

Item 4.**Development Application: 70-72 Commonwealth Street, Surry Hills - D/2020/1173**

File No.: D/2020/1173

Summary

Date of Submission:	5 November 2020 Amended plans were submitted on 25 March 2021. Additional information was submitted on 25 March 2021, 8 April 2021, 12 April 2021 and 20 April 2021.
Applicant:	Statewide Project Management Pty Ltd
Architect/Designer:	Fox Johnston
Owner:	Nedosu Pty Ltd
Planning Consultant:	Ethos Urban
Heritage Consultant:	Urbis
DAPRS:	2 February 2021
Cost of Works:	\$20,812,000.00
Zoning:	The site is zoned B4 - Mixed Use. The proposed development is defined as mixed use, with ground floor retail and hotel accommodation above. The proposed use is permissible with consent in the zone.
Proposal Summary:	The application seeks consent for partial demolition of the existing building and construction of a 7 storey mixed use development comprising: <ul style="list-style-type: none">• Excavation to create 1 basement level containing waste storage, services, bike storage, amenities and end of trip facilities;• Ground floor (176sqm) retail, hotel lobby/lounge fronting Brisbane Street and vehicular access off Goulbourn Lane;

- Hotel accommodation on levels 1-6, including 121 hotel rooms.

The application is referred to the Local Planning Panel for determination as it is contentious development, being a development receiving 25 or more submissions by way of objection.

The application was notified and advertised for a period of 21 days between 13 November 2020 and 5 December 2020. 50 submissions by way of objection were received. Issues raised in the submissions relate to bulk and scale, heritage, building separation, solar access, loss of outlook, visual and acoustic privacy, traffic congestion, use as a hotel, construction impacts and BCA issues.

Following a preliminary assessment, including consideration by the Design Advisory Panel Residential Subcommittee on 2 February 2021, Council wrote to the applicant on 22 February 2021 requesting amended plans and additional information to be submitted. Issues identified by Council related to bulk and form, materials and finishes, heritage impacts, amenity of the hotel and surrounding development, landscaping, transport and access, flooding, waste management, contamination, public art and environmental sustainability.

Amended plans were submitted by the applicant on 25 March 2021.

An updated Plan of Management and Waste Management Plan were submitted on 25 March 2021. Amended Landscape plans and photomontages were submitted on 8 April 2021, an updated Flood Report was submitted on 12 April 2021 and a Remediation Action Plan was submitted on 20 April 2021.

The amended plans and additional information were not re-notified as the amendments were not considered to result in significant additional environmental impacts, in accordance with the City's Community Participation Plan 2020.

The amended proposal is generally consistent with the relevant planning controls contained in Sydney LEP 2012 and Sydney DCP 2012 and will not result in unacceptable impacts to surrounding properties, subject to conditions.

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

Development Controls:

- (i) Environmental Planning and Assessment Act 1979
- (ii) State Environmental Planning Policy No. 55 - Remediation of Land
- (iii) State Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)
- (iv) Sydney Local Environmental Plan 2012 (SLEP)
- (v) Sydney Development Control Plan 2012 (SDCP)
- (vi) City of Sydney Development Contributions Plan 2013

Attachments:

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

Recommendation

It is resolved that consent be granted to Development Application No. D/2020/1173 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 complies with the objectives of the B4 Mixed Use zone pursuant to the Sydney Local Environmental Plan 2012.
- (B) The development complies with the Height of Buildings development standard pursuant to Clause 4.3 of the Sydney Local Environmental Plan 2012 and the Floor Space Ratio development standard pursuant to Clause 4.4 of the Sydney Local Environmental Plan 2012.
- (C) The development exhibits design excellence and appropriately responds to the context of the site. The development is consistent with the desired future character of the area and satisfies the provisions of Clause 6.21 of the Sydney Local Environmental Plan 2012.
- (D) The development is consistent with the objectives of the Sydney Development Control Plan 2012.
- (E) The application is supported by a Detailed Environmental Site Investigation and Remediation Action Plan that demonstrate that the site can be made suitable for the proposed development, in accordance with State Environmental Planning Policy No. 55 - Remediation of Land.
- (F) Issues raised in submissions have been considered and where appropriate addressed in the amended plans and/ or conditions of consent.
- (G) Suitable conditions of consent are recommended and the development is considered to be in the public interest.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 1 in Deposited Plan 189208 and is known as 70-72 Commonwealth Street, Surry Hills. It is generally rectangular in shape with area of 870.8sqm.
2. The site has three street frontages, being Commonwealth Street to the west (12.9m), Brisbane Street to the east (12.9m) and Goulburn Lane to the south (54.9m). The site is located south of the intersection between Goulburn Street, Wentworth Avenue and Commonwealth Street. Levels on the site fall by approximately 1 metre from east to west.
3. The site contains a two storey masonry warehouse building, currently used as an office. The building is of face brick construction in a stripped inter-war style, incorporating Functionalist and Art Deco characteristics. The principal facade on Commonwealth Street features a recessed central entrance. The facades are characterised by a continuous painted and rendered string course, which wraps around the three street facades. The building has splayed corners on either end of Goulburn Lane.
4. The surrounding area is characterised by a mixture of land uses, including residential, commercial and retail uses. The area is also occupied by a number of restaurants, bars and hotels.
5. Directly south of the site, at 74-76 Commonwealth Street, is a 5 storey hotel with a restaurant on the ground floor. The building to the east of this site, at 43-51 Brisbane Street, is a 5 storey mixed use building with commercial offices on the lower levels and residential apartments on the upper levels. Further south, at 80 Commonwealth Street, is a building known as the Paramount Building, which comprises a mixture of commercial and retail uses.
6. West of the site is a former warehouse known as 'Griffiths Teas' which has been adaptively reused to create a 7 storey mixed use development with ground and first floor retail and residential apartments above. Harmony Park is located directly east of the site.
7. North of the site is a former warehouse known as 'Mark Foy's' which has been converted into a 9 storey residential flat building.
8. The site is not a heritage item and is not located within a heritage conservation area. It is surrounded by a number of heritage items. These include;
 - (a) 133 Goulburn Street to the north (Former warehouse facades 'Mark Foy's' - I1554);
 - (b) 43-51 Brisbane Street to the south (Former 20th Century Fox Film Corporation Building including interior - I1456);
 - (c) 80 Commonwealth Street to the south (Former "Paramount Pictures" including interior - I1484); and
 - (d) 46 Wentworth Avenue to the east ("Griffith's Building" including interior - I1648).

9. The site is located within the City Edge locality and is identified as being subject to flooding.
10. A site visit was carried out on 23 February 2021.
11. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Commonwealth Street



Figure 3: Site viewed from Commonwealth Street, looking north



Figure 4: Looking south along Commonwealth Street



Figure 5: Looking east along Goulburn Lane, with the subject site on the left



Figure 6: Looking west along Goulburn Street, with the subject site on the right



Figure 7: Site viewed from Brisbane Street, looking west



Figure 8: Site viewed from Brisbane Street, looking north-west



Figure 9: Neighbouring site to the south



Figure 10: Site viewed from Wentworth Avenue

History Relevant to the Development Application

Development Applications

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

- **D/2019/1247** – A development application was lodged on 6 November 2019 seeking consent for a 7 storey mixed use development including ground floor retail and hotel accommodation above. The application was withdrawn by the applicant on 30 January 2020 due to a number of fundamental issues identified by Council.
- **D/2006/1209** – Development consent was granted on 20 December 2006 for refurbishment of existing two storey office building.
- **D/2002/266** – Development consent was granted on 20 June 2002 for refurbishment of existing State Authority used building involving new roof and plant platform, disabled access provision, new window openings, new stair, partition fitout and external painting.

Design Advisory Panel Residential Subcommittee

13. The Design Advisory Panel Residential Subcommittee (DAPRS) was presented with the application, as originally lodged, on 2 February 2021. The subcommittee advised Council officers that they considered the proposal to be an improvement from the previously withdrawn DA (D/2019/1247), particularly having regard to the retention of the existing warehouse building. However, a number of issues were raised by the panel, including the following:
- The proposal should comply with the 5 storey street frontage height control and should be setback at levels 5 and 6. Removal of bulk here would maintain a street view to the upper corner of the Mark Foys southern facade, which is a preferred outcome.
 - The facade design had been designed to respond to visual privacy issues, however the large areas of painted render and minimal articulation was not supported. The privacy that was achieved also needed to be reviewed as some windows looked directly towards neighbours.
 - It was noted that the lessons of COVID-19 quarantine reinforces the importance of amenity and natural ventilation for hotel rooms.
 - The plant area should be enclosed and potentially relocated to address solar access to the south.
 - The retention of the internal mushroom columns was discussed, and the Panel suggested that the non-provision of car parking on the site could allow for the retention of more of the original building fabric.
 - The plant selection and soil depths should be reviewed to allow for full shade tolerant plants.
 - The amount of solar gain on the western façade to Commonwealth Street needs to be addressed with appropriate shading devices.
14. The recommendations made by DAPRS were incorporated into Council's request for additional information and amendments, outlined below.

Amendments

15. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information and amendments was sent to the applicant on 22 February 2021. The following amendments/ information were requested:
16. Design amendments:
- The original design did not comply with the 5 storey street frontage height control on Brisbane Street, which was not supported. Compliance with this control was requested through the deletion of 3 east facing rooms on levels 5 and 6.
 - The façade to Goulburn Lane was to be reconsidered to appear light-weight and fine grained, rather than heavy and solid.
 - The form of the building was to be amended to take cues from the strong geometric features of the retained warehouse.

- The materials and finishes of the northern facade were to be updated to provide a high quality material with visual interest.
- Internal mushroom columns were to be retained, which may require a reduction in carparking in the basement levels.
- Hotel room amenity was to be addressed through the provision of natural ventilation.
- The open hotel corridors were not supported due to amenity impacts for guests. The corridors were requested to be enclosed through the provision of operable louvres, rather than fixed, open louvres.
- Overshadowing impacts to apartments at 43-51 Brisbane Street to be further addressed and proposed envelope to be amended accordingly.
- The open plant area on level 6 was to be enclosed and integrated with the facades to address acoustic impacts.
- All hotel windows were to be designed to deflect views obliquely along Goulburn lane, rather than directly across.
- Solar gain on the western facade was to be further addressed.
- The proposed planting was to be amended to address the low-light levels available and a maintenance methodology to be submitted.
- The driveway width of 14m was not supported and was to be reduced to 6m.
- The provision of photovoltaic systems was recommended.

17. Additional information:

- a vehicle queue analysis was requested to support the proposed mechanical parking facilities (car stacker, car lift and vehicle turntable);
- Flood Assessment Report;
- NABERS Hotel Energy Commitment Agreement;
- Waste Management Plan to be amended;
- Plan of Management;
- Remediation Action Plan to be submitted and peer reviewed by a NSW EPA Accredited Site Auditor;
- detailed Public Art Plan; and
- the applicant was also requested to review the issues raised in submissions and provide a written response to the key issues raised.

18. The applicant responded to the request on 25 March 2021, and submitted the following information:
 - amended plans to address the design issues identified by Council;
 - amended Plan of Management;
 - amended Waste Management Plan; and
 - response to Submissions.
19. The amended design complies with the street frontage height control, the form, details and materials have been modified to take cues from the warehouse building, amenity impacts have been addressed and one basement level (including all car stackers) has been removed to allow retention of internal mushroom columns.
20. In addition to the above, amended Landscape Plans and photomontages were submitted on 8 April 2021, an updated Flood Report was submitted on 12 April 2021, a Remediation Action Plan was submitted on 20 April 2021 and a revised Preliminary Public Art Plan was submitted on 4 May 2021.
21. The amended plans and additional information have largely addressed the issues identified by Council and form the basis of this assessment.

Proposed Development

22. The application seeks consent for partial demolition of the existing building and construction of a 7 storey mixed use development consisting of:
 - (a) 1 x basement level
 - Amenities and end of trip facilities;
 - Luggage storage;
 - Linen room;
 - Services including main switch room, comms room and fire hydrant pump room;
 - Bicycle storage for 12 bicycles;
 - Waste management room and bulky waste storage.
 - (b) Ground floor
 - Hotel lobby, lounge and seating area fronting Brisbane Street;
 - Vehicular access from Goulburn Lane with 3 loading bays and 2 car parking spaces;
 - Retail 01 (34.5sqm) fronting Goulburn Lane;

- Retail 02 (141.5sqm) fronting Commonwealth Street;
- (c) Levels 1-6;
- 121 hotel rooms (including 6 accessible), with an enclosed plant room on level 5 and garden terrace on level 6.
23. Selected architectural drawings of the proposed development (as amended) are provided below.



Figure 11: Proposed photomontage

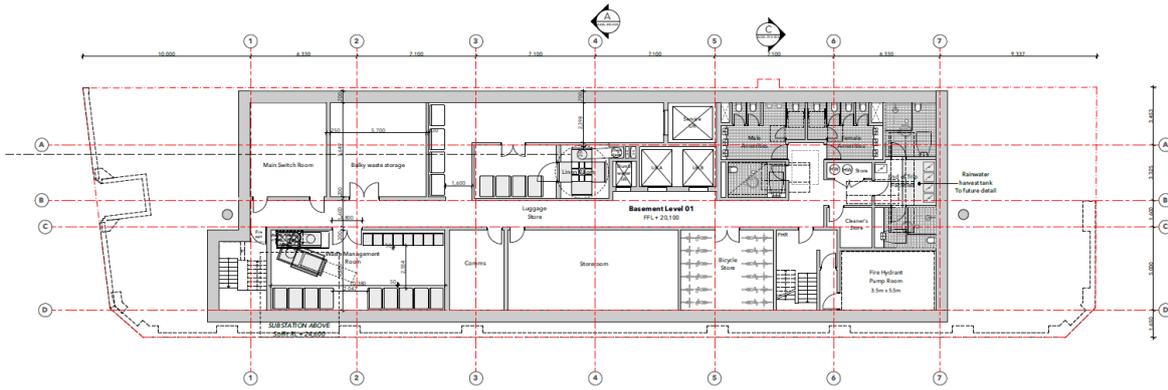


Figure 12: Proposed basement floor plan

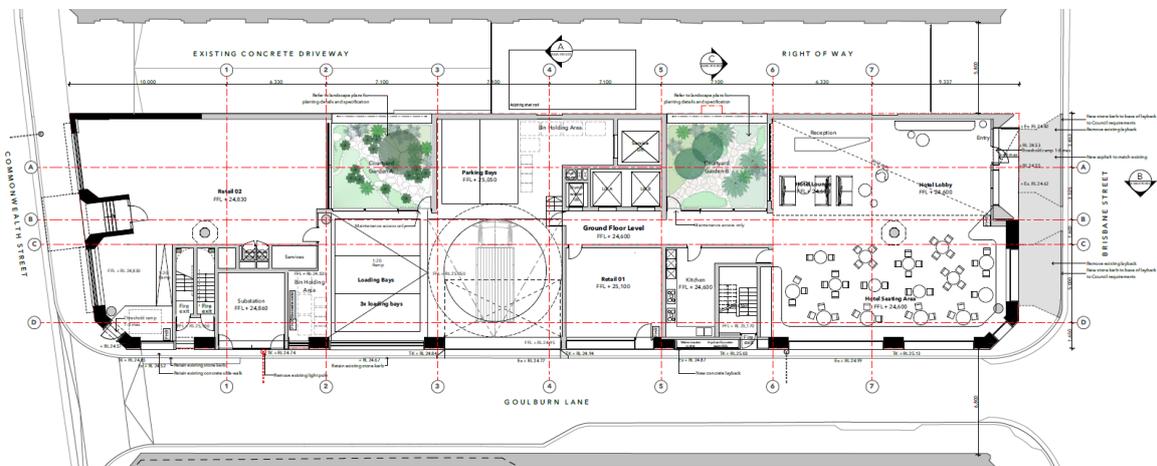
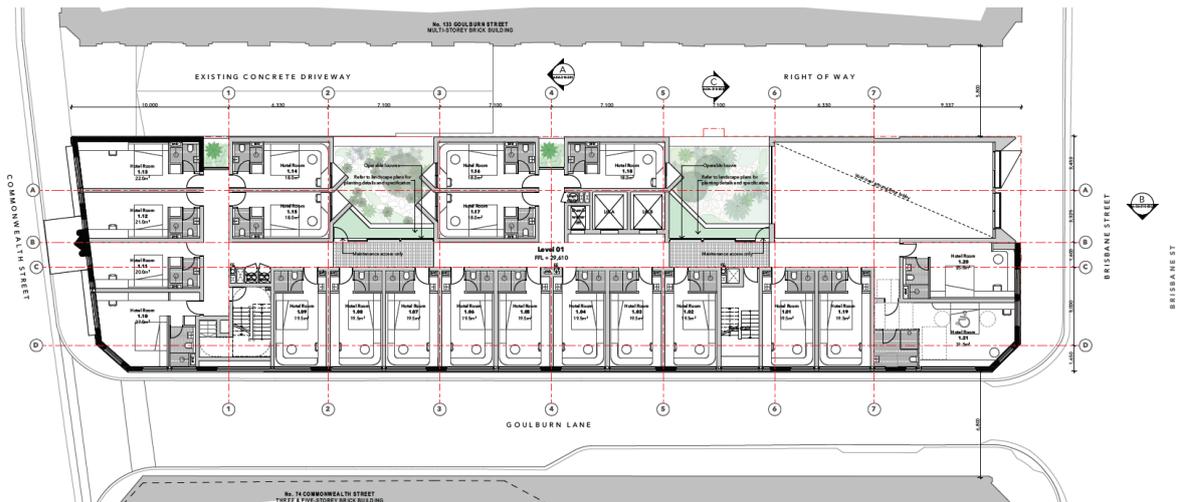


Figure 13: Proposed ground floor plan



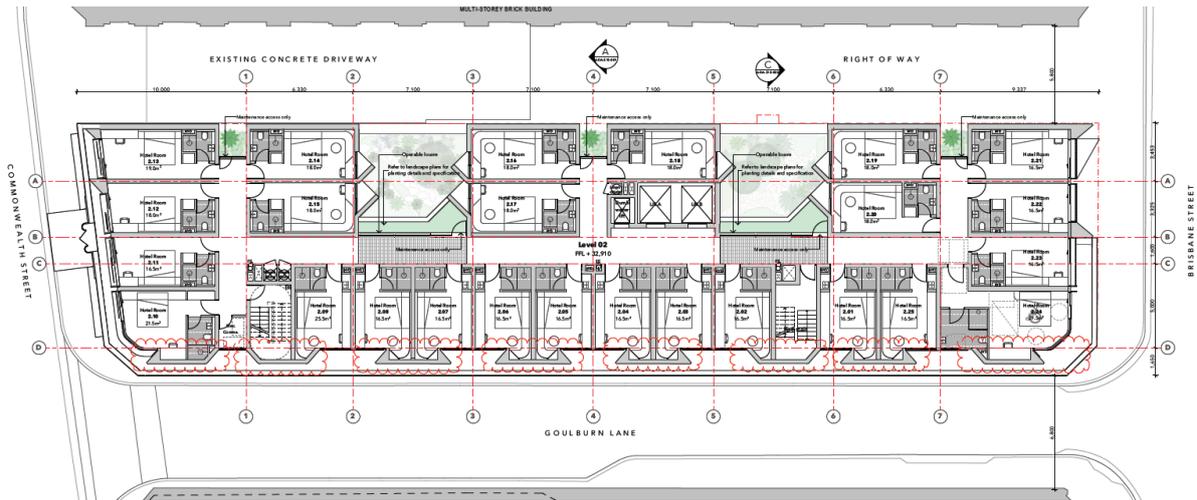


Figure 15: Proposed second floor plan

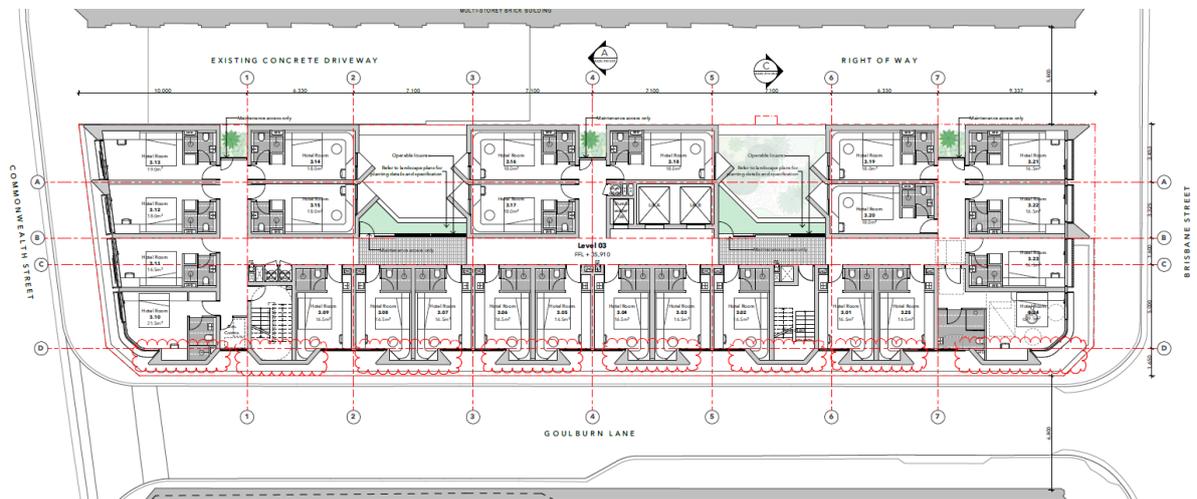


Figure 16: Proposed third floor plan

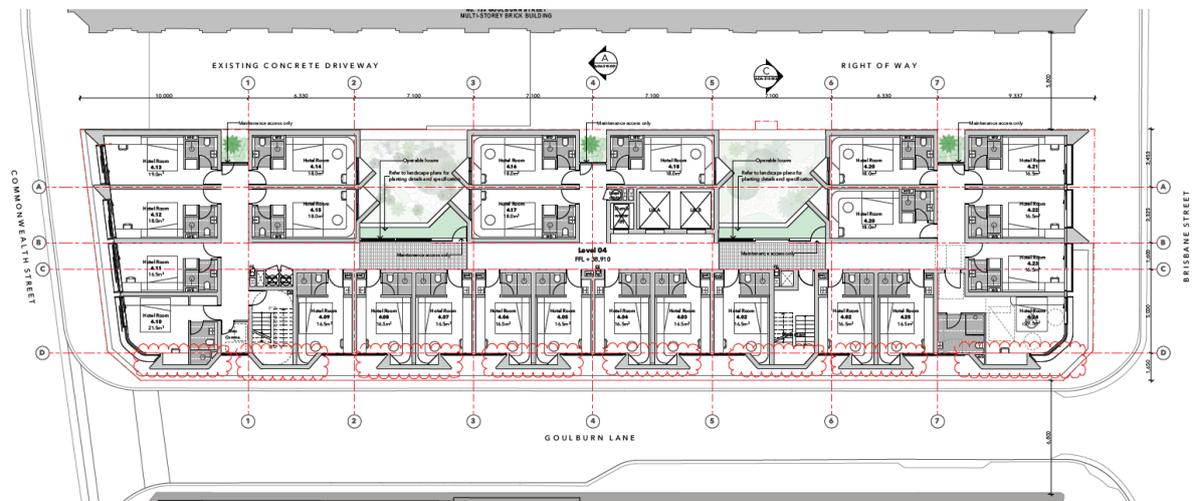


Figure 17: Proposed fourth floor plan

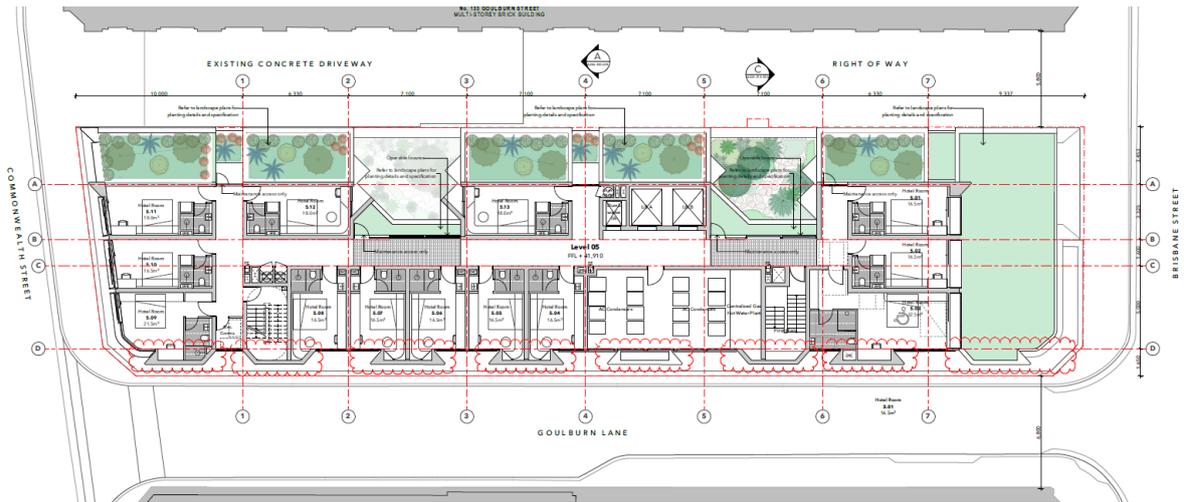


Figure 18: Proposed fifth floor plan

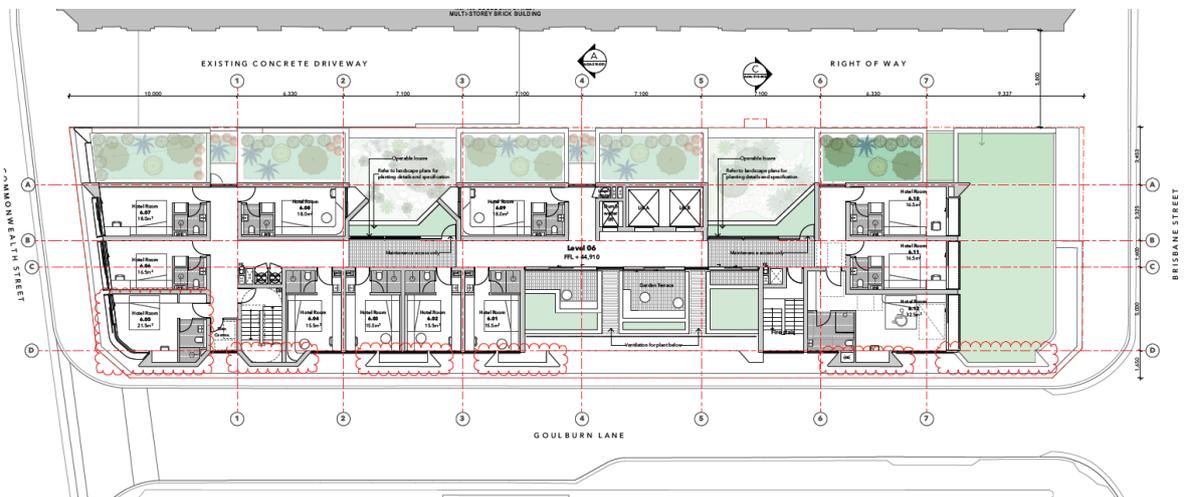


Figure 19: Proposed sixth floor plan

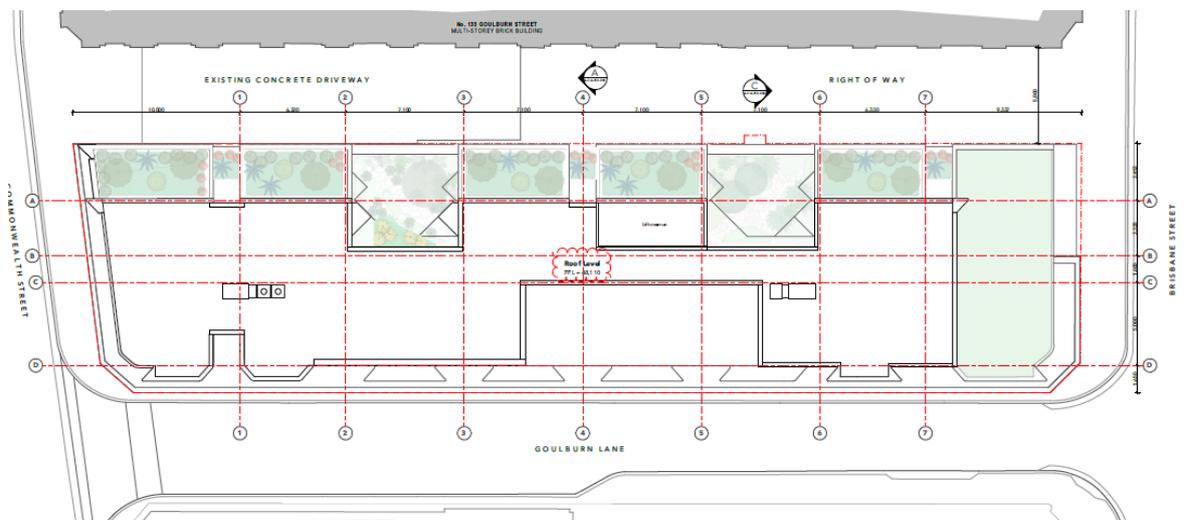


Figure 20: Proposed roof plan

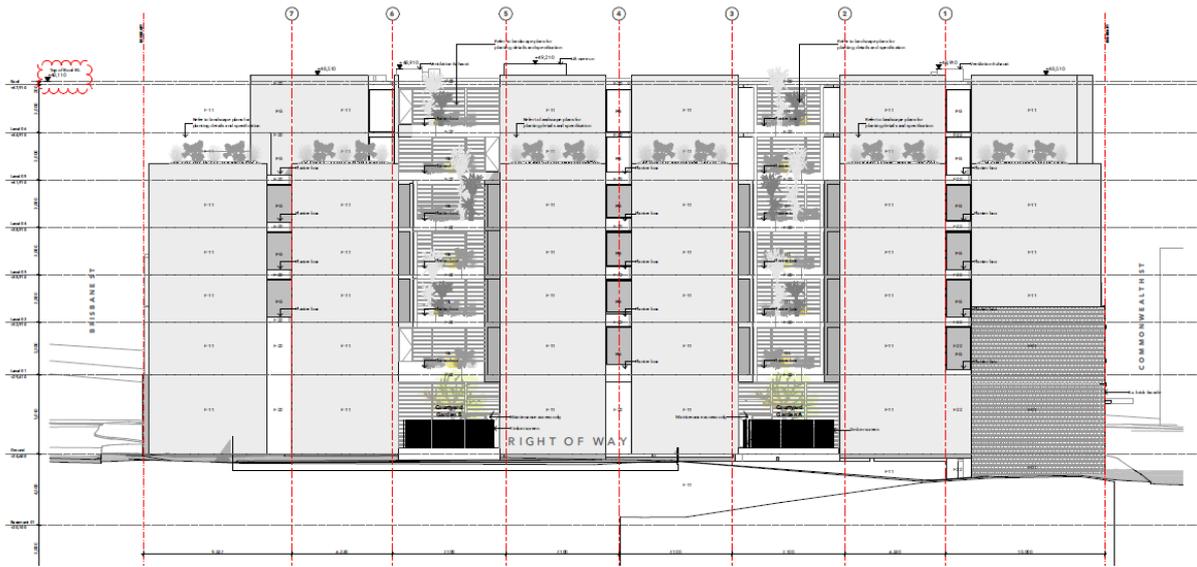


Figure 21: Proposed southern elevation

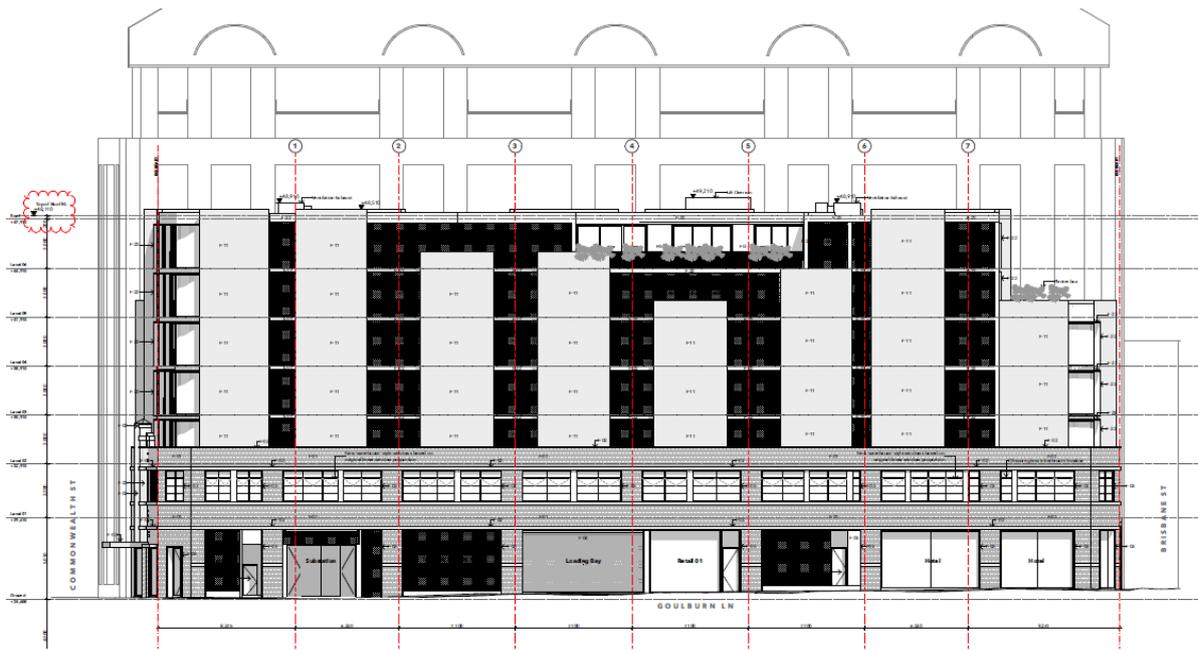


Figure 22: Proposed northern elevation

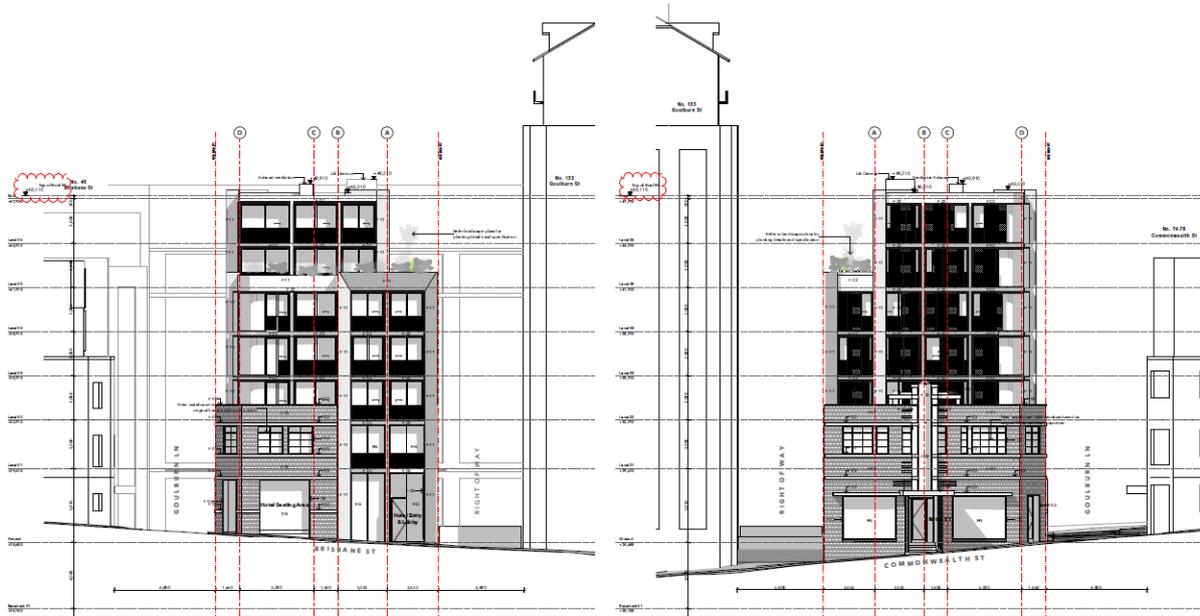


Figure 23: Proposed eastern (left) and western (right) elevations

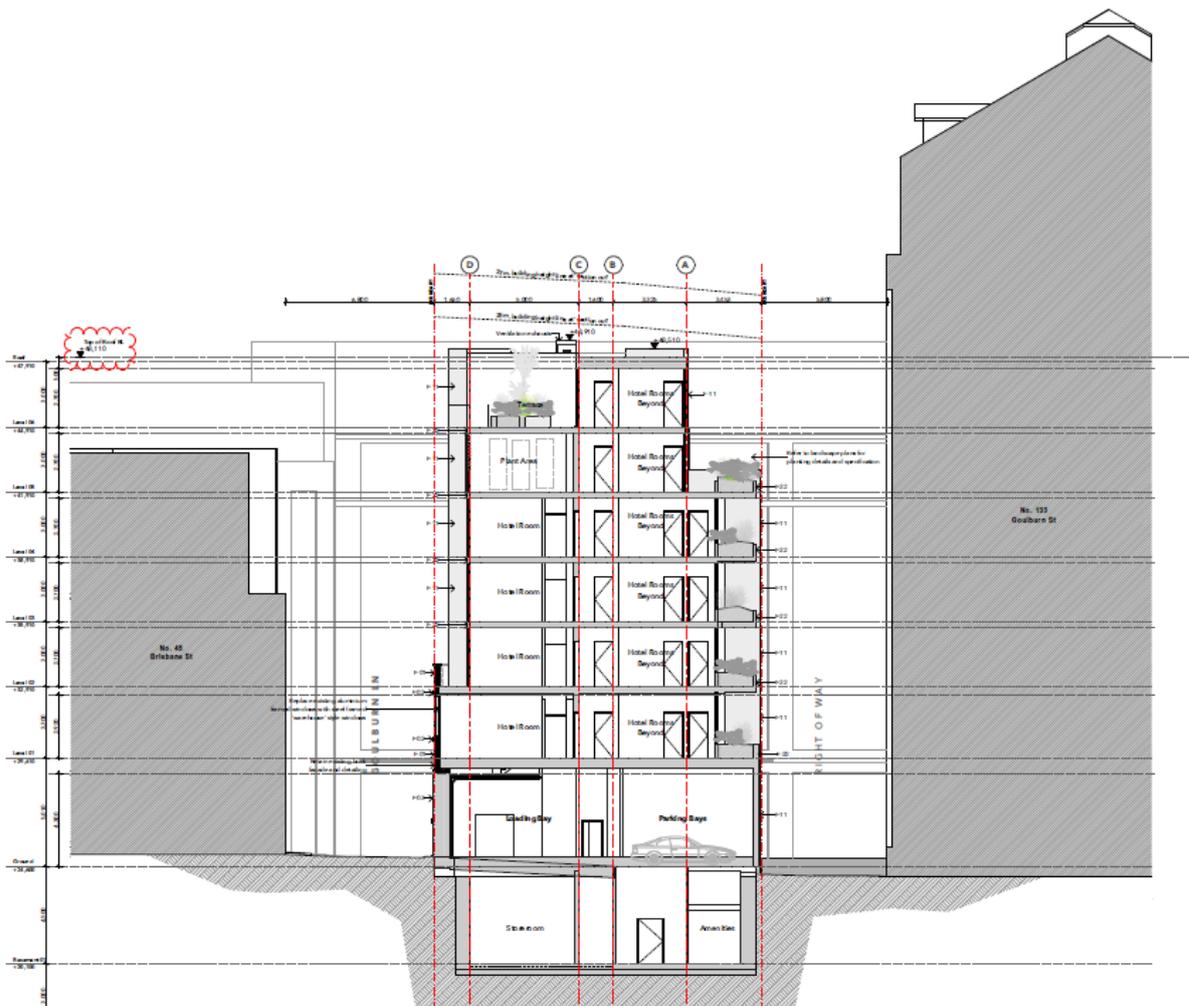


Figure 24: Proposed section A



Figure 25: Proposed section B

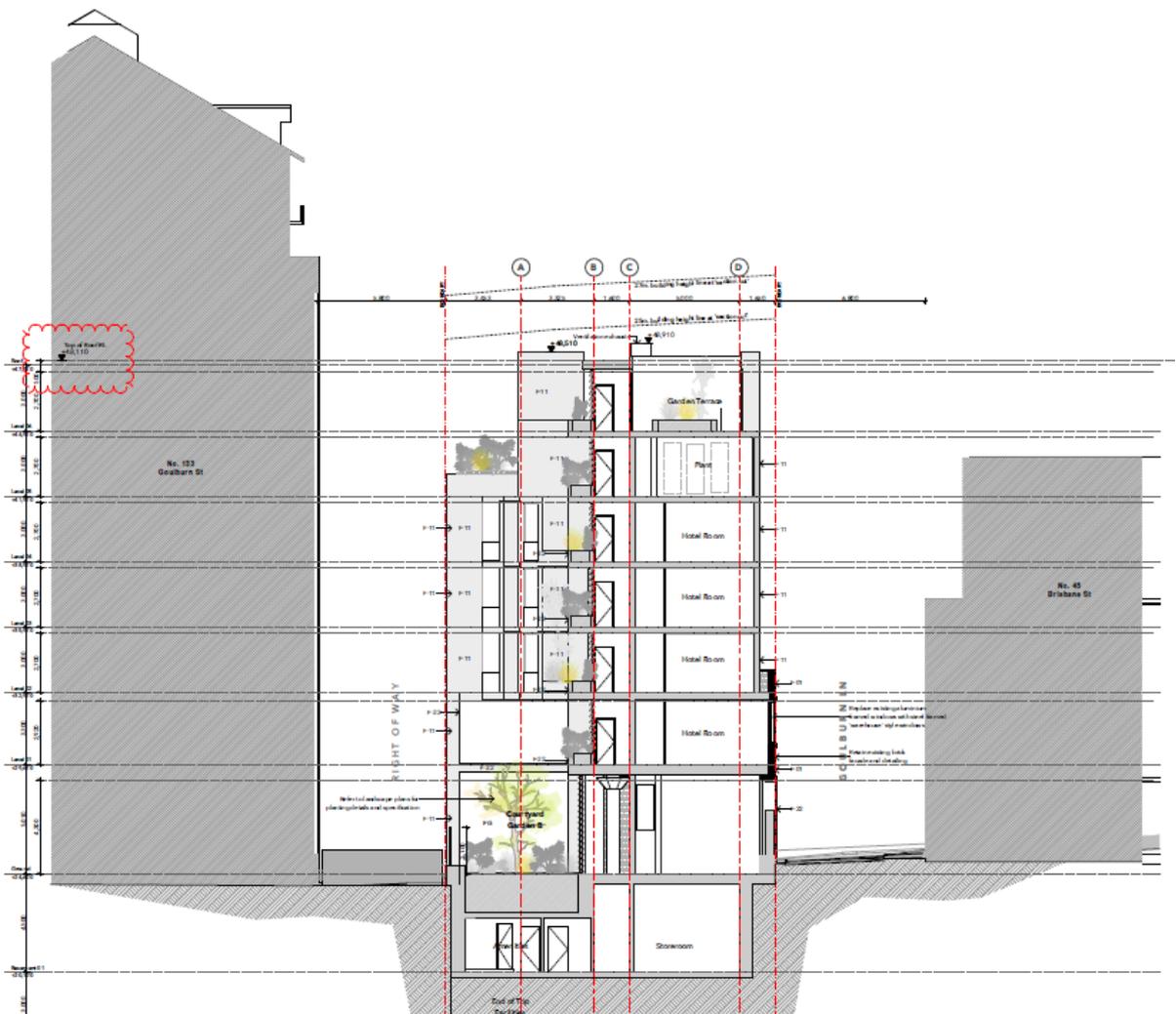


Figure 26: Proposed section C

Assessment

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

State Environmental Planning Policies

State Environmental Planning Policy No 55 - Remediation of Land

25. The aim of State Environmental Planning Policy (SEPP) No 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.
26. A Stage 1 Preliminary Site Investigation (PSI) and Stage 2 Detailed Environmental Site Investigation (DESI) were submitted with the application. The DESI found that the site has historically been used for various commercial and industrial activities, including a mechanic and possible electrical substation. The investigation included soil sampling from three boreholes and groundwater sampling from one monitoring well.
27. Carcinogenic PAHs were found in the fill that were assessed to pose a potential risk if the fill was not remediated during excavation for the proposed basement. The source of the PAHs is ash and slag in the fill matrix, which is common throughout the greater Sydney area. Therefore, the DESI concluded that a Remediation Action Plan should be prepared.
28. On 22 February 2021, Council wrote to the applicant and requested that a Remediation Action Plan (RAP) be prepared and submitted. Council advised that the RAP would need to be peer reviewed by a NSW EPA Accredited Site Auditor and include a Section B Site Audit Statement or a letter of interim advice from the Site Auditor, certifying that the RAP is practical and the site will be suitable after remediation for the proposed use.
29. A RAP, accompanied by a letter of interim advice, was submitted by the applicant on 20 April 2021. The RAP confirms that the site can be made suitable for the proposed development provided the RAP is implemented accordingly. The remediation is considered to be straightforward and easily achievable.
30. The RAP finds that considering the proposed development includes excavation to construct a basement, excavation and off-site disposal of contamination fill is considered to be the most practical, technically achievable and economically viable option for this project. Validation will be required, following removal of the fill, to confirm that the remediation has been completed successfully. The interim advice confirms this approach is appropriate.
31. The Council's Health Unit has reviewed the information provided and has recommended conditions of consent to ensure compliance with the remediation measures outlined, and for Council to be notified should there be any changes to the strategy for remediation.
32. The Council's Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use and therefore satisfies the requirements of the SEPP.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

33. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP. The SREP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.
34. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development. The development is consistent with the controls contained within the deemed SEPP.

Local Environmental Plans

Sydney Local Environmental Plan 2012

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

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the B4 Mixed Use zone. The proposed development is defined as mixed use, with retail and hotel accommodation, and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	A maximum building height of 27m is permitted. A height of 24.9m is proposed. The proposed development complies with the maximum height of buildings development standard.
4.4 Floor space ratio	Yes	A maximum floor space ratio of 4:1 or 3,483.2sqm is permitted. A floor space ratio of 3.99:1 or 3,482.12sqm is proposed. The proposed development complies with the maximum floor space ratio development standard.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is not a heritage item and is not located in a Heritage Conservation Area.</p> <p>The site is adjacent to a number of local heritage items.</p> <p>The proposed development will not have detrimental impact on the heritage significance of the heritage items, subject to conditions.</p> <p>See further details in the 'Discussion' section below.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 2 Additional floor space outside Central Sydney		
6.13 End of journey floor space	Yes	<p>The proposed development is eligible for bonus floor space for end of trip facilities, up to an area of 0.3:1.</p> <p>End of journey floor space is provided in the basement level, with an area of 36.8sqm (0.042:1).</p>
Division 4 Design excellence		
6.21 Design excellence	Yes	<p>The proposed development is of a high standard and uses materials and detailing which are compatible with the existing development along the street and will contribute positively to the character of the area.</p> <p>The development achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The development therefore achieves design excellence.</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
Other land uses	Yes	25 car parking spaces are permitted on the site. The proposed development includes 2 car parking spaces, which is below the maximum permitted car parking provision and therefore complies. The proposed car parking is supported by Council's Transport and Access unit.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils. The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan.
7.15 Flood planning	Yes	The site is identified as being subject to flooding. An amended Flood Assessment Report was submitted by the applicant on 12 April 2021. The Flood Report and amended ground floor plan have been reviewed by Council's Public Domain Unit and are acceptable.

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

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

Section 2 – Locality Statements

37. The site is located within the City Edge (2.11.1) locality. The proposed development is in keeping with the unique character and the design principles of the locality. The development responds to the scale and proportion of the area's heritage warehouses, utilises appropriate materials in its context, will enhance the network of existing laneways and the fine grain development pattern, continues the warehouse typology by retaining the existing warehouse facade and introduces an active frontage on the ground floor.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	Yes	<p>As the cost of the development exceeds \$10 million, public art is required to be incorporated into the development as per the City's Guidelines for Public Art in Private Developments and Public Art Policy.</p> <p>A Preliminary Public Art Plan has been submitted by the applicant. See details under the 'Discussion' section below.</p>
3.2. Defining the Public Domain	Partial compliance	<p><i>3.2.1.1 Sunlight to publicly accessible areas</i></p> <p>The proposal results in minor overshadowing to Harmony Park to the east of the site, at 2pm and 3pm on 21 June.</p> <p>See details relating to solar access in the 'Discussion' section below.</p> <p><i>3.2.1.2 Public views</i></p> <p>The proposal will have an impact on views from the public domain to the adjoining heritage item to the north of the site (Mark Foys).</p> <p>See further details regarding heritage impacts in the 'Discussion' section below.</p> <p><i>3.2.3 Active frontages</i></p> <p>Active frontages are provided on Commonwealth Street and Brisbane Street. These street frontages are appropriately designed to address pedestrian amenity, incorporating well detailed architecture, clear glazed windows and clear building entries. A partial active frontage is also provided on Goulburn Lane with the provision of a retail premises, which will further activate the laneway.</p>
3.3 Design Excellence and Competitive Design Processes	Not applicable	The proposed development is not subject to a competitive design process, as it is below 25m in height and has a capital value less than \$100,000,000.

Provision	Compliance	Comment
3.5 Urban Ecology	Yes	The proposed development incorporates landscaping. See further details in the 'Discussion' section below.
3.6 Ecologically Sustainable Development	Yes	The application has been reviewed by Council's Environmental Advisor, who supports the proposal subject to conditions.
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. See discussion under section 7.15 of the SLEP 2012 above.
3.9 Heritage	Yes	The site is not a heritage item and is not located in a Heritage Conservation Area. The site is adjacent to a number of local heritage items. The proposed development will not have detrimental impact on the heritage significance of the heritage items, subject to conditions. See further details in the 'Discussion' section below.
3.10 Significant Architectural Building Types	Yes	The existing 2 storey building on the site is a warehouse building older than 50 years old. The proposed development seeks to retain the significant elements of the existing warehouse, including the entire western facade, the southern facade (except for extending openings to ground level), part of the eastern and northern facades, as well as two internal original mushroom columns. This is considered to be a positive outcome for this site and is supported.
3.11 Transport and Parking	Partial compliance	3.11.3 Bike parking and associated facilities The DCP requires a total of 9 bicycle parking spaces for the proposed hotel accommodation use and 4 for the proposed retail use, requiring a total of 13 bicycle parking spaces.

Provision	Compliance	Comment
		<p>12 bicycle parking spaces are provided. This minor non-compliance is acceptable, as the design and location of the parking spaces are in keeping with the requirements of the DCP.</p> <p>The DCP also requires lockers, change room and shower facilities to be provided with the bicycle parking. A condition of consent is recommended requiring the minimum facilities to be provided, in accordance with the DCP.</p> <p>3.11.4 Vehicle parking</p> <p>The proposal includes 2 parking spaces on the ground floor level, which complies with the maximum permitted car parking spaces.</p> <p>3.11.6 Service vehicle parking</p> <p>Service vehicle parking is provided on the ground floor level, accessed via Goulburn Lane. The DCP specifies that service vehicle parking is not to be shared with other car parking. Given the site constraints, Council's Transport and Access unit support the location of the service vehicle parking, subject to a Management Plan being prepared. A condition of consent is recommended in this regard.</p> <p>3.11.8 Bus parking</p> <p>See further details relating to bus/ coach parking under the 'Discussion' section below.</p>
3.12 Accessible Design	Yes	The proposed development provides equitable access throughout the building and is required to comply with BCA access requirements.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	The amended waste arrangements are supported by Council's Waste Management Unit.

Provision	Compliance	Comment
		A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.
3.15 Late Night Trading Management	Yes, subject to conditions	The premises is located in a Local Centre Area and the use is defined as a category B premises. The proposed hours of operation are assessed in the 'Discussion' section below.
3.16 Signage and Advertising	Not applicable	Signage is not proposed as part of this application.

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	Yes	The site is permitted a maximum building height of 8 storeys with a maximum street frontage height of 5 storeys to Brisbane Street. The proposed development is 7 storeys in height with a street frontage height of 5 storeys to Brisbane Street, which complies.
4.2.1.2 Floor to ceiling heights and floor to floor heights	Yes	The proposed development achieves the minimum floor to floor height of 4.5m at basement level, 5.1m at ground level and 3.3m at the levels above.

Provision	Compliance	Comment
4.2.2 Building setbacks	Yes	<p>The amended plans include an increased setback from the eastern boundary (Brisbane Street) of 7.3m above the 5 storey street frontage height. This will assist in reducing visual impact to the neighbouring heritage item to the north. The DCP requires a minimum setback above the street frontage height of 3m (though this only applies to residential buildings).</p> <p>The proposal therefore complies with the setback controls.</p>
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	See details under the 'Discussion' section below.
4.2.3.4 Design features to manage solar access	Yes	The amended plans include mesh screens on the western elevation which will be operable to allow guests to control the amount of sunlight received.
4.2.3.5 Landscaping	Yes	<p>Significant landscaping is proposed. The amended landscape plan has been reviewed by Council's Landscape Officer and Tree Management Officer.</p> <p>See details under the 'Discussion' section below.</p>
4.2.3.9 Ventilation	Yes	Natural ventilation is not specifically required for hotel accommodation. Notwithstanding, the hotel rooms have been amended to incorporate operable sashes to ensure a more desirable amenity outcome for hotel guests. A condition of consent is recommended requiring details of operable sashes for hotel rooms to be provided prior to the issue of a Construction Certificate.
4.2.3.11 Acoustic privacy	Yes	Acoustic impacts are outlined in the 'Discussion' section below.

Provision	Compliance	Comment
4.2.6 Waste and recycling Management	Yes	A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Yes	In granting development consent for non-residential development on sites within proximity to residential uses within the B4 zone, the consent authority will have regard the potential impacts on the amenity of residential uses. Amenity impacts are discussed in detail under the 'Discussion' section below.

4.4 Other Development Types and Uses

4.4.8 Visitor accommodation

Provision	Compliance	Comment
4.4.8.1 General	Yes	<p>The development is self-contained with no common accessways with adjoining properties.</p> <p>An on-site manager is proposed. Hotel rooms do not include bunks or cooking facilities.</p> <p>A Plan of Management has been submitted and meets the requirements of the DCP.</p> <p>The proposal complies with the general requirements for visitor accommodation.</p>
4.4.8.3 Additional provisions for hotels, private hotels and motels	Yes	<p>The proposed hotel contains 121 hotel rooms of between 15.5sqm and 31.5sqm in area. Each room is designed to accommodate a capacity of 1-2 adults.</p> <p>The Plan of Management specifies that the maximum permitted length of stay is 3 months.</p> <p>Appropriate storage facilities are provided within the hotel rooms.</p> <p>The proposal therefore complies with the additional provisions for hotels in the DCP.</p>

Discussion

Heritage

38. The subject site is not a heritage item and is not located in a heritage conservation area.
39. The site is surrounded by a number of heritage items. These include;
 - (a) 133 Goulburn Street to the north (Former warehouse facades 'Mark Foys' - I1554);
 - (b) 43-51 Brisbane Street to the south (Former 20th Century Fox Film Corporation Building including interior - I1456);
 - (c) 80 Commonwealth Street to the south (Former "Paramount Pictures" including interior - I1484); and
 - (d) 46 Wentworth Avenue to the east ("Griffith's Building" including interior - I1648).
40. The scheme originally lodged to Council was not supported by Council's Heritage Specialist due to the adverse impact that the bulk of the building would have on the Mark Foys building to the north, at 133 Goulburn Street. Council's Heritage Specialist also requested that the original internal mushroom columns be retained on the ground floor. An example of the mushroom columns is provided in Figure 27 below.

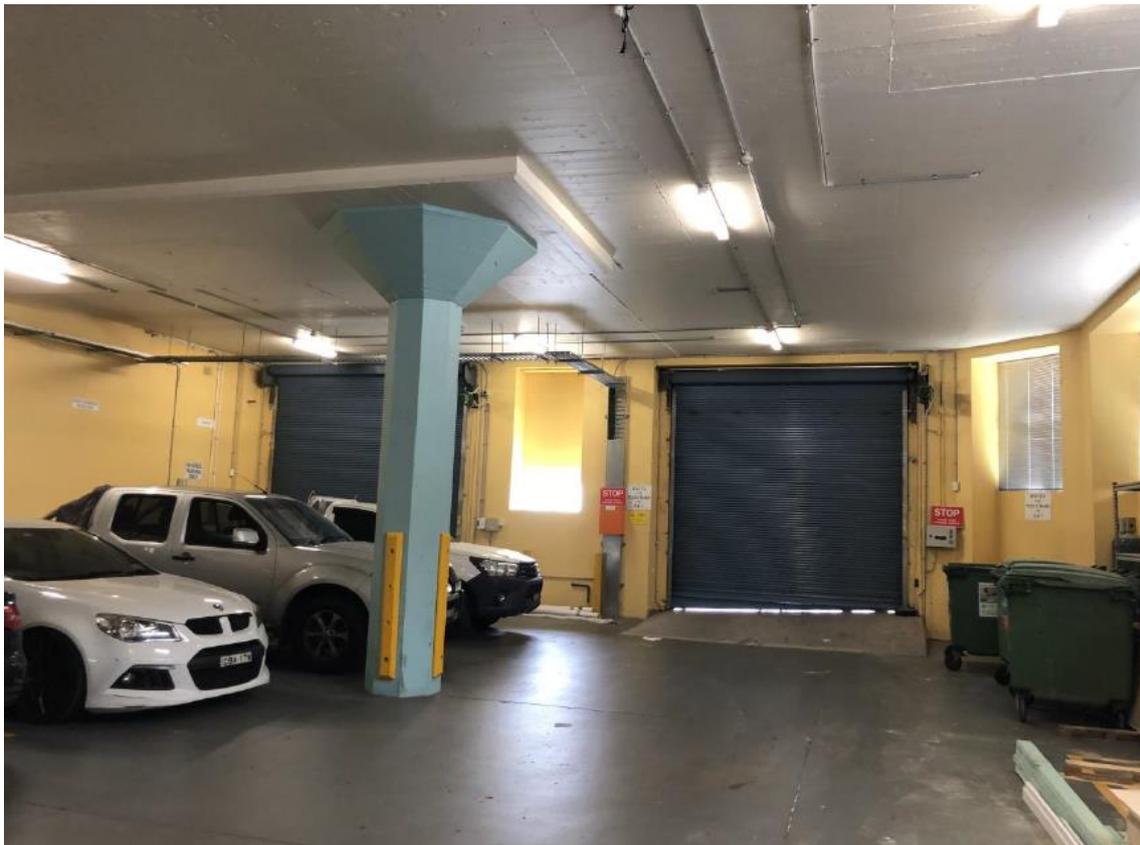


Figure 27: Existing mushroom column located on the ground floor of the existing building

41. The amended plans incorporate the removal of bulk from the east of the site on levels 5 and 6 and compliance with the street frontage height control on Brisbane Street, as was recommended by DAPRS.
42. The amended design results in increased views to the north-eastern corner of the Mark Foys southern facade. A comparison is provided in Figure 28 below.



Figure 28: Photomontages of the originally submitted proposal (left) and amended proposal (right)

43. The amended design also involves the removal of one level of basement car parking, which allowed for the retention of two mushroom columns on the ground floor, on either end of the building.
44. It is noted that the majority of the existing warehouse building facades are proposed to be retained on the ground and first floors. The retention of this original fabric, combined with the retained mushroom columns as mentioned above, are considered to result in a positive heritage outcome for the site.
45. Council's Heritage Officer advised that the upper level could be further setback to allow for additional visibility of the Mark Foys southern facade and signage. Given the proposal complies with the relevant planning controls, this is not considered necessary as the amended design results in greater visibility compared to the original scheme. It is also noted that the facades and signage of the Mark Foys building on the northern, eastern and southern elevations can be prominently seen from the public domain, as shown in Figures 29 and 30 below.



Figure 29: Northern and western elevations of Mark Foys building, viewed from the corner of Wentworth Avenue and Goulburn Street



Figure 30: Eastern and northern elevations of Mark Foys building, viewed from the corner of Goulburn Street and Brisbane Street

46. Council's Heritage Officer also requested that the three ground floor windows on the eastern corner of the southern façade be retained in their current size, in order to minimise the impact to the original warehouse fabric. This is recommended as a condition of consent.

Landscaping

47. The originally submitted Landscape Plans were reviewed by Council's Landscape Officer and concern was raised that the plant types and soil depths were not appropriate for a building that would experience significant shade throughout the day.
48. An amended Landscape Plan was submitted by the applicant. Council's Landscape Officer confirmed that the amended plans provide a plant schedule that reflects a more shade tolerant planting design. The amended design is generally supported by Council's Landscape Officer, however a number of minor issues remain outstanding that can be addressed through conditions of consent. The outstanding issues include:
- Further details are required on the plans including proposed levels, clear confirmation of inaccessible/ accessible planters, drainage, balustrades, and irrigation.
 - The courtyard planters are too deep at 1.57m and a void foam filler at the base with fall is needed to reduce depth of anerobic soil.
 - An intensive green roof is proposed on the eastern portion of level 5. Detail is required to ensure that the design and height of Juliet balcony balustrades will prevent people from climbing over the balcony and onto the green roof.
 - It remains unclear how the green roof and inaccessible planters throughout the development will be safely accessed for maintenance and whether a Building Maintenance Unit on the roof or anchor points for abseiling are proposed. Further details are required prior to the issue of a Construction Certificate.
 - The redevelopment provides an opportunity to increase biodiversity, reduce building temperatures and energy costs by providing an integrated green roof. A condition of consent in this regard is recommended.
49. The amended Landscape Plan was also reviewed by Council's Tree Management Officer who supports the proposal. Six trees are proposed for the rooftop accessible gardens. The amended trees are more tolerant to shade and are likely to grow to a size where they will contribute to canopy cover. The proposal will likely result in the canopy cover required under the DCP controls. Conditions relating to landscaping and tree management are recommended. It is also noted that Council's Tree Management Officer has requested that two street trees on the Brisbane Street frontage be provided.
50. Overall, the proposed landscaping of the site is generally supported by Council's Landscape Officer and Tree Management Officer, subject to recommended conditions.

Solar access

51. Section 4.1.3.1 of the SDCP 2012 includes provisions relating to solar access to private open space within the site and adjoining dwellings, habitable rooms within the development and in adjoining dwellings and public open space.
52. Solar access impacts to both neighbouring properties and Harmony Park are discussed below.

Impacts to neighbouring buildings

53. Provision (1) of Part 4.1.3.1 of the SDCP 2012 requires development sites and neighbouring dwellings 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 at least 50% of the minimum amount of private open space.
54. Additionally, Provision (2) of Part 4.1.3.1 of the SDCP 2012 states that new development must not create any additional overshadowing where solar access is less than two hours between 9am and 3pm on 21 June.
55. Additional shadows will be cast from the proposed development to the south of the site. The majority of shadows cast by the proposed development will fall within existing shadows cast by the taller Mark Foys building to the north of the site. However, the proposal will result in additional overshadowing to the neighbouring residential building to the south at 43-51 Brisbane Street. This building has north-facing apartments located on levels 4 and 5.
56. Council's Request for Additional Information, sent to the applicant on 22 February 2021, raised concern about non-compliant overshadowing to the upper level apartments on the NW corner of the building. It was requested that the proposed building envelope be reduced so that solar access is maintained to these apartments between 12pm and 2pm.
57. The plans were amended to address the above issue and shadow diagrams in plan and elevation were submitted with the amended plans on 25 March 2021. The diagrams demonstrate that the upper level apartments on the NW corner of the building will achieve the required amount of sunlight between 11am and 1pm.
58. Additional half-hourly shadow diagrams were submitted by the applicant on 3 May 2021, which demonstrate that all apartments at 43-51 Brisbane Street receive the required amount of solar access to living room glazing and private open space during the winter solstice.
59. As such, the proposal complies with the solar access provisions of the DCP relating to neighbouring buildings.
60. It is noted that a number of objections were received by residents within the Mark Foys building, located directly north of the subject site, with regard to solar access impacts and loss of light to the south-facing apartments. Given the subject site is located south of the Mark Foys building, it will not result in additional shadows being cast to that building during the winter solstice, which is the framework outlined in the DCP to assess solar access. Whilst it is acknowledged that the proposed development would impact the ambient light received by south-facing apartments of the Mark Foys building, the controls under the SDCP 2012 only relate to direct solar access. The proposal therefore complies with the requirements of the DCP.

Impacts to Harmony Park

61. The shadow diagrams demonstrate that the amended proposal will result in overshadowing to Harmony Park, being 32sqm at 2pm and 8.3 sqm at 3pm. This is a reduction in overshadowing and an improvement when compared to the original scheme, as a result of the reduced bulk on the eastern side of levels 5 and 6.
62. The proposed overshadowing to Harmony Park is minor compared to the size of the park and will not detrimentally impact the useability of this public open space.

Visual Privacy

63. The proposed built form has been designed to prevent overlooking to neighbouring properties and across hotel rooms. Visual privacy impacts to neighbouring properties to the north and south are detailed below.

Impacts to 133 Goulburn Street

64. The hotel rooms on the northern side of the building are orientated east-west and will not have windows looking directly north. The proposed windows will face either east or west and are angled to prevent direct overlooking between hotel rooms. This can be seen in Figure 31 below.
65. The northernmost windows will also have a separation distance of approximately 7.6 metres to the windows in the Mark Foy's building.
66. The hotel rooms have also been designed so that there is a desk located against the windows, which creates additional distance between hotel guests and the glazing and prevents direct lines of sight.

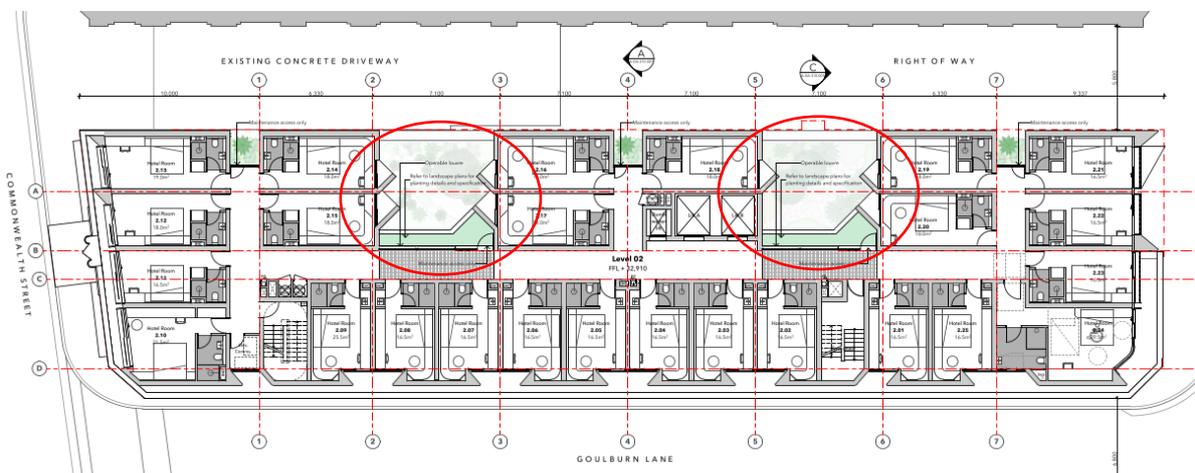


Figure 31: Floor plan showing location and design of northern windows

67. The design and location of the windows are considered to be appropriate solutions for the site in order to prevent direct lines of sight to neighbouring apartments whilst ensuring appropriate levels of amenity between hotel rooms.

Impacts to 43-51 Brisbane Street

68. Visual privacy to apartments to the south of the proposed building is addressed through the provision of protruding façade features, which ensures that viewing is oblique rather than direct. The southern facing windows will also be treated with perforated screening which will further protect the visual privacy of apartments to the south.
69. Overall, the visual privacy measures that have been incorporated into the design comply with the provisions of Part 4.1.3.6 of the SDCP 2021. The proposal will not result in unacceptable visual privacy impacts in accordance with the DCP.

Impacts to views/ outlooks

70. A number of objections submitted to Council raise concern about loss of views/ outlook from nearby apartment buildings. These included objections predominantly from south-facing apartments in the Mark Foys building at 133 Goulburn Street as well as from the Griffith Teas building located to the west of the site.
71. The views in question from the Mark Foys building are oblique views to the greenery at Harmony Park and, for some mid to upper level apartments, district views to the south and south-west, across the subject site. Examples of these views are provided below (photos taken by Council staff):



Figure 32: Outlook towards Harmony Park from an apartment balcony on the 3rd floor at 133 Goulburn Street



Figure 33: Outlook towards Harmony Park from a living room window on the 5th floor at 133 Goulburn Street (noting that there is no 'Level 4' in the building)



Figure 34: Outlook towards Harmony Park from the balcony of an apartment on the 6th floor at 133 Goulburn Street



Figure 35: District views towards the south-west from the balcony of an apartment on the 6th floor at 133 Goulburn Street



Figure 36: District views towards the south-west from the living room window of an apartment on the 7th floor at 133 Goulburn Street



Figure 37: Outlook towards Harmony Park from the living room window of an apartment on the 7th floor at 133 Goulburn Street

72. The views currently enjoyed by neighbouring properties are in part due to the existing building sitting below the permitted height limit.
73. Where view sharing was raised as a concern in a submission, the objectors were asked by Council to provide photos to demonstrate the outlooks obtained at present. Additionally, a site inspection was undertaken by Council officers on 4 May 2021 to 14 south-facing apartments within the Mark Foys building.
74. Assessment of view impact is undertaken based on the planning principles of view sharing established in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140. It is noted that the planning principles are relevant for matters of view sharing, rather than outlooks. Notwithstanding, an assessment against this planning principle is outlined below as a basis.
75. To determine whether view sharing is reasonable or not, the judgement establishes a four-step assessment, which is summarised below:
 - (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 is more reasonable than one that breaches them.

Mark Foys south-facing apartments

- 76. The views in question are obtained from the south-facing apartments, with oblique views towards the greenery at Harmony Park to the south-east (see Figures 32, 33, 34 and 37 above). Some apartments also have district views towards the south-west of the southern part of the CBD (see Figures 35 and 36 above).
- 77. The views in question, according to the judgement, are less valuable compared to water or iconic views.
- 78. Views are obtained over the southern side boundary from living room spaces, bedrooms and some balconies. The views are predominantly obtained at oblique angles. The district views to the south-west are obtained over multiple site boundaries including the subject site.
- 79. The proposal will have significant impact on the outlook towards Harmony Park and the district views obtained from mid-level apartments in the Mark Foys building however this outlook is not protected. View impacts will be minor to apartments on the uppermost levels.
- 80. The proposed development, as amended, complies with all of the relevant planning controls relating to bulk and scale. The proposal also includes an additional upper level setback on levels 5 and 6 that is not required under the controls, although the setback does improve the design and minimise impacts. Opportunity to protect the existing outlooks is limited, as the impacts are caused by bulk that is below the maximum height in metres and height in storeys controls. The proposal, as amended, is considered to be reasonable having regard to the impacts on outlooks.
- 81. The proposal has been amended to comply with the street frontage height control to Brisbane Street, which will increase visibility to Harmony Park from the south facing apartments.
- 82. Given the above, the impacts to the views/ outlooks obtained from 133 Goulburn Street are acceptable having regard to the planning principle.

Griffiths Teas/ 46 Wentworth Street

- 83. An objection was received from an apartment within the Griffiths Teas building at 46 Wentworth Street, raising concern about a loss of outlook to Harmony Park towards the east, over the subject site.
- 84. The view in question is towards the greenery at Harmony Park and is therefore less valuable than water or iconic views. The view is obtained directly east, across the subject site and across Commonwealth Street and Brisbane Street.

85. The proposal will likely have moderate to significant impacts on the green outlook.
86. The impact to this outlook is considered reasonable given the proposal complies with the planning controls for the site relating to bulk and scale.

Acoustic Privacy

87. An Acoustic Report was submitted with the original proposal, which ensures the proposed development will adhere to relevant acoustic requirements.
88. An open plant area was originally proposed on level 6. Concern was raised by Council that this may result in acoustic impacts to nearby residential apartments, particularly to the south of the site, and the Acoustic Report did not address this issue with certainty.
89. The amended plans propose the relocation of the plant area to an enclosed space on level 5. This solution has been reviewed by Council's Environmental Health Unit who are supportive of the proposal. Conditions of consent are recommended to ensure that noise from the plant area complies with relevant noise requirements.
90. The Acoustic Report includes a number of other noise measures relating to construction noise management levels, operational noise levels, glazing and ventilation requirements, external wall and roof construction, intertenancy wall construction, entry doors and hotel lobby crowd sizes.
91. A condition of consent is recommended requiring compliance with the requirements outlined in the Acoustic Report.

Hours of operation

92. The proposal includes trading hours for the hotel, hotel restaurant/ bar and retail premises. The proposed trading hours are as follows:
- Hotel is to operate with 24/7 access including concierge and housekeeping.
 - Hotel restaurant/ bar and retail premises: 6.00am to 12.00 midnight.
93. The proposed 24/7 access for the hotel is considered reasonable and operation of the hotel will be subject to compliance with the submitted Plan of Management.
94. Consideration of the trading hours for the hotel restaurant/ bar and retail premises are considered against the 'Late Night Trading Management' provisions of SDCP 2012.
95. The uses are Category B premises and the site is located within a Local Centre Area under the provisions.
96. Within the Local Centre Area, the following trading hours are specified for indoor uses:

	Indoor
Base	7am to 11pm
Extended	7am to midnight

97. The proposed trading hours for the hotel restaurant/ bar are in accordance with the extended trading hours, with the exception of the early trading hours from 6.00am.
98. The proposed hours for the hotel restaurant are considered to be suitable for trading in the locality, subject to a condition that trading before 7.00am be restricted to hotel users and staff only, and not trading to the general public. This will allow the hotel to cater for hotel guest breakfasts prior to 7.00am.
99. The proposed trading of the hotel restaurant to midnight is supported as per the allowable extended hours, subject to a 1 year trial.
100. The hours of operation for the future retail uses on the ground floor should comply with the base hours allowed under the DCP provisions. A condition of consent is recommended in this regard.

Public art

101. As the cost of the development exceeds \$10 million, public art is required to be incorporated into the development as per the City's Guidelines for Public Art in Private Developments and Public Art Policy.
102. A revised Preliminary Public Art Plan was submitted by the applicant on 4 May 2021. The plan was prepared by artist Sonia van de Haar of Lymesmith, with the support of Fox Johnston Architects. The plan proposes integrated screens and murals to the pre-cast concrete on parts of the southern and northern elevations.
103. The Preliminary Public Art Plan has been reviewed by Council's Public Art team, who are supportive of the plan. The proposed artwork to the screens and murals to the pre-cast concrete are considered to be appropriate opportunities given the highly constrained site.
104. A condition of consent is recommended, requiring the submission of a Detailed Public Art Plan for approval prior to the issue of a Construction Certificate.

Transport and Parking

105. The amended plans showed a reduction in basement carparking compared to the original scheme, proposing 2 car parking spaces, 3 loading bays and 1 Small Rigid Vehicle parking space on the ground floor and bicycle parking and end of trip facilities in the basement level.
106. Council's Transport Planner generally supports the proposal from a transport and traffic perspective, subject to the following issues being addressed by appropriate conditions of consent:
 - The plans show a 7m driveway, which is not supported and is to be reduced in width. A narrower driveway is recommended to slow down the vehicle movements and hence increase pedestrian safety and amenity in the laneway. A condition of consent is recommended, requiring the driveway to be 6m wide.
 - The ground floor loading dock has been designed in a way that causes the Small Rigid Vehicle to block access to the other 5 car parking spaces (3 loading and 2 car parking). This is acceptable given the constraints of the site, however a Loading and Service Management Plan is recommended to be submitted prior to the issue of an Occupation Certificate to ensure this is managed appropriately.

- A Coach Parking Management Plan is recommended to be submitted prior to the issue of an Occupation Certificate.
- A Construction Traffic and Pedestrian Management Plan is to be prepared in consultation with Transport for NSW.

Traffic Congestion

107. It is noted that a number of objections were raised from neighbouring properties regarding the lack of provision of car parking and traffic congestion impacts resulting from the hotel.
108. Council's Transport Planner supports the proposed provision of car parking and advised that the City is working towards more sustainable transport options rather than private vehicle use. The site is well located in terms of proximity to public transport hubs (including Central Railway Station, Light Rail stops and bus routes). Given minimal on site car parking is provided, this will likely result in reduced car trips to and from the site which will assist in easing congestion in the surrounding transport network.

Passenger pick up and set down areas

109. Schedule 7.8.3 of the SDCP 2012 specifies that hotels are to provide 2 car spaces plus 1 bus/ coach space per 100 rooms.
110. Due to site constraints, the proposal does not incorporate the prescribed pickup/ set down spaces. In this instance, the close proximity of various public transport options, retention of the existing warehouse building façade and provision of ground floor retail are reasonable compromises for the lack of on site bus/ coach parking and pick up/ set down parking spaces. Non-compliance with these provisions is therefore considered reasonable in this instance.
111. The applicant has proposed that the existing 'No parking' restrictions along Brisbane Street, and potentially Goulburn Lane, be modified to be '5 minute parking' for use by taxis, ride shares and private drop off vehicles. A condition of consent is recommended requiring the applicant to undertake a review of the on-street parking restrictions on the development frontages. The plan is to be approved by Council and receive concurrence from the Pedestrian Cycling and Traffic Calming Committee.

Consultation

Internal Referrals

112. The application was discussed with a number of units within the Council, who advised that the proposal is acceptable subject to conditions. Details of recommended conditions are outlined below.

Unit Referral	Comment
Heritage	See details in 'Discussion' section above.

Unit Referral	Comment
Urban Design	<p>The proposal is generally supported by Council's Urban Designer and the amended plans largely address the urban design issues that were previously raised.</p> <p>Conditions of consent are recommended requiring physical samples of the pre-cast panels and perforated metal screens to be submitted prior to the issue of a Construction Certificate. 'For Construction' details of the proposed screens have also been requested. Additionally, Council's Urban Designer has requested that during construction, full scale prototypes of the pre-cast panels and perforated screen material be provided on site for inspection. These are recommended as conditions of consent.</p>
Building Services	<p>Satisfactory - conditions of consent are recommended. It is noted that the BCA Report provides various performance solutions to meet the BCA performance requirements where deemed to satisfy requirements cannot be addressed. These issues all relate to fire safety. A condition is recommended addressing fire rating and protection of openings to the retained part of the facade. The remainder of the development is new work that will be addressed under the prescribed conditions in the Environmental Planning and Assessment Regulation 2000.</p>
Environmental Health	<p>Satisfactory - conditions are recommended relating to site contamination, use and operation of the premises, neighbourhood amenity and construction management.</p>
Licensed Premises	<p>The proposal is supported as the plans and design of the venue do not indicate any apparent adverse impacts on the amenity of the surrounding urban environment. Conditions are recommended to ensure appropriate management and operation of the premises.</p>
Surveyors	<p>Satisfactory - conditions provided. It is noted that the title for the site shows that the site is benefitted by Rights of Way and an Easement for Overhang, both adjoining the northern boundary of the site.</p>
Public Domain	<p>Satisfactory - conditions are recommended. These include requirements for a Public Domain Plan to be submitted and the provision of Public Domain lighting as part of the development.</p>

Unit Referral	Comment
Waste Management	The amended waste arrangements are supported and conditions of consent relating to waste management are recommended.
Transport and Access	Satisfactory - conditions provided. Details regarding driveway width and management plans are recommended as conditions of consent.
Landscaping	Satisfactory - subject to conditions of consent. Landscaping issues to be resolved by conditions of consent are outlined in the 'Discussion' section above.
Tree Management	Satisfactory - conditions provided. See details in 'Discussion' section above having regard to site landscaping.
Public Art	A Preliminary Public Art Plan has been submitted and is supported. A condition is recommended requiring a Detailed Public Art Plan to be submitted prior to the issue of a Construction Certificate.
ESD	Satisfactory - conditions are recommended relating to water conservation on the site.

Advertising and Notification

113. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified and advertised for a period of 21 days between 13 November 2020 and 5 December 2020. A total of 877 properties were notified and 50 submissions were received.

114. The submissions raised the following issues:

Issue	Comment
<p>Bulk and scale</p> <p>Concern regarding the height, bulk and scale of the proposed development in this location.</p>	<p>The proposal complies with the development standards that control bulk on the site, including height in metres, height in storeys, floor space ratio, street frontage height control and setback requirements.</p> <p>The surrounding area has a mixture of building heights, including the Mark Foys building which is 9 storeys and the Griffiths Teas building which is 8 storeys.</p>

Issue	Comment
	<p>The proposed development is 7 storeys, which is below the 8 storey height control for the site, which is considered acceptable.</p> <p>Given the development complies with the key site controls, the proposed bulk and scale of the development is acceptable.</p>
<p>Floor space ratio/ building density</p> <p>Concern has been raised that the building proposes inappropriate density for the site and that the number of hotel rooms is excessive. It was also raised that the corridors should be included in the calculation of gross floor area.</p>	<p>The proposal complies with the floor space ratio development standard. The plans have been amended to include the corridors in the calculation of gross floor area. The hotel rooms comply with the relevant size requirements. Therefore, an appropriate density is proposed for the site.</p>
<p>Building setbacks</p> <p>Concern has been raised that the proposal does not provide sufficient building separation to the residential flat building to the north (Mark Foys).</p> <p>Specifically, a number of submissions raise concern that the proposal does not comply with building separation requirements under the State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development (SEPP65) and the Apartment Design Guide (ADG).</p>	<p>State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development (SEPP65) is a NSW policy that establishes design principles that apply to the design of new apartments.</p> <p>Clause 4 of SEPP65 outlines the application of the policy. This clause states that the policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component. This is reiterated in the introduction section of the ADG.</p> <p>The proposal is for a mixed use development comprising hotel accommodation, which is a commercial use.</p> <p>Therefore, requirements of SEPP65 and the ADG do not apply to this development. Specifically, the building separation controls required by the SEPP and ADG are not applicable in this instance.</p>

Issue	Comment
	The building setbacks comply with the requirements of the SDCP 2012 and are acceptable. An additional setback from the northern boundary for the upper levels has been proposed to reduce the impact to the Mark Foys building, which goes beyond the DCP requirements and is acceptable.
<p>Privacy impacts</p> <p>Concern has been raised that the proposed development would result in overlooking into nearby apartments.</p>	Visual privacy impacts have been outlined in the 'Discussion' section above. Overall, the design incorporates measures to protect the visual privacy of neighbouring buildings and will not cause unreasonable visual privacy impacts.
<p>Solar access</p> <p>Concern has been raised that the proposal will reduce solar access and natural light to neighbouring properties and will result in overshadowing to Harmony Park.</p>	Refer to solar access discussion above. The proposal complies with Council's controls relating to solar access.
<p>Loss of views/ outlook</p> <p>A number of submissions raise concern that the proposal would result in loss of views/ outlook from nearby apartments.</p>	View impacts are assessed under the 'Discussion' section above. Overall, the view impacts are on balance considered to be reasonable.
<p>Traffic, parking and pedestrian impacts</p> <p>Concern has been raised that the proposal will result in increased vehicular and pedestrian traffic in the local street network and will impact on available parking in the area.</p> <p>Concern has also been raised regarding the non-provision of bus/ coach parking and drop off/ pick up locations.</p>	<p>2 car parking spaces are proposed, which comply with the maximum car parking rates in the LEP.</p> <p>The site is located in a highly accessible location in close proximity to various public transport options. The reliance on public transport, and minimal provision of private car parking, will reduce vehicular movement to and from the premises.</p> <p>A condition of consent is recommended requiring the applicant to undertake a review of the on-street parking restrictions on the development frontages. The plan is to be approved by Council and receive concurrence from the Pedestrian Cycling and Traffic Calming Committee.</p>

Issue	Comment
	Further details regarding traffic impacts are outlined in the 'Discussion' section above.
<p>Heritage impacts</p> <p>Concern has been raised that the proposal will negatively impact the heritage significance of the Mark Foys building. In particular, it would obstruct views from the public domain to the heritage item.</p>	Heritage impacts are outlined in the 'Discussion' section above. Overall, the amended plans improve the line of sight from the public domain to the Mark Foys building.
<p>Noise impacts</p> <p>Concern was raised regarding noise impacts arising from the use of the hotel and bar/ restaurant, the proposed plant area, noise from local traffic and construction noise impacting those who work from home.</p>	<p>The proposal has been reviewed by Council's Late Night Trading Unit and Environmental Health Unit who both support the proposal, subject to recommended conditions.</p> <p>The proposed use of the hotel restaurant/ bar will be subject to conditions requiring hours of operation in keeping with those permitted under the DCP and compliance with the submitted Plan of Management.</p> <p>The plant area has been amended to be enclosed and relocated to level 5. Noise from mechanical plants will be required to comply with standard noise limits under the recommended conditions of consent.</p>
<p>Use as a hotel</p> <p>Concern has been raised that there are too many hotels in the area. Concern was also expressed that insufficient information has been provided regarding the type of hotel and star rating.</p>	<p>The site is located within the B4 Mixed Use area, in which hotel accommodation is permitted with consent. There are no planning controls or legislation that restrict the use of hotels in close proximity to other existing hotels.</p> <p>Sufficient information has been submitted to Council to assess the proposed use as a hotel.</p>

Issue	Comment
<p>Property values</p> <p>Concern has been raised that impacts from the proposed development will result in a devaluation of nearby apartments and/ or a loss of income due to tenants vacating.</p>	<p>The impact on individual property values is generally not a matter for consideration under the Environmental Planning and Assessment Act 1979.</p>
<p>Building Code of Australia issues</p> <p>Concern has been raised around the BCA report and the reliance on the easement over 133 Goulburn Street to deal with fire rating of the hotel windows.</p>	<p>The proposal has been reviewed by Council's Building Certification team and Specialist Surveyor who raised no objection to the application. The works will be required to comply with the BCA during construction. It is noted that no windows are proposed on the northern boundary.</p>
<p>Construction</p> <p>Concerns have been expressed that the construction will have unacceptable impact on surrounding residents including noise, light pollution and dust pollution. Several conditions requested timeframes for construction to be provided.</p> <p>Concern was also raised about the potential for structural damage to neighbouring buildings and the location of scaffolding during construction.</p>	<p>Conditions of consent are recommended to manage the construction phase to protect residential amenity. This includes a Demolition, Excavation and Construction Noise and Vibration Management Plan, which will be required to minimise noise and construction traffic impacts to surrounding properties.</p> <p>A protection strategy will also be required to detail how the proposed works will ensure that the neighbouring buildings will be suitably protected.</p> <p>Timeframes for construction are not required to be submitted to Council as part of the DA assessment.</p> <p>Specific issues relating to construction, such as scaffolding, will be managed by the Appointed Certifier.</p>
<p>Increased cost of living</p> <p>The proposal will create a higher cost of living to neighbouring apartments through the increased need for artificial lighting and cooling to compensate for the loss of natural light and privacy.</p>	<p>The impact on the cost of living for nearby residences is generally not a matter for consideration under the Environmental Planning and Assessment Act 1979.</p>

Issue	Comment
<p>Waste management</p> <p>The proposed vehicle space for a small rigid vehicle may not be enough to manage waste on the site.</p>	<p>The waste management arrangements, including the vehicular access for waste collection, are supported by Council's Waste Management Unit.</p>
<p>Wind impacts</p> <p>Concern has been raised that no Wind Impact Assessment has been provided.</p>	<p>Part 3.2.6 of the DCP requires a wind impact assessment to be submitted for buildings that are over 45m high. The proposed development does not meet this threshold and is not considered to result in unacceptable wind effects in the area.</p>

Financial Contributions

Levy under Section 61 of the City of Sydney Act 1988

115. The cost of the development is in excess of \$200,000. The development is therefore subject to a levy under the Central Sydney Development Contributions Plan 2013.
116. A condition relating to this levy has been included in the recommended conditions of consent in the Notice of Determination. The condition requires the contribution to be paid prior to the issue of a Construction Certificate.

Relevant Legislation

117. Environmental Planning and Assessment Act 1979.

Conclusion

118. Approval is sought for partial demolition of the existing building and construction of a 7 storey mixed use development, comprising ground floor retail and hotel accommodation above.
119. The proposal complies with the Height of Buildings development standard pursuant to Clause 4.3 of the SLEP 2012 and the Floor Space Ratio development standard pursuant to Clause 4.4 of the SLEP 2012. The proposal also complies with the Height in Storeys and Street Frontage Height controls in the SDCP 2012. The proposal therefore presents a building envelope that is appropriate for the site.

120. The development achieves a high standard of architectural design, materials and detailing, with an acceptable provision of landscaping on the site. The proposal provides a sympathetic contemporary infill building that incorporates materials that are appropriate for its context of predominantly heritage and warehouse-style buildings. The proposal is consistent with the desired future character of the area. Overall, the proposal satisfies the design excellence requirements of Clause 6.21 of the SLEP 2012.
121. A total of 50 submissions were received. Issues raised in the submissions have been addressed within the report.
122. The proposal is generally consistent with the objectives, standards and guidelines of the relevant planning controls and is recommended for approval, subject to conditions.

ANDREW THOMAS

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