

**Item 3.****Development Application: 101 Palmer Street, Woolloomooloo - D/2021/689**

File No.: D/2021/689

**Summary**

<b>Date of Submission:</b>	Lodged 24 June 2021, with numerous amendments and the final set of drawings submitted on 6 July 2022
<b>Applicant:</b>	Cracknell and Lonergan Architects
<b>Architect/Designer:</b>	Cracknell and Lonergan Architects
<b>Developer:</b>	TLB Trading Trust
<b>Owner:</b>	TLB Trading Trust
<b>Planning Consultant:</b>	James Lovell and Associates Pty Ltd
<b>Heritage Consultant:</b>	Cracknell and Lonergan Architects
<b>DAPRS:</b>	5 October 2021
<b>Cost of Works:</b>	\$2,550,000
<b>Zoning:</b>	<p>The site is located in the B4 Mixed Use zone.</p> <p>The proposed development is a 'residential flat building' which is permissible with development consent in the zone.</p>
<b>Proposal Summary:</b>	<p>Alterations and additions to an existing residential terrace to construct a residential flat building with 6 storeys, 10 apartments, roof top communal open space and associated landscaping works.</p> <p>The application is referred to the Local Planning Panel for determination as the proposal involves development to which State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development applies and is more than four storeys in height.</p> <p>The proposed height of development complies with the maximum height control of 22 metres under Clause 4.3 of the Sydney Local Environmental Plan 2012.</p>

The proposed density of development complies with the maximum floor space ratio (FSR) control of 3:1 under Clause 4.4 of the Sydney Local Environmental Plan 2012.

The application was notified between 25 June 2021 and 10 July 2021, and renotified between 13 July 2021 and 4 August 2021. As a result of the notification and renotification 24 submissions in objection to the proposed development were received by the City.

The submissions in objection raised concerns in relation to the height, density, setbacks, bulk, scale, form, aesthetics and associated heritage impacts of the proposed development, acoustic and visual privacy impacts, traffic and waste collection impacts, loss of views, overshadowing impacts, compromised development potential for adjoining sites, poor residential amenity for the subject site in terms of floor to ceiling heights, private open space, privacy and natural cross ventilation, inappropriate dwelling types, loss of income for adjoining residents, illegal development, low estimated cost of development, and likely future use of the development as backpacker's accommodation, or as a boarding house.

An assessment of the application by Council staff identified concerns relating to heritage impacts, including the extent of the demolition proposed to the existing contributing building, and visual impacts to the surrounding heritage conservation area, the height and density of development, building expression, compliance with the Apartment Design Guide, acoustic privacy and natural ventilation, landscape and communal open space design, view sharing analysis, National Construction Code compliance, and structural certification and detail.

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

Subject to conditions, the proposal is generally consistent with the applicable planning provisions, including those within the Sydney Local Environmental Plan 2012, Sydney Development Control Plan 2012, State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development and the Apartment Design Guide. Proposed non-compliances have been assessed as having merit in the specific circumstances of the proposal and are addressed in the report.

As a result of the design modifications made to the scheme, the amended proposal has an acceptable standard of architectural design, materials and detailing.

It presents an acceptable development outcome for the site, and comprises an appropriate response to the site conditions and locality.

The proposed development is generally satisfactory with regard to the objectives of the relevant planning controls, and results in a form and scale that achieves the desired future character of the area.

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

**Development Controls:**

- (i) Sydney Local Environmental Plan 2012 (Sydney LEP 2012)
- (ii) Sydney Development Control Plan 2012 (Sydney DCP 2012)
- (iii) State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (SEPP 65) and the Apartment Design Guide (ADG)
- (iv) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP)
- (iv) State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP)
- (v) State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)
- (vi) State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)
- (vii) Sydney Landscape Code Volume 2: All Development Except for Single Dwellings
- (vii) City of Sydney Interim Floodplain Management Policy
- (viii) City of Sydney Guidelines for Waste Management in New Developments
- (ix) City of Sydney Development Contributions Plan 2015
- (x) City of Sydney Community Participation Plan

**Attachments:**

- (A) Recommended Conditions of Consent
- (B) Selected Drawings
- (C) Design Advisory Panel Residential Subcommittee Advice Sheet



## Recommendation

It is resolved that consent be granted to Development Application Number D/2021/689, subject to the conditions set out in Attachment A to the subject report.

## Reasons for Recommendation

The application is recommended for approval for the following reasons:

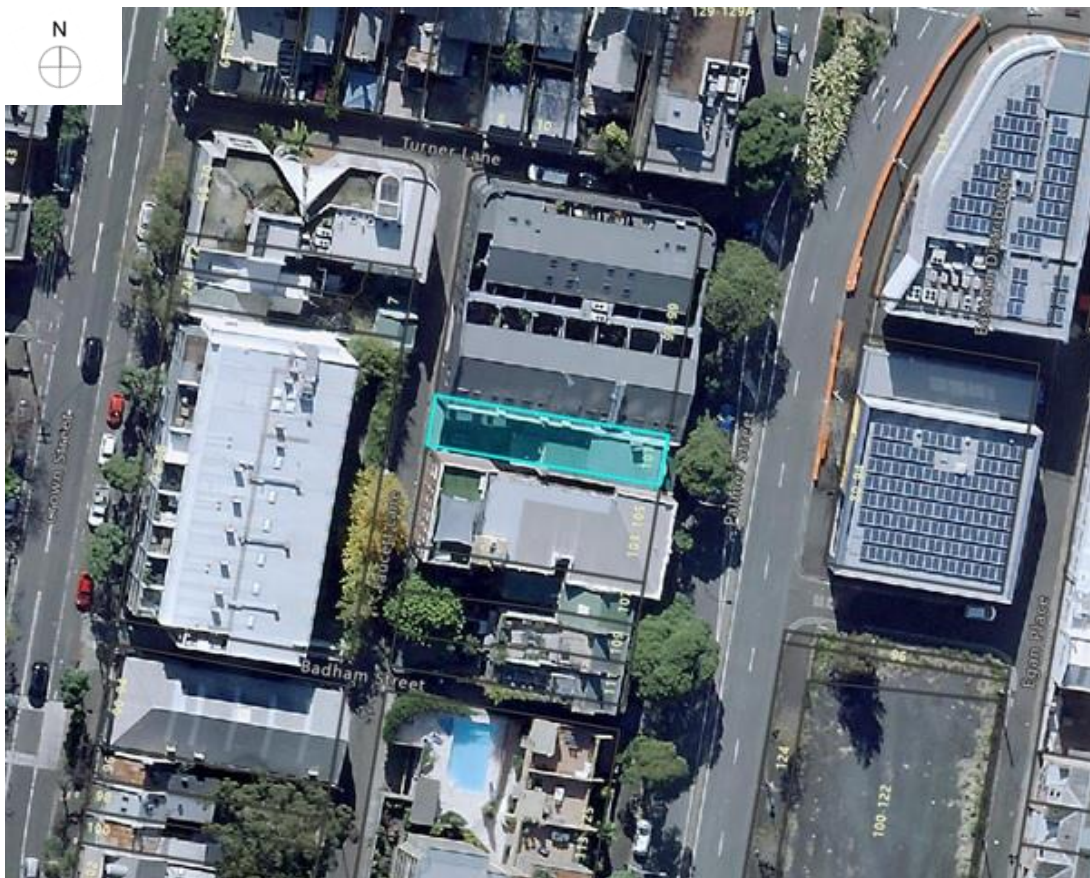
- (A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979, in that, subject to the imposition of conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Local Planning Panel.
- (B) The proposal generally satisfies the objectives and provisions of Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (C) The proposal is consistent with the objectives of the B4 Mixed Use zone.
- (D) The proposal complies with the maximum height of buildings development standard in Clause 4.3 of the Sydney Local Environmental Plan 2012.
- (E) The proposal complies with the maximum floor space ratio development standard in Clause 4.4 of the Sydney Local Environmental Plan 2012.
- (F) The proposal is consistent with the desired future character for the Cathedral Street locality, while also conserving the existing contributing building and the heritage significance of the Woolloomooloo heritage conservation area, in accordance with Clause 5.10 of the Sydney Local Environmental Plan 2012, Section 2.4.2 and Section 3.9.7 of the Sydney Development Control Plan 2012.
- (G) The articulation, materiality and architectural contribution of the proposal combine to exhibit design excellence in accordance with the relevant provisions and matters for consideration in Clause 6.21 of the Sydney Local Environmental Plan 2012.
- (H) The proposed development has a height and form suitable for the site and its context, satisfactorily addresses the heights and setbacks of neighbouring developments, and is appropriate in the streetscape context and broader locality.
- (I) Subject to the recommended conditions of consent, the proposed development achieves acceptable amenity for the existing and future occupants of the subject and adjoining sites.
- (J) The proposed land use does not result in any significant adverse environmental or amenity impacts on the subject or surrounding properties, the public domain and the broader suburb of Woolloomooloo, subject to the recommended conditions of consent.
- (K) The public interest is served by the approval of the proposal, as amendments to the development application have addressed the matters raised by the City and the community. This is subject to the recommended conditions of consent imposed relating to relating to the appropriate management of the potential environmental impacts associated with the development.

## Background

### The Site and Surrounding Development

1. The site has a legal description of Lot 1 in Deposited Plan 446893, and is commonly known as 101 Palmer Street, Woolloomooloo.
2. It is approximately rectangular in shape, with an area of approximately 189.7 square metres. It has a primary street frontage of approximately 6.35 metres to Palmer Street and a secondary laneway frontage of approximately 6.285 metres to Faucett Lane.
3. The site is located mid-block between the intersection of Turner Lane with Palmer Street to the north, and the intersection of Badham Street with Palmer Street to the south. Levels on the site fall by between approximately 500-600mm from south to north.
4. The site contains a two storey Victorian era terrace, with its primary address to Palmer Street, and pedestrian access to the ground floor level of the dwelling house. The rear of the site accommodates a paved rear yard used for off-street car parking, with vehicle access from Faucett Lane via a roller door.
5. There is no significant vegetation on the subject site, however a mature Brushbox street tree is located adjacent to the Palmer Street frontage of the site.
6. The surrounding area is characterised by a mixture of land uses, primarily being residential accommodation, tourist and visitor accommodation, commercial premises and road infrastructure facilities.
7. To the north of the site at 93-99 Palmer Street, Woolloomooloo, is a part-two and part-three storey warehouse building, constructed of rendered and painted masonry with a pitched gable roof, which accommodates a mixed use development comprising commercial premises and residential apartments. It has pedestrian access to both Palmer Street and Faucett Lane, and ground level car parking facilities accessible to vehicles from Faucett Lane.
8. To the south of the site at 103-105 Palmer Street, Woolloomooloo, is a three-storey interwar building of masonry construction with a pitched skillion roof, built to its front, side and rear boundaries. The building is used as backpackers' accommodation and has pedestrian access to both its Palmer Street and Faucett Lane frontages.
9. To the west of the site on the opposite side of Faucett Lane at 76-88 Crown Street, Woolloomooloo, is a five storey contemporary building of rendered and painted concrete construction known as 'Edo 88'. The building accommodates a mixed use development, comprising ground level retail premises fronting Crown Street, car parking facilities with vehicle and pedestrian access from both Crown Street and Faucett Lane, with residential apartments located above.
10. On the opposite side of Palmer Street to the east at 80-94 Palmer Street, Woolloomooloo, is a single storey warehouse building of corrugated metal construction.
11. The building houses a workshop, equipment, infrastructure and vehicle parking facilities associated with the Cross City Tunnel, with vehicle access from Palmer Street, Egan Place and St Kilda Lane, and pedestrian access from Egan Place.

12. The Eastern Distributor Tunnel is located beneath the abovementioned site and a portion of Palmer Street adjacent to the subject site.
13. The site is not identified as being a heritage item, however it is identified on map sheet 15 of the Heritage Map in the Sydney LEP 2012 as being located within the Woolloomooloo heritage conservation area (Map reference C71).
14. The site is identified as a contributing building on map sheet 15 of the Building contributions map in the Sydney DCP 2012, and in Section 2 of the Sydney DCP 2012 as being located within the Cathedral Street locality.
15. The site is not identified as being subject to flooding.
16. Site inspection visits were carried out by the current assessment officer on 7 April 2022 and 1 February 2023.
17. Photographs of the subject site and surrounding locality are reproduced in the figures provided below.



**Figure 1:** Aerial photographic view of the subject site (shown shaded in blue) and the surrounding locality





**Figure 2:** The subject site viewed from the eastern side of Palmer St, facing west



**Figure 3:** The adjoining mixed use residential and commercial development at 93-99 Palmer St, Woolloomooloo, and existing development further to the north, viewed from the eastern side of Palmer St, facing north-west





**Figure 4:** The adjoining backpacker's accommodation development at 103-105 Palmer St, Woolloomooloo, and existing residential development further to the south viewed from the eastern side of Palmer St, facing south-west



**Figure 5:** The Cross City Tunnel workshop site opposite at 80-94 Palmer St, Woolloomooloo, viewed from the western side of Palmer St, facing east

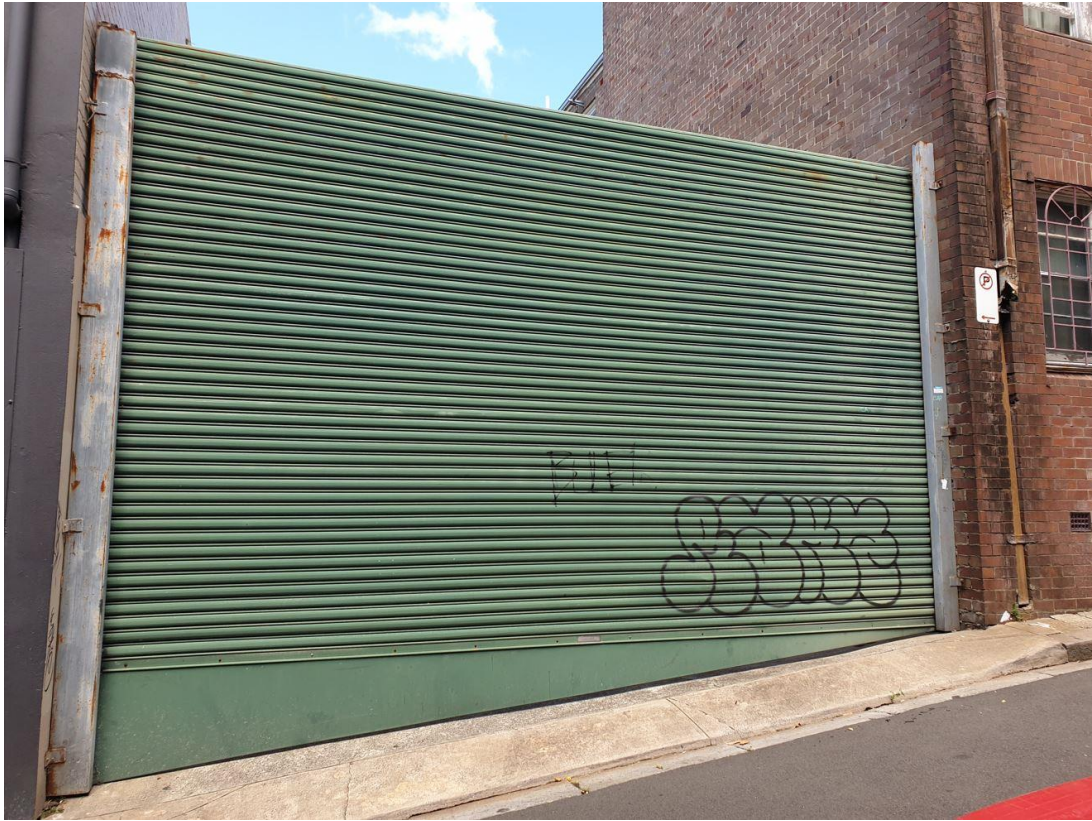




**Figure 6:** Cross City Tunnel administration building at 131 Cathedral St, Woolloomooloo, viewed from the western side of Palmer St, facing north-east



**Figure 7:** Vacant land at 100-122 Palmer St, Woolloomooloo, viewed from the western side of Palmer St, facing south-east



**Figure 8:** The subject site viewed from the western side of Faucett Ln, facing south-east





**Figure 9:** The rear of the adjoining site at 93-99 Palmer St, Woolloomooloo, viewed from the western side of Faucett Ln, facing north-east





**Figure 10:** The rear of the adjoining site at 103-105 Palmer St, Woolloomooloo, and existing residential development further to the south viewed from the western side of Faucett Ln, facing south-east



**Figure 11:** The mixed commercial and residential development known as 'Edo', opposite at 76-88 Crown St, Woolloomooloo, viewed from the eastern side of Faucett Ln, facing south-west





**Figure 12:** Residential sites diagonally opposite at 7 Faucett Ln and 68-70 Crown St, Woolloomooloo, viewed from the eastern side of Faucett Ln, facing north-west

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

#### **Relevant Application History - Subject Site**

18. The following application is relevant to the current proposal:

- (a) **PDA/2020/322** – Pre-development application advice was provided to the applicant on 11 December 2020 in relation to the proposed development of the subject site for a residential flat building.

The advice raised concern with proposed height and height in storeys, floor space ratio, demolition of the existing contributing building, location of additions, compliance with the ADG and design of the roof terrace.

### Relevant Application History - Adjoining Site

19. The following application is relevant to the current proposal:

- (a) **D/2014/1955 (103-105 and 107 Palmer Street, Woolloomooloo)** – Development consent was granted by the Land and Environment Court of New South Wales on 12 August 2016 on land to the immediate south of the site.

This included the amalgamation of the two sites at 103-105 and 107 Palmer Street, Woolloomooloo, demolition of an existing three storey building and construction of a five storey residential flat building containing 19 apartments with basement car parking, and alterations and additions to an existing terrace to create two separate apartments.

This consent has not yet been activated and, due to the operation of Section 4.53(1)(c) of the Environmental Planning and Assessment Act, 1979, this development consent will not lapse until 12 August 2023.

### Compliance Action

20. The subject site is not subject to any compliance actions or investigations.

### Amendments

21. Following lodgement of the application, preliminary information for assessment was requested from the applicant.
22. This information was submitted by the applicant at different points across July and August 2021.
23. A request for withdrawal of the application was sent to the applicant on 12 August 2021 reiterating the concerns raised in the pre-development application advice provided on 11 December 2020.
24. The request also outlined additional concerns relating to heritage impacts, insufficient information, ADG compliance, height, acoustic privacy and natural ventilation, communal open space, landscaping, residential amenity and design excellence.
25. A meeting was held between the applicant, site owner, consultant planner and Council staff on 26 August 2021. Following the meeting, amended drawings and additional information were submitted to the City by the applicant on 23 September 2021.
26. The application was presented to the meeting of the City's Design Advisory Panel Residential Subcommittee (DAPRS) held on 5 October 2021 (refer to the Advice Sheet provided at Attachment C).

27. Following the DAPRS meeting, a request for amended drawings and additional information was sent to the applicant on 21 October 2021 to address the issues raised by the DAPRS and additional concerns raised by Council staff relating to heritage, urban design, planning and landscape matters.
28. Amended drawings and additional information was submitted to the City at various points across November 2021, with a number of requested documents not provided.
29. Follow up requests for the outstanding information were made in December 2021 and January 2022.
30. Amended drawings and additional information was submitted on 9 February 2022, ahead of a meeting held on 10 February 2022 between the applicant, site owner and Council staff. Following the meeting, amended drawings and additional information was submitted to the City at various points across March 2022.
31. Further requests for outstanding information and amended drawings were sent to the applicant in May and June 2022.
32. Amended drawings and additional information was submitted to the City on 6 July 2022.
33. A range of other information was requested by and submitted to the City across November 2022.

### **Proposed Development**

34. The application, as amended, seeks development consent for alterations and additions to an existing residential terrace to construct a residential flat building with six storeys, ten apartments, one basement level for bicycle and waste storage, roof top communal open space and associated landscaping works. No onsite car parking is proposed.
35. Specifically, the proposal involves the following:
  - (a) demolition of the roller door to Faucett Lane, concrete hardstand and brick pavers in the rear yard;
  - (b) demolition of the roof, ground and first floor rear wing of the existing terrace;
  - (c) partial demolition of internal walls, entry porch, balcony and staircase of the existing terrace;
  - (d) excavation of the rear portion of the site;
  - (e) construction of a new residential flat building, including the following:
    - (i) Basement Floor: Lift and lift pit, stair and bin lift to Faucett Lane, internal stair, bin store, bulky waste store, apartment storage, hydrant and fire services room, new structure to support the retained terrace above including blade walls and pad footings;

- (ii) Ground Floor: Entry lobby to Palmer Street, internal lift, lift lobby and stair, stair and bin lift to Faucett Lane, hot water system tanks and store, the lower level of an apartment within the retained terrace fronting Palmer Street, and the lower level of an apartment, with an external terrace and landscape planter fronting Faucett Lane;
  - (iii) First Floor: The upper level of an apartment within the retained terrace fronting Palmer Street, and the upper level of an apartment fronting Faucett Lane, internal lift, lift lobby and stair;
  - (iv) Second Floor: Two accessible studio apartments, each with external roof terraces, landscape planter to Faucett Lane, internal lift, lift lobbies and stair;
  - (v) Third Floor: Two studio apartments, each with external balconies, internal lift, lift lobbies and stair;
  - (vi) Fourth Floor: Two studio apartments, each with external balconies, internal lift, lift lobbies and stair;
  - (vii) Fifth Floor: Two studio apartments, each with external balconies, internal lift, lift lobbies and stair;
  - (viii) Roof Terrace: Communal roof terrace, BBQ and bench, landscape planters internal lift, lift lobbies and stair; and
  - (ix) Roof: Adjustable louvred vergola roof over the roof terrace, lift overrun, and air conditioning plant enclosure; and
- (f) conservation works to the retained terrace, including:
- (i) reuse and repair of existing timber framed doors and transoms;
  - (ii) removal of existing carpet and salvage, repair and reuse of existing timber floors;
  - (iii) retention of existing entry archway and fireplaces;
  - (iv) retention, repair and reuse of existing windows and timber framing;
  - (v) repair and replacement of front porch tiles;
  - (vi) removal of existing paint from face brickwork, cleaning, restoration and repair or mortar joints;
  - (vii) removal of balcony tiles and repair and replacement of timber elements;
  - (viii) repair of balcony balustrade;
  - (ix) retention and repair of corrugated metal balcony roof; and
  - (x) cleaning, repair, repainting and reinstatement of parapet details.
36. Plan, elevation, section, detail, materials, landscape, photomontage and perspective drawing extracts of the proposed development are reproduced in the figures provided below.

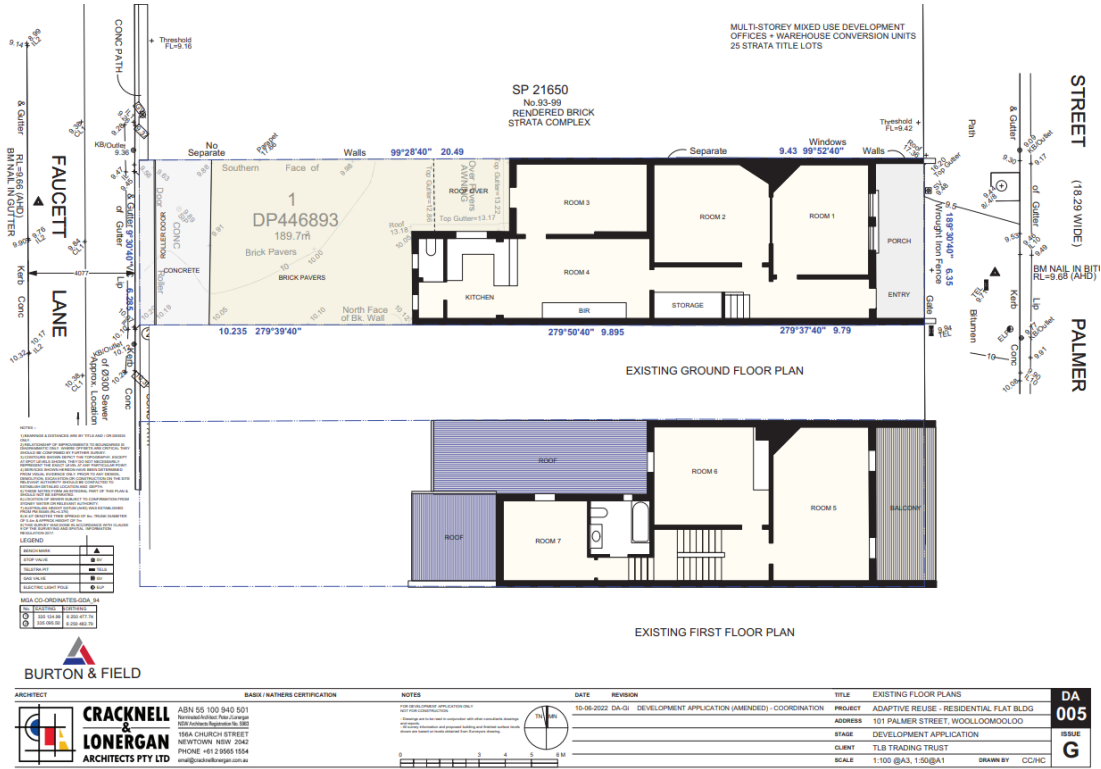


Figure 13: Existing ground and first floor plans

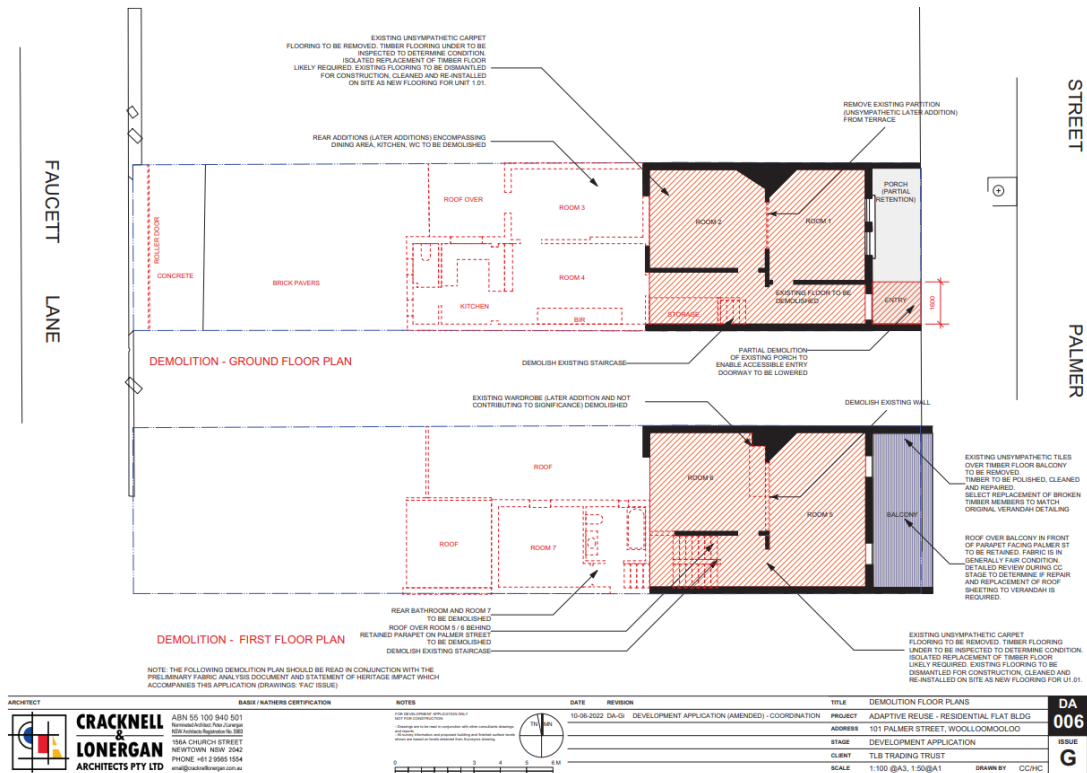


Figure 14: Demolition ground and first floor plans



Figure 15: Conservation works plan and photographs



Figure 16: Conservation works plan and photographs





Figure 17: Conservation works plan and photographs



Figure 18: Conservation works plan and photographs

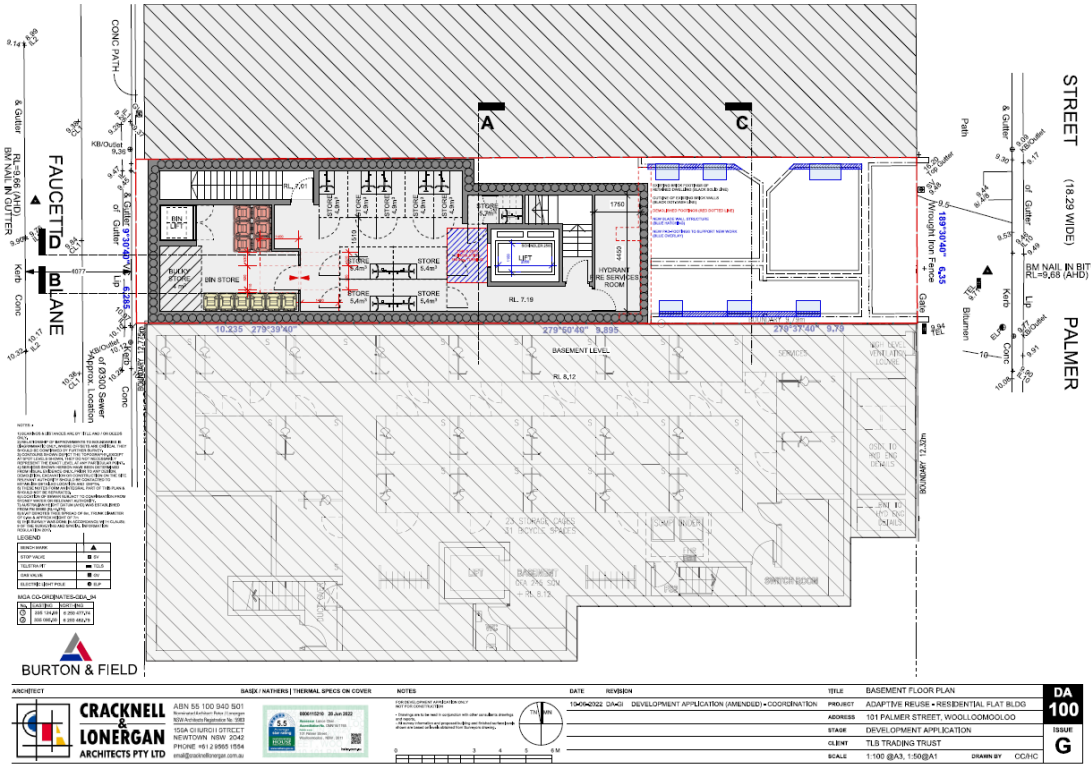


Figure 19: Proposed basement floor plan

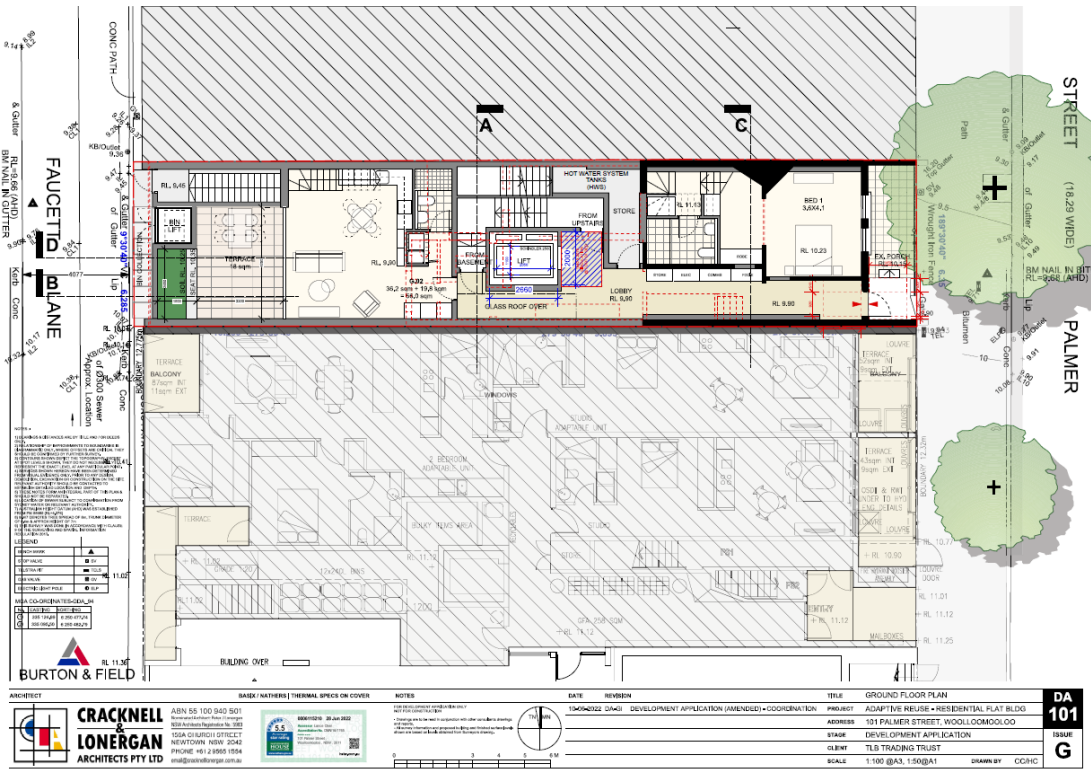


Figure 20: Proposed ground floor plan

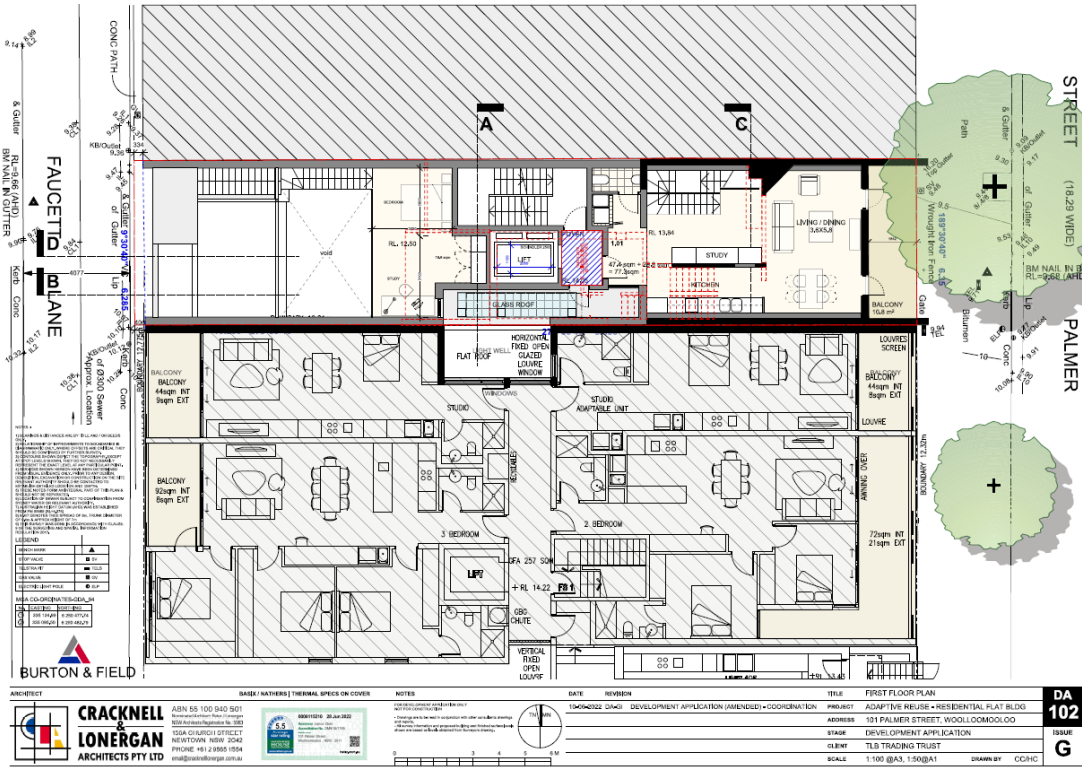


Figure 21: Proposed first floor plan

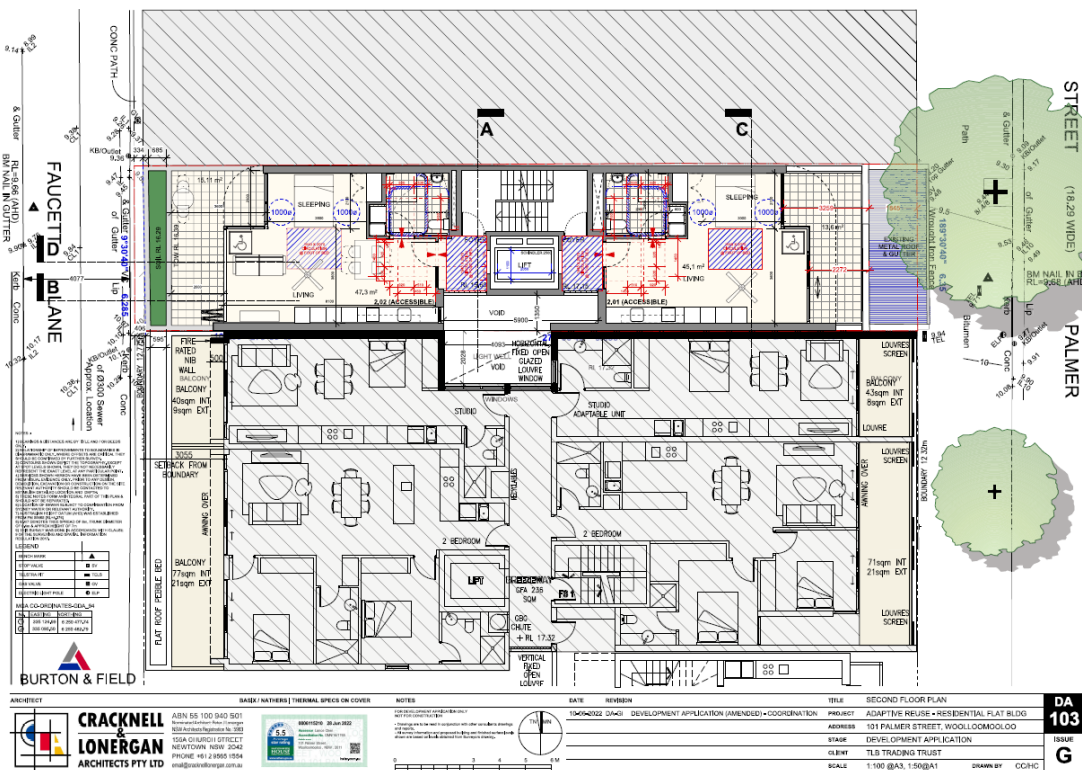


Figure 22: Proposed second floor plan



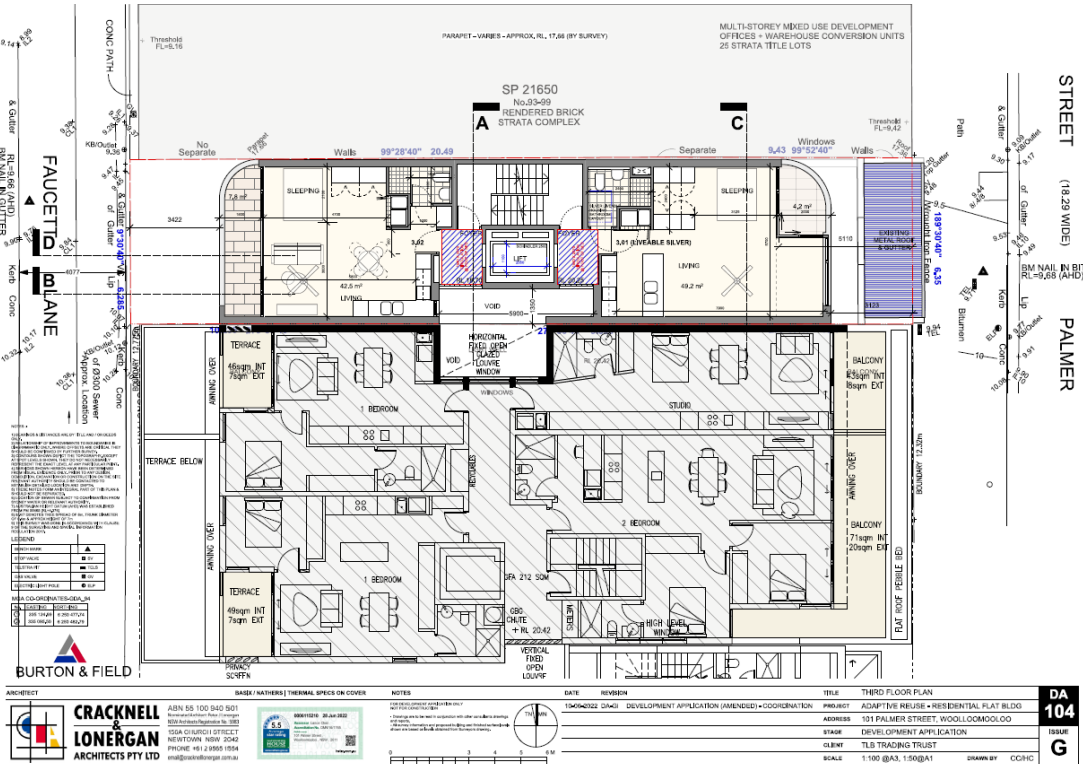


Figure 23: Proposed third floor plan

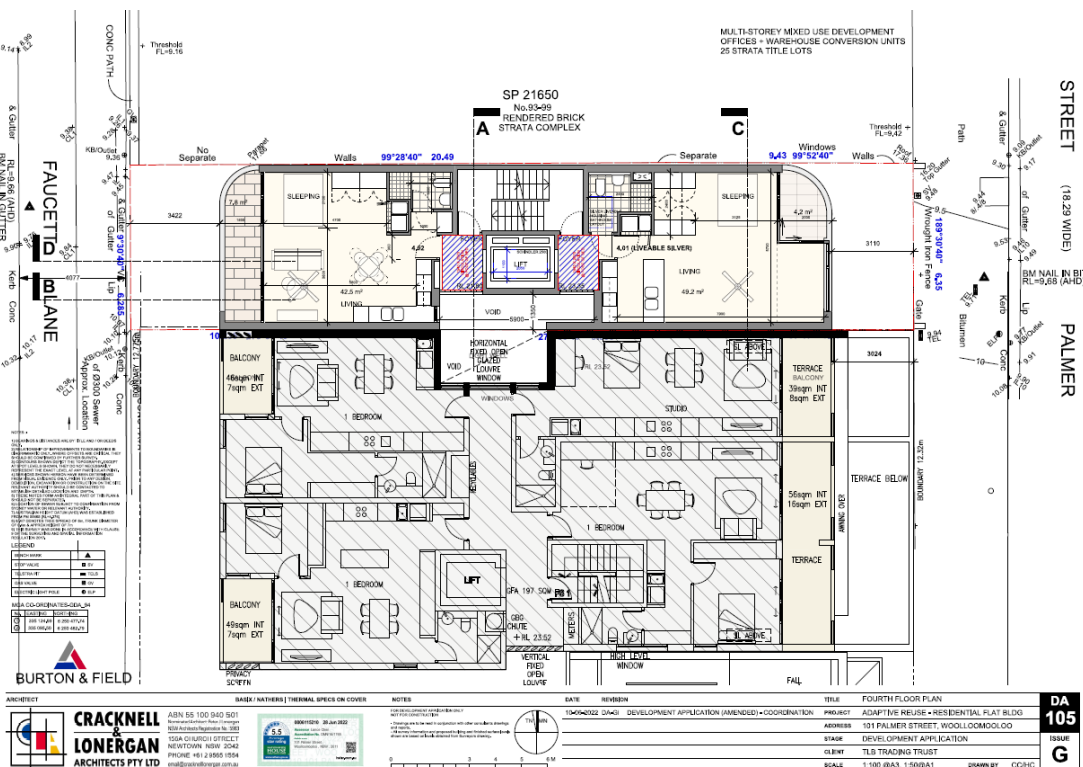


Figure 24: Proposed fourth floor plan

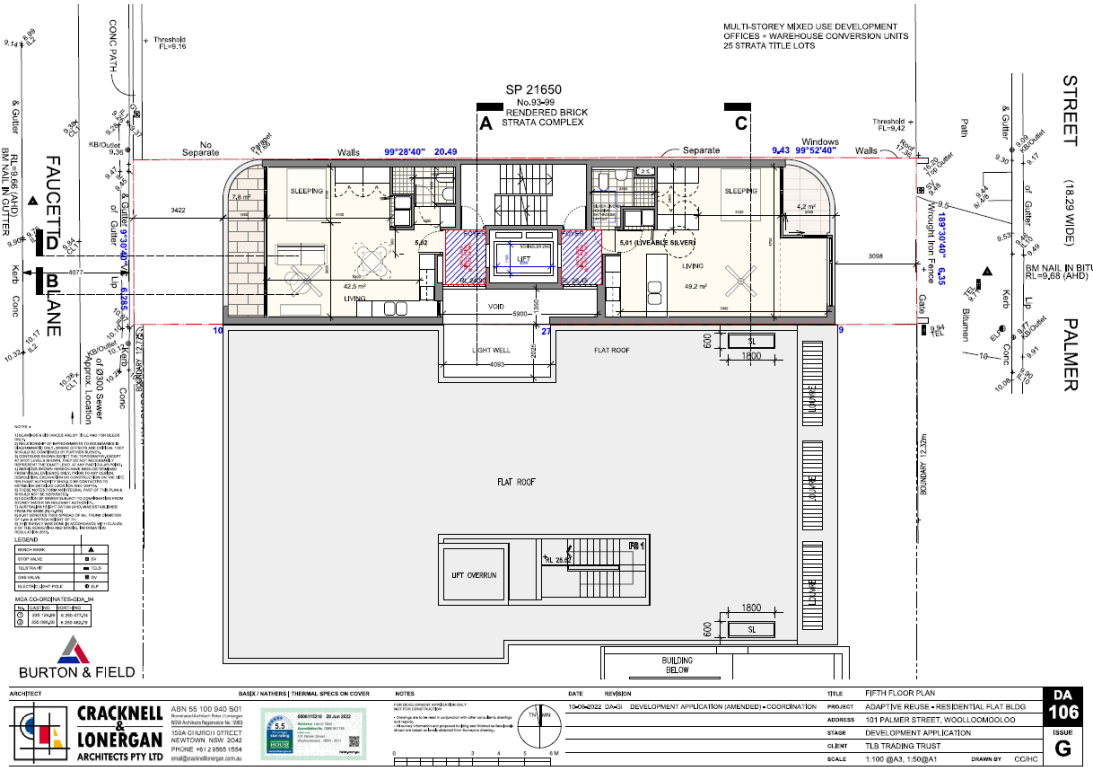


Figure 25: Proposed fifth floor plan

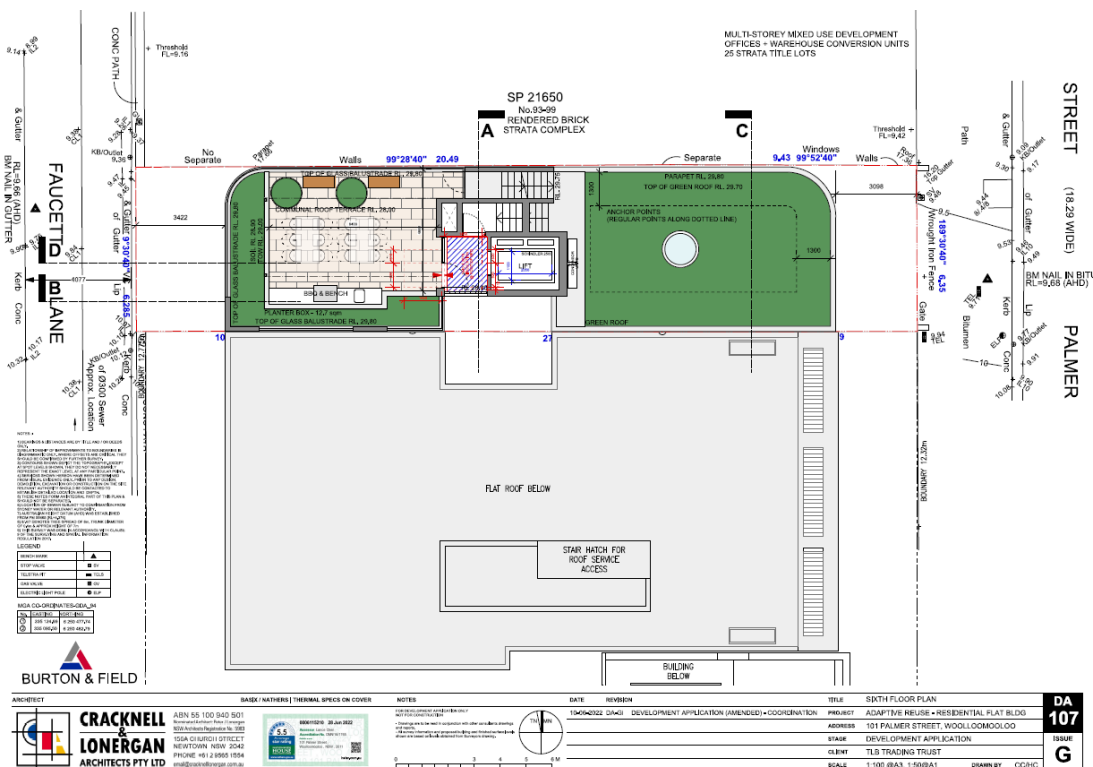


Figure 26: Proposed roof terrace plan

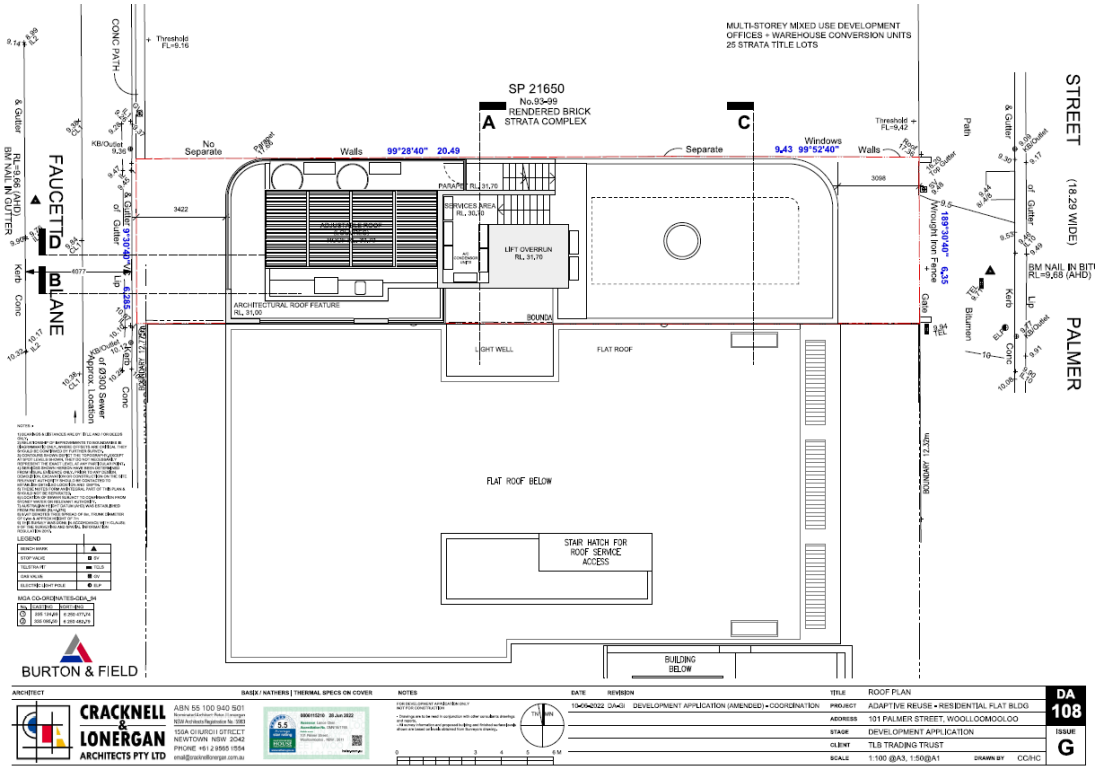


Figure 27: Proposed roof plan

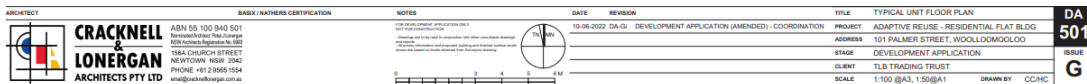
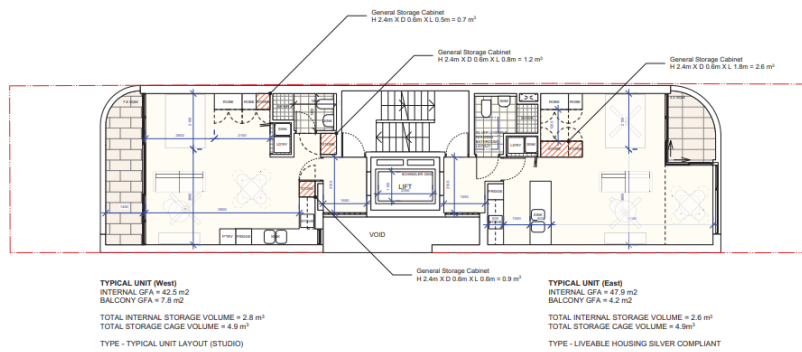


Figure 28: Proposed typical unit floor plan





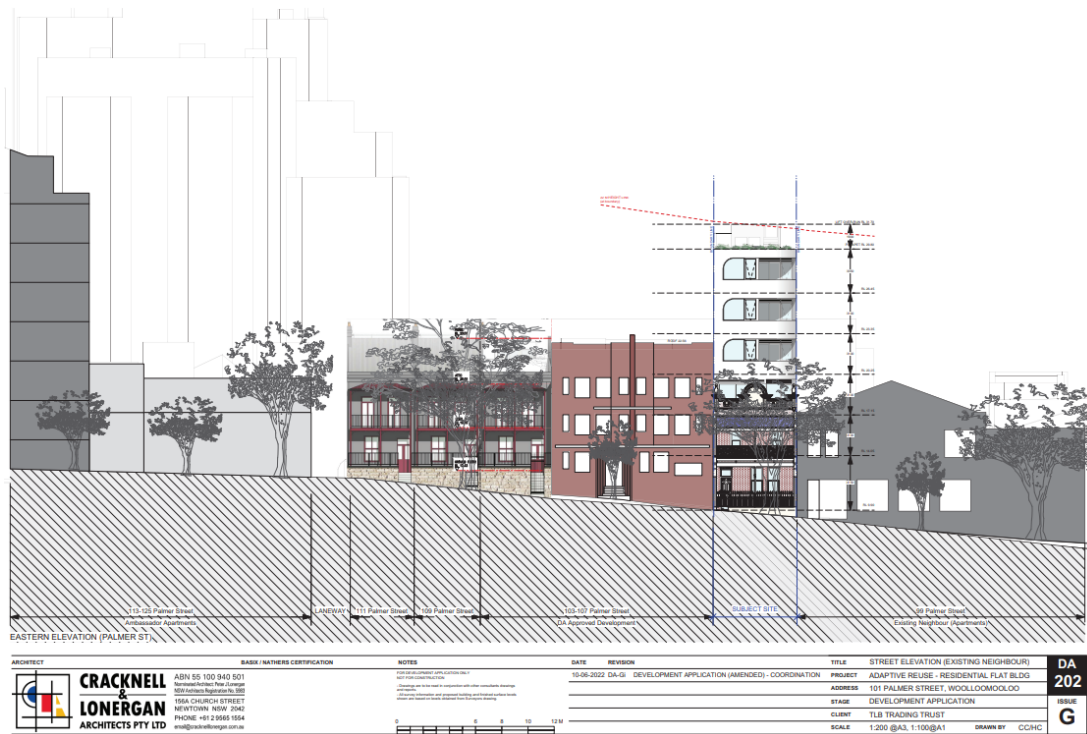


Figure 31: Proposed east Palmer St context elevation (existing development shown adjacent)

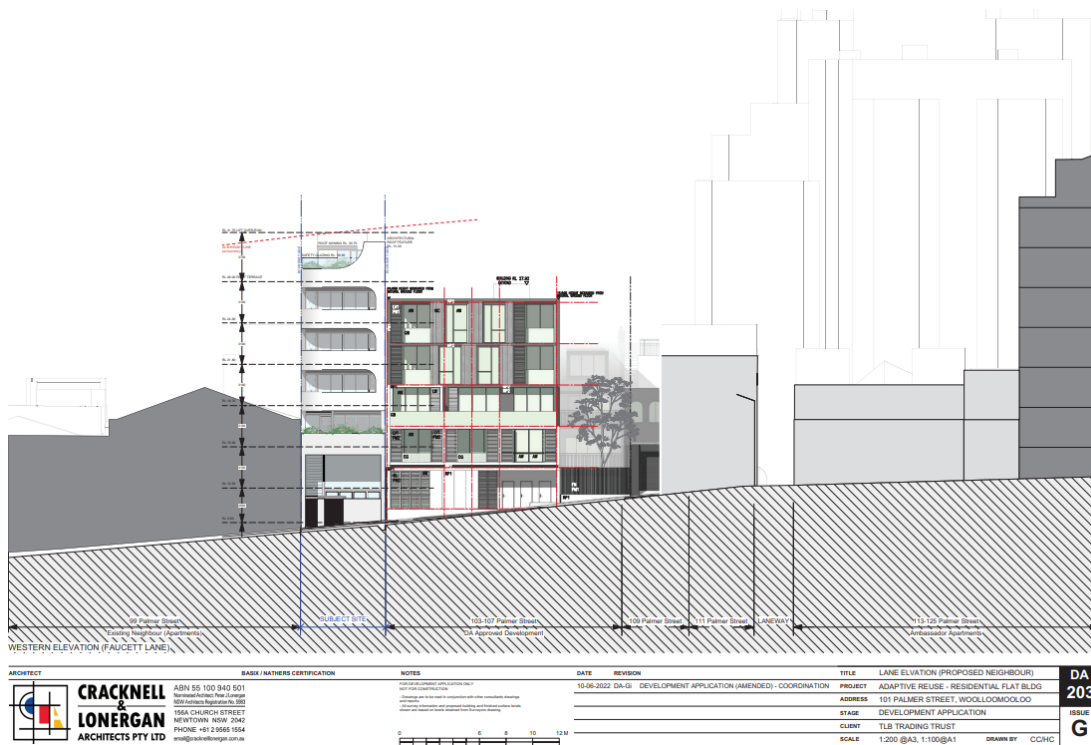


Figure 32: Proposed west Faucett Ln context elevation (NSW LEC approval shown adjacent)



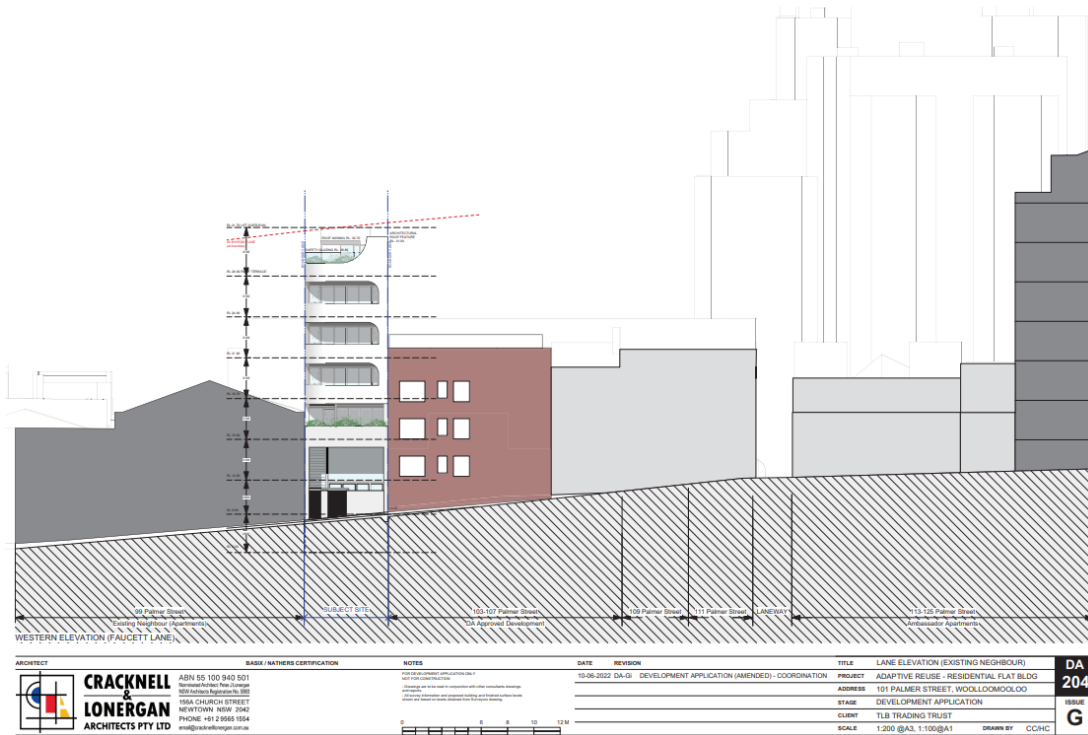


Figure 33: Proposed west Faucett Ln context elevation (existing development shown adjacent)

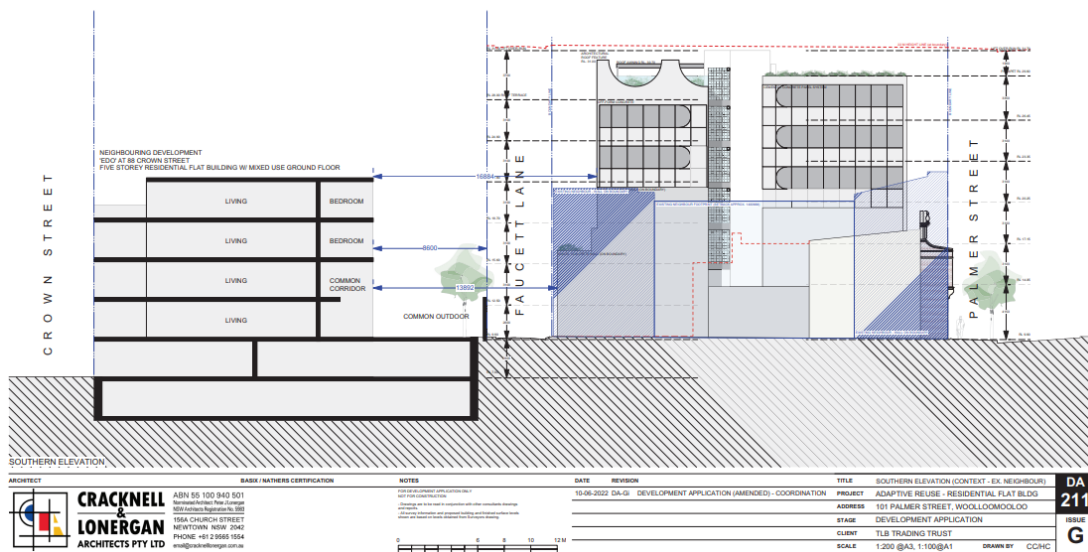


Figure 34: Proposed south context elevation, demonstrating separation distance to 'Edo' at 76-88 Crown St, Woolloomooloo

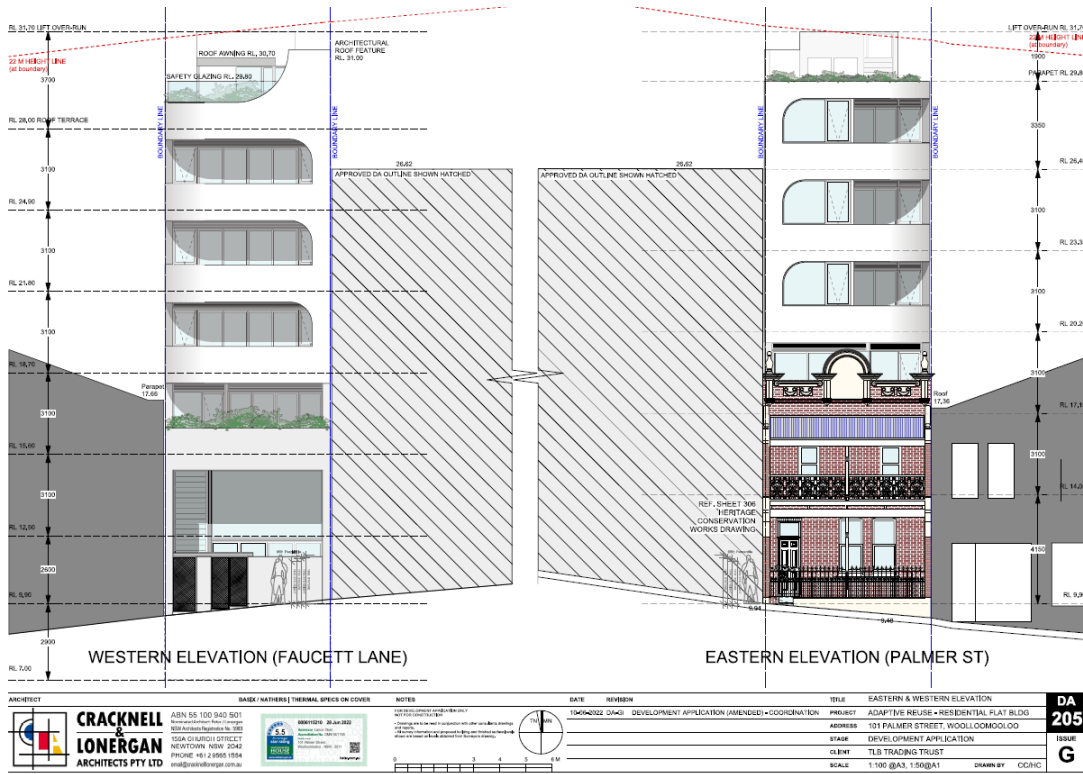


Figure 35: Proposed west Faucett Ln elevation (left) and east Palmer St elevation (right)

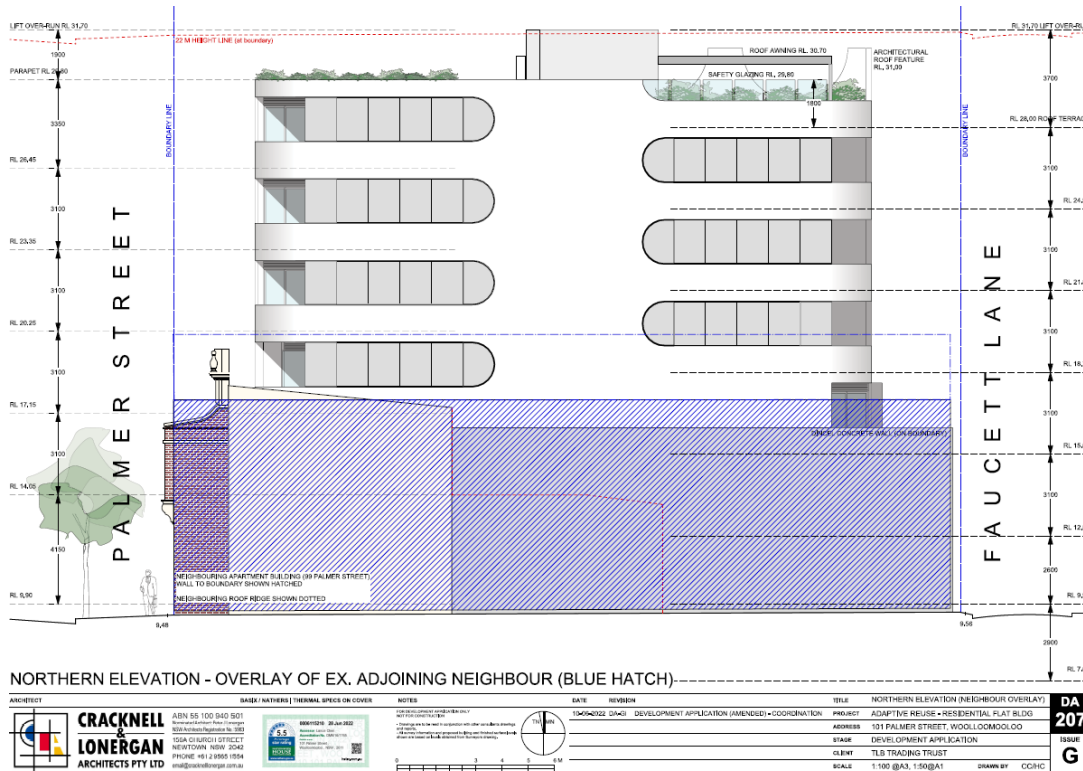


Figure 36: Proposed north side elevation

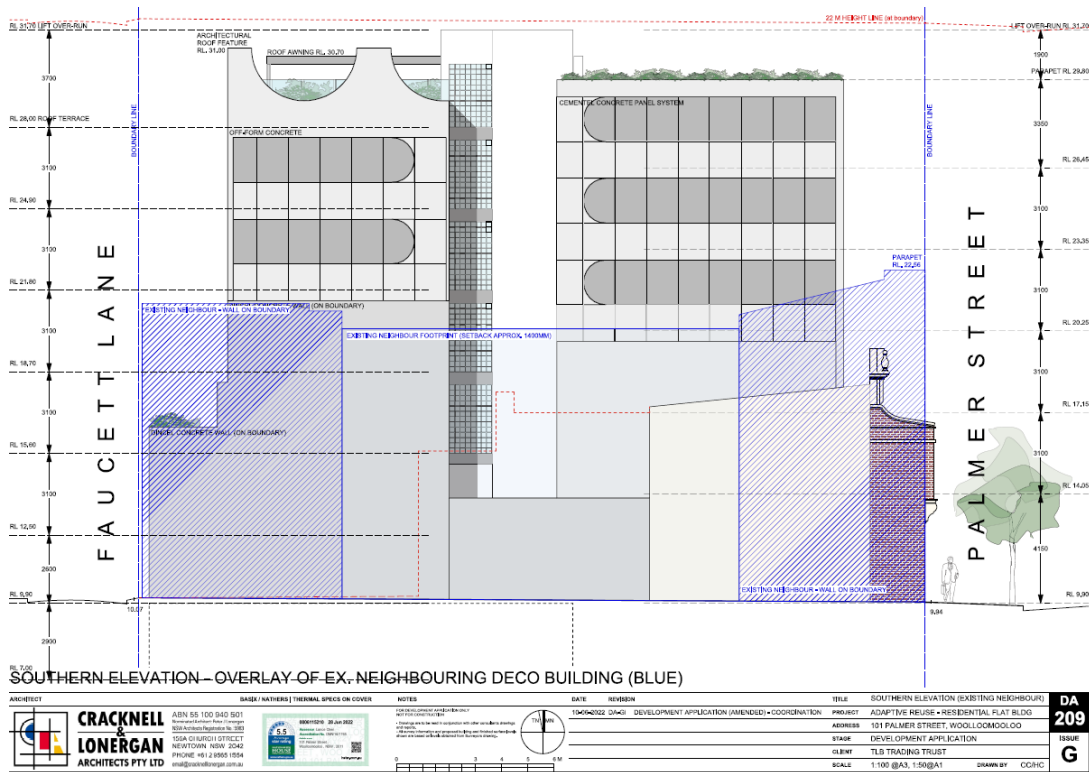


Figure 37: Proposed south side elevation

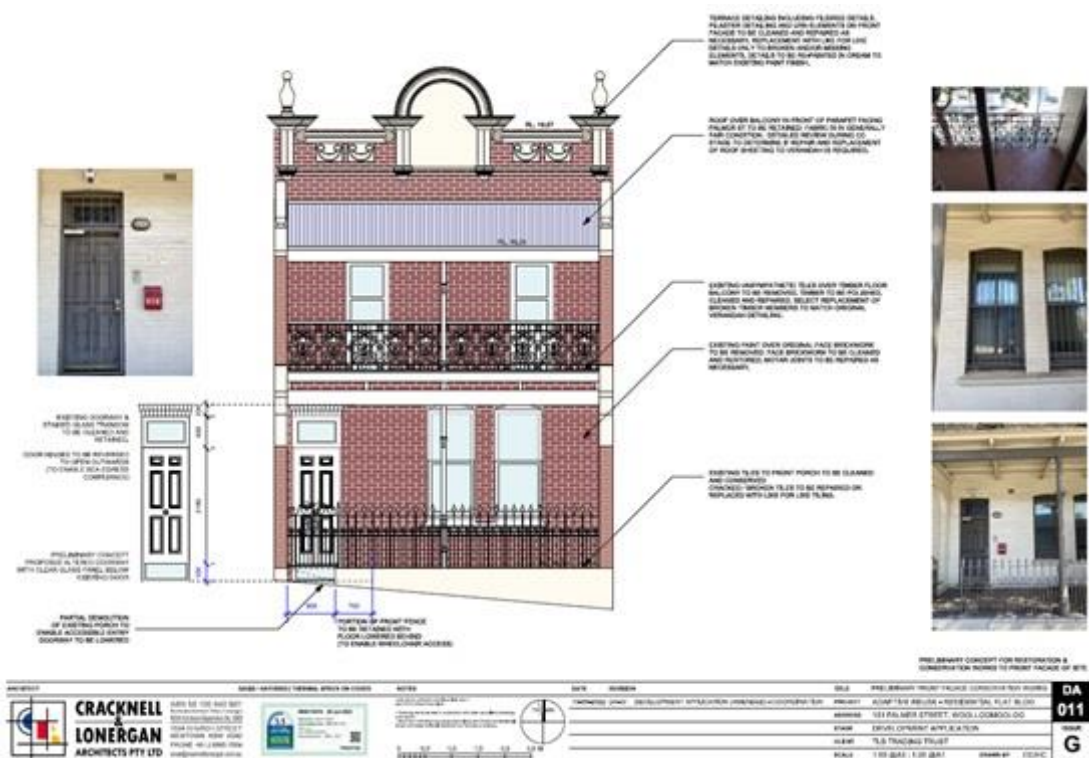


Figure 38: Proposed front (Palmer St) facade conservation works elevation

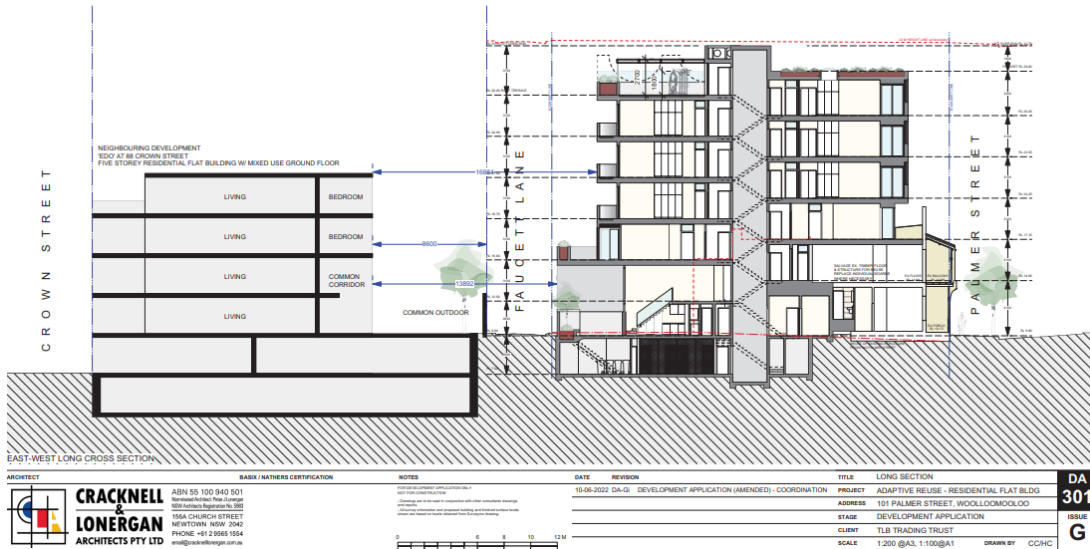


Figure 39: Proposed context long section, demonstrating separation distance to 'Edo' at 76-88 Crown St, Woolloomooloo

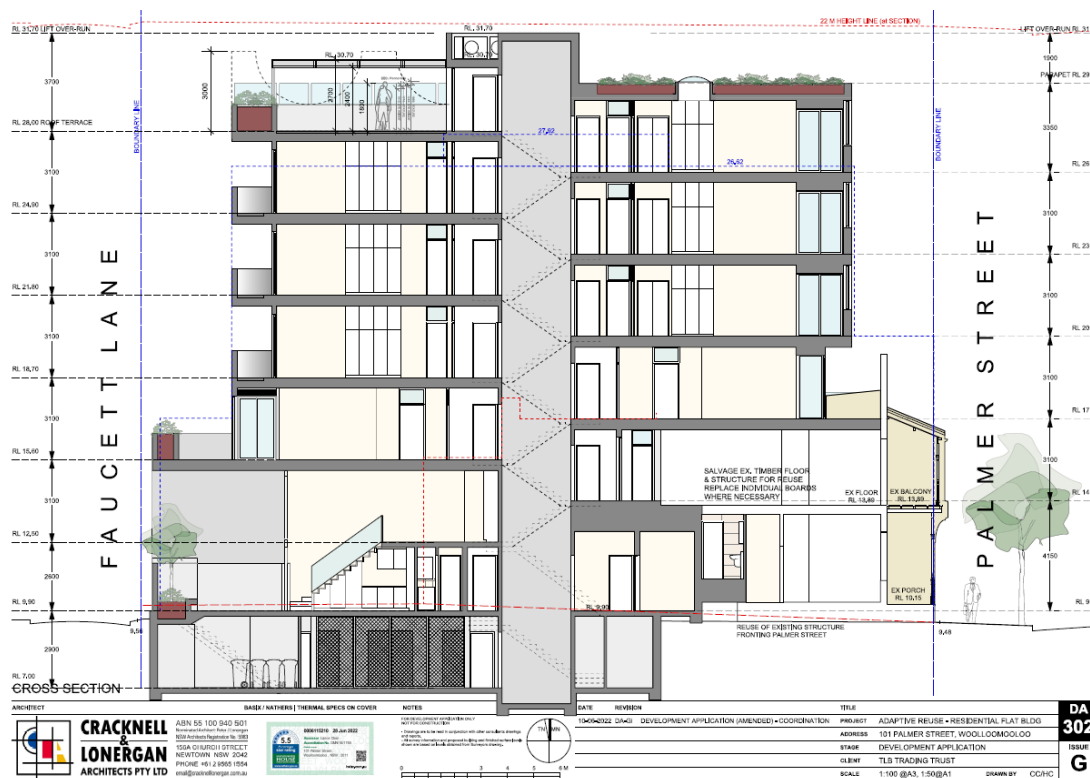


Figure 40: Proposed cross section



Figure 41: Proposed short sections





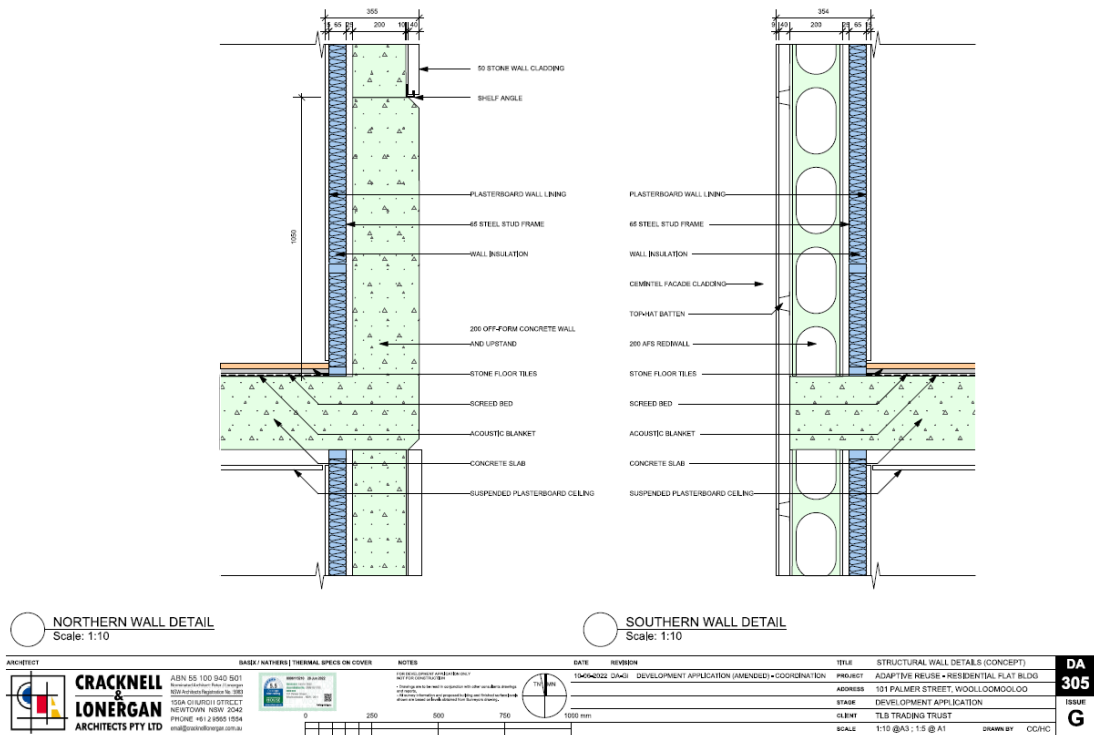


Figure 43: Proposed concept structural wall detail sections

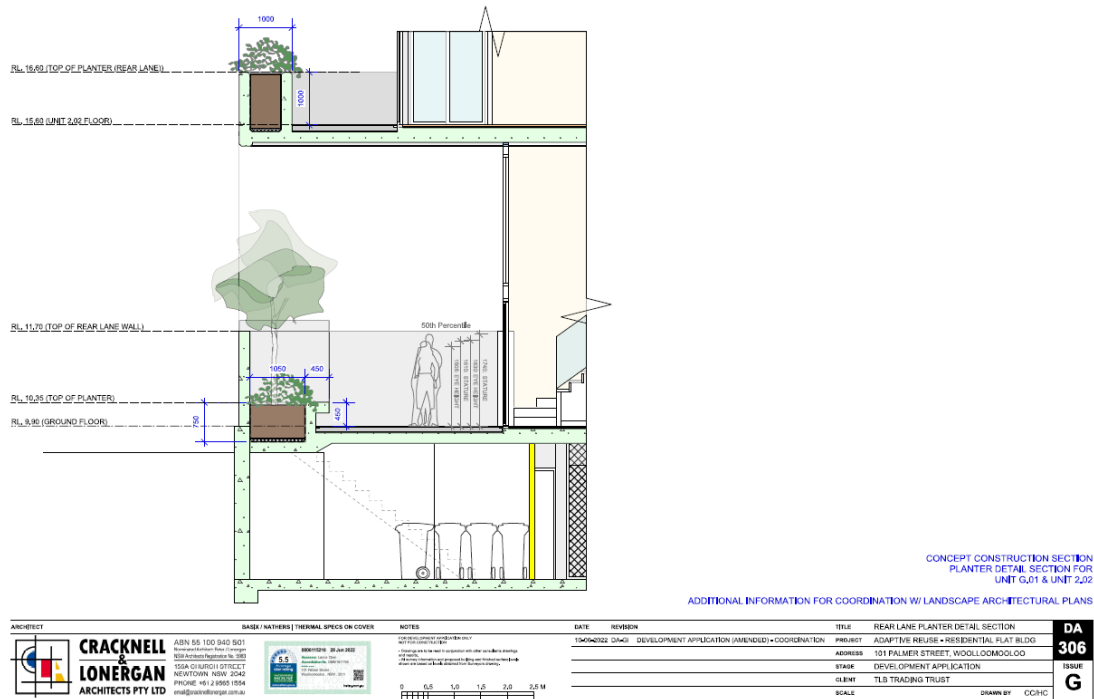


Figure 44: Proposed rear lane planter detail section

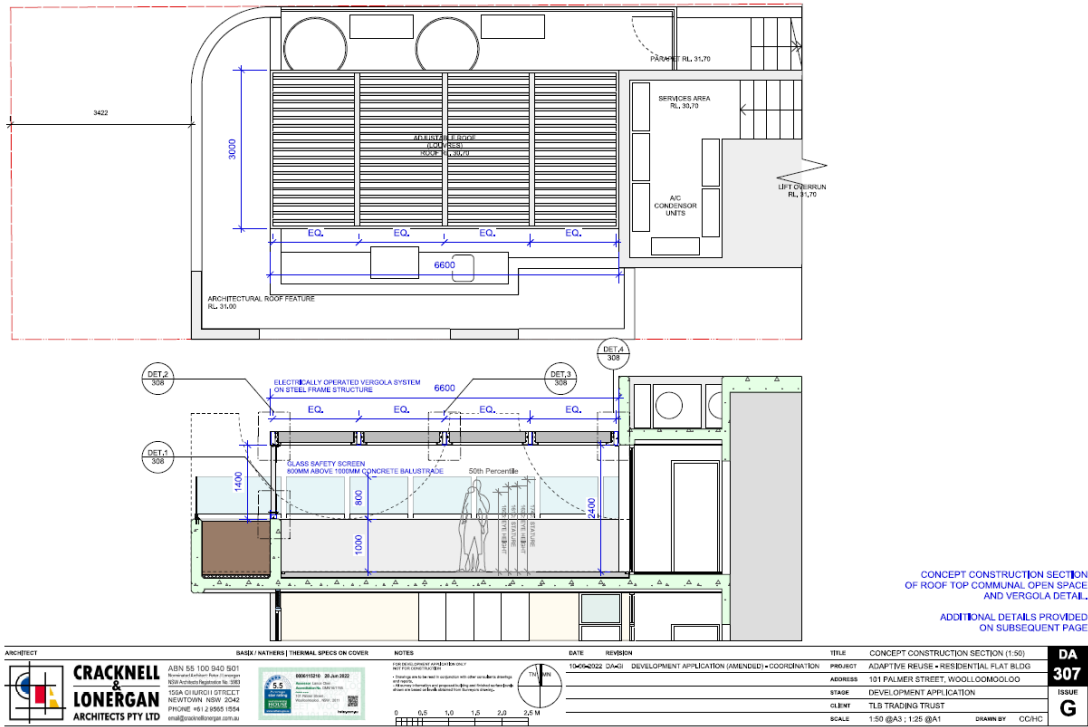


Figure 45: Proposed concept roof construction plan and section

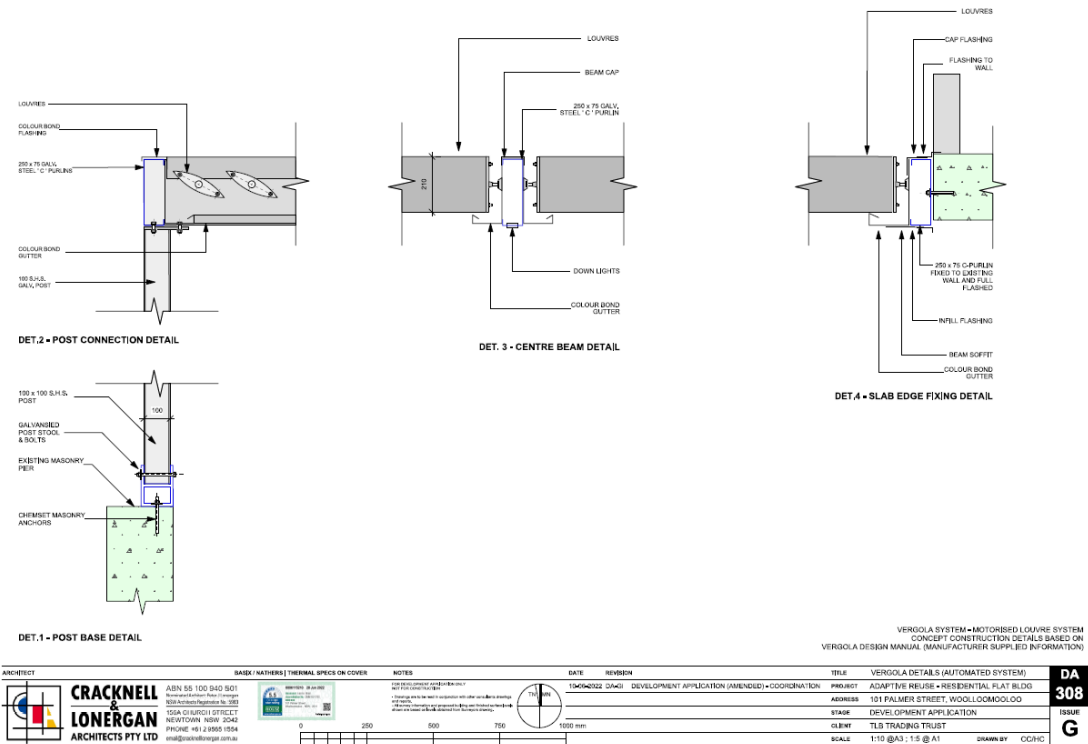


Figure 46: Proposed automated vergola detail sections



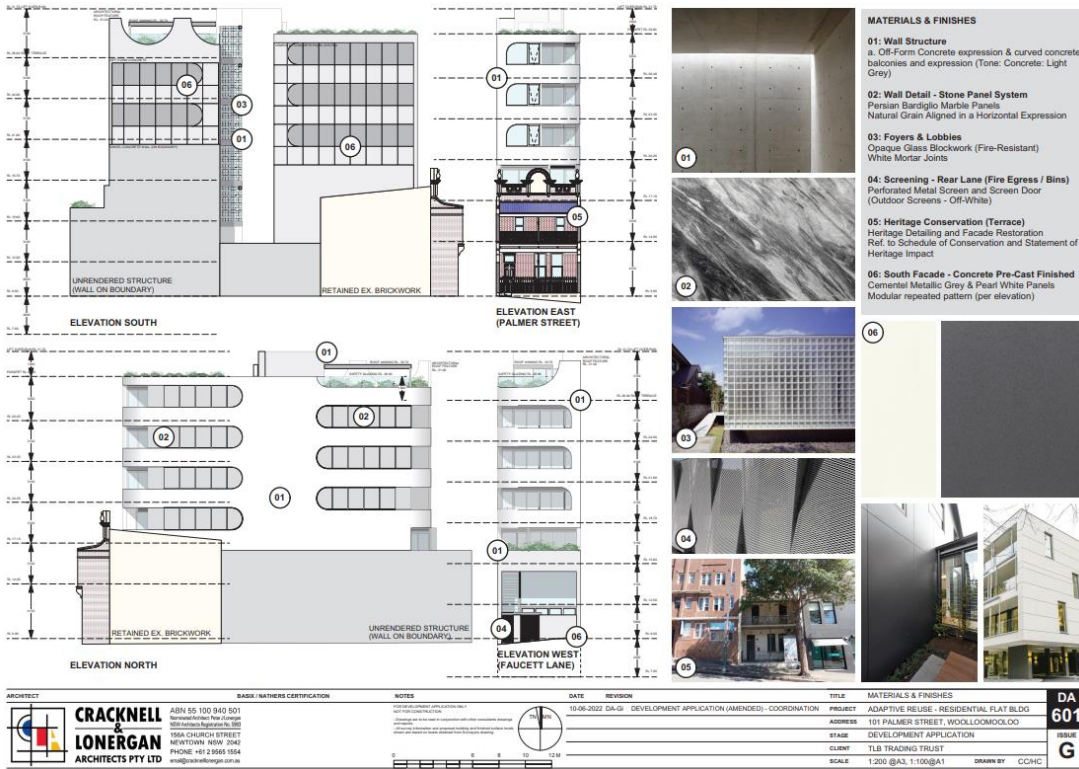


Figure 47: Proposed materials and finishes

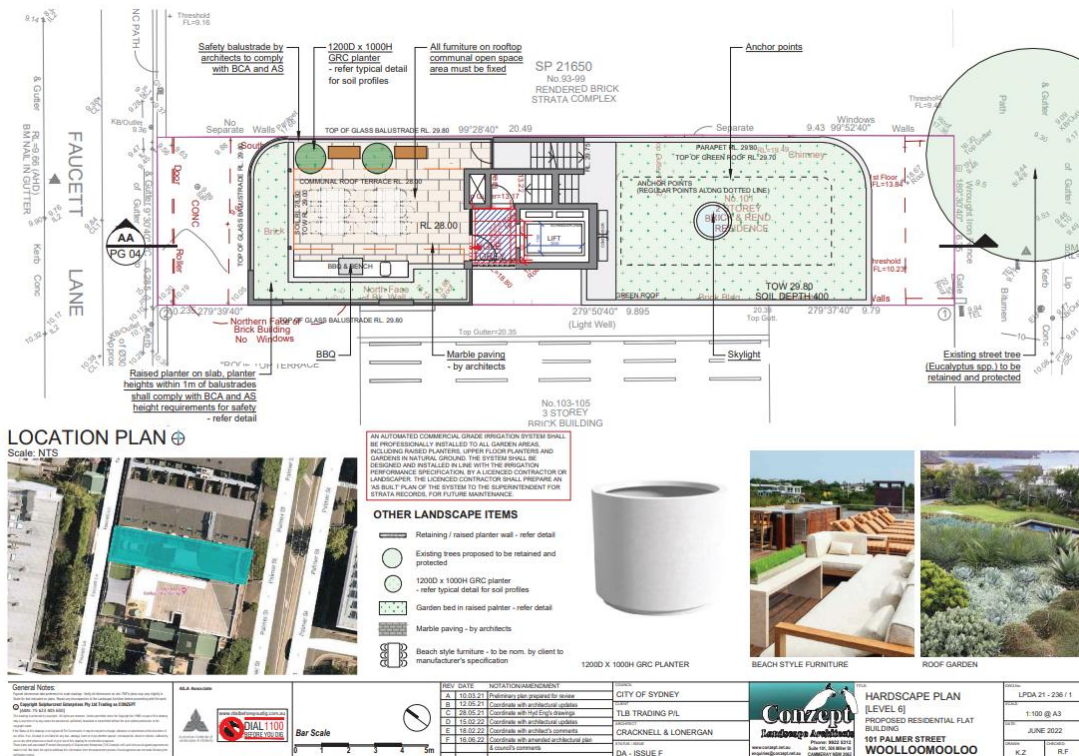


Figure 48: Proposed roof terrace hardscape plan

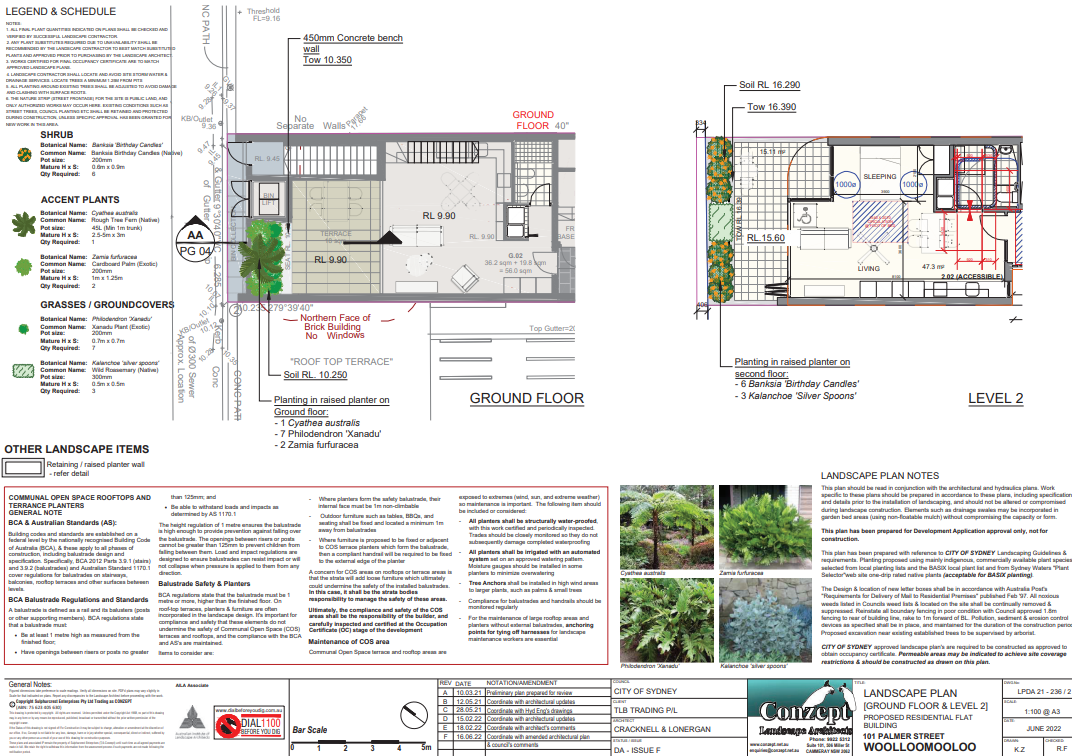


Figure 49: Proposed ground and first floor landscape plans

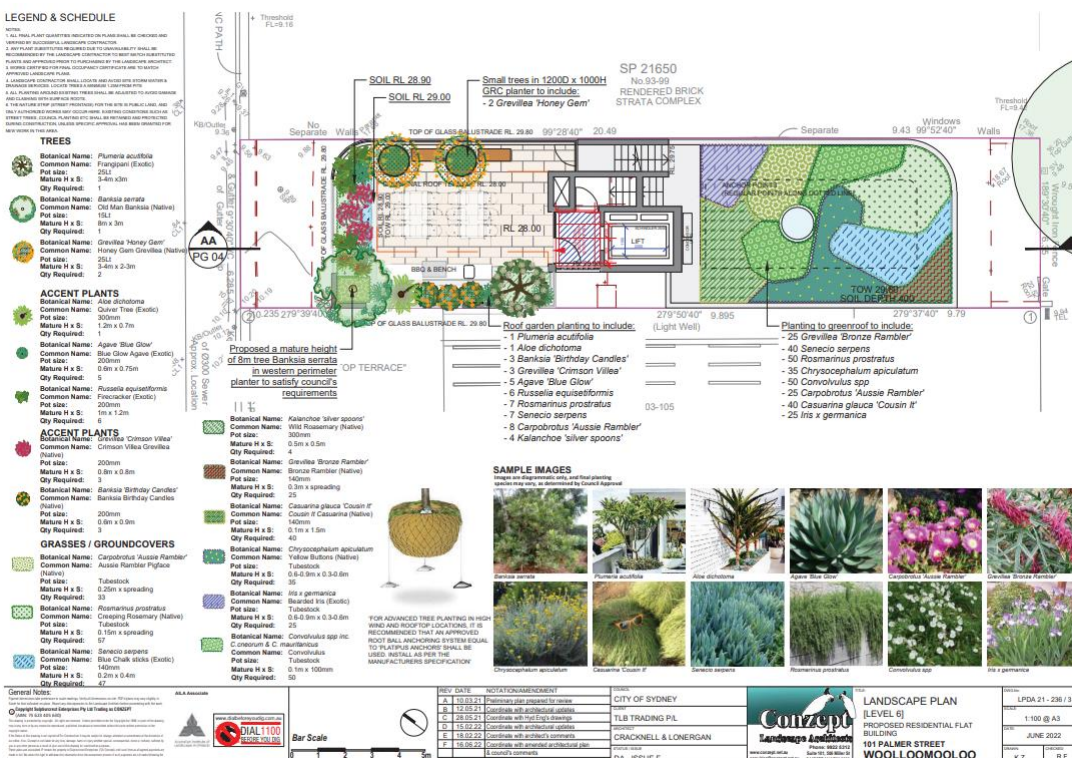


Figure 50: Proposed roof terrace landscape plan



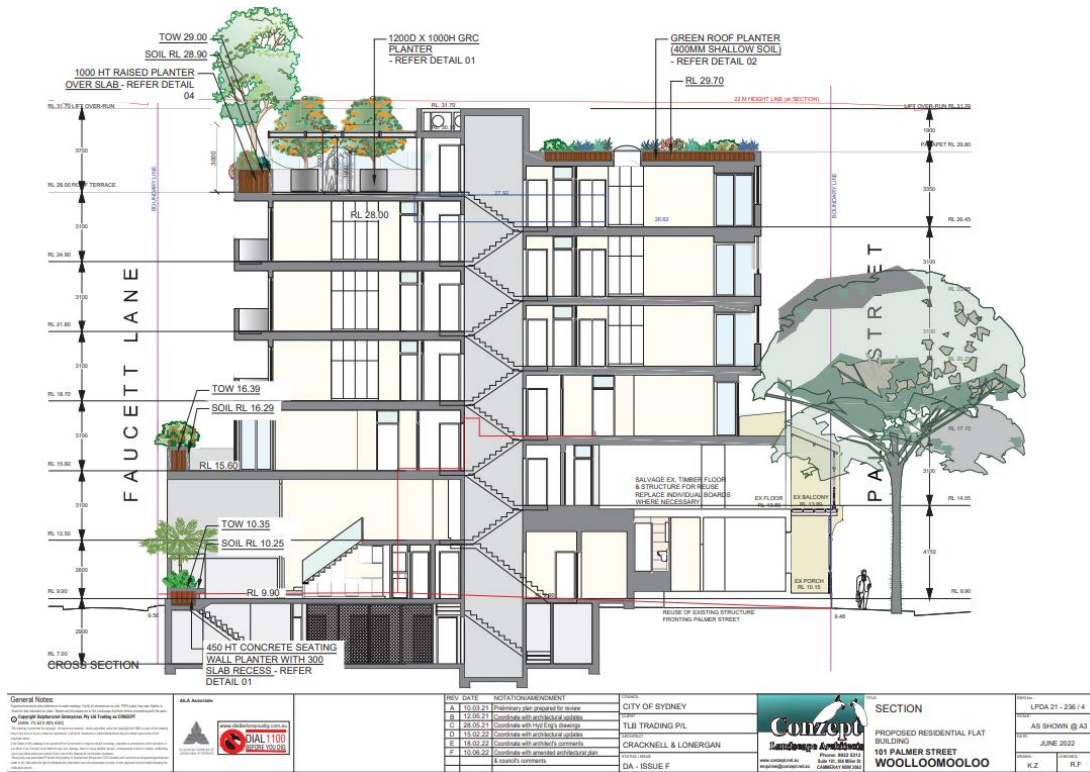


Figure 51: Proposed landscape section

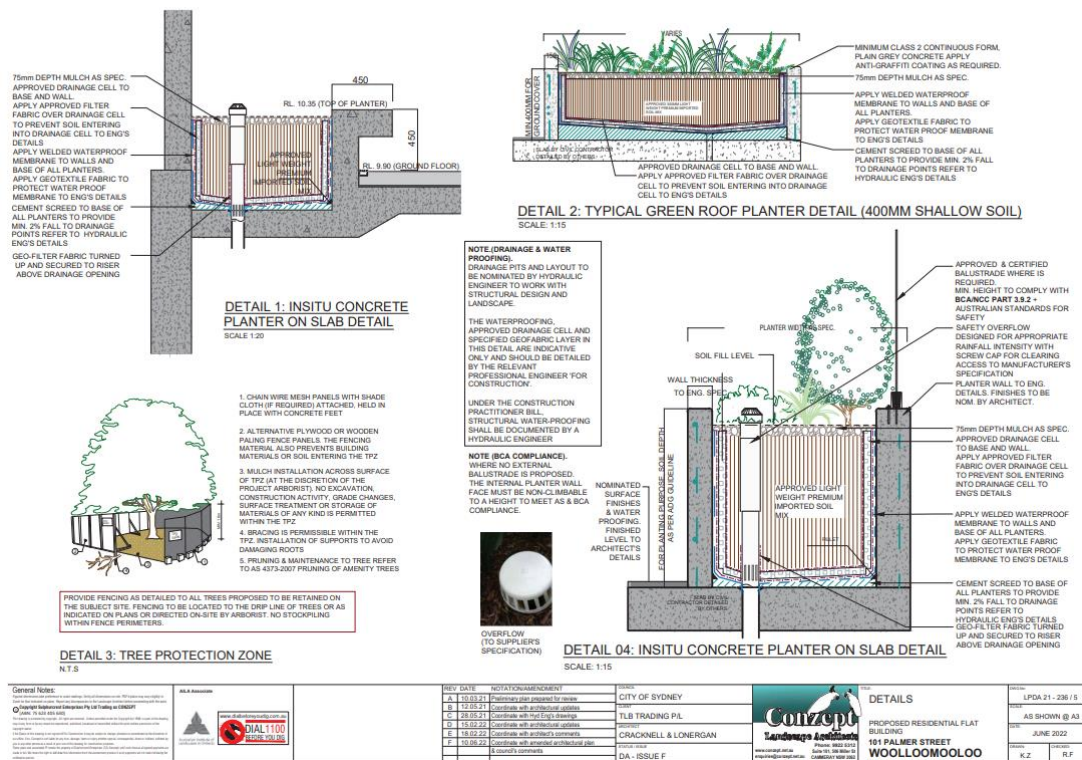


Figure 52: Proposed landscape details







Figure 55: Proposed photomontage viewed from the eastern side of Palmer St, looking north-west (existing development shown adjacent)



Figure 56: Proposed photomontage viewed from the eastern side of Palmer St, looking north-west (block model of NSW LEC approval shown adjacent)





Figure 57: Proposed photomontage viewed from the western side of Faucett Ln, looking north-east (existing development shown adjacent)



Figure 58: Proposed photomontage viewed from the western side of Faucett Ln, looking north-east (block model of NSW LEC approval shown adjacent)

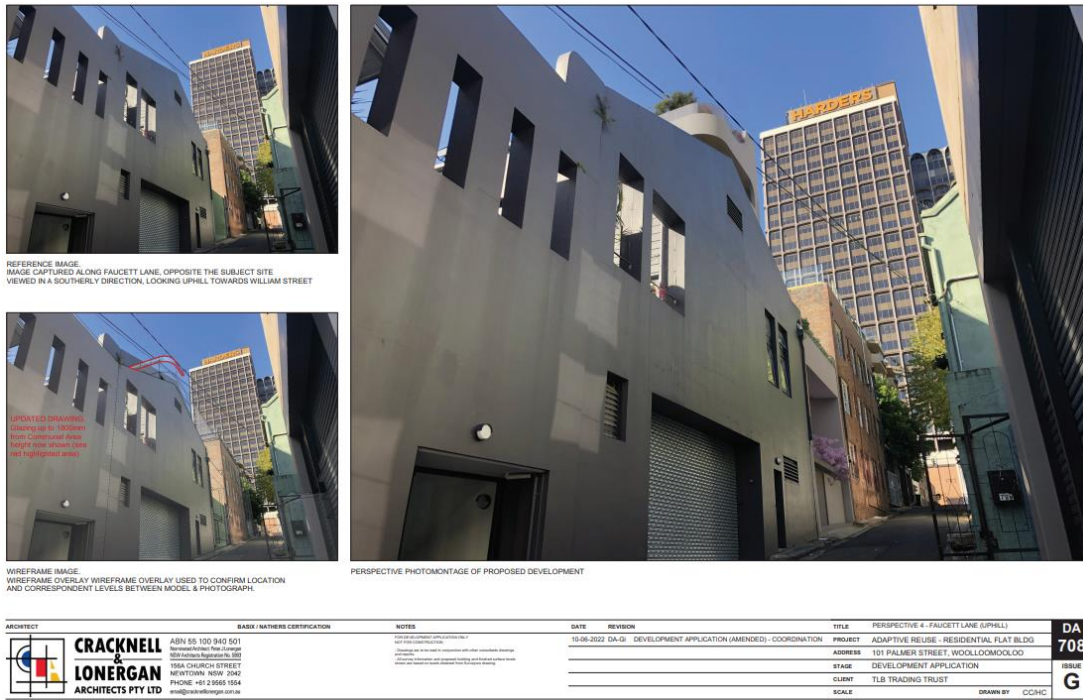


Figure 59: Proposed photomontage viewed from the western side of Faucett Ln, looking south-east (existing development shown adjacent)

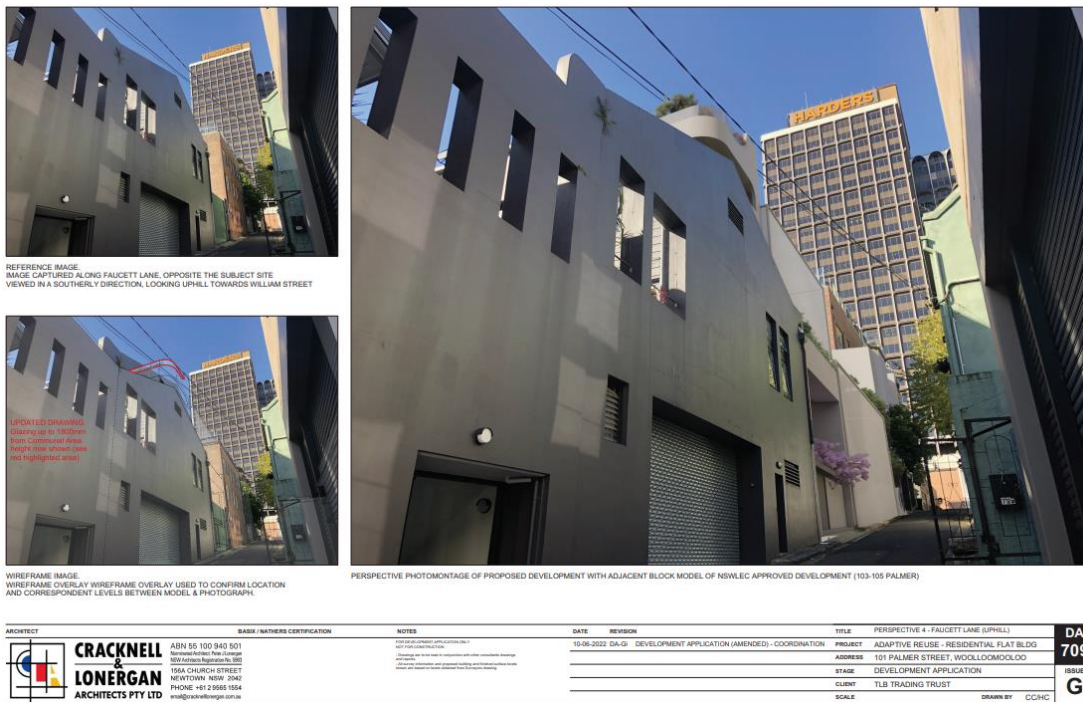


Figure 60: Proposed photomontage viewed from the western side of Faucett Ln, looking south-east (block model of NSW LEC approval shown adjacent)



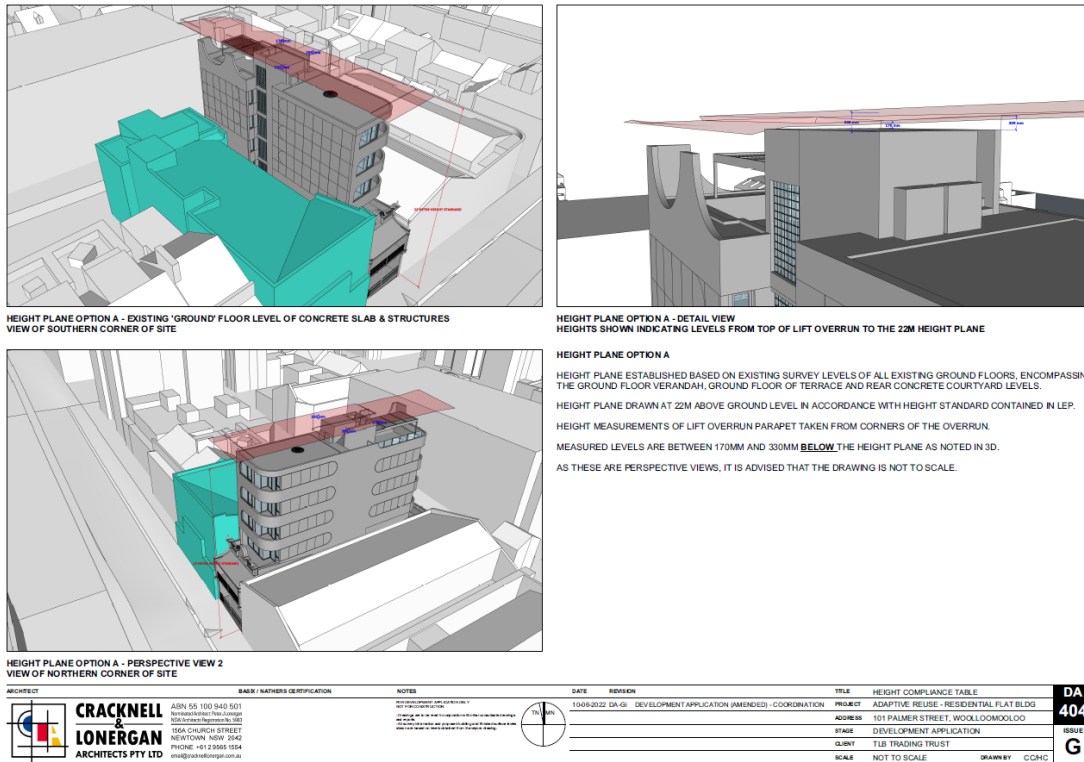


Figure 61: Proposed height plane perspective diagrams, indicating maximum 22 metre height plane

**Assessment**

- 37. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act, 1979.

**Sydney Water Act 1994**

- 38. Section 78 of the Sydney Water Act, 1994 sets out various requirements for the notification of development applications to the Sydney Water Corporation (SWC).
- 39. The application was referred to the SWC in accordance with the Act.
- 40. A response was received from the SWC, raising no objections to the proposal, subject to the recommended conditions in Attachment A.

**Environmental Planning and Assessment Regulation 2021**

- 41. Schedule 6, Part 1(3) of the Environmental Planning and Assessment Regulation, 2021 states that:

The 2000 Regulation continues to apply instead of this Regulation to a development application and an application for a complying development made but not finally determined before 1 March 2022.

42. The subject development application was made prior to 1 March 2022 and the Environmental Planning and Assessment Regulation, 2000 applies to the proposal as a result.

## State Environmental Planning Policies

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

43. The aim of SEPP 65 is to improve the design quality of residential apartment development in New South Wales.
44. SEPP 65 provides that, in determining a development application for a residential flat building development of three or more floors and containing four or more apartments, the consent authority take into consideration a number of matters relating to design quality, including nine design quality principles.
45. A design verification statement (DVS) prepared by Peter Lonergan of Cracknell and Lonergan Architects Pty Ltd, who is registered as an architect under the Architects Act, 2003 has been submitted with the application.
46. The DVS has been provided to address the design quality principles and objectives of the Apartment Design Guide (ADG).
47. The DVS satisfies Clause 50(1A) of the Environmental Planning and Assessment Regulation, 2000.
48. The nine design quality principles under Schedule 1 of SEPP 65 and the relevant objectives of the ADG are discussed below.

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

- (i) The site is located on the western side of the suburb of Woolloomooloo, to the south-east of the Domain parklands, to the east of Cook and Philip Park, and to the north of existing high rise development located on the northern side of William Street.
- (ii) Specifically, the site is located on the western side of Palmer Street, which is subject to maximum height controls in the Sydney LEP 2012 and Sydney DCP 2012 of 22 metres and six storeys respectively. It is also adjacent to a site which has development consent for a five storey building with an approximately similar height and scale to that proposed. The new residential flat building development will contribute to the vitality of the immediate locality and the broader City of Sydney Local Government Area.
- (iii) The site is located in the B4 Mixed Use zone and the proposal is generally in accordance with the objectives of the Sydney LEP 2012 and the Sydney DCP 2012, subject to the conditions included in Attachment A.
- (iv) The proposal is consistent with the existing and desired future character of the Cathedral Street locality set out in Section 2.4.2 of the Sydney DCP 2012, in that it provides a "strong 6 storey built edge [...] along the Palmer Street edge in response to the Eastern Distributor tunnel."

- (v) The proposed retention and reuse of the existing terrace building fronting Palmer Street also is in keeping with the design principles and character statement for the Cathedral Street locality set out in Section 2.4.2 of the Sydney DCP 2012.
  - (vi) The retention of this building establishes a building alignment at the ground floor level that is sympathetic to the adjacent buildings fronting Palmer Street and provides for an interpretation of the site's history.
  - (vii) The upper levels of the new building fronting Palmer Street have been set back to protect the future canopy growth of the existing street tree adjacent, and reinforce its amenity and character as being tree lined.
- (b) **Principle 2: Built Form and Scale**
- (i) The immediate locality along Palmer Street and Faucett Lane has no distinct built form pattern, with a range of buildings of varying height, scale, massing, architectural building styles and land uses. The form and scale of the future development anticipated in the area is generally consistent with the height and typology of the proposal.
  - (ii) The proposal is compliant with the maximum 22 metre and six storey height controls for the site in the Sydney LEP 2012 and Sydney DCP 2012 respectively, and with the maximum 3:1 floor space ratio (FSR) control in the Sydney LEP 2012.
  - (iii) The form and scale of the proposed new building is acceptable regarding the existing and desired future built form and scale of the streetscape at both the street and lane frontages of the site.
- (c) **Principle 3: Density**
- (i) As stated above, the proposal complies with the maximum 3:1 FSR control applicable to the site. The proposed overall density of the development is consistent with that envisaged under the relevant planning controls and is appropriate, given the context.
  - (ii) The new building accommodates 10 apartments, which is an appropriate level of residential density for the site, given its proximity to established infrastructure, public transport, and community and recreation facilities.
  - (iii) The proposed density of the new building does not result in an unacceptable degree of amenity impact for neighbouring properties or future residents of the development.
- (d) **Principle 4: Sustainability**
- (i) Subject to the conditions included in Attachment A, the proposed development will provide acceptable natural ventilation, cross ventilation and solar access amenity into the residential apartments to reduce artificial lighting, heating and cooling, reducing future energy consumption.
  - (ii) The proposal meets the minimum requirements of BASIX in terms of energy, thermal comfort, and water targets.



- (iii) Conditions are included in Attachment A to ensure that the development complies with the commitments contained in the BASIX documentation.

(e) **Principle 5: Landscape**

- (i) A communal open space area is proposed at the roof level, with an appropriate configuration, an acceptable level of solar access and satisfactory equitable access from the common circulation area, entry and lobby.
- (ii) Landscape treatments are proposed to the ground and first floor levels and to the rooftop communal open space area. The landscape drawing set has been reproduced for reference at Attachment B.
- (iii) Additional design details are required to ensure that the proposed landscape component of the scheme is a success. The details of the landscaping are required in conditions included at Attachment A. The landscaping will contribute to good residential amenity and the aesthetic quality of the development.

(f) **Principle 6: Amenity**

- (i) The proposal, by adopting design measures that are generally responsive to the constraints and sensitivities of adjacent and nearby residential properties, provides a reasonable level of amenity for the residential occupants of the development and neighbouring properties.
- (ii) It achieves the following in relation to the requirements of the ADG:
  - i. Minimum apartment size requirements;
  - ii. Direct solar access to 80% (8 of 10) of the proposed apartments living areas and private open space;
  - iii. Subject to the design modification conditions recommended in Attachment A, natural cross ventilation to 60% (3 of 5) of the apartments which are not affected by noise;
  - iv. Generally compliant floor to ceiling heights to improve solar access and ventilation of apartments;
  - v. Generally compliant areas of private open space;
  - vi. Adequate area of communal open space with good access to direct solar access at midwinter;
  - vii. Adequate storage, subject to conditions requiring the provision of confirmatory storage plan diagrams post-consent; and
  - viii. Adequate building separation and privacy, subject to the design modification conditions recommended in Attachment A.
- (iii) Further detailed analysis of compliance with the relevant amenity controls in the ADG are detailed in the table sections provided below.

(g) **Principle 7: Safety**

- (i) The safety and security of the public domain and the site itself is enhanced by increased activity within the site and casual surveillance of the surrounding streets from the residential apartments.
- (ii) When the building is used as a residential flat building, there are secure entrances available for the use of permanent residents
- (iii) The proposed development has generally been designed in accordance with the relevant principles of Crime Prevention through Environmental Design (CPTED).

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

- (i) The proposed development provides two residential apartment types, which provides a degree of housing diversity on the subject site, including accessible apartments and communal facilities for both passive and active recreation.
- (ii) Adequate communal facilities are proposed to encourage social interaction amongst residents. The proposal responds well to the social context of its location in Woolloomooloo, which is near established infrastructure, public transport, community and recreational facilities.
- (iii) The proposal provides the following mix of dwellings:
  - i. 80% (eight) studio apartments; and
  - ii. 20% (two) one bedroom apartments.
- (iv) Given the number of apartments, the provisions of Section 4.2.3.12 of the Sydney DCP 2012 do not apply to the proposed development, and the mix of dwelling types is acceptable on this basis.

(i) **Principle 9: Aesthetics**

- (i) The proposed development provides for a contemporary, well-modulated and articulated development, which utilises off-form concrete and curved balconies, marble stone panels to the exposed side northern elevation glass blockwork to the lightwell and lift lobbies, and includes conservation and restoration works to the front facade of the retained terrace.
- (ii) The proposal is generally compatible with the desired future character within the area, subject to the conditions recommended in Attachment A. These conditions require refinements to the design of the treatment of the proposed ventilation plenums and exposed side elevations of the building.
- (iii) The proposed development introduces a variety of building elements, materials and finishes, which presents a visually engaging architectural language to the public domain to Palmer Street and Faucett Lane.
- (iv) The proposed built form and composition of the new building will make a positive contribution to the visual quality of the area.

49. The development is considered generally acceptable when assessed against SEPP 65, including the above stated principles and the ADG. These controls are generally replicated within the apartment design controls under the Sydney DCP 2012.
50. Consequently, compliance with SEPP 65 generally implies compliance with Council's own controls. A detailed assessment of the proposal of against the ADG is provided in the table sections below.

<b>2E Building Depth</b>	<b>Compliance</b>	<b>Comment</b>
12-18 metres (glass to glass)	Acceptable	<p>The building depth (taken as an east-west length) ranges between approximately 19 to 22 metres, as measured from glass line to glass line.</p> <p>This is acceptable given the design includes appropriate articulation and apartment configurations, which result in an acceptable residential amenity outcome.</p> <p>Adequate access to natural light and ventilation is achieved for each dwelling.</p>

<b>2F Building Separation</b>	<b>Compliance</b>	<b>Comment</b>
<p>Up to four storeys (approximately 12 metres):</p> <ul style="list-style-type: none"> <li>• 12 metres between habitable rooms / balconies</li> <li>• 9 metres between habitable and non-habitable rooms</li> <li>• 6 metres between non-habitable rooms</li> </ul> <p>Five to eight storeys (approximately 25 metres):</p> <ul style="list-style-type: none"> <li>• 18 metres between habitable rooms / balconies</li> </ul>	Acceptable, subject to conditions	<p>The proposed development does not provide any building separation to the existing development along both of the side boundaries of the subject site.</p> <p>The relevant consideration in setting building separation controls under 2F of the ADG states that no building separation is required to be provided where building types incorporate blank party walls.</p> <p>The proposed development is generally consistent with predominant existing pattern of development in the locality, which comprises a range of different building types built with nil setbacks to side boundaries.</p> <p>The building separation between the site and 76-88 Crown Street, Woolloomooloo to the west of the site ranges in excess of between approximately 13 and 16 metres.</p>

2F Building Separation	Compliance	Comment
<ul style="list-style-type: none"> <li>• 12 metres between habitable and non-habitable rooms</li> <li>• 9 metres between non-habitable rooms</li> </ul>		<p>This is compliant at the ground, first, second and third floor levels, and non-compliant at the fourth, fifth and roof terrace levels.</p> <p>The building separation between the proposal and 7 Faucett Lane ranges in excess of between approximately 12 and 15 metres, which is compliant at the ground, first, second and third floor levels, and non-compliant at the fourth, fifth and roof terrace levels.</p> <p>Refer to the further assessment provided below under the Discussion heading.</p>

3A Site Analysis	Compliance	Comment
<p>Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.</p>	Yes	<p>Sufficient site analysis documentation and detail accompanies the application addressing the various potential opportunities and constraints of the site, documenting the site location and context, including surrounding development.</p>

3B Orientation	Compliance	Comment
<p>Overshadowing of neighbouring properties is minimised during mid-winter.</p>	Yes	<p>Sun's eye view diagrams and documentary analysis has been submitted with the application.</p> <p>This information has been prepared in accordance with the City's draft 'Minimising overshadowing of neighbouring apartments documentation guide'.</p> <p>These clearly indicate that the proposed building and its orientation will minimise overshadowing to neighbouring residential properties.</p>

<b>3C Public Domain Interface</b>	<b>Compliance</b>	<b>Comment</b>
Transition between private and public domain is achieved without compromising safety and security.	Yes	The proposal has a secure residential entry lobby to the Palmer Street frontage of the site, adjacent to the residential lift and stair core, and a secure entry point from Faucett Lane serving a staircase to the basement level
Amenity of the public domain is retained and enhanced.	Yes, subject to conditions	The proposed interface between the development and the public domain along Palmer Street and Faucett Lane is generally acceptable, subject to the range of public domain, street tree protection and waste management related conditions included in Attachment A.

<b>3D Communal and Public Open Space</b>	<b>Compliance</b>	<b>Comment</b>
Communal open space has a minimum area equal to 25% of the site.	Yes	The minimum requirement of the ADG for communal open space for the subject site is 47.425 square metres.  The proposal provides an area of rooftop communal open space measuring approximately 47.7 square metres.
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two hours between 9am and 3pm on 21 June (midwinter).	Yes	The proposed roof terrace receives more than 50% direct sunlight to the principal usable part of the space for more than two hours at the midwinter solstice.

<b>3E Deep Soil Zones</b>	<b>Compliance</b>	<b>Comment</b>
Deep soil zones are to have a minimum area equivalent to 7% of the site.	Acceptable	The provision of deep soil zones is significantly constrained as the proposed design of the building footprint occupies the entirety of the subject development site.



3E Deep Soil Zones	Compliance	Comment
		<p>The design guidance in the ADG states that achieving deep soil zones may not be possible on some sites, including where the location and building typology have limited or no space for deep soil at ground level (e.g. central business districts, constrained sites, high density areas), or where there is 100% site coverage.</p> <p>The site is located in Woolloomooloo, which comprises a highly urbanised environment, where a lack of deep soil zones is a consistent characteristic of existing development within the locality.</p> <p>The proposal provides landscape elements, tree plantings, and external communal areas with appropriate plantings. It also incorporates acceptable stormwater management initiatives to offset the lack of deep soil zones within the site.</p> <p>The proposed development is acceptable with regard to considerations relating to deep soil zones.</p>

3F Visual Privacy	Compliance	Comment
<p>Up to four storeys (12 metres):</p> <ul style="list-style-type: none"> <li>• 6 metres between habitable rooms / balconies</li> <li>• 3 metres between non-habitable rooms</li> </ul> <p>Five to eight storeys (25 metres):</p> <ul style="list-style-type: none"> <li>• 9 metres between habitable rooms / balconies</li> <li>• 4.5 metres between non-habitable rooms</li> </ul>	<p>Acceptable, subject to conditions</p>	<p>The proposed development does not provide any building separation to the existing development along each of the side allotment boundaries of the subject site.</p> <p>The relevant design guidance for building separation and visual privacy controls under 3F-1 of the ADG states that no separation is required between blank walls.</p> <p>The proposed development is generally consistent with predominant pattern of development in the locality, which comprises buildings built with nil setbacks to side boundaries.</p>

3F Visual Privacy	Compliance	Comment
		<p>The proposal includes balconies and roof terraces as private open space which may result in overlooking impacts to the property to the north of the site.</p> <p>The separation to the rear boundary to Faucett Lane does not achieve compliance at the ground, first and second floor levels, or at the fourth, fifth and roof terrace levels.</p> <p>Refer to the further assessment provided below under the Discussion heading.</p>
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	Yes	The proposed development does not include any bedrooms or living spaces adjacent to gallery access or other open circulation spaces.

3G Pedestrian Access and Entries	Compliance	Comment
Building entries and pedestrian access connects to and addresses the public domain.	Yes	The residential lift core is provided with an entry lobby with direct access from the Palmer Street frontage of the site.
Access, entries and pathways are accessible and easy to identify.		The proposed entry lobby is legible, via the original entry door to the retained terrace, which is proposed to be modified in order to provide equitable access to the development.

3J Bicycle Parking	Compliance	Comment
Parking and facilities are provided for other modes of transport.	Yes	The proposal provides storage for 10 bicycle parking spaces, which are located within the basement level.

<b>4A Solar and Daylight Access</b>	<b>Compliance</b>	<b>Comment</b>
70% of units to receive a minimum of two hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	The application has been accompanied by sun's eye view diagrams which demonstrate that direct solar access is achieved to 80% (8 of 10) of the proposed apartments living areas and private open space for at least two hours at midwinter.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	10% (1 of 10) of the proposed apartments receives no direct sunlight at mid-winter.

<b>4B Natural Ventilation</b>	<b>Compliance</b>	<b>Comment</b>
All habitable rooms are naturally ventilated.	Acceptable, subject to conditions	<p>All habitable rooms throughout the development are capable of achieving naturally ventilation, in accordance with the requirements of 4B of the ADG.</p> <p>Plenum systems, as indicated in the drawings in Attachment B, are also proposed to the noise affected apartments fronting Palmer Street.</p> <p>Subject to the conditions included in Attachment A, these will provide natural ventilation to habitable rooms, alongside internal acoustic amenity.</p> <p>Refer to the further assessment provided in the table section below in relation to 4J and 4R of the ADG.</p>
Minimum 60% of apartments in the first nine storeys of the building are naturally cross ventilated.	Yes, subject to condition	<p>Natural cross ventilation is provided to 60% (three of five) of the apartments not affected by noise in the first nine storeys of the building.</p> <p>Refer to the further assessment provided in the table section below in relation to 4J of the ADG.</p>

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7 metres	Yes, subject to condition	Subject to conditions included in Attachment A relating to the detailed design of the proposed natural ventilation plenums, floor to floor heights of at least 3.1 metres are provided, which will generally be capable of achieving 2.7 metre floor to ceiling heights.
Non-habitable rooms: 2.4 metres	Yes	Floor to floor heights of at least 3.1 metres are provided which can achieve 2.4 metre floor to ceiling heights.



4C Ceiling Heights	Compliance	Comment
<p>Two-storey apartments: 2.7 metres for main living area floor, 2.4 metres for second floor, where it does not exceed 50% of the apartment area.</p> <p>If located in mixed use areas – 3.3 metres for ground and first floor to promote future flexibility of use.</p>	Acceptable	<p>The proposed development does not achieve the required 3.3 metre floor to ceiling height in the two proposed apartments at the ground and first floor levels.</p> <p>The proposed 0.6 to 0.9 metre non-compliance is acceptable in the specific circumstances of the subject site and proposed development, given that:</p> <ul style="list-style-type: none"> <li>• The existing floor levels and structure of the primary form of the subject terrace are generally proposed to be retained for the apartment fronting Palmer Street;</li> <li>• Requiring compliance with the controls for the apartment fronting Palmer Street would result in detrimental impacts to retained significant fabric of the contributing building;</li> <li>• The design of the ground floor apartment fronting to Faucett Lane satisfies the objective of the provisions, given that it provides a 5.7 metre floor to floor height for the majority of the floor area of the apartment at the ground floor level, and a 3.1 metre floor to floor height for the first floor level;</li> <li>• This will allow for acceptable daylight access into the interior of the dwelling; and</li> <li>• It is unlikely that the subject residential apartment will be converted into commercial uses in the future.</li> </ul>

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> <li>• Studio: 35 square metres</li> <li>• 1 bed: 50 square metres</li> </ul> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by five square metres each.</p>	Yes	<p>All proposed apartments achieve the design criteria for minimum apartment size, ranging in size as follows:</p> <ul style="list-style-type: none"> <li>• Studio: 42.5-47.9 square metres; and</li> <li>• One bedroom: 56-77.3 square metres.</li> </ul>
<p>Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.</p>	Acceptable	<p>All habitable rooms have windows in external walls with a minimum area of 10% of the floor area of the room, apart from the proposed upper level habitable rooms of the apartment within the retained terrace fronting Palmer Street.</p> <p>Refer to the further assessment provided in the table section below in relation to 4R of the ADG.</p>
<p>Habitable room depths are to be no more than 2.5 x the ceiling height.</p>	Acceptable	<p>Habitable rooms are provided with a depth to ceiling height ratio of 2.5, except for open plan layouts, which generally have a depth to ceiling height ratio of three in accordance with 4D.3 of the ADG, and the proposed upper level habitable rooms of the apartment within the retained terrace fronting Palmer Street.</p> <p>Refer to the further assessment provided in the table section below in relation to 4R of the ADG.</p>
<p>Eight metre maximum depth for open plan layouts.</p>	Yes	<p>The maximum depth of open plan apartment layouts does not generally exceed eight metres from a window.</p>
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> <li>• master bedroom: Ten square metres</li> </ul>	Yes	<p>All apartments achieve the minimum areas and dimensions prescribed for bedrooms.</p>

<b>4D Apartment Size and Layout</b>	<b>Compliance</b>	<b>Comment</b>
Minimum dimension of any bedroom is three metres (excluding wardrobes).		
<p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> <li>• Studio and one-bedroom: 3.6 metres</li> </ul>	Yes	The development results in all dwellings having a living area with a minimum width consistent with the provisions of the ADG.

<b>4E Private Open Space and Balconies</b>	<b>Compliance</b>	<b>Comment</b>
<p>Studio apartments are to have a minimum balcony area of 4 square metres with a minimum depth of 1 metre.</p> <p>One bed apartments are to have a minimum balcony area of 8 square metres with a minimum depth of 2 metres.</p>	Yes	All proposed apartment balconies meet the minimum size and dimension requirements specified for the number of bedrooms per apartment.
Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15 square metres and a minimum depth of 3 metres.	Yes	<p>The proposed ground floor apartment at the rear of the site provides a terrace which complies with the provisions of the ADG. The proposed apartment within the retained terrace fronting Palmer Street does not comply.</p> <p>Refer to the further assessment provided in the table section below in relation to 4R of the ADG.</p>

<b>4F Common Circulation and Spaces</b>	<b>Compliance</b>	<b>Comment</b>
The maximum number of apartments off a circulation core on a single level is eight.	Yes	The maximum number of apartments off the proposed circulation core is two.

<b>4F Common Circulation and Spaces</b>	<b>Compliance</b>	<b>Comment</b>
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed.	Yes	No living room or bedroom windows open directly onto circulation spaces.
Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	There are no significant visual or acoustic privacy impacts on other rooms from common circulation spaces.
Daylight and natural ventilation are provided to all common circulation spaces.	Acceptable	Lift lobbies generally have daylight access via the proposed light well and glass roof over the ground floor lobby, but are not provided with any access to sources of natural ventilation.  This is acceptable given the relatively small number of apartments served by each lift lobby and the physical constraints posed by site dimensions.

<b>4G Storage</b>	<b>Compliance</b>	<b>Comment</b>
<p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> <li>• Studio: 4 cubic metres</li> <li>• 1 bed: 6 cubic metres</li> </ul> <p>(Minimum 50% storage area located within unit)</p>	Yes, subject to condition	<p>A storage schedule is included with the application.</p> <p>The schedule details provision of storage within apartments and the basement level which accords with Part 4G of the ADG, however this is not clear in the architectural drawings set for the ground and first floor level apartments.</p> <p>A condition is recommended in Attachment A to require the submission of storage plan diagrams for these apartments demonstrating compliance with the criterion.</p>



4H Acoustic Privacy	Compliance	Comment
<p>Noise transfer is minimised through the siting of buildings and building layout</p> <p>Noise impacts are mitigated within apartments through layout and acoustic treatments.</p>	<p>Yes, subject to conditions</p>	<p>The design groups similar uses and services together to ensure the acoustic privacy of the dwellings is maintained, including locating waste facilities within the basement and providing acoustically treated natural ventilation plenums to apartments facing Palmer Street.</p> <p>The application has also accompanied by an acoustic report. The report states that the proposal will achieve acceptable residential amenity within each dwelling. Plenum systems, as indicated in the drawings in Attachment B, are also provided throughout the development to ensure that natural ventilation can be maintained to habitable rooms, alongside internal acoustic amenity.</p> <p>The application is considered acceptable subject to conditions recommended in Attachment A requiring the adoption of the recommendations contained in the assessment for appropriate acoustic mitigation.</p>

4J Noise and Pollution	Compliance	Comment
<p>In noisy or hostile environments, the impacts of external noise and pollution are minimised through the careful siting and layout of buildings</p> <p>Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission</p>	<p>Yes, subject to conditions</p>	<p>The proposal seeks to minimise the impact of noise and air emissions from vehicle traffic on Palmer Street in accordance with the ADG requirements, and to vary the ADG design criteria for natural cross ventilation to noise affected apartments. This includes the use of natural ventilation plenum systems and facade design to mitigate impacts and act as a buffer between external noise sources and the sensitive residential uses within the building.</p> <p>The acoustic report submitted with the application provides recommendations requiring the use of acoustic blankets, acoustically treated natural ventilation plenums, solid balustrades and thick glazing to mitigate noise transmission.</p>

4J Noise and Pollution	Compliance	Comment
		<p>Appropriate conditions are included in Attachment A to require these measures to be incorporated into the design.</p> <p>Subject to these conditions, the variation of the ADG design criteria for natural cross ventilation to noise affected apartments is supported.</p>

4K Apartment Mix	Compliance	Comment
<p>A range of apartment types and sizes is provided to cater for different household types now and into the future.</p> <p>The apartment mix is distributed to suitable locations within the building.</p>	Yes	<p>The proposed development includes two apartment types with differing sizes, including accessible dwellings, distributed to different locations with the development.</p> <p>The provisions of Section 4.2.3.12 of the Sydney DCP 2012 do not apply to the proposed development, and the mix of dwelling types is acceptable on this basis.</p>

4L Ground Floor Apartments	Compliance	Comment
<p>Street frontage activity is maximised where ground floor apartments are located.</p> <p>Design of ground floor apartments delivers amenity and safety for residents.</p>	Yes	<p>The design of the ground floor apartment to the rear of the site, while not providing direct access to Faucett Lane, will achieve activity via the provision of the landscape planter and private open space, doors and windows behind.</p> <p>The design also provides sufficient privacy and safety, being elevated above the level of the lane, and maximises daylight access through the provision of high internal ceilings and tall glazed windows.</p>

4M Facades	Compliance	Comment
<p>Building facades provide visual interest along the street while respecting the character of the local area.</p> <p>Building functions are expressed by the facade.</p>	Yes	<p>The proposed conservation and restoration works to the retained terrace maintains the contribution of the site to the surrounding heritage conservation area.</p> <p>The design of the new building facades above the retained terrace are provided with an adequate set back from the terrace parapet, and which clearly express the residential function of the building, providing for visual interest along Palmer Street, and also to the rear of the site along Faucett Lane.</p>

4O Landscape Design	Compliance	Comment
<p>Landscape design is viable and sustainable.</p> <p>Landscape design contributes to the streetscape and amenity.</p>	Yes	<p>A detailed landscape design has been submitted with the application and is included in Attachment B.</p> <p>This has been reviewed by the City's Landscape Assessment Officer</p> <p>The advice received is generally supportive of the proposal, subject to conditions included in Attachment A requiring further design details to ensure that the proposed landscape component of the scheme is a success.</p>

4P Planting on Structures	Compliance	Comment
<p>Appropriate soil profiles are provided.</p> <p>Plant growth is optimised with appropriate selection and maintenance.</p> <p>Planting on structures contributes to the quality and amenity of communal and public open spaces.</p>	Yes	<p>The proposal incorporates plantings on structures at the ground, second and roof terrace levels of the development.</p> <p>Additional details are required to ensure that the proposed planting component of the scheme is a success.</p> <p>Information is to be submitted relating to the detailed landscape conditions which are recommended in Attachment A</p>

4Q Universal Design	Compliance	Comment
<p>Universal design features are included in apartment design to promote flexible housing for all community members.</p> <p>A variety of apartments with adaptable designs are provided.</p> <p>Apartment layouts are flexible and accommodate a range of lifestyle needs.</p>	Yes	<p>The proposal provides 20% (2 of 10) of apartments as accessible dwellings, and provides 30% (3 of 10) of apartments as silver level liveable dwellings.</p> <p>Conditions are recommended in Attachment A to ensure that the proposal continues to provide appropriate access and facilities for persons with disabilities, in accordance with the Sydney DCP 2012 and the Building Code of Australia</p>

4R Adaptive Reuse	Compliance	Comment
<p>New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.</p>	Yes	<p>The proposed new additions are clearly identifiable as being contemporary, and allow for acceptable interpretation of the retained terrace.</p> <p>The proposal has been reviewed by the City's heritage specialist, who has provided advice which is generally supportive of the amended application, subject to the range of conditions recommended in Attachment A relating to heritage conservation.</p>
<p>Adapted buildings provide residential amenity while not precluding future adaptive reuse</p>	Yes, subject to conditions	<p>The proposed development does not achieve the ADG criteria for habitable room depth or private open space for the apartment within the retained terrace. The design guidance under 4R of the ADG allows for variations of these provisions where adaptive reuse is proposed.</p> <p>Furthermore, although a ventilation plenum is proposed to this apartment, the demolition to permit its installation would result in significant detrimental impacts to retained heritage building fabric of the subject contributing building.</p>

4R Adaptive Reuse	Compliance	Comment
		<p>In this instance, a condition is included in Attachment A to delete the proposed plenum to this apartment to achieve an acceptable heritage outcome.</p> <p>The variation of the above criteria are supported, given the extent of conservation works proposed to the retained terrace, which will continue to contribute to the significance of the surrounding heritage conservation area.</p>

4U Energy Efficiency	Compliance	Comment
<p>Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer.</p> <p>Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer.</p> <p>Adequate natural ventilation minimises the need for mechanical ventilation</p>	Yes	<p>Adequate access to natural light and ventilation is provided to all apartments. The design also incorporates appropriate facade glazing. Acoustically treated plenums are proposed to allow natural ventilation when external noise conditions preclude the opening of windows.</p> <p>Conditions are recommended in Attachment A to require testing of the plenum design to ensure the success of the proposed systems.</p>

4V Water Management and Conservation	Compliance	Comment
<p>Potable water use is minimised.</p> <p>Urban stormwater is treated on site before being discharged to receiving waters.</p>	Yes	<p>The proposed development meets the BASIX requirements for water efficiency.</p> <p>Appropriate conditions relating to BASIX compliance, stormwater drainage and quality are recommended by the City's Public Domain Unit in Attachment A.</p>



4W Waste Management	Compliance	Comment
<p>Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.</p> <p>Domestic waste is minimised by providing safe and convenient source separation and recycling.</p>	Yes, subject to conditions	<p>Adequate waste management facilities are provided within each apartment and the basement of the proposed development.</p> <p>A range of waste management conditions are included in Attachment A which will ensure waste is managed on the site in accordance with Sections 3.14 and 4.2.6 of the Sydney DCP 2012 and the City of Sydney Guidelines for Waste Management in New Developments 2018.</p>

4X Building Maintenance	Compliance	Comment
Building design detail provides protection from weathering.	Yes	The materiality and detailing of the proposed development are in keeping with the building typology and expected building life.
Systems and access enable ease of maintenance.	Yes	All facades are accessible for cleaning and maintenance by abseil within the site.
Material selection reduces ongoing maintenance.	Yes	<p>The proposed materials within the development are generally robust.</p> <p>A materials and finishes condition is recommended in Attachment A to ensure the design intent is carried through to the certification and construction phases of the development.</p>

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

51. BASIX Certificate 1206527M\_04 has been submitted with the development application.
52. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal.
53. Appropriate conditions of consent ensuring the measures detailed in the BASIX certificate are implemented are recommended in Attachment A.

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

54. Chapters 6 to 12 inclusive (including Chapter 10) of the Biodiversity and Conservation SEPP were repealed by State Environmental Planning Policy Amendment (Water Catchments) 2022. The new framework commenced on 21 November 2022 and includes a new Chapter 6, which is a consolidation of the former chapters 8 to 11.
55. In accordance with the savings and transitional provisions at Clause 6.65 of the Biodiversity and Conservation SEPP however, the former provisions contained in Chapter 10 continue to apply to the subject development application.
56. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the saved provisions of Chapter 10 of the Biodiversity and Conservation SEPP.
57. The Biodiversity and Conservation SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.
58. The key relevant principles seek to:
  - (a) Protect and improve hydrological, ecological and geomorphologic processes.
  - (b) Consider cumulative impacts of development within the catchment.
  - (c) Improve water quality of urban runoff and reduce quantity and frequency of urban run-off.
  - (d) Protect and rehabilitate riparian corridors and remnant vegetation.
59. The site is not located in the Foreshores Waterways Area or adjacent to a waterway however and, with the exception of the objective of improved water quality, the objectives of Chapter 10 of the Biodiversity and Conservation SEPP are not applicable to the proposed development.
60. The proposal achieves the relevant objective of the Biodiversity and Conservation SEPP, subject to the recommended conditions relating to erosion and sediment control and stormwater management, which are included in Attachment A.

**State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land (Resilience and Hazards SEPP)**

61. The aim of Chapter 4 of the Resilience and Hazards SEPP is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
62. The Council's Health and Building Unit has reviewed the application with regard to the provisions of Chapter 4 of the Resilience and Hazards SEPP and is satisfied that, subject to conditions, the site is suitable for the proposed use.

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

63. The provisions of Transport and Infrastructure SEPP have been considered in the assessment of the development application under the following headings.

**Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network****Clause 2.48 Determination of development applications – other development**

64. The application is subject to Clause 2.48 of the Transport and Infrastructure SEPP as the development is in the vicinity of underground electricity power cables and may affect an electricity transmission or distribution network.
65. As such, the application was referred to Ausgrid in accordance with Clause 2.48 of the Transport and Infrastructure SEPP.
66. Ausgrid provided a response raising no objections to the proposed development subject to a condition, which has been included with the recommended conditions in Attachment A.

**Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations****Clause 2.118 – Development with frontage to classified road**

67. The application is subject to Clause 2.118 of the Transport and Infrastructure SEPP, as the site has frontage to Palmer Street, which is a classified road.
68. In accordance with Clause 2.118 of the Transport and Infrastructure SEPP the application was referred to Transport for New South Wales.
69. Transport for New South Wales provided a response raising no objections to the proposed development, subject to conditions, which have been included in Attachment A.
70. The proposed development satisfies the provisions of Clause 2.118 of the Transport and Infrastructure SEPP, subject to the recommended conditions of consent, given that:
  - (a) No vehicular access is proposed.
  - (b) The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development.
  - (c) The residential uses have been appropriately located and designed to ameliorate potential traffic noise and vehicle emissions.
  - (d) An acoustic report has been submitted with the application and reviewed by the City's Health and Building Unit, who are satisfied that the proposal is able to comply with the relevant acoustic criteria, subject to the conditions recommended in Attachment A.

**Clause 2.119 – Impact of road noise or vibration on non-road development**

71. The application is subject to Clause 2.119 of the Transport and Infrastructure SEPP which relates to the impact of road noise or vibration on residential development, given the site is adjacent to Palmer Street, which has an annual average daily traffic volume of more than 20,000 vehicles.

72. The City's Health and Building Unit reviewed the submitted acoustic report and advised that the proposal can achieve the relevant internal noise criteria specified in Clause 2.119 of the Transport and Infrastructure SEPP, subject to the recommended noise attenuation strategies and the conditions included in Attachment A.
73. The proposed development therefore satisfies Clause 2.119 of the Transport and Infrastructure SEPP, subject to the recommended conditions of consent.

#### **Clause 2.121 – Excavation in or immediately adjacent to corridors**

74. The application is subject to Clause 2.121 of the Transport and Infrastructure SEPP as the development involves the penetration of ground to a depth of at least 3m below ground level (existing) on land adjacent to the Eastern Distributor.
75. In accordance with Clause 2.121 of the Transport and Infrastructure SEPP, the application was referred to Transport for New South Wales.
76. Transport for New South Wales provided a response raising no objections to the proposed development subject to conditions, which have been included with the recommended conditions in Attachment A.
77. Consideration has been given to the relevant provisions of the Development Near Rail Corridors and Busy Roads – Interim Guideline and implications of the proposed excavation, as it relates to the structural integrity and cost implications for the Eastern Distributor.
78. The proposed development satisfies Clause 2.121 of the Transport and Infrastructure SEPP, subject to the recommended conditions of consent.

### **Local Environmental Plans**

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

79. An assessment of the proposed development against the relevant provisions of the Sydney LEP 2012 is provided under the following headings and table sections.

#### **Part 1 Preliminary**

<b>Provision</b>	<b>Compliance</b>	<b>Comment</b>
1.2 Aims of Plan	Yes, subject to conditions	The proposal is generally consistent with the relevant aims of the Sydney LEP 2012, subject to the conditions included in Attachment A.
1.8A Savings provisions relating to development applications	Yes	The amendments made to the Sydney LEP 2012 by the Sydney Local Environmental Plan 2012 (Amendment No 64) made on 26 November 2021 do not apply to the subject development application, in accordance with subclause (5)(a) of Clause 1.8A of the Sydney LEP 2012.

**Part 2 Permitted or prohibited development**

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	<p>The site is located in the B4 Mixed Use zone.</p> <p>The proposed development is defined as a 'residential flat building' and is permissible with development consent in the zone.</p> <p>The proposal generally meets the objectives of the zone.</p>

**Part 4 Principal development standards**

Provision	Compliance	Comment
4.3 Height of buildings	Yes	<p>A maximum building height of 22 metres is permitted.</p> <p>A height of between 21.67 and 21.83 metres is proposed.</p> <p>The proposed development complies with the maximum height of buildings development standard.</p>
4.4 Floor space ratio (FSR)	Yes	<p>A maximum FSR of 3:1, or 569.1 square metres of gross floor area (GFA) is permitted.</p> <p>A floor space ratio of 2.85:1, or 540.61 square metres of GFA is proposed.</p> <p>The proposed development complies with the maximum floor space ratio development standard.</p>

**Part 5 Miscellaneous provisions**

Provision	Compliance	Comment
5.10 Heritage conservation	Yes, subject to conditions	<p>The site is located within the Woolloomooloo heritage conservation area.</p> <p>Refer to the further assessment provided below under the Discussion heading.</p>



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

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	Yes, subject to conditions	<p>The proposed built form satisfies the desired future character of the locality resulting from the height control for the site, and provides an acceptable transition in scale to the existing and future adjacent development.</p> <p>The proposal achieves the principles of ecologically sustainable development (ESD).</p> <p>It will have a generally acceptable environmental impact regarding the amenity of the surrounding area and future occupants, subject to the recommended conditions in Attachment A.</p> <p>The proposal presents a high standard of architectural design.</p> <p>The overall materiality, articulation and architectural expression of the development is in keeping with the relevant planning controls and reflecting the desired future character of the area.</p> <p>The development therefore exhibits design excellence in accordance with the requirements of Clause 6.21 of the Sydney LEP 2012.</p>

**Part 7 Local provisions – general**

Provision	Compliance	Comment
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	Yes	<p>The site is located in the residual land area under the City of Sydney Affordable Housing Program, and is therefore subject to the requirements of Clause 7.13 of the Sydney LEP 2012.</p> <p>Refer to the further assessment provided below under the Financial Contributions heading.</p>

Provision	Compliance	Comment
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils (ASS)	Yes	<p>The site is located within an area containing Class 5 ASS and is within 500 metres of a Class 2 ASS Zone.</p> <p>The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan, and the development satisfies this provision.</p>
7.15 Flood planning	Yes, subject to conditions	<p>The site is not flood prone.</p> <p>The City's Public Domain and Water Assets Units have reviewed the proposal and advised that it is acceptable regarding flood planning and stormwater management considerations.</p> <p>Several conditions are included in Attachment A to ensure the stormwater design is carried through to the certification, construction, and operational phases of the development.</p>
7.16 Airspace operations	Yes	<p>The proposal will not penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Sydney Airport.</p>
7.19 Demolition must not result in long term adverse visual impact	Yes	<p>While the proposed development includes demolition of parts of the existing building, it also includes construction of a new building under the same application.</p> <p>Council planning staff are therefore satisfied that the site will be comprehensively redeveloped under a development consent issued for the proposal.</p>

## Development Control Plans

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

80. An assessment of the proposed development against the relevant provisions within the Sydney DCP 2012 is provided under the following headings and table sections.

**Section 1 – Introduction**

Provision	Compliance	Comment
1.3 Aims of this DCP	Yes, subject to conditions	The proposal is generally consistent with the relevant aims of the Sydney DCP 2012, subject to the conditions included in Attachment A.

**Section 2 – Locality Statements**

81. The site is located within the Cathedral Street locality and is therefore subject to the relevant provisions of Section 2.4.2 of the Sydney DCP 2012.
82. The proposed development is generally in keeping with the character of, and the design principles for the locality, in the following manner:
- (a) The new residential flat building provides the desired six storey built form along Palmer Street in response to the Eastern Distributor tunnel;
  - (b) The proposal includes residential uses at and above ground level, promoting the casual surveillance of the surrounding streets and lanes;
  - (c) The retention and conservation works proposed to the existing contributing building will maintain an acceptable relationship with the surrounding heritage conservation area; and
  - (d) The proposed development will not have any significant impacts on views along Cathedral Street to St Mary's Cathedral or to sky views over treetops from Cook and Philip Park.

**Section 3 – General Provisions**

Provision	Compliance	Comment
3.2. Defining the Public Domain 3.2.1 Improving the public domain	Yes	The proposed development does not result in any significant additional overshadowing impacts to publicly accessible spaces, or significantly impede views from the public domain to highly utilised public places, parks, Sydney Harbour or heritage buildings and monuments.
3.2.2 Addressing the street and public domain	Yes	The proposed development positively addresses both Palmer Street and Faucett Lane, maintaining the existing point of access into the site from Palmer Street and providing additional residential activity to the site's street and laneway edges.

Provision	Compliance	Comment
		A condition is included in Attachment A to ensure that the exposed southern elevation of the development is provided with a visually interesting treatment of high quality design, similar to that proposed to its northern elevation.
3.2.7 Reflectivity	Yes, subject to condition	A condition is recommended in Attachment A to ensure that light reflectivity from the proposed development does not exceed 20%.
3.2.8 External lighting	Yes, subject to conditions	<p>No external lighting is proposed.</p> <p>An appropriate condition is included in Attachment A to require any future external lighting to be the subject of a separate application.</p>
<p>3.5 Urban Ecology</p> <p>3.5.2 Urban vegetation</p>	Acceptable, subject to conditions	<p>The proposed development includes landscape elements and tree plantings, including green roofs and landscaped planters.</p> <p>While the proposed tree plantings will not provide 15% canopy cover of the site within 10 years, the proposal is an improvement in terms of contribution to urban vegetation than that presented by the existing development.</p> <p>The application was referred to both the City's Landscape Assessment Officer and Tree Management Unit.</p> <p>The advice received is generally supportive of the proposal, subject to conditions included in Attachment A relating to landscape treatment and planting of trees on the site.</p>
3.5.3 Tree management	Yes, subject to conditions	<p>The proposal does not involve the removal of any trees and will not have any significantly adverse impacts on the local urban ecology.</p> <p>The application was referred to the City's Tree Management Unit.</p>

Provision	Compliance	Comment
		The advice received is generally supportive of the proposal, subject to a number of appropriate conditions included in Attachment A relating to the protection of the adjacent street tree.
3.6 Ecologically Sustainable Development (ESD)	Yes, subject to conditions	<p>The proposal will meet the sustainability requirements of the BASIX SEPP.</p> <p>Appropriate conditions are included in Attachment A to ensure that the BASIX commitments are carried through to the certification, construction and operational phases of the proposed development.</p>
3.7 Water and Flood Management	Yes, subject to conditions	<p>The site is not identified as being flood prone.</p> <p>The application was referred to the City's Public Domain Unit.</p> <p>The advice received is supportive of the proposal, subject to appropriate conditions included in Attachment A relating to flooding, stormwater drainage management and stormwater quality.</p>
3.8 Subdivision, Strata Subdivision and Consolidation	Yes, subject to conditions	<p>The proposed development does not propose site subdivision, strata subdivision or consolidation of allotments.</p> <p>The application was referred to the City's Specialist Surveyor.</p> <p>The advice received is supportive of the proposal, subject to appropriate conditions included in Attachment A relating to future strata subdivision of the site and provision of pre and post construction survey information.</p>
3.9 Heritage	Yes, subject to conditions	The site is located within a heritage conservation area and the site is identified as accommodating a contributing building.



Provision	Compliance	Comment
		Refer to the further assessment provided below under the Discussion heading.
<p>3.11 Transport and Parking</p> <p>3.11.3 Bike parking and associated facilities</p>	Acceptable, subject to conditions	<p>The proposed development does not provide any on-site vehicle parking facilities.</p> <p>Section 3.11.3 of the Sydney DCP 2012 requires the provision of one bicycle parking space per apartment.</p> <p>The proposal includes ten storage cages within the basement level, with the capacity for storage of ten bicycles.</p> <p>A condition is recommended in Attachment A to ensure the provision and design of the bicycle parking spaces is carried through to the certification, construction, and operational phases of the development.</p>
3.12 Accessible Design	Yes, subject to conditions	<p>The proposed development meets the requirements of Section 3.12 of the Sydney DCP 2012, as it includes the provision of two apartments as accessible dwellings.</p> <p>While the Sydney DCP 2012 does not require it, the proposal also provides 30% (3 of 10) of apartments as silver level liveable dwellings.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The safety and security of the public domain is enhanced by the increase in activity within the site and casual surveillance of the surrounding streets which will occur as a result of the proposed development.</p> <p>The proposed development provides separate and secure entrances to the building, adequate passive surveillance and other security measures.</p> <p>It has generally been designed in accordance with the 'Crime Prevention Through Environmental Design' (CPTED) principles</p>

Provision	Compliance	Comment
		As such, it is acceptable with regard to considerations relating to social and environmental responsibilities on this basis.
3.14 Waste	Yes, subject to conditions	<p>The proposal was accompanied by a Waste Management Plan, which is generally in accordance with the objectives and provisions set out under Section 3.14 of the Sydney DCP 2012.</p> <p>The application was referred to the City's Cleansing and Waste Unit. The advice received was generally supportive regarding waste management considerations.</p> <p>This is subject to appropriate conditions included in Attachment A to ensure that the proposed development achieves compliance with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p>
3.16 Signage and Advertising	Yes, subject to condition	<p>No signage is proposed.</p> <p>An appropriate condition is included in Attachment A to require any future signage to be the subject of a separate application.</p>
3.17 Contamination	Yes	Refer to the discussion and assessment provided in relation to contamination and remediation provided above under the State Environmental Planning Policy (Resilience and Hazards) 2021 heading.

## Section 4 – Development Types

### 4.1 Single Dwellings, Terraces and Dual Occupancies

Provision	Compliance	Comment
4.1.1 Building height	Yes	<p>The site is permitted a maximum building height of six storeys.</p> <p>The proposed development is six storeys in height and complies.</p>

Provision	Compliance	Comment
4.1.2 Building setbacks	Acceptable	<p>The proposed development maintains the existing front and side setbacks of the retained terrace building on the subject site.</p> <p>Although the existing rear setback is proposed to be varied, it is acceptable given it:</p> <ul style="list-style-type: none"> <li>• Is consistent with the rear setbacks of the existing and approved development on the adjoining sites;</li> <li>• Does not give rise to any significantly adverse environmental impacts; and</li> <li>• Does not detrimentally affect the visual setting of the retained contributing building on the site within the heritage conservation area.</li> </ul>
4.1.3 Residential amenity	Yes, subject to conditions	As demonstrated in the table sections provided above and below, the proposed development will have generally acceptable residential amenity, and will not have unreasonable impacts on the residential amenity of neighbouring properties.
4.1.3.1 Solar access	Yes	Refer to the assessment provided in relation to Part 3A and Part 4A of the Apartment Design Guide in the compliance table above.
4.1.3.3 Landscaping	Yes, subject to conditions	<p>The proposed landscape design has been reviewed by the City's Landscape Assessment Officer.</p> <p>The advice received is generally supportive of the proposal, subject to conditions included in Attachment A relating to the landscape treatment and planting of trees on the site.</p>

Provision	Compliance	Comment
4.1.3.4 Deep soil planting	Acceptable	Refer to the assessment provided in relation to Part 3E of the Apartment Design Guide in the compliance table above.
4.1.3.5 Private open space	Acceptable, subject to conditions	Refer to the assessment provided in relation to Part 4E of the Apartment Design Guide in the compliance table above.
4.1.3.6 Visual privacy	Yes	Refer to the assessment provided in relation to Part 3F of the Apartment Design Guide in the compliance table above.
4.1.4 Alterations and additions 4.1.4.1 General	Acceptable	<p>The proposed development is generally acceptable regarding the form, scale and setbacks of the retained terrace on the subject site.</p> <p>As discussed in the table sections provided above and below, the proposal is also acceptable regarding the predominant rear building alignment within the immediate locality.</p> <p>The proposal conserves and reinstates significant building elements of the retained terrace, which will contribute to the significance of the surrounding heritage conservation area.</p>
4.1.4.5 Basement additions	Yes, subject to conditions	<p>A basement stair and bin lift are provided to the rear of the site, with direct access to Faucett Lane.</p> <p>The proposed light well matches that approved to the adjacent development at 103-105 and 107 Palmer Street, Woolloomooloo.</p> <p>Structural engineering advice has been provided with the application, which provides confirmation that the proposed basement excavation will not result in significantly adverse impacts on the retained terrace, or on the adjoining properties.</p>

Provision	Compliance	Comment
		<p>A range of conditions are included in Attachment A to require detailed structural design, solutions and certification of the proposed development, prior to any construction certificate being issued.</p> <p>Subject to these conditions, the proposal is acceptable regarding basement addition considerations.</p>
4.1.4.6 Additional storeys	Acceptable	<p>The proposed development generally retains the main form of the existing terrace fronting Palmer Street and respects the parapet heights of the adjoining buildings.</p> <p>Although the new residential flat building proposed above the terrace will be visible from the surrounding streets and lanes within the locality, this is acceptable given:</p> <ul style="list-style-type: none"> <li>• Complies with the maximum six storey height, two storey street frontage height to Faucett Lane, and the setback above street frontage height controls;</li> <li>• Maintains, conserves and reinstates important building fabric of the retained terrace building;</li> <li>• Will not have a significantly adverse impact on the uniformity of any terrace group, row or semi-pair; and</li> <li>• Presents acceptable visual impacts to the surrounding heritage conservation area.</li> </ul>
<p>4.1.5 Roof alterations and additions</p> <p>4.1.5.1 Ensuring sympathetic roof alterations and additions</p>	Acceptable, subject to condition	<p>The proposal provides a trafficable roof terrace set behind the front parapet of the retained terrace, serving as private open space for the adjoining studio apartment.</p> <p>This proposed roof terrace is acceptable, given that:</p>



Provision	Compliance	Comment
		<ul style="list-style-type: none"> <li>• The proposed development provides an acceptable front setback above the street wall height in accordance with the requirements of the Sydney DCP 2012, as discussed in the table sections above and below;</li> <li>• The roof terrace will not be readily discernible from the public domain and will not result in any significant visual impacts on the surrounding heritage conservation area; and</li> <li>• Subject to a design modification condition included in Attachment A requiring the provision of a screen along its northern edge, the proposed roof terrace will not give rise to any significant environmental impacts, including those relating to privacy.</li> </ul>
4.1.5.2 Roof features	Acceptable	<p>The proposed development conserves and reinstates the front parapet of the existing terrace, but involves the removal of the existing chimney and the roofs over the primary form of the subject building.</p> <p>On balance, this is acceptable given the extent of conservation works proposed to the retained terrace, which will continue to contribute to the significance of the surrounding heritage conservation area.</p>
4.1.5.3 Roof materials on heritage buildings and in heritage conservation areas	Yes, subject to condition	<p>The application proposes the retention and repair of the existing balcony roof to the front elevation of the retained terrace.</p> <p>The proposed conservation works are acceptable regarding the relevant objectives and provisions set out in Section 4.1.5.3 of the Sydney DCP 2012.</p> <p>A condition is included in Attachment A requiring compliance with the relevant balcony roof criteria.</p>

Provision	Compliance	Comment
		<p>This condition will ensure that consistency with the streetscape to Palmer Street is carried through to the certification and construction phases of the development.</p>
4.1.7 Fences	Yes, subject to condition	<p>The application proposes works to the existing front fence to the retained terrace fronting Palmer Street.</p> <p>The proposed front fence works are generally consistent and acceptable with regard to the objectives and provisions in Section 4.1.7 of the Sydney DCP 2012.</p> <p>A condition is included in Attachment A requiring compliance with the relevant front fence criteria, and to ensure that consistency with the streetscape to Palmer Street is carried through to the certification and construction phases of the development.</p>
4.1.8 Balconies, verandahs and decks	Yes, subject to condition	<p>The application proposes to reinstate and repair original front balcony to the retained terrace fronting Palmer Street.</p> <p>The proposed balcony works are generally consistent with the relevant objectives and provisions in Section 4.1.8 of the Sydney DCP 2012.</p> <p>A condition is included in Attachment A requiring compliance with the relevant balcony criteria, and to ensure that consistency with the streetscape to Palmer Street is carried through to the certification and construction phases of the development.</p>

## 4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
<p>4.2.1 Building height</p> <p>4.2.1.1 Height in storeys and street frontage height in storeys</p>	Yes	<p>The site is permitted a maximum building height of six storeys, with a maximum street frontage height of two storeys to Faucett Lane, and a street frontage height to Palmer Street consistent with the adjacent buildings.</p> <p>The proposed development is six storeys in height, with a street frontage height of two storeys to Faucett Lane and Palmer Street. The proposal complies with the applicable controls.</p>
<p>4.2.1.2 Floor to ceiling heights and floor to floor heights</p>	Acceptable	<p>The proposed development does not achieve floor to ceiling heights of 3.3 metres, or floor to floor heights of 3.6 metres in the two proposed apartments at the ground and first floor levels.</p> <p>The proposed 0.6 to 1 metre variation of the floor to ceiling height and floor to floor height controls is acceptable in the specific circumstances of the subject site and proposed development, given that:</p> <ul style="list-style-type: none"> <li>• The existing floor levels and structure of the primary form of the subject terrace are generally proposed to be retained for the apartment fronting Palmer Street;</li> <li>• Requiring compliance with the controls for the apartment fronting Palmer Street would result in detrimental impacts to retained significant fabric of the contributing building;</li> <li>• The design of the ground floor apartment fronting to Faucett Lane satisfies the objective of the provisions, given that it provides a 5.7 metre floor to floor height for the majority of the floor area of the apartment at the ground floor level, and a 3.1 metre floor to floor height for the first floor level.</li> </ul>

Provision	Compliance	Comment
		<ul style="list-style-type: none"> <li>• This will allow for acceptable daylight access into the interior of the dwelling and provision of floor to ceiling heights for residential apartments in accordance with Part 4C of the ADG; and</li> <li>• It is unlikely that the subject residential apartments will be converted into commercial uses in the future.</li> </ul>
<p>4.2.2 Building setbacks</p> <p>4.2.2.1 Setbacks</p>	Acceptable	<p>The proposed development maintains the existing front and side setbacks of the subject building on the site.</p> <p>Although the existing rear setback is proposed to be varied, it is acceptable given it:</p> <ul style="list-style-type: none"> <li>• Is consistent with the rear setbacks of the existing and approved development on the adjoining sites;</li> <li>• Does not give rise to any significantly adverse environmental impacts; and</li> <li>• Does not detrimentally affect the visual setting of the retained contributing building on the site within the heritage conservation area.</li> </ul>
<p>4.2.2.2 Setbacks above the street frontage height</p>	Yes	<p>No setback above the street frontage height to Palmer Street is required, given that the existing adjacent buildings do not include upper level setbacks and are not identified as heritage items.</p> <p>Irrespective of this, a setback to the existing terrace parapet of between 2.2 and 3.2 metres is provided at the second floor level, and between 1 and 2.7 metres of the levels above.</p> <p>This setback is generally consistent with that approved to the adjacent development at 103-105 and 107 Palmer Street, Woolloomooloo.</p>

Provision	Compliance	Comment
		<p>Similarly, the proposal provides a compliant setback to Faucett Lane which exceeds 3 metres and is consistent with that approved to the adjacent development at 103-105 and 107 Palmer Street, Woolloomooloo.</p> <p>The proposal complies with the applicable controls.</p>
4.2.3 Amenity	Yes	<p>The proposed development is generally acceptable regarding residential apartment amenity considerations, subject to the conditions recommended in Attachment A.</p> <p>Further discussion regarding compliance is provided in the table sections below.</p>
4.2.3.1 Solar access	Yes	Refer to the assessment provided in relation to Part 4A of the Apartment Design Guide in the compliance table above.
4.2.3.2 Lightwells	Acceptable, subject to condition	<p>The proposed lightwell is generally acceptable.</p> <p>This is because it:</p> <ul style="list-style-type: none"> <li>• Is not the primary source of daylight to habitable rooms;</li> <li>• Is open to the sky; and</li> <li>• Will not result in significant privacy impacts, subject to a condition included in Attachment A to ensure that the kitchen windows proposed to the lightwell are fitted with translucent glazing.</li> </ul>
4.2.3.3 Internal common areas	Acceptable	Refer to the assessment provided in relation to Part 4F of the Apartment Design Guide in the compliance table above.

Provision	Compliance	Comment
4.2.3.4 Design features to manage solar access	Yes	The proposed design of shading features throughout the development is generally acceptable, and meets the requirements of the BASIX certificate submitted with the application for thermal comfort.
4.2.3.5 Landscaping	Yes, subject to conditions	<p>The proposed landscape design has been reviewed by the City's Landscape Assessment Officer.</p> <p>The advice received is generally supportive of the proposal, subject to conditions included in Attachment A relating to the landscape treatment and planting of trees on the site.</p>
4.2.3.6 Deep Soil	Acceptable	Refer to the assessment provided in relation to Part 3E of the Apartment Design Guide in the compliance table above.
4.2.3.7 Private open space and balconies	Acceptable, subject to conditions	Refer to the assessment provided in relation to Part 4E of the Apartment Design Guide in the compliance table above.
4.2.3.8 Common open space	Acceptable, subject to conditions	Refer to the assessment provided in relation to Part 3D of the Apartment Design Guide in the compliance table above.
4.2.3.9 Ventilation	Yes, subject to conditions	Refer to the assessment provided in relation to Part 4B of the ADG in the compliance table above.
4.2.3.10 Outlook	Yes	<p>All apartments provide adequate outlook and views, and outlook from the surrounding development has been considered in the site planning and massing of the development.</p> <p>Refer to the further assessment provided below under the Discussion heading.</p>



Provision	Compliance	Comment
4.2.3.11 Acoustic privacy	Yes, subject to conditions	<p>Acoustic reports have been submitted with the original and amended applications.</p> <p>The reports have been reviewed by the City's Health and Building Unit. The advice received is that the recommendations of the reports are acceptable.</p> <p>Conditions are recommended in Attachment A to require acoustic control and noise management measures are implemented in relation to the proposed plenum systems, mechanical plant and the proposed residential land use.</p>
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>The proposal provides an acceptable built form in terms of:</p> <ul style="list-style-type: none"> <li>• The retention and conservation of the fine grain architectural character of the existing terrace; and</li> <li>• The scale, modulation and facade articulation of the residential flat building designed to have an acceptable response to its context on Palmer Street and Faucett Lane.</li> </ul>
4.2.5 Types of development 4.2.5.3 Development on busy roads and active frontages	Acceptable, subject to conditions	<p>The site has a frontage to Palmer Street which has a daily annual average traffic volume of more than 20,000 vehicles a day. The acoustic report submitted with the application includes an assessment which concludes that the noise criteria for open windows cannot be achieved without an appropriate design solution.</p> <p>Although the proposed development includes a ground floor residential use fronting Palmer Street, this is acceptable given that it has incorporated a range of design treatments, including:</p> <ul style="list-style-type: none"> <li>• Acoustic blankets;</li> </ul>

Provision	Compliance	Comment
		<ul style="list-style-type: none"> <li>• Acoustically treated natural ventilation plenums;</li> <li>• Solid balustrades; and</li> <li>• Thick glazing.</li> </ul> <p>Conditions are recommended in Attachment A to confirm the adequacy of these measures and to require them to be carried through to the certification, construction, and operational phases of the development.</p>
4.2.5.4 Residential uses on the ground and first floor	Acceptable, subject to conditions	<p>The apartment proposed in the retained terrace fronting Palmer Street maintains the appearance of a two storey terrace house and satisfies the primary objective of the provisions in Section 4.2.5.4 of the Sydney DCP 2012.</p> <p>The apartment proposed fronting Faucett Lane generally satisfies the relevant objectives and provisions in Section 4.2.5.4 as it provides a:</p> <ul style="list-style-type: none"> <li>• Zero lot line to Faucett Lane established by the existing adjacent development;</li> <li>• Setback of in excess of 4 metres from the rear site boundary to the apartment glass line;</li> <li>• Landscape planter which, subject to the design modification and landscape related conditions included in Attachment A, will provide acceptable landscape amenity to the apartment;</li> <li>• Private open space with a depth greater than 2 metres; and</li> <li>• Height exceeding a metre above the level of the lane, which is acceptable given the sloping topography of the public domain.</li> </ul>

Provision	Compliance	Comment
		Although the subject apartments do not have individual entries to the street, this is acceptable given the constraints posed by the retention of the existing terrace, the relative narrow nature of the subject allotment and the provision of a secure entry lobby to Palmer Street.
4.2.6 Waste and recycling Management	Yes, subject to conditions	<p>Adequate space is provided within each dwelling, with waste storage rooms provided at the basement level designed to service the residential component of the development.</p> <p>A range of waste management conditions are recommended in Attachment A to ensure waste is managed on the site in accordance with Section 3.14 of the Sydney DCP 2012 and the City of Sydney Guidelines for Waste Management in New Developments 2018.</p>
4.2.7 Heating and cooling infrastructure	Yes, subject to conditions	<p>The heating and cooling infrastructure is proposed to be consolidated in several centralised locations throughout the development.</p> <p>This will assist in achieving energy efficiency and allow for the accommodation of future technologies.</p> <p>Appropriate conditions are included in Attachment A to preclude the provision of air conditioning units to the facades and balconies of the building, and require the screening of plant in accordance with the recommendations of the acoustic report submitted with the application.</p>
4.2.8 Letterboxes	Yes, subject to condition	<p>No letterboxes are indicated on the drawings submitted with the application.</p> <p>A condition is included in Attachment A to recommend that they are provided within the lobby of the building and that they are installed with non-master key locks for security.</p>

## Discussion

### Heritage Conservation

83. The site is identified on map sheet 15 of the Heritage Map in the Sydney LEP 2012 as being located within the Woolloomooloo heritage conservation area (Map reference C71).
84. The site is also identified as a contributing building on map sheet 15 of the Building contributions map in the Sydney DCP 2012.
85. The proposed development is therefore required to be assessed against the relevant objectives and provisions in Section 5.10 of the Sydney LEP 2012 and Section 3.9 of the Sydney DCP 2012 relating to heritage conservation under each of the headings provided below.
86. Compliance with these provisions is to be balanced with the desired future character provisions for the Cathedral Street locality and the applicable height of buildings, floor space ratio and storey height controls, which seek the provision of a six storey built form along Palmer Street.

### Heritage Conservation Area

87. The proposed development, as amended, has a generally acceptable relationship with the surrounding heritage conservation area.
88. This is because the proposal provides an adequate response to the recommended management for contributing buildings in the heritage inventory for the area, in the following manner:
  - (a) It retains and conserves the principal form of existing two storey Victorian-era terrace;
  - (b) The proposal maintains the profile and form of the original building as viewed from the public domain along Palmer Street, allowing the original building to be discerned from the form of the new building behind, in accordance with Section 4.1.4.1(2) of the Sydney DCP 2012;
  - (c) While the proposed additions to rear of the principal form exceed the existing height of the terrace, they are setback from the terrace parapet street wall height in accordance with the requirements of Section 4.2.2.2 of the Sydney DCP 2012; and
  - (d) It generally confines proposed demolition, additions and alterations to the rear of the site in areas of less significance.
89. The form and materiality of the new building provides a visually recessive response to the existing scale and form of the adjoining and nearby historic buildings within the heritage conservation area.
90. As such, it generally satisfies the objectives of Section 3.9 of the Sydney DCP 2012, as it will not result in significantly adverse impacts on either the character and significance of the Woolloomooloo heritage conservation area.

### Contributing Building

91. The amendments made to the development have reduced the previously proposed extent of demolition work to the contributing terrace building, and now proposes a range of conservation works, both internally and externally, as depicted on the drawings included in Attachment B, and in the figures provided below.

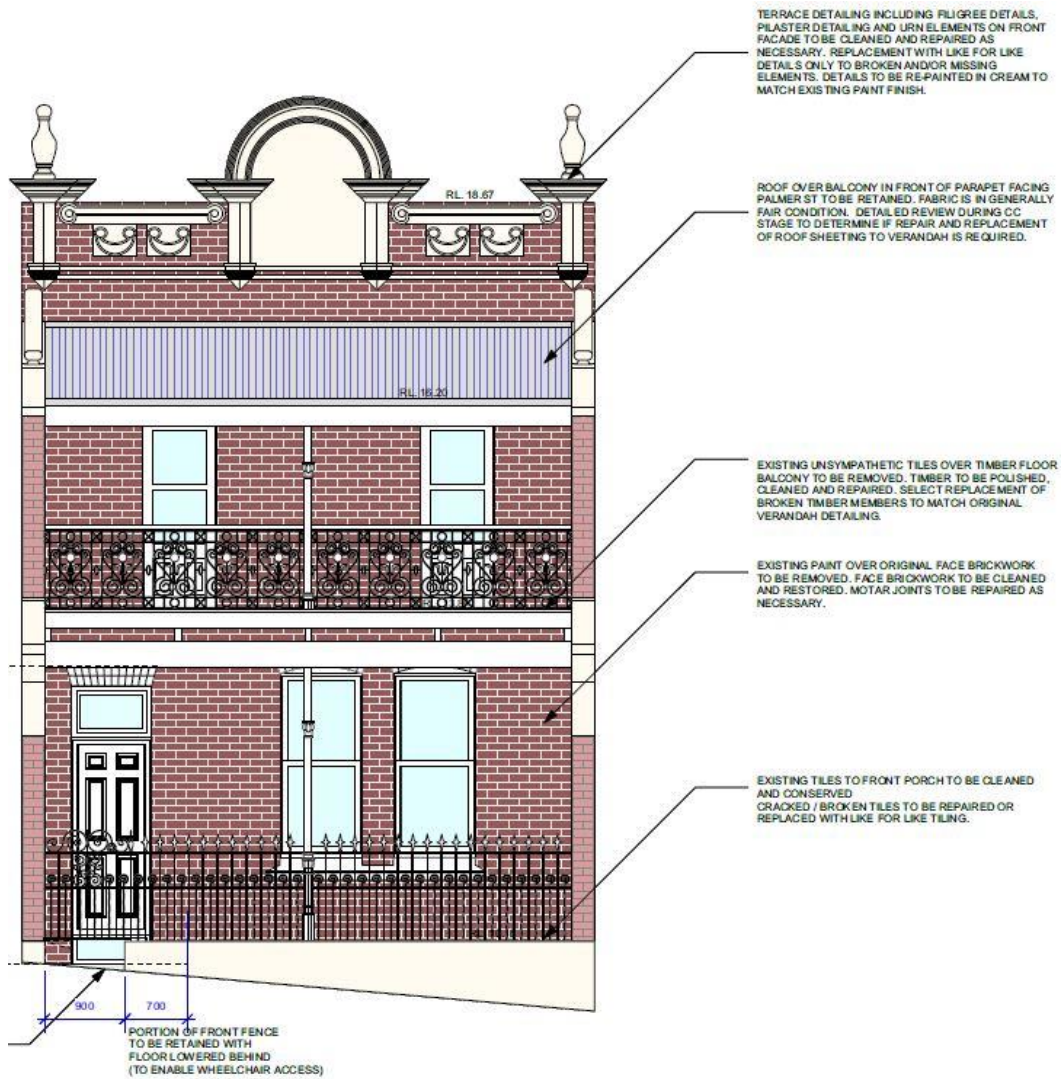
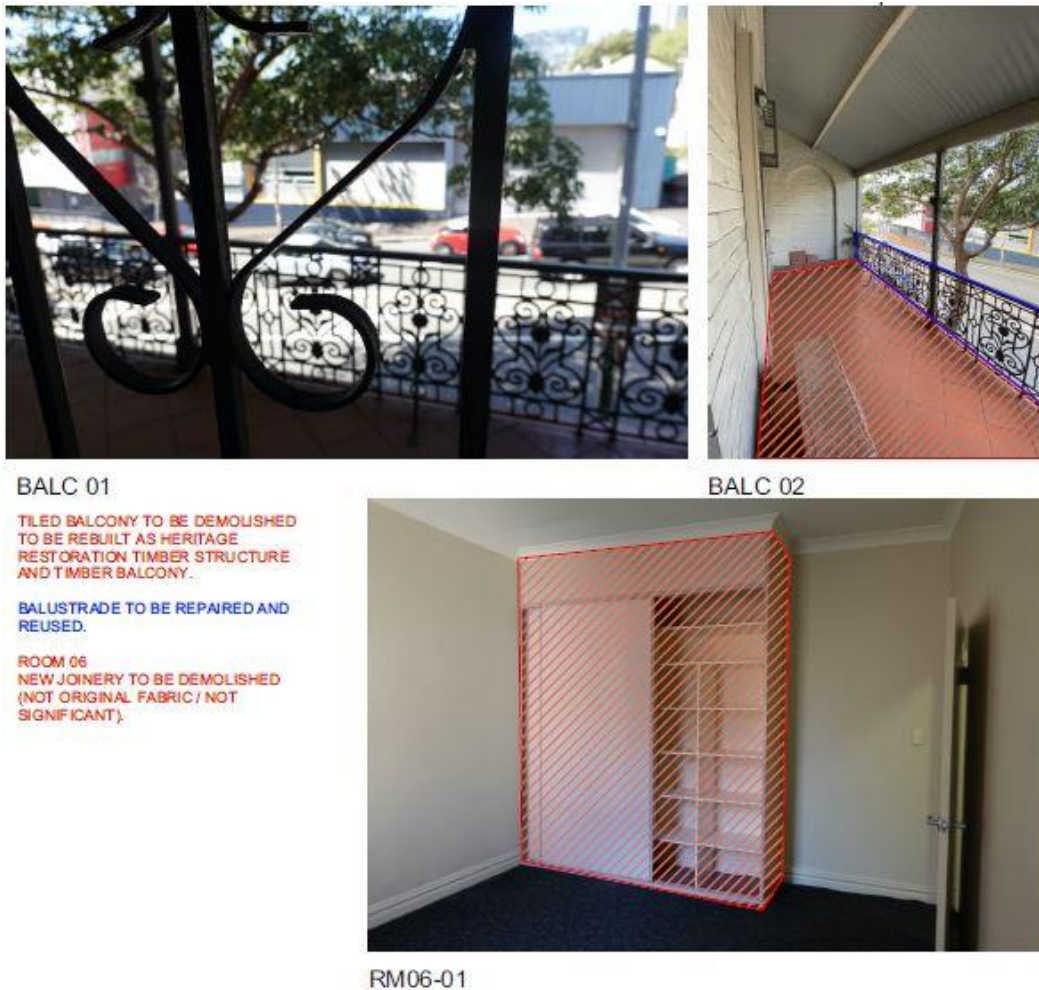


Figure 62: Proposed front facade conservation works elevation drawing extract



**Figure 63:** Front balcony and internal fabric analysis photograph extracts

92. A detailed fabric analysis and photographic record of the exterior and interior spatial arrangement of the existing site has been provided with the application. These documents demonstrate that the bulk of the proposed demolition work is broadly confined to rear outbuildings and structures, which are of minimal significance in its contribution to the character of the surrounding heritage conservation area.
93. A range of conditions have been recommended by the City's heritage specialist to ensure that the commitments outlined in the architectural drawings and application documents are carried through to the certification, construction, and operational phases of the proposed development.
94. These conditions include requirements for:
  - (a) final detailed structural solutions, drawings and methodology, including for fire resistance, seismic stability, vertical load capacity, excavation and confirmation in relation to retained building elements;
  - (b) design detail drawings for the retained and reused timber floor joists and members;
  - (c) design detail drawings for the proposed alterations to the front door of the terrace;



- (d) colour scheme details for the retained terrace building;
- (e) details of the works to the front fence and gate to the retained terrace building;
- (f) design details of the fire hydrant design and location;
- (g) provision of a detailed schedule of conservation works;
- (h) provision of a photographic archival recording;
- (i) reinstatement of the first floor front balcony of the retained terrace building;
- (j) salvage, reuse and recycling measures of traditional building materials;
- (k) formulation of a protection strategy for the retained terrace and the adjoining buildings, including geotechnical assessment; and
- (l) commissioning of a heritage consultant to manage heritage matters throughout the course of further design development, contract documentation and construction work.

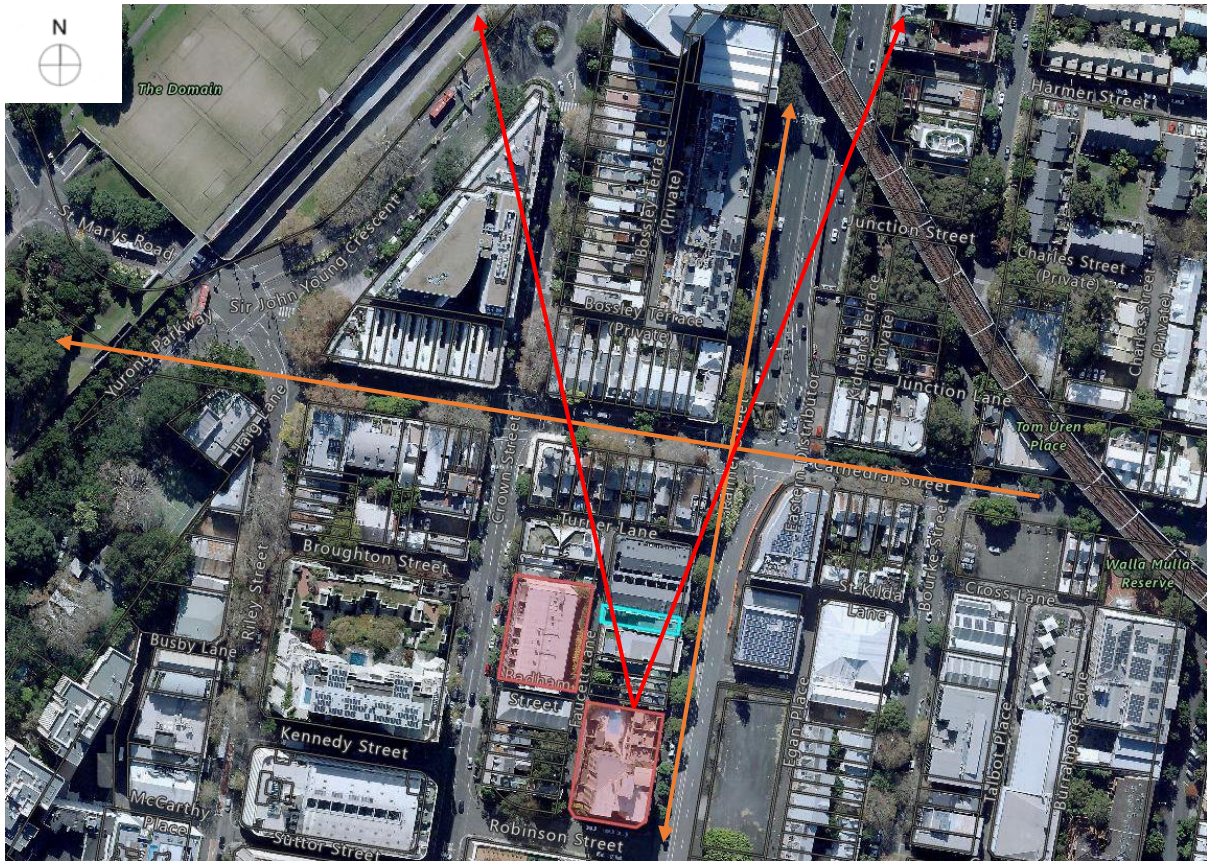
95. Subject to the conditions referred to above, potential impacts on the heritage values of the subject terrace will be substantially mitigated. As such, the proposed development will generally maintain the contributory values of the site, in accordance with the relevant objectives and provisions set out in Section 3.9.7 of the Sydney DCP 2012.

#### **View Sharing**

96. View sharing and view loss has been considered in the assessment of the proposed development, as outlined under the headings provided below.

#### **Public Views**

97. The proposed development does not result in significant impacts on views from public places to other public places.
98. View corridors running north-south along Palmer Street (indicated in the aerial photograph reproduced in the figure below) remain largely unaffected as the new building is setback above the height of the retained terrace. Furthermore, its proposed height is consistent with the desired future character for existing development along the western edge of the Cathedral Street locality.
99. Similarly, the proposed development does not affect view lines to St Mary's Cathedral along Cathedral Street, or to sky views over treetops from Cook and Philip Park (also indicated in the aerial photograph reproduced in the figure below), in accordance with the character and design principles set out in Section 2.4.2 of the Sydney DCP 2012.
100. From more distant vantage points, particularly from the Domain to the north-west, William Street to the south, and from the Sydney Central Business District to the east of the site, the development will not result in any significantly adverse impacts to views to public places or icons.
101. The proposal is a generally acceptable addition to the western edge of the Cathedral Street locality and the broader suburb of Woolloomooloo, and the impact on public domain views is satisfactory.



**Figure 64:** Aerial photograph of the subject site (shown shaded in blue), the nearby buildings at 76-88 Crown Street, Woolloomooloo and 113-125 Palmer Street, Woolloomooloo (shown shaded in red) and the surrounding area, with public domain views along Palmer St and Cathedral St depicted with orange arrows, and the direction of views from the submitter's properties toward the Sydney Harbour Bridge, Woolloomooloo Bay and Sydney Harbour depicted with red arrows

### **Private Views**

102. The site is in Woolloomooloo where many properties enjoy views to the north to Sydney Harbour and its environs.
103. Some of these views are partial or whole views from balconies, roof terraces and living areas, while others are from bedrooms across side boundaries. Due to the sloping topography of the surrounding land and the density of the area, the proposal has the potential to impact some of these properties to varying degrees.
104. A number of submissions received by the City have raised concerns regarding the loss of private views from an apartment within the building known as 'Edo', located to the west at 76-88 Crown Street, Woolloomooloo, and apartments within the building known as 'The Diplomat' located to the south at 113-125 Palmer Street, Woolloomooloo, as a result of the proposed development.
105. The view referred to from the apartment within the building to the west at 76-88 Crown Street, Woolloomooloo can be characterised as outlook to the sky across the rear boundary of that site to Faucett Lane, and across the rear and side boundaries of the subject site.



106. The views referred to from the apartments within the building to the south at 113-125 Palmer Street, Woolloomooloo, are from the northern elevation of the building across the side boundary to Badham Street (and multiple side boundaries of the properties at 103-105, 107, 109, and 111 Palmer Street, Woolloomooloo), and across the side boundaries of the subject site. This elevation is depicted in the photograph reproduced in the figure provided below.



**Figure 65:** Photograph of the eastern (front) and northern (side) elevations of the apartment building at 113-125 Palmer Street, Woolloomooloo, viewed from the eastern side of Palmer St, facing south-west

107. The views are primarily toward the north-east toward the Finger Wharf, Garden Island, Sydney Harbour and across Woolloomooloo to the Potts Point ridgeline, but also to the north-west toward the Domain, Sydney Harbour Bridge and Sydney Central Business District skyline.
108. It is noted that the existing terrace currently occupying the subject site at 101 Palmer Street, Woolloomooloo, does not achieve the full development potential of the site, regarding either building height or FSR permissible under the Sydney LEP 2012 and the Sydney DCP 2012.
109. The aerial photograph in the figure provided above shows the location of both buildings and their proximity to the site.
110. While the concerns raised by neighbouring residents are acknowledged, the assessment to determine the degree and reasonableness of view impacts must be made against the relevant planning controls and the extent to which the development complies. The relevant planning controls in the Sydney LEP 2012, Sydney DCP 2012, SEPP 65 and ADG make no specific provisions for the preservation of private views.

111. Compliance with the principal development standards, planning provisions and Land and Environment Court of New South Wales planning principle applicable to the site, and their relevance to view loss is discussed below, demonstrating that the proposal is acceptable regarding view loss and view sharing considerations, as follows:

(a) **Sydney LEP 2012**

- (i) A maximum height of 22 metres is applicable to the site under Clause 4.3 of the Sydney LEP 2012. The proposed development complies with the standard, and the height of the development is generally acceptable regarding its context and the desired future character of the Cathedral Street locality.
- (ii) The development is eligible for a maximum FSR of 3:1 under Clause 4.4 of the Sydney LEP 2012. The building design demonstrates compliance with the maximum FSR available to the development at 2.85:1. Overall, the proposal will have a form and density that is generally appropriate for its context and the desired future character of the Cathedral Street locality.
- (iii) Having regard to the principal development standards, the proposal also satisfies the objectives of the B4 Mixed Use zone. The proposed residential land use is commensurate with the zone objectives in terms of integration with the location, maximising public transport patronage, encouraging walking and cycling and supporting the viability of nearby centres.
- (iv) The design excellence provisions in Clause 6.21(c) of the Sydney LEP 2012 requires consideration of whether development detrimentally impacts on view corridors. The assessment provided below in relation to the Land and Environment Court planning principle in *Tenacity Consulting v Warringah* [2004] NSWLEC 140 demonstrates that the impacts to existing views across the site are generally acceptable in this respect.

(b) **Sydney DCP 2012**

- (i) A maximum storey height of six storeys is permitted on the site under Section 4.2.1.1 of the Sydney DCP 2012, with a maximum street frontage height of two storeys to Faucett Lane. The proposed development complies with both controls, and is consistent with the future neighbourhood character.
- (ii) The proposed side setbacks are consistent with the provisions of Section 4.2.2.1 and acceptable regarding the setback objectives in Section 4.2.2 of the Sydney DCP 2012. They are generally consistent with predominant pattern of development in the locality, which comprises buildings built with nil setbacks to side boundaries.
- (iii) The proposed front and rear setbacks are consistent with the provisions of Section 4.2.2.1 and Section 4.2.2.2 and acceptable regarding the setback objectives in Section 4.2.2 of the Sydney DCP 2012. A setback is provided above the two street wall height to Palmer Street consistent with that approved to the adjacent development at 103-105 and 107 Palmer Street, Woolloomooloo.

Similarly, the proposal provides a compliant setback to Faucett Lane which exceeds 3 metres and is consistent with that approved to the adjacent development at 103-105 and 107 Palmer Street, Woolloomooloo.

- (iv) The provisions in Section 4.2.3.10 of the Sydney DCP 2012 provide additional guidance in relation to outlook and views from existing residential development, requiring the consideration of such matters in the site planning and massing of new development.
  - (v) View aspects from the affected apartments to the east, north-east, north-west and west are largely unaffected by the proposal, with district views to the Sydney Central Business District, Sydney Harbour Bridge, Woolloomooloo basin and Potts Point ridgeline generally maintained.
  - (vi) Detailed analysis of views and outlook from the adjoining residential apartments has been carried out, which demonstrates that the site planning and massing of the development is generally acceptable.
- (c) **SEPP 65 and ADG**
- (i) The proposed front and rear setbacks above the street wall height to Palmer Street and Faucett Lane, and the proposed nil side setbacks satisfy the building separation and setback considerations in Parts 2F and 2H of the ADG.
  - (ii) They present no significant visual privacy concerns in relation to the design criteria and guidance in Part 3F of the ADG, subject to the conditions included in Attachment A.
- (d) **View Impact Study**
- (i) A view impact study was submitted with the application comprising photographic images and three dimensional digital modelling which assesses views from the 113-125 Palmer Street, Woolloomooloo.
  - (ii) Although the view loss analysis did not provide specific heights, levels or camera angles, the view images have been supplemented by photographs taken by Council staff, and by Computed Aided Design (CAD) modelling prepared by the City's Model Unit, which are a generally acceptable depiction of views from the building at 113-125 Palmer Street, Woolloomooloo, and which are reproduced in the various figures provided below.
  - (iii) The study and modelling indicates that the proposed development results in generally acceptable view sharing across the subject site from the properties outlined above.
- (e) **Planning Principle**
- (i) In order to assess the impact of the proposed development on existing views, an assessment has been made against the planning principle established by Senior Commissioner Roseth in the Land and Environment Court decision *Tenacity Consulting v Warringah* [2004] NSWLEC 140 in relation to view sharing.

- (ii) The principle specifies that the notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment which may, in some circumstances, be reasonable.
- (iii) A four step assessment is adopted to determine whether view sharing is reasonable in the case of the proposal, which is summarised in part below:
  - i. The first step is the assessment of views to be affected. Water views are valued more highly than land views. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.
  - ii. The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. The expectation to retain side views is often unrealistic.
  - iii. The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas.
  - iv. The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls is more reasonable than one that breaches them.
- (iv) Council staff contacted all submitters who raised view loss concerns in their submissions, and undertook site inspections of six affected properties at the invitation of their owners, in order to assess potential view sharing and view loss in accordance with the planning principle.

The photographs reproduced in the figures provided under each of the headings below were taken by the City's Planning Assessments staff at these site inspections.

The CAD modelling reproduced in the figures provided under each of the six headings below was prepared by the City's Model Unit and based upon:

- i. The photographs taken by City staff;
- ii. Survey information of the building at 113-125 Palmer Street, Woolloomooloo taken from the City's records;
- iii. The three dimensional CAD model of the proposed development submitted with the application; and
- iv. The three dimensional CAD model of the development at 103-105 and 107 Palmer Street, Woolloomooloo approved by the Land and Environment Court of New South Wales.



(a) **307/76-88 Crown Street, Woolloomooloo**

- (i) A photograph of the outlook from the east-facing windows of apartment 307 in the 'Edo' building at 76-88 Crown Street, Woolloomooloo is reproduced in the figure provided below.



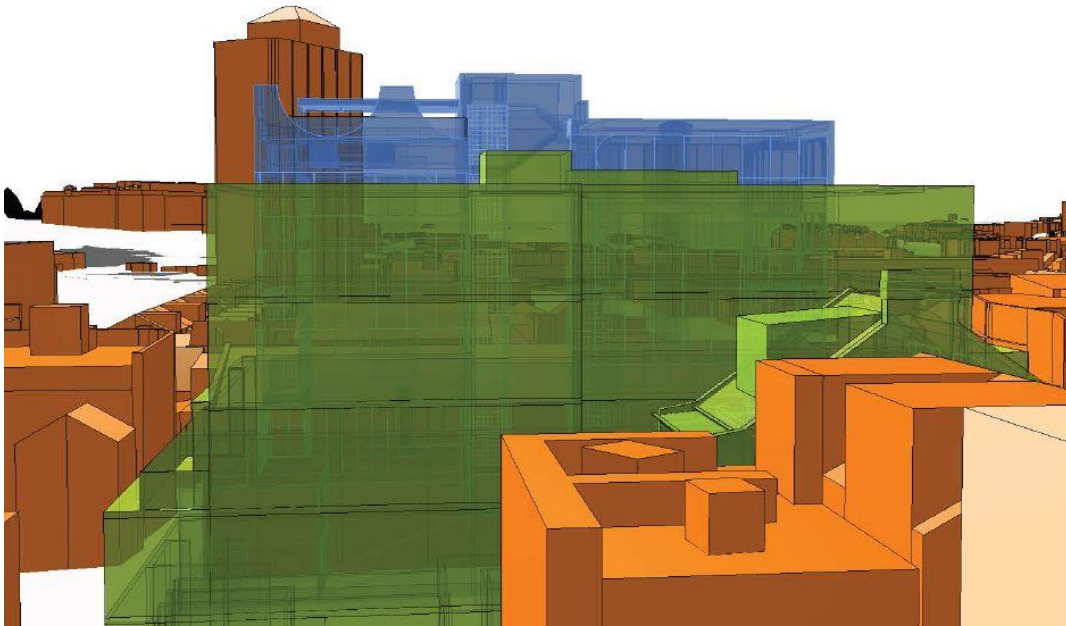
**Figure 66:** Photograph of outlook from the east-facing bedroom to 307/76-88 Crown St, Woolloomooloo (noting that the rooftop level of the building at 103-105 Palmer St, Woolloomooloo can be seen through the upper clear glazed panels)

- (ii) There is no 'view' that can be assessed, instead it is best characterised as outlook to the sky above properties along the eastern side of Faucett Lane.
- (iii) The impacts of the proposal on this outlook are negligible, given that the apartment is located at the southern end of the 'Edo' building, and that the window faces the rear of the properties at 103-105, 107, 109, and 111 Palmer Street, Woolloomooloo, rather than the subject site.
- (b) **17/113-125 Palmer Street, Woolloomooloo**
- (i) The impacts on views from apartment 17 on the western side of level 3 of the eight storey 'Diplomat' building at 113-125 Palmer Street, Woolloomooloo, are discussed below:
- i. Views to be affected: Partial views from the living room windows and roof terrace north-east toward the Finger Wharf, Sydney Harbour and across Woolloomooloo to the Potts Point ridgeline, and partial views to the north-west toward the Domain, Art Gallery of New South Wales, Sydney Harbour Bridge and Sydney Central Business District skyline.

- ii. Part of property viewed from: Views are obtained over the side (northern) boundary from the open plan living room windows, kitchen window and balcony.
- iii. Extent of impact: The proposed development will be visible from the apartment, as depicted in the photographs and CAD modelling reproduced in the figures below. The loss of view is of the built environment to the north-east of the site, the Royal Botanic Gardens and land-water interface, with views toward the Finger Wharf, Sydney Harbour and across Woolloomooloo to the Potts Point ridgeline generally maintained. The impact to views to the north-west is a partial loss of view to the Art Gallery and Domain.
- iv. Reasonableness: The proposal would have a negligible to minor impact on the north-east and north-west views from this property given the view impacts established by the Land and Environment Court approved development at 103-105 Palmer Street, Woolloomooloo. The opportunity to protect the view between the property and 101 Palmer Street, Woolloomooloo is limited as the impact is caused by building bulk that is compliant with the 22 metre and six storey height controls, front and rear setback controls, and is viewed across multiple side boundaries. As such, the impacts to this property are acceptable.



**Figure 67:** Photograph of the north view from the balcony of 17/113-125 Palmer St, Woolloomooloo

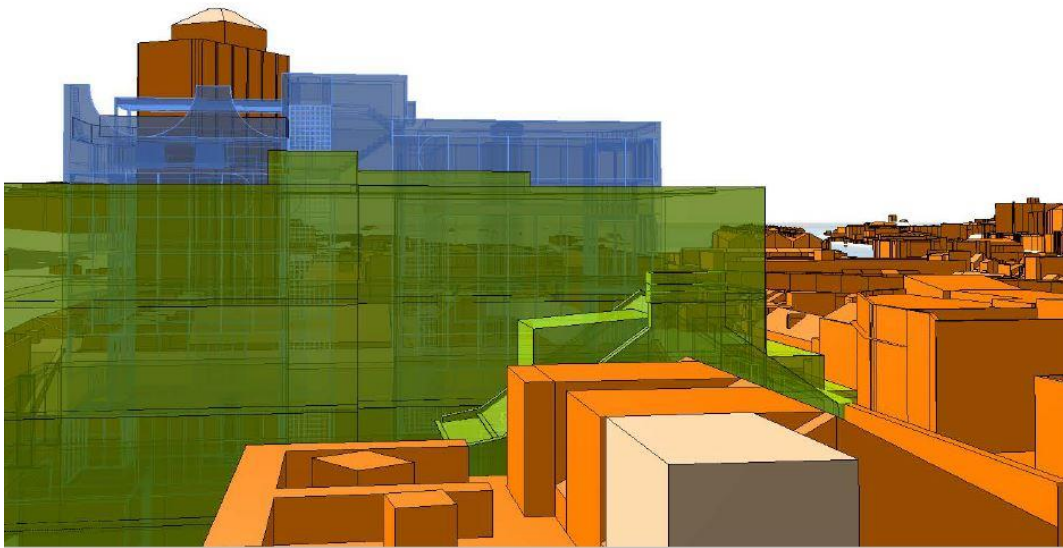


**Figure 68:** CAD model of the north view from the balcony of 17/113-125 Palmer St, Woolloomooloo, with the proposed development (depicted in blue) and approved development at 103-105 Palmer St, Woolloomooloo (depicted in green)



**Figure 69:** Photograph of the view from the kitchen window of 17/113-125 Palmer St, Woolloomooloo





**Figure 70:** CAD model of the view from the kitchen window of 18/113-125 Palmer St, Woolloomooloo, with the proposed development (depicted in blue) and approved development at 103-105 Palmer St, Woolloomooloo (depicted in green)

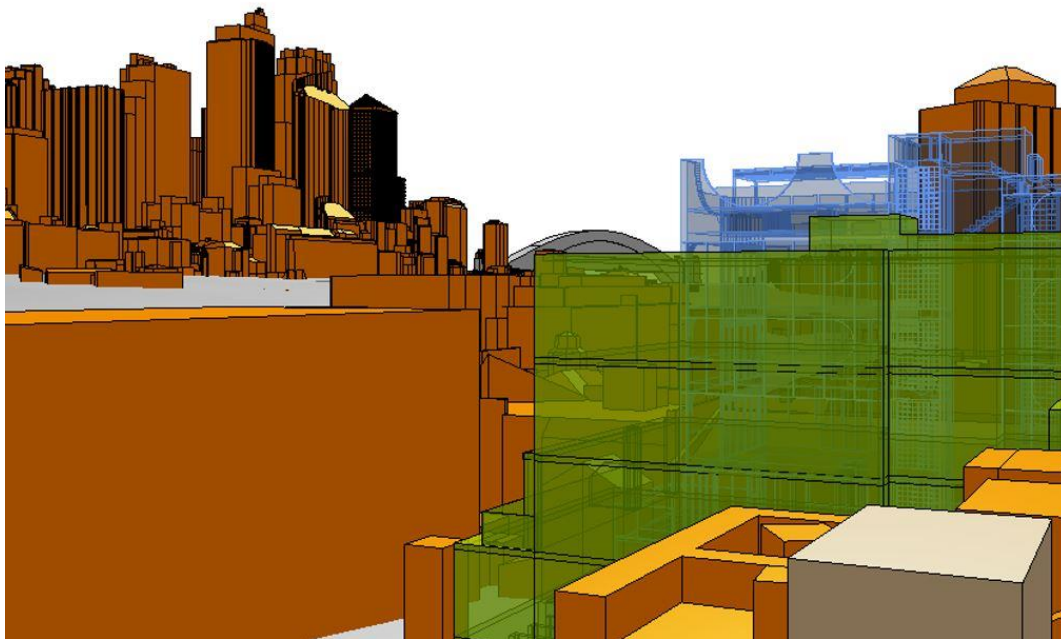
(c) **18/113-125 Palmer Street, Woolloomooloo**

- (i) The impacts on views from apartment 18 on the eastern side of level 3 of the eight storey 'Diplomat' building at 113-125 Palmer Street, Woolloomooloo, are discussed below:
- i. Views to be affected: Partial views from the living room windows and roof terrace north-east toward the Finger Wharf, Sydney Harbour and across Woolloomooloo to the Potts Point ridgeline, and partial views to the north-west toward the Domain, Art Gallery of New South Wales, Sydney Harbour Bridge and Sydney Central Business District skyline.
  - ii. Part of property viewed from: Views are obtained over the side (northern) boundary from the open plan living room windows, kitchen window and balcony.
  - iii. Extent of impact: The proposed development will be visible from the apartment, as depicted in the photograph and CAD modelling reproduced in the figures below. The loss of view is of the built environment to the north-east of the site, the Royal Botanic Gardens and land-water interface, with views toward the Finger Wharf, Sydney Harbour and across Woolloomooloo to the Potts Point ridgeline generally maintained. The impact to views to the north-west is a partial loss of view to the Art Gallery and Domain.

- iv. Reasonableness: The proposal would have a negligible to minor impact on the north-east and north-west views from this property given the view impacts established by the Land and Environment Court approved development at 103-105 Palmer Street, Woolloomooloo. The opportunity to protect the view between the property and 101 Palmer Street, Woolloomooloo is limited as the impact is caused by building bulk that is compliant with the 22 metre and six storey height controls, front and rear setback controls, and is viewed across multiple side boundaries. As such, the impacts to this property are acceptable.



**Figure 71:** Photograph of the north west view from the balcony of 18/113-125 Palmer St, Woolloomooloo

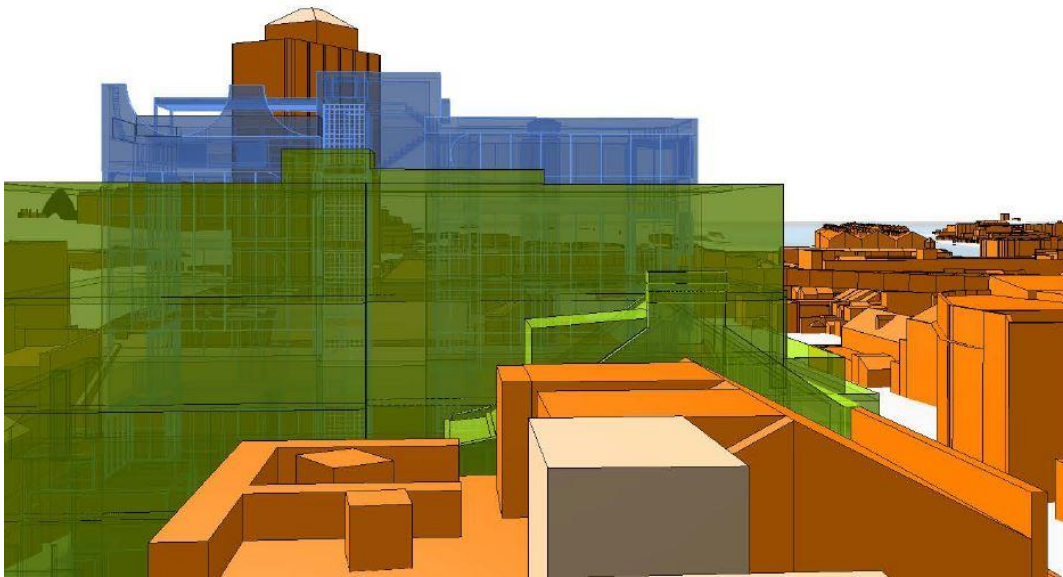


**Figure 72:** CAD model of the view from the balcony of 18/113-125 Palmer St, Woolloomooloo, with the proposed development (depicted in blue) and approved development at 103-105 Palmer St, Woolloomooloo (depicted in green)



**Figure 73:** Photograph of the view from the kitchen window of 18/113-125 Palmer St, Woolloomooloo





**Figure 74:** CAD model of the view from the kitchen window of 18/113-125 Palmer St, Woolloomooloo, with the proposed development (depicted in blue) and approved development at 103-105 Palmer St, Woolloomooloo (depicted in green)

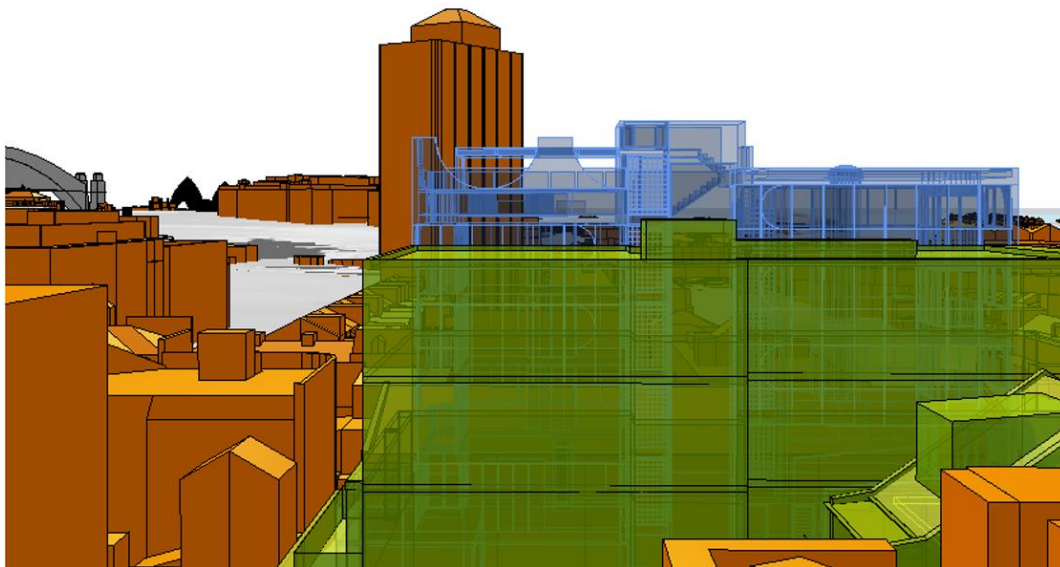
(d) **21/113-125 Palmer Street, Woolloomooloo**

- (i) The impacts on views from apartment 21 on the western side of level 4 of the eight storey 'Diplomat' building at 113-125 Palmer Street, Woolloomooloo, are discussed below:
  - i. Views to be affected: Partial views from the living room windows and roof terrace north-east toward the Finger Wharf, Sydney Harbour and across Woolloomooloo to the Potts Point ridgeline, and partial views to the north-west toward the Domain, Art Gallery of New South Wales, Sydney Harbour Bridge and Sydney Central Business District skyline.
  - ii. Part of property viewed from: Views are obtained over the side (northern) boundary from the open plan living room windows, kitchen window and balcony.
  - iii. Extent of impact: The proposed development will be visible from the apartment, as depicted in the photograph and CAD modelling reproduced in the figures below. The loss of view is of the built environment to the north-east of the site, the Royal Botanic Gardens and land-water interface, with views toward the Finger Wharf, Sydney Harbour and across Woolloomooloo to the Potts Point ridgeline generally maintained. The impact to views to the north-west is a partial loss of view to the Art Gallery and Domain.

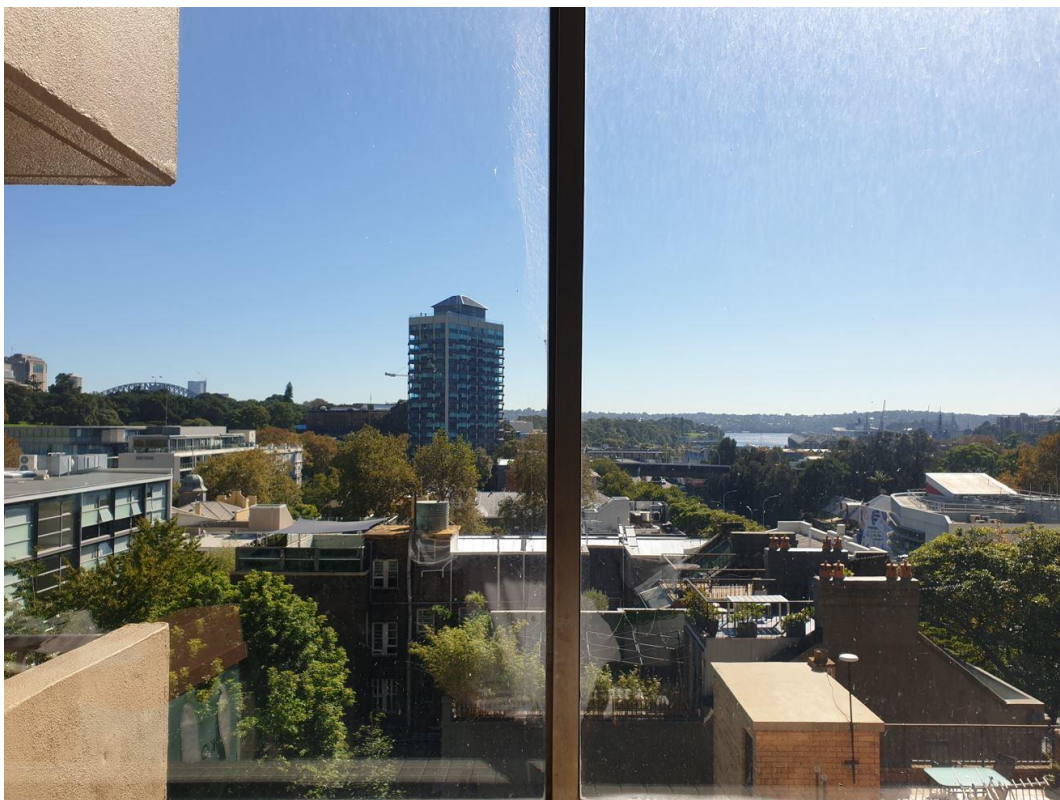
- iv. Reasonableness: The proposal would have a minor to moderate impact on the north-east and north-west views from this property. The opportunity to protect the view between the property and 101 Palmer Street, Woolloomooloo is limited as the impact is caused by building bulk that is compliant with the 22 metre and six storey height controls, front and rear setback controls, and is viewed across multiple side boundaries. As such, the impacts to this property are acceptable.



**Figure 75:** Photograph of the north view from the balcony of 21/113-125 Palmer St, Woolloomooloo

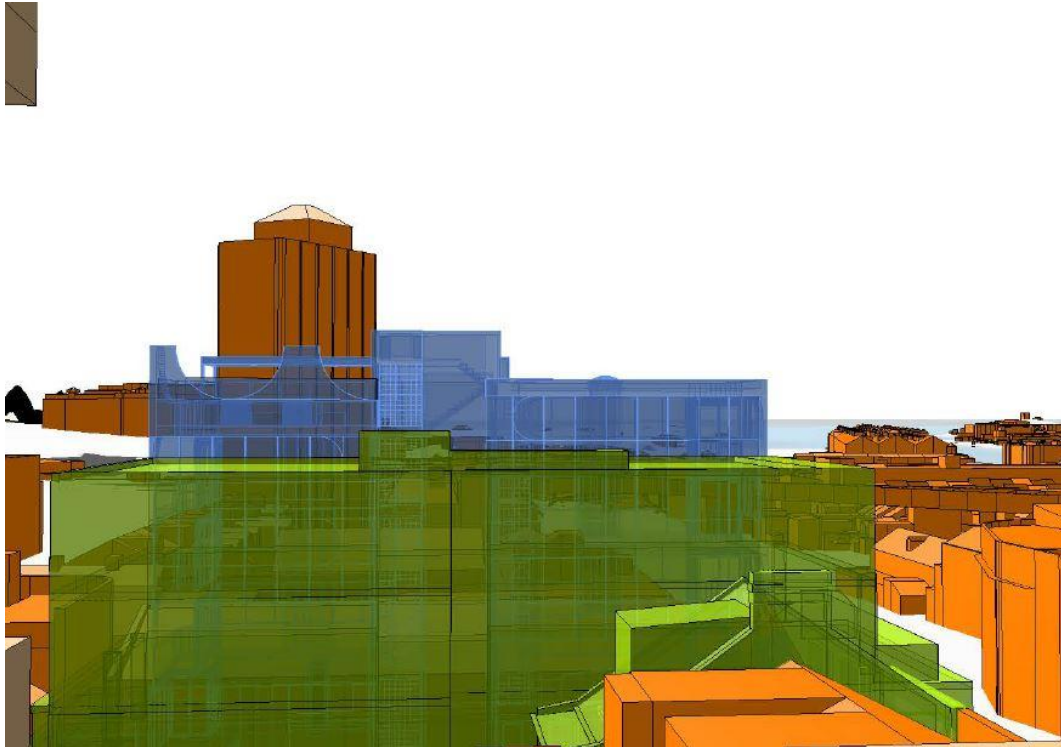


**Figure 76:** CAD model of the view from the balcony of 21/113-125 Palmer St, Woolloomooloo, with the proposed development (depicted in blue) and approved development at 103-105 Palmer St, Woolloomooloo (depicted in green)



**Figure 77:** Photograph of the view from the kitchen window of 21/113-125 Palmer St, Woolloomooloo





**Figure 78:** CAD model of the view from the kitchen window of 21/113-125 Palmer St, Woolloomooloo, with the proposed development (depicted in blue) and approved development at 103-105 Palmer St, Woolloomooloo (depicted in green)

(e) **26/113-125 Palmer Street, Woolloomooloo**

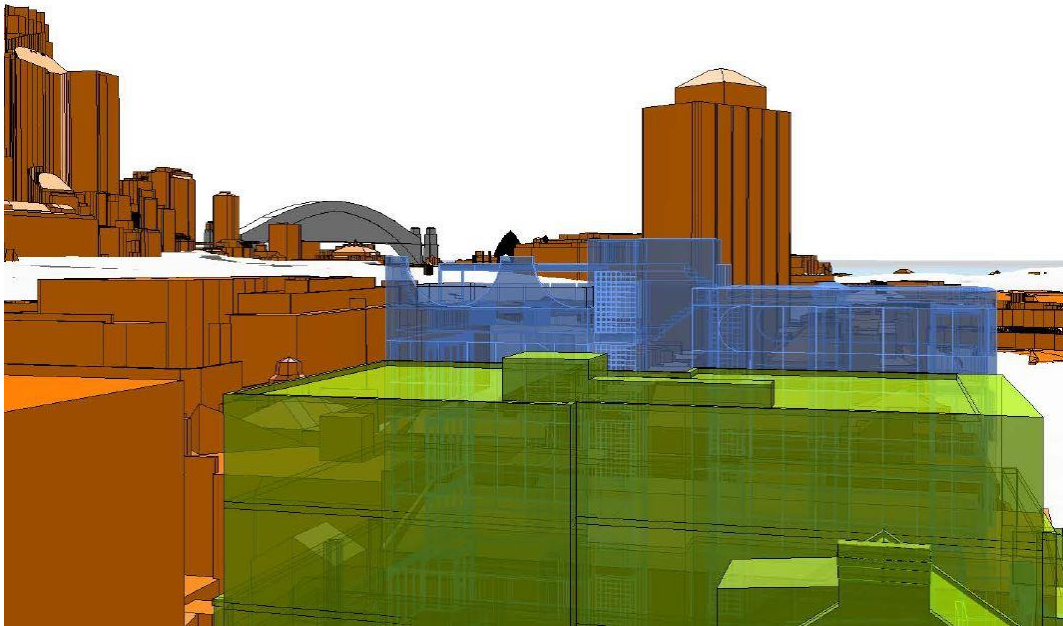
- (i) The impacts on views from apartment 26 on the eastern side of level 5 of the eight storey 'Diplomat' building at 113-125 Palmer Street, Woolloomooloo, are discussed below:
  - i. Views to be affected: Partial views from the living room windows and roof terrace north-east toward the Finger Wharf, Sydney Harbour and across Woolloomooloo to the Potts Point ridgeline, and partial views to the north-west toward the Domain, Art Gallery of New South Wales, Sydney Harbour Bridge and Sydney Central Business District skyline.
  - ii. Part of property viewed from: Views are obtained over the side (northern) boundary from the open plan living room windows, kitchen window and balcony.
  - iii. Extent of impact: The proposed development will be visible from the apartment, as depicted in the photograph and CAD modelling reproduced in the figures below. The loss of view is of the built environment to the north-east of the site and part of the Royal Botanic Gardens and land-water interface, with views toward the Finger Wharf, Sydney Harbour and across Woolloomooloo to the Potts Point ridgeline generally maintained. The impact to views to the north-west is a partial loss of view to the Art Gallery and Domain.

- iv. Reasonableness: The proposal would have a negligible to minor impact on the north-east and north-west views from this property. The opportunity to protect the view between the property and 101 Palmer Street, Woolloomooloo is limited as the impact is caused by building bulk that is compliant with the 22 metre and six storey height controls, front and rear setback controls, and is viewed across multiple side boundaries. As such, the impacts to this property are acceptable.



**Figure 79:** Photograph of the north-west view from the balcony of 26/113-125 Palmer St, Woolloomooloo

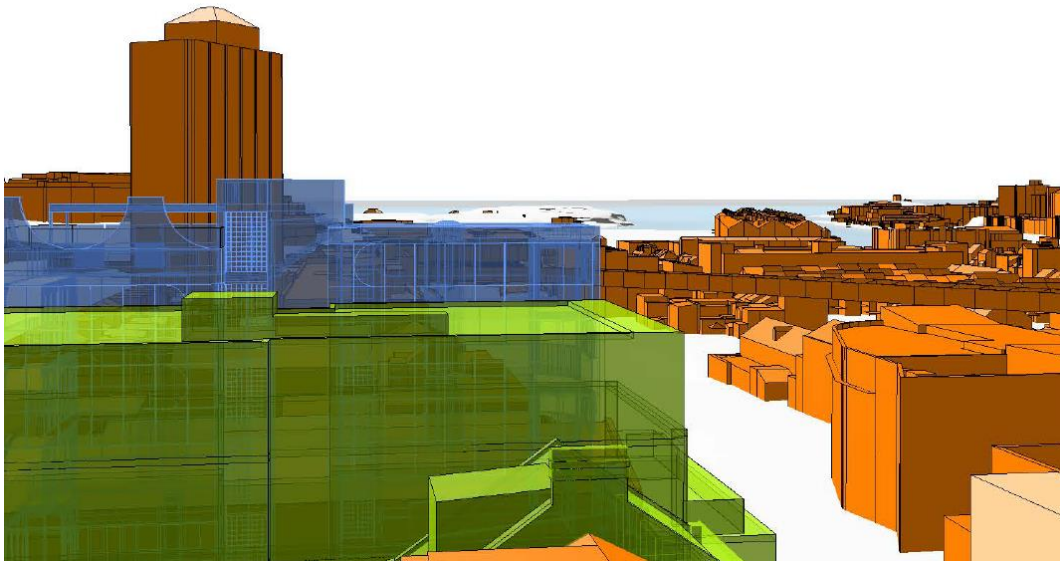




**Figure 80:** CAD model of the north-west view from the balcony of 26/113-125 Palmer St, Woolloomooloo, with the proposed development (depicted in blue) and approved development at 103-105 Palmer St, Woolloomooloo (depicted in green)



**Figure 81:** Photograph of the view from the kitchen window of 26/113-125 Palmer St, Woolloomooloo



**Figure 82:** CAD model of the view from the kitchen window of 26/113-125 Palmer St, Woolloomooloo, with the proposed development (depicted in blue) and approved development at 103-105 Palmer St, Woolloomooloo (depicted in green)

(f) **32/113-125 Palmer Street, Woolloomooloo**

- (i) The impacts on views from apartment 32 on the western side of the top level of the eight storey 'Diplomat' building at 113-125 Palmer Street, Woolloomooloo, are discussed below:
- i. Views to be affected: Partial views from the living room windows and roof terrace north-east toward the Finger Wharf, Sydney Harbour and across Woolloomooloo to the Potts Point ridgeline, and partial views to the north-west toward the Domain, Sydney Harbour Bridge and Sydney Central Business District skyline.
  - ii. Part of property viewed from: Views are obtained over the side (northern) boundary and rear (western) boundary from the open plan living room windows and the roof terrace.
  - iii. Extent of impact: As demonstrated in the photographs below, the proposal will have no impact on the north-west view towards the Domain, Sydney Harbour Bridge and Sydney Central Business District skyline. Similarly, there will be no impact on views from the living room windows of the property, due to the setback from the edge of the roof terrace.

The proposed development will be visible from the roof terrace of the apartment, as depicted in the photograph and CAD modelling reproduced in the figures below. The loss of view is of the built environment to the north of the site, with views to the Finger Wharf, Garden Island and Sydney Harbour generally maintained.

- iv. Reasonableness: The proposal would have a negligible impact on the north-east views from this property. The opportunity to protect the view between the property and 101 Palmer Street, Woolloomooloo is limited as the impact is caused by building bulk that is compliant with the 22 metre and six storey height controls, front and rear setback controls, and is viewed across multiple side boundaries. As such, the impacts to this property are acceptable.

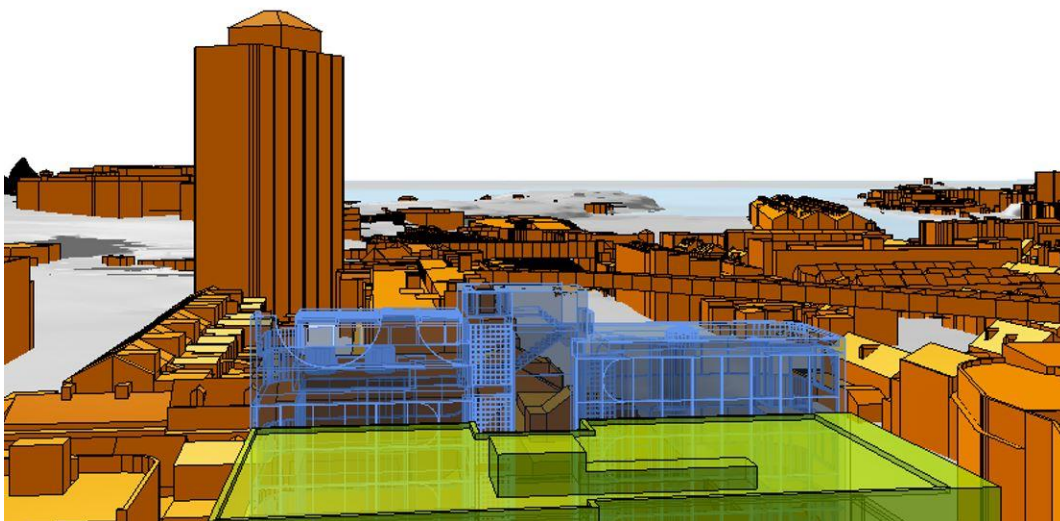


**Figure 83:** Photograph of the view from the roof terrace to 32/113-125 Palmer St, Woolloomooloo demonstrating that there will be no impact on the view to the north-west





**Figure 84:** Photograph of the view from roof terrace of 32/113-125 Palmer St, Woolloomooloo



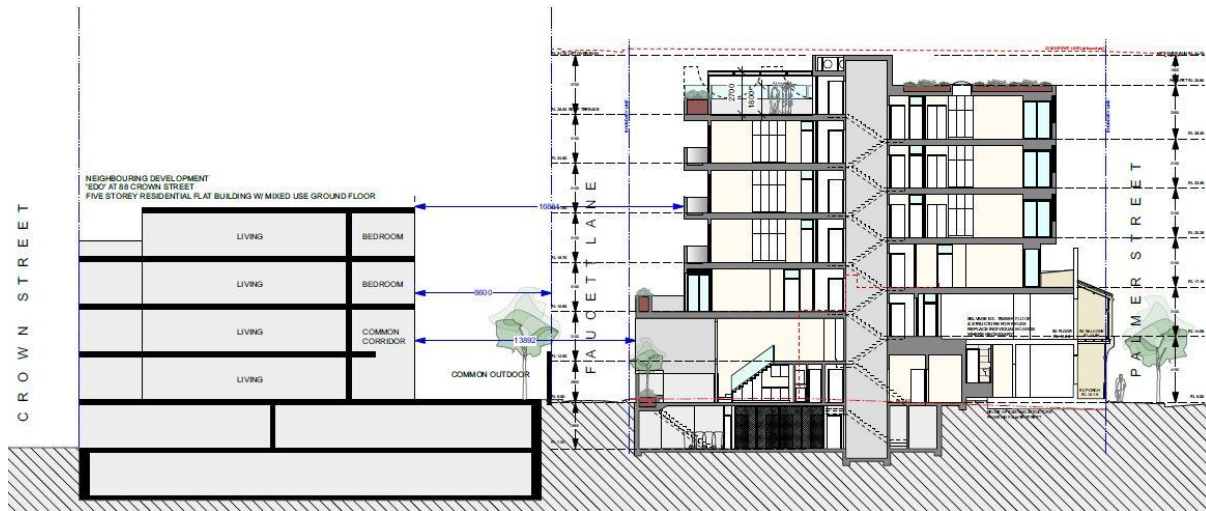
**Figure 85:** CAD model of the view from the roof terrace of 32/113-125 Palmer St, Woolloomooloo, with the proposed development (depicted in blue) and approved development at 103-105 Palmer St, Woolloomooloo (depicted in green)

## Privacy

113. Privacy, building separation and communal open space design has been considered in the assessment of the proposed development, as outlined under the headings provided below.

## Building Separation

114. As discussed above in relation to 2F of the ADG, the building separation between the site and 76-88 Crown Street, Woolloomooloo to the west of the site ranges in excess of between approximately 13 and 16 metres. This separation is indicated in the drawing extract reproduced in the figure provided below.



**Figure 86:** Context section drawing extract, with approximate separation distances indicated in blue arrows from the proposed development to 'Edo' at 76-88 Crown St, Woolloomooloo

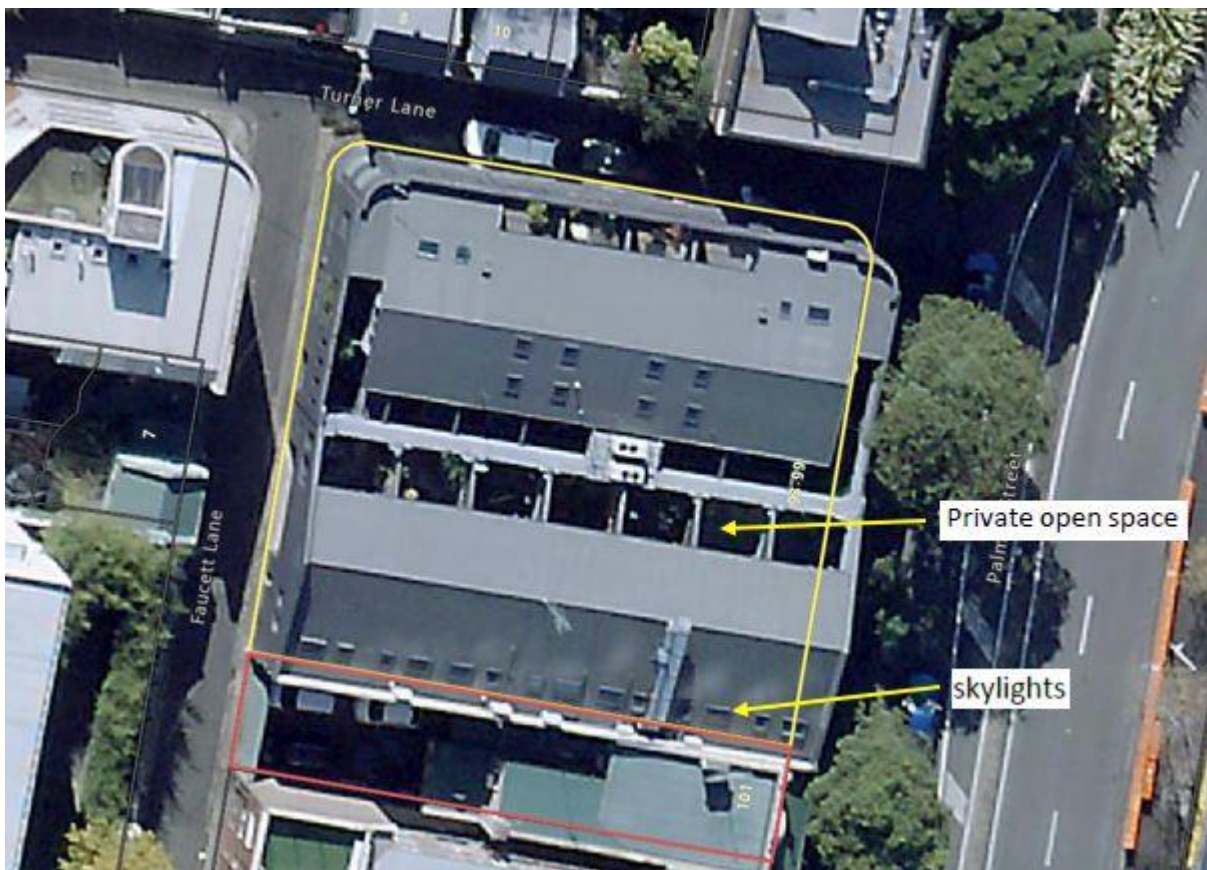
115. This is compliant at the ground, first, second and third floor levels, and non-compliant at the fourth, fifth and roof terrace levels.
116. The building separation between the proposal and 7 Faucett Lane ranges in excess of between approximately 12 and 15 metres, which is compliant at the ground, first, second and third floor levels, and non-compliant at the fourth, fifth and roof terrace levels.
117. In relation to the provisions of the 3F of the ADG, the separation to the rear boundary to Faucett Lane does not achieve compliance at the ground, first and second floor levels, or at the fourth, fifth and roof terrace levels.
118. The non-compliant rear separation of the development is acceptable given that the proposal:
- is consistent with the desired future character along Palmer Street for the Cathedral Street locality, which is for development six storeys in height;
  - complies with the maximum height, FSR and storey height controls in the Sydney LEP 2012 and Sydney DCP 2012;
  - complies with the control relating to street wall height and exceeds the minimum requirements for setbacks above street wall height in the Sydney DCP 2012;



- (d) does not result in any significant overshadowing or daylight impacts to the site at 76-88 Crown Street or 7 Faucett Lane, Woolloomooloo;
- (e) provides acceptable communal open space and landscape design, subject to the conditions included in Attachment A;
- (f) will not result in significant visual privacy impacts to the properties to the rear of the site, given the limited trafficable area proposed to the studio balconies, and landscape and privacy treatments proposed to the roof terrace; and
- (g) will not result in significant acoustic privacy impacts to the properties to the rear of the site, subject to the conditions included in Attachment A requiring noise management measures for plant and compliance with the acoustic report submitted with the application.

119. The proposal includes balconies and roof terraces as private open space which may result in overlooking impacts to skylights within the property to the north of the site, as indicated in the photograph reproduced in the figure provided below.

120. A condition is included in Attachment A requiring privacy treatments to the northern edge of each private open space area, integrated with the curved architecture of the building and to preclude overlooking into the adjoining skylights.



**Figure 87:** Aerial photograph extract, with subject site outlined in red, adjoining site outlined in yellow, and skylights and private open space of adjoining apartments indicated with yellow arrows

### ***Communal Open Space***

121. The proposed communal rooftop terrace has been amended from that originally proposed to include a 1.8 metre high fence and planters around its perimeter, and largely covered by an adjustable vergola shade structure, both of which will serve to assist in restricting noise from its use and overlooking into adjoining properties, thereby satisfying the relevant objective for visual privacy under 3D of the ADG.
122. An updated acoustic report was submitted with the amended application, which provides an assessment of potential acoustic impacts arising from the development (including from the communal rooftop terrace), and which makes recommendations in relation to the mitigation of these potential impacts.
123. The modified proposal has been reviewed by the City's health and building unit, which has provided advice which is generally supportive of the amended application, subject to a condition included in Attachment A requiring that the recommendations of the acoustic report are implemented and complied with.
124. The imposition of the recommended condition satisfactorily addresses the potential for noise disturbance associated with the future use of the proposed communal outdoor area.
125. The design of the rooftop communal space has been reviewed by the City's landscape assessment officer, who has provided advice which is generally supportive of the amended application, subject to conditions included in Attachment A relating to the detailed design of the landscape treatment of the development.
126. The imposition of these recommended conditions satisfactorily addresses the quality of the design of the space and the relevant objective at 3D of the ADG.

### **Consultation**

#### **Design Advisory Panel Residential Subcommittee**

127. After finalisation of a preliminary assessment of the proposed development by Council staff, the application was presented to the City's Design Advisory Panel Residential Subcommittee (DAPRS) on 5 October 2021. The DAPRS provided advice which is reproduced in Attachment C.
128. The design matters raised have been largely satisfied by the submission of amended drawings and through the provision of additional information, evidence and detail.
129. Minor design issues that remain unresolved are conditioned in Attachment A as part of the recommendations of this report.
130. The matters raised by DAPRS are addressed in the amended scheme or by conditions as follows:
  - (a) retention of more of the original terrace fabric, including internal walls, nibs and chimney breasts;
  - (b) deletion of an apartment and provision of a two level apartment within the retained terrace;

- (c) floor to ceiling heights within the two level ground floor apartment fronting Faucett Lane which are generally acceptable with regard to the relevant objectives and provisions of the ADG and Sydney DCP 2012;
- (d) increased proportions to the size of the terrace serving the two level ground floor apartment fronting Faucett Lane;
- (e) provision of acoustically treated natural ventilation plenum systems to noise affected apartments fronting Palmer Street;
- (f) a condition is included in Attachment A to ensure that the ventilation paths via kitchen windows that are operable and dimensioned to permit natural cross ventilation in accordance with the ADG;
- (g) provision of advice prepared by a qualified building consultant in relation to compliance with National Construction Code (NCC) relating to fire separation and fire booster assembly;
- (h) amended waste collection area, bin lift and planter design;
- (i) provision of solid balcony balustrades;
- (j) deletion of curved glazing;
- (k) amended roof top terrace design providing a perimeter landscape treatment, shade and wind protection devices and small tree plantings;
- (l) provision of a view sharing assessment, including consideration of the approved development on the adjoining site at 103-105 and 107 Palmer Street, Woolloomooloo;
- (m) redesigned lift lobbies providing separate and secure apartment access;
- (n) revised design of the northern boundary wall treatment and inclusion of a condition in Attachment A to ensure that the southern boundary wall is amended to be treated in a similar fashion;
- (o) provision of detail facade drawings;
- (p) revised apartment design and configuration, including revised laundry design and no internalised studies;
- (q) provision of air conditioning plant within a roof level enclosure, subject to conditions in Attachment A requiring acoustic treatment;
- (r) rooftop access for maintenance;
- (s) coordination of elevation and section drawing depiction of parapet height;
- (t) conservation works and modifications to the verandah of the retained terrace;
- (u) details on stair landing and door access clearances; and
- (v) revised material palette and panelling system to the northern facade, referencing the detail of the retained terrace parapet and details.

**Internal Referrals**

131. The application was referred to, or discussed with the following Council units and City officers:
- (a) City Access and Transport Unit;
  - (b) Cleansing and Waste Unit;
  - (c) Construction and Building Services Unit;
  - (d) Health and Building Unit;
  - (e) Landscape Assessment Officer;
  - (f) Model Unit;
  - (g) Public Domain Unit;
  - (h) Specialist Surveyor; and
  - (i) Tree Management Unit.
132. These panels, units and officers generally advised that the proposal is acceptable, subject to conditions. Where appropriate, these conditions have been included in Attachment A.
133. Where concerns were raised with the proposed development, these matters are either addressed in the table sections provided throughout the body of this assessment report, or outlined in detail under the Discussion heading above.

**External Referrals****Ausgrid**

134. Pursuant to Clause 2.48 of the Transport and Infrastructure SEPP, the application was referred to Ausgrid for comment.
135. A response was received raising no objections to the proposed development, subject to the imposition of a condition, which has been included in Attachment A.

**Sydney Water**

136. Pursuant to Section 78 of the Sydney Water Act, 1994, the application was referred to Sydney Water for comment.
137. A response was received raising no objections to the proposed development, subject to the imposition of conditions, which have been included in Attachment A.

**Transport for NSW**

138. Pursuant to Clauses 2.118 and 2.121 of the Transport and Infrastructure SEPP, the application was referred to Transport for NSW for comment.
139. A response was received raising no objections to the proposed development, subject to the imposition of conditions, which have been included in Attachment A.

## Advertising and Notification

140. In accordance with the City of Sydney Community Participation Plan, the proposed development was notified for a period between 25 June 2021 and 10 July 2021, and renotified between 13 July 2021 and 4 August 2021.
141. A total of 451 properties were notified and 24 submissions in objection to the proposed development were received by the City.

142. The submissions raised a range of issues of concern, which are summarised and addressed below.

- (a) **Issue:** Non-compliance with height controls, which permit maximums to be achieved only where consistent with existing character and no setbacks from street frontages.
- (b) **Issue:** Very narrow and tall building form with exaggerated height to width proportions, very unlike any existing or likely development in the locality, which would be visually dominant and obtrusive.

**Response:** The height of the proposed development complies with the maximum 22 metre height of buildings development standard under Clause 4.3 of the Sydney LEP 2012, and the maximum six storey height in storeys control under Section 4.1.1 and Section 4.2.1.1 of the Sydney DCP 2012.

The proposal is consistent with the desired future character of the Cathedral Street locality, which is for a strong six storey built form along the Palmer Street edge in response to the Eastern Distributor tunnel. The proposal also provides appropriate and compliant setbacks above the street wall height to both Palmer Street and to Faucett Lane.

- (c) **Issue:** Development should be reduced to four storeys to allow a graduated building form following the topography.

**Response:** The proposal complies with the maximum 22 metre height of buildings development standard and maximum six storey height control.

- (d) **Issue:** Not in keeping or compatible with the existing streetscape, historic terrace development, comprises facadism and impacts to heritage conservation area.

**Response:** The proposed development has been amended on several occasions to retain and conserve important building elements of the subject Victorian terrace building, to ensure that it continues to contribute to the significance of the Woollahroo heritage conservation area and streetscape to Palmer Street.

The modified proposal has been reviewed by the City's heritage specialist, who has provided advice which is generally supportive of the amended application, subject to the range of conditions recommended in Attachment A relating to heritage conservation.

As a result, subject to the above-mentioned conditions, the proposed development satisfies the relevant objectives and provisions of Clause 5.10 of the Sydney LEP 2012 and Section 3.9 of the Sydney DCP 2012.



- (e) **Issue:** Acoustic and visual privacy impacts from proposed roof top common open space, which should be deleted, shade structures would exacerbate unacceptable height. An inaccessible setback should be provided along the length of the edges of the roof terrace a minimum of 1 metre from the common boundaries.

**Response:** As discussed elsewhere in this assessment report, the design of the rooftop communal open space has been amended so that it achieves the objectives under 3D of the ADG, subject to the range of acoustic and landscape conditions included in Attachment A.

Deletion of the proposed communal open space is not recommended, given that it would result in substandard residential amenity for the proposal and defeat the objectives of the ADG for communal open space in residential apartment development.

- (f) **Issue:** Acoustic privacy impacts from air conditioning units.

**Response:** As discussed above, an updated acoustic report was submitted with the amended application, which provides an assessment of potential acoustic impacts arising from the development (including from air conditioning plant), and which makes recommendations in relation to the mitigation of these potential impacts.

The modified proposal has been reviewed by the City's Health and Building Unit. The advice received is generally supportive of the amended application, subject to conditions included in Attachment A relating to plant noise and requiring that the recommendations of the acoustic report are implemented and complied with.

The imposition of the recommended conditions satisfactorily addresses the potential for noise disturbance associated with the proposed air conditioning plant.

- (g) **Issue:** The aesthetics of the development are incompatible with the surrounding existing development.

**Response:** The design of the proposed development has been amended since notification and is generally acceptable with regard to considerations relating to design aesthetics under Clause 6.21 of the Sydney LEP 2012 and SEPP 65, as discussed elsewhere in this assessment report.

The modified proposal has been reviewed by the City's urban design specialist, who has provided advice which is generally supportive of the amended application, subject to the range of design modification and details conditions included in Attachment A.

The imposition of the recommended conditions satisfactorily addresses matters relating to the aesthetics of the proposed development.

- (h) **Issue:** Impacts associated with waste collection along Faucett Lane.

**Response:** A waste management plan was submitted with the application in accordance with the City's Guidelines for Waste Management in New Developments 2018.

The application has been reviewed by both the City's transport planner and waste officer, who have provided advice which is generally supportive of the proposed development, subject to the conditions included in Attachment A relating to bicycle parking provision, the submission and approval of an updated waste management plan, and waste and recycling collection.

The imposition of the recommended conditions satisfactorily addresses matters relating to traffic generation and waste management for the proposed development.

- (i) **Issue:** No car parking provision, traffic congestion, safety and parking impacts within the locality, particularly within Faucett Lane.

**Response:** The proposed development does not propose any resident or visitor car parking facilities, which is acceptable regarding the relevant provisions of Part 7 of the Sydney LEP 2012, which prescribes maximum car parking requirements for new developments and do not mandate any minimum car parking provision.

The application has been reviewed by the City's transport planner who has provided advice which is generally supportive of the proposed development, subject to the conditions included in Attachment A relating to bicycle parking provision.

The imposition of the recommended conditions satisfactorily addresses matters relating to traffic generation for the proposed development.

- (j) **Issue:** Loss of views from apartments within the buildings at 113-125 Palmer Street, Woolloomooloo and 76-88 Crown Street, Woolloomooloo. No view sharing or view loss information submitted with application.

**Response:** View sharing and view loss impacts arising because of the proposed development have been assessed in detail elsewhere in this assessment report and are acceptable.

The amended application was accompanied by a view loss assessment prepared by the applicant. This assessment was reviewed by the City's Model Unit, which provided advice that it was generally accurate and provided additional view impact analysis of the proposed development.

- (k) **Issue:** The building at 113-125 Palmer Street, Woolloomooloo is located within the William Street locality where taller building forms prevail.

**Response:** The building at 113-125 Palmer Street, Woolloomooloo is not identified on the located in the William Street locality. It is located within the same locality area as the subject site, being the Cathedral Street locality.

- (l) **Issue:** The proposed development will significantly reduce natural light and overshadow surrounding buildings and common open spaces.

**Response:** Shadow diagrams and sun's eye view diagrams were submitted with the amended application which demonstrate that overshadowing of neighbouring properties is minimised during mid winter in accordance with the relevant objective at 3B-2 of the ADG and the relevant objectives and provisions in Section 4.1.3.1 and Section 4.2.3.1 of the Sydney DCP 2012.

The proposed development does not result in significant overshadowing impacts to the communal open space at the rear of the building at 76-88 Crown Street, Woolloomooloo, or the communal open space and pool area at 113-125 Palmer Street, Woolloomooloo.

The proposed development is acceptable regarding solar access considerations.

- (m) **Issue:** The application should be rejected or refused.

**Response:** There are no planning grounds that could be relied upon to reject, refuse or to further modify the proposed development beyond the recommended design modification conditions included in Attachment A.

- (n) **Issue:** Incorrect FSR calculation

**Response:** The application has been amended since notification and the ground level storage room has been included in the calculation of GFA and FSR. The waste storage room has been relocated to the basement level and is excluded from the calculation of GFA and FSR. The bin collection alcove to Faucett Lane is not enclosed and is excluded from the calculation of GFA and FSR. The proposed development has an FSR of 2.85:1 and complies with the maximum permitted FSR for the site of 3:1.

- (o) **Issue:** Ground floor storage areas contribute to the overall bulk of the proposed building.

**Response:** The ground floor storage room is centrally located at the ground floor level of the development in the approximate of the rear wing of the existing terrace building. It does not contribute significantly to the bulk of the proposed development.

- (p) **Issue:** Non-compliance with FSR objectives.

**Response:** As discussed elsewhere in this assessment report, the proposed development, as amended, generally satisfies the objectives of the FSR standard. Further, it does not achieve the maximum FSR for the subject site.

- (q) **Issue:** Unacceptable height, bulk and scale.

**Response:** As discussed elsewhere in this assessment report, the height, bulk and scale of the proposal is generally acceptable with regard to the desired future character of the Cathedral Street locality set out in Section 2.4.2 of the Sydney DCP 2012.

Further, subject to the conditions included in Attachment A, the proposed development will not result in significantly adverse impacts on the amenity of adjoining and nearby sites.

- (r) **Issue:** Compromised development potential for adjoining properties.

**Response:** The proposal, as amended and subject to the conditions included in Attachment A, does not serve to significantly compromise the development potential of the adjoining properties.

- (s) **Issue:** The Land and Environment Court of New South Wales found that a five storey height was appropriate on the adjoining site at 103-105 and 107 Palmer Street, Woolloomooloo, which should warrant a similar reduction in height on the subject site.

**Response:** The development consent granted by the Land and Environment Court of New South Wales responded to drawings submitted and differing site context and dimensions to that of the subject proposal.

The proposal complies with key development standards and controls applicable to the site and, subject to the conditions included in Attachment A, does not result in significantly adverse streetscape, character or view sharing impacts, as discussed elsewhere in this assessment report.

- (t) **Issue:** The 2.7 metre floor to ceiling heights do not make allowance for service provision and associated need to increase future height of the development to accommodate services.

**Response:** Apart from the floor to floor heights within the retained Victorian terrace building and the split level ground level apartment at the rear, the proposed floor to floor and floor to ceiling heights of the proposed development achieve the relevant requirements set out under 4C of the ADG and Section 4.2.1.2 of the Sydney DCP 2012.

The proposed variation of these controls is acceptable, given the adaptive reuse of the existing Victorian terrace and the overall floor to ceiling height provided within the rear ground floor level apartment, as discussed elsewhere in this assessment report.

Subject to the conditions included in Attachment A, the proposed floor to floor and floor to ceiling heights provide sufficient space for service provision, including the proposed natural ventilation plenum systems.

- (u) **Issue:** Demolition of contributory building, except the terrace facade, and the existing side walls will not have sufficient structural integrity to support the levels above.

**Response:** The proposed development has been amended on a number of occasions to conserve important building elements of the subject Victorian terrace, and to provide structural details which, subject to the conditions included in Attachment A, will retain the primary building form of the contributing building, in accordance with the relevant controls in Section 3.9 and 4.1 of the Sydney DCP 2012.

- (v) **Issue:** Poor residential amenity relating to natural cross ventilation and privacy, with kitchen windows to the light well providing cross ventilation and all bathrooms relying on mechanical ventilation.

**Response:** The proposed kitchen windows relied upon for natural cross ventilation are acceptable with regard to the ventilation and privacy requirements under the ADG, subject to a design modification condition included in Attachment A requiring the windows to be operable and fitted with translucent glazing. Bathrooms are non-habitable rooms and are not required to be provided with natural ventilation.

- (w) **Issue:** Proposed balconies with nil setback to the northern side property boundary contrary to ADG requirements, development relies entirely on balconies to achieve solar access into the proposed units, compromising the development potential of the property at 93-99 Palmer Street, Woolloomooloo.

**Response:** The design of the proposal achieves solar access into the proposed apartments via windows and balconies which primarily face the east and west elevations of the site. The proposed development does not significantly constrain the development potential of the site at 93-99 Palmer Street, Woolloomooloo.

- (x) **Issue:** Non-compliant private open space area regarding Sydney DCP 2012 controls.

**Response:** Clause 6A(2) of SEPP 65 states that if a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect.

Clause 6A(1)(f) of SEPP 65 applies to private open space and balconies and therefore the provisions of 4E of the ADG prevail over the controls in Section 4.2.3.7 of the Sydney DCP 2012 in this instance.

Each of the eight studio apartments at the second, third, fourth and fifth floor levels complies with the minimum private open space requirements under 4E of the ADG. The rear ground floor split level apartment also complies with these provisions.

The only apartment which seeks to vary the ADG controls for balconies is apartment 1.01, located within the retained Victorian terrace building. As discussed elsewhere in this assessment report, the variation of the provision is acceptable regarding objective 4R-2 of the ADG, given the adaptive reuse of the principal building form of the terrace.

- (y) **Issue:** Impacts on income of residents of adjoining and nearby properties.

**Response:** Matters relating to loss of income are not considerations that can be given significant weight in an assessment of an application made under the Environmental Planning and Assessment Act, 1979.

- (z) **Issue:** Privacy impacts to apartments in the building at 113-125 Palmer Street, Woolloomooloo.

**Response:** The distance between the southern boundary of the site at 101 Palmer Street and the northern boundary of the property at 113-125 Palmer Street, Woolloomooloo exceeds 30 metres. The northern elevation of the apartments of the existing building at the latter property are set back by more than 15 metres from its northern boundary, with the separation between the proposal and the above-mentioned apartments exceeding 45 metres.

There are no south-facing apartment windows facing toward the apartments at 113-125 Palmer Street, Woolloomooloo and, as discussed above, the amended design of the rooftop communal open space will not result in any significant overlooking impacts to the properties to the south of the subject site.



- (aa) **Issue:** Illegal development application.

**Response:** The subject application has been lawfully made in accordance with the relevant provisions of the Environmental Planning and Assessment Act, 1979 and accompanying Regulation.

- (bb) **Issue:** More small studios should not be supported as mortgages are difficult to obtain for such apartments.

**Response:** The proposal comprises a permissible land use. Matters relating to ease with which loans can be obtained by future prospective purchasers of the proposed apartments are not considerations that can be given significant weight in an assessment of an application made under the Environmental Planning and Assessment Act, 1979.

- (cc) **Issue:** Visual privacy and ventilation impacts to skylights and private open space of apartments in the building at 93-99 Palmer Street, Woolloomooloo. Survey information for the skylights and fixed privacy screens installed along the northern elevation of all balconies at levels 3 to 6 inclusive.

**Response:** The survey information provided with the application is sufficient for the assessment of the proposal. The proposed development will not have a significant impact on ventilation access to the skylights of the adjoining building.

The proposed development does not include any north-facing windows which provide opportunities for overlooking into the adjoining skylights of apartments within the building at 93-99 Palmer Street, Woolloomooloo. The private open space of apartments G.02, 1.01 and 2.02 will not overlook the subject skylights, as all three are set below the height of the side wall of the adjoining building. As discussed above, the design of the rooftop communal open space will not result in any significant overlooking impacts to the properties to the north of the subject site.

In order to mitigate the potential for privacy impacts to the skylights from the roof terrace of apartment 2.01 and from the apartment balconies at the third, fourth and fifth floor levels, a design modification condition is included in Attachment A to require the installation of privacy treatments to the northern edge of each private open space area, to preclude overlooking.

- (dd) **Issue:** The proposed western setback should be setback in-line with the approved development on 103-105 and 107 Palmer Street, Woolloomooloo.

**Response:** The proposed development has been amended to align the western setback above the two storey street wall height to Faucett Lane with the rear setback of the approved development on the adjoining site at 103-105 and 107 Palmer Street, Woolloomooloo.

- (ee) **Issue:** Renotification of amended application.

**Response:** The amendments to the application were not required to be renotified as the changes do not result in significant additional environmental impacts.

(ff) **Issue:** Unacceptable amenity for future occupants of the development.

**Response:** The assessment provided elsewhere in this assessment demonstrates that the proposed apartments will have an acceptable level of residential amenity, as measured against the applicable controls in the SEPP 65, the ADG, the Sydney LEP 2012, the Sydney DCP 2012 and other applicable planning instruments and policies.

(gg) **Issue:** Budget seems small.

**Response:** The cost summary report submitted with the application has been prepared by a qualified quantity surveyor in accordance with the City's requirements.

(hh) **Issue:** The likely use of the development will be as a boarding house or backpacker's accommodation.

**Response:** The proposed development is for a residential flat building and has been assessed and recommended for development consent for this use, subject to the conditions included in Attachment A. Use of the site as a boarding house or tourist and visitor accommodation use is not proposed, nor are these uses recommended to be granted development consent.

## Financial Contributions

### Contribution under Section 7.11 of the Environmental Planning and Assessment Act, 1979

143. The development is subject to a Section 7.11 development contribution of \$114,758.57 under the provisions of the City of Sydney Development Contributions Plan 2015.
144. This calculation is based on the 10 proposed studio and one bedroom apartments.
145. A credit has been applied for the existing three bedroom dwelling house on the site.
146. A condition relating to this development contribution has been included in the recommended conditions of consent in Attachment A.
147. The condition requires the contribution to be paid prior to the issue of a construction certificate.

### Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

148. The site is located on residual land and involves alterations to an existing building that will result in the creation of more than 200 square metres of gross floor area that is intended to be used for the purpose of residential accommodation.
149. Section 7.13 of the Sydney LEP 2012 applies to the proposed development.
150. Subclause (2C) of this section requires that the affordable housing levy contribution for development on residual land is as follows:
  - (a) For development applications lodged before 1 July 2022:

- (i) 1.5% of the total floor area of the development that is intended to be used for residential purposes.
- (ii) 0.5% of the total floor area of the development that is not intended to be used for residential purposes.

151. Subclause (4)(b) requires the contribution to be calculated in accordance with the City of Sydney Affordable Housing Program.
152. The program requires contributions to be calculated only for development applications lodged after 1 July 2021 and the subject application, which was lodged prior to this date on 24 June 2021, is therefore not subject to a Section 7.13 contribution.

### Relevant Legislation

153. Environmental Planning and Assessment Act, 1979.
154. Local Government Act, 1993.
155. Roads Act, 1993.
156. Sydney Water Act, 1994.

### Conclusion

157. The application seeks consent for alterations and additions to an existing residential terrace to construct a residential flat building with six storeys, ten apartments, roof top communal open space and associated landscaping works.
158. The proposal was amended to address Council's concerns relating to including the extent of the demolition proposed to the existing contributing building, and visual impacts to the surrounding heritage conservation area, the height and density of development, building expression, compliance with the Apartment Design Guide, acoustic privacy and natural ventilation, landscape and communal open space design, view sharing analysis, National Construction Code compliance, and structural certification and detail. The amended proposal is satisfactory, subject to the recommended conditions in Attachment A.
159. The proposal, as amended and subject to conditions, is appropriate in its setting and is generally compliant with the relevant planning controls in the Sydney LEP 2012, Sydney DCP 2012, SEPP 65 and the ADG. Proposed variations to controls in the Sydney DCP 2012 and ADG are also generally acceptable and are identified in this assessment report.
160. The proposed development is compliant with the applicable building height and floor space ratio controls. The development does not pose any significant or unreasonable impacts upon the existing or likely future development surrounding the site. Further, the potential impacts on the heritage significance of the Woolloomooloo heritage conservation area are generally acceptable, subject to conditions.

161. The new development does not pose any other significant or unreasonable impacts upon the existing or likely future development surrounding the site. The proposal will improve the interface between the private and public domain and exhibits design excellence in accordance with Clause 6.21 of the Sydney LEP 2012.
162. The proposal will provide for a new residential flat building land use on a site which is accessible to existing and planned employment, services, public transport infrastructure and community facilities.
163. Subject to the recommendation of this report, and the imposition of the conditions in Attachment A, the proposal responds appropriately to the site constraints and contributes positively to the existing and desired future character of the locality.

**ANDREW THOMAS**

Executive Manager Planning and Development

David Reynolds, Area Coordinator