2 (SAHF 2) program, which is a model that allows not for-profit organisations to put forward innovative proposals to increase the supply of this critically important, and undersupplied housing. The affordable housing provider is seeking to secure this site for 25 years with no breaks.

- (k) Construction impacts

**Response** - The City of Sydney manages noise and associated impacts created from construction works through the implementation of its Construction Hours. In addition, the City of Sydney Code of Practice Construction Hours/Noise permits general hours of construction works within the local government area and construction hours will be conditioned.

## Public Interest

101. The proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

## S7.11 Contribution

102. The development is not subject to a S7.11 development contribution as it is for affordable housing by a registered social housing provider which is a type of development listed in Table 2 of the City of Sydney Development Contributions Plan 2015 and is excluded from the need to pay a contribution. A contribution is therefore not payable.

**Relevant Legislation**

103. Environmental Planning and Assessment Act 1979.

**Conclusion**

104. The development proposes 15 affordable housing units for older women and women experiencing domestic violence.
105. The proposed development is consistent with the core planning controls contained with the Sydney Local Environmental Plan 2012 and relevant controls and objectives contained within State Environmental Planning Policy (Affordable Rental Housing) 2009. Where variations are proposed it has been demonstrated that non-compliances still maintain residential amenity.
106. The proposal seeks to provide new social and affordable housing (community housing) under the Social and Affordable Housing Fund Stage Phase 2 (SAHF 2) program, with a commitment to operate for a minimum of 25 years with no break.
107. The proposed development is not considered to have any unreasonable impacts on the amenity of the surrounding environment subject to conditions and is in the public interest.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

Vanessa Cagliostro, Senior Planner