

**Item 3.****Development Application: 242 Cleveland Street, Surry Hills - D/2020/1361**

File No.: D/2020/1361

**Summary****Date of Submission:** 18 December 2020**Applicant:** Planning Lab**Architect:** Candalepas Associates**Owner:** Greek Orthodox Archdiocese of Australia**Planning Consultant:** Planning Lab**Heritage Consultant:** Urbis**Cost of Works:** \$27,558,986

**Zoning:** B4 'Mixed Use'. The proposal is a mixed-use development including Place of Public Worship (existing Cathedral) with ancillary Function Centre (Great Hall and Shared Function Space); Educational Establishment (Theological College), Boarding House (Theological College domiciles), Office Premises, Retail Premises (bookstore), Residential Accommodation (Dean's Residence); and Information and Education Facility (Museum and Library). All proposed uses are permissible with development consent.

**Proposal Summary:** Alterations and additions to the Cathedral of the Annunciation of Our Lady; alterations and additions to former St Paul's rectory for use as a chapel, Dean's residence, offices and college domiciles; demolition of existing function hall and parish hall; construction of two new buildings with shared basement for use as place of public worship, shared function spaces, museum, library, office, and theological college, domiciles and shared facilities.

The proposed operating hours for all publicly accessible spaces are 8am to 8pm Monday to Sunday. Cathedral and function spaces to operate until 3am on Christmas Day and Easter Sunday (Greek Orthodox).

The proposal is Integrated Development under the Heritage Act 1977.

The application seeks to exceed the height of buildings development standard by more than 10% and is therefore referred to the Local Planning Panel for determination.

**Summary Recommendation:** The development application is recommended for deferred commencement approval.

**Development Controls:**

- (i) Sydney Local Environmental Plan 2012
- (ii) Sydney Development Control Plan 2012
- (iii) SEPP (Resilience and Hazards) 2021
- (iv) SEPP (Housing) 2021
- (v) SEPP (Affordable Rental Housing) 2009
- (vi) SEPP (Transport and Infrastructure) 2021
- (vii) SEPP (Biodiversity and Conservation) 2021

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request - Height of Buildings

## Recommendation

It is resolved that:

- (A) the variation requested to the height of buildings development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (B) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2020/1361 subject to the conditions set out in Attachment A to the subject report.

## Reasons for Recommendation

The application is recommended for deferred commencement approval for the following reasons:

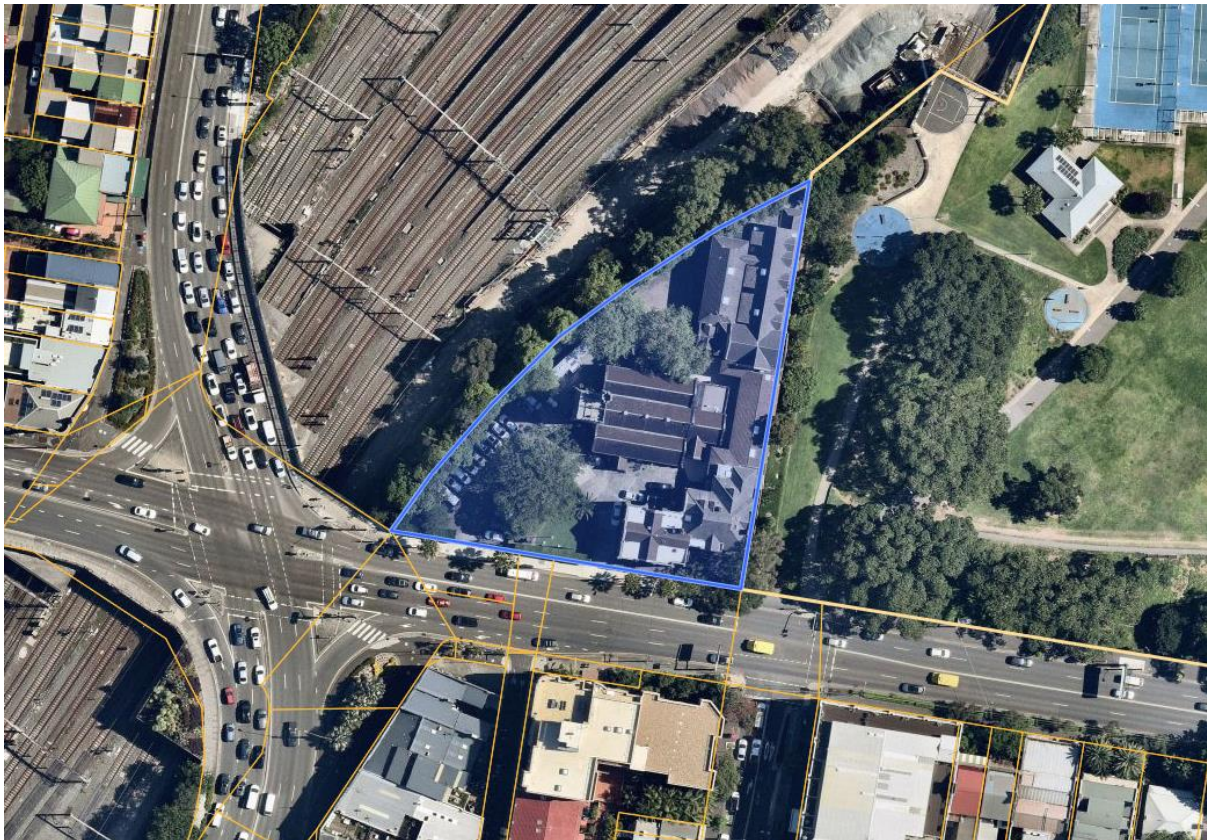
- (A) The proposed land uses are permissible with consent within the B4 Mixed Use zone.
- (B) The proposal complies with the FSR development standard prescribed by the Sydney Local Environmental Plan 2012.
- (C) The proposal involves a heritage item of State significance. It has been reviewed and approved by the Heritage Council of NSW, and General terms of Approval have been issued.
- (D) Subject to the recommended conditions of consent, the proposal is generally consistent with the relevant provisions of the Sydney Development Control Plan 2012. Where variations to the Development Control Plan provisions are approved, impacts to the locality are acceptable.
- (E) Subject to conditions of consent, the development will not adversely impact the amenity of the locality.
- (F) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the height of buildings development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 of the Sydney LEP 2012; and
  - (ii) the proposal is in the public interest because it is consistent with the objectives of the B4 'Mixed Use' zone and the Height of Buildings development standard.

## Background

### The Site and Surrounding Development

1. The site has a legal description of Lot 1 in DP 235433 and is known as 242 Cleveland Street, Surry Hills. It is irregular in shape with area of 3,984sqm. It has a primary street frontage of approximately 77.5m to Cleveland Street. It has a secondary frontage of approximately 88m to Prince Alfred Park and a curved frontage of approximately 118m to the main southern rail approach to Central Railway Station. The site is located close to the intersection of Cleveland and Regent Streets to the west and Cleveland and George Streets to the east. Levels on the site fall by approximately 3m in a north westerly direction.
2. The site is the seat of Greek Orthodoxy in Australia.
3. The Cathedral of the Annunciation of Our Lady is positioned in the centre of the site. It was designed by architect Edmund Blacket as an Anglican Church (St. Paul's) and constructed in 1848. It was converted and re-consecrated as the Greek Orthodox Cathedral in 1970. The Cathedral is in the Colonial Decorated Gothic style and is of sandstone construction with a slate covered timber roof. The building also consists of a square tower with an octagonal turret, with a nave, two wide aisles, chancel, two vestries and two porches.
4. The south-eastern corner of the site, fronting Cleveland Street, contains the former St Paul's Rectory, which was designed by architect John Burcham Clamp and constructed in 1912. An extension to the rectory was constructed in 1993, in a similar architectural style, and forms the western part of the building. The rectory is used as office and meeting space for the Archdiocese.
5. A function hall, constructed in the 1980s, is directly attached to the north of the rectory, along the eastern site boundary fronting Prince Alfred Park. Further to the north, and directly attached to the function hall is the parish hall, constructed in 1913, which occupies the north-eastern corner of the site. The parish hall has a dormitory extension situated directly to its west, which was constructed in the 1980's. The halls accommodate the library, stores, Archbishop's residence, and St Andrew's Greek Orthodox Theological College.
6. At grade parking is provided along the arched western boundary, which also accommodates vegetation and trees. There is a landscaped garden area located centrally along the southern boundary that contains a small lawn, vegetation, and two mature trees. The western part of the southern boundary fence was constructed in the late-20th century; however, the sandstone pillars were likely erected in the mid-19th century. The eastern part of the southern boundary fence, in front of the rectory, was constructed in the inter-war period. The eastern boundary fence was constructed in 2002.
7. The surrounding area is characterised by a mixture of land uses, including rail infrastructure, office, retail, residential, and recreation uses. Immediately to the north and west is the southern approach to Central Railway Station. 1-9 Regent Street, located to the south and on the opposite side of Cleveland Street, is a mixed-use building containing retail, commercial office space, and apartments. Also to the south is 187-189 Cleveland Street, which contains a four to six-storey residential flat building. To the south east is 191-193 Cleveland Street, which contains a large three-storey commercial office building. Prince Alfred Park directly adjoins the site to the east.

8. The site is a heritage item of State Significance (SHR No: 01881 'Cathedral of the Annunciation of Our Lady') which is also identified as a heritage item of Local Significance under the Sydney Local Environmental Plan (SLEP) 2012 (I1476 'Greek Orthodox Church group buildings, landscaping, fence and grounds including interiors'). The site is not located within a heritage conservation area. The railway approach to the north-west is also part of a heritage item of State Significance (SHR No: 01255 'Sydney Terminal and Central Railway Stations Group'), which is also identified as a heritage item of local significance (I824). Prince Alfred Park is also a heritage item of local significance (I1406).
9. The Sydney Metro City and Southwest line, currently under construction, is situated directly to the east of the site, below ground. To the south west is the intersection of Cleveland and Regent Streets, which is a large signalised intersection suspended above the railway approach. Cleveland Street is a classified State road.
10. The site is located within the Prince Alfred Park East locality and is not identified as being subject to flooding.
11. Site visits were carried out on 11 January and 23 February 2021. Photos of the site and surrounds are provided below:



**Figure 1:** Aerial view of site and surrounds (Source: Nearmap)





Figure 2: Cathedral of the Annunciation of Our Lady, viewed from within the site looking east



Figure 3: Cathedral interior, nave





**Figure 4:** Cathedral interior, iconostasis



**Figure 5:** The former St. Paul's rectory, viewed from Cleveland Street, looking north-west





**Figure 6:** The former St. Paul's rectory extension, viewed from within the site, looking east



**Figure 7:** Function Hall, viewed from Prince Alfred Park, looking west





**Figure 8:** Parish hall, viewed from within the site, looking north-east



**Figure 9:** Parish Hall extension, viewed from within the site, looking east





**Figure 10:** At grade parking along the north western boundary, looking south



**Figure 11:** Landscaped Garden, viewed from within the site, looking south





**Figure 12:** Cleveland and Regent Street intersection, viewed from the site looking southwest



**Figure 13:** Mixed use development at 1-9 Regent Street, viewed from the site looking south





**Figure 14:** Residential flat building at 187-189 Cleveland Street, viewed from the site looking south



**Figure 15:** Prince Alfred Park, viewed from the site looking northeast

## History Relevant to the Development Application

### Development Applications

12. The following applications are relevant to the current proposal:
- **D/1990/479** - Development consent was granted on 1 April 1991 for the construction of a two-storey extension to the rectory.
  - **D/1992/605** - Development consent was granted on 9 December 1992 for the addition of a third storey to the rectory extension.
  - **D/2002/853** - Development consent was granted on 8 January 2003 for the installation of a new brick fence along part of the Prince Alfred Park boundary.
  - **D/2007/236** - Development consent was granted on 9 March 2007 for internal works within the Cathedral of the Annunciation of Our Lady comprising replacement of terrazzo flooring with marble; replacement of iconostasis; and removal of timber panelling to portions of the northern and southern aisles.
13. The Cathedral was damaged by fire on 30 September 2021, primarily in the vicinity of the auxiliary chapel (former choir vestry). The following heritage exemption requests relate to the remediation of damage incurred due to this event, in addition to preparatory works relating to this application.
- **HWC/2021/375** - A heritage exemption from the requirement to obtain development consent was granted on 3 November 2021. The permitted works included internal cleaning of the main nave and alter to remove soot deposits.
  - **HWC/2021/428** - A heritage exemption from the requirement to obtain development consent was granted on 6 January 2022. The permitted works included the removal of non-significant fabric within the interiors of the church including non-original timber panelling to the sandstone walls, non-original timber panelled ceilings, timber joinery and later addition plasterboard walls and ceilings.
  - **HCS/2022/7** - An application under Section 60 of the Heritage Act 1977 was granted approval on 23 March 2022. The approved works included the reinstatement of the electrical system and non-original light fittings.
  - **HWC/2022/57** - A heritage exemption from the requirement to obtain development consent was granted on 3 March 2022. The permitted works included the removal of the damaged roof of the auxiliary chapel.

### Amendments

14. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information and amendments was sent to the applicant on 30 July 2021. The key design issues required to be addressed were as follows:
- The two trees within the front courtyard should be retained.
  - Insufficient information had been provided regarding the proposed materials within the Cathedral.

- The large openings with folding garage doors on the western facade of the rectory addition for the internal car park were visually intrusive and not supported.
  - A new building to house a cafe, located in the south-eastern corner adjacent to the rectory, was not supported.
  - The location of mechanical plant needed further consideration.
15. The applicant responded to the request on 25 November 2021.
  16. The amended scheme included several design changes to address the above concerns; with the key change being the retention of the Camphor Laurel and Brushbox trees within the courtyard, and the retention of the existing driveways and entrances to accommodate this.
  17. Transport for NSW (TfNSW) did not grant concurrence to the amended scheme, objecting on traffic safety grounds and a lack of clarity regarding the drainage system. Specifically, TfNSW's support for the application was contingent on there being a single driveway that is physically distant from the Regent Street intersection.
  18. Council staff met with TfNSW and the applicant's design team to workshop alternatives that could satisfy the requirements of TfNSW whilst simultaneously retaining the trees. During this process several potential solutions were discussed, however it was clear that a single driveway could not be achieved unless the trees were removed to allow vehicles to manoeuvre safely within the site. The retention of the trees resulted in swept paths that were likely to result in service vehicles colliding with the cathedral, which is a heritage item of state significance, and vehicles exiting the site at an angle that could be dangerous for pedestrians and motorists.
  19. As Heritage NSW had granted approval for removal of the trees, and TfNSW would not grant concurrence unless a single driveway access would be provided, City staff (including Tree Management) formed a view that the removal of the trees should not be considered a determinative factor that would warrant refusal of the application. However, support for the application would be contingent on the site achieving at least 15% canopy cover, and the trees within the front courtyard being replaced with a mature specimen.
  20. The applicant drafted an amended scheme following the workshops and sought support for the draft amendments from TfNSW prior to lodgement, which was provided via e-mail on 27 April 2022. Accordingly, the applicant formally resubmitted amended plans on 17 May 2022.
  21. On 8 June 2022, TfNSW declined to grant concurrence to the amended scheme, citing network efficiency concerns and requiring a wider driveway.
  22. Council staff met with TfNSW and the applicant's design team, and further revisions were made. This included the provision of a wider driveway in a centralised position on the Cleveland Street frontage. The amended scheme that is the subject of this report was formally lodged on 15 July 2022. The current scheme has the support of all required approval bodies, concurrence authorities, and referral agencies, as detailed elsewhere in this report.
  23. Concerns of Council officers have been addressed as appropriate, and outstanding issues are able to be resolved through the recommended conditions of consent.



## Proposed Development

24. The application, as amended, seeks consent for the restoration and redevelopment of the site. More specifically:
- Conservation works and alterations and additions to the Cathedral of the Annunciation of Our Lady, including but not limited to:
    - Removal of external garden beds to the north of the western porch, and along the northern perimeter of the cathedral building.
    - Removal of the concrete platform to the south of the western porch.
    - Preservation and relocation of foundation stone currently located in the garden bed to the north of the western porch.
    - Conversion of the existing auxiliary chapel to sacristy, with excavation beneath for a new crypt, new copper sheeting to the existing roof, and construction of a new skylight, box gutter and copper downpipe.
    - Conversion of the existing sacristy to a security room, removal of internal joinery, removal of external tile stair and construction of a new sandstone stair with brass handrail.
    - Reconfiguration of soleas (the soleas is an extension of the sanctuary platform in a Greek church).
    - Reconfiguration of pews as required.
    - Replacement of the iconostasis (the iconostasis is a wall of icons and religious paintings, separating the nave from the sanctuary in a church).
    - Removal of external A/C condenser units and associated equipment.
    - Removal and replacement of existing roof vents.
    - Demolition of copper downpipes from eastern facade.
  - Alterations and additions to the former St Paul's rectory and its extension, including but not limited to:
    - Parking for two vehicles, fire pump room, and bike store provided within the rectory extension on the Ground Level.
    - Shared offices, reception, shared chapel, shared bookstore and three (3) WCs provided on Level One.
    - Theological College Dean's residence, Dean's office, and shared offices provided on Level Two.
    - Two theological college domiciles provided in the attic.
    - New lift providing access between Ground and Level Two.

- New dormer and tiles to northern part of roof of original building.
- New solar panels to extension roof.
- Demolition of existing parish hall and function hall.
- Construction of a new building, directly adjoining the rectory to the north, and extending along the entirety of the eastern boundary (New Building 1). The building is proposed to be constructed using sandstone and off-form concrete, and the roof is decorated with 12 copper domes. This new building contains:
  - 12 Theological College offices on the Ground Floor.
  - 12 Theological College domiciles on the First Floor.
  - Meeting room, verandah, lounge room, dining room, servery and amenities on the Second Floor.
  - The Second Floor has a balcony along the entirety of its length on the eastern boundary.
  - The building has a physical connection with the rectory on the Ground, First and Second floors.
  - It has two stairwells and a lift servicing each level, including access to the shared Basement Level (see below).
- Construction of a second new building occupying the space to the north of the Cathedral (New Building 2). The building is proposed to be constructed using sandstone and off-form concrete, with frameless glass proposed at the interface with the Cathedral. The roof is decorated with two giant copper domes. This new building contains:
  - A museum within a double height atrium, two double height octagonal rooms forming the great hall, and services on Ground Level;
  - Theological College Library on Level Two.
  - Plant and services are provided in an enclosed section at the rear running the full height of the building.
  - An open-air bridge is proposed at Level Two, connecting the library with the shared facilities contained within New Building 1.
- Both New Building 1 and 2 are proposed to share a subterranean function space which occupies the northern part of the site at Basement Level 1. The basement level contains a function space and foyer, kitchen, kitchen store, function store, amenities, laundry, and plant areas. Lift access is provided from the forecourt, and a fire stair is also proposed, with an egress point on the western boundary directly to the north of the Cathedral's western porch. A mechanical plant area lies to the south-west of the fire stair egress. The mechanical plant, fire stair, and lift are provided with an awning.

- The boundary fence along the Cleveland Street frontage is proposed to be augmented as follows:
    - Demolition of the southern boundary fence west of the rectory extension, retaining the heritage sandstone pillars at the existing western driveway.
    - Deletion of the existing vehicular access points, and the provision of a new access/egress point central to the southern frontage.
    - Erection of a new stone and concrete fence between the western corner of the site. The western most section of the wall provides a new substation.
  - The forecourt is proposed to be reconfigured, including the following:
    - Demolition of the existing garden area adjacent to the Cleveland Street frontage, including the removal of trees.
    - Removal of trees and vegetation along the arched western boundary and the northern portion of the site.
    - Provision of three octagonal paved areas outside each of the southern, western, and northern porches of the Cathedral.
    - Provision of underground OSD and rainwater tank.
    - Provision of 10 car parking spaces.
    - New share way and event space.
    - New trees and landscaping.
    - A gas meter, bulky goods room, and waste room are provided west of the parking area, immediately behind the new southern boundary wall.
  - The proposed operating hours for all publicly accessible spaces are 8am to 8pm Monday to Sunday. Cathedral and function spaces are proposed to operate until 3am on Christmas Day and Easter Sunday (Greek Orthodox).
25. Plans and elevations of the proposed development are provided below.



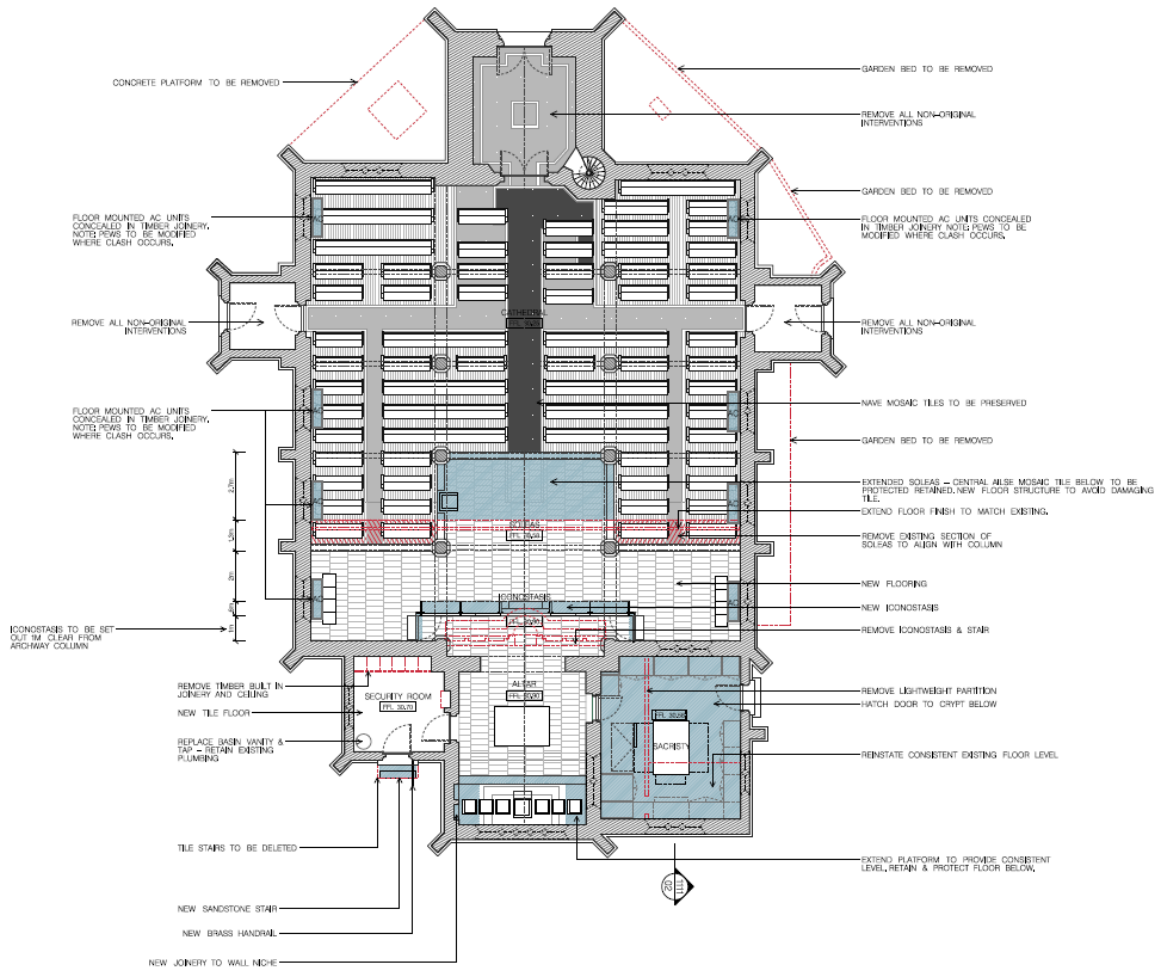


Figure 16: Cathedral Ground Plan

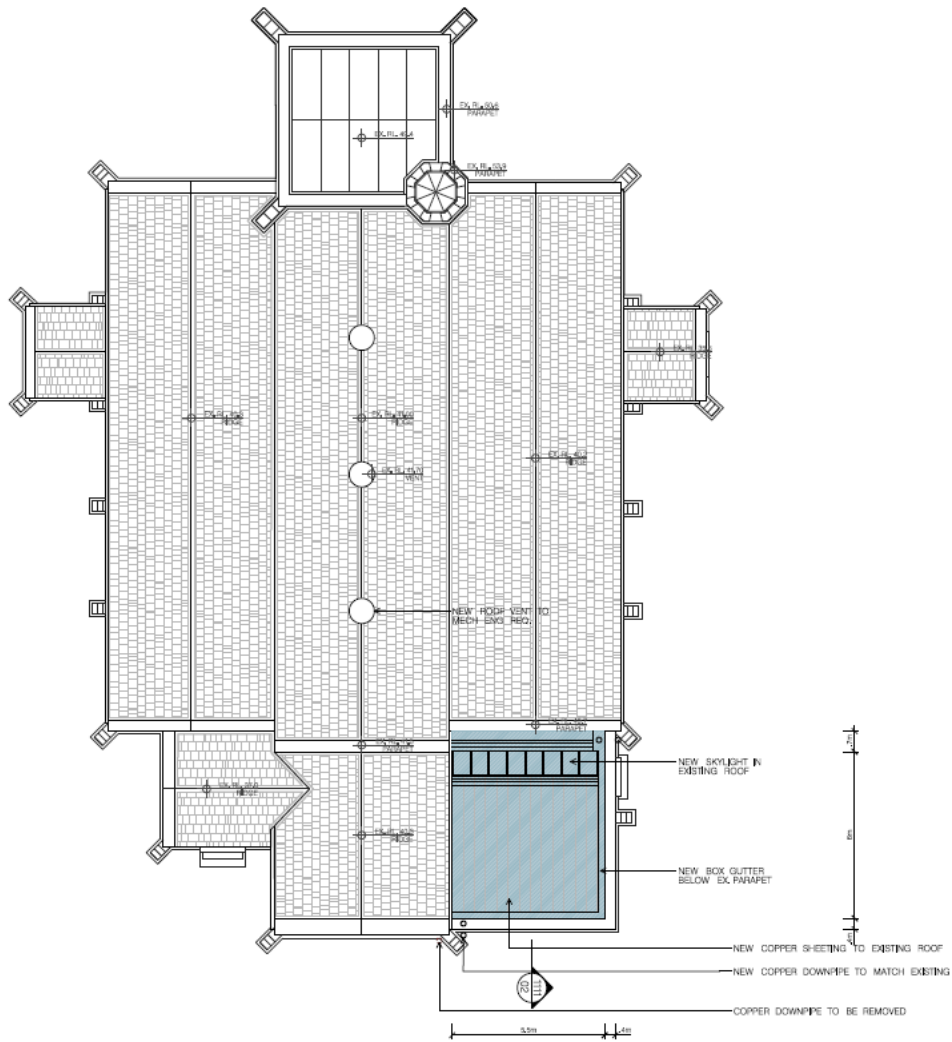


Figure 17: Cathedral Roof Plan

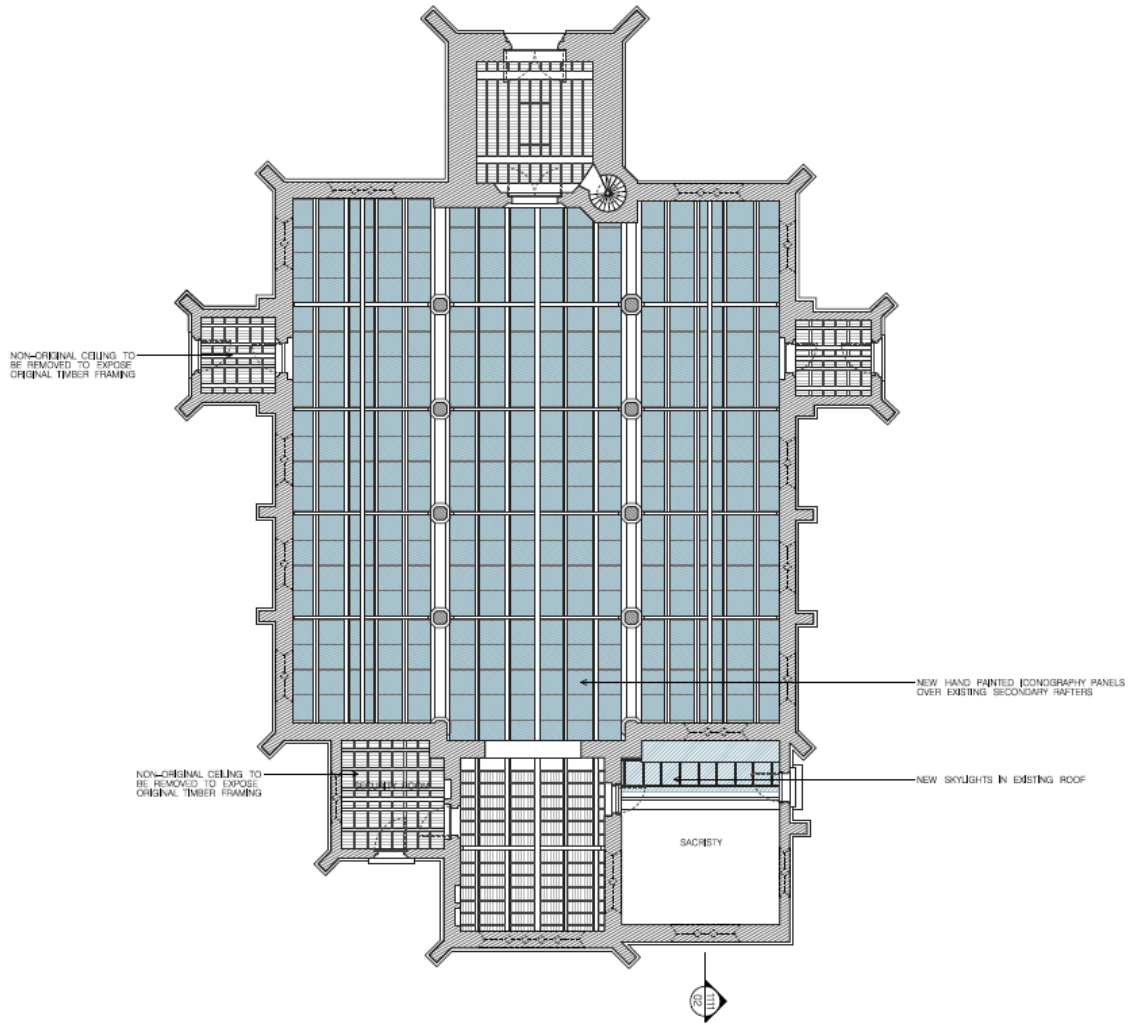


Figure 18: Cathedral Reflected Ceiling Plan



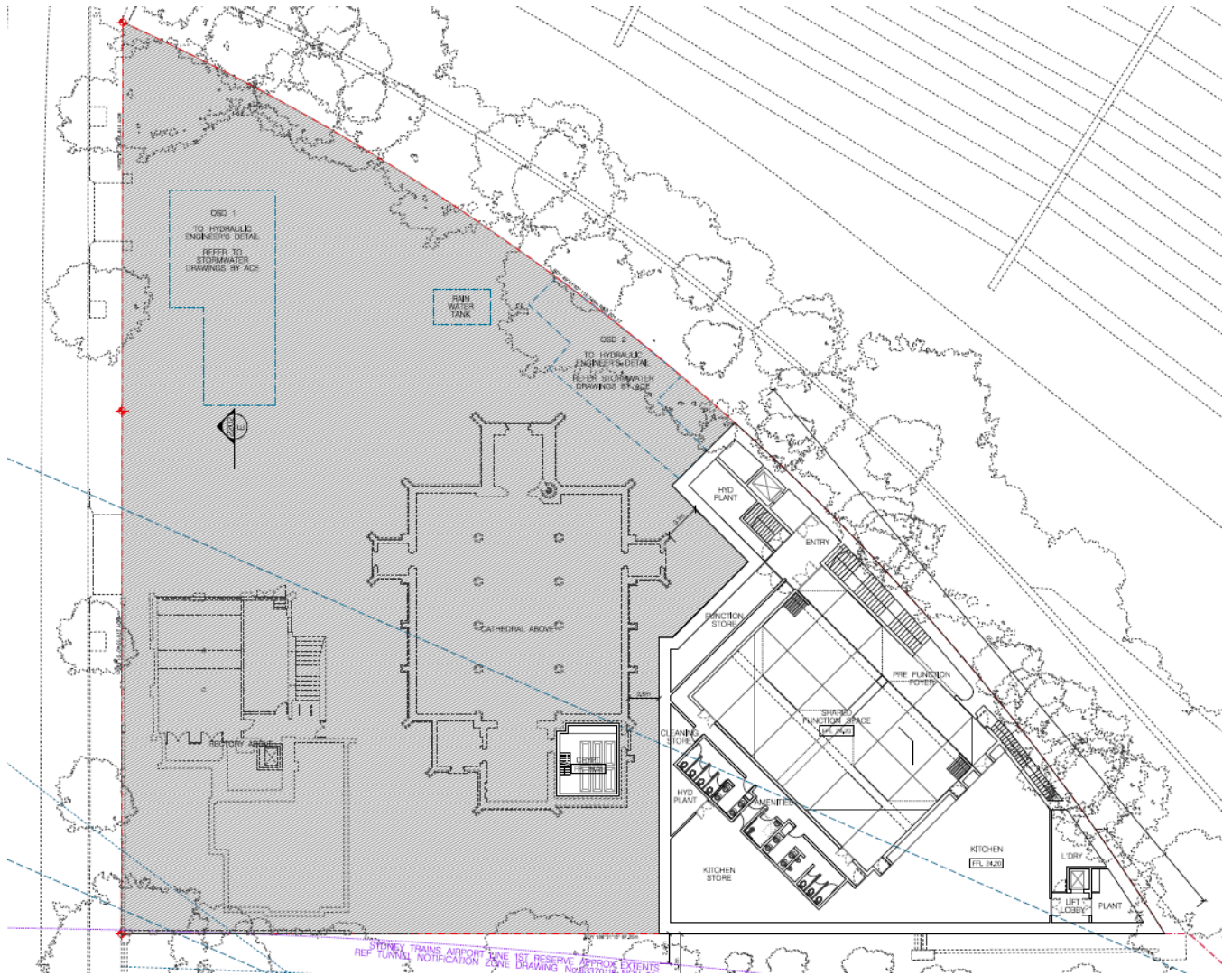


Figure 19: Basement Plan

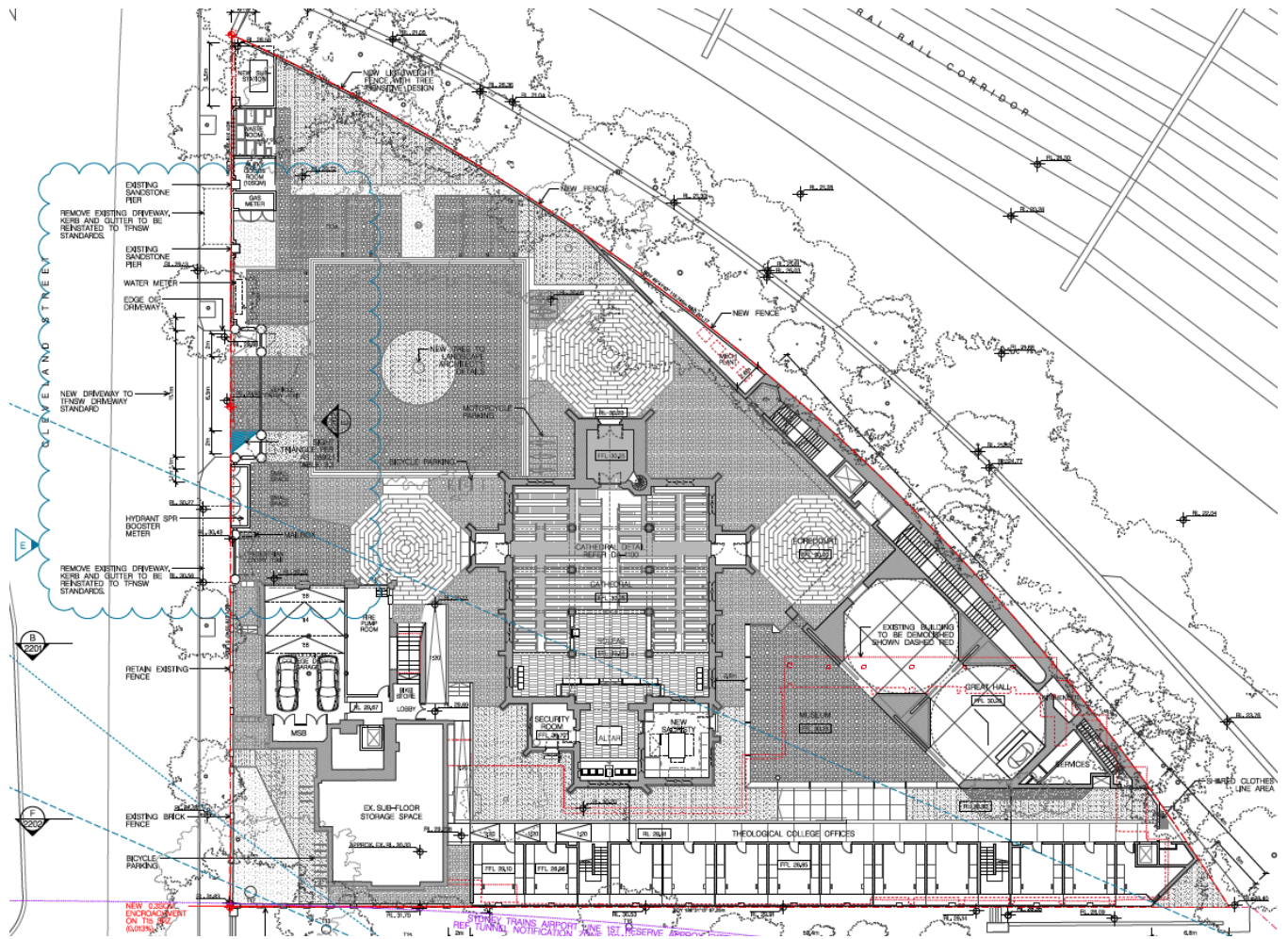


Figure 20: Ground Floor Plan



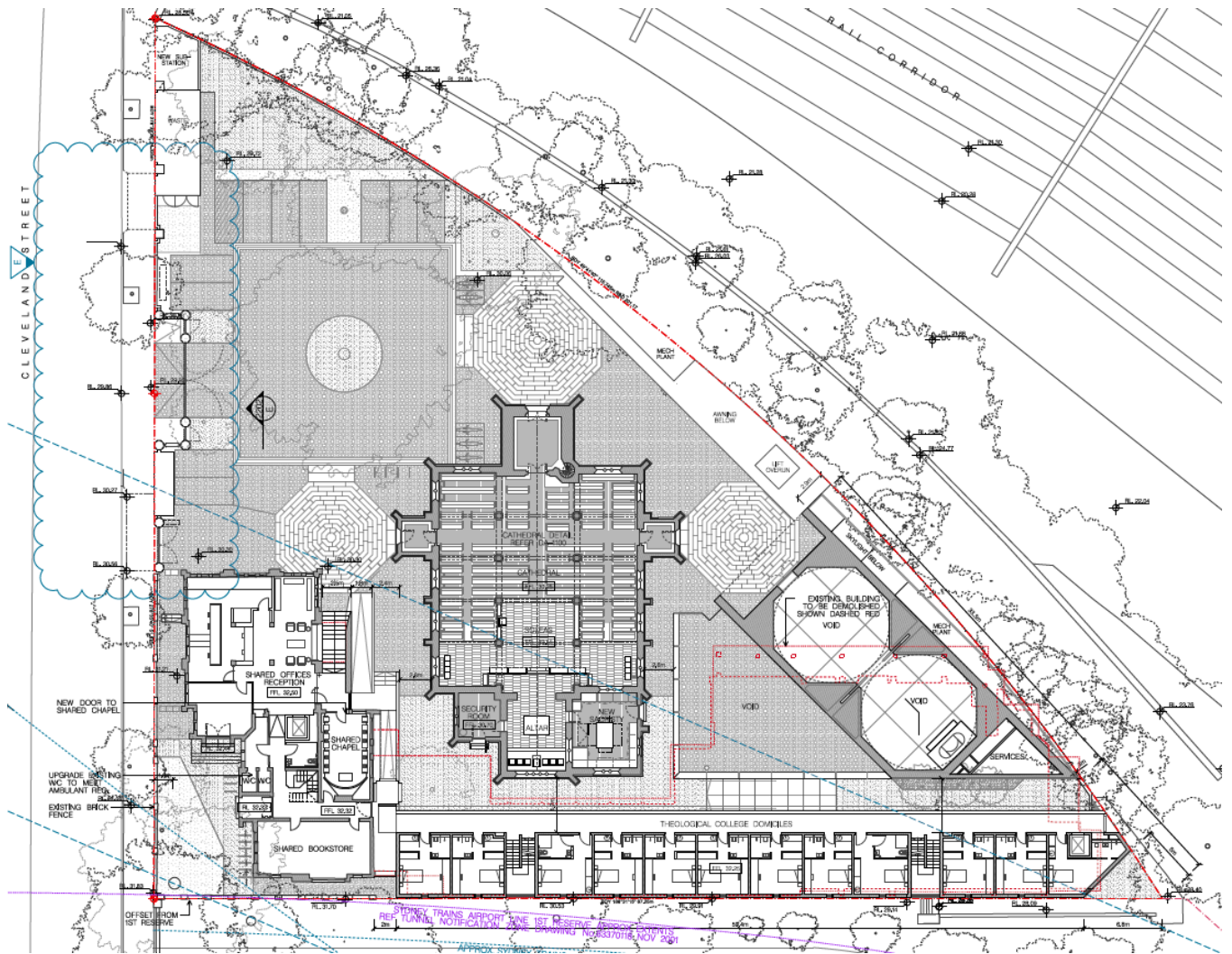


Figure 21: First Floor Plan









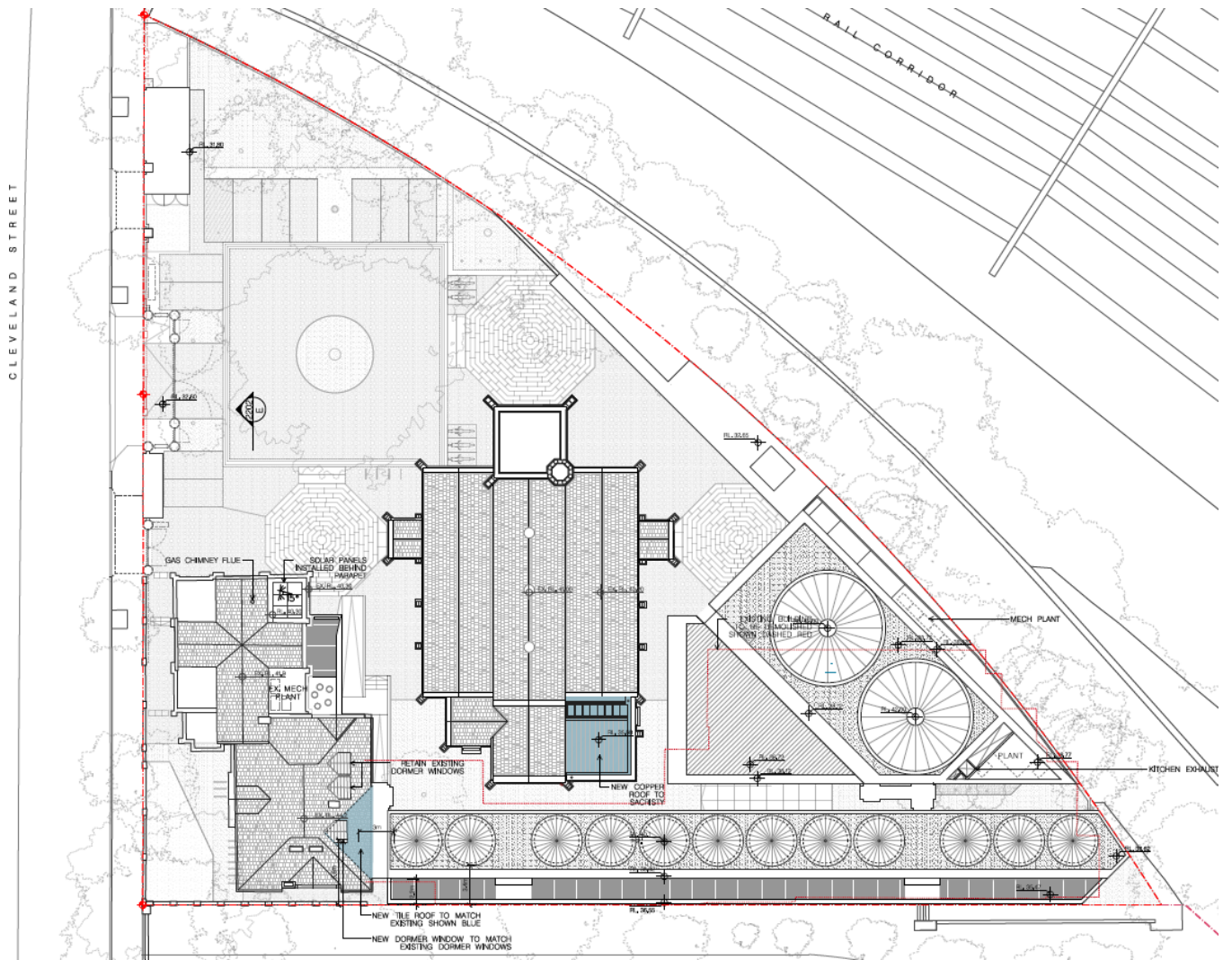


Figure 24: Roof Plan

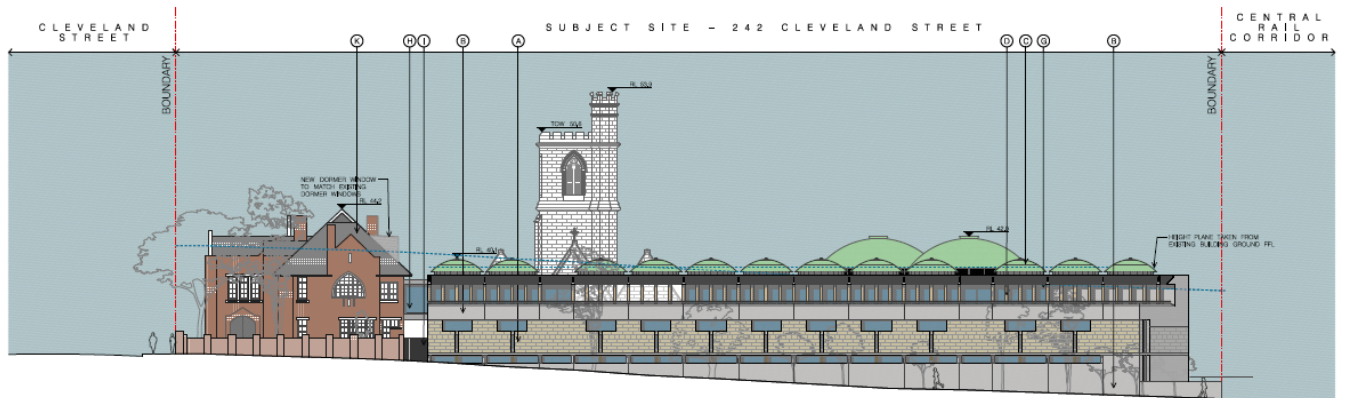


Figure 25: East Elevation



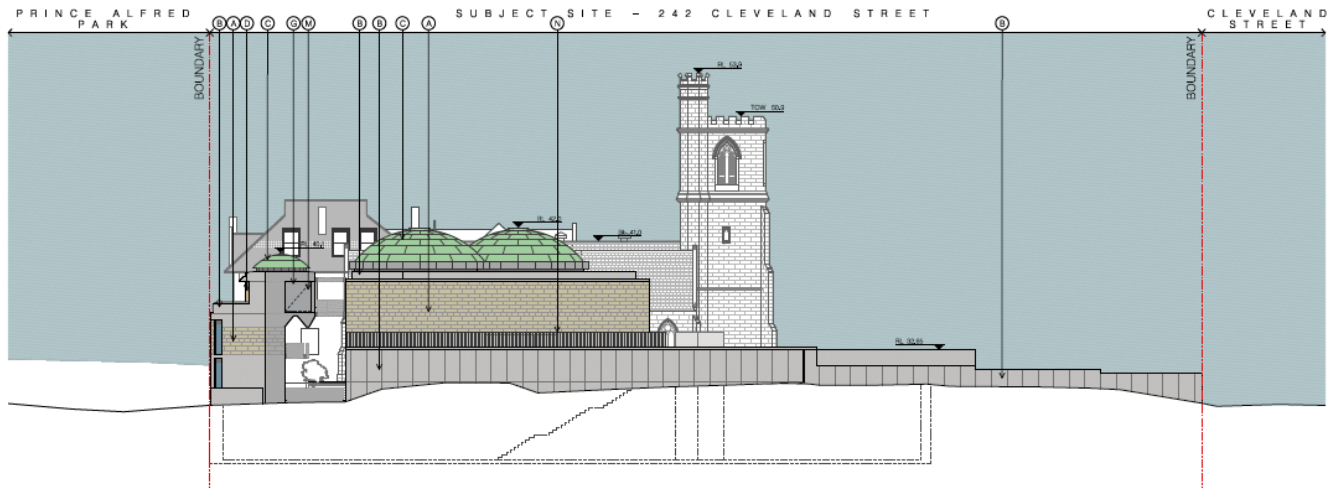


Figure 26: North Elevation



Figure 27: West Elevation



Figure 28: South Elevation

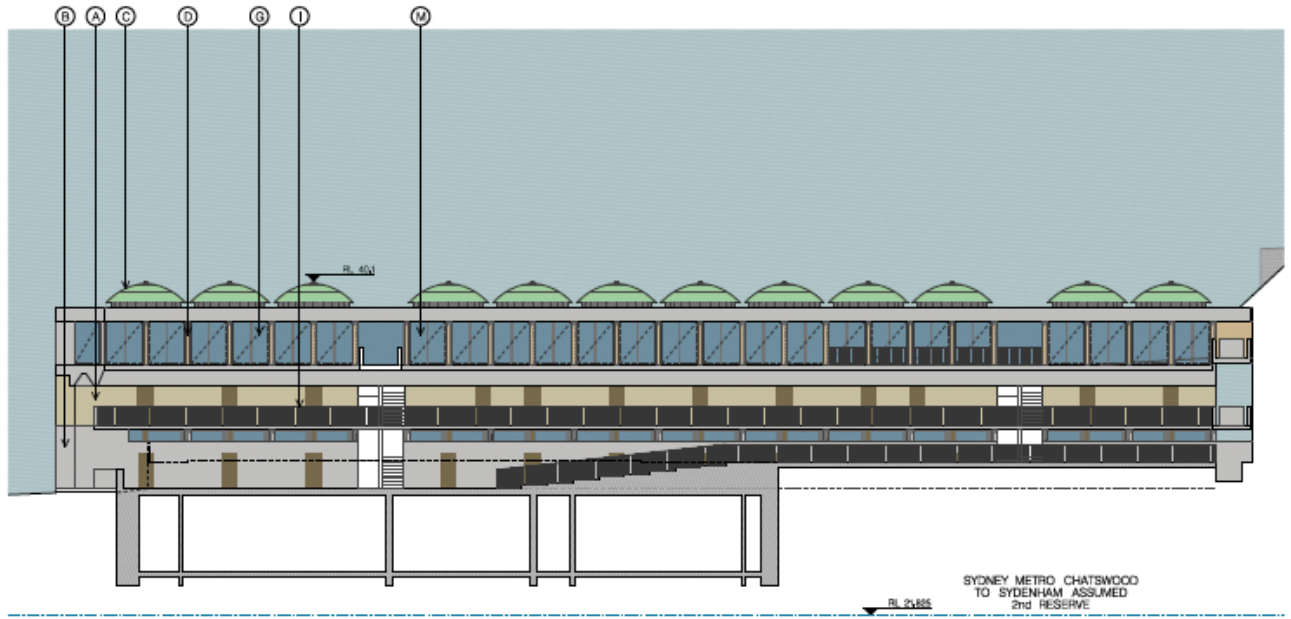


Figure 29: West Elevation - Proposed Theological College from within the site



Figure 30: North Elevation - St Paul's Rectory from within the site

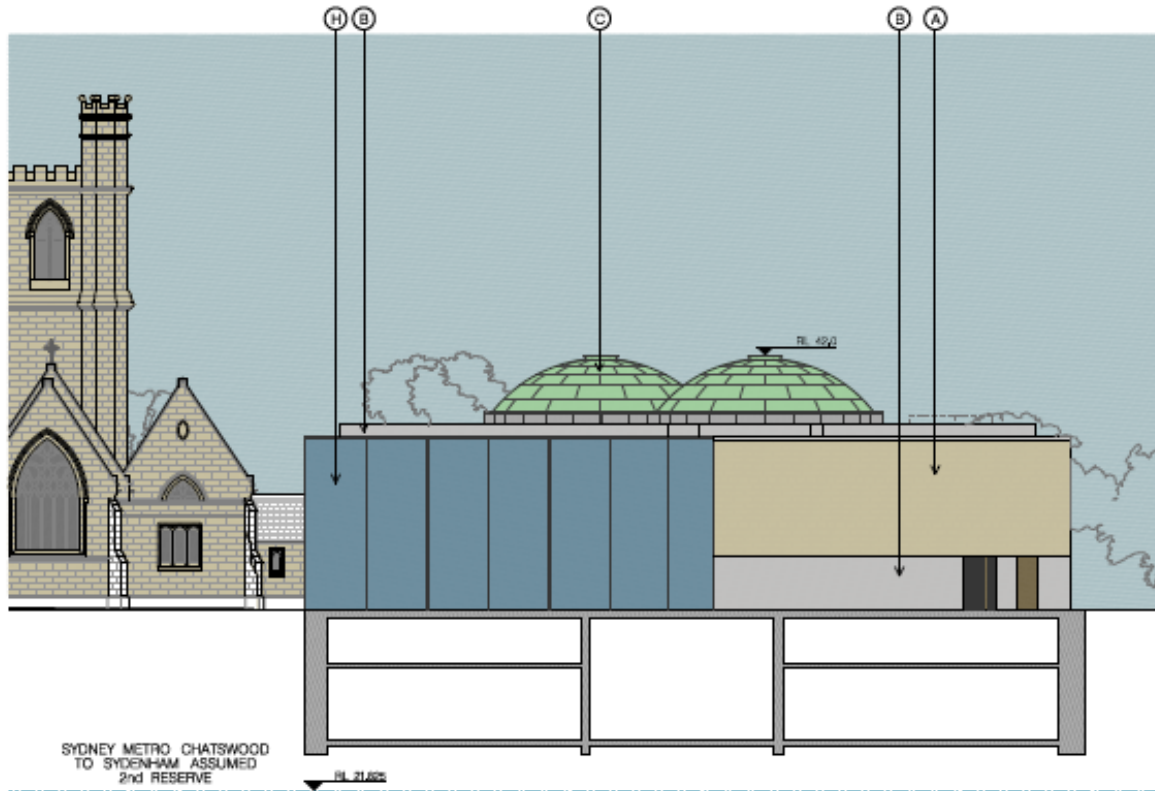


Figure 31: East Elevation - Proposed Museum and Great Hall from within the Site

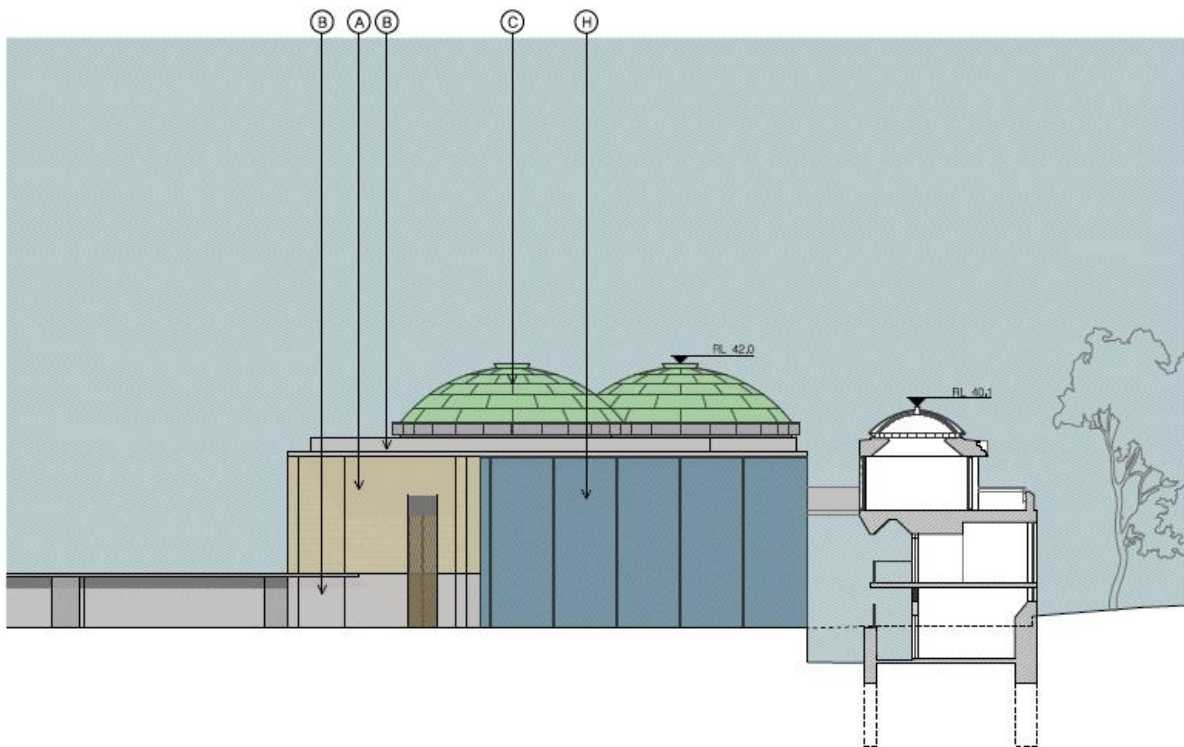
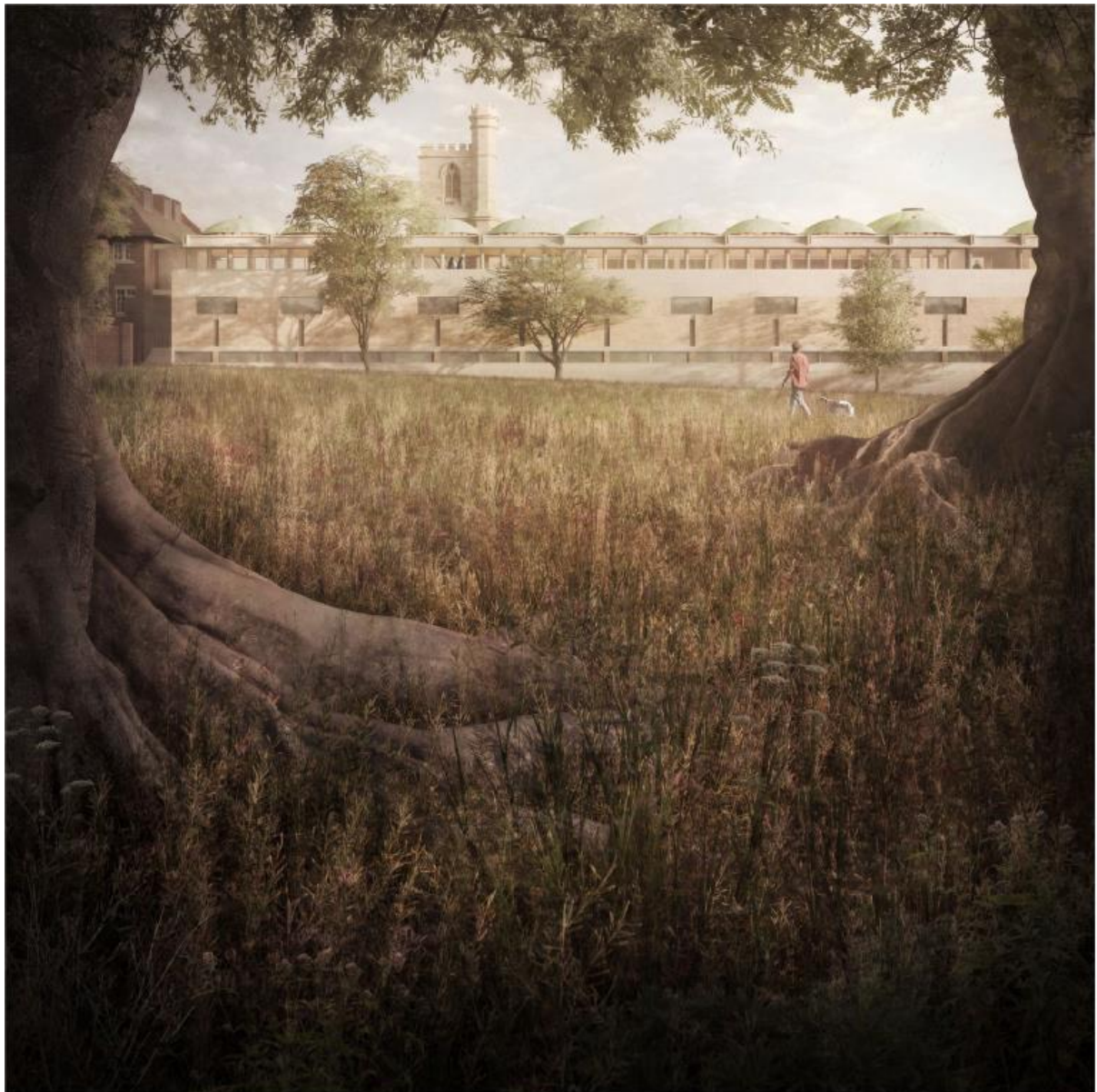


Figure 31: South Elevation - Proposed Museum and Great Hall from within Site





Figure 32: Photomontage - Cleveland Street frontage



**Figure 33:** Photomontage - view from Prince Alfred Park





**Figure 34:** Photomontage - view over rail corridor





Figure 35: Photomontage - view from courtyard to Cathedral and Great Hall



**Figure 36:** Photomontage - view from courtyard to the Rectory

### **Assessment**

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



### Heritage Act 1977

27. The site is a heritage item of State Significance (SHR No: 01881 'Cathedral of the Annunciation of Our Lady') which is also identified as a heritage item of Local Significance under the Sydney Local Environmental Plan 2012 (SLEP 2012) (I1476 'Greek Orthodox Church group buildings, landscaping, fence and grounds including interiors'). The site is not located within a heritage conservation area. The railway approach to the north-west is also part of a heritage item of State Significance (SHR No: 01255 'Sydney Terminal and Central Railway Stations Group'), which is also identified as a heritage item of local significance. Prince Alfred Park to the east is also a heritage item of local significance.
28. As Integrated Development requiring approval under the Heritage Act 1977, a copy of the application was referred to the Heritage Council of NSW (Heritage NSW) on 25 January 2021 in accordance with Clause 66 of the Environmental Planning and Assessment Regulation 2000 (as it then applied). Heritage NSW was advised that the exhibition period had been completed and were notified of the submissions received by way of upload to the Planning Portal.
29. On 11 March 2021, Heritage NSW issued the General Terms of Approval (GTAs). The GTAs included conditions that were inconsistent with the Newbury Principles and were therefore invalid. On 18 June 2021, amended General Terms of Approval were received.
30. The application was amended on 25 November 2021, and the amended application was referred to the Heritage NSW in accordance with Clause 55 of the Environmental Planning and Assessment Regulation 2000. Amended GTAs were received on 25 January 2022.
31. The application was further amended on 17 May 2022, and the amended application was again referred to the Heritage NSW. Heritage NSW did not make a formal decision following TfNSW's decision not to grant concurrence (see discussion below).
32. The application was further amended on 15 July 2022 and the amended application was again referred to the Heritage. Amended GTAs were received on 2 August 2022.
33. The GTAs are included in the Notice of Determination. Heritage NSW has requested a deferred commencement consent. The deferred commencement conditions require:
  - an Aboriginal heritage assessment and test archaeological excavations to be carried out, and
  - a structural report, confirming excavation can be carried out without damage to the cathedral.
34. These conditions must be satisfied to the satisfaction of Heritage NSW, and confirmed to Council, prior to the consent becoming operational.

### Roads Act 1993

35. The site is accessed from Cleveland Street, which is a classified road, and the proposal seeks to modify the site's connection to the road. In accordance with Section 138 of the Roads Act 1993, the concurrence of TfNSW is required to connect to a classified road.



36. The application was referred to TfNSW on 25 January 2021 in accordance with Clause 59 of the Environmental Planning and Assessment Regulation 2000. TfNSW was advised that the exhibition period had been completed and were notified of the submissions received by way of upload to the Planning Portal.
37. On 29 January 2022, TfNSW granted concurrence.
38. The application was amended on 25 November 2021, and the amended application was referred to the TfNSW in accordance with Clause 55 of the Environmental Planning and Assessment Regulation 2000. On 22 December 2021, TfNSW advised they would not grant concurrence to the amended scheme on grounds of road safety, and a lack of clarity regarding the drainage system.
39. The application was amended on 17 May 2022, and the amended application was referred to TfNSW. On 8 June 2022, TfNSW advised they would not grant concurrence to the amended scheme on grounds of network efficiency, requiring a wider driveway.
40. The application was amended on 15 July 2022, and the application was referred to TfNSW. TfNSW granted concurrence to the amended plans on 1 August 2022.

### **State Environmental Planning Policies**

#### **State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4**

##### **Remediation of Land**

41. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land 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.
42. The site has been used as a place of public worship since 1857, with ancillary uses added over time. The Preliminary Site Investigation Report submitted with the application concludes that the potential for site contamination is low, and the land is deemed suitable for the proposed development.
43. Council's Health and Building Unit has reviewed the proposal and is satisfied that the site is suitable for the proposed use.

##### **State Environmental Planning Policy (Housing) 2021 (Housing SEPP)**

44. The Housing SEPP came into effect on 26 November 2021. The Housing SEPP repealed five SEPPs, including the Affordable Rental Housing SEPP.
45. Schedule 7A of the Housing SEPP contains savings and transitional provisions which state that the former provisions of a repealed instrument (in this case the Affordable Rental Housing SEPP) will continue to apply to development applications made, but not yet determined, before the date that the Housing SEPP commenced.

46. Specifically, Clauses 2(20(1)(a) and (2)(2) of Schedule 7A state the following:

(1) This Policy does not apply to the following matters—

(a) a development application made, but not yet determined, on or before the commencement date,

(2) The provisions of a repealed instrument, as in force immediately before the repeal of the repealed instrument, continue to apply to a matter referred to in subsection (1).

47. As the subject development application was made and not determined prior to 26 November 2021, the Housing SEPP does not apply to the application.

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

48. The aim of State Environmental Planning Policy (SEPP) (Affordable Rental Housing) is to provide a consistent planning regime for the provision and maintenance of affordable rental housing and to facilitate the delivery of new affordable rental housing.

49. The domiciles and communal facilities associated with the theological college proposed for eastern building and within the rectory are best characterised as student housing, which is a form of boarding house for the purposes of the assessment.

Division 3: Boarding Houses

50. Under Clause 29, compliance with any of the following standards must not be used to refuse consent for a boarding house. An assessment of the proposed boarding house against each standard is provided in the table below.

Clause 29 – Standards that cannot be used to refuse a boarding house

Provision	Compliance	Comment
1 Density and scale expressed as floor space ratio  An FSR of up to 1.25:1 is permitted. As the site contains a heritage item of State significance, bonus floor space is not available.	Yes	The application proposes a floor space ratio of 0.8:1.
2(a) Building height  The proposed building height must not exceed the maximum building height of 9m permitted under the Sydney LEP 2012.	No	The development is largely compliant, however due to a slope in the topography of the land, in a small part of the site in the north-eastern corner, the proposed building exceeds the 9m height limit, resulting in a maximum building height of 10.2m

		<p>A request to vary the height of buildings standard has been submitted in accordance with the requirements of Clause 4.6 of the SLEP 2012, and the proposed variance is supported.</p> <p>The proposed copper domes also each breach the height limit, however these are considered to be architectural roof features in accordance with Clause 5.6 of SLEP 2012. The features are exempt from the requirement to comply with the height standard, and a request to vary the standard is not required. They are acceptable as they are decorative, do not contribute to GFA, are fully integrated with the design of the building, and do not result in unacceptable overshadowing.</p>
<p>2(b) Landscaped area</p> <p>The front setback is to be compatible with the streetscape.</p>	Yes	<p>The Theological College domiciles are situated within a mixed-use development. The site contains buildings of heritage significance with the curtilages and setbacks contributing to the overall heritage significance. The proposal amends the landscape treatment to the front courtyard in a manner consistent with the principal use as a place of public worship, and that is compatible with the streetscape.</p>
<p>2(c) Solar access</p> <p>If more than one communal living area is provided, at least one of the rooms is to receive a minimum of 3 hours' direct sunlight between 9:00am and 3:00pm in mid-winter.</p>	Yes	<p>The communal area is located on level two and has expansive glazing that is unaffected by overshadowing, providing sufficient solar access.</p>
<p>2(d) Private open space</p> <p>(i) One area of at least 20sqm with a minimum dimension of 3m is provided for lodgers.</p>	Yes	<p>A balcony is proposed for the entire length of the eastern side of the subject building. It is located on level two, adjacent to the communal spaces.</p> <p>The balcony is approximately 150sqm, with a minimum dimension of 3.1m, and therefore complies.</p>



(ii) If accommodation is provided for an onsite manager, one area of at least 8sqm with a minimum dimension of 2.5m, adjacent to the accommodation.		As less than 20 domiciles are provided, accommodation for an onsite manager is not required.
2(e) Parking  (jia) 0.5 parking spaces provided for each boarding house room.  (iii) Not more than 1 parking space for the on-site manager.	Yes	The domiciles generate a demand for seven (7) car parking spaces.  The proposal provides for 12 car parking spaces. Two (2) of the spaces are for the exclusive use of the Theological College Dean. The remaining 10 spaces are for the shared use of the clergy and visitors to the site. Dedicated parking for the use of the occupants of the domiciles is not proposed.  As the Sydney LEP 2012 provides for maximum car parking rates, rather than minimums, this is acceptable.
2(f) Accommodation size  (i) Rooms intended to be used by a single lodger are to have a minimum GFA of 12sqm.  (excluding any area used as a private kitchen/ bathroom)	Yes	Excluding bathrooms, the application proposes room sizes between 16.9sqm and 19.3sqm.

51. The proposed development complies with the relevant provisions of clause 29.
52. Clause 30 states that a consent authority must not grant development consent to which Division 3 applies unless it is satisfied of each of the following provisions.

#### Clauses 30 – Standards for boarding house

Provision	Compliance	Comment
1(a) At least one communal living room is to be provided.	Yes	Spacious communal rooms are provided.
1(b) No boarding room is to have a gross floor area (excluding private kitchen or bathroom facilities) of more than 25m <sup>2</sup>	Yes	All boarding rooms are less than 25sqm.

1(c) No boarding room to be occupied by more than 2 adult lodgers	Yes	Each room will have a maximum occupancy of one (1) person.
1(d) Adequate bathroom and kitchen facilities available for use of each lodger	Yes	Each boarding room is provided with an adequately sized bathroom with shower, toilet, and wash basin. A kitchenette is also provided within each room.  A communal kitchen/servery is provided on Level one that is accessible to all residents.
(1e) A boarding room or on-site dwelling to be provided for a boarding house manager if boarding house has a capacity of 20 or more lodgers	Yes	There will be fewer than 20 lodgers.
1(g) If the boarding house is zoned primarily for commercial purposes, no part of the ground floor that fronts a street will be used for residential purposes except where permitted under an EPI.	Yes	The land is zoned, B4 'Mixed Use', which is primarily a business zone. Residential uses are not proposed for the ground floor of the subject building.
1(h) At least 1 bicycle and 1 motorcycle parking space to be provided for every 5 rooms.	Yes	The proposal generates a requirement for three bicycle spaces and three motorcycle spaces. Parking for five (5) motorcycles and 11 bicycles is provided.

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

53. A BASIX Certificate has been submitted with the development application (A391395).
54. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A condition of consent is recommended ensuring the measures detailed in the BASIX certificate are implemented.

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

55. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

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

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

56. The application is subject to Clause 2.48 of the SEPP as the development involves the penetration of ground within 2m of an underground electricity power line.

57. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised.

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

#### **Clause 2.99 – Excavation in, above, below or adjacent to rail corridors**

58. The application is adjacent to the Sydney Metro - City and Southwest and Metro North West Line rail corridor and was subsequently referred to Sydney Metro for concurrence. Sydney Metro have granted concurrence, subject to conditions which are included in the recommended conditions of consent.
59. The application is also adjacent to various heavy rail corridors that form the Central Railways Station approach, and was therefore referred to Sydney Trains for concurrence. Sydney Trains granted concurrence, subject to a deferred commencement condition which has been included in the recommended conditions of consent. This deferred commencement condition requires the following documentation to be prepared and submitted:
- (a) final geotechnical and structural report/drawings;
  - (b) construction methodology;
  - (c) cross sectional drawings showing the development in relation to rail corridors, tunnels, easements etc;
  - (d) Detailed Survey Plan;
  - (e) Dilapidation Survey Report;
  - (f) Detailed Impact Assessment Report;
  - (g) an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor (if required); and
  - (h) Monitoring Plan (if required).
60. The development consent will not become operational until these documents have been prepared to the satisfaction of Sydney Trains and confirmed to Council.

#### **Clause 2.100 – Impact of rail noise or vibration on non-rail development**

61. The proposal involves development for the purpose of a place of public worship, residential accommodation, and an educational establishment, on a site located within proximity to railway lines.
62. The recommendations of the NSW Government's 'Development Near Rail Corridors and Busy Roads – Interim Guideline' have been taken into consideration during the assessment of this application. The Guideline states that all vibration sensitive buildings must be subject to a vibration assessment.



63. A vibration assessment was included in the Noise Impact Assessment submitted with the amended application, which identifies that further vibration investigations will be required to establish the type and extent of building isolation required. The report identifies a variety of strategies that may be implemented to resolve the issue and concludes that once appropriate mitigation strategies are implemented the design can meet the requirements of the Guideline.
64. The City's Health and Building Unit has reviewed the report and recommended a condition of consent to ensure that additional vibration monitoring is undertaken prior to the issue of a Construction Certificate and a revised report obtained outlining any building isolation measures deemed necessary.

### **Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations**

#### **Clause 2.119 – Development with frontage to classified road**

65. The application is subject to Clause 2.119 of the SEPP as the site has frontage to Cleveland Street which is a classified State road.
66. Vehicular access is only possible from Cleveland Street. The proposal seeks to modify the existing connection to the classified road, therefore the concurrence of TfNSW is required under Section 138 of the Roads Act (addressed elsewhere in this report). TfNSW has reviewed the proposal and has granted concurrence. The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development, subject to the recommended conditions of consent.

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

67. The application is subject to Clause 2.120 of the SEPP as the site is adjacent to Cleveland Street which has an annual average daily traffic volume of more than 20,000 vehicles and the development is likely to be adversely affected by road noise or vibration.
68. An acoustic report has been prepared, taking into consideration the NSW Department of Planning 'Development near Busy Roads and Rail Corridors - Interim Guideline'. The acoustic report concludes that the site can be made suitable for the proposed use, subject to the recommendations of the acoustic report being incorporated into the design. A condition of consent is recommended requiring the recommendations of the Acoustic Report to be incorporated prior to the issue of a Construction Certificate.

### **Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 (Vegetation in Non Rural Areas) 2017**

69. The proposal includes the clearing of vegetation in a non-rural area and as such is subject to this SEPP.
70. The SEPP states that the Council must not grant consent for the removal of vegetation within heritage sites or heritage conservation areas unless Council is satisfied that the activity is minor in nature and would not impact the heritage significance of the site.
71. The Site is a heritage item of State significance and is Integrated Development under the Heritage Act 1977. The proposal, including tree removal, has been assessed by Heritage NSW and was found to be acceptable. GTAs have been issued, and Council officers are obliged to recommend the granting of consent that is consistent with the GTAs.

## Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 10 Sydney Harbour Catchment

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

## Local Environmental Plans

### Sydney Local Environmental Plan 2012

74. 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	<p>The site is in the B4 Mixed Use zone. The proposed development has several land uses, which are set out as follows:</p> <ul style="list-style-type: none"> <li>• Place of Public Worship (existing) with new ancillary Function Centre.</li> <li>• Educational Establishment (Theological College) with ancillary Office Premises, Retail Premises (bookstore), and Residential Accommodation (Dean's Residence).</li> <li>• Information and Education Facility (Museum and Library).</li> <li>• Boarding House (Theological College Domiciles)</li> </ul> <p>All of the above uses are permissible with consent in the zone. The proposal generally meets the objectives of the zone.</p>

**Part 4 Principal development standards**

<b>Provision</b>	<b>Compliance</b>	<b>Comment</b>
4.3 Height of buildings	No	<p>A maximum building height of 9m is permitted.</p> <p>A height of 10.2m is proposed (excluding architectural roof features - see Clause 5.6 below).</p> <p>The proposed development does not comply with the maximum height of buildings development standard.</p> <p>A request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.</p>
4.4 Floor space ratio	Yes	<p>The Site Area is 3,984sqm. A maximum floor space ratio of 1.25:1 or 4,980sqm is permitted.</p> <p>A floor space ratio of 0.8:1 or 3,198sqm is proposed.</p> <p>The proposed development complies with the maximum floor space ratio development standard.</p>
4.6 Exceptions to development standards	Yes	<p>The proposed development seeks to vary the development standard prescribed under Clause 4.3. A Clause 4.6 variation request has been submitted with the application.</p> <p>See further details in the 'Discussion' section below.</p>

**Part 5 Miscellaneous provisions**

<b>Provision</b>	<b>Compliance</b>	<b>Comment</b>
5.6 Architectural roof features	Yes	<p>The maximum height limit is exceeded by 12 copper domes situated on the roof of the Theological College domiciles (RL 40.1), and two large copper domes situated above the proposed Great Hall (RL42).</p>



Provision	Compliance	Comment
		The features are considered as architectural roof features and are acceptable as they are decorative, do not contribute to GFA, are fully integrated with the design of the building, and do not result in unacceptable overshadowing.
5.10 Heritage conservation	Yes	<p>The site is a heritage item of State Significance (SHR No: 01881 'Cathedral of the Annunciation of Our Lady') which is also identified as a heritage item of Local Significance under the Sydney Local Environmental Plan 2012 (SLEP 2012) (I1476 'Greek Orthodox Church group buildings, landscaping, fence and grounds including interiors'). The site is not located within a heritage conservation area.</p> <p>The proposal is Integrated Development requiring approval from Heritage NSW under the Heritage Act.</p> <p>Heritage NSW have reviewed the application, found it to be acceptable, and have provided GTAs.</p> <p>See further details in the 'Discussion' section below.</p>

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

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	Yes	<p>The proposal is considered to exhibit design excellence.</p> <p>The new buildings create an elegant composition that reinforces the role of the Cathedral as the most important building on the site.</p> <p>The proposal for the Cathedral and St Pauls Rectory removes inappropriate elements and introduces refinements to the existing buildings.</p>

Provision	Compliance	Comment
		<p>The roof line of the new buildings is flat and level with the line of the St Pauls Rectory eaves on the eastern elevation enabling the Cathedral tower to be highly visible and the roof of the Rectory.</p> <p>The strong horizontal lines of the eastern building with its balcony presents a positive edge to Prince Alfred Park and enables surveillance of the park.</p> <p>The simple detailing and materials of the proposal enable the Cathedral and St Pauls Rectory to be visually dominant and for the history of the site to be read.</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.</p>

#### Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.6 Office premises and business premises	Yes	A maximum of 2.67 car parking spaces are permitted for the theological college offices, and shared offices within the rectory.
7.7 Retail premises	Yes	A maximum of 0.51 car parking spaces are permitted for the shared bookstore.
Other land uses	Yes	<p>A maximum of 16.96 car parking spaces for the Place of Public Worship (cathedral and shared chapel) are permitted.</p> <p>A maximum of 1.52 car parking spaces for the Information and Education Facility (museum and library) are permitted.</p>

Provision	Compliance	Comment
Total	Yes	In total, the maximum permitted number of car parking spaces for land uses controlled under Part 7 is 22.  The proposed development includes 12 car parking spaces and complies with the relevant development standard.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils. The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan.

## Development Control Plans

### Sydney Development Control Plan 2012

75. 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

76. The site is located within the Prince Alfred Park East locality. The proposed development is in keeping with the unique character and the design principles of the Prince Alfred Park East locality. Specifically, the proposal encourages the ongoing use of the Greek Orthodox Cathedral and the Theological College, respects and compliments the heritage significance of the site, and has no impact upon the amenity of Prince Alfred Park.

#### Section 3 – General Provisions

Provision	Compliance	Comment
3.2. Defining the Public Domain	Yes	The proposal results in a net improvement in terms of overshadowing to Prince Alfred Park at the winter solstice. Specifically, a net increase of 6.5sqm at 12pm, a net decrease of 8sqm at 1pm, 17sqm at 2pm, and 10sqm at 3pm.  The proposal improves views to the State Heritage Item on site by improving transparency on the Cleveland Street frontage with spaced post fencing. This also serves to improve the way the development addresses the street.



Provision	Compliance	Comment
3.5 Urban Ecology	Partial compliance	<p>The proposed development will have an impact on 34 trees within the development site and its surrounds.</p> <p>See further details in the 'Discussion' section below.</p>
3.6 Ecologically Sustainable Development	Yes	<p>The proposal satisfies BASIX and environmental requirements.</p>
3.7 Water and Flood Management	Yes	<p>The City's flood mapping indicates the site is not flood affected.</p> <p>Stormwater plans have been prepared which show two on-site detention tanks associated with the new Theological College building. A Music report has also been provided.</p> <p>The City's Public Domain Unit have reviewed the submitted documentation and have found the proposed on-site detention and stormwater quality targets to be acceptable.</p>
3.9 Heritage	Yes	<p>A Heritage Impact Statement, Conservation Management Plan, and archaeological assessment were submitted with the application in accordance with DCP requirements</p> <p>The proposal is Integrated Development requiring approval from Heritage NSW under the Heritage Act. Heritage NSW have reviewed the application, found it to be acceptable, and have provided General Terms of Approval.</p> <p>See further details in the 'Discussion' section below.</p>
3.10 Significant Architectural Building Types	No	<p>The proposal involves the demolition of the parish hall, which was constructed in 1913. Section 3.10.5 requires the building to be retained, however its demolition has been approved by Heritage NSW. The City cannot pursue an outcome that is contradictory with the GTAs.</p> <p>See further details in the 'Discussion' section below.</p>

Provision	Compliance	Comment
3.11 Transport and Parking	Partial compliance	<p>The proposal complies with the SLEP 2012 development standards for car parking.</p> <p>Given the nature of the use, and the low quantum of parking proposed, it is not deemed necessary to require car share scheme parking spaces.</p> <p>The proposal does not comply with the requirement to provide at grade parking at the rear of the site, however in this instance it is preferable to allow new built form at the rear and at grade parking at the front, in order to maintain views from the public domain to the heritage item.</p> <p>The proposal does not comply with the DCP requirement to limit vehicle crossovers to 3.6m, providing a crossover of 11.1m. This driveway width was required by TfNSW and is therefore acceptable in the circumstances of the case.</p> <p>A condition of consent is recommended to ensure 12 bicycle spaces are provided and end of trip facilities.</p> <p>Further conditions of consent are recommended to manage traffic during special events and encourage the use of public and active modes of transport.</p> <p>See further details in the 'Discussion' section below.</p>
3.12 Accessible Design	Yes	<p>The proposal can achieve equitable access. Compliance with the National Construction Code is required to be demonstrated prior to the issue of a Construction Certificate.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.</p> <p>A Social Impact Statement is not required as the existing premises is greater than 250sqm.</p>

Provision	Compliance	Comment
		<p>The City's Social Planner has reviewed the application and did not object to the proposal.</p> <p>Potential social impacts are mitigated through the recommended conditions of consent and the Plans of Management.</p>
3.14 Waste	Yes	<p>The proposal can comply with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development, subject to conditions of consent, including a revised Waste Management Plan.</p>
3.15 Late Night Trading Management	Partial compliance	<p>The proposed trading hours for all publicly accessible spaces are between 8am and 8pm, Monday to Sunday.</p> <p>It also proposed to operate until 3am on the following days to accommodate Greek orthodox traditions:</p> <ul style="list-style-type: none"> <li>• Christmas Day morning.</li> <li>• Easter morning.</li> </ul> <p>While this does not comply with the SDCP 2012, it is acceptable in the circumstances of the case.</p> <p>See further details in the 'Discussion' section below.</p>

## 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	<p>The site is permitted a maximum building height of three storeys.</p> <p>The proposed development is three storeys in height and complies.</p>
4.2.1.2 Floor to ceiling heights and floor to floor heights	Partial compliance	<p>The proposed development does not comply with the requirement for commercial development to have a floor-</p>

Provision	Compliance	Comment
		<p>to-floor height of 4.5m on the ground level, providing 3.35m.</p> <p>The office spaces are associated with St Andrew's Theological College and are expected to remain so in perpetuity.</p> <p>The proposed height is sufficient to achieve a floor to ceiling height of 3m. Given it is unlikely that the office spaces would ever need to be converted to another use, the proposed variation is acceptable.</p>
4.2.2 Building setbacks	Yes	The site is isolated, and the proposal does not change the existing setbacks. The proposal is acceptable.
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	The proposal provides sufficient solar access to the residential components. Other private developments are not overshadowed by the proposed development.
4.2.3.3 Internal common areas	Yes	Internal common areas have access to daylight and an outlook.
4.2.3.4 Design features to manage solar access	Yes	The proposal utilises fabric sunshades, allowing users to balance access to daylight and outlook with thermal comfort. Tinted glazing is not proposed.
4.2.3.5 Landscaping	Yes	<p>A landscape plan has been submitted and is generally supported; however minor issues are required to be addressed. A condition requiring an updated landscape plan to be submitted prior to the issue of Construction Certificate is recommended.</p> <p>See further details in the 'Discussion' section below.</p>



Provision	Compliance	Comment
4.2.3.6 Deep Soil	Partial compliance	<p>A landscape design report has been submitted demonstrating that 8% deep soil can be achieved, however this is not reflected in the submitted landscape plan.</p> <p>The DCP requires 10% deep soil to be provided, and this could readily be achieved using permeable paving etc.</p> <p>A condition of consent is recommended requiring the final landscape plan to illustrate a consolidated deep soil area equivalent to 10% of the site area.</p>
4.2.3.11 Acoustic privacy	Yes	An acoustic report has been prepared to the satisfaction of Council's Environmental Health Unit.
4.2.5 Types of development	Yes	<p>An acoustic report has been prepared, taking into consideration the NSW Department of Planning's 'Development near Busy Roads and Rail Corridors - Interim Guideline'.</p> <p>The acoustic report concludes that the site can be made suitable for the proposed use, subject to the recommendations of the acoustic report being incorporated into the design. A condition of consent requiring the recommendations of the acoustic report to be incorporated prior to the issue of a Construction Certificate.</p>
4.2.6 Waste and recycling Management	Partial compliance	The proposal can comply with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development, subject to conditions of consent, including a revised Waste Management Plan.
4.2.8 Letterboxes	Yes	The letterboxes are provided within the site, behind the pedestrian entry. A condition is recommended to ensure that they are installed with non-master key locks for security.

Provision	Compliance	Comment
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Yes	Subject to conditions, the development will not adversely impact the amenity of neighbouring residential properties.

#### 4.4 Other Development Types and Uses

##### 4.4.1 Boarding houses and student accommodation

Provision	Compliance	Comment
4.4.1.1 Subdivision	Yes	Strata subdivision of the theological college domiciles is not proposed.
4.4.1.2 Bedrooms	Yes	<p>The DCP requirements for bedrooms are met, except for the following:</p> <ul style="list-style-type: none"> <li>• Four (4) rooms provide less than 1.5m wardrobe space.</li> <li>• One room does not provide any wardrobe space.</li> <li>• The plans do not demonstrate that the kitchenettes can accommodate a small fridge, cupboards, shelves and a microwave.</li> </ul> <p>The existing layouts are all capable of achieving the minimum requirements.</p> <p>Conditions of consent are recommended requiring these requirements to be illustrated on the plans prior to the issue of a construction certificate</p>
4.4.1.3 Communal kitchen areas	Yes	<p>A communal kitchen is provided. While the proposal does not comply with the requirement to provide three kitchen sinks and three stove top cookers, this is acceptable given there are kitchenettes in each of the domiciles.</p> <p>The food storage requirements can easily be met through the provision of a fridge and cupboard space in each room.</p>
4.4.1.4 Communal living areas and open space	Partial compliance	The proposal complies with the minimum size requirements for indoor and outdoor communal open space. All communal spaces receive the required access to daylight.

Provision	Compliance	Comment
		<p>The proposal does not comply with the requirement to provide 50% soft surfaces due to the communal open space being elevated. This is acceptable given the site is primarily a place of public worship and theological college, and the domiciles are ancillary.</p> <p>The communal open space is not furnished with barbecues, seating, and pergolas etc., however the DCP states these need only be provided where appropriate. Given the nature of the development, a condition of consent requiring their installation is not required. It is noted that the communal open space is large enough to accommodate such facilities, should they be required.</p> <p>The proposal does not comply with the requirement for 30% of the domiciles to be provided with private open space. Given the ancillary nature of the domiciles, and the site's adjacency to Prince Alfred Park, this is an acceptable outcome in the circumstances of this case.</p>
4.4.1.5 Bathroom, laundry and drying facilities	Partial compliance	<p>Communal bathrooms are not required as each room has an en-suite with a toilet, washbasin, and shower.</p> <p>Residents of the domiciles have access to a laundry in the basement, adjacent to the function centre, however it is proposed to be shared with the function facility. A condition of consent is recommended requiring a space for the exclusive use of the Theological College residents, and for it to be demonstrated that it can accommodate two 5kg automatic washing machines, two domestic dryers, and one large laundry tub, each for the exclusive use of residents. It is to be illustrated on the plans prior to the issue of a construction certificate.</p> <p>A shared clothesline is provided in a discreet location at the northern end of the communal corridor on the first floor. This will not be visible from Prince Alfred Park.</p>

Provision	Compliance	Comment
4.4.1.6 Amenity, safety and privacy	Yes	The proposal generally complies with the DCP requirements as they relate to amenity, safety and privacy.
4.4.1.7 Plan of Management	Yes	A Plan of Management has been submitted to the satisfaction of Council officers; however, it is in draft form. A condition of consent is recommended, requiring the Plan of Management to be finalised, and approved prior to the issue of an Occupation Certificate. A further condition is recommended requiring the premises to be operated in accordance with the Plan of Management at all times.

## Discussion

### Clause 4.6 Request to Vary a Development Standard

77. The site is subject to a maximum height control of 9m. The proposed development has a maximum building height of 10.2m (13% variance).
78. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- a. That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
  - b. That there are sufficient environmental planning grounds to justify contravening the standard;
  - c. The proposed development will be consistent with the objectives of the zone; and
  - d. The proposed development will be consistent with the objectives of the standard.



Applicant's Written Request - Clause 4.6(3)(a) and (b)

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

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

(i) Because the objectives of the standard are achieved notwithstanding the non-compliance. Specifically:

**(a) to ensure the height of development is appropriate to the condition of the site and its context:**

Most of the structure is located below the 9m height plane.

The proposal is consistent with the maximum height in storeys control permitted under the SDCP 2012 (three storeys), therefore the proposal allows for a built form that is consistent with the one anticipated by the applicable planning instruments.

Shadows cast by the non-compliant component do not result in overshadowing impacts.

The non-compliance will be imperceivable from the public domain.

**(b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas:**

The site is a heritage item. The proposed height is compatible within its context and is satisfactory in terms of visual impact, privacy, and solar access.

A Statement of Heritage Impacts has been prepared which finds the proposed design is sympathetic to the Cathedral of the Annunciation of Our Lady.

**(c) to promote the sharing of views**

There will be no adverse impacts to the properties located in the surrounding area in terms of views because of the proposed non-compliance.

Objectives (d) and (e), which relate to Central Sydney and Green Square, do not apply.

- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) The proposed massing of the building across the site is the result of a considered analysis of the site and surrounding context and the desire to deliver a positive design outcome with a high level of architectural merit. Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits. In this particular circumstance, there are sufficient environmental planning grounds to warrant the proposed variation to the height of buildings standard.
- (c) The proposed development will be consistent with the objectives of the zone;
  - (i) The proposed development involves an existing place of public worship and associated uses that are all permissible within the B4 Mixed Use zone. The site has excellent access to public transport and is in proximity to cycleways.

The proposed mixed-use development will assist in activating both Cleveland Street and Prince Alfred Park and will positively contribute to the vitality of the area, producing positive cultural, social and economic impacts.
- (d) The proposed development will be consistent with the objectives of the standard
  - (i) The applicant states that the proposed development is consistent with the objectives of the height of buildings development standard for the reasons set out under (a) above.

#### Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

80. Development consent must not be granted unless the consent authority is satisfied that:
- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
  - (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

#### Does the written request adequately address those issues at Clause 4.6(3)(a)?

81. In demonstrating that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, the applicant has appropriately referred to the test established by Preston CJ in *Wehbe v Pittwater Council* [2007] NSWLEC 827. Specifically, the applicant has addressed the first part of the test by demonstrating that notwithstanding non-compliance with the numerical standard, the development meets the objectives of Clause 4.3.

82. A detailed discussion with regard to the objectives of the Height of Buildings development standard has been provided and satisfies the test under Clause 4.6(3)(a), in that compliance with the standard is both unreasonable and unnecessary, to the extent of the variations proposed.

Does the written request adequately address those issues at clause 4.6(3)(b)?

83. The applicant has satisfactorily demonstrated that there are sufficient environmental planning grounds to contravene the development standard. In particular, the site conditions, unique to this site, result in most of the development being below the 9m height plane, except in the north-eastern corner. In this location, the topography of the site slopes to the adjoining escarpment. The applicant identifies that strict compliance with the development standard would result in an inflexible application of the control. City staff concur with this assessment given compliance would result in an irregular stepped form, or a height in storeys less than that permitted by SDCP 2012.

Is the development in the public interest?

84. With regard to varying development standards, the public interest is deemed to be protected where a development standard meets the objectives of the zone and those of the development standard sought to be varied. As has been discussed previously, the development is consistent with the objectives of Clause 4.3 notwithstanding the variation to the numerical standard.
85. The objectives of the B4 'Mixed Use' Zone are provided below:
- (a) To provide a mixture of compatible land uses.
  - (b) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
  - (c) To ensure uses support the viability of centres.
86. The proposal satisfies these objectives in the following ways:
- (a) The proposed uses are permissible in the zone and complement the existing mix of uses in the locality.
  - (b) The site is well served by public transport, with rail, light rail and bus stops within walking distance of the site. The site is in proximity to cycleways, and bicycle parking is provided to encourage active transport.
  - (c) The proposal will improve the facilities on site for existing users, and facilities such as the museum will encourage additional visitors which will support existing local centres.
87. The development, as amended, demonstrates that the extent of non-compliance with the Height of buildings development standard is consistent with the objectives of Clause 4.3 and the B4 'Mixed Use' zone and is therefore in the public interest.

## Conclusion

88. For the reasons provided above the requested variation to the Height of Buildings development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Height of Buildings development standard and the B4 Mixed Use zone.

## Trees

89. The proposed development will have an impact on 34 trees within the development site and its surrounds. Nine (9) of these trees are proposed for removal, including:
- three (3) Plane Trees observed to be in good health and vigour;
  - two (2) Fiddlewood observed to be in moderate health and vigour;
  - one (1) Pittosporum observed to be in moderate health and vigour;
  - one (1) Camphor Laurel observed to be in good health and vigour;
  - one (1) Brushbox observed to be in good health and vigour; and
  - one (1) Red Ash observed to be in good health and vigour.
90. The City's Tree Management Unit objected to the removal of the Plane Trees, the Camphor Laurel and the Brushbox on the grounds that there would be a significant loss of approximately 696sqm canopy cover.
91. As the site is a heritage item of State significance, the proposal is Integrated Development under the Heritage Act 1977. Heritage NSW provided GTAs for the proposal, including the approval of the Landscape Plan and Architectural Plans which included the removal of the above trees. The Local Planning Panel, as consent authority, is not permitted to issue a consent that is inconsistent with the GTAs. Accordingly, there are no grounds on which Council officers could recommend refusal of development consent based on canopy loss.
92. Notwithstanding the above, Council officers sought to retain the two trees providing the greatest public benefit, being the Camphor Laurel and Brushbox within the front courtyard and requested the applicant to amend the design to achieve this.
93. The applicant agreed and the application was amended accordingly. However, TfNSW did not grant concurrence to the amended scheme, objecting on traffic safety grounds and advising that their support would be contingent on a single driveway for access and egress.
94. Council staff met with TfNSW and the applicant's design team to workshop alternatives that could satisfy the requirements of TfNSW whilst simultaneously retaining the trees. During this process several potential solutions were discussed, however it was clear that a single driveway could not be achieved unless the trees were removed to allow vehicles to manoeuvre safely within the site.



95. The retention of the trees resulted in swept paths that were likely to result in service vehicles colliding with the cathedral, which is a heritage item of state significance, and vehicles exiting the site at an angle that could be dangerous for pedestrians and motorists.
96. As Heritage NSW had granted approval for the trees, and TfNSW would not grant concurrence unless a single driveway access would be provided, City staff (including Tree Management) formed a view that the removal of the trees was acceptable. Support for this was contingent on the site achieving at least 15% canopy cover, and the trees within the front courtyard being replaced with a mature specimen.
97. The application, as amended, achieves these objectives.

### **Heritage**

98. The site is a heritage item of State Significance (SHR No: 01881 'Cathedral of the Annunciation of Our Lady') which is also identified as a heritage item of Local Significance under the Sydney Local Environmental Plan 2012 (SLEP 2012) (I1476 'Greek Orthodox Church group buildings, landscaping, fence and grounds including interiors'). The site is not located within a heritage conservation area. The railway approach to the north-west is also part of a heritage item of State Significance (SHR No: 01255 'Sydney Terminal and Central Railway Stations Group'), which is also identified as a heritage item of local significance. Prince Alfred Park is also a heritage item of local significance.
99. The proposal is Integrated Development requiring approval from Heritage NSW under the Heritage Act 1977. The General Terms of Approval provided by Heritage NSW, and included in the recommended conditions of consent, ensure the heritage significance of the site is maintained and enhanced.
100. The proposal involves the demolition of the parish hall, which was constructed in 1913. Section 3.10.5 of SDCP 2012 requires that community buildings older than 50 years are retained and enhanced. The City's Heritage Officer advises that the building has been substantially altered internally and externally, and that its demolition is supportable in the context of creating a more suitable space for the Cathedral Complex.
101. It should be noted that the Heritage Officer requested additional design changes in addition to those required by Heritage NSW, which were not pursued. This is because Heritage NSW were aware of the concerns of the Heritage Officer and determined that they were not determinative factors that would have prevented the granting the GTAs. The City cannot pursue an outcome that is contrary to the General Terms of Approval.

### **Hours of Operation**

102. The proposed trading hours for all publicly accessible spaces are between 8am and 8pm, Monday to Sunday. The patron capacity of the proposed shared function facility is 250.
103. It is also proposed to operate until 3am on the following days to accommodate Greek Orthodox traditions:
  - Christmas Day morning.
  - Easter morning.

104. The premises is not located within a late night trading area. The shared function facility is defined as a Category A 'High Impact Premises'. All other publicly accessible uses on site are Category C, being unlicensed indoor premises.
105. The DCP permits all areas other than the shared function facility to operate between the hours of 7am to 12 Midnight. The shared function facility, as a Category A premises, is restricted to the hours of 10am to 10pm, with the hours of 10pm to 12 Midnight be subject to a trial.
106. The proposal to operate the publicly accessible areas until 3am on Christmas Day morning and Easter morning is in line with Greek Orthodox traditions of Midnight mass at Christmas and Easter.
107. The DCP does not anticipate exemptions for religious traditions. While technically a 'High Impact Premises' the shared function facility is ancillary to the cathedral, and the regular proposed hours of operation are modest.
108. The circumstances of the case warrant flexibility to facilitate the Greek Orthodox community practicing their faith in accordance with tradition on this particular site, which has been the seat of Greek Orthodoxy since the 1970s. It is recommended that the proposed hours of operation be approved.

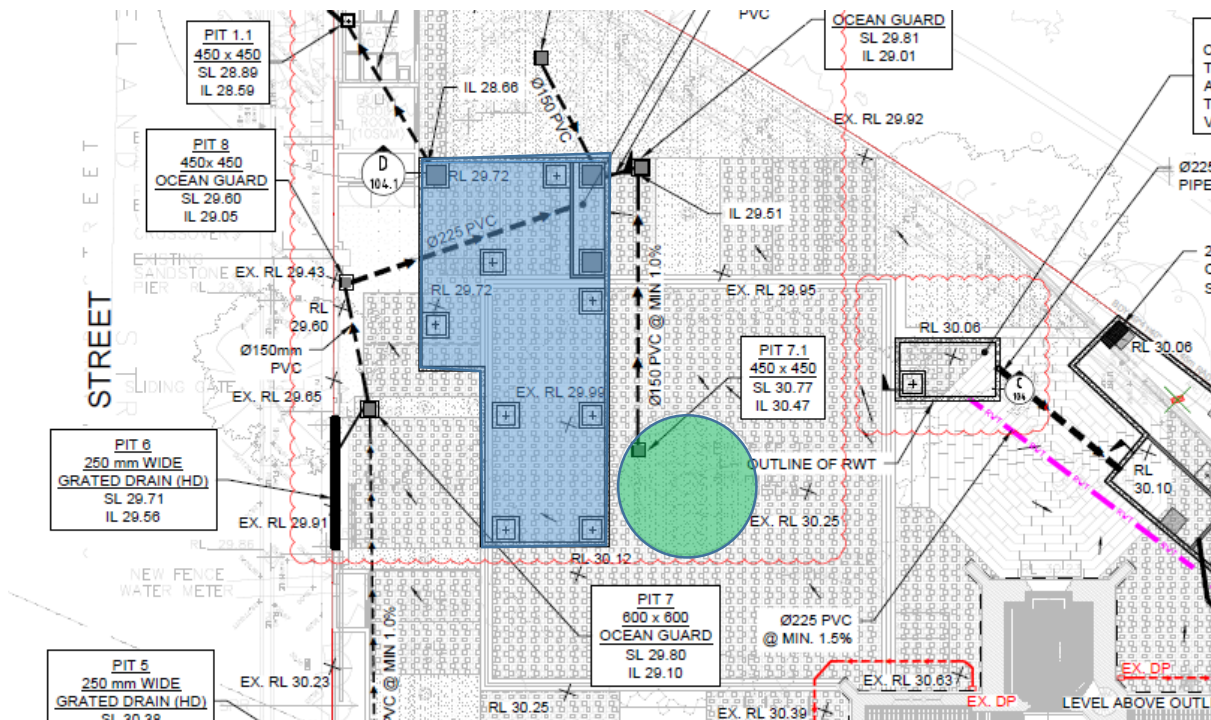
#### **Transport, Parking and Vehicle Management**

109. The proposal complies with the SLEP 2012 development standards for car parking.
110. A condition of consent is recommended to ensure 12 bicycle spaces are provided and end of trip facilities.
111. The proposal does not comply with the DCP requirement to limit vehicle crossovers to 3.6m, providing a crossover of 11.1m. Council officers sought a reduced driveway width; however, this was not supported by TfNSW. As the development is unable to proceed without the concurrence of TfNSW, the proposed driveway width is acceptable in the circumstances of the case.
112. The proposal does not comply with the SDCP 2012 requirement to provide at grade parking at the rear of the site, however in this instance it is preferable to allow new built form at the rear and at grade parking at the front, in order to maintain views from the public domain to the heritage item.
113. The DCP requires the provision of a car share scheme parking space. Given the nature of the use, and the low quantum of parking proposed, it is not deemed necessary to require car share scheme parking spaces on this site.
114. Several submissions have raised concerns with existing traffic management on the site, particularly during large events. In response, conditions of consent are recommended requiring the preparation of a Guest Drop off and Pick up Management Plan to be prepared to the satisfaction of Council, and a Special Events Traffic and Transport Management Plan to be prepared prior to the satisfaction of TfNSW and Transport Management Centre. Once approved, the Cathedral will be required to operate in accordance with the Guest Drop off and Pick up Management Plan, and to seek concurrences from Council prior to major events.
115. In addition, a condition of consent is recommended requiring the preparation of a Transport Access Guide to encourage the use of public and active modes of transport.

116. These measures will assist in mitigating impacts to the surrounding road network, including those existing.

### On-Site Detention

117. While not shown on the submitted architectural plans, or the landscape plan, a large on-site detention (OSD) tank is shown on the submitted stormwater concept plans. The OSD tank is proposed within the courtyard, in proximity to the proposed mature replacement tree. This is illustrated in Figure 37 below. The OSD tank is shown in blue, and the root ball of the mature tree (at installation) is shown in green.



**Figure 37:** Stormwater Concept Plan showing proposed OSD tank and the proposed tree.

118. The current placement of the tank is likely to result in future damage to the OSD tank from root growth. It will also impede future growth of the tree by limiting the root system. A condition of consent is therefore recommended, requiring the landscape plans to be updated to illustrate the final location of the OSD tank in a position that will not compromise the tree.

### 119. Landscaping

120. The proposed Landscape Plan is generally acceptable, however certain elements require additional refinement:

- The nominated tree species proposed for the centre of the courtyard is *Ficus Obliqua*, which has buttressed roots and low hanging branches. It has the potential to damage the ornate paving proposed for the courtyard and will require regular pruning to make it suitable for use in proximity to moving vehicles.

- Previous iterations of the landscape plan included a monument garden, which was proposed to accommodate the foundation stone (currently located to the north of the western porch of the cathedral) and the stone tribute (currently located in the landscaped garden on the Cleveland Street frontage). The most recent iteration of the plans does not include a monument garden and therefore the proposed location of these elements, which are significant, is unknown.
  - The landscape plan has not been updated to respond to the latest changes to the driveway entry location.
121. Conditions of consent are recommended requiring an updated landscape plan that proposes an alternative tree species for the courtyard, identifies where the foundation stone and stone tribute are to be located, and reflects the updated design for the driveway entry and courtyard layout.

## Consultation

### Internal Referrals

122. The application was discussed with Council's;
- (a) Building Services Unit;
  - (b) Environmental Health Unit;
  - (c) Heritage & Urban Design Unit;
  - (d) Public Domain Unit;
  - (e) Surveyors;
  - (f) Transport and Access Unit;
  - (g) Tree Management Unit; and
  - (h) Waste Management Unit.
123. Except for the City's Heritage Officer, the above advised that the proposal, as amended, is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.
124. The Heritage Officer requested additional changes; however, the proposal is Integrated Development under the Heritage Act 1977. Heritage NSW have endorsed the proposal and provided GTAs. Council officers are obliged to recommend the granting of development consent in line with the GTAs.

## External Referrals

### Heritage Council of NSW

125. Pursuant to the Heritage Act 1977, the application was referred to Heritage NSW on 25 January 2021 as Integrated Development.

126. Heritage NSW was advised that the exhibition period had been completed and were notified of the submissions received by way of upload to the Planning Portal.
127. Amended General Terms of Approval, as they apply to the amended application, were issued by NSW Heritage on 2 August 2022 and have been included in the schedules within the recommended conditions of consent.

### **Transport for NSW**

128. Pursuant to the Roads Act 1993, the application was referred to TfNSW for concurrence.
129. TfNSW was advised that the exhibition period had been completed and were notified of the submissions received by way of upload to the Planning Portal.
130. Concurrence was received on 1 August 2022. Conditions of consent were recommended which are included in the Notice of Determination.

### **Sydney Trains**

131. Pursuant to Section 2.99 of the SEPP (Transport and infrastructure) 2021, the application was referred to Sydney Trains for concurrence.
132. Sydney Trains was advised that the exhibition period had been completed and were notified of the submissions received by way of upload to the Planning Portal.
133. Concurrence was received on 9 April 2021. Conditions of consent were recommended which are included in the Notice of Determination.

### **Sydney Metro**

134. Pursuant to Section 2.99 of the SEPP (Transport and infrastructure) 2021, the application was referred to Sydney Metro for concurrence.
135. Sydney Metro was advised that the exhibition period had been completed and were notified of the submissions received by way of upload to the Planning Portal
136. Concurrence was received on 25 January 2021. Conditions of consent were recommended which are included in the Notice of Determination.

### **Ausgrid**

137. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.
138. A response was received raising no objections to the proposed development.

### **Advertising and Notification**

139. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 28 days between 11 January 2021 and 9 February 2021. A total of 246 owners and occupiers were notified and eight (8) submissions were received.



140. The submissions raised the following issues:

- (a) **Issue:** The proposal does not provide enough car parking. Existing events involve cars parking in surrounding streets, resulting in them being over utilised. There should be a limitation on the size of religious and ancillary functions/events based on traffic generation.

**Response:** Car parking rates in the City of Sydney are maximums, rather than minimums. Additional parking would not be supported or encouraged.

Conditions of consent are recommended requiring the preparation of a Guest Drop off and Pick up Management Plan to be prepared to the satisfaction of Council, and a Special Events Traffic and Transport Management Plan to be prepared to the satisfaction of TfNSW and Transport Management Centre. Once approved, the Cathedral will be required to operate in accordance with the Guest Drop off and Pick up Management Plan, and to seek concurrences from Council prior to major events.

In addition, a condition of consent is recommended requiring the preparation of a Transport Access Guide to encourage the use of public and active modes of transport.

These measures will assist in mitigating impacts to the surrounding road network, including those existing.

- (b) **Issue:** People using the site for events park illegally in surrounding streets and conduct illegal manoeuvres. People cross the road illegally.

**Response:** The actions taken by individuals outside of the site cannot be regulated through planning mechanisms. Any illegal activities may be reported to the relevant authorities.

- (c) **Issue:** Cleveland Street cannot accommodate additional events on this site.

**Response:** Cleveland Street is a State Road, which is managed by TfNSW. TfNSW have reviewed the proposal, as amended, and find it to be acceptable.

- (d) **Issue:** A Plan of Management is required for events.

**Response:** A Plan of Management has been prepared in relation to the Cathedral and Function Space, which was submitted with the amended application. A condition of consent is recommended, requiring the premises to operate in accordance with the Plan of Management.

- (e) **Issue:** There is concern that the construction noise assessment methodology is flawed, as the hoarding has been included.

**Response:** The Construction Noise and Vibration Management Plan has been reviewed by the City's Environmental Health Unit, and no concerns with the methodology were raised. While there will inevitably be construction noise, conditions of consent are recommended to mitigate the impacts of construction activities. This includes limiting the hours during which construction activities can occur, a requirement to set up a Construction Liaison Committee, and a requirement to notify nearby residential developments 48 hours prior to conducting excavation, shoring, or underpinning works, or when high noise emission appliances or plant are about to commence.

- (f) **Issue:** The notified hours of operation, being 8am to 8pm, differ to those in the Statement of Environmental Effects, which states 8am to 5pm. The hours of operation should be limited to 8am to 5pm.

**Response:** The development application form states the proposed hours of operation are 8am to 8pm, and accordingly these are the hours formally applied for. Given the proposed hours of operation have been publicly notified, and those hours are consistent with the development application form, which was also notified, there is no impediment to approving the hours of 8am to 8pm

- (g) **Issue:** Late night operations until 3am at Christmas and Easter are not supported.

**Response:** The proposal to operate the publicly accessible areas until 3am on Christmas Day morning and Easter morning is in line with Greek Orthodox traditions of Midnight mass at Christmas and Easter. The Cathedral is currently not regulated in terms of its hours of operation, and already operates in line with the hours proposed. The circumstances of the case warrant flexibility to facilitate the Greek Orthodox community practicing their faith in accordance with tradition on this particular site, which has been the seat of Greek Orthodoxy since the 1970s. The proposal is supported.

- (h) **Issue:** The proposed café is not supported. The café kiosk should not be permitted to play music.

**Response:** The café kiosk that was included in the original proposal is no longer proposed.

- (i) **Issue:** The church should be required to provide adjoining residents with a typical monthly schedule of activities details of all major events carried out at the site on a regular monthly/annual basis.

**Response:** The recommended conditions of consent are sufficient to preserve residential amenity.

- (j) **Issue:** There may be additional overlooking to residential development on the opposite side of Cleveland Street.

**Response:** No new windows to the Cleveland Street frontage are proposed.

- (k) **Issue:** Inadequate, incomplete and inconsistent information has been provided to enable Council to undertake an informed and thorough assessment of the proposal (having regard to Clause 50 and Schedule 1 of the Environmental Planning and Assessment regulation 2000).

**Response:** Council staff consider that the proposal, as lodged, was in accordance with the requirements of the Regulation, and did not warrant rejection. It is not uncommon for large development applications to include inconsistencies as documents are prepared during design development. Where inconsistencies relate to determinative factors, further clarification has been sought. The application (as amended) has been assessed by Council officers and various State agencies and is acceptable.

- (l) **Issue:** Ringing of the church bells results in noise impacts. The ringing of the bells should be limited.

**Response:** A Plan of Management has been prepared which obligates the Archdiocese to limit the ringing of bells to between 8am and 8pm, with additional ringing outside these hours on Christmas Day and Easter Sunday (Greek Orthodox).

This application seeks alterations and additions to the cathedral building. No change to the ongoing use of the cathedral building, being a place of public worship, is proposed. Accordingly, any conditions of consent to regulate the bells beyond those the Cathedral has agreed to in the Plan of Management, would not fairly and reasonably relate to the development that is the subject of the development application. Notwithstanding this, the Cathedral is required to be reasonable in its approach to bell ringing, and offensive noise is regulated under the Protection of the Environment Operations Act 1997. Suspected breaches of the Act may be reported to Council for investigation.

## Financial Contributions

### Levy under Section 61 of the City of Sydney Act 1988

141. 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.
142. 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

143. Environmental Planning and Assessment Act 1979.
144. Roads Act 1993.
145. Heritage Act 1977.

## Conclusion

146. The application seeks development consent for the restoration and redevelopment of the Cathedral of the Annunciation of Our Lady site.
147. The proposal includes alterations and additions to the Cathedral of the Annunciation of Our Lady; alterations and additions to former St Paul's rectory for use as a chapel, Dean's residence, offices and college domiciles; demolition of existing function hall and parish hall; construction of two new buildings with shared basement for use as place of public worship, shared function spaces, museum, library, office, and theological college, domiciles and shared facilities..
148. Proposed land uses include a Place of Public Worship (existing Cathedral) with ancillary Function Centre (Great Hall and Shared Function Space); Educational Establishment (Theological College), Boarding House (Theological College domiciles), Office Premises, Retail Premises (bookstore), Residential Accommodation (Dean's Residence); and Information and Education Facility (Museum and Library).
149. All proposed uses are permissible with development consent, and the proposal generally complies with the provisions of SLEP 2012 and SDCP 2012, with the key exception being non-compliance with the height of buildings development standard.
150. A Clause 4.6 variation request has been submitted with the application, and it has been adequately demonstrated that compliance with the development standard is unnecessary and unreasonable in the circumstances of the case.
151. Other non-compliances are acceptable for the reasons outlined elsewhere in this report. Conditions of consent are proposed to remedy outstanding issues.
152. The proposal is supported, subject to the recommended conditions of consent.

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