

# **Attachment E**

<b>Submissions</b>
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**From:** Richard Bell [REDACTED]  
**Sent on:** Thursday, October 26, 2023 1:02:57 PM  
**To:** DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>  
**Subject:** Submission - D/2023/862 - 117 Victoria Street POTTS POINT NSW 2011 - Attention Julia Errington  
**Attachments:** 117 Victoria Street DA Objection October 2023.docx (8.65 MB)

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

Regarding DA Notification: D/2023/862 - 117 Victoria Street POTTS POINT NSW 2011

Dear Julia

Please find attached my submission objecting to the proposed development at 117 Victoria Street, Potts Point, NSW 2011 (DA Notification: D/2023/862)

Please let me know if you require any further information.

Regards

Richard Bell  
2/119 Victoria Street  
Potts Point, NSW 2011

Ph: [REDACTED]

E: [REDACTED]

Richard Bell  
2/119 Victoria Street  
Potts Point, NSW 2011

Ph:

E:

26 October 2023

DA Submissions  
City of Sydney  
GPO Box 1591  
Sydney, NSW 2001

**Attention: Julia Errington**

To whom it may concern

I am writing to you regarding the proposed development at 117 Victoria Street, Potts Point  
**(DA reference D/2023/862)**

I have reviewed the plans and documents provided and have put together the following  
summary as a submission **against** the development in its current design.

With reference to the frontage on Victoria Street, as depicted by their supplied photo and  
drawing:



Image 1

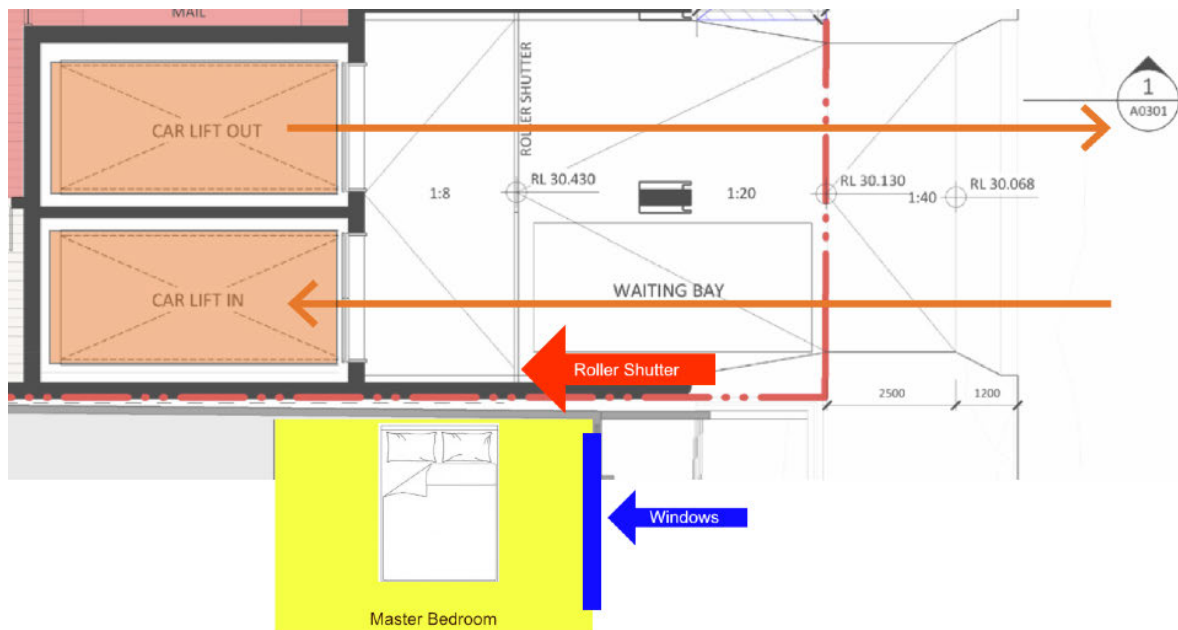


Image 2

- The proposed development will have a significant day-to-day noise impact:
  - The developer is proposing to have two car lifts and roller shutters (see images 1 and 2 above) to provide access to basement level parking. The proposed location of these is directly next to the master bedrooms for the apartments of 119 Victoria Street (as shown in image 2). Noise that will be generated from the machinery for the roller doors and of the car lifts, particularly at night, will be right next to these master bedrooms causing significant disturbance and interrupting sleep.
  - Additionally, noise and exhaust fumes from cars and particularly motorcycles waiting in the waiting bay for the car lift will be directly next to bedroom windows, (as shown above in image 2), meaning that windows can't be left open due to an increase in exhaust and noise pollution from the idling cars and motorcycles waiting for the lift.

The building should therefore not be permitted to be built so close to our existing building and the waiting bay, roller shutters and car lifts should be set further back.

- The proposed development will prevent access to maintain our heritage building - As owners, we take great pride and care in the maintenance of our building. The plan for the development will be built right up against our building (depicted in image 1), removing any reasonable access to the side of our heritage building for maintenance needs, such as painting. This will result in the gradual deterioration of our heritage building.

The building should therefore not be permitted to be built so close to our existing building to allow us to maintain our building.



- The proposed development will result in further overshadowing of our unit.

With Council recently approving the development of 30A-34 Brougham Street, Potts Point (DA reference D/2022/319) to the detriment of our building, there will further removal of light, airflow and amenities:

- The windows on the west-facing side of the Victoria Street units are the only source of natural light for the kitchen & living areas. In conjunction with the previously approved development on Brougham Street, the proposed development will have a further catastrophic impact, removing a significant amount of light for our unit. In the winter months, this will result in our unit having a significantly low level of natural light and sunshine. The studies forming the diagram below (image 3), **do not** consider the additional development that was approved on Brougham Street and the subsequent impact on us.

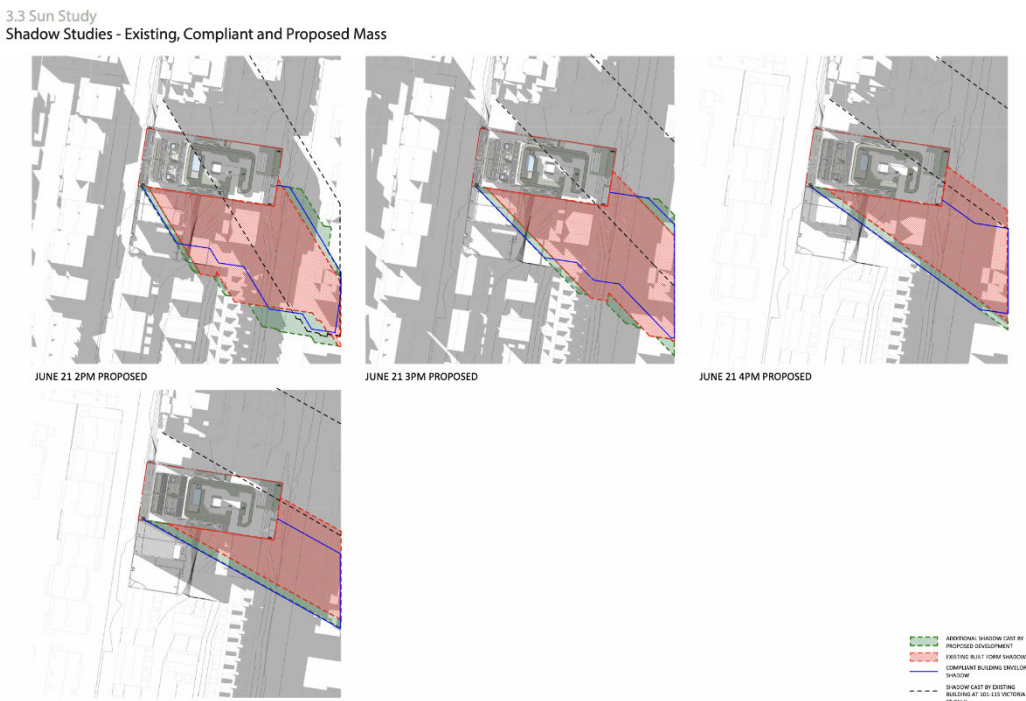


Image 3

- The proximity of the development, which is planned to be built much closer to our building, and the current design will block airflow through to our unit which combined with the removal of natural sunlight will increase the occurrence of mould and may subsequently lead to health issues.
- The development will result in further overshadowing which will result in decimation of the natural foliage. This in turn will have an impact on the wildlife, such as birds, bats, possums, reptiles, and other animals that are often found in the gardens.

The building should not be permitted to be built so close to our existing building to allow for some light and airflow, taking into account the already approved development on Brougham Street.

- The communal rooftop open space and reduced proximity to our building will cause excessive noise. Together with the approved development on Brougham Street as mentioned above, the rear of our block will be completely closed in (see image 4 below). With the reduced proximity of the new development to our block, noise from the communal rooftop and pool will therefore be exacerbated particularly as this area will attract groups of people and parties, causing excessive noise into the main living areas of the apartments in our block.

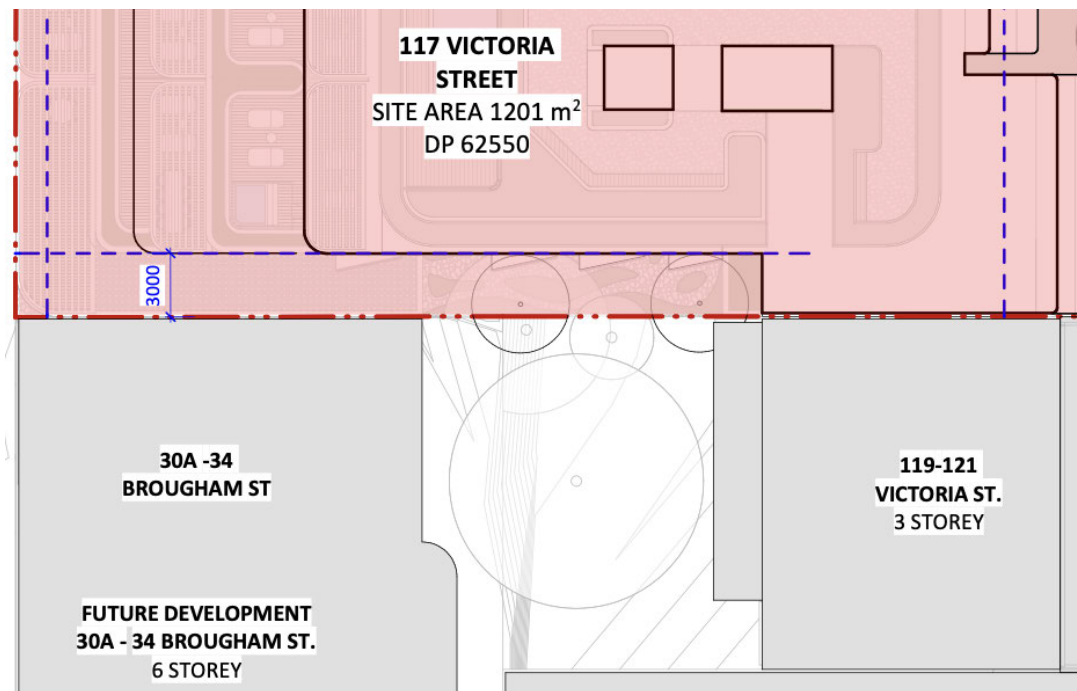


Image 4

The building should therefore not be permitted to be built so close to our existing building and there should not be a communal rooftop space and swimming pool permitted.

- The design of the proposed development does not consider the heritage designs of the area. Having a few arches as the front façade does not align it to the heritage designs of the buildings surrounding it. This design will stand out as being out of character and should be reconsidered to fit in better with the heritage designs surrounding it.

- The proposed development exceeds the legal height limit – The height restrictions exist for a reason and should be enforced. No part of the building should exceed the permissible height limit by any amount (see image 5 below).

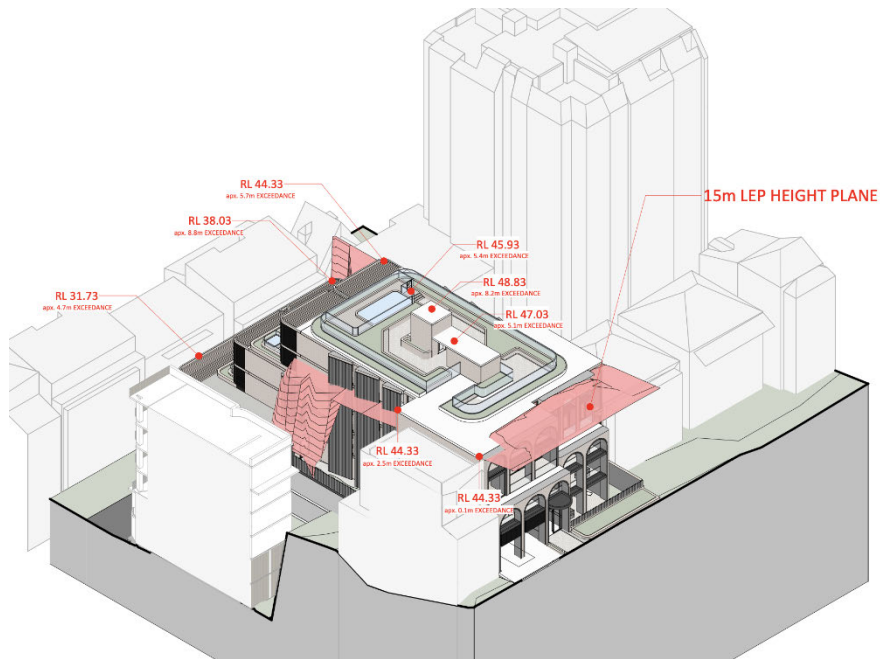


Image 5

- Risk of damage to our heritage building – The excavation and building works will pose a big risk to the structure of our heritage building and to the heritage wall in our back garden.

I strongly object to this development going ahead without amendments to the design. With the recent disappointing approval of another large development on Brougham Street (DA reference D/2022/319) that will already have a detrimental impact on our standard of living, I trust that Sydney City Council will recognise and take into consideration the further impact of the development 117 Victoria Street with regards to noise, light, and airflow on the apartments at 119 Victoria Street.

Regards



Richard Bell  
 2/119 Victoria Street, Potts Point &  
 Chairman – Strata Plan 15239  
 119-121 Victoria Street, Potts Point

**From:** Penny Webb-Smart [REDACTED]  
[REDACTED]

**Sent on:** Saturday, October 14, 2023 4:35:00 PM

**To:** dasubmissions@cityofsydney.nsw.gov.au

**Subject:** Submission - D/2023/862 - 117 Victoria Street POTTS POINT NSW 2011 - Attention Julia Errington

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

Hi

I am a neighbour of this development and live at 4 Hughes St. I am very supportive in principle of this application as it will really enhance the streetscape but just want to make sure there will be good, fair, sensible noise controls during the construction.

There are clearly going to be major earthworks which are particularly noisy. Both my partner and I work from home. While we appreciate that earthworks and construction are not noise free (and are ultimately temporary), I just want for the council to put conditions on noise to balance the interests of the developer and the many locals (like us) who work from home.

Many thanks  
Penny Webb Smart  
Mobile: [REDACTED]

**From:** 2011 Residents Association Inc [REDACTED]  
**Sent on:** Sunday, October 22, 2023 10:54:28 AM  
**To:** dasubmissions@cityofsydney.nsw.gov.au  
**Subject:** Submission re D/2023/862 - 117 Victoria Street, Potts Point  
**Attachments:** d-2023-862-re-117-victoria-st-potts-point-2011RA-submission-20oct23.pdf (267.95 KB)

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

Dear DA Submissions,

Please find attached the submission from the 2011 Residents Association, Inc. regarding D/2023/862 - 117 Victoria Street, Potts Point.

Regards,

Carole Ferrier  
Convenor  
2011 Residents Association, Inc.



## 2011 Residents' Association Inc.

ABN 78 862 101 665

PO Box 1513  
Potts Point NSW 1335

20 October 2023

Council of the City of Sydney

Dear DA Submissions,

### **Submission re D/2023/862 - 117 Victoria Street, Potts Point**

<https://eplanning.cityofsydney.nsw.gov.au/Pages/XC.Track/SearchApplication.aspx?id=2157987>

We are a residents' action group that advocates for residents and businesses in the 2011 postcode area covering Potts Point, Elizabeth Bay, Rushcutters Bay and Woolloomooloo. We have led and supported campaigns for increased public transport, to preserve the historic streetscapes of the neighbourhood, to improve public amenity, and in support of many community projects.

Our members live in the 2011 postcode area and have history here. We have seen our area grow and thrive, but we have also seen it challenged. Throughout all, we have maintained our strong advocacy role to protect and improve the safety and amenity for all who live in, work in, and visit the 2011 postcode.

The 2011 Residents' Association objects to the above-mentioned DA on the following grounds:

1. Inappropriate and unsympathetic streetscape design
2. Razing a perfectly liveable building to replace it with 'luxury apartments'
3. Removal of an existing building, that is home to families and low-income earners, during a time of unprecedented housing crisis

1.

Victoria Street, Potts Point has struggled - mostly successfully - for decades to maintain a balance between maintaining its valuable heritage streetscape that immortalises the history of the area, and moving forward with the realities of modern living.

A walk down Victoria Street encompasses not just the pride of Victorian residential architecture, but the history of the area's political and social struggles for justice, such as the historical trade union Green Bans of the 1970s. Victoria Street, Potts Point is, in many ways, a living museum, admired by visitors and fiercely protected by residents.

The current residential building at 117 Victoria Street is not, it must be admitted, a grand relic of the age of Victorian architecture in Sydney, but it nonetheless has a significant story to tell as part of the overall streetscape of Potts Point.

Designed by Sydney architect Henry Haber and constructed around 1965, it is a fine example of the simple post-war design that was, even back then, focussed on providing a basic home to

struggling and low-income families; Council's own archive records show the amount of care and detail that went into the design and construction of the building. It is a perfect example of its time, and of its generation.

<https://archives.cityofsydney.nsw.gov.au/nodes/view/778128>

The building that is proposed to replace it is, sadly, of the modern 'cookie cutter' variety that is out of sympathy with, and adds little to, the existing streetscape, and will in all likelihood have a negative impact by introducing yet more cars on to the street and into the neighbourhood, despite the reduction in the actual numbers of apartments, because the current residents are for the most part users and supporters of public transport, and not car owners.

2.

The current residential building at 117 Victoria Street is still doing its job after more than 50 years. It comprises 44 residential flats which are occupied mostly by workers in the local service industries (hospital staff, restaurant and hospitality industry staff, emergency services personnel, etc.) and rented by them at a modestly priced rentals which they can afford. It is perfectly liveable, structurally sound, and home to current residents at a reasonable rental.

The building still has years of productive life left in it. To demolish this whole building and replace it with another would require at least two years of noise and dust and would go against every principle of the sustainable economy which all political parties profess to support.

The proposed replacement building will comprise just 22 apartments of a luxury nature to be sold and/or rented at much more expensive prices. This will mean a great loss of affordable housing for people working in the service industries which are such a large part of the Kings Cross, Potts Point and Darlinghurst economy. Are these workers expected to move far away to new homes in suburbs in outer Sydney and commute to and from at the start or end of each shift in the very early or very late hours?

To raze the existing building for no other reason than 'development' or 'progress', ignores the impact that this will have on real people and families.

3.

Open any newspaper, or watch any news program, and you will find that that the most talked-about local issue is the housing crisis around the country, but particularly in Sydney where it is now almost impossible for working people on average incomes to strive to own their own home. Equally alarming is the threat to the low-income rental market, which has seen rents spiral out of control and out of reach for most people on fixed or low incomes. So the focus of many local, state and federal governments is now, rightly, on efforts to solve this problem, and arrange the provision of low-cost, affordable housing for low-income residents.

The residential building at 117 Victoria St does just that: it has provided secure homes for low-income earners and pensioners for many years, a total of 44 homes in a mixture of studios, 1-bedroom and 2-bedroom flats that are close to shops, supermarkets, doctors, hospitals, public transport, Police, and Council resources such as the Library and Community Centre; and, probably most importantly of all, it houses their community of friends and neighbours.

The proposed development would demolish that essential housing and replace it with just 22 proposed 'luxury apartments' - in other words, it would slash the residential amenity that currently exists by half! This is unacceptable in the current economic climate.

Ask yourselves: where will the low-income earners and pensioners go when their home of many years at 117 Victoria Street is demolished? They will certainly not be in the running for the new 'luxury apartments' in Sydney's current overpriced real estate market.

Some may, tragically, even end up homeless, on the streets or - perhaps in a best case scenario - in boarding houses, many of which, though, have dubious reputations and limited resources and amenities. We don't want to see **any** long-term Potts Point residents go through this, particularly when their existing home at 117 Victoria Street is just that: *their home*.

The 2011 Residents' Association urges Council to reject this DA proposal.

Yours faithfully,

Carole Ferrier  
Convenor  
2011 Residents' Association  
<https://2011residentsassociation.org.au/>



**From:** Bill Parker [REDACTED]

**Sent on:** Friday, October 27, 2023 3:18:04 PM

**To:** dasubmissions@cityofsydney.nsw.gov.au

**Subject:** Submission - D/2023/862 - 117 Victoria Street POTTS POINT NSW 2011 - Attention Julia Errington

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Reviewing the document "[Arborist Report - 117 Victoria Street, Potts Point PAN-371900](#)"

I note the trees identified as numbers 10, 11, 12, 13, 14, 15 & 15a are (among others) listed to be removed with the comment

"Tree # is within the footprint of the development and is not viable to be retained during the demolition and construction process due to the scale of works on site. Remove and replenish."

These trees are not on the 117 Victoria St Property but on the adjacent property 101 - 115A to the north of 117 Victoria St. All of these trees are at least 1.5 metres from the property boundary and some are 3 metres. I am not aware that any permission to remove these has been sought or given and I as an owner within the 101 - 115 strata would object to their removal.

Similar for tree #5 which is listed as being on an adjacent property and "to be retained"

I have some general concerns regarding the quality of this report in so far as it does not identify these trees to be removed as being on an adjacent property.

Thanks

Bill Parker  
Owner 93/103 Victoria St  
Potts Point.

**From:** Brad Quaglino [REDACTED]  
[REDACTED]

**Sent on:** Thursday, October 19, 2023 6:49:15 PM

**To:** dasubmissions@cityofsydney.nsw.gov.au

**Subject:** Submission - D/2023/862 - 117 Victoria Street POTTS POINT NSW 2011 - Attention Julia Errington

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

Hi DA,

I trust this message finds you well. I am writing to express my strong objection to the proposed height increase outlined in the development proposal D/2023/862, primarily due to concerns regarding potential view loss as a result of the suggested changes. The proposed deviation from the current regulations and guidelines could significantly impact the visual landscape and compromise the enjoyment of my property which is located at 103 Victoria Street with views looking directly at 117 Victoria Street. My main concern is new breaches to height added to the building which is non-compliant including the rooftop and lift shaft. The lift shaft would be a direct view blocking the district views from the apartment. Extending the already non-compliant current structure top floor which was a small breach in the front of the building to now almost a whole additional floor to the proposed building. I object to any more volume of new building above the non-compliant height and any increase for additional height non-compliant height.

My objection is grounded in the profound value I place on the unobstructed view that currently enhances the appeal of my property. The proposed height increase has the potential to impede this view, which has been an integral aspect of the property and a significant consideration in my decision to invest in this location. As such, any alteration that threatens this aspect would substantially diminish the overall value and appeal of my property.

Please see the attached for reference





**From:** C S Burrough

**Sent on:** Friday, October 13, 2023 4:29:08 PM

**To:** dasubmissions@cityofsydney.nsw.gov.au

**Subject:** Submission - D/2023/862 - 117 Victoria Street POTTS POINT NSW 2011 - Attention Julia Errington

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

Dear Ms Errington,

I have concerns regarding the proposed excavation of the rock and protection of the structural integrity of my adjacent complex, Victoria Point at 101-115 Victoria Street.

I also have concerns re the potential noise disturbance from the proposed roof development, with pool/spa and barbeque facilities.

Sincerely,

C S Burrough.

**From:** Christopher Ducklin [REDACTED]

**Sent on:** Saturday, October 14, 2023 1:53:49 PM

**To:** dasubmissions@cityofsydney.nsw.gov.au

**Subject:** Submission - D/2023/862 - 117 Victoria Street POTTS POINT NSW 2011 - Attention Julia Errington

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

Dear Julia Errington,

I hope this message finds you well.

I am writing to express my strong opposition to the proposed development adjacent to my property, as outlined in the recent plans submitted for your consideration. While I understand the need for progress and growth within our community, I believe that there are significant concerns that must be addressed before moving forward.

First and foremost, I am deeply concerned about the potential noise impact that this development will have on the surrounding area, particularly my property. As you are aware, noise pollution can have detrimental effects on the well-being and quality of life of residents. It is imperative that comprehensive measures be put in place to mitigate and manage the noise levels generated during the construction process.

Furthermore, I am apprehensive about the potential loss of street amenity, sunlight and natural foliage that may result from this development. Our neighborhood is cherished for its peaceful ambiance and strong sense of community, and I fear that the proposed project may disrupt this delicate balance. I am also concerned that there is not a sufficient number of car spaces made available for the development and that the size and nature of the building will mean that many residents will have multiple cars and that additional car spaces should be made available. Preserving the character of our street is essential for maintaining the livability of our area.

Additionally, I implore you to reevaluate the excavation methodology proposed for this project. It is crucial that a more thoughtful and considerate approach be taken to ensure that neighboring properties are not adversely affected. Specifically, I am concerned about the potential for undermining and its potential consequences. I strongly urge you to explore further the excavation methods that prioritize the safety and stability of the surrounding properties.

I am writing to furthermore, I would like to seek clarification on the compensation available to address the potential impacts of the proposed development adjacent to my property. Given the concerns outlined in the above points, including the anticipated construction-related disturbances, noise impact, and potential loss of amenity, I believe it is essential to discuss the provision of compensation for affected properties. Could you kindly provide information on any financial assistance or compensation packages that will be offered to properties directly affected by this development? Understanding the available options for mitigation and support will greatly assist in making informed decisions regarding this matter.

In conclusion, I believe that the concerns I have raised warrant careful consideration before any decisions are made regarding this development. I am committed to working collaboratively with all stakeholders to find a solution that not only supports progress, but also safeguards the well-being and quality of life of our community.

I appreciate your attention to this request and look forward to your prompt response. I look forward to further discussions on how we can address these concerns together.

Sincerely,

Christopher Ducklin [REDACTED]



**From:** Faith [REDACTED]  
[REDACTED]

**Sent on:** Friday, October 13, 2023 12:27:07 PM

**To:** dasubmissions@cityofsydney.nsw.gov.au

**Subject:** Submission - D/2023/862 - 117 Victoria Street POTTS POINT NSW 2011 - Attention Julia Errington

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

**Dear City of Sydney,**

**I am the owner of unit 41/103 Victoria Street, which is part of the Victoria Point complex (101-115 Victoria Street) right next door to 117 Victoria Street.**

**I am concerned about the proposal for this new multistorey building, not only its demolition but for the building itself.**

**Some of my concerns have to do with the proposed excavation of the rock and how it will affect the structural integrity of our common property.**

**We already have to plead with the City of Sydney Council to regularly secure our rock face.**

**As well, there are the potential noise disturbances from the proposed rooftop development which will have a pool/spa and barbeque facility that hasn't been addressed.**

**What safety measures are in place to stop our complex from sinking or becoming unsafe?**

**Has a safety and risk assessment been done to see whether our complex will be affected?**

**I don't feel confident about this building proposal.**

**Thank you,**

**Faith de Savigné**

**41/103 Victoria Street**

**Potts Point, NSW 2011**



**From:** Jacki Timothy [redacted] m> on [redacted]  
**Sent on:** Monday, October 9, 2023 4:24:49 PM  
**To:** dasubmissions@cityofsydney.nsw.gov.au  
**Subject:** Submission - D/2023/862 - 117 Victoria Street POTTS POINT NSW 2011 - Attention Julia Errington

**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 Julia

I have lived at 103 Victoria St for the past 17yrs and my apartment faces South looking straight into the top floor of 117 Victoria St.

I acknowledge the positive visual impact the proposed submission would have in the area and I believe this is long overdue. It's always great to see new architecturally designed and vibrant additions to the area, although I don't think we should have to suffer from developments that take on new heights!

On this basis, I would like to formally object to the height of the above submission. The proposed height would impact my view upon entering my apartment forgoing the southern vista of Victoria St and the endless blue sky that I currently enjoy.

I hope that my feedback will be considered before final DA approval is given.

Thank you very much  
Jacki Timothy

**From:** James Matthews [REDACTED]  
**Sent on:** Friday, October 27, 2023 11:36:05 AM  
**To:** council@cityofsydney.nsw.gov.au; dasubmissions@cityofsydney.nsw.gov.au  
**Subject:** Concerns Regarding Proposed Demolition and Construction at 117 Victoria Street, Potts Point, 2011 - Reference Number: D/2023/863  
**Attachments:** Concerns Regarding Proposed Demolition and Construction at 117 Victoria Street Reference Number D 2023 863.pdf (329.06 KB)

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

Hello,

Please find attached our documented concerns regarding the proposed development at 117 Victoria Street, Potts Point, Reference Number: D/2023/863.

Please let us know if you have any questions around our comments to this application.

Thanks,  
James Matthews (and Martin Tongue)  
1 / 105 Victoria Street, Potts Point 2011

James Matthews

Customer Manager

M: + [REDACTED]

[phoenix-dx.com](http://phoenix-dx.com)

P: [REDACTED]

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We acknowledge the Traditional Custodians of the lands on which we work and live and pay our respects to Elders past and present.

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James Matthews and Martin Tongue

1/105 Victoria Street, Potts Point, 2011

27/November 2023

Attention: City of Sydney Planning Department/Assessments, Bill MacKay

Subject: Concerns Regarding Proposed Demolition and Construction at 117 Victoria Street, Potts Point, 2011 - Reference Number: D/2023/863

Dear Bill MacKay / Planning Assessment team,

We are writing as a concerned resident regarding the proposed demolition of the existing building at 117 Victoria Street and the subsequent construction of a new multistory building. Our community acknowledges the importance of urban development but wishes to express several concerns regarding this project.

Firstly, we are particularly worried about the proposed excavation of rock and how it may impact the structural integrity of our complex and in particular my individual unit that is built on the rock next door at 1/105 Victoria Street. It would be greatly appreciated if more detailed information could be provided regarding the excavation plans, including the depth, duration, and the measures that will be implemented to ensure the protection of adjacent buildings, including ours and ongoing stability and integrity of our adjoining rock base.

Secondly, the proposed roof development, including a pool/spa and barbecue facilities, raises concerns about potential noise disturbances. As our community values a peaceful living environment, we would like to understand the strategies that will be put in place to mitigate noise during construction and subsequent use of these amenities.

In addition it appears that the location and address of my individual unit at 105 Victoria Street has not been accurately listed as one of the nearest sensitive receivers to the site on the noise impact assessment. Our unit is actually one of the closest to the proposed site so can you please confirm the noise impact assessment was carried out correctly?

In light of these concerns, we kindly request that a community information session or meeting be organized to address these issues. This would provide an opportunity for residents to gain a better understanding of the project and for our voices to be heard in a collaborative manner.

We appreciate the City of Sydney's commitment to balanced and sustainable development, and are confident that with open communication, we can find solutions that benefit both the community and the proposed project.

Thank you for your attention to these matters. I look forward to your response and the opportunity for constructive dialogue.

Sincerely,

James Matthews, and Martin Tongue

**From:** James Woodford [REDACTED]  
**Sent on:** Monday, October 16, 2023 12:20:19 PM  
**To:** DAsubmissions@cityofsydney.nsw.gov.au  
**Subject:** D/2023/862 submission from adjacent landholder  
**Attachments:** windows.jpeg (5.25 MB), courtyard.jpeg (4.98 MB)

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

To Whom it May Concern,

I am the owner of 1/115A Victoria Street Potts Point. Having closely examined the development application D/2023/862, I believe I am one of the neighbours most impacted by this proposal. I have several very serious concerns that I believe need to be addressed if this DA is to proceed.

1. It appears from the plans that the **only** southern window of my apartment (see attached photo) and those of my upstairs neighbour will be completely walled in by the development. From my close examination of the plans, any gap between the proposed building and 115 Victoria Street is either non-existent or negligible. This will have a very serious impact on my amenity as my apartment is on the south side of the building at 115 Victoria Street and so my natural light is already limited. Completely walling in that window is extremely distressing to me and I believe is unacceptable from a natural light perspective as well as airflow and aspect.
2. I am concerned that the balconies at the front of the proposed development of 117 Victoria Street will overlook and diminish the privacy of my outdoor courtyard area (see attached photo). I request that the solid privacy wall screening that currently protects only the upstairs balcony of 115 Victoria Street be extended towards the street to ensure the privacy of my courtyard.
3. I believe that extending the footprint of the building at 117 Victoria Street to the very edge of the boundary will greatly diminish the heritage values of 115 Victoria Street, which is an extremely significant and historical Potts Point building. 115 Victoria Street has always been a large and free standing building. To build hard up against it will have a severe impact on the streetscape and diminish the heritage values of the building as it will no longer appear to be one of the street's grand historical freestanding buildings..
4. I am alarmed at the scale of the excavations for several car parking levels and fear that there may be a catastrophic impact on the foundations and stability of the extremely historically significant and heritage listed 115 Victoria Street building. Any excavations should have a large buffer of rock, should not be hard up against the foundations of 115 Victoria Street and should only proceed with the very highest level of geotechnical and engineering precautions.
5. I agree that the current building on the site of 117 is not in keeping with the existing streetscape and I am not opposed to an appropriate development on the site. However, I believe that this is an extremely rare opportunity to restore some of Victoria Street's stunning streetscape. The current building is between two heritage listed buildings. I do not believe the facade of the proposed development is in keeping with the heritage values of the street. Something more consistent with 115 and 119 Victoria Streets would be more appropriate. Just adding a few arches and saying it is consistent with 115 Victoria Street is not enough to change the fact it will be a very modern and inappropriate facade between two heritage buildings.
6. I am concerned that the swimming pools and entertainment areas proposed for 117 Victoria Street will need strict curfews if the amenity of neighbours is to be protected - certainly no later than 10 pm.

Thank you for considering my submission,

Yours faithfully,

James Woodford

ph [REDACTED]



**Windows that will be walled in by proposed development**





Courtyard that needs privacy protection





**From:** Jill Berry [REDACTED]  
[REDACTED]

**Sent on:** Thursday, October 19, 2023 12:05:43 PM

**To:** council@cityofsydney.nsw.gov.au

**Subject:** DA 2023/ 862 at 117 Victoria Street Potts Point NSW 2011

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

Dear Sir/Madam,

I would like to express my concern at this proposed development. It completely overwhelms the location and neighbouring properties. This street must be preserved for important historic and aesthetic reasons. Everywhere you look in Potts Point and Elizabeth Bay these older properties are being replaced by larger monoliths selling for small fortunes. This continues to squeeze out essential workers and an inclusive culture.

Thanks for the opportunity to comment.

Jill Berry

**From:** Joanne Greene [REDACTED]

**Sent on:** Wednesday, October 25, 2023 10:50:42 AM

**To:** dasubmissions@cityofsydney.nsw.gov.au

**Subject:** Submission - D/2023/862 - 117 Victoria Street POTTS POINT NSW 2011 - Attention Julia Errington

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

Dear Julia,

Thank you for the opportunity to comment on the above DA.

My main concern relates to the rock excavation which could have a serious impact on our buildings.

During the excavation works what supervision will be in place as far as the noise generating work hours are concerned?

Are the developers able to indicate a timeframe for completion of the building works?

The new roof top with pool and barbecue areas appears to exceed the existing roof height which is itself in excess of council height limitations.

Which brings me to the noise issues from this entertainment area in the future, which would be in close proximity to a large number of existing bedrooms, balconies and living areas in the immediate neighbouring buildings. Should the entertainment area be approved, enforcement of any times of use restrictions would be essential.

Julia, if at any time you would like to discuss any issues raised from this email please do not hesitate to contact me by return email or through a face to face meeting.

Kind regards

Joanne Greene

103 Victoria Street

Potts Point

Sent from my iPad

**From:** John Meredith [REDACTED]  
**Sent on:** Thursday, October 26, 2023 8:39:05 PM  
**To:** council@cityofsydney.nsw.gov.au  
**Subject:** D/2023/862 117 Victoria Street, POTTS POINT NSW 2011  
**Attachments:** D-2023-862-117 Victoria St POTTS POINT. Objections from John Meredith.pdf (200.38 KB)

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

Bill MacKay

Manager Planning Assessments.

Please find attached my letter outlining objections to the proposed development plan for 117 Victoria Street.

If you wish to discuss any points further which I have outlined please let me know by email or phone and I will endeavour to assist.

Regards

John Meredith

My name is John Samuel Meredith, for 12 years I was a member of the Executive Committee for SP13672, Victoria Point, the strata next to the proposed Development D/2023/862. I recently withdrew from the EC for health reasons. My knowledge as a licensed plumbing and drainage contractor was utilised in efforts to gain an understanding of the storm water drainage and sewerage issues which affect our complex of 9 buildings, many of which are constructed directly on top of the fragile rock cliff edge of Brougham Street. Additionally, I participated in Fire Safety for the complex and several projects involving Heritage issues which the Council seemed to take very seriously.

I am writing to express my grave concerns regarding the DA for 117 Victoria Street which touches on all of these areas. In regards the documents supplied in the application I note that the numbering of the buildings in our complex on the proposal are incorrect which is confusing and misleading. I will refer to the buildings as they are actually numbered and appear on all previous plans. Those directly over the cliff are 115B, 105, 103 (tower) and 101A and 101B.

### **1. The proposed excavation of the site poses unacceptable risk of structural compromise to our Buildings.**

Our complex, completed in 1978, was, unfortunately, built too close to the edge of the fragile sandstone cliff on the east side of Brougham Street. The Owner's Corporation has, in conjunction with Council, invested substantially through 45 years in management and mitigation initiatives to stabilise this. It is an ongoing, expensive problem.

The proposal to excavate the whole site of 117 Victoria St, through to Brougham St and remove the remaining cliff adjacent to our boundary to accommodate additional units onto Brougham St, poses a risk of compromise to, and danger of collapse of the base slab under our complex. The slab beneath 2/105 is already broken and in receipt of remedial attention.

The proposed removal of base stone and associated vibration from these actions could immediately, or may over time have direct ramifications for the structural integrity of 105 and the tower block 103 Victoria St.

Issues with main sewerage stacks, and the storm water drains and troughs running beneath 105, 103, 101A and 101B, and our car park required forensic investigation of the drainage channels using cameras, installing additional IOs and developing our own maps. The official plans obtained for the three complexes; Victoria Point, Horden and Warratah show detail for the two newer developments, but provide **no** information for our complex. So, forced to chart the maze for our own reference we have ascertained that beneath our lower car park, 115B, 105, 103, 101A and 101B there is a honeycomb of obsolete drainage trenches and tunnels, some possibly dating back to original colonial buildings. There are several main sewer lines with multiple stack entries, and massive storm water channels which exit to the north towards Horden Stairs. Much of this infrastructure is alarmingly close to cliff face in Brougham Street, as little as one meter inside of the crumbling cliff surface, and several trenches overflow onto the cliff top.

Because the sandstone beneath our buildings is not robust any adjacent excavation must be minimal, cautious and undertaken expertly. The plans provided in the application verge on experimental in regards proposed excavation techniques and estimates of invasive associated noise. They seem alarmingly optimistic concerning possible damage to the neighbouring property and environment in a manner reminiscent of the initial proposals for Snowy 2.0.

Sydney has numerous compromised new high rise developments uninhabitable due to poor building. We must not allow this proposal to add hundreds of residents from Victoria Point to the housing crisis by negligently approving 22 “luxury” units next door. The developer’s insurance must adequately cover these massive contingencies if they are permitted to proceed with such a risky project.

## **2. The proposed new build covers the entire block in breach of regulations regarding fire, general safety and amenity.**

This plan proposes to increase the overall building at 117 Victoria St. by expanding it to the boundaries and exceeding the existing height to above the regulated permitted level. Despite assurances that the development would remain within the footprint of the original building we are confronted with an ugly mega structure without any two meter pathway around the edge for fire safety access. This begs the question as to how much access for fire emergencies, fire alarms and false alarms would be required via our upper car park to service 117? Meanwhile our lower car park will become an enclosed basement for which it was not designed.

The plan depicts the new development butting against two of our buildings; 115B at the rear where there seems to be a small gap, and in the case of 115A our heritage listed house on Victoria St, the proposal appears to actually brick over 5 south facing windows!

Residents in the lower 103 tower facing south will lose amenity and by privacy facing much closer windows than the existing building.

## **3. The roof top entertainment zone.**

Residents facing south above the 8<sup>th</sup> floor in 103 will be confronted by noise from the roof top entertainment area and pool, as well as subsequent, unacceptable loss of privacy. Who would police requirements to behave with respect for neighbours or enforce requirements to use the facilities in specific times?

## **4. The design is ugly and inappropriate to this Heritage area.**

Plans for improvements and repairs to our complex have long been subject to scrutiny by the Heritage Committee of the Council. Our original terrace buildings facing onto Victoria St, and the southern half of our 1978 tower block facing (Brougham St) are governed by a Heritage order, so from chimney repairs to metal panel colours and resident requests to install glass balustrades etc. we must comply with decisions handed down by the Heritage Committee. It is therefore amazing to see a plan that is ugly, inappropriate and brash, and completely designed without reference to the “heritage” ethos we understand to be important to the Council in regards to Victoria Street. Our terraces are set back from the street with front gardens lending an airy peaceful quality to the space, and the terraces to the south of 117, although fronting the street, are traditional buildings softened by basement gardens. The planned edifice however, is smack onto the pavement in a “style” more suited to the commercial frontages of Macleay St.

I hope for the above reasons that this Application is rejected. I believe that it is so bad that a completely new plan and proposal is required for 117 Victoria St, because to modify this motley offering begs confusion and invites mistakes with seriously dangerous consequences. Any new plan must have the buildings in our complex and surrounds correctly numbered.

Regards  
John S Meredith





**From:** [REDACTED]

**Sent on:** Tuesday, October 24, 2023 2:31:55 PM

**To:** dasubmissions@cityofsydney.nsw.gov.au

**Subject:** Submission - D/2023/862 - 117 Victoria Street POTTS POINT NSW 2011 - Attention Julia Errington

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

**Attention: Julia Errington**

To whom it may concern

I am writing to you regarding the development at 117 Victoria Street, Potts Point (DA reference D/2023/862)

I have reviewed the plans and documents provided and have put together the following summary as a submission against the development in its current design.

1. Firstly, the design of the front of the building pays little respect to the surrounding heritage buildings and is totally unsympathetic. The inclusion of a few arches does not constitute good design and the materials chosen do little to tie in to the widely appreciated and heritage listed buildings either side and in the general area.
2. The current building has a setback distance at the front that diminishes the bulk & size of the building, the new design as it stands brings this much more to the fore to the detriment of surrounding buildings and general civic amenity.
3. The property at 119 is heritage listed and is carefully maintained for future generations at great expense by the owners, working with Council to ensure it is maintained and sympathetic to the period it was built - much to the delight of locals and tourists alike. An important aspect is the ability to maintain the side of the building between 117 & 119. The current design for 117 removes access to maintain the side of 119 and makes it impossible to maintain which will lead to a deterioration of the property. A minimum 1 metre set back from the wall would allow access for waterproofing, painting and general maintenance as well as allowing for air flow to wick away dampness.
- 4) The design has roller doors and car lifts adjacent to and at the same level as the main bedrooms of 1/119 & 2/119. With the design as it is, the distance between bedhead and lift/roller door is about 1 metre. Noise and vibration are both a very real concern.
- 5) Set back from rear of 117 (between deck/garden of 119 and side of 117.) Having already lost virtually all winter light and a significant portion of summer light due to the council approval of the 6 story development on Brougham Street dwarfing our apartment (D/2-22/319 - PROPOSED DEVELOPMENT AT 30A-34 BROUGHAM ST POTTS POINT NSW 2011), we now have the rear of the large development at 117 reducing distance by approximately 70% - further minimising the light we will be getting in our living area -which is the only source of light for the apartments. In addition, the new development links up at the rear with the height of the approved development mentioned above to further cut us off from light and airflow. This will lead to even further reduction to the quality of life, amenity and access to natural light. It will require artificial lighting virtually all of the time and an increase in damp and mould and corresponding health and building issues. I would urge council to have the set back further back and also to look at the development holistically and in conjunction with D/2-22/319.

I would respectfully ask Council to take all of the above into account when reviewing the plans as is.

Regards

[REDACTED]  
Kevin Tanner

[REDACTED] Victoria Street

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Unless necessary, I would ask for my details to be redacted from any reports or comments.

*American Express made the following annotations*

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*American Express a ajouté le commentaire suivant*

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**From:** kevin morris [REDACTED]

**Sent on:** Wednesday, October 25, 2023 10:59:13 AM

**To:** dasubmissions@cityofsydney.nsw.gov.au

**CC:** [REDACTED]

**Subject:** Submission - D/2023/862 - 117 Victoria Street POTTS POINT NSW 2011 - Attention Julia Errington

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To Whom It May Concern,

As owners of unit 94/103 Victoria Street, we would like to raise two concerns that we are very concerned about and should be addressed.

- The proposed excavation of the existing rock face is closer to the boundary of 115A, a Heritage Listed building. This may also impact the integrity of building 103. We are very concerned about this. There was a previous problem where shoring up had to be done on the rock face. This is now monitored on a yearly basis and we are concerned about additional movement of the rock face due to the proposed excavation.
- The noise that will be generated from the pools and barbecues on the rooftop will impact our bedrooms, as well as many others which face south. While it is noted that during the week the rooftop will be closed at 10PM and on weekends at 12PM (there is no way to enforce that). In addition, the proposed timeframes are excessive for an open, outside venue and will cause considerable noise and disruption for those of us who have bedrooms overlooking the rooftop which is not enclosed.

Thank you for your attention to these concerns.

Kind regards,

Kevin and Nicole Morris  
[REDACTED]

**From:** Mamba Durbs <[REDACTED]>  
[REDACTED]

**Sent on:** Monday, October 16, 2023 3:43:09 PM

**To:** dasubmissions@cityofsydney.nsw.gov.au

**Subject:** Submission - D/2023/862 - 117 Victoria Street POTTS POINT NSW 2011 - Attention Julia Errington

**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 Julia,

Please see below comments/objections regarding Development Application D2023/862 at 117 Victoria Street Potts Point.

~ The plans show incorrect street numbering of buildings on the northern boundary. The heritage listed building 115A Victoria Street has been incorrectly labelled as 115B, and building 115B has been labelled 101-115.

~ The proposed building roof top height at the centre is greater than the already non-compliant height of the existing building roof-top.

This proposed non-compliant roof top contains facilities, such as pool/spa and cooking facilities, most likely to negatively affect the amenity of neighbours, particularly regarding acoustic privacy for living and bedrooms on the very close southern facade of building 103.

It is noted that previous recent DAs in the area have had roof-top facilities lowered in height or reduced in size or refused altogether. Examples include the DAs covering 30A-40 Brougham Street and 6-8 Orwell Street, both in close proximity to 117 Victoria Street.

It is believed that restriction in times of use of such facilities is generally unsuccessful due to the difficulty in enforcement.

~ The proposed building envelope (with non-compliant FSR) is larger than that of the existing building footprint.

This is detrimental to the visual and/or acoustic amenity of the residents of buildings 115A and 115B due to the proposed reduction of the existing building side setbacks.

Regards  
B Grisdale  
Potts Point

**From:** Michael Cain [REDACTED]  
**Sent on:** Thursday, October 19, 2023 10:34:59 AM  
**To:** council@cityofsydney.nsw.gov.au  
**Subject:** DA 2023/ 862 at 117 Victoria Street Potts Point NSW 2011  
**Attachments:** Screen Shot 2023-10-19 at 10.08.46 am.png (1.53 MB), Screen Shot 2023-10-19 at 9.59.03 am.png (759.2 KB), Screen Shot 2023-10-19 at 10.26.55 am.png (1.79 MB)

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Dear Council,

I am concerned that the proposed development overwhelms the site thus destroying the aesthetics of neighbouring properties and is unsympathetic to the overall Council approach of a heritage precinct. The photos of the original house versus the architectural sketch for the new building highlight this problem of crowding out the buildings either side, stopping air and light from circulating into Victoria Street. A footprint following the original house foundations to the rear of neighbouring properties with a side open driveway down to a car lift would help frame the neighbouring properties not swamp them.

I note an attempt has been made to include arches that are presumably designed to mirror the neighbouring properties arches. Unfortunately, the size and proportion of the proposed new building's arches tends to be more appropriate for a shopping centre or commercial premises not a residential premises. The developments for the old Bourbon site on Darlinghurst Road in Kings Cross has successfully blended new with old ideas and the Council has successfully worked with the developers for a sympathetic outcome that benefits the whole area and visitors to it. This development doesn't in my opinion.

There is a risk that the current development is a retrograde step, of history repeating. What is currently there, a late 60s red brick block was something that locals fought against in the 1960s and 70s. Some would even say Juanita Nielsen gave her life for this protest. If this site is being redeveloped then isn't this a wonderful generational chance to do something that rests with the heritage precinct of the area rather than fights against it?

I appreciate the need for developers to maximise their investments, but I don't believe this proposed development as it currently stands is improving the lives of locals in this area, or for the benefit of the greater good for NSW's population. Happy for the development of the site but not this iteration please.

Thank you for your time and consideration.

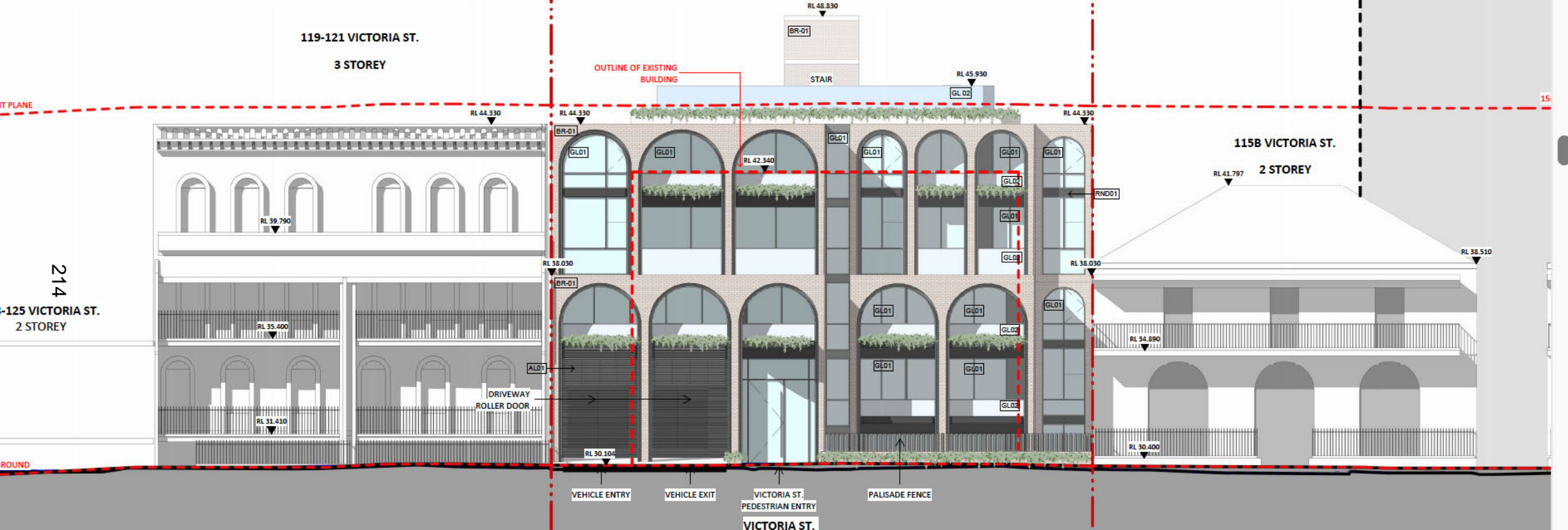
Michael Cain  
Elizabeth Bay



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Figure 37 – Photograph of pre-existing building on the subject site, *Cliff Lodge*, c. 1960.

Source: Sydney City Archives. City Planning Department Negatives. (A--00043858)







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**From:** Peter Meyer [REDACTED]

**Sent on:** Thursday, October 19, 2023 11:56:15 AM

**To:** council@cityofsydney.nsw.gov.au

**Subject:** Fwd: COMMENTS ON DEVELOPMENT APPLICATION REF NUMBER D/2023/862 - ADDRESS 117 VICTORIA STREET, POTTS POINT NSW 2011

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Begin forwarded message:

**From:** Peter Meyer [REDACTED]

**Subject:** COMMENTS ON DEVELOPMENT APPLICATION REF NUMBER D/2023/862 - ADDRESS 117 VICTORIA STREET, POTTS POINT NSW 2011

**Date:** 19 October 2023 at 11:42:02 am AEDT

**To:** [REDACTED]

**Cc:** strataplan13672@gmail.com

Dear City of Sydney Council

My comments are on the basis of being the owner of 3/115A Victoria Street, which is a heritage listed 2 storey Victorian/Georgian sandstone mansion dating from approx. 1885. Of particular note is that it is one of the few remaining FREE STANDING terraces in Victoria Street and is of unique historical significance.

**COMMENT 1. NIL SIDE BOUNDARY SETBACK.**

(A). The southern side of the terrace is built to the property boundary and incorporates 2 large windows providing essential light and ventilation and these amenities would be completely destroyed by the proposed development lack of setback. This is a serious amenity impact and likely non compliant.

(B). Lack of setback would destroy the wind corridor between the two buildings.

(C). Visual impact. Southern elevation of 115A would be completely obscured from Victoria Street. Council Pre-DA comments 6.1 in HERITAGE IMPACT STATEMENT indicates "development should take into account views to and from heritage items" - response from developer admits views of southern elevation of 115A would be obscured then suggests that these views are merely secondary considerations.

Also SYDNEY DEVELOPMENT CONTROL PLAN 2012 Section 3.9.5 HERITAGE ITEMS states "development in vicinity of heritage items is to minimise the impact on the setting by (a) providing an adequate area around the building to allow interpretation of the heritage item". However Regulatory Compliance Report response by developer states "the proposal will NOT result in any view loss to surrounding heritage items.

**COMMENT 2. FRONT SETBACK FROM VICTORIA STREET.**

(A). Development front setback is only to front of 115A balcony therefore partly destroying southern views of seasonally changing Victoria Street

(B). Amenity of balcony compromised.

(C). Visual impact. Proposed setback is also inadequate in that it destroys the visual impact of the heritage building. Suggest that further setback would be appropriate ie. to front of sandstone wall of terrace rather than front of balcony as proposed.

COMENT 3. EXCAVATION OF PROPOSED DEVELOPMENT SITE.

(A). Potentially fragile nature of sandstone foundations of 115A terrace could be undermined by excavation up to boundary line or even more remote from boundary.

(B). Suggest consideration be given to independent engineering inspection/photography of interior and exterior of terrace prior to and after excavations.

(C). It would seem appropriate that any damage to terrace would be repaired and paid for by the developer in a timely manner.

SUMMARY.

COMMENT 1 is made on basis of serious loss of amenity by the loss of 2 large windows on southern boundary of 115A. I suggest that developer's proposal may therefore not comply with current building regulations.

COMMENTS 1, 2 & 3 are made on the bases of DETRIMENTAL IMPACT ON THE UNIQUE HERITAGE SIGNIFICANCE OF ONE OF VICTORIA STREET'S FEW REMAINING FREESTANDING TERRACES.

Yours sincerely

Peter Meyer

( mob [REDACTED] )



**From:** <daobjection@icloud.com>  
**Sent on:** Wednesday, October 25, 2023 7:09:43 AM  
**To:** City of Sydney <council@cityofsydney.nsw.gov.au>  
**CC:** [REDACTED]  
**Subject:** D/2023/862 117 VICTORIA STREET POTTS POINT NSW 2011 WRITTEN SUBMISSION:  
LETTER OF OBJECTION SUBMISSION: TULLOCH  
**Attachments:** 117 VICTORIA WS.pdf (692.11 KB)

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

Kind regards,

B Tu och BSc[Arch]BArch[Hons1]UNSW RIBA Assoc RAIA  
[REDACTED]

# SUBMISSION

a written submission by way of objection

BILL TULLOCH BSC [ARCH] BARCH [HONS1] UNSW RIBA Assoc RAIA

prepared for the owners

B Z BURU, APARTMENT 1, 116-118 VICTORIA STREET POTTS POINT  
SARAH DALTON, APARTMENT 2, 116-118 VICTORIA STREET POTTS POINT  
TONY BARRY, APARTMENT 3, 116-118 VICTORIA STREET POTTS POINT  
KEVIN RUPERT CHARMAN, APARTMENT 4, 116-118 VICTORIA STREET POTTS POINT  
KEVIN RUPERT CHARMAN, APARTMENT 5, 116-118 VICTORIA STREET POTTS POINT  
DONELLE WHEELER, APARTMENT 6, 116-118 VICTORIA STREET POTTS POINT  
CHRIS BOYLAN, APARTMENT 7, 116-118 VICTORIA STREET POTTS POINT  
ANDREW SCHILLER, APARTMENT 8, 116-118 VICTORIA STREET POTTS POINT  
JANET WHITFIELD, APARTMENT 9, 116-118 VICTORIA STREET POTTS POINT

HOME UNIT COMPANY: 116 VICTORIA STREET POTTS POINT PTY LTD,  
REGISTERED OFFICE IS C/- ALLDIS & COX, 61A-65 FRENCHMANS ROAD, RANDWICK,  
ADDRESS OF OPERATION OF THE COMPANY: 116-118 VICTORIA ROAD, POTTS POINT.

23 OCTOBER 2023

CITY OF SYDNEY  
TOWN HALL HOUSE  
LEVEL 2, 456 KENT STREET  
SYDNEY 2000

[council@cityofsydney.nsw.gov.au](mailto:council@cityofsydney.nsw.gov.au)

RE: D/2023/862  
117 VICTORIA STREET POTTS POINT NSW 2011  
WRITTEN SUBMISSION: LETTER OF OBJECTION  
SUBMISSION: TULLOCH

Dear Sir,

This document is a written submission by way of objection lodged under Section 4.15 of the EPAA 1979 [the EPA Act].

I have been instructed by my clients to prepare an objection to this DA.

I have been engaged by my clients to critically review the plans and documentation prepared in support of the above development application and to provide advice in relation to policy compliance and potential residential amenity impacts.

Having considered the subject property and its surrounds and the details of the development application currently before Council, I am of the opinion that the proposal, in its present form, does not warrant support. In addition, I am of the view that amendments would need to be made to the development proposal before Council was in a position to determine the development application by way of approval.

Unless the Applicant submits Amended Plans to resolve all of the adverse amenity impacts raised within this Submission, my clients ask Council to REFUSE this DA.

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## A. EXECUTIVE SUMMARY

The design of the proposed development does not ensure that the existing high levels of amenity to my clients' property are retained.

Having reviewed the documentation prepared in support of the application and determined the juxtaposition of adjoining properties I feel compelled to object to the application in its current form.

The proposal is considered to be inappropriate within the streetscape.

The bulk, scale, density and height of the proposed development is excessive and inconsistent with the established and desired future streetscape character of the locality.

The subject site is zoned R1 General Residential under the LEP, and there is no reason, unique or otherwise why a fully compliant solution to LEP and DCP controls cannot be designed on the site.

The proposed development represents an overdevelopment of the site and an unbalanced range of amenity impacts that result in adverse impacts on my clients' property.

- Unacceptable Adverse View Sharing Impacts
- Unacceptable Adverse Solar Loss Impacts
- Unacceptable Adverse Visual Bulk and Scale Impacts
- Unacceptable Adverse Acoustic Privacy Impacts from the incomplete consideration of the operation of the car lifts and the roof top terrace
- Unacceptable Adverse Engineering Impacts: Increased Flood Risks

The proposed development fails to meet Council's planning controls, the objectives and the merit assessment provisions relating to:

- Exceedance of Floor Space Ratio [FSR]: Proposed 3.13:1 v Control 2.50:1 [25% non-compliance]
- Excessive Height of Buildings [HOB]: Victoria Street 5.1m exceedance of stair core [34% non-compliance]
- Excessive Height of Buildings [HOB]: Victoria Street 8.2m exceedance of lift core [54% non-compliance]
- Excessive Height of Buildings [HOB]: Broughton Street exceedance of built form ranging from 4.7m, 5.4m, 5.7m and 8.8m [up to 58% non-compliance]
- Excessive Height of Buildings [HOB]: The roof top element that is at RL 44.33, facing Broughton Street, is positioned close to the spot level on the Registered Surveyors drawing at RL 14.54 at the south-west corner, presents a HOB at 29.79m, or an exceedance by 14.79m. [99% non-compliance]
- Excessive Maximum Storey Height [MSH]: Proposed 8 v Control 4 [100% non-compliance]
- Insufficient Setback Distances [SD] prescribed by ADG up to 25m [5-8 storeys] Habitable Rooms & Balconies: Proposed 3m v Control 9m [300% non-compliance]

- Insufficient Setback Distances [SD] prescribed by ADG up to 25m [5-8 storeys] Non- Habitable Rooms: Proposed 3m v Control 4.5m [50% non-compliance]
- Insufficient Setback Distances [SD] prescribed by ADG over 25m Habitable Rooms & Balconies: Proposed 3m v Control 12m [400% non-compliance]
- Insufficient Setback Distances [SD] prescribed by ADG over 25m Non- Habitable Rooms: Proposed 3m v Control 6m [100% non-compliance]
- Insufficient Deep Soil Landscape Area [DS]: Proposed 2.7% v Control 10% [370% non-compliance]
- Insufficient Canopy to 15% of site area within 10 years
- Removal of several large trees, and impact on neighbour's trees
- Inappropriate Mix of Dwellings: No Studio Units or 1 Bed Units, and insufficient 2 Bed Units
- ADG: Poor solar access to proposed apartments
- Failure to protect the proposed car lifts and the proposed basements from flood, by not providing a Minimum Driveway Crest level at RL 30.8 as advised within the Telford Flood Risk Management plan, page 6.
- Failure to protect the proposed disabled lift in the main entry and the lift pit from flood, by not providing a minimum level at RL 30.2 as advised within the Telford Flood Risk Management Plan, page 6.
- Failure to protect the proposed Unit A501 from flood, by not providing a Minimum Habitable Floor level at RL 30.7 to Unit A501 at RL 28.605 facing Victoria Street as advised within the Telford Flood Risk Management plan, Page 6. The wall to the Unit A501 terrace would need to rise 2.1m, making the Unit unacceptable, with minimal access to light and air.

I ask Council to check the GFA calculation as there are areas excluded from GFA that Council may consider should have been included within the calculations.

The proposed development is incapable of consent, as there is a substantial list of incomplete information that has yet to be provided, including:

- View Loss Analysis from my client's property
- Solar Loss Analysis at hourly intervals, with view from the sun diagrams showing existing and proposed. Hourly shadow diagrams in both plan and elevation which clearly distinguish between existing and proposed shadows. The plans must nominate the area (in sqm) of available solar access to the subject site and to affected neighbouring properties. Sun eye view diagrams are also to be provided.
- Incomplete Flood Study defining increase risks to neighbouring properties, by the removal of the overland flood path across the subject site, and raising flood levels and flood velocity rates in Victoria Street
- Privacy Analysis
- Details of all external plant and equipment including air conditioning units/condensers. Air conditioning units to the facade, roof or balconies of the building will not be acceptable.
- Registered Surveyors levels transferred to all DA drawings
- Incomplete dimensioning on DA plans, and incomplete levels on all elevations to all elements

- Survey. Incomplete details of neighbouring/surrounding properties, including window/door openings to determine if there will be any privacy, overshadowing or amenity impacts.

The proposed development represents an unreasonably large building design, for which there are design alternatives to achieve a reasonable development outcome on the site without having such impacts.

The Applicant's Clause 4.6 written request does not adequately demonstrate that the proposal achieves the relevant objectives of the development standards, or that there are insufficient environmental planning grounds to justify the extent of the proposed variations sought. The variations would result in undue visual bulk that would be inconsistent with the desired future character of the locality.

The proposed development does not satisfy the objectives of the zone or contribute to a scale that is consistent with the desired character of the locality and the scale.

I highlight to Council that in respect to the Massing Study carried out by the applicant, there was simply no consideration of sharing of neighbour's view. It was simply not even considered within the architects planning response. The Massing Study simply creates devastating view loss outcomes – and that simply was plainly obvious to the applicant.

I highlight to Council that in respect to the Façade Strategy, there no consideration of the existing 'solid to void ratio' of the streetscape in the Conservation Area, and to consider how a proposed substantial glazed façade sits comfortably within the conservation areas, where solid to void ratios of 70% solid is perhaps the norm.

A compliant building design would reduce the amenity impacts identified.

My clients agree with Roseth SC in NSWLEC *Pafbum v North Sydney Council*:

*"People affected by a proposal have a legitimate expectation that the development on adjoining properties will comply with the planning regime."*

The '*legitimate expectation*' that my clients had as a neighbour was for a development that would not result in very poor amenity outcomes caused directly from the non-compliance to building envelope controls.

My clients wish to emphasise the fact that my clients take no pleasure in objecting to their neighbour's DA.

The proposed DA has a deleterious impact on the amenity of their property caused by the DA being non-compliant to controls.

Council and NSWLEC Commissioners regularly concede that development standards and building envelopes provide for maximums and that there is no entitlement to achieve those maximums.



It does seem unreasonable that the Applicants wish to remove my client's amenity to improve their own, and is proposing non-compliant outcomes that would seriously adversely affect my clients' amenity.

Council's development controls relating to managing building bulk and scale are designed to ensure that buildings are consistent with the height and scale of the desired character of the locality, are compatible with the height and scale of surrounding and nearby development, respond sensitively to the natural topography and allow for reasonable sharing of views and visual amenity.

Council's DCP with respect to the locality, requires that development respond to the natural environment and minimise the bulk and scale of buildings. The proposed development in its current form does not achieve this and provides inadequate pervious landscaped area at ground level.

The proposal does not succeed when assessed against the Heads of Consideration pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended. It is considered that the application, does not succeed on merit and is not worthy of the granting of development consent.

The proposed development fails the fundamental principles of design excellence in terms of:

- Context and local character
- Built form, scale and public domain, urban design response
- Density
- Landscape integration
- Architectural expression, in terms of excessive built form
- Amenity impacts on neighbours

My clients agree with Council's Pre-DA concerns. These matters have not been adequately addressed within the DA submission. These matters give grounds for refusal:

#### 1. Proposed demolition

*Demolition of the building is not currently supported. The building represents an era of development nominated within the Potts Point HCA and is considered to contribute to that era. It is recommended that new building design/s not be developed until this issue has been further assessed.*

Comment: I ask that this matter is more adequately addressed. The existing building could be retained with additions that are maintained within all building envelope controls.

#### 2. Proposed infill building

*Notwithstanding the above, the proposed infill building, which significantly exceeds the height and floor space ratio controls for the site and does not comply with several other controls including building separation, parking and deep soil, would*

*not be supported. An amended scheme which significantly reduces the height and bulk of the development and addresses all comments provided below would be required for Council to support a new building onsite where demolition is overcome.*

*Comment: A design solution that maintains the current side setbacks to Victoria site would be preferred, as it maintains viewing corridors, and also maintains the overland flood path, avoiding the flood implications to Victoria Street.*

### 3. Heritage

#### 3.1 Victoria Street Frontage

*There is a steep escarpment below Victoria Street offering views across to the Central Business District. The site is located between heritage items to the north and south along Victoria Street and the existing building has generous side setbacks from these items. This allows views to and around the items from the street as well as across the site towards the city skyline. These views contribute to the streetscape character.*

*Any development on this site should be respectful of the adjoining heritage items and give consideration to the through site views and views to and from the heritage items. Further attention should be given to more appropriate side boundary setbacks to maintain the city view lines.*

*The rise of the Victoria Street built form over the Brougham Street built form is highly visible from The Domain and adds to the character of this HCA. It follows the line of the sandstone cliff face. The proposal should relate to the topography of the site. Consideration should be given to maintaining and enhancing a more stepped built form to reinforce that rise and acknowledge the line of the cliff face. View Impact Analysis should be undertaken.*

*Comment: As mentioned above, a design solution that maintains the current side setbacks to the subject site facing Victoria Street would be preferred, as it maintains viewing corridors, and also maintains the overland flood path, avoiding the flood implications to Victoria Street. Car parking entry must be redirected to Brougham Street. The proposed built form must set down the slope to follow the 15m HOB standard, and to accord with ADG setbacks.*

#### 3.2 Brougham Street frontage

*The Brougham Street streetscape is dominated by a sandstone cliff face which continues through the site. This is a highly visible and adds to the character of the street and the HCA. Section 3.5.1 and 4.2.3.5 of the Sydney DCP 2012 requires the retention of natural landscape features such as cliff faces and rocky outcrops. The existing building is appropriately sited to reduce excavation of the cliff face. The proposed building extends fully to the northern and southern site boundaries and does not retain existing exposed cliff faces. Additionally, the proposal includes extensive excavation into the escarpment. The proposal is required to be amended to retain increased visibility of the cliff face on site and minimise excavation to the cliff. The proposed Brougham Street frontage should also be reduced in height and scale to better respect the scale of the existing building at 30A – 34 Brougham Street. The proposal is required to be amended to retain increased visibility of the cliff face on site and minimise excavation to the cliff. The proposed Brougham Street*

*frontage should also be reduced in height and scale to better respect the scale of the existing building at 30A – 34 Brougham Street.*

Comment: Car park entry must be from Brougham Street, with no built form in the ADG side setback zones.

#### 4. Building height and floor space ratio (FSR)

*The proposed floor space ratio (FSR) of 3.13:1, breaches the FSR control by approximately 25% and is not supported.*

*The proposed exceedance results in a building which significantly exceeds the height of the existing building, breaches the 15metre height standard under the Sydney LEP 2012 and is not compatible with the bulk and form of adjoining buildings.*

Comment: The excessive built form above the 15m plane, and the built form in the ADG setback zones causes unacceptable outcomes.

#### 5. Built form, setbacks and massing

*The proposed building form, which extends from Victoria Street to Brougham Street, is inconsistent with the desired future pattern of residential development in the block. This generally consists of separate envelopes addressing Victoria Street and Brougham Street, with large centralised open space areas. In addition, the proposed 3 metre side setbacks to the central floor plates on all levels do not provide adequate building setbacks or separation in accordance with 3F1 of the Apartment Design Guide (ADG) and Section 4.2.2 of the Sydney DCP 2012. The building relies on borrowed amenity for rooms facing the north and south, which will not provide reasonable levels of amenity into the future and does not achieve design excellence in accordance with Clause 6.21C of the Sydney LEP 2012. It is recommended that the proposal be amended to encompass two distinct building components with a centralised open space area. This layout would also ensure adequate deep soil, communal open space and canopy cover is achieved on site (discussed below).*

Comment: My clients are concerned to the lack of side setback on Victoria Street that creates a devastating view loss, as well as the excessive height, and excessive FSR that creates greater density and amenity impacts.

#### 6. Amenity

*The ground floor unit G01 fronting Brougham Street which does not incorporate a deep soil landscape setback has no visual privacy. The fire rating requirements for windows close to and perpendicular to the northern and southern boundaries would need to be addressed. Several proposed balconies are narrow (less than 2m deep) and would be unusable.*

Comment: The lowest level unit facing Victoria Street would need to have 2.1m walls to protect it from flood. This also is unacceptable.

## 7. Flooding

*The site is identified as being flood affected along both frontages. The proposed entry to the basement parking (at ground level that fronts Victoria Street) and the building do not comply with Clause 5.21 of the Sydney LEP 2012, 3.7 of the Sydney DCP 2012 and the City's Interim Floodplain Management Policy requirements for flood affected development. A site specific flood risk assessment report must be prepared to determine Flood Planning Levels (FPLs) and address flood emergency evacuation.*

Comment: The design has not been created to accord with the Flood Engineers guidelines. I am concerned to greater flood levels and velocity to neighbours.

## 8. Vehicle access, parking and servicing

*The proposal for vehicle access to the basement via Victoria Street is not supported. Clause 3H1 of the ADG and 3.11.11 of the Sydney DCP 2012 require car parking to be designed to be accessed from secondary streets where available. Any proposed parking on site should be designed to be accessed via Brougham Street. Please note, service vehicle parking spaces are required to be provided in accordance with the requirements of Schedule 7.8 and Section 3.11.13 of the Sydney DCP 2012. Further, clear plans for bicycle parking in accordance with Australian Standard AS2890.3 and Section 3.11.3 of Sydney DCP 2012 are required to be submitted.*

Comment: Car park entry and servicing must be from Brougham Street.

## 9. Deep Soil

*Section 4.2.3.6 of the Sydney Development Control Plan 2012 requires a minimum of 10% of the site area be provided as unimpeded deep soil. As the subject site is greater than 1,000sqm, this is to be consolidated with a minimum dimension of 10m. All remaining deep soil areas are to have a minimum dimension of 3m.*

Comment: Deep soil should be provided along each boundary, with lower height species to avoid view loss in side setback zones.

## 10. Landscaping

*The submitted drawings do not indicate any provision for tree planting. Section 3.5.2 of the Sydney DCP 2012 requires at least 15% canopy coverage of a site to be provided within 10 years from the completion of development. The Greening Sydney Strategy targets to achieve 40% green cover, including 25% canopy cover by 2050. Design amendments are required to provide both tree planting collocated with deep soil and tree planting on structure. Landscape plans should be annotated or be accompanied by a maintenance plan that demonstrates how each different areas of planting on structure can be safely accessed for regular, ongoing maintenance. Please note, the minimum recommended soil depths for planting on structure, excluding mulch and drainage layers, are 1000mm for trees, 450mm for shrubs and 200mm for groundcovers. Typical sections of each different area of landscape on structures are required to confirm that minimum soil depths are achieved.*

Comment: Deep soil should be provided along each boundary, with lower height species to avoid view loss in side setback zones.

#### 11. Common Open Space

*Require at least 25% of the total site area to be provided as common open space. The proposal is required to be amended to provide communal open space in accordance with the controls.*

Comment: The rooftop common open space is unacceptable on acoustic and visual privacy grounds. The hours of access must be reduced to conclude at 6pm.

#### 12. Trees

*There are several large matures street trees on site and which border the subject property, that have the potential to be impacted by the proposal. An Arboricultural Impact Assessment and Tree Protection Specification must be prepared by a qualified Arborist*

Comment: Concern is raised to the adequacy of the SRZ and TPZ of neighbour's trees.

#### 13. Public Art

*Where the subject development will exceed a construction value of \$10 million, public art will be required to be provided in accordance with Section 3.1.5 of the Sydney DCP and the City of Sydney Guidelines for Public Art in Private Development and the Public Art Policy*

Comment: Confirmation of this matter is required.

#### 14. Waste and Recycling Management

*A waste management plan demonstrating compliance with the requirements of Section 3.14.1 and 4.2.6 of the Sydney DCP and with the City of Sydney Guidelines for Waste Management in New Developments 2018 is required. Noise from the operation of the waste and recycling management system to residential units must be minimised by locating chutes away from habitable rooms, and provide acoustic insulation to the waste service facilities or residential units adjacent to or above chutes, waste storage facilities, chute discharge, waste compaction equipment and waste collection vehicle access points.*

Comment: Car park entry and servicing must be from Brougham Street.

My clients ask Council to seek modifications to this DA as the proposed development does not comply with the planning regime, by non-compliance to

development standards, and this non-compliance leads directly to my clients' amenity loss.

If any Amended Plan Submission is made by the Applicant, and re-notification is waived by Council, my clients ask Council to inform them immediately by email of those amended plans, so that my clients can inspect those drawings on the Council website.

## B. FACTS

### 1. THE PROPOSAL

The development application seeks approval for demolition of existing structures, excavation, and construction of a part four, part eight storey residential flat building with roof top terrace, landscaping and basement parking' at No. 117 Victoria Street, Potts Point

### 2. THE SITE

The site is known as No. 117 Victoria Street, Potts Point, with a legal description of Lot 1 in DP 62550.

The site is rectangular in shape with a primary eastern frontage to Victoria Street and secondary western frontage to Brougham Street, both of which measure at 22.6m. The site contains a northern (side) boundary shared with Nos. 101- 115 Victoria Street and southern (side) boundary shared with Nos. 119-121 Victoria Street and 30A-34 Brougham Street, of which both are measured at 53.6m. The site has an overall area of 1,201sqm.

The site falls steeply from the western to eastern boundary by approximately 18.5m across the length of the site.

The site is situated within the *Potts Point Heritage Conservation Area* and is in proximity to a number of heritage items.

### 3. THE LOCALITY

The existing character of the local area, including the immediate visual catchment (generally within 150 metres of the site) is of a well-established neighbourhood, made up of a heterogeneous mix of dwelling types within domestic landscaped settings.

My clients' property shares a common boundary with the subject site.

### 4. STATUTORY CONTROLS

The following Environmental Planning Instruments and Development Control Plans are relevant to the assessment of this application:

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2021
- All relevant and draft Environmental Planning Instruments;

- SEPP (Building Sustainability Index: BASIX) 2004;
- SEPP (Resilience and Hazards) 2021;
- SEPP (Biodiversity and Conservation) 2021.
  
- SEPP No 65 Design Quality of Residential Apartment Development; Apartment Design Guide
  
- Sydney Local Environmental Plan 2012 [referred to as LEP in this Submission]
- Sydney Development Control Plan 2012 [referred to as DCP in this Submission]



## C. CONTENTIONS THAT THE APPLICATION BE REFUSED

### 1. CONTRARY TO AIMS OF LEP

The proposal is contrary to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy the aims under the LEP.

- The development compromises amenity impacts on neighbours
- The development is not compatible with the desired future character of the locality in terms of building height and roof form.
- The development does not minimise the adverse effects of the bulk and scale of buildings

### 2. CONTRARY TO ZONE OBJECTIVES

The proposal is contrary to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy the objectives of the zone of the LEP.

- The development compromises amenity impacts on neighbours
- The development compromises views
- The development compromises solar
- The development compromises privacy
- The development does not minimise visual impact

### 3. BUILDING BULK & SCALE

The proposed development should be refused due to its excessive bulk and scale and its failure to comply with the numerical standards and controls.

The written request to vary the LEP standard is not well-founded as it does not satisfactorily demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case because it does not achieve consistency with the objectives of the zone or the objectives of the equivalent development standard contained within the LEP. There are sufficient environmental planning grounds to justify contravening the development standard because the provided justification is insufficient and disagreed with.

The proposal will present excessive bulk and scale that is not representative of the type of development anticipated by the zone or the applicable controls.

The proposal will result in unreasonable bulk and scale for the type of development anticipated in the zone.

The proposal does not step down with the topography of the site.

The proposal relies on unreasonable excavation to the extent that it breaches the boundary setback controls

The proposal does not allow for enough landscaping to suitably reduce the bulk and scale of the development.

The proposal does not provide adequate articulation of the built form to reduce its massing.

The proposal fails to encourage good design and innovative architecture to improve the urban environment.

The proposal fails to minimise the visual impact of development when viewed from adjoining properties and streets.

#### 4. CHARACTER & STREETScape

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to provide adequate streetscape outcome, presenting non-compliant envelope controls that are visible from the street. The proposed development will have unacceptable impacts upon the amenity of neighbours' property, specifically with regard to visual bulk impact.

The proposed development should be refused due to its excessive bulk, scale and resulting impacts upon the amenity of adjoining properties and the character of the surrounding locality.

The proposal does not meet the streetscape character and key elements of the precinct and desired future character.

The proposal is excessive in scale, has adverse impacts on the visual amenity of the environment, does not positively contribute to the streetscape in terms of an adequately landscaped setting. The proposal is visually dominant, and is incompatible with the desired future townscape area character.

The development has excessive bulk and scale and fails to comply with development standards set out LEP, resulting in a building which has unacceptable adverse impacts on neighbouring properties and the locality.

The non-compliant building envelope will lead to unacceptable visual bulk impact to neighbours.

The multiple non-compliances arising from the proposed upper floor level and the non-compliant setbacks indicates that the proposed development cannot achieve the underlying objectives of this control, resulting in an unacceptable building bulk when viewed from adjoining and nearby properties.

The development presents an inappropriate response to the site and an unsatisfactory response to the desired future character of the area.

## 5. EXCESSIVE BUILDING HEIGHT

The proposal is contrary to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it fails to comply with the building height development standard under the LEP.

The proposed development should be refused due to its excessive height and failure to comply with the *Height of Buildings* set out in the LEP, and in particular:

- The proposed development, by virtue of its height and scale, will not be consistent with the desired character of the locality
- The development will not be compatible with the height and scale of surrounding and nearby development.

The development application should be refused because the proposed building height is excessive and does not comply with the objectives or controls in the LEP in circumstances where the written request made pursuant to clause 4.6 of the LEP in relation to the contravention of the development standard is inadequate and should not be upheld.

The submitted written variation request under cl.4.6 of the LEP seeking to justify the contravention of the height of buildings development standard is not well-founded having regard to the requirements of cl.4.6(3) and 4.6(4)(a)(i) of LEP.

The proposal is inconsistent with the objectives of the Height of Buildings development standard pursuant to LEP.

- The development compromises amenity impacts on neighbours
- The development compromises private views and solar loss
- The development does not minimise visual impact
- The development is not compatible with the desired future character of the locality in terms of building height and roof form.
- The development does not minimise the adverse effects of the bulk and scale of buildings

The adverse impacts of the proposed development, including on the amenity of neighbouring property and public property, are directly attributable to the exceedance of the height of buildings development standard.

The proposal is inconsistent with the LEP as there is a public benefit in maintaining the Height of Buildings development standard in this particular case.

The proposed portion of the building above the maximum height is not 'minor'. The building does not adequately step down the slope.

The DA seeks for a substantial non-compliance with the Council permissible height as provided for in the LEP. The proposal is supported by a clause 4.6 seeking to justify the breach of the height standard.

My clients submit that the proposal is excessive and an over development and that the clause 4.6 submissions do not satisfy the pre-requisites in clause 4.6 of the LEP.

In respect of the overall height control, I have considered the applicant's Clause 4.6 and I consider that, in this instance, they have not been able to establish an argument to support their assertion that it is unreasonable and unnecessary to comply with the control.

My clients submit that the submission fails on the basis of the assessment against the objectives of clause 4.3, as well as the environmental planning grounds set out. Additionally, I consider that the development does not comply with the land use objectives.

In respect of the proposed development, I submit that the built form, which also incorporates other substantial non-compliant breaches will have negative impacts on the amenity of neighbours as well as have significant impacts in respect of visual intrusion. Additionally, there is nothing provided for in this development that seeks to minimise the adverse effects of bulk and scale of the building.

My clients have reviewed the responses to these objectives in the applicant's Clause 4.6 and do not consider they satisfy the objectives. My clients strongly refute their arguments.

In respect of the compatibility test, unsurprisingly the applicant completely ignores multiple considerations dealing with the understanding of the site in respect of its topography, how it is viewed from neighbouring properties as well as the lack of compatibility with its form and articulation.

My clients contend that the proposal fails to adequately demonstrate that compliance with each standard is unreasonable or unnecessary nor that there are sufficient environmental planning grounds to justify contravening each of the standards. Variation of the development standards is not in the public interest because the proposed development is not consistent with the objectives of each development standard nor the objectives of the zone. The proposed development has not sought adequate variations to development standards. The proposal is excessive in bulk and scale, and is inconsistent with the desired future character of the area resulting in adverse impacts on the streetscape. The proposal results in an unacceptable dominance of built form over landscape. The proposal fails to minimise the adverse effects of bulk and scale resulting in adverse amenity impacts.

The proposed development should be refused due to its excessive visual impact and impacts on the character of the locality, adjoining properties and the surrounding environment.

The form and massing of the proposal does not appropriately respond to the low-density character of the surrounding locality

The form and massing of development is also inconsistent with the provisions of the DCP which prescribe that new development should complement the predominant building form in the locality.

The proposal would not recognise or protect the natural or visual environment of the area, or maintain a dominance of landscape over built form. The proposal has not been designed to minimise the visual impact on the surrounding environment.

In *Veloshin*, [*Veloshin v Randwick Council* 2007], NSW LEC considered Height, Bulk & Scale. *Veloshin* suggest that Council should consider:

*"Are the impacts consistent with impacts that may be reasonably expected under the controls? For non-complying proposals the question cannot be answered unless the difference between the impacts of a complying and a non-complying development is quantified."*

The impacts are not consistent with the impacts that would be reasonably expected under the controls.

In *Project Venture Developments v Pittwater Council* (2005) NSW LEC 191, NSW LEC considered character:

*"...whether most observers would find the proposed development offensive, jarring or unsympathetic in a streetscape context, having regard to the built form characteristics of development within the site's visual catchment"*.

The non-compliant elements of the proposed development, particularly caused from non-compliant excessive heights would have most observers finding *'the proposed development offensive, jarring or unsympathetic'*.

The planning controls are not limited to preventing offence and the like; and are concerned with establishing a certain physical and landscape character. In this instance I am not convinced that there are strong environmental planning grounds to justify a contravention of the scale proposed.

## 6. EXCESSIVE FSR

The proposal is contrary to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it fails to comply with the FSR development standard under the LEP.

The proposed development should be refused due to its excessive gross floor area and the associated impacts on the character of the locality and the amenity of adjoining properties.

The calculations of GFA and FSR appear incorrect, as zones that should have been included within GFA calculations appear not to be included within the calculation. I ask Council to check these matters.

The submitted cl 4.6 written request is not well founded as it does not demonstrate that compliance with the FSR development standard is unreasonable or unnecessary in the circumstances of the case or that there are insufficient environmental planning grounds to justify its contravention.

The failure of the submitted cl 4.6 written request to demonstrate the outcomes required by the LEP means that the variation cannot be supported and, therefore, by necessity, the development application should be refused.

The proposal is inconsistent with the objectives of the zone and is inconsistent with the objectives relating to FSR set out in cl. 4.4 of LEP.

- The development compromises amenity impacts on neighbours
- The development compromises private views and solar loss
- The development does not minimise visual impact
- the development is not compatible with the desired future character of the area in terms of building bulk and scale
- there is no balance between landscaping and built form; the built form dominates the landscape
- the bulk and scale of the development results in adverse effects on adjoining development and the locality.

My clients have reviewed the justification provided in the applicant's 4.6 and submit as follows:

No consideration of urban design, land topography, surrounding building forms, articulation and roof forms have been undertaken to provide for a full understanding of the desired future character.

My clients reiterate their comments about the similar objective for height and additionally state that the FSR proposed does not minimise adverse effects. The proposal seeks setbacks which are insufficient when considered against the provisions

Excavation is not minimised as the carpark required is being built to facilitate the parking, services, storage and other facilities required for a development of the size as proposed which is substantially greater than what is permissible. The excavation is clearly disproportionate to what would be required for a compliant development.

My clients submit that the Clause 4.6 clearly does not provide the necessary justification and must fail.

The adverse impacts of the proposed development, including on the amenity of neighbouring property and public property, are directly attributable to the exceedance of the FSR development standard.

My clients contend that the proposal fails to adequately demonstrate that compliance with each standard is unreasonable or unnecessary nor that there are sufficient environmental planning grounds to justify contravening each of the standards. Variation of the development standards is not in the public interest because the proposed development is not consistent with the objectives of each

development standard nor the objectives of the zone. The proposed development has not sought adequate variations to development standards. The proposal is excessive in bulk and scale, and is inconsistent with the desired future character of the area resulting in adverse impacts on the streetscape. The proposal results in an unacceptable dominance of built form over landscape. The proposal fails to minimise the adverse effects of bulk and scale resulting in adverse amenity impacts.

My clients contend that an assessment of height, bulk and scale under *Veloshin v Randwick Council* [2007] NSWLEC 428 that:

- the impacts are not consistent with the impacts that may be reasonably expected under the controls;
- the proposal's height and bulk do not relate to the height and bulk desired under the relevant controls;
- the area has a predominant existing character and are the planning controls likely to maintain it;
- the proposal does not fit into the existing character of the area;
- the proposal is inconsistent with the bulk and character intended by the planning controls;
- the proposal looks inappropriate in its context
- The development compromises amenity impacts on neighbours
- The development compromises private views and solar loss
- The development does not minimise visual impact

In terms of the assessment of height, bulk and scale, the non-compliant elements of the proposed development, particularly caused from non-compliant built form, would have most observers finding *'the proposed development offensive, jarring or unsympathetic'*.

## 7. EXCESSIVE WALL HEIGHT & NUMBER OF STOREY

The proposal is contrary to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it fails to comply with the control.

The proposed development should be refused due to its excessive height and failure to comply with the Wall Height set out in the controls.

The proposed development is inconsistent with the objectives of the zone and the objectives that underpin the wall height.

This non-compliance, as well as the other non-compliances, arising from the proposed upper level indicates that the proposal cannot satisfactorily achieve the underlying objectives of this control, ultimately resulting in an unacceptable building bulk that creates a severe amenity impact.

- The development compromises amenity impacts on neighbours
- The development compromises private views and solar loss
- The development does not minimise visual impact

- The development is not compatible with the desired future character of the locality in terms of building height and roof form.
- The development does not minimise the adverse effects of the bulk and scale of buildings

The impacts are very similar to the HOB impacts raised in the section above.

The adverse impacts of the proposed development, including on the amenity of neighbouring property and public property, are directly attributable to the exceedance of the wall height control.

The failure of the SEE to demonstrate the outcomes required by the wall height control means that the variation cannot be supported and, therefore, by necessity, the development application should be refused.

The proposal is inconsistent with the LEP and DCP as there is a public benefit in maintaining the Wall Height control in this particular case.

The proposed portion of the building above the maximum wall height is not 'minor'.

My clients contend that the proposal fails to adequately demonstrate that compliance with each standard or control is unreasonable or unnecessary nor that there are sufficient environmental planning grounds to justify contravening each of the standards. Variation of the development standards or control is not in the public interest because the proposed development is not consistent with the objectives of each development standard or control nor the objectives of the zone. The proposed development has not sought adequate variations to development standards or controls. The proposal is excessive in bulk and scale, and is inconsistent with the desired future character of the area resulting in adverse impacts on the streetscape. The proposal results in an unacceptable dominance of built form over landscape. The proposal fails to minimise the adverse effects of bulk and scale resulting in adverse amenity impacts.

The non-compliant elements of the proposed development, particularly caused from non-compliant excessive heights would have most observers finding *'the proposed development offensive, jarring or unsympathetic'*.

## 8. UNACCEPTABLE BUILDING SEPARATION

The proposed development should be refused as it is significantly non-compliant with setback of the ADG.

- Insufficient Setback Distances [SD] prescribed by ADG up to 25m [5-8 storeys] Habitable Rooms & Balconies: Proposed 3m v Control 9m [300% non-compliance]
- Insufficient Setback Distances [SD] prescribed by ADG up to 25m [5-8 storeys] Non- Habitable Rooms: Proposed 3m v Control 4.5m [50% non-compliance]



- Insufficient Setback Distances [SD] prescribed by ADG over 25m Habitable Rooms & Balconies: Proposed 3m v Control 12m [400% non-compliance]
- Insufficient Setback Distances [SD] prescribed by ADG over 25m Non-Habitable Rooms: Proposed 3m v Control 6m [100% non-compliance]
- Insufficient Deep Soil Landscape Area [DS]: Proposed 2.7% v Control 10% [370% non-compliance]

The proposed development does not provide appropriate setbacks. This leads to inconsistency with the character of the area and unreasonable amenity impacts.

The non-compliance fails:

- To reduce amenity impacts on neighbours, including view loss
- To provide opportunities for deep soil landscape areas.
- To ensure that development does not become visually dominant.
- To ensure that the scale and bulk of buildings is minimised.
- To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.
- To provide reasonable sharing of views to and from public and private properties.

The proposed development results in an encroachment beyond the prescribed building envelope. This non-compliance is indicative of an unacceptable built form and contributes to the severe amenity loss.

A significant proportion of the proposed dwelling falls outside this building envelope.

Together with the breach of the height limit, the ADG breach will result in view loss, excessive bulk and scale, and significant visual impact.

We note that the control considered that some flexibility in applying this control should be provided on land where the building footprint has a steeper slope. This site cannot meet the criteria for this variation. In addition, we note that any constraint of topography is ultimately overcome by the proposal given the significant cut of the land form proposed. Under these circumstances, it would be contrary to the policy and inherently unreasonable to allow such a departure from the control.

We note that flexibility in relation to ADG controls may be acceptable where the outcomes of the control are demonstrated to be achieved. In this case, the control is unable to do so because:

- The design cannot achieve the desired future character as demonstrated earlier in this submission; and,
- The width and height of the design is significantly overbearing in relation to the spatial characteristics of the natural environment, and the confronting presentation to the waterway is not sensitive to this important visual catchment.
- By virtue of the unmitigated height breach and extensive building envelope breach, it is not possible to say that the bulk and scale of the built form has been minimised.

- View loss results from the non-compliant design and a reasonable and equitable sharing of views is not achieved.

The proposal will result in an unsatisfactory scale of built form that will be disproportionate and unsuitable to the dimensions of the site and neighbouring residential development.

The height and bulk of the development will result in unreasonable impacts upon the amenity of neighbouring properties with regard to visual dominance.

The excessive built form of the proposal results in a development where the building mass becomes visually dominant and imposing, particularly when viewed from the visual catchment of neighbouring properties

The cumulative effect of the non-compliances with setback and other development standard result in an over development of the site with the site being not suitable for the scale and bulk of the proposal.

## 9. INSUFFICIENT LANDSCAPE AREAS

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to provide adequate landscape area.

The proposal fails:

- To enable planting to maintain and enhance the streetscape.
- To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.
- To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low-lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.
- To enhance privacy between buildings.
- To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.
- To provide space for service functions
- To facilitate water management, including on-site detention and infiltration of stormwater.

Council's DCP with respect to the locality, requires that development respond to the natural environment and minimise the bulk and scale of buildings. The proposed development in its current form does not achieve this and provides inadequate pervious landscaped area at ground level.

## 10. CLAUSE 4.6 VARIATION REQUEST

Council cannot be satisfied that under clause 4.6 of the LEP seeking to justify a contravention of the development standard that the development will be in the

public interest because the proposed development is inconsistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

- The applicant's written request has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, or that there are sufficient environmental planning grounds to justify contravening the development standard to the extent proposed.
- The proposed development will not be in the public interest because it is inconsistent with the objectives of the height of buildings development standard or the objectives in the zone to provide for residential development of a low density and scale integrated with the landform and landscape.

There is nothing in the written request's consideration of the relationship between the proposal and the zone objectives which might provide sufficient environmental planning grounds for the breach.

The test is concerned with establishing sufficient environmental planning grounds to justify a contravention, something more than compliance or consistency with zone and development standard objectives must be sought.

The Applicant seeks to vary the height of buildings development standard.

The request relies upon the first way identified by Preston CJ in *Wehbe*. The first way in *Wehbe* is to establish that the objectives of the standard are achieved.

My clients contend that the variation has not responded to the objective of the maximum building height standard and given adequate reasoning why compliance is unreasonable or unnecessary.

My clients contend that:

- The written request does not establish that the development is consistent with the objectives of the standard as the proposal does not reasonably share public and private views.
- The written request does not establish that the development is consistent with the character compatibility objectives of the height standard in terms of FSR, maximum building height, number of storeys and wall height.

Furthermore, and in simple terms, I contend that:

- The development compromises amenity impacts on neighbours
- The development compromises private views and solar loss
- The development does not minimise visual impact
- the impacts are not consistent with the impacts that may be reasonably expected under the controls;
- the proposal's height and bulk do not relate to the height and bulk desired under the relevant controls;

- the area has a predominant existing character and are the planning controls likely to maintain it;
- the proposal does not fit into the existing character of the area;
- the proposal is inconsistent with the bulk and character intended by the planning controls;
- the proposal looks inappropriate in its context

The objectives of the standard have not been met.

The bulk and scale of the proposed development is inappropriate for the site and locality.

Strict compliance with the maximum building height is reasonable and necessary in the circumstances of this case.

In summary, the proposal does not satisfy the requirements of clause 4.6 of LEP 2014.

The variation of the standard would not be in the public interest because it would set a precedent for development in the neighbourhood, such that successive exceedances would erode the views enjoyed from other similar properties.

The proposed development is inconsistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

## 11. HERITAGE CONSERVATION CONCERNS

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to provide adequate heritage conservation outcomes, presenting non-compliant envelope controls that are visible from the heritage items, including:

- 11176, *House group (113–115A Victoria Street) including interiors and front fencing*, 11175, *Terrace house (111 Victoria Street) including interior and front fence* and 11174 *Terrace house (109 Victoria Street) including interior and front fence* at Nos. 101-115 Victoria Street, to the north of the site;
- 11178, *Terrace group including interiors and front fencing* at Nos. 119-121 Victoria Street, to the south of the site;
- 11180, *Terrace group including interiors* at Nos. 123-125 Victoria Street to the south of the site;
- 11177, *Flat building "Melton Flats" including interiors and front fence* at Nos. 116-118 Victoria Street, to the east of the site on the opposite side of Victoria Street;
- 11179, *Terrace group including interiors and front fencing* at Nos. 120–124 Victoria Street, to the east of the site on the opposite side of Victoria Street;

I agree with Council's earlier considerations:

## Heritage

### *Victoria Street Frontage*

*There is a steep escarpment below Victoria Street offering views across to the Central Business District. The site is located between heritage items to the north and south along Victoria Street and the existing building has generous side setbacks from these items. This allows views to and around the items from the street as well as across the site towards the city skyline. These views contribute to the streetscape character.*

*Any development on this site should be respectful of the adjoining heritage items and give consideration to the through site views and views to and from the heritage items. Further attention should be given to more appropriate side boundary setbacks to maintain the city view lines.*

*The rise of the Victoria Street built form over the Brougham Street built form is highly visible from The Domain and adds to the character of this HCA. It follows the line of the sandstone cliff face. The proposal should relate to the topography of the site. Consideration should be given to maintaining and enhancing a more stepped built form to reinforce that rise and acknowledge the line of the cliff face. View Impact Analysis should be undertaken.*

### *Brougham Street frontage*

*The Brougham Street streetscape is dominated by a sandstone cliff face which continues through the site. This is a highly visible and adds to the character of the street and the HCA. Section 3.5.1 and 4.2.3.5 of the Sydney DCP 2012 requires the retention of natural landscape features such as cliff faces and rocky outcrops. The existing building is appropriately sited to reduce excavation of the cliff face.*

*The proposed building extends fully to the northern and southern site boundaries and does not retain existing exposed cliff faces. Additionally, the proposal includes extensive excavation into the escarpment. The proposal is required to be amended to retain increased visibility of the cliff face on site and minimise excavation to the cliff. The proposed Brougham Street frontage should also be reduced in height and scale to better respect the scale of the existing building at 30A – 34 Brougham Street*

*The proposal is required to be amended to retain increased visibility of the cliff face on site and minimise excavation to the cliff. The proposed Brougham Street frontage should also be reduced in height and scale to better respect the scale of the existing building at 30A – 34 Brougham Street*

*The proposed development does not conserve the environmental heritage of the local area and does not conserve the heritage significance of the adjacent heritage items including settings and views.*

## 12. VEHICLE ACCESS, PARKING AND SERVICING

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as the design of the garage does not accord with the DCP provisions.

I agree with Council's earlier considerations:

*The proposal for vehicle access to the basement via Victoria Street is not supported. Clause 3H1 of the ADG and 3.11.11 of the Sydney DCP 2012 require car parking to be designed to be accessed from secondary streets where available.*

*Any proposed parking on site should be designed to be accessed via Brougham Street.*

*Please note, service vehicle parking spaces are required to be provided in accordance with the requirements of Schedule 7.8 and Section 3.11.13 of the Sydney DCP 2012. Further, clear plans for bicycle parking in accordance with Australian Standard AS2890.3 and Section 3.11.3 of Sydney DCP 2012 are required to be submitted.*

## 13. EXCESSIVE SWIMMING POOL

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as the height, setback, and envelope of the swimming pool is unacceptable.

My clients are concerned that the proposed roof top swimming pool will create unacceptable acoustic privacy outcomes.

## 14. IMPACTS UPON ADJOINING PROPERTIES: ADVERSE VIEW SHARING IMPACTS

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to achieve an appropriate view sharing outcome to neighbours.

The development application should be refused as it results in unacceptable view loss from adjoining and nearby residential dwellings.

Particulars:

- (a) The proposal is inconsistent with objectives of the DCP regarding views;
- (b) The proposal is inconsistent with objective and controls of the DCP regarding views and view sharing;
- (c) The proposal is inconsistent with the height of building development standard under LEP and the maximum number of storey and setback controls under the ADG;

(d) The application documentation has failed to accurately and comprehensively consider and document view loss impacts on affected neighbours;

(e) Given that the applicant has failed to undertake an actual view impact analysis associated with the individual impacted properties then the proposal is inconsistent with the Land and Environment Court Planning Principle contained in *Tenacity Consulting v Warringah Council* and in particular the "fourth step" regarding the reasonableness of the proposal in circumstances where impacts arise from a development that breaches planning controls; and secondly whether a more skilful design could reduce the impact on views of neighbours.

I contend that the view impact is considered devastating from the respective zones within the property given the significant proportion of the views which are impacted.

The aspect is considered views, which are certainly worthy of consideration.

The proposal to remove the vast majority of these views is considered overall to be a devastating view impact.

The development results in a loss of private views enjoyed by the neighbouring properties.

The development does not satisfy the objectives and planning controls of the DCP in respect to view loss.

The development exceeds the maximum quantum of development for the site by contravening development standards and planning controls.

The reduction of private views enjoyed by the neighbouring properties is attributed to the breaches of statutory development standards and planning controls that regulate the building envelope.

The proposed scale and design are not considered to take into account site or area planning to protect available water views. The proposed height, design and roof form are not considered to promote or maximise the opportunity of achieving the 'reasonable sharing of views' and some view access to be maintained for neighbours. It is considered that design options do exist, in terms of 'innovative design solutions' to improve the urban environment, including maintaining view access in the area and tapering built form with the sloping topography. The application does not detail whether or which 'skilful' design options have been considered in accordance with the Planning Principle established by the Land and Environment Court in *Tenacity Consulting v Warringah Council* (2004) NSWLEC 140. The principle seeks to achieve a development whilst allowing reasonable view access. The available information does not provide current height poles or a view montage to clearly quantify the views blocked or protected by the current design. At a reduced height, with a lower roof form, the building could potentially allow some view across. It is considered reasonable to request a revised design in order to protect the public interest.

Height poles are to be erected and are to be certified by a registered surveyor.

View impact photographs are to be taken from my client's property and public places.

View impact photomontages prepared in accordance with the Land and Environment Court policy on the use of photomontages are to be prepared from the view impact photographs.

I consider that my clients' view loss is greater than moderate. My clients' loss is best defined as devastating.

For proposed developments where there is the potential for view loss from nearby or adjoining properties, consideration must be given to the view sharing principles detailed in the judgement handed down by the NSW Land and Environment Court under *Tenacity Consulting v Warringah Council*.

In relation to principle four of this judgement (being the 'assessment of the reasonableness of the proposal that is causing the impact'), it is considered that a development which complies with all planning controls would be deemed more reasonable than one that is non-compliant. The proposal, as it currently stands, presents numerous non-compliances to the planning controls listed under the LEP and DCP. This brings into question as to whether a more 'skilful' (or sensitive) design would achieve an improved and acceptable outcome, and as such allowing for an acceptable level of view sharing.

In this instance, it must be strongly recommended that the non-compliant envelope is redesigned to respond to, and address, principle four of *Tenacity Consulting v Warringah Council*, which would provide the Applicant with a similar amenity while also reducing the view impact to an acceptable level on adjoining properties. An alternative design outcome could be achieved involving a reduction to the internal floor space of the proposed upper level.

In this instance, alternative design outcomes are encouraged to appropriately and satisfactorily address the four-part assessment of *Tenacity Consulting v Warringah Council*.

The proposed development when considered against the DCP and the NSW Land and Environment Court Planning Principle in *Tenacity Consulting Pty Ltd v Warringah Council (2004) NSWLEC* will result in an unacceptable view impact and will not achieve appropriate view sharing.

The proposed development will result in unacceptable additional view impacts. The view impact is greater than moderate when considered against the *Tenacity* planning principle. The view impact could reasonably be avoided by a more considered design that retains the amenity of the proposal, whilst limiting the impact upon the neighbouring property.

The proposed development will unreasonably obstruct views enjoyed by my clients' property from highly used rooms and from entertainment balconies, resulting in inconsistency with the requirements and objectives of the DCP.



The Applicant has not provided an adequate View Impact Analysis which details the extent to which existing views from my clients' property, and other impacted dwellings, are obstructed under the current proposal. The existing documentation accompanying the application is insufficient to undertake a detailed analysis of the proposal against the relevant DCP and NSWLEC guidelines.

The proposal may also cause potential view loss of the views from the public road, and may cause potential view loss from other neighbours who have not been notified of this DA.

The SEE has not considered the loss of street view loss from the public domain. The impact on public domain views has not been assessed by the applicant. I refer to *Rose Bay Marina Pty Limited v Woollahra Municipal Council* 2013 NSWLEC 1046. My clients contend that the public domain street view will be completely lost.

#### TENACITY CONSULTING V WARRINGAH COUNCIL 2004

In *Tenacity*, [*Tenacity Consulting v Warringah Council* 2004], NSW LEC considered Views. *Tenacity* suggest that Council should consider:

*"A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable."*

The development breaches multiple planning controls and is unreasonable.

My clients contend that the impact on views arises as a result of non-compliance with one or more planning controls, and the view loss from the highly used rooms and decks is considered unreasonable.

#### APPLICATION OF TENACITY PLANNING PRINCIPLE

I have been unable to consider the impact of the proposal on the outward private domain views from my clients' property.

Height poles and montage view loss analysis has yet to be provided by the Applicant.

An assessment in relation to the planning principle of *Roseth SC of the Land and Environment Court of New South Wales in Tenacity Consulting v Warringah* [2004] NSWLEC 140 - Principles of view sharing: the impact on neighbours (*Tenacity*) is made, on a provisional basis ahead of height poles being erected by the Applicant.

The steps in *Tenacity* are sequential and conditional in some cases, meaning that proceeding to further steps may not be required if the conditions for satisfying the preceding threshold is not met.

#### STEP 1 VIEWS TO BE AFFECTED

The first step quoted from the judgement in Tenacity is as follows:

*The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

An arc of view is available when standing at a central location in the highly used zones including entertainment decks, highly used rooms, and private open spaces on my clients' property.

The proposed development will impact upon views.

The composition of the arc is constrained over the subject site boundaries, by built forms and landscape. The central part of the composition includes the subject site. Views include scenic and valued features as defined in Tenacity. The proposed development will take away views for its own benefit. The view is from my clients' highly used rooms towards the view. The extent of view loss exceeds moderate and the features lost are considered to be valued as identified in Step 1 of Tenacity.

## STEP 2: FROM WHERE ARE VIEWS AVAILABLE

This step considers from where the affected views are available in relation to the orientation of the building to its land and to the view in question. The second step, quoted, is as follows:

*The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

The views in all cases are available across the boundary of the subject site, from standing and seated positions. An arc of view is available when standing at highly used zones on my clients' property.

In this respect, I make two points: My clients have no readily obtainable mechanism to reinstate the impacted views from my clients' high used zones if the development as proposed proceeds; and all of the properties in the locality rely on views over adjacent buildings for their outlook, aspect and views.

## STEP 3: EXTENT OF IMPACT

The next step in the principle is to assess the extent of impact and the locations from which the view loss occurs.

Step 3 as quoted is:

*The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

As I rate the extent of view loss is above moderate in my opinion the threshold to proceed to Step 4 of Tenacity is met.

VIEW LOSS IMPACTS  
ALL DEVASTATING OUTCOMES





#### STEP 4: REASONABLENESS

The planning principle states that consideration should be given to the causes of the visual impact and whether they are reasonable in the circumstances.

Step 4 is quoted below:

*The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

NSWLEC Commissioner Walsh in *Balestriere v Council of the City of Ryde* [2021] NSWLEC 1600 in relation to the Fourth Step:

*There are three different points to the fourth Tenacity step, concerned with assessing the reasonableness of the impact, which I summarise as follows:*

*Point 1 - Compliance, or otherwise, with planning controls.*

*Point 2 - If there is a non-compliance, then even a moderate impact may be considered unreasonable.*

*Point 3 - For complying proposals: (a) "whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours to bring about impact", and (b) "if the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable".*

*In respect to Point 3, NSWLEC Commissioner Walsh in *Furlong v Northern Beaches Council* [2022] NSWLEC 1208 referenced *Wenli Wang v North Sydney Council* [2018] NSWLEC 122, in considering that if a more skilful design could be achieved arriving at an outcome that achieved 'a very high level of amenity and enjoy impressive views', then a proposed development has gone too far, and must be refused.*

As the proposed development does not comply with outcomes and controls, that are the most relevant to visual impacts, greater weight would be attributed to the effects caused.

In my opinion the extent of view loss considered to be the greater than moderate, in relation to the views from my clients' highly used zones of my clients' dwelling. The view is from a location from which it would be reasonable to expect that the existing view, particularly of the view that could be retained especially in the context of a development that does not comply with outcomes and controls. The private domain visual catchment is an arc from which views will be affected as a result of the construction of the proposed development. The proposed development will

create view loss in relation to my clients' property. The views most affected are from my clients' highly used zones and include very high scenic and highly valued features as defined in Tenacity. Having applied the tests in the Tenacity planning principle I conclude that my clients would be exposed to a loss greater than moderate from the highly used rooms. The non-compliance with planning outcomes and controls of the proposed development will contribute to this loss. Having considered the visual effects of the proposed development envelope, the extent of view loss caused would be unreasonable and unacceptable.

The proposed development cannot be supported on visual impacts grounds. The proposal incorporates a significant departure from controls, which helps contain building envelope. Additionally, the siting of the proposed development and its distribution of bulk does not assist in achieving view sharing objectives. Where the diminishing of private views can be attributed to a non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. My assessment finds that view sharing objectives have not been satisfied.

The above non-compliance will give rise to unreasonable amenity impacts upon the adjoining properties. In this instance, the proposal is not considered to achieve compliance with this control.

There are architectural solutions that maintains my clients' view. I identify the precise amendments necessary to overcome this loss.

As noted by his Honour, Justice Moore of the Court in *Rebel MH Neutral Bay Pty Ltd v North Sydney Council* [2018] NSWLEC 191 (Rebel),

*“the concept of sharing of views does not mean, for the reasons earlier explained, the creation of expansive and attractive views for a new development at the expense of removal of portion of a pleasant outlook from an existing development. This cannot be regarded as “sharing” for the purposes of justifying the permitting of a non-compliant development when the impact of a compliant development would significantly moderate the impact on a potentially affected view”.*

The same unreasonable scenario in Rebel applies to the current DA. The proposed breaching dwelling will take away views from my clients' property (and possibly other adjoining properties) to the considerable benefit of the future occupants of the proposed dwelling. This scenario is not consistent with the principle of View Sharing enunciated by his Honour, Justice Moore in Rebel. The adverse View Loss from my clients' property is one of the negative environmental consequences of the proposed development. The proposed development cannot be supported on visual impacts grounds.

These issues warrant refusal of the DA.

My clients ask Council to request that the Applicant position 'Height Poles/Templates' to define the non-compliant building envelope, and to have these poles properly measured by the Applicant's Registered Surveyor. The Height Poles will need to define: All Roof Forms, and all items on the roof, Extent of all Decks, Extent of Privacy Screens. Height Poles required for all trees. The Applicant will have



to identify what heights and dimensions are proposed as many are missing from the submitted DA drawings.

In conclusion, as the dwelling proposed will impact views from my clients' property, the erection of height poles is required to allow an accurate assessment of view impact. The height poles should provide a delineation to identify any elements of the proposed built form that breaches the envelope controls of height and setbacks.

My clients contend that the proposed development when considered against the DCP and the NSW Land and Environment Court Planning Principle in *Tenacity Consulting Pty Ltd v Warringah Council (2004) NSWLEC* will result in an unacceptable view impact and will not achieve appropriate view sharing.

My clients contend that the proposal is contrary to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* in that it does not satisfy the view sharing controls of the DCP.

#### 15. IMPACTS UPON ADJOINING PROPERTIES: OVERSHADOWING

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it will have unacceptable impacts upon the amenity of neighbours' property, specifically with regard to overshadowing.

The Applicant has not provided adequate Solar Access Diagrams, at one hourly intervals, in plan and elevation of my clients' property, to assess the loss of solar access at mid-winter, of my client's windows, private open space, and PV Solar Panels to accord with DCP controls and NSWLEC planning principles

My clients believe that further assessment of the shadow impacts through the production of elevational shadow diagrams or a "View from the Sun" assessment are critical in order to understand the potential future impacts and necessary for Council's reasonable assessment.

Shadow diagrams have not included the additional shadow cast by the non-complaint envelope, in plan and elevation. The elevational shadow diagrams must show the position of windows on adjoining properties.

The proposed development should be refused as it will have unacceptable impacts upon the amenity of adjoining properties, specifically with regard to overshadowing.

The proposed development will result in unreasonable overshadowing of the windows of my clients' property and the private open space of my clients' property, resulting in non-compliance with the provisions of DCP.

A variation to the DCP is not supported as the objectives of the clause are not achieved.



In *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082 the LEC consolidated and revised planning principle on solar access is now in the following terms:

*“Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.”*

My clients contend that the overshadowing arises out of poor design. The design does not respect envelope controls, and must be considered ‘poor design’.

The Applicant has not submitted hourly solar diagrams to fully assess the solar loss. My clients ask Council to obtain these diagrams.

The loss of sunlight is directly attributable to the non-compliant envelope.

The planning principle *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082 is used to assess overshadowing for development application. An assessment against the planning principle is provided as follows:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*

The density of the area is highly controlled. Building envelope controls have been exceeded.

- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*

The solar diagrams are not complete, but what has been provided shows that the proposed development will overshadow the adjoining dwellings. The amount of sunlight that will be lost will only be able to be fully considered once solar elevational drawings are submitted. What has been submitted gives the very clear indication that the outcome is not in accordance with controls

- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*

The proposed development has been designed without considering the amenity of the neighbouring properties. It is considered that a more skilful design, with a compliant envelope control, could have been adopted that would have reduced the impact on the neighbouring properties. What has been submitted gives the very clear indication that the outcome is not in accordance with controls

- *To be assessed as being in sunlight, the sun should strike a vertical surface at a horizontal angle of 22.5o or more. (This is because sunlight at extremely oblique angles has little effect.) For a window, door or glass wall to be assessed as being in sunlight, half of its area should be in sunlight. For private open space to be assessed as being in sunlight, either half its area or a useable strip adjoining the living area should be in sunlight, depending on the size of the space. The amount of sunlight on private open space should be measured at ground level.*

This can only be fully assessed once elevational solar drawings at hourly intervals are submitted. What has been submitted gives the very clear indication that the outcome is not in accordance with controls

- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*

There is no major overshadowing as a result of vegetation

- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as Well as the existing development.*

The area is not currently undergoing change, the LEP and DCP controls have not altered for many years.

The assessment of the development against the planning principal results in the development not complying with the solar access controls and therefore amended plans should be requested to reduce the overshadowing impact on the adjoining neighbour. It is suggested that a more skilful design of the development, with a compliant envelope control, would result in less impact in regard to solar access. It is requested that Council seek amended plans for the development to reduce the impact of the development, and these matters are addressed elsewhere in this Written Submission.

My clients object to solar loss to my clients' private open space, and to my clients' windows that fails to allow mid-winter solar access into highly used room by non-compliant development controls.

## 16. IMPACTS UPON ADJOINING PROPERTIES: ACOUSTIC PRIVACY

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it will have unacceptable impacts upon the amenity of neighbours' property, specifically with regard to visual privacy.

The proposed development should be refused as it will have unacceptable impacts upon the amenity of my clients' property, specifically with regard to acoustic privacy in relation to the car lifts and roof top pool zone.

The proposed development will result in unacceptable overlooking of the adjoining dwelling and associated private open space, resulting in inconsistency with the provisions of the DCP and the objectives of the DCP.

## 17. IMPACTS UPON ADJOINING PROPERTIES: ENGINEERING

### FLOOD CONCERNS

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to provide adequate flood protection.

The proposed development does not accord with flood control.

I contend that there appears to be adverse flood impact mapping to specifically compare against the adverse impact definition in the LEP and DCP.

If there are any exceedances of the allowed impacts on public or neighbouring properties, then a full suite of impacts mapping should be provided, including depth, level, velocity and VD difference caused by the development in the 20%, 1% and PMF events.

My clients are concerned that there is no adequate Overland Flood Study to include: Hydrological data Hydraulics data; Catchment plan showing sub-catchments (where applicable); Computer model such as HEC-RAS showing the 1%; AEP stormwater flow over the subject site; Cross sections detailing the 20% and 1% AEP water surface levels traversing the site; Extent of water surface levels to extend upstream and downstream of the subject property; Any overland flow mitigation measures to protect the proposed development from stormwater inundation must not exacerbate flooding for adjoining properties by diverting more flows to adjoining properties.

There appears to be no consideration of Digital Elevation Model [DEM] by the New South Wales Government Spatial Services 1m contour DEM through the Intergovernmental Committee on Surveying and Mapping ELVIS web site.

There appears to be no consideration to construct a higher resolution DEM from the LiDAR point cloud.

There appears to be no consideration to construct a higher resolution DEM so that a Strahler Stream Order could be generated that defined flow pathways within the Study Site and surrounding catchments.

My clients ask Council to address the following:

- Council is to ensure that the works proposed on the site are capable of accommodating all storm events including the 1 in 100 year design storm with no adverse impacts to my clients' property.

- Council is to ensure that the overland flow path provided is capable of accommodating all reasonable development and redevelopment in the catchment draining to the proposed overland flow path.
- Council is to ensure that the development will not result in a net loss in flood storage or floodway in 1% AEP flood. These calculations must be provided and mapping of the floodway in relation to the proposed building must also be provided.
- Council is to ensure that my clients' property will have no increase in PMF levels and PMF peak velocity on neighbouring properties.

#### EXCESSIVE EXCAVATION & GEOTECHNICAL CONCERNS

The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to provide minimal excavation.

The proposed FSR is 25% larger than the standard, and that excessive GFA creates 25% more apartments, creating 25% more car parking, and 25% more excavation than would be expected under the LEP standards.

#### 18. PRECEDENT

The Development Application should be refused because approval of the proposal will create an undesirable precedent for similar inappropriate development in the area.

#### 19. PUBLIC INTEREST

The proposal is contrary to the public interest pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*. The proposed development is not in the public interest as the development is inconsistent with the scale and intensity of development that the community can reasonably expect to be provided on this site by nature of the applicable controls. The development does not represent orderly development of appropriate bulk, scale or amenity impact in the locality and approval of such a development would be prejudicial to local present and future amenity as well as desired future character and therefore is not in the public interest.

#### D. CONTENTIONS THAT RELATE TO INSUFFICIENT & INADEQUATE INFORMATION

The applicant has not submitted sufficient and/or adequate information as requested by Council under Part 6, Division 1 Clause 54 of the EPA Regulation 2000 to enable a reasonable assessment under the applicable legislation.

The application lacks sufficient detail to make an informed assessment particularly with respect to determining the extent of the following matters and the relationship and impact to adjoining neighbours.

##### Height

I ask Council to request that the applicant superimpose the Registered Surveyors plan detail with all spot levels and contours onto the Roof Plan, with all proposed RLs shown, so that a full assessment can be made on HOB.

##### View Impact Analysis

The Applicant has not provided an adequate View Impact Analysis which details the extent to which existing water views from my clients' property are obstructed under the current proposal, from the proposed built form and the proposed trees, to accord with DCP controls and NSWLEC planning principles

My clients ask Council that after amended plans are submitted to reduce the building envelope below building height, wall height, and all envelope controls, to request that the Applicant position 'Height Poles/Templates' to define the non-compliant building envelope, and to have these poles properly measured by the Applicant's Registered Surveyor. The Height Poles will need to define: All Roof Forms, and all items on the roof, Extent of all Decks, Extent of Privacy Screens. Height Poles required for all trees. The Applicant will have to identify what heights and dimensions are proposed as many are missing from the submitted DA drawings.

##### Solar Access Diagrams

The Applicant has not provided adequate Solar Access Diagrams, at one hourly intervals, in plan and elevation of my clients' property, to assess the loss of solar access at mid-winter, to accord with DCP controls and NSWLEC planning principles

My clients believe that further assessment of the shadow impacts through the production of elevational shadow diagrams or a "View from the Sun" assessment are critical in order to understand the potential future impacts and necessary for Council's reasonable assessment.

##### Privacy Impact Analysis

The Applicant has not provided an adequate Privacy Impact Analysis, to accord with DCP controls and NSWLEC planning principles.

## Visual Bulk Analysis

The Applicant has not provided adequate montages from my clients' property to assess the visual bulk assessment from the proposed non-compliant envelope.

## Existing and Finished Ground Levels

Spot levels and contour lines from the Registered Surveyors drawings have not been transferred to the proposed DA drawings of plans, sections, and elevations to enable an assessment of height and the relationship and impact to adjoining neighbours. Neighbour's dwellings have not been accurately located on plans, sections and elevations, including windows and decks, to enable a full assessment of the DA.

## Flood

I contend that there appears to be adverse flood impact mapping to specifically compare against the adverse impact definition in the LEP and DCP. If there are any exceedances of the allowed impacts on public or neighbouring properties, then a full suite of impacts mapping should be provided, including depth, level, velocity and VD difference caused by the development in the 20%, 1% and PMF events.

## Geotechnical

The Applicant has not provided adequate protection to my clients' property from excessive excavation and potential land slip and damage to my clients' property, including excessive vibration limits, lack of full-time monitoring of the vibration, incomplete dilapidation report recommendations, incomplete attenuation methods of excavation, exclusion of excavation in the setback zone, exclusion of anchors under my clients' property, and incomplete consideration of battering in the setback zone. The geotechnical requirements referred to earlier must be added to the Geotechnical Report. My clients ask for the Geotechnical Report to be updated to include these matters, and the recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report are to be incorporated into the construction plans. In Medium Strength Rock the use of better techniques to minimise vibration transmission will be required. These include: Rock sawing the excavation perimeter to at least 1.0m deep prior to any rock breaking with hammers, keeping the saw cuts below the rock to be broken throughout the excavation process; Limiting rock hammer size to 300kg, with a 5t excavator as a maximum; Rock hammering in short bursts so vibrations do not amplify. Rock breaking with the hammer angled away from the nearby sensitive structures; Creating additional saw breaks in the rock where vibration limits are exceeded; Use of rock grinders (milling head). Should excavation induced vibrations exceed vibration limits after the recommendations above have been implemented, excavation works are to cease immediately.

## E. REQUEST FOR AMENDED PLANS TO BE SUBMITTED TO BETTER ADDRESS IMPACTS UPON ADJOINING PROPERTIES

A compliant building design would reduce the amenity impacts identified.

Prepare and submit further supporting information and amendments to the assessing officer directly addressing the issues.

Reduce the proposed development as follow:

### 1. REDUCTION OF BUILT FORM

- Maintain existing side setbacks to Victoria Street to share the view, and reduce flood risks
- Relocate vehicle access to Broughton Street
- Reduce the Building Height to 15m, and to step the built form down the slope, in a maximum of four storey above EGL
- Decrease FSR to LEP standards
- Increase Side Setback to ADG controls
- Increase Landscape Area to controls
- Decrease excavation, with no excavation or fill in side setback zone
- Tree planting shall be located to minimise impacts on view loss, with no trees over 3m in the viewing corridor
- Delete Roof Top Pool, and reduce the hours of access to Roof Top Open Space to be 8am to 6pm.

### 2. CONDITIONS OF ANY CONSENT

My client asks for a complete set of Conditions to be included within any consent, including, but not limited to, the following:

- Deferred Commencement Condition - Construction Traffic Management Plan

Conditions which must be satisfied prior to the demolition of any building or construction

- Acoustic Certification of Mechanical Plant and Equipment
- Arborists Documentation and Compliance Checklist
- BASIX Commitments
- Checking Construction Certificate Plans – Protecting Assets Owned by Sydney Water
- Construction Certificate Required Prior to Any Demolition
- Electric vehicle circuitry and electric vehicle charging point requirements
- Engineer Certification
- Establishment of Tree Protection Zone (TPZ) Fence
- Geotechnical and Hydrogeological Design, Certification and Monitoring

- Ground Anchors
- Identification of Hazardous Material
- Light and Ventilation
- No Underpinning works
- Noise Control - Acoustic Protection of adjoining residential units-Operation of Air Conditioning Plant
- Noise Control - Swimming pool/spa pool pumps and associated equipment
- Parking Facilities
- Payment of Long Service Levy, Security, Contributions and Fees
- Professional Engineering Details
- Public Road Assets Prior to Any Work/Demolition
- Road and Public Domain Works
- Soil and Water Management Plan – Submission and Approval
- Stormwater Management Plan
- Swimming and Spa Pools – Backwash
- Swimming and Spa Pools – Child Resistant Barriers
- Tree Management Plan
- Ventilation - Internal Sanitary Rooms
- Utility Services Generally
- Waste Storage – Per Single Dwelling

Conditions which must be satisfied prior to the commencement of any development work

- Adjoining Buildings Founded on Loose Foundation Materials
- Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 of the Act)
- Compliance with Building Code of Australia and insurance requirements under the
- Dilapidation Reports for Existing Buildings
- Erosion and Sediment Controls – Installation
- Establishment of Boundary Location, Building Location and Datum
- Home Building Act 1989
- Notification of Home Building Act 1989 requirements
- Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection
- Site Signs
- Toilet Facilities
- Works (Construction) Zone – Approval and Implementation

Conditions which must be satisfied during any development work

- Asbestos Removal Signage
- Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum
- Classification of Hazardous Waste
- Compliance with Australian Standard for Demolition



- Compliance with BCA and Insurance Requirements under the Home Building Act 1989
- Compliance with Council's Specification for Roadworks, Drainage and
- Compliance with Geotechnical / Hydrogeological Monitoring Program
- Miscellaneous Works, Road Works and, Work within the Road and Footway
- Critical Stage Inspections
- Disposal of Site Water During Construction
- Disposal of Asbestos and Hazardous Waste
- Dust Mitigation
- Erosion and Sediment Controls – Maintenance
- Footings in the vicinity of trees
- Hand excavation within tree root zones
- Hours of Work –Amenity of the Neighbourhood
- Installation of stormwater pipes and pits in the vicinity of trees
- Level changes in the vicinity of trees
- Notification of Asbestos Removal
- Maintenance of Environmental Controls
- Placement and Use of Skip Bins
- Prohibition of Burning
- Public Footpaths – Safety, Access and Maintenance
- Replacement/Supplementary trees which must be planted
- Requirement to Notify about New Evidence
- Site Cranes
- Site Waste Minimisation and Management – Construction
- Site Waste Minimisation and Management – Demolition
- Support of Adjoining Land and Buildings
- Tree Preservation
- Vibration Monitoring

Conditions which must be satisfied prior to any occupation or use of the building  
(Part 6 of the Act and Part 8 Division 3 of the Regulation)

- Amenity Landscaping
- Certification of Electric Vehicle Charging System
- Commissioning and Certification of Public Infrastructure Works
- Commissioning and Certification of Systems and Works
- Occupation Certificate (section 6.9 of the Act)
- Letter Box
- Swimming and Spa Pools – Permanent Child Resistant Barriers and other Matters
- Swimming Pool Fencing

Conditions which must be satisfied prior to the issue of the Occupation Certificate for the whole of the building

- Fulfillment of BASIX Commitments – clause 154B of the Regulation
- Landscaping
- Positive Covenant and Works-As-Executed Certification of Stormwater Systems
- Removal of Ancillary Works and Structures

- Road Works (including footpaths)

Conditions which must be satisfied during the ongoing use of the development

- Maintenance of BASIX Commitments
- Noise Control
- Noise from mechanical plant and equipment, including swimming pool plant
- Ongoing Maintenance of the Onsite Stormwater Detention (OSD) System, Rain Garden and Rainwater Tank
- Outdoor Lighting – Residential
- Outdoor Lighting – Roof Terraces
- Swimming and Spa Pools – Maintenance

Advising

- Asbestos Removal, Repair or Disturbance
- Builder's Licences and Owner-builders Permits
- Building Standards - Guide to Standards and Tolerances
- Commonwealth Disability Discrimination Act 1992
- Criminal Offences – Breach of Development Consent and Environmental Laws
- Dial Before You Dig
- Dilapidation Report
- Dividing Fences
- Lead Paint
- NSW Police Service and Road Closures
- Pruning or Removing a Tree Growing on Private Property
- Pruning or Removing a Tree Growing on Private Property
- Recycling of Demolition and Building Material
- Release of Security
- Roads Act 1993 Application
- SafeWork NSW Requirements
- Workcover requirements

## F. REASONS FOR REFUSAL

My clients ask Council to refuse the DA as the proposal is contrary to the Environmental Planning and Assessment Act:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of the Environmental Planning and Assessment Act 1979
2. Adverse visual impacts to adjoining properties. The proposal raises the potential for adverse visual impacts and associated view impacts to the adjoining properties. In this regard, the proposal is contrary to the provisions of the aims of the LEP
3. Adverse solar impacts to adjoining properties. The proposal raises the potential for adverse visual impacts and associated solar impacts to the adjoining properties. In this regard, the proposal is contrary to the provisions of the aims of the LEP.
4. Adverse visual and acoustic privacy impacts to adjoining properties. The proposal does not demonstrate effective mitigation of overlooking to adjoining properties from balconies and windows.
5. The extent of excavation is excessive. The proposal is contrary to the objective of the DCP, in that it does not minimise excavation and has potential adverse impacts on existing and proposed vegetation.
6. Council is not satisfied that under clause 4.6 of the LEP seeking to justify a contravention of the development standard that the development will be in the public interest because it is inconsistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.
7. The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy objectives and planning controls of LEP:
  - Aims of Plan
  - Zone Objectives
  - Height of Buildings
  - FSR
  - Exceptions to Development Standards
  - Heritage
  - Flood
  - Earthworks

- Geotechnical Hazards
8. The proposal is contrary to Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* as it fails to satisfy objectives and planning controls of DCP:
    - Excessive Number of Storey
    - Unacceptable Building Separation
    - Insufficient Landscape Areas
    - Poor Carpark Design
    - Excessive Swimming Pool Envelope
    - Excessive Excavation & Geotechnical Concerns
    - Flood Concerns
    - Poor Streetscape Outcomes
    - Heritage Conservation Concerns
    - Impacts Upon Adjoining Properties: View Loss
    - Impacts Upon Adjoining Properties: Overshadowing
    - Impacts Upon Adjoining Properties: Privacy
    - Impacts Upon Adjoining Properties: Visual Bulk
  9. The proposal is contrary to Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* in that the plans and documentation are misleading as they do not clearly portray the true extent of works proposed. The plans include inaccuracies and inconsistencies and insufficient information has been provided in order to enable a detailed assessment. Dimensions to boundaries have not been shown in all locations of all proposed built elements. Levels on all proposed works have not been shown.
  10. The proposal is contrary to Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* in that the proposal would not satisfy the matters for consideration under Biodiversity & Conservation SEPP 2021 and Resilience & Hazards SEPP 2021
  11. The proposal is contrary to Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* in that it will have an adverse impact through its bulk, scale and siting on the built environment, and through lack of landscape provision, and adverse impact on the natural environment. The proposed development will have a detrimental impact on the visual amenity of the adjoining properties by virtue of the excessive building bulk, scale and mass of the upper floor and its associated non-compliant envelope.
  12. The site is not suitable for the proposal pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979* in that this area of the site is unsuitable for a development of such excessive bulk and scale.
  13. The proposals are unsuitably located on the site pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.
  14. The proposal does not satisfy Section 4.15(1)(d) of the *Environmental Planning and Assessment Act 1979* in that the proposal does not adequately address the amenity of neighbours
  15. The proposal is contrary to the public interest pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*. The proposed development is not in the public interest as the development is inconsistent with the scale and intensity of development that the community can

reasonably expect to be provided on this site by nature of the applicable controls. The development does not represent orderly development of appropriate bulk, scale or amenity impact in the locality and approval of such a development would be prejudicial to local present and future amenity as well as desired future character and therefore is not in the public interest. The proposed development will have a detrimental impact on the amenity of adjoining residential properties, and for this reason is contrary to the public interest.

## G. CONCLUSION

The proposed development is not consistent with the intent of the LEP standards and DCP controls as they are reasonably applied to the proposal.

The variations to LEP standards and DCP controls are considered unreasonable in this instance. The cumulative effect on these non-compliances causes considerable amenity loss to my clients' property.

The development will not sit well within the streetscape with non-compliance to LEP standards and DCP controls causing considerable concern. In this regard, the proposal is considered excessive in bulk and scale and would be considered jarring when viewed from the public domain.

Commissioner Moore revised the NSWLEC planning principle for assessing impacts on neighbouring properties within *Davies v Penrith City Council* [2013] NSWLEC 1141

*"The following questions are relevant to the assessment of impacts on neighbouring properties:*

*How does the impact change the amenity of the affected property? How much sunlight, view or privacy is lost as well as how much is retained?*

*How reasonable is the proposal causing the impact?*

*How vulnerable to the impact is the property receiving the impact? Would it require the loss of reasonable development potential to avoid the impact?*

*Does the impact arise out of poor design? Could the same amount of floor space and amenity be achieved for the proponent while reducing the impact on neighbours?*

*Does the proposal comply with the planning controls? If not, how much of the impact is due to the non-complying elements of the proposal?"*

My clients contend that the proposed development severely impacts my clients' property, and in terms of amenity, there is excessive sunlight, view or privacy loss. The loss is unreasonable. My clients' property is not vulnerable to the loss that is presented. The loss arises out of poor design, either through non-compliance to envelope controls or poorly located built form.

It is considered that the proposal is inappropriate on merit and unless amended plans are submitted, this DA must be refused for the following reasons:

- The application has not adequately considered and does not satisfy the various relevant planning controls applicable to the site and the proposed development.
- The proposed dwelling is incompatible with the existing streetscape and development in the local area generally.
- The proposed dwelling will have an unsatisfactory impact on the environmental quality of the land and the amenity of surrounding properties.
- The site is assessed as unsuitable for the proposal, having regard to the relevant land use and planning requirements.

It is considered that the public interest is not served.

The proposed development does not follow the outcomes and controls contained within the adopted legislative framework.

Having given due consideration to the matters pursuant to Section 4.15 of the Environmental Planning and Assessment Act, 1979 as amended, it is considered that there are multiple matters which would prevent Council from granting consent to this proposal in this instance.

The proposed development represents an overdevelopment of the site and an unbalanced range of amenity impacts all of which would result in adverse impacts on my clients' property. Primarily,

- The development compromises amenity impacts on neighbours
- The development compromises private views and solar loss
- The development does not minimise visual impact

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent with the zone objectives of the LEP
- Inconsistent with the aims of the LEP
- Inconsistent with the objectives of the DCP
- Inconsistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the EPAA 1979

The proposed development does not satisfy the appropriate controls. Furthermore, the proposal would result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community, and is therefore not in the public interest. The proposal therefore must be refused.

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have not been satisfactorily addressed.

We ask that if Council in their assessment of this application reveals unsupported issues, which prevent Council from supporting the proposal in its current form, and writes to the applicant describing these matters, we ask for that letter to be forwarded to us.

My clients trust that Council will support my clients' submission and direct the proponent to modify the DA plans, as outlined above. My clients ask Council Officers to inspect the development site from my clients' property so that Council can fully assess the DA.

Unless the Applicant submits Amended Plans to resolve all of the adverse amenity impacts raised within this Submission, my clients' ask Council to REFUSE this DA.

Yours faithfully,

*Bill Tulloch*

Bill Tulloch BSc [Arch] BArch [Hons1] UNSW RIBA Assoc RAIA  
PO Box 440 Mona Vale  
NSW 1660



**From:** Rod Nash [REDACTED]  
**Sent on:** Monday, October 16, 2023 3:06:40 PM  
**To:** dasubmissions@cityofsydney.nsw.gov.au  
**CC:** [REDACTED]  
**Subject:** Submission - D/2023/862 - 117 Victoria Street POTTS POINT NSW 2011 - Attention Julia Errington  
**Attachments:** Letter of Objection - D 2023 682 from SP13672.pdf (439.07 KB)

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

Dear Julia,

Please find attached your formal submission to D/2023/862 on behalf of the Owners Corporation of SP13672 of the adjoining property at 101 115 Victoria St, Potts Point.

We would welcome an opportunity to discuss our concerns with CoS once you are ready to review our response.

Kind Regards

Rod Nash

I write in my capacity as Chair of the Strata Committee for the Owners Corporation of Strata Plan 13672 – Victoria Point, located at 101-115 Victoria Street, Potts Point. The Owners Corporation has several concerns and objections to the development planned for the adjacent property at 117 Victoria Street under Development Application D/2023/862.

It should be noted that the street numbering detailed in this application is erroneous for several of our buildings. This is important as this letter of objection will refer to the correct address, not the address' listed in the application:

- The property immediately adjacent to the proposed development facing Victoria St is 115A, not 115B as referred to in the application.
- The property referred to as 101-115 adjacent to the application on the north western boundary is building 115B.
- Whilst 101-115 Victoria Street refers to “Victoria Point” in general, the buildings that are directly affected by this application includes the heritage house at 115A and the buildings sitting upon the rock face adjacent to the proposed excavation - 115B, 105, 103, 101A, 101B.



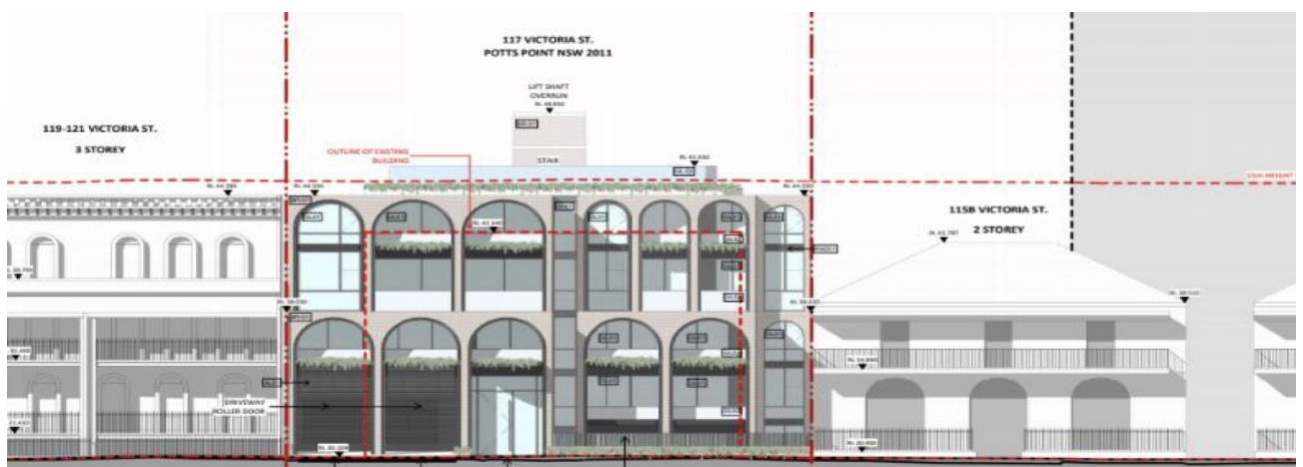
## Objection 1.

115A is a free standing, double fronted house listed as a heritage item under Schedule 5 of the Sydney LEP 2012. The current proposal includes building directly on the property boundary, in effect bricking over 5 windows of the house. One of these is a bedroom window. This is an unacceptable loss of amenity for the residents of 115A. These windows provide light and a cross draft into this building.

The current building at 117 Victoria St was constructed circa 1964 (according to the Heritage Impact Statement of the development). Presumably, the side set back of the existing building reflected the windows on the southern face of what is now 115A Victoria Street.



Proposed development illustration below showing building to the boundary and completely blocking all 5 windows on the southern side of our heritage house.



## **Objection 2.**

Buildings 101A, 101B, 103, 105 and 115B sit atop the rock face immediately adjacent to the proposed excavation site. This rock face has history of instability. Indeed, City of Sydney provided 50% of the cost of stabilising this rock face within the last 15 years and, until COVID, had provided 100% fully funded assessment and associated rectification works every several years.

The geotechnical report included in the application indicates that our property lies within the zone of influence and can expect movement of approximately 1 mm for every 1 metre of excavation, representing movement of up to 20 mm for our buildings. Given the unstable nature of the rock face currently, this is very concerning to the Owners Corporation.

Item 4.3.1 of the Geotechnical Investigation Report (page 9) states that excavation of the rock “could result in localised rock slide/topple failure with potential impact to the worksite or the adjacent structures”. Further, the report concludes “if it is found that the transmitted vibrations by the use of rock hammers are unacceptable, then it would be necessary to change to a smaller excavator with a smaller rock hammer, or to a rotary grinder, rock saws, jackhammers, ripping hooks, chemical rock splitting and milling machines. Although these are likely to be less productive, they would reduce or possibly eliminate risks of damage to adjoining properties through vibration effects transmitted via the ground”.

The Owners Corporation insists that any excavation be by way of the least intrusive method that minimises ground vibration, and as the report itself identifies, this is by way of rotary grinder, rock saws, jackhammers, ripping hooks, chemical rock splitting and milling machines.

We also insist that, as recommended in item 4.2 of the Geotechnical Report, detailed dilapidation surveys be carried out and provided to our Owners Corporation.

### **Summary:**

The Owners Corporation have valid concerns relating to the impact of this development on our property. The blocking off of windows is not acceptable in any building, much less an item listed on the heritage register. The proposed method of excavation offers an unacceptably high risk of damage to the rock face, of which both Victoria Point, and the City of Sydney share a common interest in the stability thereof.

Finally, we request that the development documentation be updated to ensure the correct address numbering is referred to in future versions of plans. The continued use of incorrect addresses will only lead to confusion and potentially error in any future correspondence or action that may take place by parties other than SP13672.

Kind regards  
Rod Nash  
Chair, SP1372  
101-115 Victoria St, Potts Point, NSW, 2011

**From:** <strataplan13672@gmail.com>  
**Sent on:** Friday, October 27, 2023 3:13:10 PM  
**To:** dasubmissions@cityofsydney.nsw.gov.au  
**Subject:** DA D/2023/862 - 117 VICTORIA STREET POTTS POINT NSW 2011 - Attention Julia Errington  
**Attachments:** Scan2023-10-27 150031 000.jpg (506.44 KB), Scan2023-10-27 150031 001.jpg (520.57 KB), Scan2023-10-27 150031 002.jpg (517.67 KB), Scan2023-10-27 150031 003.jpg (498.46 KB)

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Dear Julia,

Please find attached the final sheets (8-11) of objectors to the proposed development. Sheets 1-7 were contained in our email of yesterday.

Kind regards

Residents of 101-115 Victoria Street



18)

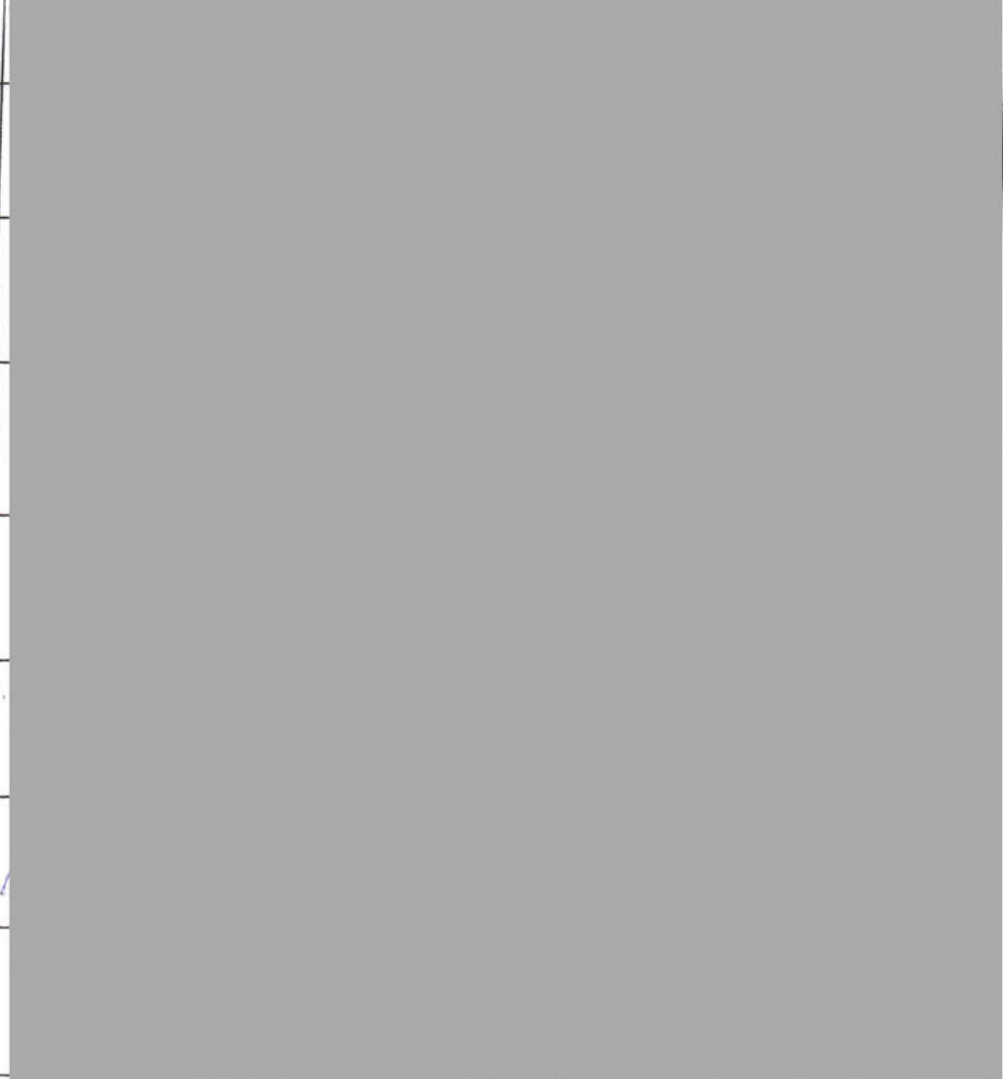
### DEVELOPMENT APPLICATION FOR 117 VICTORIA STREET

1. The proposed new building is too close to the site boundaries.
2. Excavation and demolition of the existing building, if approved, should take place between 8 am and 5 pm Monday to Friday only, to allow some relief for the residents of the neighbouring buildings.
3. The proposed roof includes a pool, bbq and communal areas which could cause nightly noise disturbance to the close neighbouring bedrooms on the northern side of the site, especially on the southern face of building 103.

[dasubmissions@cityofsydney.nsw.gov.au](mailto:dasubmissions@cityofsydney.nsw.gov.au)

D/2023/862

Closing date for comments: Friday 27 October

NAME	ADDRESS OR EMAIL
Tim Dauth	
Rita Coelho	
SEE LAN PETERSON	
Grant Scott	
Claudie	
VANESSA Diolosa	
MICHAEL SPITERI	
Stephen Davis	

(9)

## DEVELOPMENT APPLICATION FOR 117 VICTORIA STREET

1. The proposed new building is too close to the site boundaries.
2. Excavation and demolition of the existing building, if approved, should take place between 8 am and 5 pm Monday to Friday only, to allow some relief for the residents of the neighbouring buildings.
3. The proposed roof includes a pool, bbq and communal areas which could cause nightly noise disturbance to the close neighbouring bedrooms on the northern side of the site, especially on the southern face of building 103.

[dasubmissions@cityofsydney.nsw.gov.au](mailto:dasubmissions@cityofsydney.nsw.gov.au)

D/2023/862

Closing date for comments: Friday 27 October

NAME	
JOANNE GREENE	
Aguiles AREVALO	
Mauricio Maldonado	
Eva Stopka	
MARTIN	
WARY	
Girte Lenkun	
Suzanne WICKS	
BILL PARKER	
Zarina Braybrooke	

(10)

### DEVELOPMENT APPLICATION FOR 117 VICTORIA STREET

1. The proposed new building is too close to the site boundaries.
2. Excavation and demolition of the existing building, if approved, should take place between 8 am and 5 pm Monday to Friday only, to allow some relief for the residents of the neighbouring buildings.
3. The proposed roof includes a pool, bbq and communal areas which could cause nightly noise disturbance to the close neighbouring bedrooms on the northern side of the site, especially on the southern face of building 103.

[dasubmissions@cityofsydney.nsw.gov.au](mailto:dasubmissions@cityofsydney.nsw.gov.au)

D/2023/862

Closing date for comments: Friday 27 October

NAME	ADDRESS OR EMAIL
Paul Lin	
Colin Burrough	
Scott Warren	
Gregg Lewis	
Mike O'Connell	
Kunawat gesamat	
noel Brindle	
Apiruk Luklang	
Ajdi Samra	



(11)

## DEVELOPMENT APPLICATION FOR 117 VICTORIA STREET

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[dasubmissions@cityofsydney.nsw.gov.au](mailto:dasubmissions@cityofsydney.nsw.gov.au)

D/2023/862

Closing date for comments: Friday 27 October

NAME	ADDRESS OR EMAIL
Sophie Powell	
Gavin Laker	
Jon Close	
Kath Tullett	
Jared Blacher	
C. J. White	
SUAILEY AL	
MARCO FARCON	
HAL CRICHTON-	

**From:** <strataplan13672@gmail.com>  
**Sent on:** Thursday, October 26, 2023 12:04:54 PM  
**To:** dasubmissions@cityofsydney.nsw.gov.au  
**Subject:** Submission - D/2023/862 - 117 Victoria St Potts Point NSW 2011 - Attention Julia Errington  
**Attachments:** Scan2023-10-26 111959 000.jpg (506.7 KB), Scan2023-10-26 111959 001.jpg (509.36 KB), Scan2023-10-26 111959 002.jpg (467.42 KB), Scan2023-10-26 111959 003.jpg (510.82 KB), Scan2023-10-26 111959 004.jpg (525.06 KB), Scan2023-10-26 111959 005.jpg (486.28 KB), Scan2023-10-26 111959 006.jpg (488.05 KB)

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

Dear Julia,

Please find attached seven pages of objections regarding the proposed development at 117 Victoria St. It is likely that more pages will be sent tomorrow.

Kind Regards,

101-115 Victoria Street  
Potts Point

(1)

## DEVELOPMENT APPLICATION FOR 117 VICTORIA STREET

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[dasubmissions@cityofsydney.nsw.gov.au](mailto:dasubmissions@cityofsydney.nsw.gov.au)

D/2023/862

Closing date for comments: Friday 27 October

NAME	
Lachlan Brown	
GAILLY BRANT-	
Aaron Chn.	
Patricia Melend	
Jhus GEAR TOLATH	
Shane Passore	
Timothy Adams	
Matthew Chalmers	
KGTW MACLYNN	

### DEVELOPMENT APPLICATION FOR 117 VICTORIA STREET

- 1. The proposed new building is too close to the site boundaries.
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[dasubmissions@cityofsydney.nsw.gov.au](mailto:dasubmissions@cityofsydney.nsw.gov.au)

D/2023/862

Closing date for comments: Friday 27 October

NAME	
Sophie Maon	
Peter Andrell	
Karynne Poon	
Mayam Sabati	
SUSUMU USAMI	
MANDY HUGHES	
Samantha Robson	
Casey Doray	
Hugh Beddell-Netham	



### DEVELOPMENT APPLICATION FOR 117 VICTORIA STREET

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[dasubmissions@cityofsydney.nsw.gov.au](mailto:dasubmissions@cityofsydney.nsw.gov.au)

D/2023/862

Closing date for comments: Friday 27 October

NAME	
Miche Holdsworth	
Judith PARKER	
Adrian Nikolovski	
Sally King	
Jessira Sivanani	
Cameron Charles	
Craig godfre	
HELENA LEDIN	
Ross LEADER	

(4)

## DEVELOPMENT APPLICATION FOR 117 VICTORIA STREET

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[dasubmissions@cityofsydney.nsw.gov.au](mailto:dasubmissions@cityofsydney.nsw.gov.au)

D/2023/862

Closing date for comments: Friday 27 October

NAME	
Achene Miklosky	
Cocina CROWIN	
LEONNA WELCH	
Garry Hamilton	
Jacqui Hamilton	
Maria Cristina Beharlow	
John Rochester	
Miguel Berkowicz	
Cathie Clay	

(5)


## DEVELOPMENT APPLICATION FOR 117 VICTORIA STREET

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[dasubmissions@cityofsydney.nsw.gov.au](mailto:dasubmissions@cityofsydney.nsw.gov.au)

D/2023/862

Closing date for comments: Friday 27 October

NAME	ADDRESS OR EMAIL
Dane Erbacher	
JAMES MATTHEWS	
Ryan Walker	
Claudia Bushell	
Ellen Bennett	
Adriann van Moersel	
Daniel Dixon	
ALLANA DUNCAN	



### DEVELOPMENT APPLICATION FOR 117 VICTORIA STREET

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[dasubmissions@cityofsydney.nsw.gov.au](mailto:dasubmissions@cityofsydney.nsw.gov.au)

D/2023/862

Closing date for comments: Friday 27 October

NAME
Frances Craven
GUY WASHINGTON
FRANCO MARDONADO
MARTHA RIVERA
EMILIO BRUN
PACCA MONTES DE OCA
GRAEMES HUMMING
AARON THOMAS
MICHAEL BATES



(7)

## DEVELOPMENT APPLICATION FOR 117 VICTORIA STREET

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[dasubmissions@cityofsydney.nsw.gov.au](mailto:dasubmissions@cityofsydney.nsw.gov.au)

D/2023/862

Closing date for comments: Friday 27 October

NAME	
COSTIN STAN	
Reg Hammond	
Terese Totten	
PAUL STUART	
D. ROSSINGTON	
Priscilla Leighton Clark	
Zinnia Robinson	
Patricia Robinson	
Tadgh Robinson	

**From:** Suzanne Meredith [REDACTED]  
[REDACTED]

**Sent on:** Thursday, October 26, 2023 12:58:15 AM

**To:** council@cityofsydney.nsw.gov.au

**Subject:** D/2023/862. 117 Victoria Street, POTTS POINT NSW 2011

**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.

Bill Mackay

Manager Planning Assessments

City of Sydney October 25<sup>th</sup> 2023

D/2023/862 ERD 1 PTY LTD

117 Victoria Street

Potts Point, NSW, 2011

My Name is Suzanne Meredith and I am owner of Unit 48 / 103 Victoria Street, POTTS POINT along with Peter Roberts. Our unit is on the South West end of the 9<sup>th</sup> floor of building 103 Victoria Street. It has two bedrooms and a kitchen facing directly onto the proposed development.

My current address is 1857 Icelly Road, Lewis Ponds, NSW 2800. I have, however, lived in this apartment which is a quiet and pleasant home and my co-owner and I are registering our objections to this proposal with particular concern to the noise associated with the proposed works, and the ongoing noise which would come from the proposed rooftop entertainment area.

We object to the height of the proposed structure being above the limit set. This increase in height will bring the level of the entertainment area almost level to our apartment. We can hear noise from roof top entertainment spaces in Orwell Street which are blocks away and none of these have swimming pools. We find it extremely difficult to believe such areas would be closed to residents after sunset, which would be the only way to allow residents in our building to maintain appropriate levels of peace and privacy.

We are disappointed by the inaccuracies in the proposal regarding the numbering of adjacent buildings in our complex. This reflects sloppiness by the developers or possibly a desire to generate confusion amongst residents and adjacent owners who wish to express objections. The Heritage building 115 A Victoria Street (*actual address, not 117 as depicted on the DA plan*) seems doomed to have a sheer structural wall constructed across 5 windows which currently face onto an access lane! Like the breach in height regulations this displays scant regard for planning regulations and general laziness in the design work. In 45 years of owning apartments in Victoria Point we have seen our Owner's Corporation burdened by the Council's insistence on compliance with Heritage issues so it is amazing to see this in a development proposal.

From 1978 to the present our Body Corporate has worked with the Council on matters regarding the cliff face, and in recent years we have spent a large proportion of our budget dealing with drainage issues directly relating to how close our building was constructed to the edge of this cliff and the myriad, sometimes antique, uncharted drainage pits and trenches in the porous stone beneath us. The idea of major excavation to this sensitive zone adjacent to our structure is alarming. Our insurance would not cover the risks to our buildings from such activity and it would be hard to believe that the developers of this proposal would rectify resultant structural issues in our complex.

We believe that this proposal is half baked and sloppy. If embarked on in its current form it could cause substantial structural issues throughout our complex, and add to drainage issues which are already stressed through climate change. It would unreasonably cause suffering to residents through excessive noise during construction and unacceptable noise when completed from communal rooftop entertainment areas adjacent to our bedrooms and living areas.

Regards

Suzanne Meredith and Peter Roberts



**27 October 2023**


Chief Executive Officer  
City of Sydney  
456 Kent Street  
SYDNEY NSW 2000

Attention: Julie Errington

**Dear Madam,**

**PROPOSED DEVELOPMENT AT 117 VICTORIA STREET POTTS POINT NSW 2011  
(DA NOTIFICATION D/2023/862)**

**Note: If my letter or comments below were to be publicly released, I would like, to the extent legally possible, for the City of Sydney to withhold all of my personal details or identifying information.**

I am the owner of  I have lived in the apartment since early 1980. I will be impacted by the above proposed development and, through this letter, am objecting to the development application (**DA**) lodged by the DA applicant (**Applicant**), in its current form.

In general, my objections can be summarised as follows:

**1. Design**

The Victoria Street façade for the proposed development does not exhibit a high degree of design excellence. In his design report, the architect stated that he has created a design that will become a benchmark for elegant design that complements the existing heritage character and enhances the Potts Point neighbourhood character.

The Victoria Street façade is claimed to be modest and the “arches” take their cues from neighbouring properties on historic Victoria Street.

However, the overblown and out of proportion arches, which is the dominant feature of the Victoria Street façade, are aesthetically grotesque and out of character when compared to neighbouring properties. What is meant to be a benchmark for elegant design in Victoria Street will become a laughing stock and complete eyesore for generations to come.

The inappropriate Victoria Street façade of the proposed development will significantly alter the landscape of the Potts Point Heritage Conservation Area (**HCA**) when viewed, from Victoria Street.

A skilful and excellent design by an architect who truly understands Australian heritage

architecture would have been able to ensure that the Victoria Street façade really complements the surrounding heritage properties.

## **2. Heritage**

The Victorian terraces and related spaces at 119-121 and the stone wall separating 117 and 119 Victoria Street are significant heritage items.

The owners of the 119-121 terraces have been looking after and maintaining the properties and the stone wall for decades. This includes regularly repainting and waterproofing the northern wall separating 117 and 119 Victoria Street.

Currently there is an open driveway that separates 117 and 119 Victoria Street. This provides access to painters and tradespeople to undertake regular repainting, waterproofing and maintenance work.

In the design submitted by the developer, the proposed development will literally be touching this northern wall of 119 Victoria Street. This will make it impossible for the owners of 119-121 Victoria Street to maintain the northern wall in the future. This could result in the future deterioration of the wall and the terrace at 119 Victoria Street. In addition, the narrow space created between the two properties could also create a sanctuary for vermin that cannot be easily managed, due to lack of access.

There should be, at the minimum, a 1m landscaped setback between the proposed development and 119 Victoria Street. This would facilitate easier access for tradespeople to maintain the northern wall of 119 Victoria Street and removes the risk of the long-term deterioration of the northern wall.

It is interesting to note that that developer has graciously allowed a 3m setback between the proposed 117 Victoria Street development and the proposed development a 30A-34 Brougham St Woolloomooloo.

## **3. Vehicle and Car Park Access**

The proposed development incorporates roller doors and lifts next to the main bedroom of the apartments at 1/119 and 2/119 Victoria Street. This could create issues to both apartments from a noise and vibration perspective. Redesigning the development to ensure that, at the minimum, a 1m setback (or 3m to match the setback allowed with the future development at 30A-34 Brougham Street, Woolloomooloo) between 119 Victoria Street and the proposed development will assist in mitigating this risk.

## **4. Solar Access**

A development application approval was provided by the City of Sydney this year in relation to the proposed new development at 30A-34 Brougham St Woolloomooloo. This was instigated by an unjust decision by Commissioner Susan O'Neill of the Land and Environment Court of NSW. This approval will have a catastrophic impact on the level of solar access to the lower apartments and gardens in 119 and 121 Victoria Street.



The proposed 117 Victoria Street development, will exacerbate this issue.

The proposed development at 117 Victoria Street will have a Brougham Street frontage that, at a minimum, matches the height of the 30A-34 Brougham Street development and a setback which is narrower than the existing setback between 117 and 119 Victoria Street. The southern façade of the development will, in most parts, be located closer to the terraces at 119-121 Victoria Street than the current existing building.

This will result in a further reduction of access to natural light to the lower apartments and gardens in 119-121 Victoria Street.

## 5. Visual and acoustic privacy

The proposed development will significantly impact the level of visual and acoustic privacy currently enjoyed by the residences in 119-121 Victoria Street.

The proposed development currently incorporates a communal rooftop terrace. The Acoustic Report by Pulse White Noise notes that:

*“Noise associated with communal areas is not well addressed in NSW. Both the City of Sydney DCP and the NSW EPA Noise Policy for Industry do not address noise from communal areas. As such, to ensure the acoustic amenity is reasonably maintained for the existing surrounding developments, Pulse White Noise Acoustics believe an RBL + 5dBA as a LAeq approach is considered acceptable. Adoption of a background + 5 approach is similar to the criteria typically adopted in the assessments of external areas of a licenced venue during the daytime period (noted: NSW Liquor and Gaming use a L10 rather a LAeq).”*

The adoption of an acoustic standard used in the assessments of external areas of a licenced venue during the daytime period is totally inappropriate. The proposed development is a residential and not a commercial building or a licenced venue. It is immediately surrounded by other residential apartments which currently enjoys a high level of acoustic privacy and amenity.

117 Victoria Street residents and guests partying in the communal rooftop terrace will also have uninterrupted views over the residences and gardens in 119-121 Victoria Street, thus diminishing the visual privacy amenity currently enjoyed by the latter.

The communal rooftop terrace, if approved as a concept by Council, should be redesigned to ensure that the visual and acoustic amenity currently enjoyed by surrounding properties are protected.

**Yours sincerely,**





**From:** Julia Errington <JErrington@cityofsydney.nsw.gov.au> on behalf of Julia Errington <JErrington@cityofsydney.nsw.gov.au> <Julia Errington <JErrington@cityofsydney.nsw.gov.au>>  
**Sent on:** Wednesday, November 1, 2023 8:54:51 AM  
**To:** DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>  
**Subject:** FW: Query: D/2023/862 - 117 Victoria Street POTTS POINT NSW 2011

Please register the below as a submission. Thank you!

---

**From:** Jonathan Pinkney [redacted]  
**Sent:** Tuesday, October 31, 2023 4:17 PM  
**To:** Julia Errington <JErrington@cityofsydney.nsw.gov.au> [redacted]  
**Subject:** Query: D/2023/862 - 117 Victoria Street POTTS POINT NSW 2011

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

Dear Julia,

Regarding the Development Application for 117 Victoria Street, Potts Point, currently on exhibition in advance of the council's determination.

Response from owner of 3 / 148 Victoria Street, Potts Point

We are nearby neighbours and confirm we could support the proposed development subject to amendments to avoid its significant height breaches.

- The building breaches the LEP Height Plane the full east to west length of the site. The breaches are sustained and not localised (i.e. just a lift overrun).
- Purpose of the breach is for the developer to maximise internal apartment area and revenue, not to increase the potential number of homes or number of habitable rooms.
- There is no public benefit to the height breach, as there is no community proposal or affordable home component of the proposal.
- The architecture is high quality, with a leading residential architect, however this is for the developer's benefit of appealing to the luxury home market, not for purpose of benefiting the City, nor the streetscapes nor the local ecology.
- Result is larger and more luxurious homes, purposefully breaching the City of Sydney's height policy, which has a detrimental impact to the public realm.
- The bulk and massing is overbearing at the west of the site, particularly on Brougham Street, where the additional height and mass will increase the canyon effect on Brougham Street.
- The massing doesn't follow the site's topography. The argument that it does is put forward in the application docs (Cl. 4.6 Variation - Building Height), in which other breaches on Brougham Street are used as a benchmark. The building referenced is 101-115 Victoria Street, which was built c.45 years ago and does not enhance Brougham Street.

Recommendation of how to amend the scheme to relate better to the height plane are to reduce the west internal areas of Apartments B301, B302 and B303 (upper floor only), A502, A503, A602, A603, A702 and A703. This would not reduce the number of homes in the building but relate more closely to the City's height policies.

We look forward to seeing amendments from the applicant, in order to then confirm support for the scheme, in advance of City of Sydney council's determination for approval.

Best regards,  
**Jonathan Pinkney**

Email [redacted]  
Sydney, Australia [redacted]

**From:** James Woodford [REDACTED] on behalf of James Woodford

[REDACTED] <James Woodford [REDACTED]>

**Sent on:** Tuesday, November 14, 2023 11:05:19 AM

**To:** DAsubmissions@cityofsydney.nsw.gov.au [REDACTED]

**Subject:** Fwd: D/2023/862 submission from adjacent landholder

**Attachments:** windows.jpeg (5.25 MB), courtyard.jpeg (4.98 MB)

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

I see that the DA for 117 Victoria Street has been re-notified. I wish to affirm my original objections as outlined below,

Cheers, James Woodford

----- Forwarded message -----

**From:** James Woodford [REDACTED]

**Date:** Mon, Oct 16, 2023 at 12:20 PM

**Subject:** D/2023/862 submission from adjacent landholder

**To:** <[DAsubmissions@cityofsydney.nsw.gov.au](mailto:DAsubmissions@cityofsydney.nsw.gov.au)> [REDACTED]

To Whom it May Concern,

I am the owner of 1/115A Victoria Street Potts Point. Having closely examined the development application D/2023/862, I believe I am one of the neighbours most impacted by this proposal. I have several very serious concerns that I believe need to be addressed if this DA is to proceed.

1. It appears from the plans that the **only** southern window of my apartment (see attached photo) and those of my upstairs neighbour will be completely walled in by the development. From my close examination of the plans, any gap between the proposed building and 115 Victoria Street is either non-existent or negligible. This will have a very serious impact on my amenity as my apartment is on the south side of the building at 115 Victoria Street and so my natural light is already limited. Completely walling in that window is extremely distressing to me and I believe is unacceptable from a natural light perspective as well as airflow and aspect.

2. I am concerned that the balconies at the front of the proposed development of 117 Victoria Street will overlook and diminish the privacy of my outdoor courtyard area (see attached photo). I request that the solid privacy wall screening that currently protects only the upstairs balcony of 115 Victoria Street be extended towards the street to ensure the privacy of my courtyard.

3. I believe that extending the footprint of the building at 117 Victoria Street to the very edge of the boundary will greatly diminish the heritage values of 115 Victoria Street, which is an extremely significant and historical Potts Point building. 115 Victoria Street has always been a large and free standing building. To build hard up against it will have a severe impact on the streetscape and diminish the heritage values of the building as it will no longer appear to be one of the street's grand historical freestanding buildings..

4. I am alarmed at the scale of the excavations for several car parking levels and fear that there may be a catastrophic impact on the foundations and stability of the extremely historically significant and heritage listed 115 Victoria Street building. Any excavations should have a large buffer of rock, should not be hard up against the foundations of 115 Victoria Street and should only proceed with the very highest level of geotechnical and engineering precautions.

5. I agree that the current building on the site of 117 is not in keeping with the existing streetscape and I am not

opposed to an appropriate development on the site. However, I believe that this is an extremely rare opportunity to restore some of Victoria Street's stunning streetscape. The current building is between two heritage listed buildings. I do not believe the facade of the proposed development is in keeping with the heritage values of the street. Something more consistent with 115 and 119 Victoria Streets would be more appropriate. Just adding a few arches and saying it is consistent with 115 Victoria Street is not enough to change the fact it will be a very modern and inappropriate facade between two heritage buildings.

6. I am concerned that the swimming pools and entertainment areas proposed for 117 Victoria Street will need strict curfews if the amenity of neighbours is to be protected - certainly no later than 10 pm.

Thank you for considering my submission,

Yours faithfully,

James Woodford

ph 



**Windows that will be walled in by proposed development**





Courtyard that needs privacy protection





**From:** Peter Meyer <[REDACTED]> on behalf of Peter Meyer  
<Peter Meyer [REDACTED]>  
**Sent on:** Tuesday, November 14, 2023 1:43:15 PM  
**To:** council@cityofsydney.nsw.gov.au [REDACTED]  
**Subject:** COMMENTS on DEVELOPMENT APPLICATION Ref D/2023/862  
**Attachments:** COMMENTS on DEVELOPMENT APPLICATION Ref D2023862.msg (97.5 KB)

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.

**From:** Peter Meyer [REDACTED] on behalf of Peter Meyer  
[REDACTED] <Peter Meyer [REDACTED]>  
**Sent on:** Tuesday, November 14, 2023 1:43:15 PM  
**To:** council@cityofsydney.nsw.gov [REDACTED]  
**Subject:** COMMENTS on DEVELOPMEnt APPLICATION Ref D/2023/862  
**Attachments:** COMMENTS ON DEVELOPMENT APPLICATION REF NUMBER D2023862 ADDRESS 117  
VICTORIA STREET POTTS POINT NSW 2011.pdf (36.32 KB)

**From:** Michele Timothy [REDACTED] on behalf of Michele Timothy

[REDACTED] <Michele Timothy [REDACTED]>

**Sent on:** Wednesday, November 15, 2023 7:35:54 PM

**To:** DAsubmissions@cityofsydney.nsw.gov.au [REDACTED]

**Subject:** D/2023/862

**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

I am a resident owner in the building known as Victoria Point at 103 Victoria Street Potts Point. I read with interest the information available on Council's site regarding the above Development Application. The design of the proposed building looks aesthetically pleasing overall but I have some concerns:

- I oppose the building expanding the current footprint to come closer to the boundaries on the south and north sides. Particularly on the north side, it will block light and airflow to the terrace house next door.
- I am concerned that the existing mature trees at the north side of the property might be removed. These are beautiful trees whose removal would greatly diminish my outlook, as well as being a big loss to our natural environment.
- I strongly oppose the new design going up one floor higher than the existing building. One extra level will completely block out my view of the sky and substantially darken my dwelling.
- I have grave concerns about the proposed rooftop pool, BBQ and garden areas which are intended to be accessible to residents to 10pm on weeknights and midnight on weekends. At any time - daytime or nighttime - noise created on that rooftop would flow to my building and cause substantial interruption to my right to peaceful enjoyment.

Regards

Michele Timothy

**From:** Hayley Allen [REDACTED] on behalf of Hayley Allen

[REDACTED] <Hayley.Allen@[REDACTED]>

**Sent on:** Wednesday, November 29, 2023 4:46:49 PM

**To:** dasubmissions@cityofsydney.nsw.gov.au [REDACTED]

**Subject:** Submission - D/2023/862 - 117 Victoria Street POTTS POINT NSW 2011 - Attention Julia Errington

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

Hi Julia,

I am writing as an owner in 5/108 Victoria ST Potts Point. I strongly object to this application as there was no notification sent and I was only informed through our strata today. The impact these building works will have on surrounding homes and apartments will be intolerable. We already struggle with parking and the disruption and noise for such a large build in a residential area is not feasible.

Can you please send through so more information about the proposed timeline

Kind Regards

Hayley Allen - [REDACTED]

**From:** Barbi Fraser <bfraser@cityofsydney.nsw.gov.au> on behalf of Planning Systems Admin <planningsystemsadmin@cityofsydney.nsw.gov.au> <Planning Systems Admin <planningsystemsadmin@cityofsydney.nsw.gov.au>>  
**Sent on:** Thursday, November 30, 2023 10:51:52 AM  
**To:** DAsubmissions <DAsubmissions@cityofsydney.nsw.gov.au>  
**Subject:** FW: Proposed Development by ERD 1 Pty Ltd at 117 Victoria St Potts Point NSW 2011

Original Message

From: Peter Geoffrey ROBERTS  
Sent: Wednesday, November 29, 2023 1:01 PM  
To: Planning Systems Admin <planningsystemsadmin@cityofsydney.nsw.gov.au>  
Subject: Proposed Development by ERD 1 Pty Ltd at 117 Victoria St Potts Point NSW 2011

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.

My name is Peter Geoffrey Roberts of 133 Long St, Boorowa, NSW 2586. I am part owner of Unit 48, "Victoria Point" (on the south side of the tower block) next door to the proposed development at 117 Victoria St.

My association with "Victoria Point" goes back to 1978 when my parents and my mother's sister moved into the block. Although all have passed on, I was executor to each of their wills and have had a continuous association with "Victoria Point" for 45 years.

I note and support the objection already made regarding the heritage listed house immediately next door to the proposed development but shall not dwell on that.

My principal concern involves the rock on which both 117 and "Victoria Point" (most especially the tower block) now stands. It is poor quality sandstone and is not entirely solid. In the 19th century drainage was constructed through it. I don't believe there are any maps of this. The then Council allowed "Victoria Point" to be constructed in all probability too close to Brougham St. (I am fully cognisant of the green bans and other difficulties associated with construction and appreciate that compromise was called for), nonetheless, this rock does not offer the stability required to support one let alone two massive buildings.

Over the last 45 years there have been a number of "bits" of the rock which have broken away and fallen into Brougham St. I have not documented these (although Council should have) and this is surely proof of the fragility of this rockface.

The proposed construction at 117 intends to cut into this rock and, I would suggest, weaken the foundation of the "Victoria Point" tower block which has already suffered movement. I have no doubt that the engineers will say that they have this "under control" but engineers always say that as a history of Sydney building disasters of recent years shows. I am suggesting that this proposal is based on a lack of understanding of the nature of the rockface between Victoria St and Brougham St. It should not be permitted in its current form.

I would also note the irony of a development which at a time when government policy is trying to increase housing availability in Sydney is reducing the availability of accommodation at 117 Victoria St (although that is hardly grounds for an objection).

Yours faithfully,

Peter G Roberts

29/11/2023

Phone: [REDACTED] (Mobile: [REDACTED])

**From:** Julia Errington <JErrington@cityofsydney.nsw.gov.au> on behalf of Julia Errington <JErrington@cityofsydney.nsw.gov.au> <Julia Errington <JErrington@cityofsydney.nsw.gov.au>>  
**Sent on:** Wednesday, November 1, 2023 8:54:51 AM  
**To:** DAsubmissions <DAsubmissions@cityofsydney.nsw.gov.au>  
**Subject:** FW: Query: D/2023/862 - 117 Victoria Street POTTS POINT NSW 2011

Please register the below as a submission. Thank you!

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**From:** Jonathan Pinkney <jcpinkney@gmail.com>  
**Sent:** Tuesday, October 31, 2023 4:17 PM  
**To:** Julia Errington <JErrington@cityofsydney.nsw.gov.au>  
**Subject:** Query: D/2023/862 - 117 Victoria Street POTTS POINT NSW 2011

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

Dear Julia,

Regarding the Development Application for 117 Victoria Street, Potts Point, currently on exhibition in advance of the council's determination.

Response from owner of 3 / 148 Victoria Street, Potts Point

We are nearby neighbours and confirm we could support the proposed development subject to amendments to avoid its significant height breaches.

- The building breaches the LEP Height Plane the full east to west length of the site. The breaches are sustained and not localised (i.e. just a lift overrun).
- Purpose of the breach is for the developer to maximise internal apartment area and revenue, not to increase the potential number of homes or number of habitable rooms.
- There is no public benefit to the height breach, as there is no community proposal or affordable home component of the proposal.
- The architecture is high quality, with a leading residential architect, however this is for the developer's benefit of appealing to the luxury home market, not for purpose of benefiting the City, nor the streetscapes nor the local ecology.
- Result is larger and more luxurious homes, purposefully breaching the City of Sydney's height policy, which has a detrimental impact to the public realm.
- The bulk and massing is overbearing at the west of the site, particularly on Brougham Street, where the additional height and mass will increase the canyon effect on Brougham Street.
- The massing doesn't follow the site's topography. The argument that it does is put forward in the application docs (Cl. 4.6 Variation - Building Height), in which other breaches on Brougham Street are used as a benchmark. The building referenced is 101-115 Victoria Street, which was built c.45 years ago and does not enhance Brougham Street.

Recommendation of how to amend the scheme to relate better to the height plane are to reduce the west internal areas of Apartments B301, B302 and B303 (upper floor only), A502, A503, A602, A603, A702 and A703. This would not reduce the number of homes in the building but relate more closely to the City's height policies.

We look forward to seeing amendments from the applicant, in order to then confirm support for the scheme, in advance of City of Sydney council's determination for approval.

Best regards,  
**Jonathan Pinkney**

Email [JCPinkney@gmail.com](mailto:JCPinkney@gmail.com)  
Sydney, Australia +61(0)411 698921



**From:** Kevin D Tanner <kevin.d.tanner@aexp.com> on behalf of Kevin D Tanner  
<kevin.d.tanner@aexp.com> <Kevin D Tanner <kevin.d.tanner@aexp.com>>

**Sent on:** Tuesday, October 24, 2023 2:31:55 PM

**To:** dasubmissions@cityofsydney.nsw.gov.au

**Subject:** Submission - D/2023/862 - 117 Victoria Street POTTS POINT NSW 2011 - Attention Julia Errington

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

**Attention: Julia Errington**

To whom it may concern

I am writing to you regarding the development at 117 Victoria Street, Potts Point (DA reference D/2023/862)

I have reviewed the plans and documents provided and have put together the following summary as a submission against the development in its current design.

1. Firstly, the design of the front of the building pays little respect to the surrounding heritage buildings and is totally unsympathetic. The inclusion of a few arches does not constitute good design and the materials chosen do little to tie in to the widely appreciated and heritage listed buildings either side and in the general area.
2. The current building has a setback distance at the front that diminishes the bulk & size of the building, the new design as it stands brings this much more to the fore to the detriment of surrounding buildings and general civic amenity.
3. The property at 119 is heritage listed and is carefully maintained for future generations at great expense by the owners, working with Council to ensure it is maintained and sympathetic to the period it was built - much to the delight of locals and tourists alike. An important aspect is the ability to maintain the side of the building between 117 & 119. The current design for 117 removes access to maintain the side of 119 and makes it impossible to maintain which will lead to a deterioration of the property. A minimum 1 metre set back from the wall would allow access for waterproofing, painting and general maintenance as well as allowing for air flow to wick away dampness.
- 4) The design has roller doors and car lifts adjacent to and at the same level as the main bedrooms of 1/119 & 2/119. With the design as it is, the distance between bedhead and lift/roller door is about 1 metre. Noise and vibration are both a very real concern.
- 5) Set back from rear of 117 (between deck/garden of 119 and side of 117.) Having already lost virtually all winter light and a significant portion of summer light due to the council approval of the 6 story development on Brougham Street dwarfing our apartment (D/2-22/319 - PROPOSED DEVELOPMENT AT 30A-34 BROUGHAM ST POTTS POINT NSW 2011), we now have the rear of the large development at 117 reducing distance by approximately 70% - further minimising the light we will be getting in our living area -which is the only source of light for the apartments. In addition, the new development links up at the rear with the height of the approved development mentioned above to further cut us off from light and airflow. This will lead to even further reduction to the quality of life, amenity and access to natural light. It will require artificial lighting virtually all of the time and an increase in damp and mould and corresponding health and building issues. I would urge council to have the set back further back and also to look at the development holistically and in conjunction with D/2-22/319.

I would respectfully ask Council to take all of the above into account when reviewing the plans as is.

Regards



Kevin Tanner  
1/119 Victoria Street

306

Potts Point NSW 2011

0418 963 173

Unless necessary, I would ask for my details to be redacted from any reports or comments.

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