

Attachment C

Submissions

From: Justin Micallef [REDACTED]
Sent on: Wednesday, May 15, 2024 6:09:16 PM
To: dasubmissions@cityofsydney.nsw.gov.au
CC: [REDACTED]
Subject: Submission - D/2020/1224/A - 499-501 Kent Street SYDNEY NSW 2000 - Attention Bryan Li
Attachments: DA2020-1224A submission 15.05.2024.pdf (3.38 MB)

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Dear Bryan,

Please find our submission attached for D/2020/13224/A.

Thank you.

Regards,
Justin Micallef
Project Director

The logo for Oakstand, featuring the word "oakstand" in a lowercase, sans-serif font. The "o" is stylized with a vertical line through it, and the "a" is also stylized with a vertical line through it.

Level 9, 503–505 Kent Street
Sydney NSW 2000

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**NSW PROPERTY HOLDINGS PTY LTD
ABN 74 099 692 565**

**Suite 501, Level 5
503-505 KENT ST, SYDNEY NSW 2000**

3 June 2024

Mr Bryan Li
City of Sydney
456 Kent Street
Sydney NSW 2000
By email to: bli@cityofsydney.nsw.gov.au

Dear Mr Li,

RE: Submission to DA/2020/1224/A and DA2023/868 – 499-501 Kent Street

We write as the owner of 503-505 Kent Street, adjoining the above-mentioned property to the south. We have reviewed the exhibited documents in relation to the proposed development and wish to outline several key issues and non-compliances, which directly impact the existing building at 503-505 Kent Street. This includes:

1. Building Height.
2. Design Excellence.
3. Upper-level setback above a heritage item within a Heritage Conservation Area.
4. Concerns over the Preliminary construction pedestrian and traffic management plan.
5. The revised design is an over development of the site.

1. Building Height

Whilst we understand testing has been undertaken and determined the maximum building height at the eastern façade of the building is approximately RL79.08. We question that compliance has been demonstrated given City of Sydney's Sun Access Plane diagram include below indicates that the Sun Access Plane runs through that site at RL70, which is vastly different from the applicant's determination which exceeds RL70 at its lowest point on the eastern façade of the proposed building. Please refer to Solar Access diagram below.



Figure 1 – Solar Access Diagram

2. Design Excellence

We note the following aspects of the Design Competition Scheme and previous Development Application have been amended or removed in the revised plans:

1. The upper-level setback to Kent Street has been reduced from 8m to 6m; and
2. The light well adjacent to the existing western boundary of 503-505 Kent Street has been removed.

It was noted in the original application that the lightwell was a feature which was commended by the jury as quoted on page 30 of the Design Report prepared by SJB and submitted with the original DA in 2023 as outlined below;

“For the typical levels, the design team made a conscious decision to maintain the lightwell and separation of the building to it’s Eastern neighbour at No. 503-505 Kent Street as commended within the jury feedback from the competition scheme.”

This light well has since been removed due to the subsequent redistribution of floorspace resulting from the reduction in building height. The light well has been replaced with an additional hotel room which is highly compromised with an outlook into a reduced lightwell. The impact on 503-550 Kent Street is the loss of the western windows which had previously be retained by the light well. The light well allowed the penetration of light through these western windows into the floor plate of 503-505 Kent Street which would otherwise be limited to natural light from the Kent Street façade. Given the depth of the floor plate natural light penetration to the western extremities of the floor plate will be limited post development of 499-501 Kent Street as currently proposed and inconsistent with the Design Excellence

provisions. Furthermore the removal of the lightwell and plant area at the upper levels in this location has compromised the applicants ability to accommodate plant elsewhere within the building envelope.

Removal of the light well and integration of the plant area has compromised the intent of the Design Competition scheme.

The upper-level setback is discussed elsewhere in this letter. Considered in conjunction with the removal of the light well, calls into question the Design Excellence of the amended scheme and would the scheme have achieved Design Excellence if it was lodged in its current form at the time, given the significant non-compliance of the upper-level setback now proposed and impact on the local heritage item.

3. Upper-level setback above a heritage item within a Heritage Conservation Area

Whilst 503-505 Kent Street is a commercial property and the impact of reduced overshadowing or removal of windows may not be a consideration for which compliance must be achieved, this is only reasonable based on compliance with the controls, in this case the upper-floor setback control. 503-505 Kent Street is subject to additional impacts as a consequence of the non-compliance with the DCP upper-level setback of the proposed development of 499-501 Kent Street. The amenity impact of this non-compliance cannot be dismissed based upon the fact the adjoining property is commercial and not residential.

The previous concept approval was approved based on an 8m upper-level setback which established the maximum building envelope. This approval was conditioned upon the reduction in height to ensure no additional overshadowing of the future Town Hall Square. The envelope with the reduced height and the 8m setback is hence the maximum approved envelope under the concept plan. The amended concept plan has now been submitted, which has sought to erode the design intent and design excellence of the original scheme by reducing the upper-floor setback in the pursuit of additional floor space.

Indeed, the fact any built form has been allowed above a heritage item in heritage conservation area, is a relaxation of the controls. The reduction in the upper-floor setback by 40% from 10m to 6m, with a complete disregard for the impact of this non-compliance on 503-505 Kent Street as it is a commercial property, is unreasonable and unjustified resulting in an overdevelopment of a significantly constrained site.

The Conservation Management Plan for the site addresses setbacks in policy 48 as outlined below, confirming the design should respond to the building controls, being the DCP upper-floor setback control;

CMP policy 48

“Setbacks would respond to the prevailing building controls in concert with the specific context of the urban setting of the building so as to ensure that any appreciation of the form and scale of the original building is not lost, and continues to contribute to the streetscape.”

Non-compliance with the DCP controls has been established, with a reduction of the setback of 40% sought. The Design Report has sought to assess the upper-floor setbacks for the surrounding properties in Kent Street to support the non-compliance and concludes on page 18;

“The proposed reduced setback of 6m to the subject site would not present a major urban departure from its context.”

The report assesses the upper-level setbacks, however fails to address the fact the site is a corner site. Furthermore, whilst Kent Street is a Heritage Conservation Area, the immediate neighboring properties are not heritage items and those further north of the subject site that are heritage items, do not have an existing upper-floor setback. In this context there is an absence of an established upper-floor setback on the western side of Kent Street with an absence of Heritage items developed with tower forms above. The argument presented is not relevant for the justification of such a significant departure from the DCP upper-floor setback control and the consequential impact on the local heritage item.

The applicant has failed to provide any reasonable justification for a further departure from the approved 8m setback to 6m, besides the redistribution of the floorspace which is a commercial consideration unfounded by Heritage, Urban Design or Planning merits and hence should be refused.

The image below extracted from the Design report by SJB demonstrates the impact on the streetscape as a consequence of the reduced upper floor setback and reduced solar access to the northern windows in the facade of 503-505 Kent Street, with the tower form presenting as more prominent above the heritage item and having a stronger presence in the streetscape.



Competition Scheme



Stage 2 DA Scheme

Figure 2 – Comparison of 8m and 6m upper floor setbacks (Source - SJB Design Report)

As outlined in our previous submission of 6 November 2023, compliance with the 10m upper-floor setback was sought to maximize the windows retained on the northern facade of 503-505 Kent Street, refer to Figure 3 below and Annexure 1. Figure 4 & 5 below, indicates how compliance with the 10m setback would retain one third of the northern windows to 503-505 Kent Street, aligning with the window mullion.

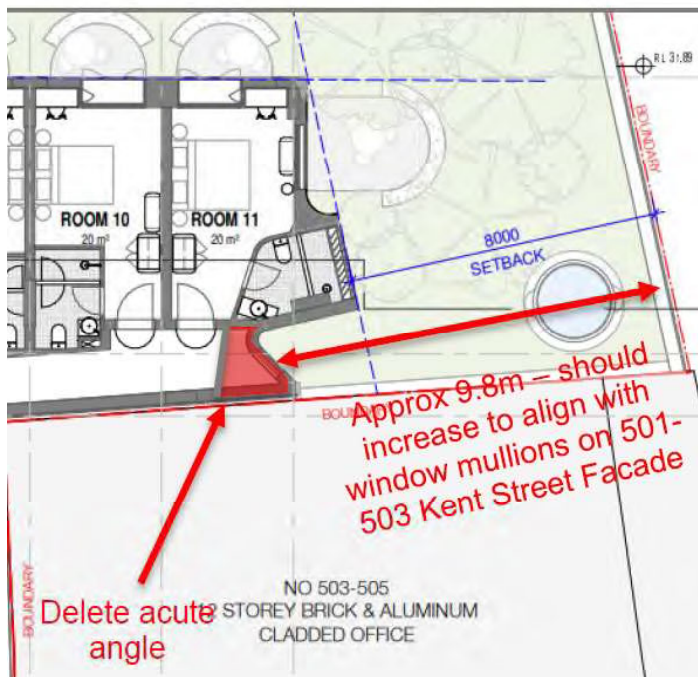
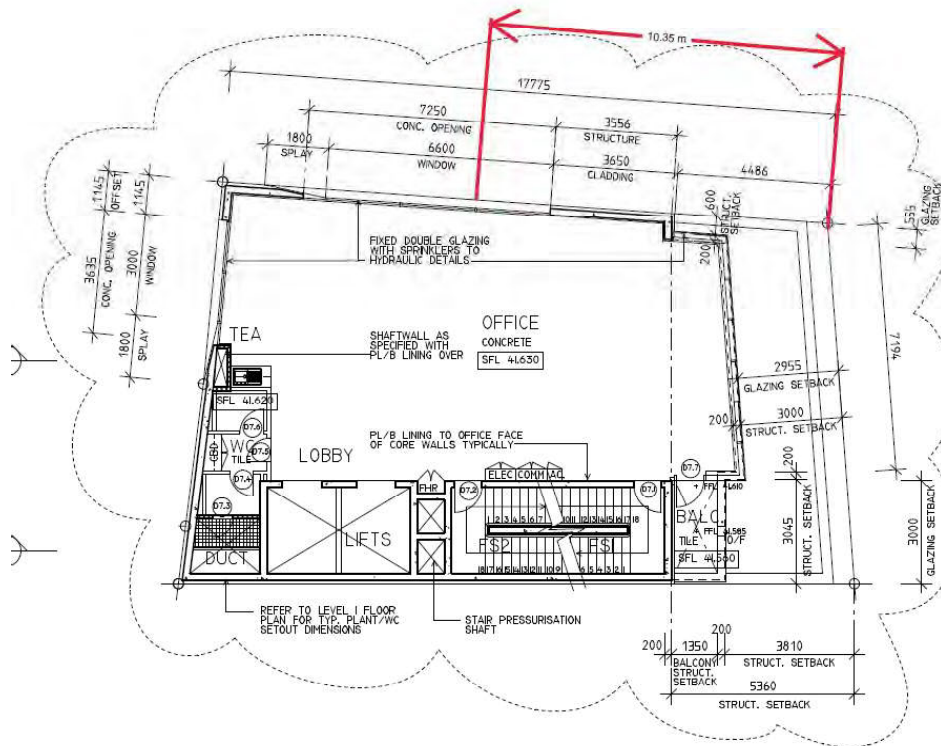


Figure 3 - Image included in Objection letter dated 6 November 2023



Figure 4 - Revised Plan in current Development Application indicating how a 10.3m setback at the northern boundary would align with the existing window mullion.



FLOOR PLAN- LEVEL 7

Figure 5 - typical Floor Plan of 503-505 Kent Street indicating how a 10.3m setback at the northern boundary would align with the existing window mullion and provide additional light into the floor plate if 499-501 Kent Street was Complaint with the DCP upper floor setback above a heritage Item.

It is unreasonable that compliance with the height control in the concept approval has resulted in a further request to decrease the Kent Street upper-floor setback, to increase the floor plate and attempt to maximize the gross floor area lost due to the height decrease, which was not adequately considered by the applicant in the design competition nor DA2023/868.

Further non-compliance and erosion of the upper-floor setback control is unreasonable considering the impact on the streetscape in a heritage conservation zone, the impacts on the local heritage item and the direct impacts upon 503-505 Kent street. The property is a local heritage item and compliance with the DCP setback of 10m should prevail and be reflected in the approval of DA/2023/865.

4. Concerns over the Preliminary Construction Pedestrian and Traffic Management Plan

The Preliminary Construction Pedestrian and Traffic Management Plan (CPTMP) has failed to mention St Andrews School and the location of the school kiss and drop zone. Kent street is extremely busy during the operation of the kiss and drop zone and the operation of the construction zone at the same times with one active lane of traffic will have significant impact upon traffic congestion and safety of students, pedestrians and vehicles as vehicles pull in and out of the kiss and drop zone and merge with the single lane of traffic in peak periods.

Consultation with the school and adjoining property owners would have been expected in preparation of this report. Consideration that the works zone must operate outside school kiss and drop zone times should be considered in the interest of public safety.

5. Exceeding the Heritage Constraints of the Site

The amended applications as submitted exceeds the Heritage Constraints of the site. The site is highly constrained and compromised being a corner site and a local heritage item. The original applications sought variations to a number of development standards to maximize the floor space and development yield. Given the reduction in height to achieve compliance with the Concept Plan approval conditions, the non-compliance of the upper-level setback has increased to 40%, to maximize the yield, exacerbating the overdevelopment of the site within the reduced height.

Given the non-compliance and unnecessary resultant impacts on the Heritage of 499-501 and amenity of 503-505 Kent Street that result from the non-compliances, the impact on the heritage item and streetscape, the Development Applications as amended must be refused in its current form.

We attach for your reference our previous objection to DA2020/1224 supported by expert heritage advice prepared by Romey Knaggs Heritage and McCabe Curwood Lawyers confirming the unacceptable impact on the local heritage item. This assessment remains relevant for the current application in respect to the non-complaint upper-level setback.

The amended DA2020/1224/A should be refused due to the significance of the proposed upper-floor setback non-compliance, or amended to reflect a compliant upper floor setback of 10m consistent with the DCP controls and the consequential amenity impacts on 503-505 Kent street as a result of the non-compliance.

We reiterate our concerns about the operation of construction zones outlined in DA2023/868 and the lack of consideration of the St Andrew's kiss and drop zone and proposed hours of operation of the work zone.

The removal of the lightwell to the west of 503-505 Kent Street further reduces the amenity of 503-505 Kent Street and removes an aspect of the design that was commended by the Design Excellence Jury.

Conclusion

We are seeking an amendment to the plans, such that DA2023/868 is revised to reinstate the light well and the upper-level setback is increased to be complaint with the DCP at 10m to retain the existing solar access afforded to 503-505 Kent Street within this 10m setback zone which could be achieved as per figure 6 below.

The fact 503-550 Kent Street is a commercial property (as opposed to residential requiring a minimum compliance with solar access) is insufficient justification for the non-compliance with the upper floor setback control and the right of 503-505 Kent Street and its occupants to continue to enjoy the solar access that a compliant setback would afford and yet is proposed to be reduced as a result of the amended proposal.

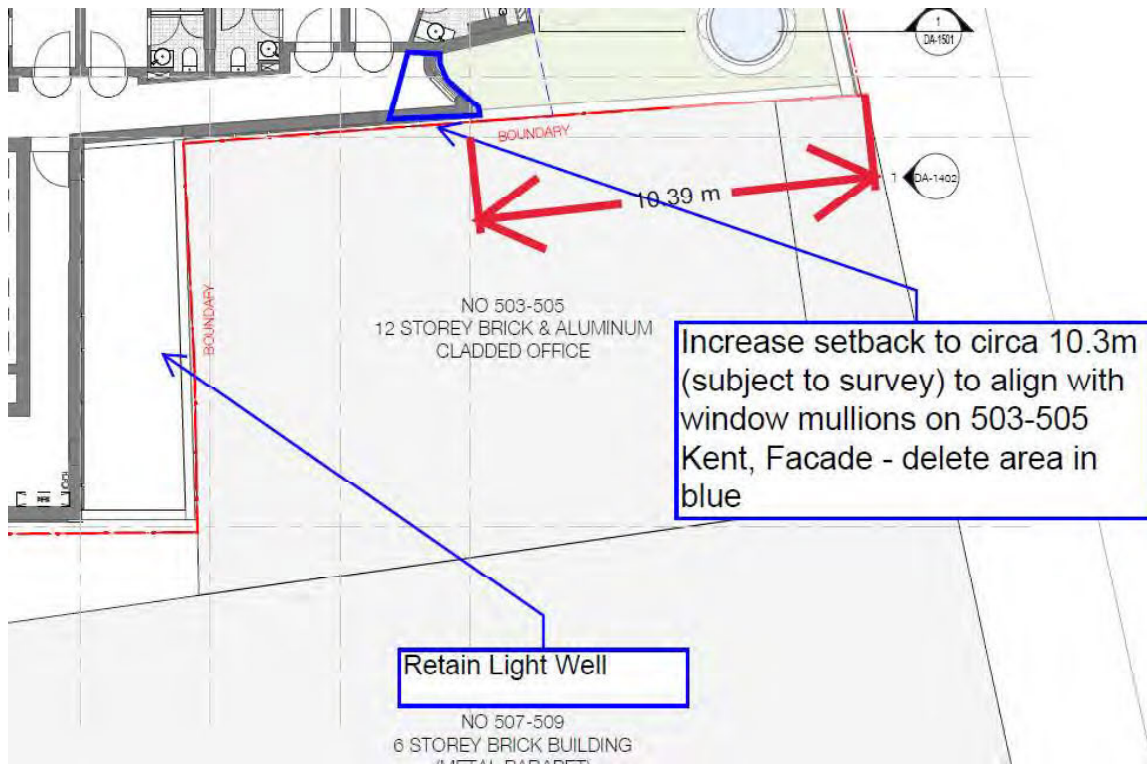
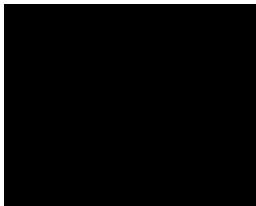


Figure 6 – Plan showing desired 10m upper floor setback and reinstatement of light well.

We would be happy to discuss any of these matters further at your convenience. Please contact Justin Micallef of Oakstand should you require any additional information on, [REDACTED]

Yours faithfully,



Bosko Seric
 Director
 NSW Property Holdings Pty Ltd

Appendix 1 – Objection DA 2020/1124

15 December 2020

Mia Music
Council Planning Officer
City of Sydney
456 Kent Street
Sydney NSW 2000

Dear Mia,

Re: Submission to Object DA Notification: D/2020/1224, 499-501 Kent Street, Sydney NSW 2000

We act on behalf of *NSW Property Holdings*, the owner of the building at 503-505 Kent Street, Sydney and refer to the notification of D/2020/1224 which is currently on exhibition from 18 November 2020 through to and including 17 December 2020.

It is noted that we have issued two previous submissions (dated 30 September 2019 and 17 April 2020) in objection to an earlier scheme lodged under D2019/969 at the subject site. This scheme initially proposed a Stage 1 Concept Development Application for a 22-storey mixed use (residential/commercial/retail) tower above a heritage item.



Figure 1 Site Context
Source: Mecone Mosaic

We have reviewed the exhibited documents, in relation to the proposed development and wish to outline some key issues and non-compliances, which directly impact the existing building at 503-505 Kent Street and the experience of the building from the public realm.

The exhibited documents fail to adequately address a number of outstanding matters. The key deficiencies from the proposal include:

- Inadequate consideration of the draft Central Sydney Planning Strategy (CSPS);
- Insufficient calculation of the building height
- Failure to support suitable setback distances; and,
- Inability to achieve design excellence.

The above issues are further detailed in subsequent sections below.

This submission should be read in conjunction with the following reports:

- Heritage Statement prepared by McCabe Curwood (dated 17 April 2020) in **Attachment 1**; and
- Heritage Comments prepared by Romey Knaggs Heritage (dated 3 October 2019) in **Attachment 2**.

Draft Central Sydney Planning Strategy (CSPS)

Exhibited from 1 May 2020 to 10 July 2020, the *Draft Central Sydney Planning Strategy 2016 - 2036* (draft CSPS) is a 20-year growth strategy for business and residential development in Central Sydney that maintains Sydney's global status. It revises previous planning controls and delivers on the *City of Sydney's Sustainable Sydney 2030* vision for a green, global and connected city, and the New South Wales Government's strategic plans for metropolitan Sydney – *Greater Sydney Region Plan: A metropolis of three cities* and the *Eastern City District Plan*. The draft CSPS is currently under review. The post-exhibition report is also coming before the Council and CSPC for approval in the subject week to be sent to DPIE for finalisation.

It is noted that the Applicant largely fails to provide an adequate assessment against the draft CSPS controls relevant to the site. Under Clause 4.15 (1)(a) of the *Environmental Planning and Assessment Act 1979*, any proposed instruments that has been the subject of public consultation under this Act must be deemed a matter for consideration in determining a development application. As such, consideration of the CSPS will be critical to the evaluation process of this proposal.

Clause 6.16 – *Erection of Tall Buildings in Central Sydney* as it currently stands in the Sydney LEP 2012 requires that buildings over 55m are required to occupy sites with a minimum area of 800m² unless the consent authority is satisfied that the proposal satisfies the amenity and detailed design requirements set out under the clause. The draft CSPS seeks to replace this clause and increase the minimum site area threshold from 800m² to 1,000m². The draft CSPS strategy establishes that the increase to the minimum site threshold is founded on the need to protect amenity and achieve high-quality built form outcomes. This is supported by the following commentary included in the draft CSPS:

A site area of 1,000sqm has been demonstrated to be the minimum area that allows site dimensions to comfortably support appropriate setbacks above a street wall – as is necessary for a tall building to provide outlook; public place light and amenity; separation of bulk from neighbouring buildings; a high quality urban form and a high level of amenity to public spaces.

Additionally, the site is identified as 'Land Affected by Sun Access' and is subject to Clauses 6.17, 6.19 and the proposed public view protection planes provision. The draft CSPS amends the No Additional Overshadowing controls as outlined in the diagrams in Appendix M of the draft CSPS supporting documentation. The proposed controls on this site stipulate that no additional overshadowing is permitted over the future Town Hall Square all year round from 12pm to when the sun sets. As such, the proposed building height of 80m will have an overshadowing impact on the future Town Hall Square that would not be permissible under

such provisions and for this reason, the approval of the gross overdevelopment of this site is not in the public's interest.

Overall, it is not suitable for the small and constrained site and is not in the best public interest as it will have an impact on the development potential of neighbouring sites, including that of the Town Hall Square.

Insufficient Calculation of Building Height

The proposed building envelope drawings fails to provide sufficient detail of the ground level (existing) to which the height plane relates. The maximum height of building control that applies to the subject site is 80m. It is recognised that the subject site is largely developed, making it difficult to determine "ground level (existing)" as defined within the *Sydney Local Environmental Plan 2012* (SLEP2012). In such circumstances calculating the ground level (existing) can be determined from taking surveyed levels from the public domain adjoining the development site to determine suitable surrounding context. The levels of the site are then averaged across the site between these points to interpolate a ground level (existing) for which the maximum building height is measured from. This method has been established by the Land and Environment Court (LEC) as the correct way to establish ground level (existing) on sites that have been fully development under both *Bettar v Council of the City of Sydney* [2014] NSWLEC 1070 (Bettar) and *Stamford Property Services Pty 247 v City of Sydney and Anor* [2015] NSWLEC 1189.

The applicable Relevant Levels for the ground level (existing) should be further detailed on the plans as should the applicable Relevant Levels for which the height plane has been devised. These Relevant Levels identifying the ground level (existing) should relate directly to the levels on the *Survey Plan* prepared by Veris.

Setbacks

The proposal has provided an 8m setback above the street wall height and has not appropriately considered Provision 5.1.2.1(3) of the *Sydney Development Control Plan 2012* (SDCP 2012). The tower element, which is only setback 8m, is not consistent with the controls which requires a 10m setback above the street wall where the site contains a heritage item as quoted below;

*"New buildings or additions above a heritage item **must** have a setback of **at least** 10m from all the street frontages shown in Figure 5.7 Minimum setback above a heritage item. However, a conservation management plan required as part of the application may **require a greater setback**. (emphasis added)"*

There are further numerical non-compliances with the rear and side setbacks of the subject site, proposing a zero-metre setback to the southern boundary and a setback to the western boundary splayed from 0m in the south-western corner to 9m at the Druiitt Lane frontage. The proposed plans fundamentally fail to address the side boundary and front setback controls as well as the front setback and results in a gross overdevelopment of a highly constrained small infill site. We strongly recommend that Council **not** waive this setback requirement to a heritage building. Especially the example of heritage building on site that has been identified as having a highly significant external form as viewed from Kent Street and Druiitt Lane. In our opinion the reduced setback is further evidence the site is too small for the proposed development and explains why the proposal does not comply with the front setback.

The issues raised in our previous heritage report and letter by McCabes Curwood (**Attachment 1**) and Romey Knaggs Heritage (**Attachment 2**) still remain relevant to this application.

McCabe Curwoods' statement states that 'as set out in the *Architecture Objection and the Heritage Objection*, the proposed development does not comply with the 10m minimum setback prescribed in the DCP (section 5.1.2.1(3)). This non-compliance has significant impacts on the heritage item due to the low scale form of the building, and the proposed overdevelopment of the site in the form of a tower that exceeds the permissible FSR for the

site. As articulated in the Town Planning Objection,¹⁰ if development consent were to be granted to the DA, it would erode the application and legitimacy of the DCP (*Stockland Development Pty Ltd v Manly Council* [2004] NSWLEC 472). The applicant has not demonstrated any legitimate basis for the Council to contravene or give minimal weight to the DCP provision in this case'

Moreover, the Romey Knaggs Heritage states that 'the minimum setback prescribed in the DCP (Section 5.1.2.1(3)) for setbacks above heritage buildings is 10 metres. The proposed development has a non-compliant setback of 8 metres to the Kent Street frontage. However, due to the relatively low scale form of the existing building, the proposed residential tower will overwhelm the former irrespective of whether the setback is 8 metres or 10 metres. The issue must be subject to merit based rather than a formulaic approach. For such a low scale heritage item, only a very substantial setback (say 20 metres) could mitigate the impact of the proposed residential tower.'

Whilst previous Council Planning reports did not share the same heritage concerns, in light of the issues raised in respect to the draft Central Sydney Planning Strategy, NSW Property Holdings feel these heritage matters are pertinent.

The SEE has outlined that there no additional impacts on the heritage item from the reduction in setback above the street wall height, however approval of an envelope that is contrary to this specific control erodes the application and legitimacy of the control itself. Within *Stockland Development Pty Ltd v Manly Council* [2004] NSWLEC 472 the His Honour J McLennan determined that;

- "A development control plan which has been consistently applied by a council will be given significantly greater weight than one which has only been selectively applied"; and,
- "Consistency of decision making must be a fundamental objective of those who make administrative decisions. That objective is assisted by the adoption of development control plans and the making of decision in individual cases which are consistent with them. If this done, those with an interest in the site under consideration or who may be affected by any development of it have an opportunity to make decisions in relation to their own property which is informed by an appreciation of the likely future development of nearby property".

The 10m setback has been established by Council and generally applied to redevelopments above heritage buildings across the Sydney CBD, unless exceptional circumstances have justified a variation. The proposal has not demonstrated any legitimate or exceptional basis for the Council to depart from this control for the upper levels and therefore approval for the proposed building envelope should not be granted on account it would erode the application and legitimacy of the Section 5.1.2.1(3) of the SDCP 2012.

In accordance with provision 5.1.2.2 of the SDCP 2012 commercial buildings are to be setback from the side boundary where there are windows or balconies proposed/exist. The proposal has included construction of a tower directly adjoining the existing building at 503-505 Kent Street. It is recognised that a covenant exists over the site at 503-505 Kent Street which details that;

The Registered Proprietor hereby covenants with Council all windows in the building constructed on the Boundary of the Land which have an aspect to the Boundary;

- (i) *Must be sealed, bricked up or otherwise enclosed at Council's direction, to Council's reasonable satisfaction and at the Registered Proprietor's cost prior to commencement of construction, where and to the extent that the construction is intended to abut, adjoin to be adjacent to the boundary.*

It is reiterated that the covenant does not approve or invite the construction of a building directly adjoining the existing building. The covenant allows Council the opportunity to direct windows to be blocked over. The Development Application continues to rely on this occurring

and does not consider the impact this will have on the occupants of the existing building or the experience of the building from the public domain.

The site at 503-505 Kent Street is constrained, maintaining a total site area of 199m². The building on the site at 503-505 Kent Street was required to be constructed to the boundary to support a reasonable and effective floor plate to support commercial office space. The windows allow light to permeate through the building. The existing floorplate is 16m deep. Requiring the windows to be removed from two aspects would dramatically reduce the natural light and amenity that is experienced within the existing building and will create a building form that is out of character with the streetscape and intent of the Sydney Square/Town Hall/St Andrews Special Character Area which comprises Sydney Square, a major public open space framed by the *Town Hall and St Andrews Cathedral with Town Hall* being one of the State's most important civic buildings.

The site at 499-501 Kent Street does not have the same limitations experienced by the site at 503-505 Kent Street. The site at 499-501 Kent Street is larger in area and is able to support windows on Kent Street and along Druitt Lane. Furthermore, the proposal includes the construction a building that will dwarf the existing adjoining building at 503-505 Kent Street.

Regardless of the existing windows on 503-505 Kent Street, the construction of such a large development directly against the existing smaller development is a poor urban design outcome which is not respectful or considerate of the existing neighbours in the vicinity and adjoining the site.

Design Excellence

It should also be noted that the proposal relies on existing windows on building at 503-505 Kent Street being closed over – so that the building on the subject site can be constructed abutting the existing building. The proposed development will therefore require works to an adjoining building to facilitate approval. It is recognised that there is an encumbrance over the site at 503-505 Kent Street, which would allow the City of Sydney to instruct the owner to “*seal, brick up or otherwise enclose all windows to the Northern and Western Boundary of the site*”.

Notwithstanding the existence of this encumbrance, in accordance with Clause 6.21 of the *Sydney Local Environmental Plan 2012* (SLEP 2012) the proposal must exhibit Design Excellence. The provided documentation does not adequately address in detail the proposal's ability to exhibit design excellence in accordance with Clause 6.21 of the SLEP 2012. The SEE, provides a high-level acknowledgement, however lacks sufficient detail and justification at the Concept Development Application (Stage 1).

The requirement for Design Excellence has been judicially interpreted as extending to a Concept Development Application such as that proposed. As afforded by the Court of Appeal in *Local Democracy Matters Incorporated v Infrastructure NSW* [2019] NSWCA 65, a provision such as clause 6.21 requires the consent authority to have regard to matters that are relevant to the Concept Development Application.

The scale of the proposed built form, with insufficient setbacks to the existing tower at 503-505 Kent Street will overwhelm the existing building, will impact the amenity of the existing occupants and reflects a poor relationship with the surrounding context. A proposed built form that exhibits nil setback to the existing building at 503-505 Kent Street cannot be determined to exhibit design excellence. Further, no windows of any of the adjoining properties have been depicted on the architectural plans.

At a minimum in the context of this Development Application the proposal fails to meet the considerations relevant to a Concept Development application under Clause 6.21 of the SLEP 2012 as detailed in the below table.

Sydney LEP 2012, Clause 6.21 (4) Assessment	
Clause	Assessment
(4) In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters:	
(b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,	The proposed development does not fully consider the impact on the public domain. Not only will the scale of the development in relation to the Heritage Item be overbearing, but the proposal has not considered the overshadowing impact it will have on the approved future Sydney Square at the corner of Park and George Streets. It is understood that solar access to this square is proposed to be protected by a Solar Access Plane under Council's Central Sydney Planning Strategy. Although not a statutory control, an envelope that exhibits design excellence should consider the impact it will have on this open space.
(c) whether the proposed development detrimentally impacts on view corridors,	No view impacts have been undertaken as part of the proposal. Furthermore, the proposed development involves the complete obstruction of all north and west facing windows on the existing building at 503-505 Kent Street.
(d) how the proposed development addresses the following matters	
(i) the suitability of the land for development,	The proposal provides a building envelope that exceeds the heights controls and will encroach on setback provisions for the site. The development therefore proposes a built form that is not suitable for the land.
(ii) the existing and proposed use and mix,	The proposal is inconsistent with the principals of the Town Hall Special Character Area which requires new buildings surrounding the street block of Sydney Square to have street frontage heights and setbacks at higher levels consistent with the prevailing form of buildings in this Special Character Area.

Sydney LEP 2012, Clause 6.21 (4) Assessment

Clause	Assessment
	<p>The proposed development is incompatible with its surrounding context. The development has substantial impacts on the surrounding developments with breaches to the height limit, setback and impacts on overshadowing.</p> <p>Additionally, the impact of the development in context of the heritage item is considered unacceptable.</p>
(iii) any heritage issues and streetscape constraints	<p>The proposal provides an 8m setback above the street wall height, where the SDCP 2012 requires a 10m setback for buildings above Heritage Items.</p>
(iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighboring sites in terms of separation, setbacks, amenity and urban form,	<p>No consideration has been given to the siting, scale or amenity of the existing development at 503-505 Kent Street. It is recognized that there is an existing covenant that requires the existing windows to be closed at the request of Council – however, regardless of this covenant the proposed tower is of a height and scale that requires the development to exhibit design excellence. A development directly abutting the existing commercial tower at 503-505 Kent Street would envelope and overwhelm the existing built form impacting the amenity of the occupants of the existing building. The proposal therefore does not exhibit design excellence.</p>
(v) the bulk, massing and modulation of buildings,	<p>The building envelope proposes no considered modulation in how it relates to the surrounding built form or the existing development controls. The massing exceeds current setbacks and height controls. The height and bulk of the building will envelope the existing smaller building on 503-505 Kent Street. No consideration has been given to providing a considered and modest increase in scale between the two towers.</p>
(vi) street frontage heights,	<p>The street frontage height is determined by the existing Heritage Item.</p>
(vii) environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,	<p>The proposed building envelope has not adequately considered the solar impact on existing surrounding developments to the south or existing and future open space – namely being Town Hall Square or the future Town Hall Square.</p>
(viii) the achievement of the principles of ecologically sustainable development,	<p>A Design Excellence Strategy has been prepared.</p>
(ix) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network,	<p>The indicative reference scheme will have two street frontages. The indicative reference scheme has not resolved how the pedestrian, and bicycle access will be resolved on site and how the building envelope will provide separate retail/restaurant and hotel access. At present, the bicycle access is provided on the Lower Ground Level with path of travel via the lobby and stairs then via a lift. Additionally, pedestrian ingress and egress to the building from Drutt Lane will require sufficient assessment accordingly.</p>
(x) the impact on, and any proposed improvements to, the public domain,	<p>The siting, bulk and height of the tower has not considered the full impact on the surrounding public domain, including (but not limited to) Town Hall Square.</p>

Sydney LEP 2012, Clause 6.21 (4) Assessment

Clause	Assessment
(xi) the impact on any special character area,	The proposed envelope represents an overdevelopment of the site in terms of setbacks and height.
(xii) achieving appropriate interfaces at ground level between the building and the public domain,	The interface will be resolved during the competitive design process and subsequent Stage 2 DA.
(xiii) excellence and integration of landscape design.	A concept landscape plan has been prepared.

Conclusion

Mecone and NSW Property Holdings do not support the development as it represents an excessive building envelope which is deemed unsympathetic to its surrounding context.

The site is too small and constrained to support the gross overdevelopment proposed, creates an over-bearing sense of enclosure that does not achieve an equitable outcome for the development potential of neighbouring sites. Further, will envelop the existing building at 503-505 Kent Street and be overbearing to the existing Heritage Item on the site.

The overbearing bulk, non-compliance of setback controls and inadequate assessment of future planning provisions framed by the exhibited draft CSPA will impact the amenity and function of the existing building at 503-505 Kent Street and provide a poor urban design outcome when viewed from the public realm.

It is considered that the proposal in its current form should be refused as it is gross overdevelopment of the site, is not suitable for the small and constrained site and is not in the best public interest as it will have an impact on the development potential of neighbouring sites, including that of the Town Hall Square as highlighted in the draft CSPA.

Overall, it is suggested that the applicant be invited to withdraw the application and liaise with the owners of the building at 503-505 Kent Street to provide a more appropriate built form. It is further requested that appropriate consideration be made to the key objections outlined and future responses explicitly address the outstanding items to the satisfaction of the aforementioned landowners.

We thank Council for the opportunity to comment on the development at 499-501 Kent Street, and we request that these matters be given due consideration as a part of the assessment process.

Should you wish to discuss any aspect of this submission further, please contact me on [REDACTED]

Regards,

[REDACTED]
Kate Bartlett
Director

17 April 2020

Ms Mia Music
Planning Officer
City of Sydney Council
Town Hall House
456 Kent Street
SYDNEY NSW 2000

Dear Ms Music

OBJECTION TO DEVELOPMENT APPLICATION D/2019/969 FOR 22 STOREY MIXED USE TOWER ABOVE A HERITAGE ITEM AT 499-501 KENT ST, SYDNEY

1. We act for NSW Property Holdings Pty Ltd (**our client**), the owners of 503-505 Kent Street, Sydney (**our client's land**). Our client's land immediately adjoins No. 499-501 Kent Street (**the Land**) which is the subject of development application D/2019/969 (**DA**) seeking consent for a 'Stage 1 Concept Development Application for a 22-storey mixed use (residential/commercial/retail) tower above a heritage item' (**proposed development**). We refer to our prior letter of objection on behalf of our client dated 8 October 2019 in relation to the **DA** as lodged, prior to amendment (**our prior objection**).
2. The Amendments to the DA are made under cover of letter prepared by Urbis dated 11 March 2020 (**the Urbis letter**). In the Urbis letter, the amendments are summarised as:
 - *Reduction in GFA from 10,84sqm to 9,514sqm;*
 - *Consolidation of all commercial/retail floor space within the existing heritage building, resulting in a reduction in overall commercial/retail GFA;*
 - *Increased communal open space from 241sqm to 294sqm, consolidated at Level 3;*
 - *Increased rear setback from 6m to 1.4m-9m;*
 - *Increased front/Kent Street setback at level three from 8m to 18m;*
 - *Increase in residential apartments from 72 to 75;*
 - *Modifications to the rear of the building to improve sunlight and natural ventilation to residential apartments and internal common areas.*

The amended design has created a split in the proposed land uses that are reflective of the existing heritage building and new residential tower. For ease of reference and comparison, extracts of the amended plans are provided below.
3. Our client maintains its objection to the proposed development and submits that the DA as amended (**the Amended DA**) should be refused for the reasons set out in our prior objection and supplemented below. The amendments made to the DA do not adequately address the issues raised in our prior objection in relation to the DA.

4. We **enclose** the following letters prepared in support of our clients' objection to the Amended DA:
 - a. Letter prepared by Mecone dated 17 April 2020 (**Town Planning Objection**);
 - b. Our prior objection. This letter should be read as a supplement to our prior objection. The remarks in our prior objection are maintained unless amended by this letter. Similarly, the remarks in the Heritage and Architecture Objections referred to in our prior objection are maintained.
5. Our client submits that the DA should be refused for the reasons set out below and articulated in the enclosed letters.

SNAPSHOT

- The DA erroneously seeks consent for a 'maximum' building envelope.
- The Floor Space Ratio (**FSR**) sought by the building envelope takes into account bonus FSR that may be afforded where a building demonstrates design excellence, in circumstances where no building is yet proposed and design excellence has not been demonstrated. Accordingly, the jurisdictional prerequisite for the Council to afford the bonus has not been satisfied. The proposed development exceeds the maximum permissible FSR for the development and must be refused.
- The Landscape Report prepared by RPS dated 2 March 2020 (**Landscape Report**) fails to address how the proposed landscaping on level 3 can be achieved beneath the overhang of level 4, in circumstances where the mature height of trees and requisite soil depth far exceeds the height of the under-croft. Further, the Amended DA fails to demonstrate that this space will receive adequate (if any) sunlight to allow for landscaping.

DA for a 'maximum building envelope'

6. Throughout the Statement of Environmental Effects prepared by Urbis dated 23 August 2019 (**SEE**), reference is made to the DA seeking concept approval for a building envelope that "can comply with the relevant FSR for the site as well as bonus FSR available under Clause 6.4".¹ These references indicate that the DA seeks a 'maximum' building envelope, not a building envelope. This is inconsistent with the purpose of a concept development application and consent. Section 4.24(2) of the *Environmental Planning and Assessment Act 1979* (NSW) provides:

While any consent granted on the determination of a concept development application for a site remains in force, the determination of any further development application in respect of the site cannot be inconsistent with the consent for the concept proposals for the development of the site.

7. The purpose of concept development applications was considered by Preston CJ in *The Uniting Church in Australia Property Trust (NSW) v Parramatta City Council* [2018] NSWLEC 158 at [44] where His Honour said:

"Any further development application could not be inconsistent with the building envelope approved by the consent granted on the determination of the concept development application. A building could be inconsistent if it exceeds the approved building envelope, but equally it could be inconsistent if it is less than [sic] the approved building envelope."

8. In the proponent's response to the Council's request for information, being Attachment A to the Urbis letter (the **RFI response**), the proponent states:

¹ SEE page 24.

It is acknowledged that the Stage 1 DA does not grant consent for the 10% FSR uplift and that a Competitive Design Process will be required prior to the lodgement of the Stage 2 DA to demonstrate the proposed development exhibits design excellence and satisfies the provisions of Clause 6.21.

9. This comment is inconsistent with the amended architectural plans at Attachment C to the Urbis letter (**Amended Architectural Plans**). Drawing no. DA-90-1000/B sets out the FSR and GFA calculations for the Amended DA. The GFA and FSR calculations for the Amended DA include the 10% design excellence bonus. These calculations are summarised in Table 1 below.

Table 1 - FSR calculations for Amended DA

	<u>SLEP 2012</u>	<u>Ratio</u>
Applicable to the DA	Clause 4.4(2) – Maximum FSR	8:1
	Clause 6.4(1)(e) – Additional floorspace for office, business or retail premises	2:1 pro rata for 23% of development = 0.46:1
	Clause 6.4(1)(f) – Additional floorspace for residential accommodation	3:1 pro rata for 77% of development =2.30:1
	TOTAL	10.77:1
Not applicable to the DA	Clause 6.21(7) – Additional floorspace for building demonstrating design excellence	10.77:1 x 10% =1.08:1
	TOTAL with design excellence additional FSR	11.84:1

10. Accordingly, the Amended DA either:

- a. Seeks consent for the 10% FSR uplift, in contradiction to the RFI response, which cannot be granted at this stage as the Amended DA has not demonstrated design excellence or been the subject of a Competitive Design Process;² or
- b. Seeks consent for a building envelope with FSR that exceeds that which is permitted under the relevant provisions of the SLEP, and does not seek to justify the exceedance by way of a clause 4.6 written request.

11. On either basis, the Amended DA must be refused.

Front setback and provision of Communal Open Space.

12. The RFI response states that the building envelope has been amended to increase the eastern setback at level 3 above the heritage item. However, levels 4 and above remain non-compliant with the 10m setback required by clause 5.1.2.1(3) of the Sydney Development Control Plan 2012. Accordingly, level 3 will not read as having a compliant setback. Levels 4 and above will overhang proposed level 3, creating an under-croft. This does not reduce the bulk and scale of the proposed development and does not create a viable communal open space.
13. The Landscape Report does not address how trees and other landscaping, proposed to be carried out beneath the overhang of level 4, will receive adequate sunlight or growth space.

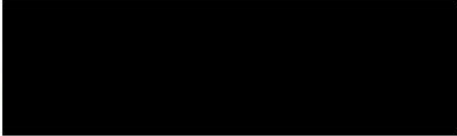
² This is further set out in paragraphs 14 to 18 of our prior objection.

The Landscape Report proposes small, medium and large trees with mature heights of between 6 and 18 metres and required soil depth of between 0.8 and 1.2 metres. The Landscape Report fails to address how this can be achieved where the height of the level 3 'under-croft' is 3.05metres.³ The Landscape Report is insufficient and the Council should not be satisfied that the proponent has satisfied the requirement to provide a landscape concept plan, or addressed the matters set out in the RFI response.

Conclusion

14. For the reasons set out in this letter, the Town Planning Objection enclosed, and our prior objection, the Council cannot grant development consent to this DA.

Yours faithfully
McCabe Curwood



Paul Vergotis
Principal



Katharine Huxley
Associate



Encl

³ Amended Architectural Plan DA-30-1000/B.

8 October 2019

Ms Monica Barone
Chief Executive Officer
City of Sydney Council
Town Hall House
456 Kent Street
SYDNEY NSW 2000

Dear Ms Barone

OBJECTION TO DEVELOPMENT APPLICATION D/2019/969 FOR 22 STOREY MIXED USE TOWER ABOVE A HERITAGE ITEM AT 499-501 KENT ST, SYDNEY

1. We act for NSW Property Holdings Pty Ltd (**our client**), the owners of 503-505 Kent Street, Sydney (**our client's land**). Our client's land immediately adjoins No. 499-501 Kent Street (**the Land**) which is the subject of development application D/2019/969 (**DA**) seeking consent for a 'Stage 1 Concept Development Application for a 22-storey mixed use (residential/commercial/retail) tower above a heritage item' (**proposed development**).
2. We **enclose** the following letters prepared in support of our clients' objection to the proposed development:
 - a. Letter prepared by Romey.Knaggs Heritage dated 3 October 2019 (the **Heritage Objection**);
 - b. Letter prepared by GMD Architects dated 27 September 2019 (**Architecture Objection**); and
 - c. Letter prepared by Mecone dated 8 October 2019 (**Town Planning Objection**).
3. Our client objects to the proposed development and submits that the DA should be refused for the reasons we set out below, and articulated in the enclosed letters.

SNAPSHOT

- The DA erroneously seeks consent for a 'maximum' building envelope.
- The FSR calculations provided with the DA are incorrect. In addition, the Floor Space Ratio (**FSR**) sought by the building envelope takes into account bonus FSR where a building demonstrates design excellence, in circumstances where no building is yet proposed and accordingly the jurisdictional prerequisite for the Council to afford the bonus is not satisfied. The result of these errors is that the proposed development exceeds the maximum permissible FSR for the development and must be refused.
- The DA has failed to demonstrate that the proposed development exhibits design excellence in accordance with cl 6.21(3) of the *Sydney Local Environmental Plan 2012 (SLEP)*.
- The proposed development will have a significant and unreasonable impact on Local Heritage Item I1834.

DA for a 'maximum building envelope'

4. Throughout the Statement of Environmental Effects prepared by Urbis dated 23 August 2019 (**SEE**), reference is made to the DA seeking concept approval for a building envelope that "can comply with the relevant FSR for the site as well as bonus FSR available under Clause 6.4".¹ These references indicate that the DA seeks a 'maximum' building envelope, not a building envelope. This is inconsistent with the purpose of a concept development application and consent. Section 4.24(2) of the EPA Act provides:

While any consent granted on the determination of a concept development application for a site remains in force, the determination of any further development application in respect of the site cannot be inconsistent with the consent for the concept proposals for the development of the site.

5. The purpose of concept development applications was considered by Preston CJ in *The Uniting Church in Australia Property Trust (NSW) v Parramatta City Council* [2018] NSWLEC 158 at [44] where His Honour said:

"Any further development application could not be inconsistent with the building envelope approved by the consent granted on the determination of the concept development application. A building could be inconsistent if it exceeds the approved building envelope, but equally it could be inconsistent if it is less than [sic] the approved building envelope."

6. We submit that the Council cannot grant consent for building envelope that benefits from the additional 10% floorspace available upon satisfaction of clause 6.21(7) of the SLEP at this stage, for the reasons set out in paragraphs 7-13 below. Accordingly, the DA is fundamentally flawed in so far as it seeks approval for a building envelope with FSR that exceeds that which is permitted under the relevant provisions of the SLEP, and does not seek to justify the exceedance by way of a clause 4.6 written request.

Floor Space Ratio

7. The DA seeks consent for an FSR of 12.43:1. Clause 4.4(2) of the SLEP provides that the maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. Floor Space Ratio Map Sheet FSR_015 provides that the Maximum Floor Space Ratio for the Land is 8:1. As the Land is in 'Area 3', the DA seeks to rely on cl 6.4 of the SLEP for additional FSR, being an addition of 2:1 (pro rata) for the office business or retail components of the development and 3:1 (pro rata) for the residential accommodation portion of the site. The DA then relies on clause 6.21(7) of the SLEP for an additional 10% floorspace.
8. The DA is for development *involving* the erection of a building, but it is not for the erection of a building.² Clause 6.21(7) cannot apply to the DA as subclause 7 relates only to 'a building demonstrating design excellence'. Clause 6.21(9) provides:

(9) In this clause—

building demonstrating design excellence means a building where the design of the building (or the design of an external alteration to the building) is the winner of a competitive design process and the consent authority is satisfied that the building or alteration exhibits design excellence.

9. There has been no competitive design process in relation to this DA. This is proposed for the stage 2 development application. Similarly, the Council cannot at this stage be satisfied that the building exhibits design excellence, as the DA does not seek consent for a building.
10. The DA is analogous to the development application considered by Commissioner O'Neill in *Uniting Church in Australia Property Trust (NSW) v Parramatta City Council* [2018] NSWLEC 1129. The application in that matter was for a staged mixed use development comprising two

¹ SEE page 24.

²*Uniting Church in Australia Property Trust (NSW) v Parramatta City Council* [2018] NSWLEC 158 at [50].

building envelopes on a site. Commissioner O'Neill considered the application of an equivalent design excellence provision, being cl 7.10 of the *Paramatta Local Environmental Plan 2011*. The Commissioner held, at [49]:

"A proposal can only be availed of the building envelope bonus in subclause 7.10(8) of the PLEP 2011 on the basis of the later stage development application for the erection of a building to enable the consent authority to consider all of the matters at sub cl (4) and if competitive design process has been held in relation to the development. The application of the design excellence clause to a development the subject of a concept development application is therefore inevitably a two staged process, as only the matters relevant to the form of a building in sub-cl 7.10(4) can be considered at the concept development application stage."

[emphasis added]

11. This DA seeks to fix the building envelope for future stage development applications. A future development application cannot seek consent to erect a building that is inconsistent with the building envelope the subject of the proposed development. This includes a building that is less than the approved building envelope (i.e. if the 10% FSR bonus is not justified at stage 2).³
12. Further and in any event, the DA incorrectly calculates the permissible FSR for the proposed development. Contrary to the calculations shown in Table 1 below and articulated in the Architecture Objection and Town Planning Objection,⁴ the DA seeks an FSR of 12.43:1 which the applicant says includes the 10% bonus under clause 6.21(7) of the SLEP.

Table 1: FSR Calculations

	<u>SLEP 2012</u>	<u>Ratio</u>
Applicable to the DA	Clause 4.4(2) – Maximum FSR	8:1
	Clause 6.4(1)(e) – Additional floorspace for office, business or retail premises	2:1 pro rata for 35% of development = 0.7:1
	Clause 6.4(1)(f) – Additional floorspace for residential accommodation	3:1 pro rata for 65% of development =1.95:1
	TOTAL	10.65:1
Not applicable to the DA	Clause 6.21(7) – Additional floorspace for building demonstrating design excellence	10.65:1 x 10% =1.065:1
	TOTAL with design excellence additional FSR	11.72:1

13. For these reasons, the DA must be refused on the grounds that the proposed development does not comply with the SLEP and is contrary to section 4.15(1)(a)(i),(c) and (e) of *Environmental Planning and Assessment Act 1979* (NSW) (**EPA Act**).

³ *The Uniting Church in Australia Property Trust (NSW) v Parramatta City Council* [2018] NSWLEC 158 [44].

⁴ Architecture Objection pp 8-9; Town Planning Objection p 2.

Design Excellence

14. Under clause 6.21(3) of the SLEP, the Council is required to form an opinion as to the design excellence of the concept proposal. This requires consideration of the matters in cl 6.21(4) of the SLEP as are of relevance to the development the subject of the DA.⁵
15. The SEE provides, at page 22, that:

The proposed development has a height greater than 55m and therefore will require a Competitive Design Process to be held to demonstrate design excellence. The applicant commits to achieving design excellence through the redevelopment of the site to contribute to the increasing quality of the city's skyline. As the current proposal is a Stage 1 DA, no specific details on the detailed architectural design are provided within this application.
16. The DA does not contain sufficient information to allow the Council to form the opinion that the proposed development exhibits design excellence. Rather, it seeks to defer this assessment to a Stage 2 DA. This is the incorrect approach, as a DA for a building envelope is a DA for development *involving* the erection of a building.⁶ Clause 6.21(3) of the SLEP imposes a jurisdictional requirement that development consent not be granted unless in the opinion of the consent authority the proposed development exhibits design excellence. This requires the Council to form an opinion of satisfaction. Accordingly, the Council must refuse the DA as it cannot support such an opinion in circumstances where it seeks to defer consideration of whether the proposal exhibits design excellence to Stage 2.
17. Further, for the reasons set out in the Town Planning Objection,⁷ Architecture Objection⁸ and Heritage Objection,⁹ the proposed development does not exhibit design excellence, when considered against the relevant provisions of clause 6.21(4) of the SLEP.
18. For these reasons, the DA must be refused on the grounds that the proposed development does not comply with the SLEP, and the negative likely impacts of the development on the built environment in the locality (EPA Act sections 4.15(1)(a)(i), (b), (c) and (e)).

Impact on local heritage item

19. As set out in the Architecture Objection and the Heritage Objection, the proposed development does not comply with the 10m minimum setback prescribed in the DCP (section 5.1.2.1(3)). This non-compliance has significant impacts on the heritage item due to the low scale form of the building, and the proposed overdevelopment of the site in the form of a tower that exceeds the permissible FSR for the site. As articulated in the Town Planning Objection,¹⁰ if development consent were to be granted to the DA, it would erode the application and legitimacy of the DCP (*Stockland Development Pty Ltd v Manly Council* [2004] NSWLEC 472). The applicant has not demonstrated any legitimate basis for the Council to contravene or give minimal weight to the DCP provision in this case.
20. The impact of the proposed development on the heritage building is exacerbated by the proposed demolition of 50% of the floor plate, and extensive intervention to increase the strength of the existing pad footings.¹¹ The Heritage impact statement submitted with the DA is insufficient as it does not consider these impacts. Further, as set out in the Architecture

⁵ *The Uniting Church in Australia Property Trust (NSW) v Parramatta City Council* [2018] NSWLEC 158 [53]; *Local Democracy Matters Inc v Infrastructure NSW* [2019] NSWCA 65 [67].

⁶ *Uniting Church in Australia Property Trust (NSW) v Parramatta City Council* [2018] NSWLEC 158 at [50].

⁷ See Town Planning Objection pp 5-9.

⁸ Including the failure to articulate how the proposed development will achieve an appropriate interface at ground level (Architecture Objection pp 3-4), heritage issues and streetscape constraints (Architecture Objection pp 3-4) pedestrian, vehicular and service access (Architecture Objection pp 1-3), and the location of the tower proposed having regard to the need to achieve an acceptable relationship with the tower on our client's land (Architecture Objection pp 4-6).

⁹ See heritage issues set out in the Heritage Objection.

¹⁰ Town Planning Objection p 3.

¹¹ Heritage Objection pp 1-2.

Objection,¹² while the DA states that street activation will be achieved, the DA fails to articulate how this can be reconciled with the preservation of the existing heritage facade.

21. The DA should be refused on the grounds that the proposed development will have an unacceptable impact on the local heritage item (EPA Act sections 4.15(1)(a)(i), (a)(iii), (b), (c) and (e)).

Conclusion

22. For the reasons set out in this letter, and in the letters enclosed, the Council cannot grant development consent to this DA.

Yours faithfully
McCabe Curwood



Paul Vergotis
Principal



Katharine Huxley
Associate



Encl

¹² Architecture Objection pp 3-4.

3 October, 2019

NSW Property Holdings Pty Ltd
C/o Oakstand
L9 503–505 Kent Street
SYDNEY NSW 2000
Attn: Mr Justin Micallef, Project Director

Dear Mr Micallef,

Re: 499-501 Kent Street, Sydney (DA D/2019/969) – Heritage Comments

Thank you for commissioning Romey.Knaggs Heritage to prepare a submission in response to the proposed development of the adjoining property at 499-501 Kent Street, Sydney (DA D/2019/969).

In preparing this submission, we have reviewed the material submitted with the DA. We have also reviewed a number of other relevant documents, particularly:

- Sydney LEP 2012 (Section 5.10 Heritage Conservation & Schedule 5 - Environmental Heritage);
- Sydney DCP 2012 (Section 3 9 – Heritage);
- Sydney DCP 2012 (Section 5.1.2 – Building Setbacks);
- Sydney DCP 2012 (Section 2.1.10 – Sydney Square/Town Hall/St Andrews Special Character Area);
- Sydney DCP 2012 building height/street frontage/streets & lanes maps (Sheet 015); and,
- State Heritage Inventory (SHI) listing form for *Former 'Universal Film Manufacturing Co' Warehouse Including Interior and Yard*.

We also undertook an inspection of the subject site and its context on 26 September 2019.

This submission has been prepared in accordance with the guidelines of *The Burra Charter: Australia ICOMOS Charter for Places of Cultural Significance 2013*, and the *NSW Heritage Council's Heritage Manual: Assessing Heritage Significance*. It does consider impacts on any historical archaeological potential or Aboriginal heritage values.

Proposed Development

The proposed development will comprise an 80 metre high residential tower over a mixed use podium on the site of the Former 'Universal Film Manufacturing Co' Warehouse building (also known as RCA House).

Although the current DA is a Stage 1 application only, given that it proposes to partially retain a building listed as a heritage item, it is important to demonstrate the extent to which

the form and the fabric of the original building will be affected. In regard to the latter, the DA documentation proposes that the front section of the building fronting Kent Street and Druitt Lane will be retained, but that the rear section (approximately 50% of the footprint) will be demolished except for the façade to Druitt Lane and a return section of the façade to the rear yard (approximately 4 metres in length). The remainder of the perimeter walls including the rear façade will be removed.

However, in order to support the proposed 19-storey residential tower above the existing building with only an 8-metre setback from Kent Street, the Structural DA Report (TTW, 19/6/19) notes that the 6 existing steel columns will need to be strengthened by new concrete encasements and the existing pad footings below the basement will be enlarged (refer Attachment A). The report also notes that a ‘...full survey of the existing building is proposed to be carried out to confirm...’ a number of critical aspects of the structural adequacy of the retained section of the existing building, including concrete strength, slab reinforcement, steel beam and column sizes and pad footing details (Section 2.0 Existing Structure).

The Reference Design architectural drawing set (PTW, 11/7/19) also shows that a substantial structure transfer zone (refer Attachment B) will be required at the roof level of the existing building (the new Level 3). It is assumed this is necessary because the column grid setout of the proposed residential tower is different to the existing, although the TTW report does not mention this aspect of the structural concept.

In summary, although the Stage 1 concept provides for retention of the front section of the existing heritage building to Kent Street and Druitt Lane (approximately 50% of the footprint), the TTW report concedes that further investigations will be required at a later stage to support the feasibility of retention, and that in any case the existing columns and footings will require substantial strengthening. This uncertainty, combined with the practical construction challenges of inserting substantial additional structure including a transfer zone into an existing building, increases the potential for the development to result in mere façade retention rather than conservation of a heritage building. A Stage 2 DA where a Stage 1 approval is already in place is too late in the process to resolve these issues.

Heritage Significance

The property has been identified as having heritage significance at the Local level, and has accordingly been listed as a heritage item on Part 1 Schedule 5 of the Sydney LEP 2012 (Item 1834). The City of Sydney is therefore required to consider the DA under the heritage provisions of the LEP (Section 5.10).

The SHI listing form (refer Attachment D) attributes the building with heritage significance under Criteria (a) (Historic), (c) (Aesthetic) and (g) Representative. The Statement of Significance includes the following summary of its Aesthetic significance:

The building is aesthetically significant as an outstanding example of a relatively intact original commercial exterior of high quality design with outstanding potential to continue in its present state. The exterior detailing is of high quality and is particularly noted for its use of coloured reinforced concrete decorative panels with film motifs.

The SHI listing form includes the following recommendation for the future management of the building:

The overall form of the RCA House should be retained and conserved.... All remaining intact fabric on the external facades should be retained and conserved. As the original building relates to the height of the adjacent buildings and scope already exists for

extensions to the rear of the building, the addition of further floors would be unacceptable. Any future development should preserve the existing form, external surfaces and materials of the facade.

The key aspect of this recommendation for appropriate development of the building is that the retention of its original scale and form, which is complimented by its architectural language, materials and configuration, is essential to its meaningful conservation as a place with heritage significance at the Local level.

Conservation Management Plan

A Conservation Management Plan (CMP) has been prepared for the building (NBRS Architecture, 18/2/2018). This CMP has been reviewed and found to be generally comprehensive and appropriate for its stated purpose *'to guide the future management of the former Universal Pictures Building at 499 Kent Street, Sydney'*.

The Analysis of Cultural Significance (Section 4.3) confirms the findings of the SHI listing form that attributes the building with heritage significance under Criteria (a) (Historic), (c) (Aesthetic and (g) Representative. It also concludes that the building is significant at the Local level under Criteria (b) (Historical Associations). The Statement of Significance is generally consistent with that of the SHI listing form, and includes the statement that the building *'...has aesthetic significance as a representative example and externally largely intact example of a smaller multi-storey commercial building designed in the Inter-War Stripped Classical style of architecture.'*

The Detailed Identification of Spaces and Fabric Elements (Section 4.5.3) provides a rating of the significance of the various component elements of the building *'...for the purpose of enabling decisions on the future conservation and development of the place to be based on an understanding of its significance.'* In regard to Spaces and Form, the *'external form of the building as it is viewed from Kent and Druitt Streets'* is rated as High significance. The supplementary Grading Diagrams (Section 4.5.4) confirm this significance rating.

The Constraints & Opportunities Arising from the Statement of Significance (Section 5.2) *inter alia* states that (our emphasis):

*The significance of the former Universal Pictures Building is in part embodied in the history of the place and its urban setting. The significant components of the architectural presentation of the place, namely its **form, scale and distinctive external detailing**, need to be appropriately conserved.*

*Constraints arising from this assessment of the significance of the place will **involve the maintenance of the building's visual character from Kent Street.***

This principle is repeated under Constraints & Opportunities Arising from Adaptive Re-Use and Development of the Building (Section 5.4):

*The significance of the former Universal Pictures Building is embodied in the history of the place and the **retained form and detailing of its primary facades.***

The Possible Changes to the Place section of the CMP (Section 6.4.3) includes the following general guidance:

*The building may be adapted in ways compatible with its structure, **its significant form and scale.** Any additions or adaptation should be designed to **respect the primary form** and understanding of the building and its architectural character, and to **minimise any detrimental impact on its presentation to Kent Street or Druitt Lane.***

Policy 3.2 states that *'To fully retain the identified cultural heritage significance of the place, the **built form and scale and it should continue to contribute to the character of this portion of the Kent Street streetscape.**'*

Policy 3.3 states that *'No substantial change to the **form and scale of the building** should be considered without first assessing the potential loss of heritage value that may result.'*

Policy 3.5 states that *'Proposed adaptation or changes which would require the introduction of particular services and/or **structural alterations which would have a strong adverse effect on an understanding of the scale and form of the building** are unacceptable.'*

The Building Form section of the CMP (Section 6.4.9) includes the following general guidance:

*The Universal Pictures Building was designed for a corner location in the streetwall, with the primary façade addressing Kent Street, and returning part the way around into Druitt Lane. The façade detailing and an **understanding of the building in the streetscape** are the most significant aspects of the building which are to be retained and conserved.*

Policy 9.1 states that *'The building is to **retain its overall form, scale and commercial character.** Proposed changes to the place should be designed to **retain the exterior form** and conserve the character and architectural qualities of the original building.'*

The Future Development and Adaptation section of the CMP (Section 6.4.11) includes *inter alia* the following general guidance:

*The facades and the overall understanding of the **scale and form** of the building are recognised as being the **most significant aspects of the place**, and as such are to be retained and conserved in any development or adaptive re-use.*

Policy 11.2 states that *'Sufficient physical and visual separation would be maintained to allow the **original form, scale and detailing of the primary facades** to be understood from the public domain.'*

Policy 11.4 states that *'Setbacks would respond to the prevailing building controls in concert with the specific context of the urban setting of the building so as to ensure that any appreciation of the form and scale of the original building is not lost, and continues to contribute to the streetscape.'*

Policy 11.5 states that *'The potential height of any future development should relate to the existing urban context, whilst ensuring that the original understanding of the form and scale of the building is not diminished.'*

In summary, the CMP correctly recognises the significance of the original form, scale and detailing of the primary facades of the building, and adopts the conservation imperative that these properties not be compromised in any adaptive reuse or redevelopment of the site.

Heritage Impact Statement

A Heritage Impact Statement (HIS) has been prepared in support of the DA (NBR Architecture, 26/7/2019). The HIS has been reviewed to assess compliance with its stated purpose to *'... assess the potential impact of a change of use as well as the suitability of the proposed building envelope on the heritage significance of the existing building, on nearby heritage items and on the surrounding Special Character Area.'* It has also been reviewed for its consistency with the key findings of the CMP.

The HIS includes key extracts from the CMP, including the Statement of Significance and the High significance rating of the *'external form of the building as it is viewed from Kent and*

Druitt Streets' (Section 4.1.2). The HIS also responds to some, although not all, of the relevant CMP Conservation Policies.

In describing the proposed development (Section 5.0), the HIS states that '*The indicative proposal prepared by PTW architects demonstrates a built form and level of intervention into the existing building which conserves the significance of the building.*' In the following longitudinal section (Figure 67), the captions include the statement '*The 8.0-metre setback from Kent Street enables the form and scale of the existing building to be retained in the streetscape.*' The caption for the upper level plan (Figure 70) has a similar assertion ie '*It is appreciated that a requirement for a 10 metre setback from Kent Street is required, however given the existing urban context the 8 meter setback is acceptable.*'

Such statements in an introductory section of the HIS prior to any assessment of heritage impacts are not appropriate, and contrary to the methodology set out in the guideline *Statements of Heritage Impact* (NSW Heritage Division). Moreover, as will be shown in the following sections of this submission, the assertion that the proposed development conserves the heritage significance of the Former 'Universal Film Manufacturing Co' Warehouse is not supported by the analysis, particularly when measured against the CMP policies.

Regarding the extent to which the HIS responds to the CMP policies, as noted above the CMP recognises the significance of the original form, scale and detailing of the primary facades of the building. Multiple principles and policies state that these heritage aspects should not be compromised in any adaptive reuse or redevelopment of the site (refer to the Statement of Significance, Sections 4.5.3, 4.5.4, 5.2, 5.4, 6.4.3, 6.4.9 and 6.4.11, and Policies 3.2, 3.3, 3.5, 9.1, 11.2, 11.3 and 11.5).

However, the HIS responds to these CMP policies by arguing that the proposed development is generally compliant. For example, under Building Form and Setting (Section 6.3.4), the HIS responds with:

The indicative scheme prepared by PTW demonstrates that the significance and form of the building can be retained, and that it can continue to be appreciated from the public domain. The building will continue to contribute to the character of the Special Character Area, albeit away from the primary buildings and spaces of significance.

The response under Future development and Adaptation (Section 6.3.4) is:

The indicative scheme prepared by PTW demonstrates a proposal which respects the surrounding urban context and has developed an envelope which includes sympathetic setbacks to the corner position of the site. The original form, scale and architectural detailing of the building will continue to contribute to the streetscape as a mid century commercial building, and allow it to retain its clearly historic character.

The proposed envelope is set back from both Kent Street and Druitt Lane. 8.0 meters from the Kent Street boundary, and 6.0 metres from the centreline of Druitt Lane. It is appreciated that a requirement for a 10 metre setback from Kent Street exists, however given the existing immediate and surrounding urban context the 8 metre setback proposed is acceptable and does not result in any unacceptable heritage impacts.

The HIS includes an Evaluation of the Guidelines of the NSW Heritage Division (Section 6.4), that is the guideline *Statements of Heritage Impact*. In response to the guideline requirement to identify any aspects of the development that could detrimentally impact on heritage significance, it responds as follows, omitting any reference to impacts on the scale and form of the existing building:

The proposed location of the lifts in the tower component of the indicative scheme was decided on as it would have the least impact on the most significant aspects of the building, whilst supporting an efficient ground floor layout. Impacts of removing the existing lift can be mitigated through effective site interpretation that communicates the building during its earliest days as the headquarters for the Universal Film Company.

In response to the guideline requirement to minimise the impact of an addition on heritage significance, the HIS responds as follows:

*The form of the proposed envelope has developed setbacks from the Kent Street and Druitt Lane boundaries, defining the new form from the existing. In this way **the original form and scale of the heritage item can be retained**, as can existing views of the building from the public domain.*

It goes on to argue that the addition will not visually dominate the heritage item:

*The proposed additional height will be visible, albeit in the existing context of surrounding multi storey and tower development. The proposed setbacks will contribute **to the new form reading as secondary to the existing building.***

In general, these responses are not credible, based as they are on the presumption that, as the High significance facades will be retained, and there are (albeit non-complying in the case of Kent Street) setbacks to the proposed 19-storey residential tower residential tower above the existing building, the resulting composition will be compliant with both the CMP principles and policies and the *Statements of Heritage Impact* guidelines.

The HIS supports the proposed development by arguing that selective retention of the fabric recognised as being of high significance is sufficient for compliance with the CMP principles and policies requiring the retention of the form and scale of the original building. It does not engage with the actual visual outcome, which is that the highly visible large scale new residential tower form will overwhelm the scale and form of the retained significant elements of the of the Former 'Universal Film Manufacturing Co' Warehouse.

In reality, the proposed residential tower form and the significant low rise heritage building will form an uncomfortable and incompatible composition that will severely compromise the heritage significance of the latter and its integrity as an important component in the streetscape. The scale disparity will be exacerbated by the relatively low scale form of the existing building (3-storeys and approximately 15 metres high to the Kent Street frontage). The height of the proposed residential tower above the existing building is approximately 59 metres, resulting in a ratio of original to addition of approximately 3.9:1.

The Reference Design architectural drawing set includes a 3D rendering (refer Figure 1, Attachment C) showing the proposed development viewed from the north. This view demonstrates the extent to which the proposed residential tower will overwhelm the modest 3-storey form of the Former 'Universal Film Manufacturing Co' Warehouse. However, this impact is somewhat understated due to the oblique angle and distance to the viewing point. Unfortunately, the drawing set does not include a more direct view from a point across Kent Street such as the adjoining image (refer Figure 2, Attachment C). In such a less oblique view, the scale disparity and incompatibility of the two forms would be even more dramatic, with a consequent adverse impact on the form and scale of the retained sections of the existing building.

The minimum setback prescribed in the DCP (Section 5.1.2.1(3)) for setbacks above heritage buildings is 10 metres. The proposed development has a non-compliant setback of 8 metres to the Kent Street frontage. However, due to the relatively low scale form of the

existing building, the proposed residential tower will overwhelm the former irrespective of whether the setback is 8 metres or 10 metres. The issue must be subject to merit based rather than a formulaic approach. For such a low scale heritage item, only a very substantial setback (say 20 metres) could mitigate the impact of the proposed residential tower.

Regarding the potential for unspecified physical impacts on the existing building, the HIS advises in the Introduction to the Assessment of Heritage Impact (Section 6.1) that:

This Stage 1 application is limited to a proposed change of use and new building envelope resulting from an increase in height across the site, and as such any assessment of changes to the building fabric would be addressed in detail as part of a future development application.

As noted in the Heritage Significance section above, the scope of the development will require very extensive intervention into the fabric of the existing building, including the demolition of approximately 50% of the floor plate at all levels, substantial enlargement of the columns and strengthening the existing pad footings, as well as the insertion of a substantial structure transfer zone at the roof level. The uncertainties of the impact of these interventions are important matters of heritage consideration, especially the very real potential for the development to result in mere façade retention rather than conservation of a heritage building. The HIS however does not consider these potential impacts.

Conclusion

It is not acceptable in heritage conservation terms to selectively require retention of the fabric recognised as being of high significance while allowing for highly visible large scale new development to overwhelm the scale and form of the significant fabric elements. To do so would require an artificial visual detachment between the original components and the new forms that is not compatible with real world perceptions.

The reality is that the new high rise form and the significant low rise heritage building will form an uncomfortable and incompatible composition that will severely compromise the heritage significance of the latter. The outcome will not be compliant with the multiple policies of the CMP that state that the scale and form of the Former 'Universal Film Manufacturing Co' Warehouse are of high significance and must be conserved.

Moreover, the scope of the development will require very extensive intervention into the fabric of the existing building, including the demolition of approximately 50% of the floor plate at all levels, substantial enlargement of the columns and strengthening the existing pad footings to support the proposed 19-storey residential tower above. Even then, the TTW report concedes that further investigations will be required at a later stage to support the feasibility of the structural interventions.

This uncertainty, combined with the practical construction challenges of inserting substantial additional structure including a transfer zone into an existing building at the roof level, increases the potential for the development to result in mere façade retention rather than conservation of a heritage building. A Stage 2 DA where a Stage 1 approval is already in place is too late in the process to resolve these issues.

Recommendation

The proposed development will have an unacceptable adverse impact on the heritage significance of the of the Former 'Universal Film Manufacturing Co' Warehouse, particularly its original form, scale and fabric.

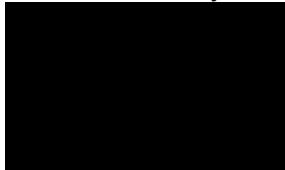
Moreover, the extent of structural intervention required to construct and support the

proposed 19-storey residential tower above the existing building is likely to require internal demolition substantially beyond that proposed in the DA documentation, to the extent that only the facades will be retained.

It is recommended therefore that (DA D/2019/969) for 499-501 Kent Street be refused on the basis that it is contrary to the heritage conservation objectives set out in Cl. 5.10(1) of the Sydney LEP 2012.

We would be happy to provide any further information, if required.

Yours sincerely

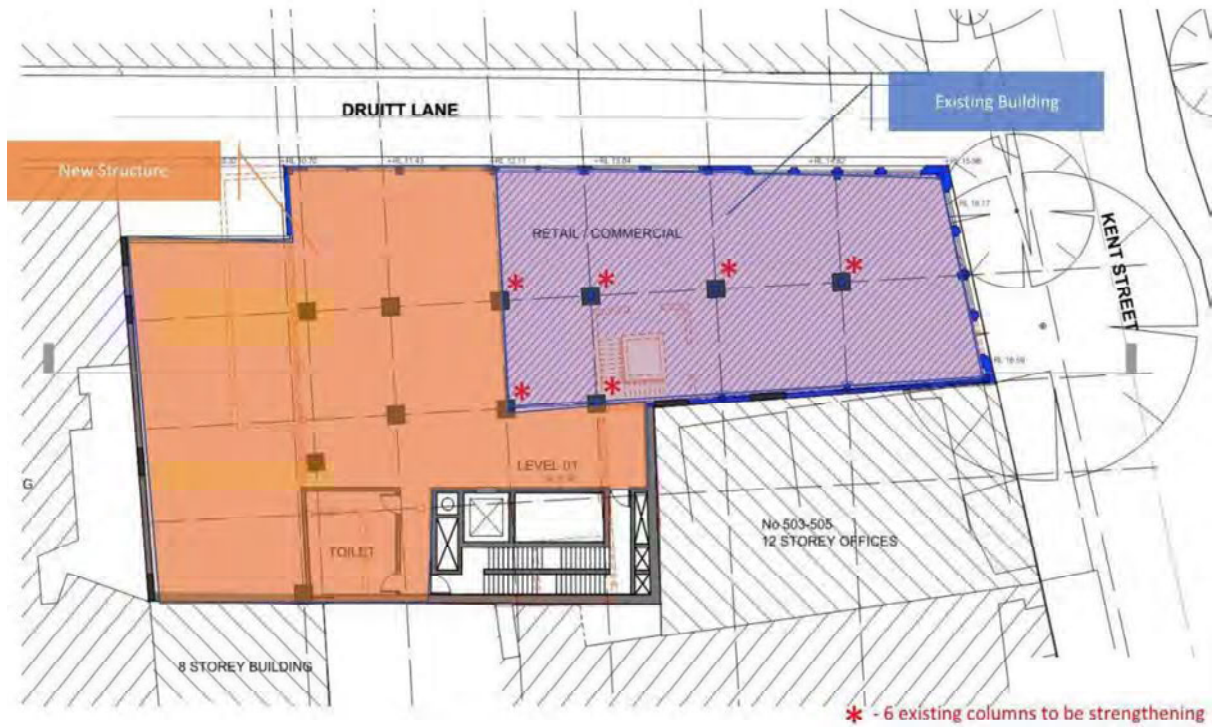


Peter Romey
Director

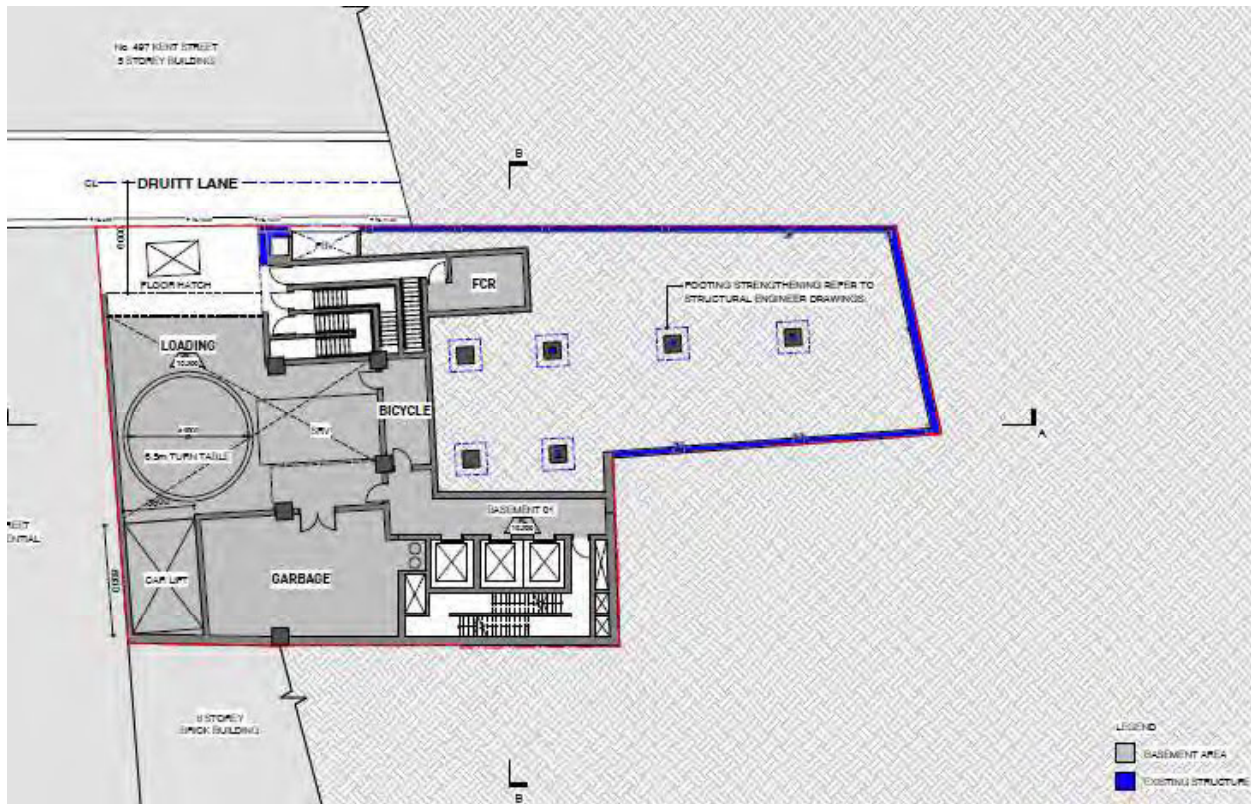


ATTACHMENT A

Plans Showing New & Upgraded Structure



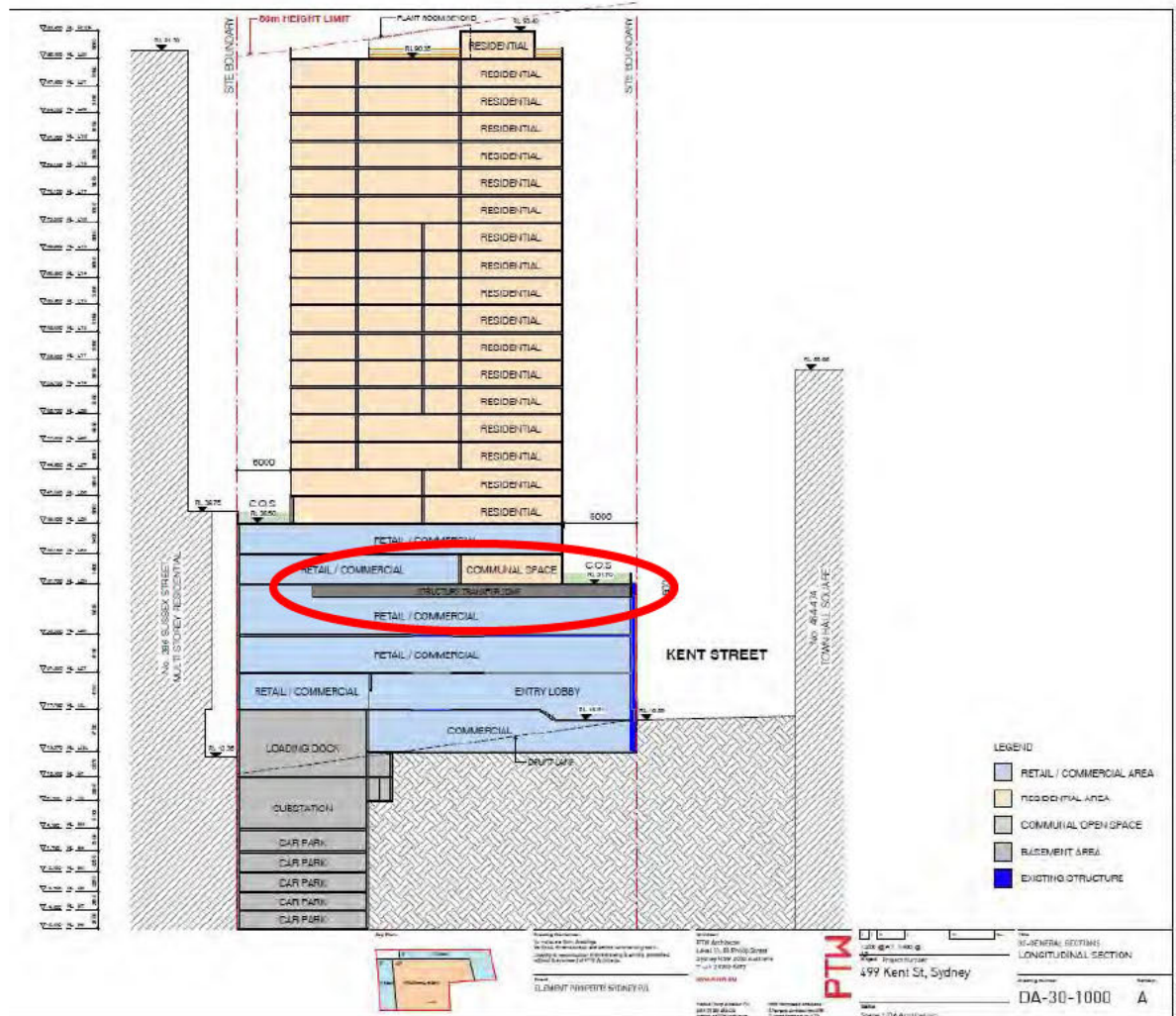
Original steel columns to be substantially enlarged (TTW).



Original basement footings to be strengthened (PTW).

ATTACHMENT B

Longitudinal Section of Proposed Development



Red oval shows Structure Transfer Zone (PTW).

ATTACHMENT C

Images of Existing Building & Proposed Development



Figure 1 Rendering of proposed development from Kent Street north. Source: PTW.



Figure 2 View of existing building from east side of Kent Street. Source: RKHeritage.

ATTACHMENT D

Former "Universal Film Manufacturing Co" Warehouse Including Interior and Yard

Item details

Name of item: Former "Universal Film Manufacturing Co" Warehouse Including Interior and Yard

Other name/s: Rca House

Type of item: Built

Group/Collection: Commercial

Category: Commercial Office/Building

Location: Lat: -33.8753664524381 Long: 151.203721069875

Primary address: 499-501 Kent Street, Sydney, NSW 2000

Local govt. area: Sydney

All addresses

Street Address	Suburb/town	LGA	Parish	County	Type
499-501 Kent Street	Sydney	Sydney			Primary Address

Statement of significance:

RCA House is located on the corner of Kent Street and Druitt Lane. The three storey facade is designed in the Inter-War Stripped Classical Style. As a building erected for the Universal Film Manufacturing Co by an old-established firm of ironmongers and machinery importers, this building is historically significant for its reflection of the new investment opportunities provided by the emergence of the film industry in Australia. The building is aesthetically significant as an outstanding example of a relatively intact original commercial exterior of high quality design with outstanding potential to continue in its present state. The exterior detailing is of high quality and is particularly noted for its use of coloured reinforced concrete decorative panels with film motifs.

Date significance updated: 05 Jan 06

Note: The State Heritage Inventory provides information about heritage items listed by local and State government agencies. The State Heritage Inventory is continually being updated by local and State agencies as new information becomes available. Read the OEH [copyright and disclaimer](#).

Description

Designer/Maker: William Ritchie

Builder/Maker: Unknown

Construction years: 1936-1936

Physical description: RCA House has a high texture brick parapet, which in combination with the corners acts as a stepped frame to the four bays of windows to both facades. The north facade is extended in a solid end panel which protrudes slightly past the main facade. The four bays are accentuated by brick piers which rise over the three floors and sit forward of the texture brick spandrels with precast concrete grills. The spandrels have soldier courses to the head and sill. The windows at the first and second floor have replaced earlier windows of similar configuration. The windows to the ground level have been modified, and the face brick and decorative grills covered over with granite facing. The slope of the lane provides a full floor to the north where the decorative grills have been retained. The extension on the west dates from 1966 and has no decorative features. The building has been remodelled internally and no interior fabric remains. Some original car hoists remain in the basement. Category:Individual Building. Style:Inter-War Stripped Classical Style. Storeys:3. Facade:Texture face brick, Concealed Reinf. conc. panels. Side/Rear Walls:Concealed Reinf. conc. panels. Internal Walls:Rendered brick. Roof Cladding:Waterproof membrane. Internal Structure:Reinf. conc. column and beam. Floor:Reinf. conc. slab. Roof:Reinf. conc. slab. Ceilings:Susp. plasterboard. Stairs:2. Fire Stairs:1. Sprinkler System:Yes. Lifts:1. AirConditioned:Yes

Physical condition and/or Archaeological potential: In general the building is intact externally and in reasonable condition with granite cladding to the facade to Kent Street. Internally the building has been remodelled and no evidence of original finishes exist..

Date condition updated:05 Jan 06

Modifications and dates: c. 1936

Further information: High Significance:All the intact original fabric of the north and east façade.

Heritage Inventory sheets are often not comprehensive, and should be regarded as a general guide only. Inventory sheets are based on information available, and often do not include the social history of sites and buildings. Inventory sheets are constantly updated by the City as further information becomes available. An inventory sheet with little information may simply indicate that there has been no building work done to the item recently: it does not mean that items are not significant. Further research is always recommended as part of preparation of development proposals for heritage items, and is necessary in preparation of Heritage Impact Assessments and Conservation Management Plans, so that the significance of heritage items can be fully assessed prior to submitting development applications.

Current use: Office Warehouse

Former use: Office Warehouse

History

Historical notes: The "Eora people" was the name given to the coastal Aborigines around Sydney. Central Sydney is therefore often referred to as "Eora Country". Within the City of Sydney local government area, the traditional owners are the Cadigal and Wangal bands of the Eora. There is no written record of the name of the language spoken and currently there are debates as whether the coastal peoples spoke a separate language "Eora" or whether this was actually a dialect of the Dharug language. Remnant bushland in places like Blackwattle Bay retain elements of traditional plant, bird and animal life, including fish and rock oysters.

With the invasion of the Sydney region, the Cadigal and Wangal people were decimated but there are descendants still living in Sydney today. All cities include many immigrants in their population. Aboriginal people from across the state have been attracted to suburbs such as Pyrmont, Balmain, Rozelle, Glebe and Redfern since the 1930s. Changes in government legislation in the 1960s provided freedom of movement enabling more Aboriginal people to choose to live in Sydney.

(Information sourced from Anita Heiss, "Aboriginal People and Place", Barani: Indigenous History of Sydney City <http://www.cityofsydney.nsw.gov.au/barani>)

This building was designed in 1936 by architect P William Ritchie for an investment company called Thomas McPherson & Son. The building application was lodged in July 1936 by builders Stuart Brothers. Thomas McPherson & Son had been established in Kent Street since around 1880, beginning as iron and machinery merchants and importers. This building was designed as a warehouse and film exchange for Universal Film Manufacturing Co and the original plans incorporated film storage vaults and a projection theatre.

Historic themes

Australian theme (abbrev)	New South Wales theme	Local theme
3. Economy-Developing local, regional and national economies	Commerce-Activities relating to buying, selling and exchanging goods and services	(none)-

Assessment of significance

- SHR Criteria a)** [Historical significance] As a building erected for the Universal Film Manufacturing Co by an old-established firm of ironmongers and machinery importers, RCA House reflects the new investment opportunities provided by the emergence of the film industry in Australia.
Has historic significance locally.
- SHR Criteria c)** Has aesthetic significance locally. Cultural: The building is an outstanding

[Aesthetic significance] example of a relatively intact original commercial exterior of high quality design with outstanding potential to continue in its present state. The exterior detailing is of high quality and is particularly noted for its use of coloured reinforced concrete decorative panels with film motifs.

SHR Criteria g) The building is an outstanding example of a relatively intact original commercial [Representativeness] exterior of high quality design.

Assessment criteria: Items are assessed against the  [State Heritage Register \(SHR\) Criteria](#) to determine the level of significance. Refer to the Listings below for the level of statutory protection.

Recommended management:

General: The overall form of the RCA House should be retained and conserved. Finishes never intended for painting such as the texture brickwork should continue to be appropriately maintained. Surfaces intended for painting such as the reinforce concrete panels should continue to be painted in appropriate colours. Exterior: All remaining intact fabric on the external facades should be retained and conserved. As the original building relates to the height of the adjacent buildings and scope already exists for extensions to the rear of the building, the addition of further floors would be unacceptable. Any future development should preserve the existing form, external surfaces and materials of the facade. Door and window openings should not be enlarged or closed in. Interior: As the interiors have been extensively remodelled and there is little of significance remaining inside the building, further alterations could be carried out, provided any future internal work does not compromise further the facades of the buildings.

Listings

Heritage Listing	Listing Title	Listing Number	Gazette Date	Gazette Number	Gazette Page
Local Environmental Plan	Sydney LEP 2012	11834	14 Dec 12		
Heritage study					

References, internet links & images

Type	Author	Year	Title	Internet Links
Written		1888	Aldine Centennial History of New South Wales Vol. II: entry for Thos McPherson & Son	
Written			Sydney City Council Archives CRS 126: 652/36 Sydney City Council	

		Archives: Rate Assessment Books	
Written	Anita Heiss	Aboriginal People and Place, Barani: Indigenous History of Sydney City	

From: Zihua Su [REDACTED]

Sent on: Wednesday, May 15, 2024 10:10:16 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2020/1224/A - 499-501 Kent Street SYDNEY NSW 2000 - Attention Bryan Li

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 Evening, Bryan

I am reaching out to you as a resident of 60 Bathurst St, Sydney, to express serious concerns about the planned development at 499-501 Kent St. As someone who values the peaceful and beneficial living conditions currently enjoyed here, I find the potential changes this new construction might bring to be deeply troubling.

The tranquility and accessibility that 60 Bathurst St offers were decisive factors in my decision to settle here. The proposed high-rise at 499 Kent St threatens to significantly alter these conditions. Notably, the construction will disrupt the natural light that bathes our apartment each morning, a feature that has been vital to my family's health and happiness.

Moreover, the prospect of losing the panoramic city views currently available to us is disappointing. These views were a major selling point for my investment in this property, and their obstruction would not only diminish our living experience but also potentially devalue our property.

I am also concerned about the noise and disruption that the construction process is likely to cause. The constant noise, dust, and general upheaval are likely to affect our daily lives and could even have health implications, particularly for the more vulnerable residents among us, such as the elderly and young children.

Therefore, I implore the city council and all relevant authorities to re-evaluate the approval of this development project. It is crucial to consider the lasting negative effects it could have on the residents of 60 Bathurst St. We hope for a decision that prioritizes the well-being of your constituents.

I appreciate your attention to these pressing concerns and look forward to your support in maintaining the quality of our residential environment.

Warm regards,

Zihua Su

From: YiMo Su [REDACTED]

Sent on: Wednesday, May 15, 2024 9:57:25 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2020/1224/A - 499-501 Kent Street SYDNEY NSW 2000 - Attention Bryan Li

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 hope this email finds you well.

As a deeply concerned owner and resident of 60 Bathurst St Sydney, I am writing to express my vehement opposition to the proposed construction project at 499-501 Kent St Sydney.

The primary reason I chose to reside at 60 Bathurst was for its ample sunlight, unobstructed views, and convenient surrounding facilities, all of which have significantly contributed to my quality of life. I am alarmed that the construction of the building at 499 Kent St will profoundly and negatively impact these essential aspects of my living environment.

Firstly, the new building will undoubtedly obstruct my views from the balcony, leading to a significant loss of sunlight entering my living space. Adequate sunlight is crucial for my physical and mental well-being. This obstruction will not only diminish my enjoyment of my property but will also lead to a decrease in property values in the area.

Furthermore, the construction poses a potential risk to the stability of the existing foundation of our building. The additional weight and vibrations from construction equipment can cause unforeseen changes in the structural integrity of our building. This poses a significant risk to the safety of all residents and could result in costly and unpredictable repairs.

In light of these concerns, I urgently request that the government and relevant authorities reconsider the approval of this construction project. Please take into account the severe negative impact it will have on the well-being and property values of existing homeowners in the area, as well as the potential risks to the structural stability of adjacent buildings.

Thank you for your attention to this critical matter.

Kind Regards,

Ling Zhai

From: Xin SU [REDACTED]

Sent on: Wednesday, October 11, 2023 12:34:42 AM

To: Council@cityofsydney.nsw.gov.au

Subject: Objection on D/2023/868 ; D/2020/1224/A

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 writing as a concerned owner and resident in 60 Bathurst St Sydney, and I would like to express my strong opposition to the proposed construction project that is set to take place in **499-501 Kent St Sydney**, which is **D/2023/686** and **D/2020/1224/A**.

One of the primary reasons I chose 60 Bathurst three years ago was for its ample sunlight, unobstructed views and convenient surrounding facilities that have significantly contributed to my quality of life.

I am deeply concerned that the proposed construction of the building 499 Kent St will definitely have a profoundly negative impact on these essential aspects of my living environment.

First and foremost, the new building will inevitably block the views from my apartment, resulting in a loss of sunlight enter my living space. Adequate sunlight is crucial for my physical and mental well-being. This will not only diminish my own enjoyment of my property but will also lead to the decrease in the property values.

Furthermore, there is a potential risk that the construction of the new building will impact the stability of the existing foundation. The additional weight and vibrations from construction equipment can lead to unforeseen changes in the structural integrity of our building. This poses a significant risk to the safety of all residents and could result in costly and unpredictable repairs.

In light of the above, I kindly request that the government and relevant authorities reconsider the approval of this construction project. Please take into account the negative impact it will have on the well-being and property values of existing homeowners in the area, as well as the potential risks to the structural stability of the existing building.

Thank you for your attention.

Kind Regards,

Ling Zhai

From: Damon S [REDACTED]
[REDACTED]

Sent on: Wednesday, October 11, 2023 12:32:26 AM

To: Council@cityofsydney.nsw.gov.au

Subject: Objection on D/2023/868 ; D/2020/1224/A

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.

Hello

My name is Zhihua Su, and I am a concerned owner and resident at 60 Bathurst St, Sydney. I am writing to formally express my strong opposition to the proposed construction project at 499-501 Kent St, Sydney. Having reviewed the plans and considered the implications, I have several concerns that I believe merit your attention.

The idea of potentially having less sunlight brighten up my apartment due to the new construction is a tad unsettling. I've always valued the natural light that streams into my space, and I worry about what might change. And, I'm not alone in this; my neighbours share similar concerns.

Traffic's already a bit of a challenge in our area, and I'm wondering how the addition of another building might complicate things. I know that growth and development are inevitable, especially in a thriving city like ours, but I genuinely believe there's a balance to be struck.

I've also noticed that the design of the upcoming building seems to be quite different from what we're used to in our neighbourhood. Diversity in architecture is always welcome, but I'm curious if there's been thought given to how it blends with our current surroundings?

But my most pressing concern is the structural integrity of my building. It might sound a bit dramatic, but the safety and well-being of the residents, including myself, is paramount. Has there been any analysis or assessment in that regard? I truly appreciate the hard work the council puts into ensuring Sydney remains both beautiful and functional. I hope my concerns come across as constructive feedback from a resident deeply invested in our community's future.

I would be grateful for any response or information regarding this matter. If there's a forum or platform where residents can learn more or voice their concerns, I'd love to participate.

Thank you for taking the time to read through my email.

Warm regards,

Zhihua Su