

# **Attachment E**

**Submissions**

**From:** Greg O'Dea

**Sent on:** Thursday, April 4, 2024 8:21:29 AM

**To:** dasubmissions

**Subject:** Submission - D/2024/179 - 87 Lower Fort Street MILLERS POINT NSW 2000 - Attention Marie Burge

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Council,

I welcome the demolition of the improvements on the land at 87 lower fort st. The current structures present as an eyesore and are insignificant.

I am confused about the concept of a DA to approve the concept of a DA. It would appear to be a pretty meaningless device employed to stymie progress on a project that would bring much needed revitalisation to this currently very dingy but very prominent section of the street on which I live.

I loudly support DA D/2024/179.

Kind regards,  
Greg

**From:** Marie Burge  
**Sent on:** Wednesday, April 17, 2024 11:41:48 AM

**To:** DASubmissions  
**Subject:** FW: 87 lower fort street/ D/2024/179

Hi,

Please register this submission of support for D/2024/179.

Thanks,  
Marie

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**From:** Kerr Neilson  
**Sent:** Friday, April 12, 2024 2:40 PM  
**To:** Marie Burge  
**Subject:** 87 lower fort street/ D/2024/179

**Caution:** This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Regarding the above property, I would like to express my support for the approval of the new building. The existing site and building is aptly described as a 'detracting element' which in conversational English might be described as derelict impermanent hut plonked on an oversized plot. In so many ways the proposed new structure will enhance the neighbourhood. It has the proportions that meld well into the existing street scape and by my reckoning will finish the western side of that part of Lower fort Street to act as a reinforcing and embracing element to the Garrison Church across this broad intersection of street.

I understand that there are regulations regarding height but undue emphasis upon this aspect would deny our community this opportunity to add a pleasing aspect to the existing street scape and to remove the existing incongruent element.

Yours Sincerely,  
Kerr Neilson of  
11-13 Dalgety road, Millers Point.

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**From:** Marie Burge  
**Sent on:** Wednesday, April 17, 2024 11:42:09 AM

**To:** DASubmissions  
**Subject:** FW: Re D/2024/179

Hi,

Please register this submission of support for D/2024/179.

Thanks,  
Marie

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**From:** Michael Stokes  
**Sent:** Monday, April 15, 2024 11:47 AM  
**To:** Marie Burge  
**Cc:** m.f.collins  
**Subject:** FW: Re D/2024/179

**Caution:** This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Maree ,

You may remember my partner Maryanne and I from when you oversaw our renovations and refurbishment of our home # 19 Lower Fort Street DAWES POINT .

We have followed with interest the abovementioned application and would like to offer our wholehearted support for it .

We note that the proposed home will be a dramatic improvement to our streetscape as it replaces a derelict eyesore and greatly improve the landscaping onsite .

We also note that not only does the DA contemplate a dwelling that is 1/3 of the total allowable FSR , but that it is also ½ of the maximum height under State Govt TOD Rezoning .

The proposal is also of a height between the neighbouring two building which also reads perfectly in our opinion .

We hope that this application can be approved expeditiously by Council in order to further improve the very important Lower Fort Street , one of the best in the Rocks .

Yours Sincerely

Michael Stokes & Maryanne Collins  
Valhalla  
19 Lower Fort Street  
DAWES Point

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**Michael Stokes**  
Director, Capital Transactions Australia





Sydney CBD | North Sydney | South Sydney  
South West Sydney | Melbourne | Brisbane

[stantonhp.com](http://stantonhp.com)

Download my [vCard](#)



Stanton Hillier Parker,  
serving with distinction since 1882.

Stanton Hillier Parker acknowledges the Traditional Owners of the land where we work and live. We pay our respects to Elders past, present and emerging. We celebrate the stories, culture and traditions of Aboriginal and Torres Strait Islander Elders of all communities who also work and live on this land. This message and any attachment(s) are confidential and intended for the named addressee(s) only. If you have received this message in error, please notify the sender immediately, then delete the message. Any unauthorised modification, edition, use or dissemination is prohibited. The sender shall not be liable for this message if it has been modified, altered, falsified, infected by a virus or even edited or disseminated without authorisation.

**From:** Marie Burge  
**Sent on:** Monday, April 22, 2024 12:24:53 PM

**To:** DASubmissions  
**Subject:** FW: DA/2024/179

Hello,

Please register this submission of support for D/2021/179.

Thanks,  
Marie

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**From:** S K  
**Sent:** Monday, April 22, 2024 11:38 AM  
**To:** Marie Burge  
**Subject:** DA/2024/179

**Caution:** This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Hi, I saw this DA presented at the locals MPCRAG meeting some months back. I believe the design is sympathetic to the area, will improve the streetscape and is an appropriate size and scale to fit in with the surrounding buildings. I support the DA.

Regards

Sukender Jain  
75 Kent St, Millers Point 2000  
[REDACTED]

**From:** Richard Kovacs  
**Sent on:** Wednesday, April 24, 2024 11:04:21 AM  
**To:** dasubmissions  
**CC:** Richard Kovacs  
**Subject:** Submission - D/2024/179 - 87 Lower Fort Street MILLERS POINT NSW 2000 - Attention Marie Burge

**Caution:** This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

24 April 2024

[mburge](#)

Dear Ms Burge,

I write in support of DA/2024/179 for the site 87 Lower Fort Street Millers Point. The concept DA is largely the same as the already lodged DA/2023/1036 to which I have no objections.

The proposed dwelling presents the opportunity to remove a "Detracting Element" from the Millers Point streetscape and replace it with a thoughtful design that sits well in the context. As an active resident in Millers Point I am very conscious of protecting the heritage of the area and I carefully consider development applications which may have a bearing on the streetscape. In my opinion fresh developments, such as this application, on this site, should be sympathetic to the locality, recognising the past but pointing forward in design and materials. After reviewing the application in detail, I consider the proposed development exhibits design excellence in a number of areas:

1. It has a pleasing Georgian style presentation but in a modern context. It fits in very well in the street locality.
2. The Georgian style hip roof and verandah profile are attractive design features.
3. I note similar dormers to that proposed, exist in the neighbourhood, including our adjacent neighbour at 11-13 Dalgety Road, Millers Point, and in Argyle Place.
4. The design, layout and materials are contemporary but conveys a strong historical Georgian presence, in keeping with the history of the area.

The height and presence of the proposed development fits well within the context of surrounding buildings, and I note close by buildings such as at 57 Lower Fort Street has an RL roof ridge of 13m.

I believe the proposed development will significantly contribute to the street appeal and demonstrate design excellence, making the property a welcome addition to the neighbourhood.

It is my understanding that the plans already have s60 Heritage approval. I believe the city should likewise approve the proposed development.

Yours Faithfully,

Richard Kovacs  
7 & 9 Dalgety Road  
Millers Point NSW 2000

**From:** Andrew Yazbek  
**Sent on:** Friday, April 26, 2024 11:58:54 AM  
**To:** dasubmissions  
**Subject:** Submission - D/2024/179 - 87 Lower Fort Street MILLERS POINT NSW 2000 - Attention Marie Burge

**Caution:** This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

As residents and owners of a property in Lower Fort Street, my wife and I would like to offer our full support for the above mentioned DA application as advertised.

We have been residents of Millers Point for nearly a decade and have a strong affinity to the preservation, restoration and improvement of the area.

We welcome the development as and believe the design, bulk and scale, and consideration of the heritage surrounds is a vast improvement to the detracting element that presently occupies the site with an overall positive outcome.

**Andrew Yazbek**  
Director  
Honeyguide Pty Ltd

Suite 603  
65 York Street  
SYDNEY NSW 2000



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**From:** Anja Morgan  
Tuesday, April 30, 2024 10:21:59 AM  
**Sent on:** DAsubmissions  
**To:** Objection to D/2024/179  
**Subject:**  
**Attachments:** Objection letter on behalf of 85 Lower Fort Street, Millers Point .pdf (4.97 MB)

**Caution:** This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Good morning,

Please find attached the objection to D/2024/179 on behalf of our client (owner of 85 Lower Fort Street, Millers Point).

Regards,

**Anja Morgan**  
Principal town planner  
Easton Planning Consultants Pty Ltd

  
A: PO Box 395, Double Bay NSW 1360

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# Easton Planning Consultants

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30 April 2024

**City of Sydney Council**  
Assessing Officer: Marie Burge  
GPO Box 1591  
Sydney 2001

*Sent via email*

Easton Planning Consultants have been engaged by the owner of 85 Lower Fort Street, Millers Point (Mr Ding c- 288 Capital Pty Ltd) to write on their behalf regarding Development Application D/2024/179 for 87 Lower Fort Street, Millers Point. The Development application D/2024/179 is for *“concept development application for in-principle approval for the demolition of the existing structures and a building envelope of approximately 10.6m in height (RL 32.060m) with an indicative residential use”*.

Based upon a review of the Development Application documentation made publicly available from the City of Sydney Council’s website, the following report outlines objections regarding the proposed works. Therefore, on behalf of our client, we object to the Development Application D/2024/179.

Should you require anything else, please do not hesitate to contact me.

Regards,



**Anja Morgan**  
Principal town planner  
Easton Planning Consultants

## 1 Introduction

This letter outlines objections pertaining to proposed building envelope at 87 Lower Fort Street, Millers Point (D/2024/179).

Site visit was conducted by Easton Planning Consultants on 19<sup>th</sup> April 2024. The photos provided in this report were obtained on site visit.

## 2 Excessive building height/envelope

The proposal is inconsistent with Clause 6.47 of *Sydney Local Environmental Plan 2012*, which states:

**“6.47 Millers Point heritage conservation area**

(1) *The objectives of this clause are—*

(a) *to conserve the heritage items and built form of the Millers Point heritage conservation area, and*

(b) *to ensure that conservation management plans endorsed by the Heritage Council are considered in the assessment of development that impacts a heritage item in the Millers Point heritage conservation area.*

(2) *This clause applies to land identified as “Area 10” on the Height of Buildings Map.*

(3) *Development consent must not be granted to development that affects a heritage item unless the consent authority considers the following—*

(a) *the impact of the development on the built form and heritage significance of the heritage conservation area, and on the built form, fabric and heritage significance of the heritage item,*

(b) *a heritage conservation management plan for the item endorsed by the Heritage Council under section 38A of the Heritage Act 1977,*

(c) *if there is no plan endorsed by the Heritage Council, a heritage conservation management plan for the item prepared to the satisfaction of the consent authority.*

(4) *Development consent must not be granted to development affecting a building that is not a heritage item unless—*

(a) *the consent authority considers the impact of the development on the built form and heritage significance of the heritage conservation area, and on the built form, fabric and heritage significance of any heritage item in the vicinity of the building, and*

(b) *the development will not result in either or both of the following—*

(i) *the height of the building exceeding 9 metres,*

(ii) *the floor space ratio for the building exceeding 2:1.*

(5) *Despite any other provision of this Plan, the maximum height of a building on land to which this clause applies is the height of the building on the land as at the commencement of this clause.*

The documents submitted under D/2024/179 do not accurately prescribe the existing height of the ‘Baby Centre’ building on site. In the first instance, we seek that the applicant amend their documents to accurately describe the existing heights on the site.

Further review of the site history provided additional information pertaining to existing and proposed heights. The planning report and Clause 4.6 variation submitted under D/2023/1036 (application which is directly related to the site) notes the following:

**Table 1: Showing the proposed variance in height**

<b>Existing Building Height - north-eastern corner, ground-level set at RL 21.39m</b>	<b>Variation in Height Proposed - north-eastern corner. Add to existing height.</b>	<b>Proposed Final Height</b>
Existing building's parapet height = <b>2.97 m</b> (set at RL 24.36m)	Proposed parapet is set at RL 30.34m (30.34 m – 24.36 m) = <b>5.98 m</b>	<b>8.95 metres</b> parapet height
Existing building's roof ridge height = <b>4.23 m</b> (set at RL 25.62m)	Proposed roof ridge is set at RL 32.06m (32.06 m – 25.62 m) = <b>6.44 m</b>	<b>10.67 metres</b> roof ridge height

Figure 1 Clause 4.6 report (source: D/2023/1036)

The existing height on site is 4.23 metres to the roof ridge. The proposed roof ridge height is 10.67 metres. Therefore, D/2024/179 increases existing height on site by 152%. This is considered an overdevelopment on site and is in our opinion, inappropriate within the streetscape. The existing streetscape and view from public domain will be significantly altered with the proposal.

In our opinion, the proposed building envelope is excessive and will dominate the heritage conservation area of Millers Point. The proposal is inconsistent with Clause 6.47 of *Sydney Local Environmental Plan 2012*.

The proposed attic acts as a third storey and adds to the bulk and scale of development. We seek that the Council requests, for the attic level to be deleted.

A design which represents a two-storey development with a 9-metre building height would be more appropriate on the site. A 9-metre building height would allow the site to be development for private residency while complying with the objective of Clause 6.47 of *Sydney Local Environmental Plan 2012*.

Setbacks

Additionally, Clause 4.1.2 Setbacks of *Sydney Development Control Plan 2012* seeks to protect heritage items and their importance within City of Sydney council area. We seek that the Council enforces clause 4.1.2 (3) which states:

*“Clause 4.1.2 (3)*

*A greater front, side or rear setback may be required for development within the vicinity of a heritage item in order to maintain the visual setting of the heritage item. This is to be determined on a site by site basis”*

An increased setback would reduce the acoustic impacts on our client’s property and ensure that the heritage significance of our client’s property (Argyle House) is retained. An increased setback would also allow an appropriate fencing around the easement with our client’s property.

**3 Easement**

Our client has written to City of Sydney Council on 9<sup>th</sup> January 2024 pertaining to D/2023/1036. In this letter, the following paragraph is relevant:

*“We repeat our request that Council recognize & uphold the Easements (S9) Restriction on the use of Land 1.8 wide (DP1212987) highlighted in Green, (S5) & (S9) Easement of Services 0.5 wide highlighted in Blue, (7A) & (S9) Easement for Support Over Common Retaining Wall 0.3 wide (DP*

121 6874) highlighted in Red, burdened on adjoining landowner lot in favor of 85 Lower fort street, Argle House in attachment (5 pages)”

The architectural plans submitted under D/2024/179 note a 1.8 metre easement exists on boundary which borders our client’s property (Argyle House).

Presently, there is a fence on the boundary between our client’s property and the subject site. Our client has access to the easement area which houses their services.

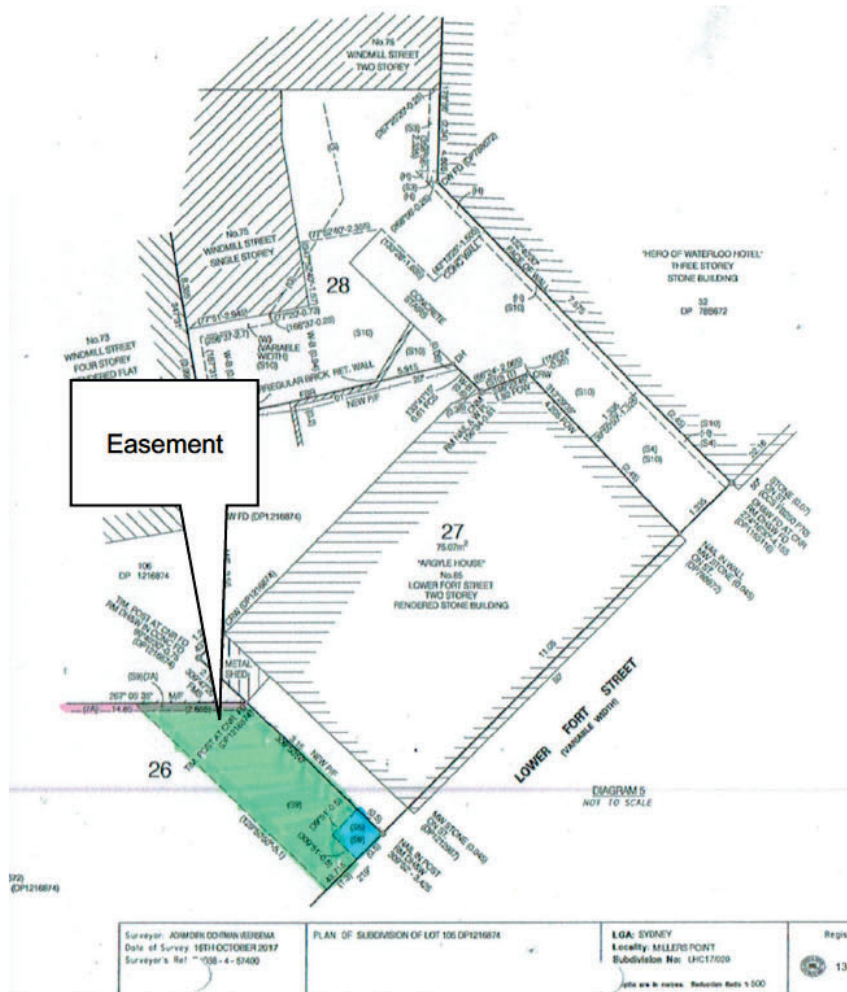


Figure 2 Deposited Plan (source: Infin Architects)

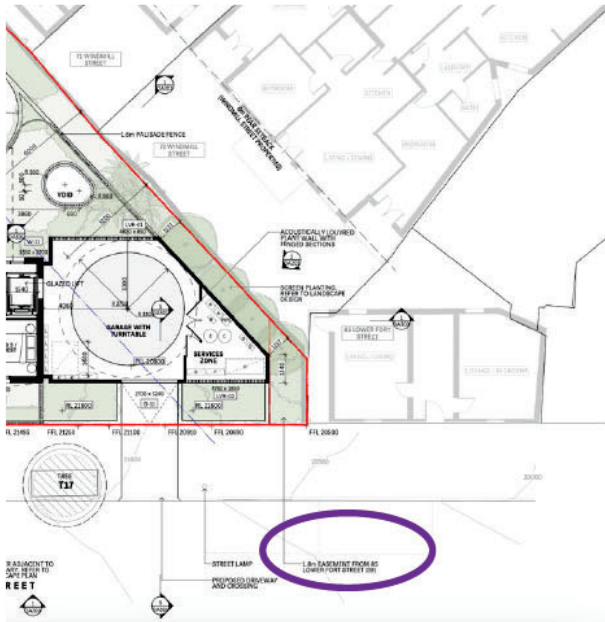


Figure 3 Ground floor level (source: D/2024/179)



Figure 4 Entry to our client's property



Figure 5 Our client's entry door to easement



Figure 6 Our client's asset



Figure 7 Easement area



Figure 8 Easement area with void under our client's property

Development application D/2024/179 lacks in evaluating impacts on our client's easement and their asset. We seek the Council obtain information on the following:

- Will existing fence with 85 Lower Fort Street be retained or replaced?
- What fence will be present on the Lower Fort Street front boundary to shield our clients' assets?
- What landscaping measures will occur to keep the easement area accessible by our client?

As seen from the photos above, the easement area is currently not maintained and there is a congregation of rubbish under our client's property. If left without fencing, this area can be neglected and create a nuisance for our client.

We seek that Council require the applicant to address how the easement will be protected from public while allowing access from our client's property. In our opinion, a replacement fence and a landscape maintenance schedule would ensure the easement area is accessible by private owners and is not neglected in the future.

#### 4 Other applications on site

The site has a concurrent application on site under D/2023/1036. The proposal under D/2023/1036 is for "demolition of existing structures, site excavation and the construction of a new dwelling with associated landscaping".

The proposed development application (D/2023/1036) is currently under appeal.

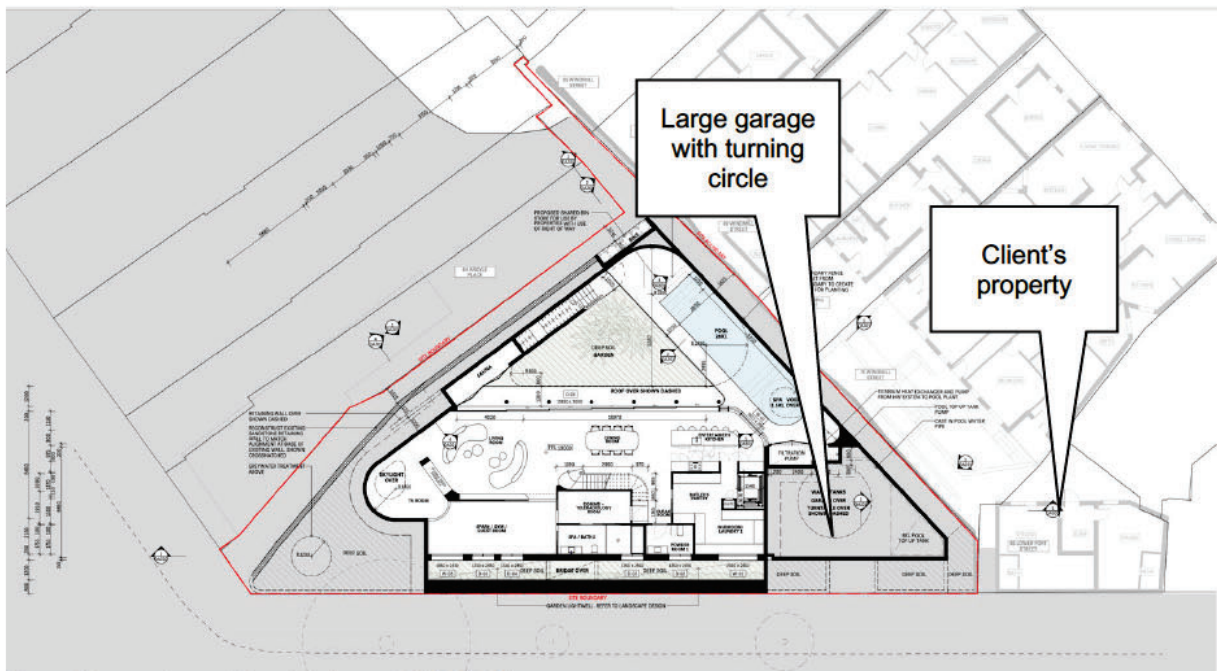


Figure 9 Proposed ground floor plan (source D/2023/1036)



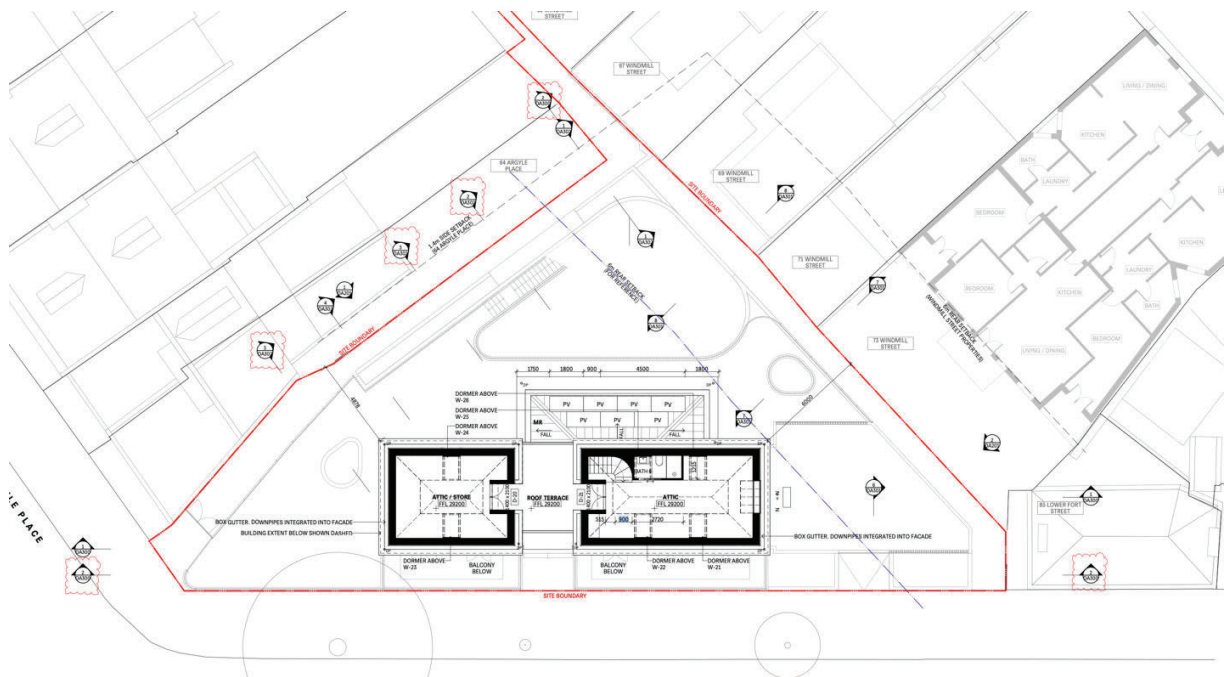


Figure 10 Proposed roof terrace (source: D/2023/1036)

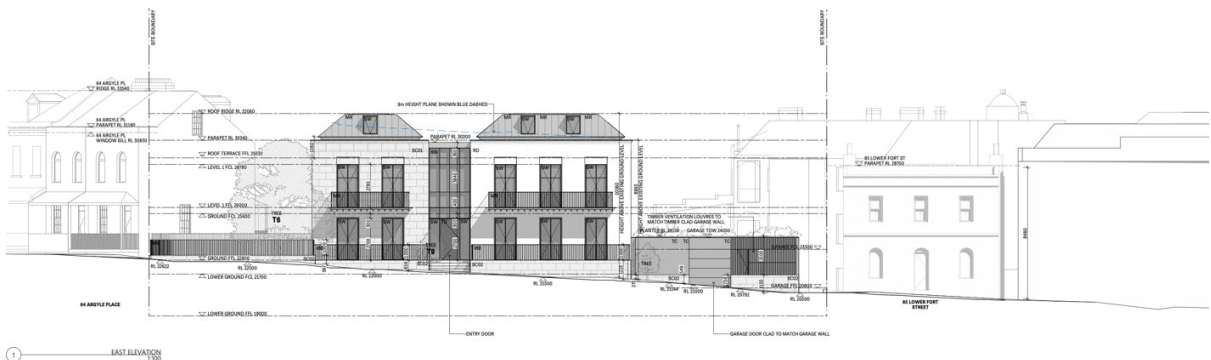


Figure 11 Proposed elevation (source: D/2023/1036)

The proposed development under D/2023/1036) exhibits a design which is deemed an overdevelopment on site. The proposed two attic spaces with adjoining roof terrace and not wholly contained within the roof space. Therefore, the proposed attic design creates the appearance of a third storey on site.

Additionally, the proposed plans show a large garage with turning table and plant room located near our client's side boundary. There will be acoustic impacts on our client's property due to this design choice.

Although development application D/2023/1036 is not on notification, it is a relevant consideration for D/2024/179. The building envelope which is approved under D/2024/179 will set a precedent for acceptable development on site as well as the surrounding area.

In our opinion, the proposed building envelope under D/2024/179 should have a 9-metre height limit and increased setbacks to protect the significance of the Millers Point Heritage Conservation area and our client's heritage listed property (Argyle House).

### **Site conditions**

The site is located in Millers Point Heritage Conservation area. The proposed development will impact on streetscape and public domain facilities. The impact on public domain facilities has not been appropriately assessed under both applications (D/2023/1036 and D/2024/179). The Council cannot be satisfied under Section 4.15 of the *Environmental Planning and Assessment Act 1979* that all impacts of the development have been considered.

This letter outlined concerns relating to the proposal including: acoustic impacts, overdevelopment on site, impact on streetscape and lack of information. We seek that Council requests further information pertaining to our raised concerns.



Figure 12 Telstra phone in front of the site



Figure 13 Two hour parking on the street



Figure 14 Existing fencing on site



Figure 15 Street tree



Figure 16 Street lamp

## 5 Conclusion

The proposed increase in Height of Building will create a building envelope which is inappropriate within the streetscape.

The newly created building envelope will have amenity impacts on our client's property which include:

- Excessive acoustic impacts from garage with turning table and plant room (D/2023/1036)
- Adverse impacts on existing streetscape and heritage conversation area
- Potential impacts on amenities contained within the easement

Furthermore, our client is concerned how this building envelope and design will impact any future redevelopment of their property. Our client seeks that the Council considers any adverse impacts on privacy and amenity on 85 Lower Fort Street due to proposed window fenestration.

We request Development Application D/2024/179 is refused.

For any further information, please do not hesitate to contact Steven Ding (T: +61 2 9251 4979 | E: [sding@infinarchitects.com.au](mailto:sding@infinarchitects.com.au)).

Regards,



**Anja Morgan**  
Principal town planner  
BUrb&EnvPlan & MBA  
Easton Planning Consultants

**From:** Marie Burge  
**Sent on:** Wednesday, May 1, 2024 3:24:18 PM  
**To:** DASubmissions  
**Subject:** FW: DA 87 Lower Fort Street Millers Point DA/2024/179  
**Attachments:** CCF\_000186(1).pdf (257.18 KB)

Hi,

Please register this submission of support for D/2024/179.

Thanks,  
Marie

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**From:** Hero of Waterloo  
**Sent:** Wednesday, May 1, 2024 3:22 PM  
**To:** Marie Burge  
**Subject:** RE: DA 87 Lower Fort Street Millers Point  
DA/2024/179

**Caution:** This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Ms Burge

I have attached is letter to support DA 87 Lower Fort Street Millers Point DA/2024/17

If you have further request please do not hesitate to contact me on umber below or [REDACTED]

Kind Regards,  
Kazuko Nelson  
Director/Licensee



**THE HERO OF WATERLOO**  
**THE ROCKS, SYDNEY**

81 Lower Fort Street  
Millers Point (The Rocks)  
Sydney NSW 2000  
**P:** 02 9252 4553  
**F:** 02 9247 3433  
**E:** [info@heroofwaterloo.com.au](mailto:info@heroofwaterloo.com.au)  
**W:** [www.heroofwaterloo.com.au](http://www.heroofwaterloo.com.au)



THE HERO OF WATERLOO  
THE ROCKS, SYDNEY

81 Lower Fort Street

Millers Point NSW 2000

[www.heroofwaterloo.com.au](http://www.heroofwaterloo.com.au)

P: (02) 9252 4553 F: (02) 9247 3433


01/05/2024

Dear Ms Burge,

I write in support of the DA for 87 Lower Fort Street. I am the owner of the Hero of Waterloo Pub 2 doors down on the same block.

The development is an improvement on the dilapidated community centre and will be a welcomed improvement in the streetscape.

Yours faithfully,  
**THE HERO OF WATERLOO**

  
**KAZUKO NELSON**  
Director/Owner

**From:** Justin Moffatt  
**Sent on:** Wednesday, May 1, 2024 5:13:36 PM

**To:** dasubmissions  
**Subject:** 87 Lower Fort Street

**Caution:** This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear City of Sydney Planning Team,

I have been watching with interest the DA applications at 87 Lower Fort Street.

I am the Rector of the Garrison Church, which is opposite 87 Lower Fort Street. I am also a local resident of Lower Fort Street where I have lived with my family for 8 years. I know and love the area well. We have a strong affinity and appreciation for the area's heritage and its importance for residents, Sydneysiders and visitors to enjoy.

We appreciate that the temporary use of the current building has improved on the disused state of previous years but like others in the area, I am keen to see this site reach its full potential. I am supportive of the DA.

The site is zoned for low density residential and the development is proposing a single residential dwelling. The style, bulk and scale of the proposed dwelling is in keeping with the character of the street. The proposed landscaping is a vast improvement and will have a positive visual impact on this important street corner.

Kind Regards,

Justin Moffatt

---

**Rev. Justin Moffatt**

Senior Minister (Rector)

Church Hill Anglican (The Garrison and St Philip's)

t: (02) [REDACTED] | m: [REDACTED]

[www.churchhillanglican.com](http://www.churchhillanglican.com)

<https://linktr.ee/churchhillanglican>

[www.youtube.com/churchhillanglican](https://www.youtube.com/churchhillanglican)

**From:** alessandra gonella

**Sent on:** Thursday, May 2, 2024 4:13:38 PM

**To:** dasubmissions

**Subject:** Fwd: Submission - D/2024/179 - 87 Lower Fort Street MILLERS POINT NSW 2000 - Attention Marie Burge

**Caution:** This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Attention Marie Burge

I have sited the plans and I fully approve of the submission.

Kind regards

Alessandra Gonella

606/1 Pottinger St Millers Pt

Begin forwarded message:

**From:** alessandra gonella

**Subject:** Submission - D/2024/179 - 87 Lower Fort Street MILLERS POINT NSW 2000 -  
**Attention Marie Burge**

**Date:** 16 April 2024 at 7:46:14 am AEST

**To:** [dasubmissions](#)

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**From:** David Barry  
**Sent on:** Thursday, May 2, 2024 6:33:02 PM

**To:** dasubmissions  
**Subject:** DA/2024/179

**Caution:** This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Hi,

I am a neighbour to the above site. The advantages of the proposal under discussion include that it will replace a "missing tooth" in the "face" of the streetscape on Lower Fort St. The existing building is an anomaly in the Precinct, which detracts from the overall heritage zone. A contemporary but appropriate insertion into the street will support the overall Precinct and to that end I note the DA has already been approved by Heritage NSW.

Thank you,  
David Barry

**From:** Marie Burge  
Tuesday, May 7, 2024 9:04:53 AM  
**Sent on:** DAsubmissions  
**To:** FW: Query: D/2024/179 - 87 Lower Fort Street MILLERS POINT NSW 2000  
**Subject:**  
**Attachments:** 240502A\_DA2023 1036\_ 87Lower Fort Street Submission.pdf (5.07 MB)

Hi,

Please register this submission in D/2024/179.

Thanks!

Marie

-----Original Message-----

From: Vanessa Colclough  
Sent: Thursday, May 2, 2024 10:22 PM  
To: Marie Burge  
Cc: PAADesign Information  
Subject: Query: D/2024/179 - 87 Lower Fort Street MILLERS POINT NSW 2000

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Marie,

We submit the following objection to the above development application. We note that the submission period finished yesterday, however we were unable to submit yesterday due to unforeseen circumstances. We hope that you will consider our submission as attached.

Any queries please do not hesitate to contact us.

Regards

Peter Andrews + Vanessa Colclough

Our Ref: 23025/0502A

2 May 2024

City of Sydney  
GPO Box 1591  
Sydney NSW 2001

By Email: council@cityofsydney.nsw.gov.au

Attention: Marie Burge

Dear Ms Burge,

**Submission on Development Application D/2023/1036  
87 Lower Fort Street Millers Point NSW 2000**

We provide the following objection in regard to this Development Application. We prepared an objection in regard to the previously submitted application. We believe our previous comments have not been addressed in this revised application and attach that objection to be considered again in regard to this application.

Further, In addition to the previous submission we outline the following objections as follows:

- The concept application does not address the heads of consideration under the EP&A Act of amenity, impacts on adjoining neighbours, sustainability, heritage impact. We understand that Council require a DCP for this site and it would appear that this concept application does not address these issues.
- We refer to our objection to the development application to the subject land and attach that objection. We note that the revised development application has not addressed any of these concerns particularly in regard to privacy and materials. Whilst there are louvres proposed, there is still an external walkway/verandah outside of the louvres that will impede on our privacy that has not been addressed. Further, there is no information/consideration of the heritage wall that adjoins all of the properties along Windmill Street of which the proposed development will have considerable impact upon. There is no information on how the wall will be impacted upon given the proposal. Will Council take responsibility of the impact of this wall.

Yours faithfully

Peter Andrews  
Director

Our Ref: 23025/1101A

11 January 2024

City of Sydney  
GPO Box 1591  
Sydney NSW 2001

By Email: council@cityofsydney.nsw.gov.au

Attention: Marie Burge

Dear Ms Burge,

**Submission on Development Application D/2023/1036  
87 Lower Fort Street Millers Point NSW 2000**

Peter Andrews and Vanessa Colclough are owners and residents of 67 Windmill Street. Our property adjoins 87 Lower Fort Street, the property subject to the above Development Application. We provide the following submission in regard to this Development Application.

The redevelopment of 87 Lower Fort Street based on the documentation lodged for the Development Application, is proposed to incorporate:

- Bulk excavation across most of the site up to an approximate depth of 4m over the site for the construction of the lower ground floor, sunken courtyard, and swimming pool. This includes removal of fill and also excavating into the rock platform up to 4 metres in height.
- Construction of a four level, GFA of 498.5m<sup>2</sup>, 10.67 metre high building at street level, plus a garage, swimming pool, raised decks, retaining block walls and various landscape treatment.

This is a significant development in the Millers Point Heritage Conservation Area. We have identified a number of issues that will have an impact on our landholding and dwelling. This includes impacts on the existing boundary retaining walls, privacy and visual amenity, and potential heat gain as a result of the proposed redevelopment. Accordingly, we provide the following objections to the development.

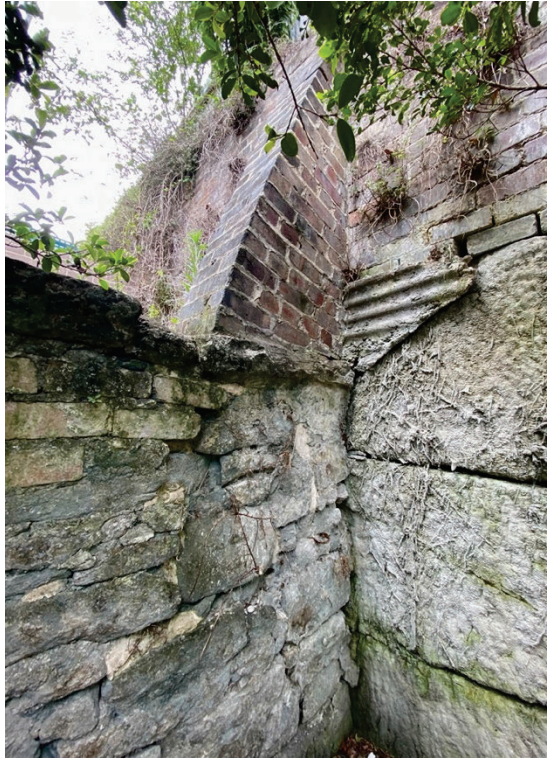
**Structural Integrity and Retaining Walls**

87 Lower Fort Street sits above several heritage buildings on Windmill Street and shares a boundary with 65, 67, 69, 71, 73 and 75 Windmill Street. The land subject to the Development Application is supported by different types of retaining walls at the rear of the above properties. These retaining walls include:

- Sandstone rock with rockbolts (71 Windmill Street).
- A mixture of sandstone rubble walls supported on layered sandstone rock,
- A 230mm brick infill wall along part of 67 and part of 69 Windmill Street on layered sandstone rock. The brick infill is supported by a brick buttress on top of a sandstone rubble wall on the western boundary of 69 Windmill Street. There is evidence that the buttress has failed in at least two places in the past, although the wall appears to be stable under current conditions and loadings.

The retaining walls have been identified in the CMPs for the various properties.

Refer images of the retaining wall in 67 and below.



Brick buttress and retaining wall



Retaining wall materials

Despite some evidence of cracking and the failed buttress, the sandstone rubble wall and brick infill wall appear to be stable and capable of supporting the existing load. In accordance with the recommendations of the CMP and associated engineering advice and subsequent engineering advice, we have been continually monitoring the wall in 67 Windmill Street and removed the vegetation recommended in the CMP.

The proposed development will increase the loadings onto the retaining walls and as noted in the geotechnical report there is significant potential for ground vibration to these walls and adjoining properties. Refer extract below.

The structural engineering review does not adequately address the impacts and appears to be inconsistent with the geotechnical report.

The Geotechnical Investigation Report submitted as part of the Development Application states the following;

*The site was observed to be bounded and supported by a brick wall (6.00m to 7.00m height) to properties No.65, 67 and 69 which can be seen in Photograph 5, however due to access limitation the supporting wall and the boundary condition to properties No. 71, 73 and 75 was not observed. The footing and foundation condition of the supporting wall was not investigated; however, the supporting wall within properties (No.65, 67 and 69) appeared to be in a good condition without any signs of major cracks or ground movement.*

*From the provided architectural drawing the neighbouring structures towards the north and the boundary wall (No. 69,71,73, and 75 Windmill Street) appear to be sitting approximately 6.0m below (RL15.35) the sites ground level. The difference in ground level eliminates the threat of damage to the property's dwellings from soil excavation, however structures can still be impacted by ground vibrations during excavation.*

*The foundation conditions and footings of the boundary walls towards the north and west were not investigated due to limited access. Additional inspection will be required for the boundary wall once the site has been cleared of existing vegetation to confirm the condition of the boundary wall and any support required.*

*It is recommended that a structural engineer be engaged to assess the need for additional temporary support to protect these structures during the proposed works and also to determine the need for permanent support.*

*The excavation of low up to high strength rock requires the use of rock excavation equipment which can produce ground vibrations of a level which can potentially cause damage to neighbouring structures. Therefore, selection of suitable equipment and a sensible methodology are critical. The need for full time vibration monitoring will be determined based*

*upon the type of rock excavation equipment proposed for use. Crozier Geotechnical Consultants should be consulted for assessment of the proposed equipment prior to its use. It is recommended that a rock saw and small ( $\leq 150\text{kg}$ ) rock hammers be proposed for use at this site to avoid the need for full time monitoring. Larger rock hammers may be preferred and if utilised, further assessment and potentially full-time monitoring would be necessary.*

The description in the Geotechnical Report is not correct as the image is of the rear retaining wall along properties from 63 Windmill Street and to the west. Properties from 63 Windmill Street and to the West (the Workers Cottages) comprise a continuous engineered brick retaining wall running along the rear of those properties. The rear retaining wall along 65, 67 and 69 is not a brick wall as described above. Further the footing and foundation conditions were not observed.

The Structural Engineering report proposes shoring and piling along part of the ROW and Lower Fort Street. However, it does not describe any structural treatment for the retaining walls at the rear of 67 and 69 Windmill Street. Yet,

- there will be a significant increase on the loadings on this wall because of the proposed block walls and swimming pool, and potentially the landscape proposed.
- as noted in the geotechnical report, there will be potential for vibration impacts, and
- there is potential impact from the landscape treatment proposed on the structural integrity on the walls as noted in the various CMPs.

The Structural Engineering report is a review only based on a site visit on assets that could be viewed and the Geotechnical Report. As noted above, the Geotechnical observations are incorrect. Further there has not been a full investigation of the retaining wall that adjoins the boundary with 87 Lower Fort Street. We were not approached in regard to providing access when the review was prepared.

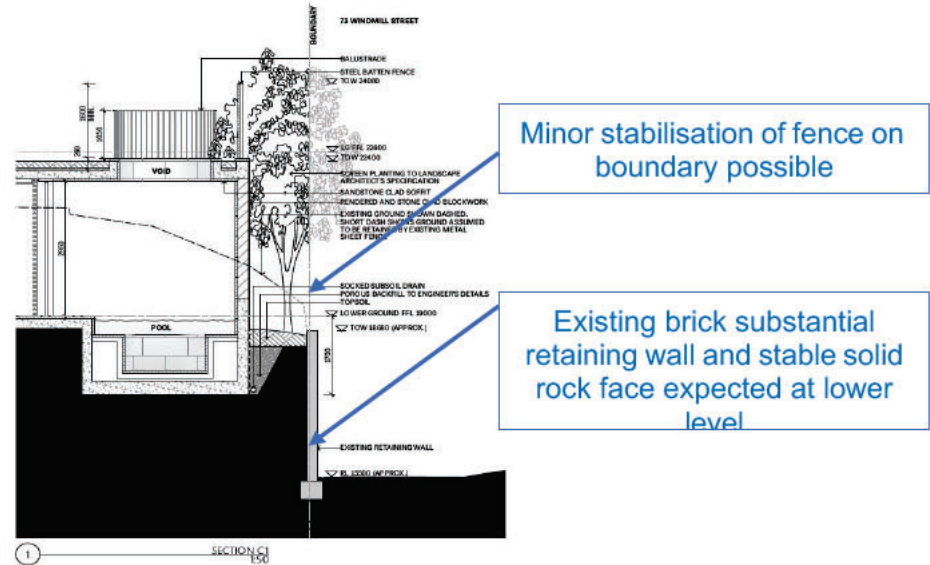
The redevelopment proposal incorporates along the northern boundary adjoining properties 67 to 73 Windmill Street and adjoining the retaining wall at the rear of these properties:

- A swimming pool and spa, water tanks and garden.
- A rendered and stone clad blockwork retaining wall for the pool and deck area.
- Backfill to the rear heritage retaining wall.
- Top soil of varying depth, which does not meet deep soil conditions.
- 17 trees, which range in size from 8m to 15m tall and up to 10m wide including Chinese Juniper, Blueberry Ash, Tuckeroo and Weeping Lillypilly and over 150 smaller plants under the proposed trees within a width of approximately 1200m.

The structural report review does not consider the full length of the retaining wall at 67 and 69 Windmill Street and how the retaining walls will be impacted by the development. The report addresses 73 Windmill Street only as shown on the image below. The heritage retaining wall is not a substantial brick wall in the other properties as outlined above and there is no detail in how the retaining walls are satisfactory for the proposed development. The information shown is incorrect. The existing retaining wall is shown incorrectly and does not represent what is on site.

The architectural drawings show a section of the retaining wall of 69 Windmill Street, however this is also based on incorrect information on the wall.

### Sketch Image 1-Southern Boundary to Lower Fort Street



### Sketch Image 2 – northern boundary to 73 Windmill Street

There has not been any considered investigation in regard to the removal and excavation for the proposal nor the load from the proposed redevelopment including the landscape treatment on the entire retaining wall that adjoins the boundary. We note the landscape treatment is to provide better amenity to the adjoining landowners (which we discuss further below). However, there has not been a considered investigation in regard to whether the retaining walls, that is part of the CMPs for all properties, will be impacted by the landscape proposed. Neither the structural review nor geotechnical report discuss the potential impacts of the landscape treatment.

The structural report does not address the need for ongoing monitoring of impacts of vibration during construction. Monitoring of the impacts on the existing retaining walls should be carried out by an independent party.

#### Visual and Acoustic Amenity Impacts

The Statement of Environmental Effects states:

*Potential privacy concerns have been addressed by positioning most of the living spaces of the dwelling to face the front of the site and by directing the window openings of the bedrooms and living areas on the upper levels away from the adjoining residential properties and when necessary, appropriately designed metal screens were used.*

This statement is incorrect as the whole of the ground floor comprise living areas that face to the north west and open onto the outdoor courtyard.

Glass doors on the ground floor are 3 metres high from floor to ceiling and can be opened entirely for a length of 7.9m. These are accessed from the living area onto the outdoor courtyard. The outdoor courtyard is also elevated. Whilst shutters are proposed, these are adjustable and can be closed or opened and orientated at any angle.

Similarly, tall windows are proposed along the rear façade on level 1. The sill height is only 1m and the windows go to the full height of the ceiling being 2.7m. The windows are sliding windows, which can be opened for a large area. Again, aluminium shutters are proposed, however these are adjustable and can be closed or opened and orientated at any angle.

Due to the orientation of the building and the location and size of the windows and glass doors, views will be available directly to our living area and kitchen from the proposed ground floor living areas, outdoor courtyard, the first floor and roof top terrace at 87 Lower Fort Street.

Council's DCP identifies development is to maximise visual privacy to side and rear boundaries and includes the following measures amongst others:

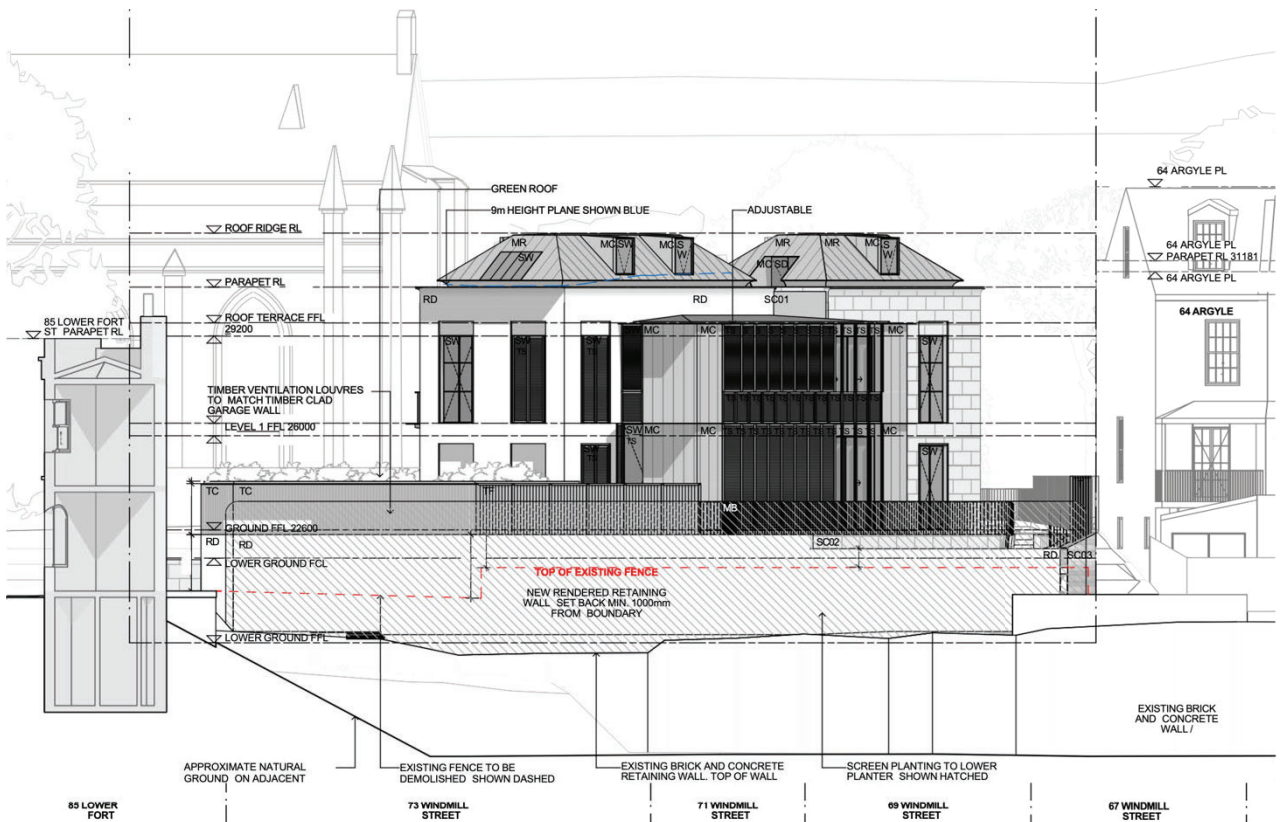
- (d) providing sill heights of 1.4m above finished floor level;
- (2) Screening devices such as obscure glazing, timber screens, external ventilation blinds, window hoods and shutters are to be at least 60% obscure, permanently fixed and made of durable material.

The proposed development does not meet the requirements of the DCP as it has sill heights lower than 1.4m, all windows are opening and to full widths, glass doors are also proposed to open to full width and the building is orientated, which will look directly into our dwelling and we will look directly into the proposed dwelling. Whilst there are screening devices, these are fully adjustable and do not provide any visual privacy for the occupants or us.

The visual and acoustic amenity for the lower ground floor has been improved by the proposed retaining walls and landscape treatment as noted above. However, it is not known whether this is going to be feasible particularly given our concerns and the lack of information and incorrect information in regard to the existing retaining walls, its ability to withstand the load of the proposal and the proposed construction method. Should a different solution be proposed then further assessment and advertisement should be undertaken to ensure that the proposal does improve the proposal's impact on privacy for the occupants and the adjoining buildings.

The proposed retaining wall and landscape treatment as shown on the plans, does not provide screening to 67 Windmill Street at the proposed new ground level in the north west corner. The screening will apparently rely on landscape on the lower level behind the existing retaining wall. As noted previously, incorporating tall trees and extensive vegetation in this location is inconsistent with the CMP recommendations for 67 and 69 Windmill Street.

The existing metal fence above the retaining wall is shown to be removed, which includes part of our property. Refer following image. There is no information on how security will be provided to our property from the new development including the right of way. It will be extremely difficult to get access to maintain the proposed vegetation between the existing retaining walls and the new wall and we question the long term viability of the landscape proposal in that regard.





### **Potential Solar Impacts**

There will be substantial sun reflected onto 67 Windmill Street, particularly from the west, due to the bulk and height of the building, orientation of the building, the proposed materials including glass, aluminium louvres, and the size and location of glass windows and doors on the north western façade. This will reflect heat, which will cause heat gain in 67 Windmill Street and potential glare.

It appears, that at least approximately 75% of the rear façade is proposed to incorporate aluminium louvres and/or glass. Given that our property has already been impacted by new developments in the CBD through reflection of glazed walls, which has increased the heat gain and reduced amenity by increased glare, the proposal is likely lead to cumulative impacts of solar reflection and glare, given the extent of glass and aluminium.

### **Conclusion**

In conclusion, we have outlined a number of issues including the impacts on the existing boundary retaining walls, privacy and visual amenity, and potential heat gain as a result of the proposed redevelopment.

Prior to determining the application, the applicant should be required to demonstrate how the impacts that we have identified can be properly addressed. We are happy to assist the applicant and Council further in trying to resolve our objections. We have real concerns in regard to the impact on the heritage retaining walls and the lack of information and investigations to support the Development Application. We request that Council keep us informed on how these matters will be resolved.

Yours faithfully,

Peter Andrews  
Director

cc. The owners – 87 Lower Fort Street Millers Point