CITY OF SYDNEY

4 November 2026

At 5.00 pm

Local Planning Panel

Agenda

1. **Disclosures of Interest**
2. **Confirmation of Minutes**
3. **Development Application: 163 Victoria Street, Potts Point - D/2026/650**

CITY OF SYDNEY

As part of our democratic process, the City invites members of the community to speak directly to Members of the Local Planning Panel (LPP) about items on a meeting agenda.

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1. Register to speak by calling Secretariat on 9265 9702 or emailing secretariat@cityofsydney.nsw.gov.au before 10.00am on the day of the meeting.
2. Check the recommendation in the LPP report before speaking, as it may address your concerns so that you just need to indicate your support for the recommendation.
3. Note that there is a three minute time limit for each speaker and prepare your presentation to cover your major points within that time.
4. Avoid repeating what previous speakers have said and focus on issues and information that the LPP may not already know.
5. If there is a large number of people interested in the same item as you, try to nominate three representatives to speak on your behalf and to indicate how many people they are representing.

At the start of each LPP meeting, the Chair may re-order agenda items so that those items with speakers can be dealt with first.

LPP reports are on line at www.cityofsydney.nsw.gov.au

Item 1.

Disclosures of Interest

In accordance with section 4.9 of the Code of Conduct for Local Planning Panel Members, all Panel members are required to sign a declaration of interest in relation to each matter on the agenda.

Pursuant to the provisions of Clause 15 of Schedule 4B of the Environmental Planning and Assessment Act 1979, members of the Local Planning Panel are required to disclose pecuniary interests in any matter on the agenda for this meeting of the Local Planning Panel.

Panel members are also required to disclose any non-pecuniary interests in any matter on the agenda for this meeting of the Local Planning Panel.

In both cases, the nature of the interest must be disclosed.

Item 2.

Confirmation of Minutes

Minutes of the following meeting of the Local Planning Panel, which have been endorsed by the Panel Members and Chair of that meeting, are submitted for noting:

Meeting of 23 September 2026

Item 3.

Development Application: 163 Victoria Street, Potts Point - D/2026/650

File Number: D/2026/650

Summary

Date of Submission:	7 July 2026
Applicant:	Peter Rush
Architect/Designer:	Peter Rush Architects
Owner:	Weida Sun
Planning Consultant:	PCN Urban
Heritage Consultant:	Weir Phillips Heritage
Cost of Works:	$1,720,000.00
Zoning:	MU1 - Mixed Use
Proposal Summary:	The application seeks approval for alterations and additions to existing residential flat building and change of use to single dwelling. This includes internal demolition of the 3 separate dwellings, a rear extension on all 3 storeys, construction of a 3-storey pavilion additional to the rear fronting Hourigan Lane, and construction of a 3-storey link between the main dwelling and the rear addition. The application also seeks to provide a deep soil courtyard between the main dwelling and rear addition, The application includes a Clause 4.6 variation of 100% to Clause 7.36 Dwelling Retention of Sydney LEP 2012, and a Clause 4.6 variation of 26% to Clause 4.4 Floor Space Ratio of Sydney LEP 2012, and is therefore reported to the Local Planning Panel for determination. The proposal exceeds Clause 4.3 maximum height of building control by approximately 9.5% and the application is not accompanied by a document pursuant to s35B(2) of the Environmental Planning and Assessment Regulations 2021 for this contravention.

For the reasons set out in the report below, the applicant has failed to justify that in this instance compliance with the relevant development standards is unreasonable and unnecessary, nor that there are sufficient environmental planning grounds to justify contravening the standards. As such, it is recommended the Local Planning Panel reject the variations requested and refuse the application.

The application was notified for 28 days between 8 July 2026 and 6 August 2026. A total of 610 properties were notified and 20 submissions were received.

A Class 1 Appeal (Deemed Refusal) was lodged to the Land and Environment Court on 2 October 2026

In summary, the proposed development has not adequately addressed the loss of existing affordable rental housing. The proposed design and massing of the new development also inadequately responds to the site controls, site context and its surroundings and adversely impacts upon surrounding properties.

Summary Recommendation: This proposal is recommended for refusal.

Development Controls:

(i) Environmental Planning and Assessment Act 1979 and associated Regulation 2021;

(ii) State Environmental Planning Policy (Housing) 2021 (Housing SEPP);

(iii) State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP);

(iv) State Environmental Planning Policy (Biodiversity and Conservation) 2021;

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

(vi) Sydney Local Environmental Plan 2012 (SLEP 2012);

(vii) Sydney Development Control Plan 2012 (SDCP 2012);

(viii) City of Sydney Interim Floodplain Management Policy 2023;

(ix) City of Sydney Community Engagement Strategy and Participation Plan 2024.

Attachments:

A. Selected Drawings

B. Clause 4.6 Variation - Floor Space Ratio

C. Clause 4.6 Variation - Dwelling Retention

D. Submissions

Recommendation

It is resolved that consent be refused for Development Application Number D/2026/650.

Reasons for Recommendation

The application is recommended for refusal for the following reasons:

(A) The application fails to sufficiently justify that compliance with the Dwelling Retention development standard is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the departure from the standard, with consideration of Clause 4.6(3) of the Sydney Local Environmental Plan 2012.

(B) The application fails to sufficiently justify that compliance with the Floor Space Ratio development standard is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the departure from the standard, with consideration of Clause 4.6(3) of the Sydney Local Environmental Plan 2012.

(C) The application fails to sufficiently justify that compliance with the Height of Building development standard is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the departure from the standard, with consideration of Clause 4.6(3) of the Sydney Local Environmental Plan 2012, as the application was not accompanied by a document pursuant to s35B(2) of the Environmental Planning and Assessment Regulations 2021.

(D) The proposal is contrary to and fails to adequately satisfy the matters for consideration set out in Section 47(2) of Part 3: Retention of existing affordable rental housing of the State Environmental Planning Policy (Housing) 2021 (Housing SEPP) and the Guidelines for Retention of Existing Affordable Rental Housing.

(E) The development fails to exhibit design excellence pursuant to clause 6.21C of the Sydney Local Environmental Plan 2012 for the following reasons:

  (i) The development fails to provide a high standard of architectural design, materials and detailing appropriate to the building type and location, contrary to Clause 6.21C(2)(a) and fails to provide a building with a suitable bulk, massing and modulation, contrary to Clause 6.21C(2)(d)(v).

  (ii) The application fails to appropriately address heritage issues and streetscape constraints, pursuant to Clause 6.21C(2)(d)(iii).

  (iii) The development fails to demonstrate acceptable environmental impacts, including sustainable design, solar access, visual and acoustic privacy, contrary to Clause 6.21C(2)(d)(vii).

(F) The proposal results in unacceptable impacts to the heritage significance of the heritage item and the heritage conservation area and fails to meet Clause 5.10 of SLEP 2012.

(G) The proposed development is inconsistent with the built form and rear addition controls within Section 4.1 of Sydney DCP 2012 and therefore offers an unsatisfactory level of residential amenity to adjoining neighbours.

(H) The proposal does not provide 16sqm deep soil private open space in a consolidated area and is therefore non-compliant with Section 4.1.3.5 of the Sydney DCP 2012.

(I) Inadequate information has been submitted to properly assess the application in respect of flooding, architectural details and BASIX requirements and therefore it fails to satisfy the following requirements:

(i) compliance with the City's Interim Flood Planning Policy and stormwater drainage and quality requirements and is therefore contrary to Clause 5.21 of the Sydney LEP 2012, and Sections 3.7.1, 3.7.2 and 3.7.3 of the Sydney DCP 2012

(ii) insufficient drawing details are provided in relation to materials, colours and finishes

(iii) the drawings fail to show the required BASIX details relating to air conditioning and water in accordance with SEPP Sustainable Buildings 2022

(iv) the survey plan submitted does not relate to the current application, applicant, or consultant

(J) For the reasons listed above, the development is unsatisfactory when assessed pursuant to the matters for consideration at section 4.15(1)(e) of the EP&A Act and is therefore not in the public interest.

Background

The Reason the Application is Reported to the Local Planning Panel

1. The application is reported to the Local Planning Panel for determination as it is identified in Schedule 3 of the Local Planning Panels Direction of 3 March 2024.

2. The development application falls within the category of Departure from Development Standard as:

   (a) the proposal seeks to vary the Clause 7.36 dwelling retention development standard by 100% and

   (b) the proposal seeks to vary the Clause 4.4 floor space ratio development standard by 26%.

The Site and Surrounding Development

3. The site has a legal description of Lot 1 DP172552, known as 163 Victoria Street, Potts Point. It is rectangular in shape with area of approximately 145.4sqm. It has a primary street frontage of 5.925 to Victoria Street and a secondary street frontage of 6.095 to Hourigan Lane. The site is located within close proximity to Kings Cross Station to the south.

4. The site contains an existing 3 storey terrace, comprising 3 one-bedroom units.

5. The surrounding area is characterised by a mixture of land uses, primarily being low to medium density residential developments and some small commercial premises. The adjoining site to the north is a heritage listed terrace house, while the adjoining site to the south is a mixed-use development, with ground floor food and drink premises. The sites to the east, on the other side of Victoria Street, are terrace houses. To the west of the site is Hourigan Lane and terrace houses

6. The site is a local heritage item I1190 - Terrace house including interior. It is located within the Potts Point heritage conservation area C51. The site is identified as a contributing building.

7. The site is identified as being subject to flooding in the Woolloomooloo catchment area.

8. A site visit was carried out on 16 July 2026. Photos of the site and surrounds are provided below.

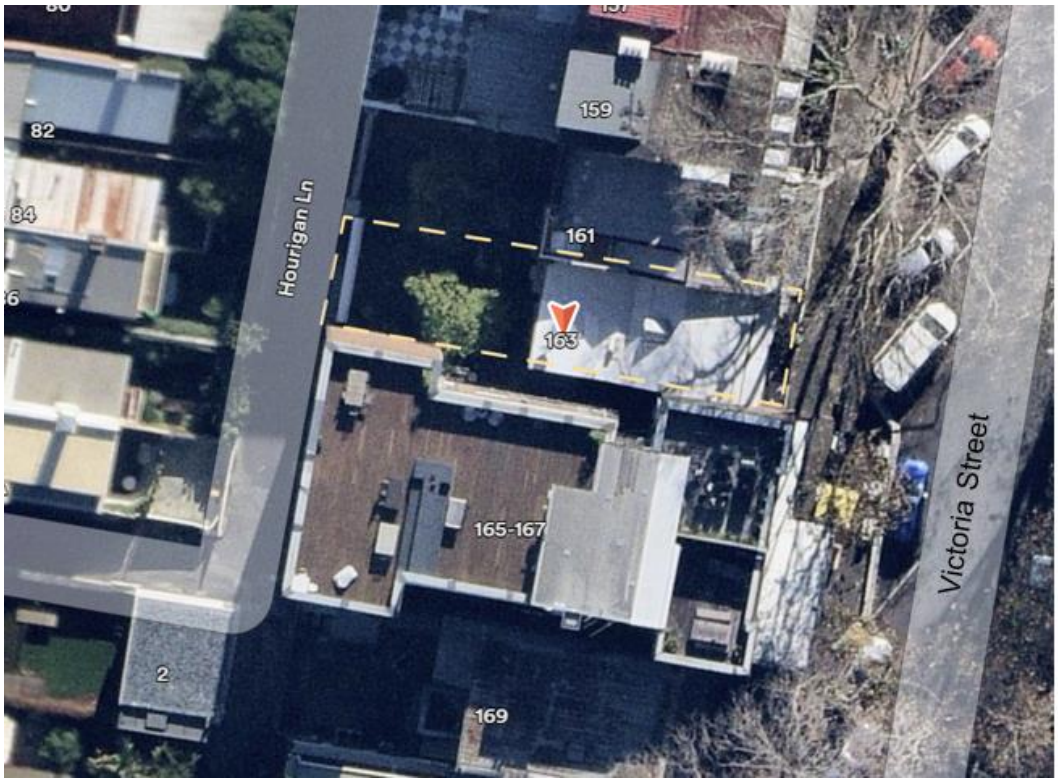


Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Victoria Street



Figure 3: Site viewed from Hourigan Lane



Figure 4: Neighbouring windows at 165-167 Victoria Street, viewed from Hourigan Lane



Figure 5: Neighbouring windows at 165-167 Victoria Street, viewed from the subject site's rear courtyard



Figure 6: View from attic window, facing east

History Relevant to the Development Application

Development Applications

9. The following applications are relevant to the current proposal:

- **D/2008/2137** – Development consent was granted on 20 March 2009 for alterations to terrace building including new floors, ceilings and joinery, new concrete slab to basement, reinstatement of the front facade, new rear wall and windows/doors and new internal fit-out for the reinstatement of the 3 residential units.

- **D/2022/686** – Development consent was granted on 19 June 2023 for alterations and additions and change of use to a residential dwelling.

  This application included the change of use from an RFB to a single dwelling. The assessment report does not make an assessment against Part 3: Retention of existing affordable rental housing of the State Environmental Planning Policy (Housing) 2021.

  Further to this, Clause 7.36 - Dwelling Retention of SLEP 2012 was not part of the LEP at the time of assessment or approval of D/2022/686.

  At the time of this report, there has been no Construction Certificate issued for the site and the development has not been taken up. This means the current use of the site remains as a residential flat building.

- **PDA/2025/182** – pre-lodgement advice was provided on 2 October 2025 for alterations and additions of a similar nature to the subject application. The proposal was not supported by Council and the following issues were raised:

  (i) the proposed change of use would need to address the relevant controls in the Housing SEPP relating to loss of low income affordable housing and the dwelling retention controls in clause 7.36 of the SLEP 2012
  (ii) heritage impacts and reinstatement works
  (iii) non-compliant built form, including the attic and front dormer design, rear roof extension and laneway structure
  (iv) adverse impacts to neighbours as a result of the laneway building design, including loss of outlook and overshadowing and solar access
  (v) exceedance in FSR was not supported. None of the above issues were addressed in the lodgement of the current DA.

Compliance Action

10. The site has previously been subject to compliance action, the outcome of which is now closed. It is not relevant to the subject application.

Amendments

11. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information and amendments was sent to the applicant on 9 September 2026**,** stating that Council did not support the application in its current form, and a significant redesign was required, which included the following:

- heritage concerns relating to demolition of internal floor levels, attic head height non-compliance, non-compliant dormer windows and other design issues which have a negative impact on the heritage item
- significant amenity impacts resulting from the bulk and scale of the new rear additions. Particularly regarding the impacts on the single aspect residential apartments at 165-167 Victoria Street
- provide compliant deep soil and private open space area
- further information be provided for solar access and overshadowing impacts, view loss assessment, correct and updated survey plan, BASIX requirements and further detailed plans
- request for the applicant to address the concerns raised from submissions

12. The applicant responded to the request on 6 October 2026, and advised that development application has been appealed through the Land and Environment Court on the basis of a deemed refusal.

Proposed Development

13. The application seeks consent for the following:

- change of use from a 3 unit residential flat building to a 3 bedroom single dwelling house (terrace) and associated demolition and internal alterations
- construction of a 3-storey pavilion addition at the rear of the site with frontage to Hourigan Lane
- construction of a 3eigf-storey link between the main dwelling and the pavilion addition
- a deep soil courtyard between the main dwelling and the pavilion addition
- re-planting of existing rear tree to the new courtyard

14. Plans and elevations of the proposed development are provided below.

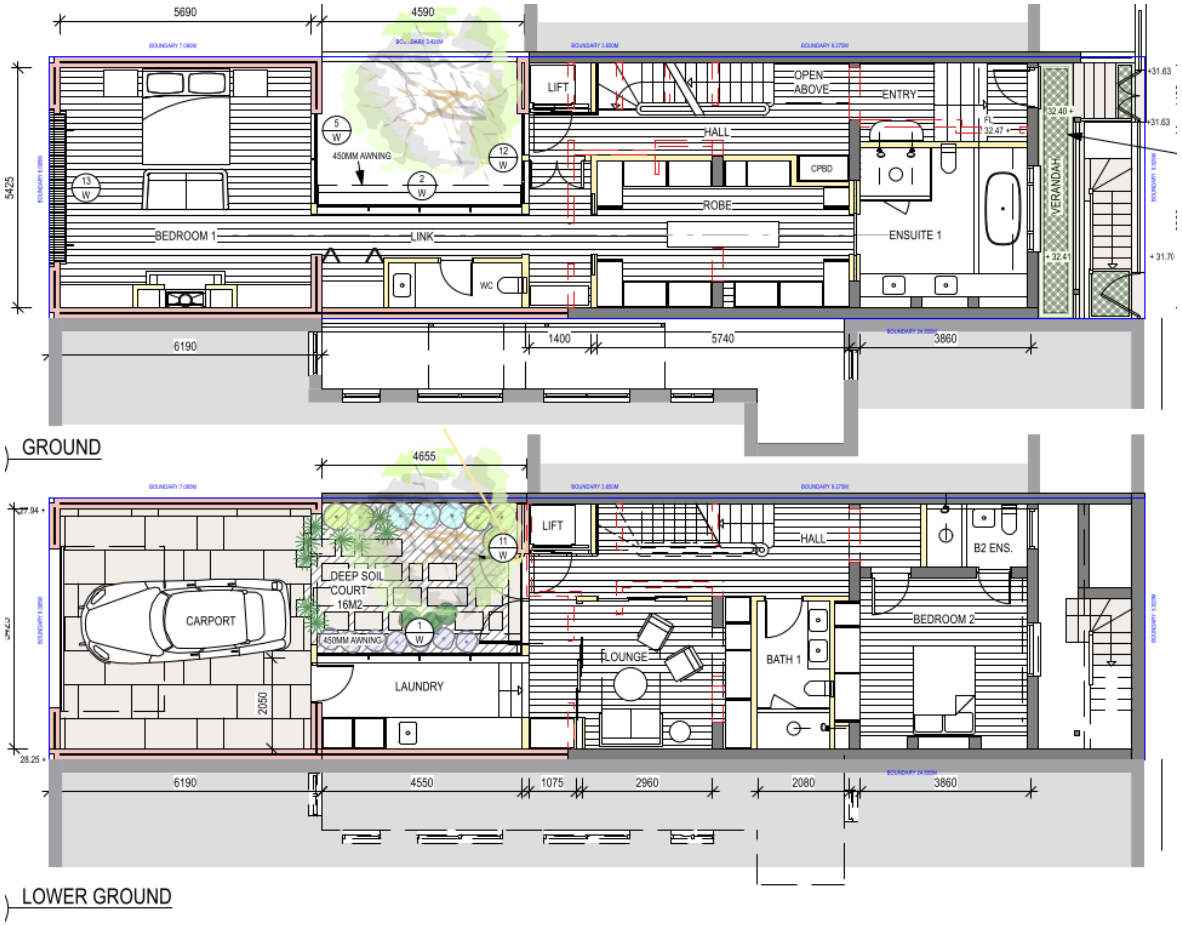


Figure 7: Proposed lower ground and round floorplans

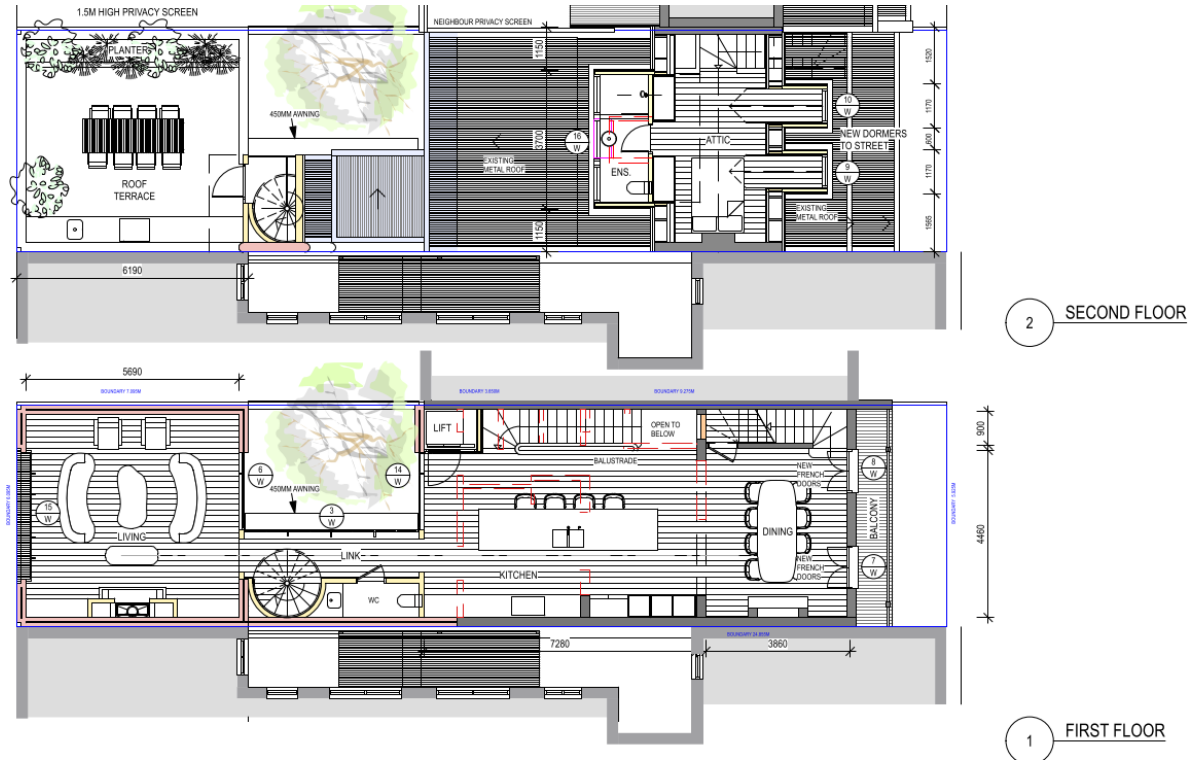


Figure 8: Proposed first and second floorplans

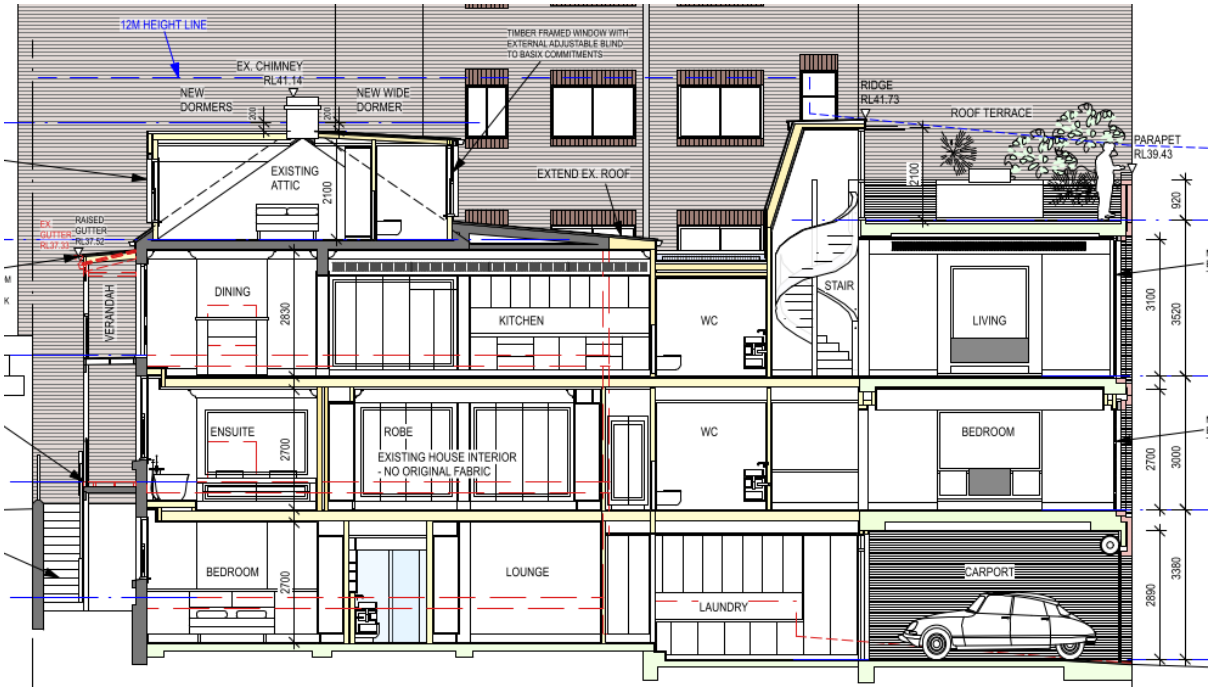


Figure 9: Proposed Section 1

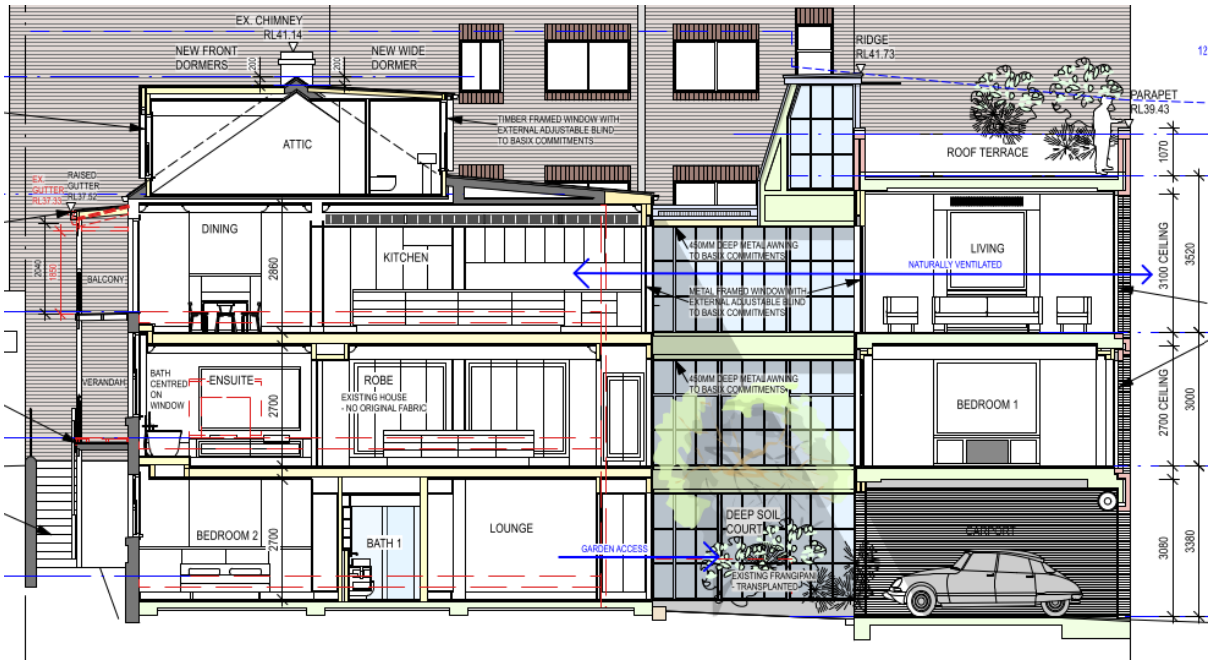


Figure 10: Proposed section 2

Assessment

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

State Environmental Planning Policies

State Environmental Planning Policy (Housing) 2021

16. The aim of SEPP (Housing) 2021 is to provide a consistent planning regime for the provision and maintenance of affordable rental housing and to facilitate the delivery of new affordable rental housing.

Chapter 2 Affordable Housing

Part 3 Retention of existing affordable rental housing

17. Part 3 of the SEPP addresses the reduction in the availability of low rental residential accommodation arising from a development.

18. Clause 46 of the Housing SEPP states that Part 3 applies to 'low-rental residential buildings' on land within the Greater Sydney region.

19. The Housing SEPP defines a ‘low-rental dwelling’ as a dwelling that was let at a rental level no greater than the median rental level, as specified in the Rent and Sales Report, during the relevant period (the 5-year period prior to the lodgement of the subject development application) in relation to a dwelling.

    (a) of the same type, and

    (b) with the same number of bedrooms, and

    (c) in the same local government area

20. The Housing SEPP defines a ‘low-rental residential building’ as a building used, during the relevant period, as a residential flat building containing a low-rental dwelling or as a boarding house, and includes a building that—

    (a) is lawfully used as a residential flat building containing a low-rental dwelling or as a boarding house, irrespective of the purpose for which the building may have been erected, or

    (b) was used as a residential flat building containing a low-rental dwelling or as a boarding house, but the use has been changed unlawfully to another use, or

    (c) is vacant, but the last significant use of which was as a residential flat building containing a low-rental dwelling or as a boarding house.

21. The definitions under Clause 45, were briefly assessed within the submitted Statement of Environmental Effects. However, the application was not supported by a Social Impact Assessment (SIA) to adequately assess if the existing building is a low-rental building. Further to this, it has not been adequately tested if the proposal will reduce affordable housing stock in the City of Sydney LGA. The site has been used as a residential flat building since 2008 however, an approval was granted in 2023 to change it to a single dwelling. As mentioned above in this report, this consent has not been taken up.

22. Notwithstanding this, the City is of the view that the 3 one-bedroom units are likely to meet the definition of 'low-rental residential building' and therefore is subject to the considerations of clause 47 of SEPP (Housing) 2021

23. Due to the lack of information, in the form of a SIA, the consideration of the Guidelines for Retention of Existing Affordable Rental Housing (Guidelines) and the matters under Clause 47(2) of the Housing SEPP could not be assessed.

24. Based on the above, the proposal fails to adequately satisfy the matters for consideration set out in Section 47(2) of Part 3: Retention of existing affordable rental housing of the Housing SEPP 2021 and the Guidelines for Retention of Existing Affordable Rental Housing and is therefore recommended for refusal.

State Environmental Planning Policy (Sustainable Buildings) 2022

25. The aims of this Policy are as follows—

    (a) to encourage the design and delivery of sustainable buildings

    (b) to ensure consistent assessment of the sustainability of buildings

    (c) to record accurate data about the sustainability of buildings, to enable improvements to be monitored

    (d) to monitor the embodied emissions of materials used in construction of buildings

    (e) to minimise the consumption of energy

    (f) to reduce greenhouse gas emissions

    (g) to minimise the consumption of mains-supplied potable water

    (h) to ensure good thermal performance of buildings

Chapter 2 Standards for residential development - BASIX

26. A BASIX Certificate has been submitted with the development application

27. The BASIX certificate lists measures to satisfy BASIX requirements which have not been incorporated into the proposal. These include:

    - All windows and doors are committed to be aluminium, however this does not align with heritage requirements. All windows within the retained main dwelling will need to be timber framed clear glazing.

    - The hot water unit is also required to be depicted on the DA drawings.

28. The application does not adequately meet the BAISX requirements for the proposed development and is therefore, recommended for refusal.

Local Environmental Plans

Sydney Local Environmental Plan 2012

29. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the MU1 Mixed Use zone. The proposed development is defined as dwelling house and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	No	A maximum building height of 12m is permitted. The height appears to be 12.2m to top of new ridge (roof terrace) by calculation on the section plans. By survey the height is 13.14 (Ridge RL 41.79- NGL 28.59). Therefore, the proposed development does not comply with the maximum floor space ratio development standard. No Clause 4.6 Variation Report was submitted. Note, the survey plan submitted is outdated and not adequate,therefore insufficient information has been submitted to properly assess the height of building control. See further details in the 'Discussion' section below.
4.4 Floor space ratio	No	A maximum floor space ratio of 1.5:1 or 223.5sqm is permitted. A floor space ratio of 1.89:1 or 275.sqm is proposed. This is a 26% variation to the control. The proposed development does not comply with the maximum floor space ratio development standard. A request to vary the floor space ratio development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.

Provision	Compliance	Comment
4.6 Exceptions to development standards	No	The proposed development seeks to vary the development standard prescribed under Clause 4.4 and Clause 7.36. The application is accompanied by a document pursuant to s35B(2) of the Environmental Planning and Assessment Regulations 2021 addressing each clause. See further details in the 'Discussion' section below.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	No	The site is a local heritage item Terrace House I1190 and the site is located within the Potts Point heritage conservation area C51. The proposed development will have a detrimental impact on the heritage significance of the heritage conservation area and the heritage item. See further details in the 'Discussion' section below.
5.21 Flood planning	No	The site is identified as being flood affected. As per the Woolloomooloo flood study, there is a flow path along the western side of Victoria Street, and the peak 1% AEP and PMF flow depths range from 300mm to 600mm, indicating flows that may overtop the kerb and enter the building, impacting habitable areas at the lower ground level. The application does not include a flood risk assessment and therefore fails to meet the City's requirements.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	No	The proposed development does not demonstrate design excellence. See

Provision	Compliance	Comment
		further details in the ‘Discussion’ section below.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.4 Dwelling houses, attached dwellings and semi-detached dwellings	Yes	A maximum of 2 car parking spaces are permitted. The proposed development includes 1 car parking space and complies with the relevant development standards.
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	Yes	The application for alterations and additions does not create more than 200sqm of residential accommodation and therefore a contribution is not applicable.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils. The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan.
7.36 Dwelling Retention	No	The proposal seeks to alter and extend/enlarge the existing 3 unit building to change its use to a single residential dwelling. Therefore, reducing 3 units into 1 which is a 100% variation to this control. A request to vary the dwelling retention development standard in accordance with Clause 4.6 has been submitted. See further details in the ‘Discussion’ section below.

Development Control Plans

Sydney Development Control Plan 2012

30. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

Section 2 – Locality Statements

31. The site is located within the 2.4. City East locality. The proposed development is not in keeping with the unique character and the design principles of the 2.4.7 Kings Cross locality, as it fails to meet the following principles:

- the proposal would result in adverse impacts to significant heritage elements of the terrace and negatively impact the HCA, in accordance with 2.4.7(b).

Section 3 – General Provisions

Provision	Compliance	Comment
3.5 Urban Ecology	No	The proposed development involves the transplantation of the existing tree at the rear of the site into the courtyard, which is supported in principle. Notwithstanding this, due to the excessive rear extension, including length and height, the canopy growth of the tree in the new location will be significantly impacted.
3.6 Ecologically Sustainable Development	No	The proposal does not satisfy the BASIX and environmental requirements.
3.7 Water and Flood Management	No	The site is identified as being on flood prone land. See discussion under section 7.15 above.
3.9 Heritage	No	The site is a local heritage item Terrace House I1190 and the site is located within the Potts Point heritage conservation area C51. See further details in the 'Discussion' section below.
3.11 Transport and Parking	No	The proposal is not accompanied by vehicle swept paths analysis to demonstrate that a B85 vehicle can sufficiently enter and exit the car parking area from Hourigan Lane. The proposal also fails to provide a minimum 4m wide roller door opening. However, this could be addressed by a condition.

Provision	Compliance	Comment
3.12 Accessible Design	No	No BCA/NCC report submitted to support change of building class.
3.13 Social and Environmental Responsibilities	No	The proposal seeks to provide an ensuite and associated window on the ground floor to face Victoria Street. This is not an appropriate use for this location and does not provide the opportunity for positive casual surveillance to the street.
3.14 Waste	Yes	A waste management plan has been submitted with the application. Compliance with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development could be addressed by a condition.

Section 4 – Development Types

4.1 Single Dwellings, Terraces and Dual Occupancies

Provision	Compliance	Comment
4.1.1 Building height	No	The site is permitted a maximum building height of 3 storeys. See further details in the 'Discussion' section below.
4.1.2 Building setbacks	Yes	The proposed development relates to the existing setback patterns along the street and respects the predominant rear building line.
4.1.3 Residential amenity As demonstrated below, the proposed development will have unacceptable and unreasonable impacts on the residential amenity of neighbouring properties.		
4.1.3.1 Solar access	No	The subject site receives the minimum 2 hours of solar access to the living room and the roof top terrace. However, the main internal courtyard does not receive any solar between 9am and 3pm on June 21. See further details in the 'Discussion' section below regarding overshadowing to neighbours.

Provision	Compliance	Comment
4.1.3.2 Solar collectors	Yes	N/A
4.1.3.3 Landscaping	Yes	Existing tree is being retained - proposed to be transplanted into new courtyard location, however insufficient space available.
4.1.3.4 Deep soil planting	Yes	N/A - site less than150sqm
4.1.3.5 Private open space	No	The proposed internal courtyard, at ground level, does not meet the minimum 16sqm.
4.1.3.6 Visual privacy	No	The proposal does not meet the requirements of this section, as the siting of the rear addition (and link) creates significant privacy impacts to adjoining neighbours. Further to this, the roof top terrace creates direct overlooking from the subject site to both side and rear neighbour's private open spaces with no privacy treatment provided.
4.1.4 Alterations and additions		
4.1.4.1 General	No	Fails to meet controls (1) and (2) of this section as there are significant changes to the floor levels and non-compliant dormers in roof/front facade. The rear additions do not maintain the profile or form of the original terrace building and is not supported.
4.1.4.4 Pavilion additions	No	The proposed rear addition fails to meet the requirements under (1) and (2) as the linking element is not of low scale and the pavilion addition does not respect of the original building roof pitch. This link area creates a blank wall of 12-13m against the boundary to 165-167 Victoria St and results in loss of sunlight and outlook. It also accommodates a rooftop terrace and fails to meet (3).
4.1.5 Roof alterations and additions		
4.1.5.2 Ensuring sympathetic roof alterations and additions	No	The proposed alterations and addition is not sympathetic to the original terrace

Provision	Compliance	Comment
		and has adverse impacts on the heritage item and on adjoining neighbours. Further, the original floor levels are not maintained, and the addition includes a roof terrace which therefore fails to meet these controls. The proposal involves significant internal demolition to walls and changes the floor levels across all levels of the building. This therefore impacts the original structure of the heritage item.
4.1.5.4 Traditional front dormers	No	The proposed dormers fail to meet the design requirements under this section and are not supported.
4.1.5.5 Rear roof extensions	Yes	The application proposes a rear roof extension.
4.1.6 Secondary and laneway dwellings	No	The proposal includes a pavilion style laneway dwelling. Its height (bulk and scale) is not supported. The design of the pavilion includes a 3 storey extension of the original terrace which links to the laneway dwelling across the site. This link requires demolition of the existing heritage terrace's floor levels to accommodate the slope of the site. Further, it results in a 12-13m blank wall to the single aspect residential units at 165-167 Victoria Street. See further details in the 'Discussion' section below.
4.1.8 Balconies, verandas and decks	No	A rooftop terrace (at rear) is proposed and is not supported in line with this section. The terrace results in adverse privacy to the side and rear neighbours. It sits above the 3 storey rear addition and has unobstructed views in the rear private yards of the properties on the western side of Hourigan Lane.
4.1.9 Car parking	No	The car space is located at the rear of the dwelling and consistent with the controls.

Provision	Compliance	Comment
		However, the width of the garage door does not meet the minimum 4m requirement and a swept path analysis is required to demonstrate that a car can enter and exit the space. Notwithstanding the above, this could be satisfied via condition of consent.

Discussion

Clause 4.6 Request to Vary a Development Standard - Floor Space Ratio (FSR)

32. The site is subject to a maximum FSR control of 1.5:1 or 223.5sqm. The proposed development has a FSR of 1.89:1 or 275sqm, exceeding the development standard by 51.5sqm (26%). This roughly equates to the top floor of the rear laneway addition and link to the existing terrace dwelling.

33. Pursuant to the requirements of Regulation 35B of the Environmental Planning and Assessment Regulation 2021, the application has been accompanied by a document setting out the grounds on which the applicant seeks to demonstrate:

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

    (b) that there are sufficient environmental planning grounds to justify contravening the standard.

Applicant's Regulation 35B document

34. The applicant seeks to justify the contravention of the FSR development standard on the following basis:

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

        (i) The development standard has been varied in similar circumstances to a greater degree where there is no impact on neighbours, no impact on character of area, no material increase in intensity of use;

        (ii) There are no adverse amenity impacts which arise from the contravention;

        (iii) The built form would remain the same even if the attic and lower ground floor level were deleted; and

        (iv) The site is bookended by other sites with an FSR limit of 2:1 at Nos. 159 and 165-167 (the latter appears to significantly exceed even this FSR).

    (b) That there are sufficient environmental planning grounds to justify contravention of the standard:

        (i) The contravention would maximise use of existing urban infrastructure and marginally lessen demand for development on the urban edge.

(ii) The contravention would result in a built form which is compatible with the character of the conservation area and heritage items in the vicinity of the site.

(iii) The contravention would allow a development consistent with the character of surrounding development by providing a built form and scale consistent with the character of the locality.

Precondition to granting consent where a development standard has been contravened

35. Development consent must not be granted unless the consent authority is satisfied that the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard.

36. The applicant has not adequately demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances, given the overbearing impact of the building on the residential amenity of the single aspect apartments at 165-167 Victoria Street.

37. The proposal fails to justify the extent of internal demolition to walls and existing floor levels which has a detrimental impact on the significance heritage elements of the terrace.

38. The non-compliant rear pavilion addition, with an uncharacteristic link between the existing dwelling and the rear addition, creates adverse overshadowing and privacy impacts on adjoining neighbours to the side and rear boundary. This therefore creates an undesirable built form which is not supported.

39. Based on the above, the development that fails to satisfy objective (d) of the standard.

Conclusion

40. For the reasons provided above the requested variation to the FSR development standard is not supported as the applicant has not demonstrated the matters required to be addressed by Clause 4.6(3) of the Sydney Local Environmental Plan 2012.

Clause 4.6 Request to Vary a Development Standard - Dwelling Retention

41. The objective of this Clause is to maximise dwelling retention. 7.36 (2) states that consent must not be granted for alterations and/or additions (enlarging or extending) in relation to a residential flat building or a **building containing 3 or more dwellings** if the development would reduce the number of dwellings on the site of the building by more than the greater of 15%, rounded to the nearest whole number of dwellings, or 1 dwelling.

42. The proposal seeks to convert the existing 3 unit residential flat building into one single dwelling and therefore results in a 100% variation to this standard.

43. Pursuant to the requirements of Regulation 35B of the Environmental Planning and Assessment Regulation 2021, the application has been accompanied by a document setting out the grounds on which the applicant seeks to demonstrate:

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

(b) that there are sufficient environmental planning grounds to justify contravening the standard.

Applicant's Regulation 35B document

44. The applicant seeks to justify the contravention of the dwelling retention development standard on the following basis:

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

(i) The site has a current consent (D/2022/686) to convert the building to a single dwelling which is still active and does not lapse until 19 June 2028;

(ii) There are no adverse amenity impacts which arise from the contravention.

(b) that there are sufficient environmental planning grounds to justify contravention of the standard:

(i) The contravention would enable the occupation of the site for multi-general living enabling the care of young children by grandparents who also reside in the same building.

(ii) The contravention would have no measurable impact upon the intensity of the development on the site which would, nevertheless, accommodate the same or a greater number of residents as a compliant development - but with more flexibility.

(iii) Allowing the use of an existing building in a manner which is consistent with its zoning is consistent with the orderly and economic use of the land.

(iv) The contravention would provide incentive for the upgrading of the existing building to be more energy efficient.

(v) The contravention would be more consistent with the historical form of the building which was originally constructed as a single dwelling.

(vi) The contravention would provide better amenity for the owner and occupants if the existing dwelling as it would be more suitable to their specific functional requirements.

(vii) The contravention would enable alterations and additions to provide a higher standard of thermal performance and more sustainable construction.

45. Development consent must not be granted unless the consent authority is satisfied that the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard.

46. The objective of this clause is to minimise the loss of housing diversity through the redevelopment of existing dwellings. The intended outcomes are to support housing diversity and affordability by discouraging the replacement of smaller apartments with fewer large apartments, maintain and grow housing supply in the City, and maintain residential densities close to amenities and public transport.

47. Clause 7.36 of SLEP 2012 was introduced via gateway determination on 5 April 2024 and formally amended on 30 May 2025. Therefore, assessment and approval of D/2022/686 was not assessed against Clause 7.36 of SLEP 2012. This approval has not been acted upon and therefore cannot be relied upon.

48. Based on the above, the development fails to satisfy objective (1) of the standard in that is fails to maximise dwelling retention and fails to establish environmental planning grounds under the objects of the EP&A Act.

Conclusion

49. For the reasons provided above the requested variation to the dwelling retention development standard is not supported as the applicant has not demonstrated the matters required to be addressed by Clause 4.6(3) of the Sydney Local Environmental Plan 2012.

Height of Building

50. The site is subject to a maximum Height of Building of 12m development standard under the SLEP 2012. The applicant's submission indicates that the proposed development has a maximum height of 12m and is compliant with the development standard.

51. The calculation of Height of Building is measured in metres from ground level (existing) to the highest point of the building. The City's assessment of height of building indicates that the development does not comply with the 12m development standard. Two methodologies have been undertaken based on the submitted information.

52. Figure 11 – relies on the submitted roof plan (which has failed to indicate proposed ridge levels), overlaid with the submitted survey plan. The elevation and section plans (figure 12) submitted indicate that the building has a maximum proposed ridge of RL.41.73mAHD. When overlaid with the survey plan, the lowest level within the proposed building footprint is RL.28.56mAHD (circled blue at Figure 11). Resulting in a maximum height of 13.14 and variation of 9.5%

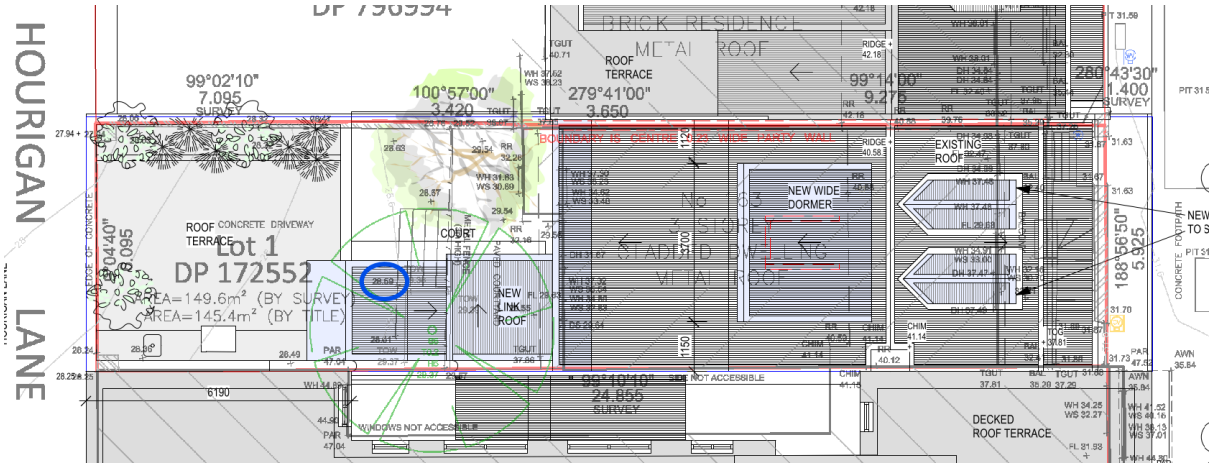


Figure 11: roof plan and survey plan overlay

53. Figure 12 – relies on the submitted section plan. As indicated on the plans, the maximum proposed height of building is approximately 12.2m, an exceedance of 200mm and variation of 1.6%.

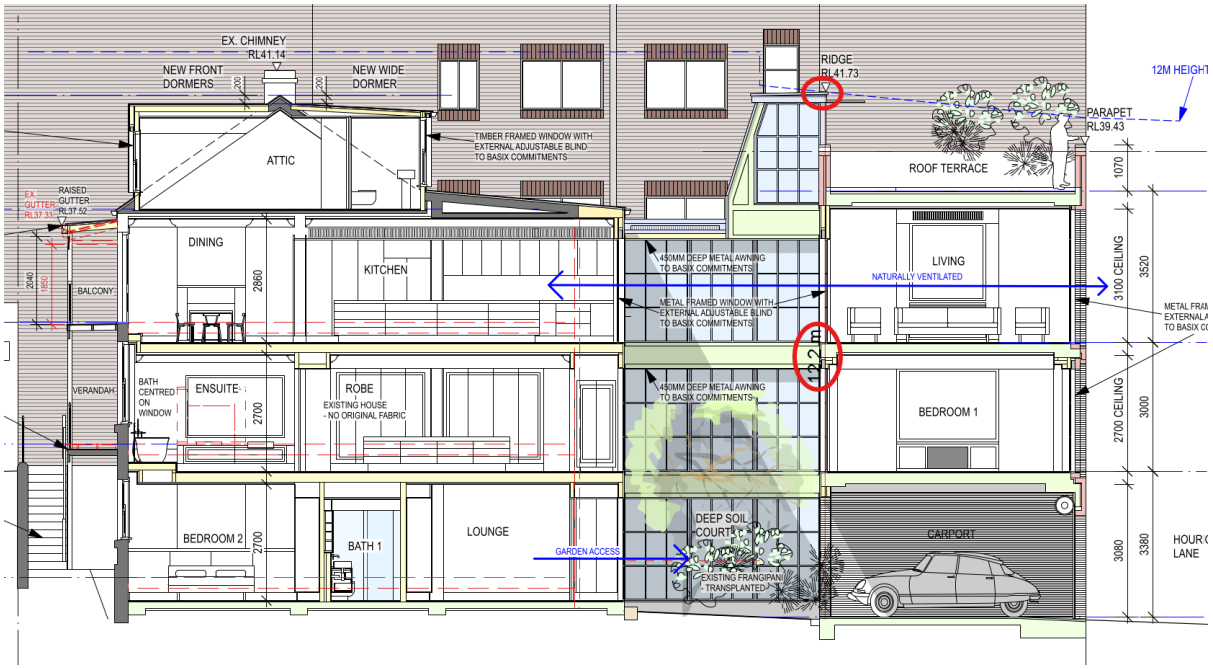


Figure 12: section plan indication 12.2m height of building

54. The application was not accompanied by a document pursuant to s35B(2) of the Environmental Planning and Assessment Regulations 2021 seeking to justify contravention of the development standard. Accordingly, the consent authority cannot approve the application as it proposes development that contravenes a development standard imposed by an environmental planning instrument. Further, in the absence of such a document, the consent authority cannot be satisfied that the applicant has demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. Accordingly, the proposal fails to comply with Clause 4.3 and this forms a reason for refusal.

Design Excellence

55. The provisions of section 6.21C of SLEP 2012 state that development consent must not be granted to development unless, in the opinion of the consent authority, the proposed development exhibits design excellence.

56. For the above reasons, the development fails to satisfy objective (a) of Clause 6.21C, which is to provide a high standard of architectural design, materials and detailing appropriate to the building type and location.

57. With regard for its proximity to approved small studio units at 165-167 Victoria Street, the development fails to provide suitable building massing and modulation, as required by Clauses 6.21C(2)(a) and 6.21C(2)(d)(v). The development fails to deliver suitable outcomes with regard for solar access, visual and acoustic privacy and noise, as required by Clause 6.21C(2) (d)(vii) of SLEP 2012.

58. A reduced built form and 2 storey rear addition would result in a development that meets the height and FSR controls and significantly reduce the impacts on neighbours.

59. The application fails to appropriately address heritage issues and streetscape constraints, pursuant to Clause 6.21C(2)(d)(iii),

Rear Addition, overshadowing and amenity impacts

60. The proposal is an overdevelopment of the site and results in a number of non-compliances with key controls. The laneway pavilion addition fails to meet objective (a) of Section 4.16 of SDCP 2012 in that is results in adverse amenity impacts on surrounding properties.

61. The proposal fails to meet the rear pavilion addition requirements under Section 4.1.4 which creates adverse amenity impacts to adjoining neighbours. 165-167 Victoria St (southern neighbour) is a multi-level mixed use building containing studio apartments and ground floor commercial uses. Some of the apartments rely on either a northern or southern lightwell for their sole source of natural light and air, and for their only outlook. The apartments on the north also rely on the lightwell for solar access.

62. Further to this, the proposed part 3, part 4 storey wall located on the southern boundary results in an overbearing impact on level 1 and 2 apartments that have their sole outlook into the lightwell. The building form results a loss of solar access to the living rooms of these apartments and the level 1 private open space. The proposed boundary wall and resulting building form also eliminates outlook and city view.

63. A comparison of the D/2022/686 approval and the proposed development is provided below. The yellow outline in the first images shows the additional windows for 165 Victoria St which will be covered by the proposal.



2022 approval proposed

Figure 13: Elevational comparison of the D/2022/686 approval and proposal



Figure 14: View of unit 4 balcony and living room windows at 165-169 Victoria Street



Figure 15: View of unit 8 kitchen and living room windows at 165-169 Victoria Street

64. The proposed roof terrace (including associated stairs) does not comply with Section 4.1.8.1 of Sydney DCP 2012 and is not supported. This provision states that decks above the ground floor are to be located and designed to minimise overlooking, of a size, location and design appropriate to the building proportions, and avoided at the rear and side of dwellings.

65. The application has also not demonstrated compliance with privacy provisions contained within Section 4.1.3.6 of the SDCP 2012. The design of the internal courtyard results in direct overlooking to the northern neighbour from each level, as shown in images below and privacy treatment has been proposed.

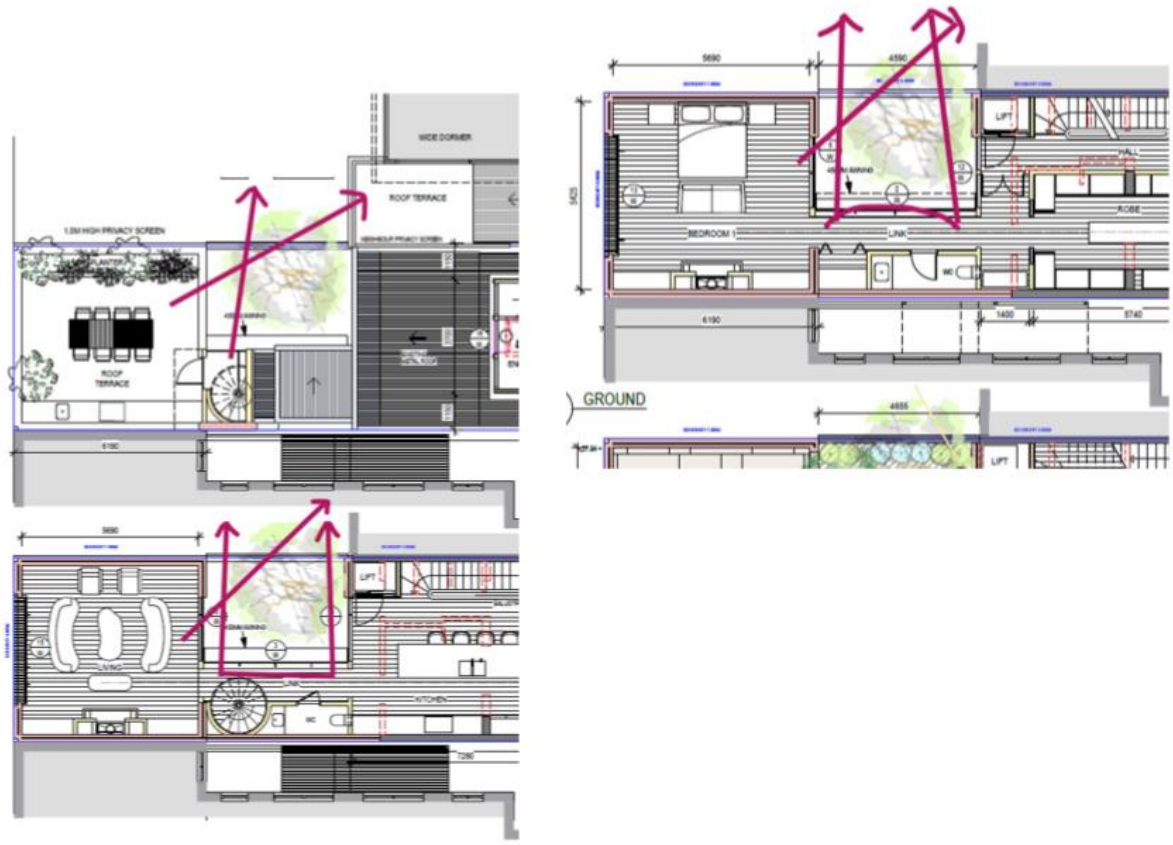


Figure 16: Direct overlooking shown from each floor level

66. The proposed extension and rear additional results in the adjoining neighbours at 165-167 Victoria Street to receive less than 2 hours of sunlight into their living rooms. These apartments are single aspect with windows only facing north. As shown on the shadow diagrams, the additional shadows as a result of this proposal will block access to the sun in the afternoon, when previously these windows were unobstructed and received the minimum 2 hours in the afternoon. Therefore the proposal fails to meet the requirements under Section. Section 4.1.3.1 of Sydney DCP 2012.

67. Further to this, the proposed overshadowing diagrams fail to show the extent of overshadowing to the rear courtyards on Hourigan Lane (terraces facing Brougham Street).

68. Detailed view from the sun and overshadowing diagrams must be provided which clearly show that 50% of the Lower Ground Floor private open space and at least 1sqm of living room windows for the subject site and neighbouring sites achieve a minimum of 2 hours of mid-winter solar access.

69. The proposal fails to provide a minimum of 16sqm of private open space at lower ground level, directly accessible from the living area as per Section 4.1.3.5 of SDCP 2012. The rear courtyard does not meet the minimum dimensions and is dominated by hardstand which limits the genuine deep soil in this area.

70. In summary, the proposed development exceeds the maximum FSR allowed for this site and has an adverse impact on the neighbouring apartments in relation to solar access, outlook and potentially views, in that the rear addition creates a blank wall to the single aspect apartments to the south which negatively impacts their light, air and outlook. The exceedance of the FSR control cannot be supported. The proposed addition has an overbearing impact on the north facing apartments that have windows on the inset northern facade. While some imposition may be possible, the likely level of adverse impacts on the amenity of these studio apartments cannot be supported.

Heritage

71. The site is a local heritage item including interior. The proposed development does not demonstrate appropriate design that responds to the significant fabric and features of the heritage building and does not ensure an acceptable impact on the heritage significance of the heritage item to satisfy Clause 5.10(4) of the LEP.

72. Further to this, the proposal fails to adequately address the heritage objective (a) within Section 3.9 of SDCP 2012 in that the proposal does not conserve the heritage significance of the existing terrace, including fabric, its original setting and views.

73. The floor to ceiling heights are lower than most terrace houses of this era, however the relationship of the existing floors to the original / early fireplaces and external window joinery would indicate these are most likely the original floor levels.

74. The proposed altered floor levels at Ground and First Floors have adverse impacts on significant features such as external window / door joinery and fireplaces and are not supported. the proposal does not adequately justify the significant internal demolition and change of floor levels which are needed to accommodate the extension and connection to the rear addition. The existing floor levels should be retained at least within the principal 2 rooms of the terrace house at Ground and First Floors.

75. The proposal includes an ensuite for the Ground Floor front room of the original terrace, which is not an appropriate use and has adverse heritage impacts as well as privacy implications. Further, the demolition of the fireplace and blocking in of the chimney breast is also not supported given this is one of the few remaining significant features within the interiors of the heritage item. This front room should be used as a study, living or dining area.

76. The proposed attic dormers fail to comply with Section 4.1.5.1 and 4.1.5.4 of SDCP 2012. The floor to ceiling heights within the attic do not meet the minimum NCC requirements. Further, the site width is less than 6m and therefore, 2 dormers are not permitted. The proposal is not supported by an existing street pattern of 2 dormers and therefore the proposal is not supported.

Consultation

Internal Referrals

77. The application was discussed with Council's:

    (a) Heritage and Urban Design Unit

    (b) Public Domain Unit

    (c) Surveyors

    (d) Transport and Access Unit

    (e) Tree Management Unit

    (f) Landscaping Unit

78. See further details under the 'Discussion' section above.

Advertising and Notification

79. In accordance with the City of Sydney Community Participation Plan 2025, the proposed development was notified for a period of 28 days between 8 July 2026 and 6 August 2026. A total of 610 properties were notified and 20 submissions were received, including 15 objections.

80. The submissions raised the following issues:

    (a) **Issue:** Height, bulk and scale

        Response: The height, bulk and scale of the proposal is not appropriate. A redesign is required to ensure a compliant built form is achieved and adverse impacts to neighbours are minimised. See the body of this report for further discussion on these matters.

    (b) **Issue**: Overshadowing, loss of sunlight, natural light and outlook

        Response: The impact of the proposed built form is not considered acceptable or compliant. A redesign is required to ensure a compliant built form is achieved and adverse impacts to neighbours are minimised. See the body of this report for further discussion on these matters.

    (c) **Issue:** Privacy and overlooking (from roof terrace)

        Response: The rooftop terrace fails to meet the requirements of Section 4.1 of SDCP 2012, will create adverse overlooking impacts and is not supported.

    (d) **Issue**: Overdevelopment of the site

        Response: The extent of development proposed, including the scale of the rear addition, the overall floor area and the resultant impacts on neighbouring properties, demonstrates that the site is being developed beyond an appropriate capacity.

(e) **Issue:** Loss of housing supply

Response: See the body of this report for further discussion on this issue.

(f) **Issue**: Impacts on property value

Responses: Council notes this concern, however, is not a consideration under Section 4.15 of the EP&A Act

(g) **Issue**: Airflow, dampness and mould (as a result of loss of sunlight)

Response: The loss of sunlight and outlook is discussed above.

Issue: Construction noise, dust and disruption, structural impacts on adjoining properties and access to side boundaries

Response: if the application was approved, standard conditions would be imposed to minimise construction impacts to adjoining neighbours. This would include conditions relating to construction management, noise mitigation and dilapidation reports.

Financial Contributions

The application is recommended for refusal and therefore no contributions have been imposed.

Relevant Legislation

81. Environmental Planning and Assessment Act 1979.

82. State Environmental Planning Policy (Housing) 2012

83. Sydney Local Environmental Plan 2012

84. Sydney Development Control Plan 2012

Conclusion

85. Having regard to the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the proposal is not in the public interest and cannot be supported. The development exceeds the maximum building height development standard, fails to adequately conserve the heritage significance of the heritage item and conservation area, exhibits excessive bulk and scale, results in unacceptable visual privacy impacts and does not demonstrate design excellence. Collectively, these deficiencies warrant refusal of the application.

86. With consideration of the matters required to be addressed by Clause 4.6(3) of the Sydney Local Environmental Plan 2012, the application fails to sufficiently justify requested variations from the Dwelling Retention, Floor Space Ratio and Building Height development standards provided by the Sydney Local Environmental Plan 2012.

87. The application proposes development that contravenes the height standard in the Sydney Local Environmental Plan 2012 and has not been accompanied by a document pursuant to s35B(2) of the Environmental Planning and Assessment Regulations 2021.

88. The proposal fails to satisfy the considerations under clause '5.10 - Heritage conservation' of the Sydney LEP 2012 as the development fails to respect the heritage significance of the existing building on site and the proposed extent of internal demolition and the non-complaint rear addition is not justified.

89. The proposal fails to meet key built form controls within Sydney DCP 2012 which results in adverse amenity impacts to neighbouring properties.

90. For these reasons, the proposal fails to demonstrate design excellence pursuant to the provisions of Clause 6.21C of the Sydney LEP and significant revisions are required to the overarching design in order to achieve design excellence.

91. For these reasons, the proposed is recommended for refusal.

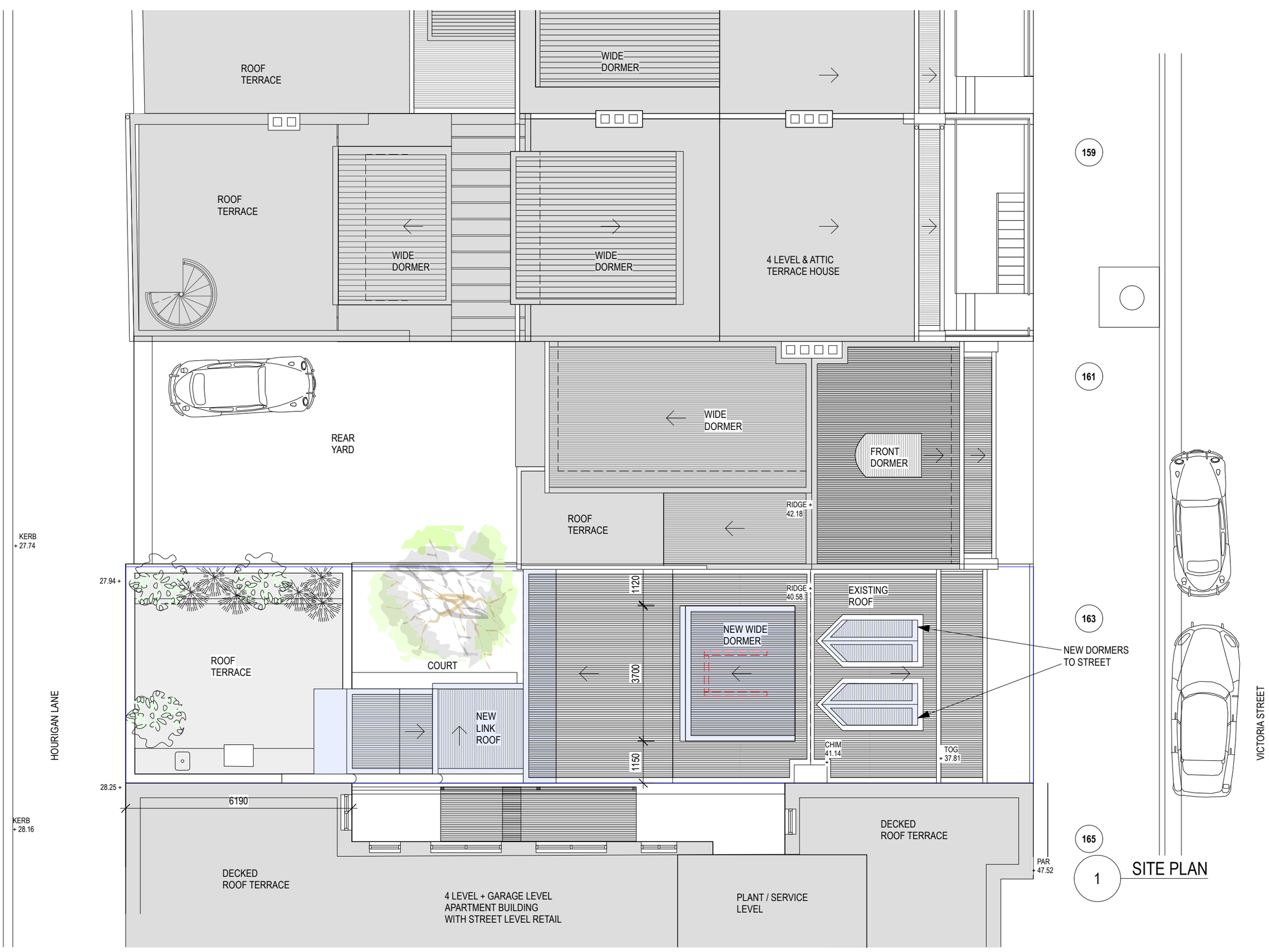
ANDREW THOMAS

Executive Manager Planning and Development

Kaitlin McCaffery, Specialist Planner

Attachment A

Selected Drawings



37

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Peter Rush

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NSW Registered Architect Peter Rush No. 7023

The proposed works shall comply with the Deemed-to-Satisfy Provisions of the BCA.

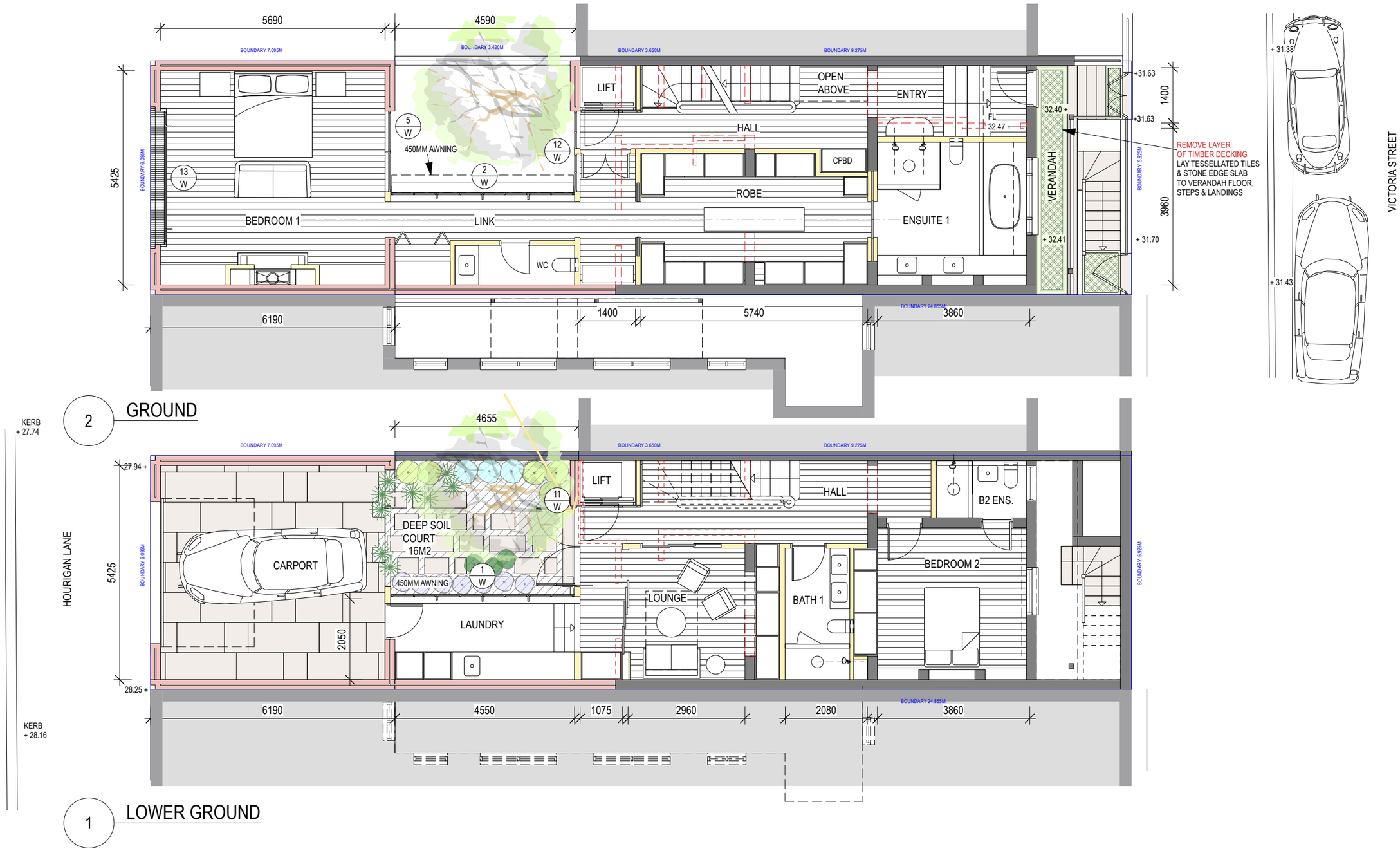
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ISSUE	REVISION	DATE
B	DA SUBMISSION	18 05 26
A	PRE DA SUBMISSION	08 08 25

ALTERATIONS & ADDITIONS
163 VICTORIA ST, POTTS POINT
PROJECT

SITE / ROOF PLAN
DWG TITLE

2406
JOB NO
1:100 @ A3
SCALE
A 01
DWG NO



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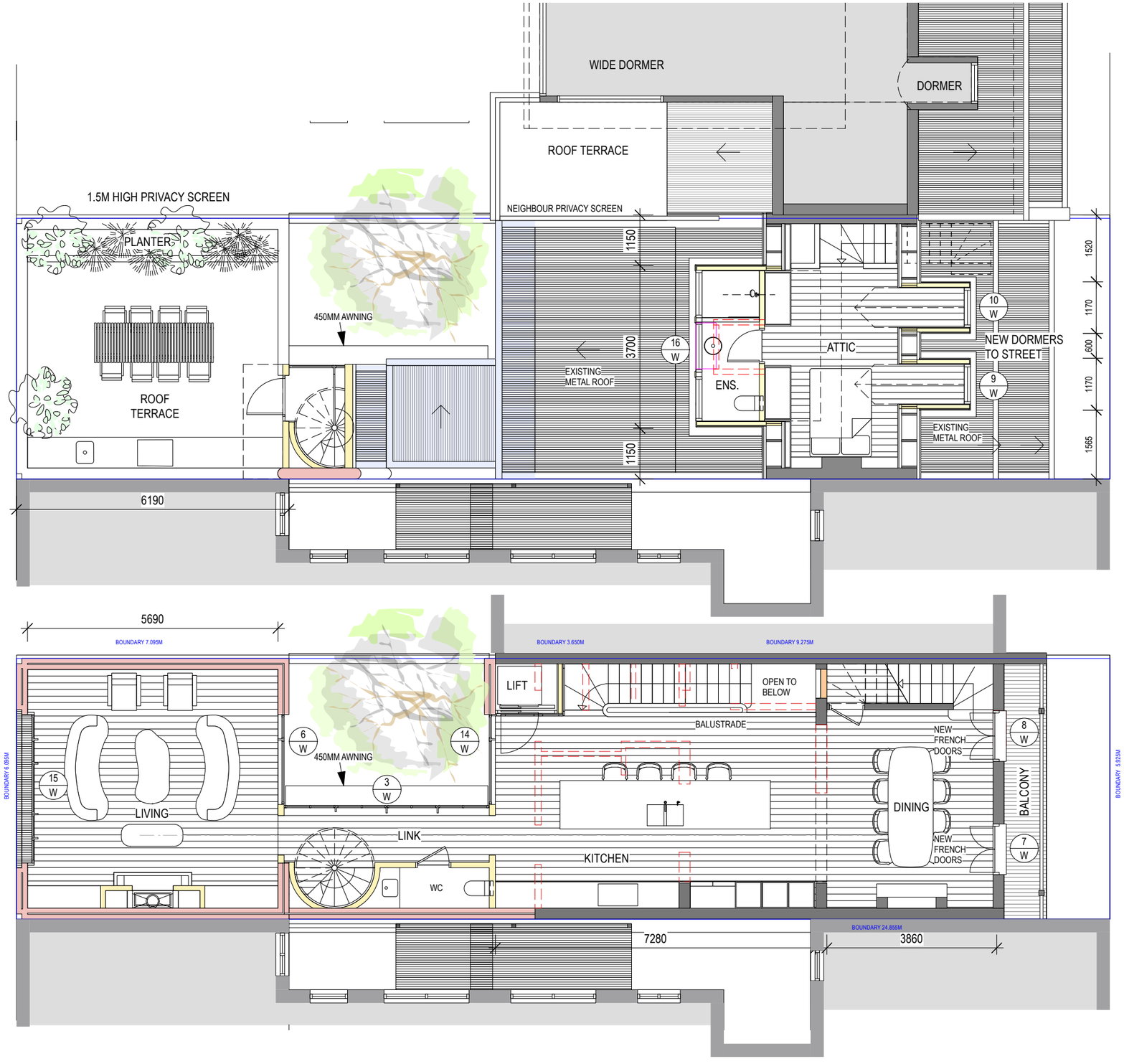
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ALTERATIONS & ADDITIONS
163 VICTORIA ST, POTTS POINT
PROJECT

LOWER GROUND & GROUND FLOOR PLANS
DWG TITLE

2406
JOB NO
1:100 @ A3
SCALE
A 02
DWG NO



2 SECOND FLOOR

1 FIRST FLOOR

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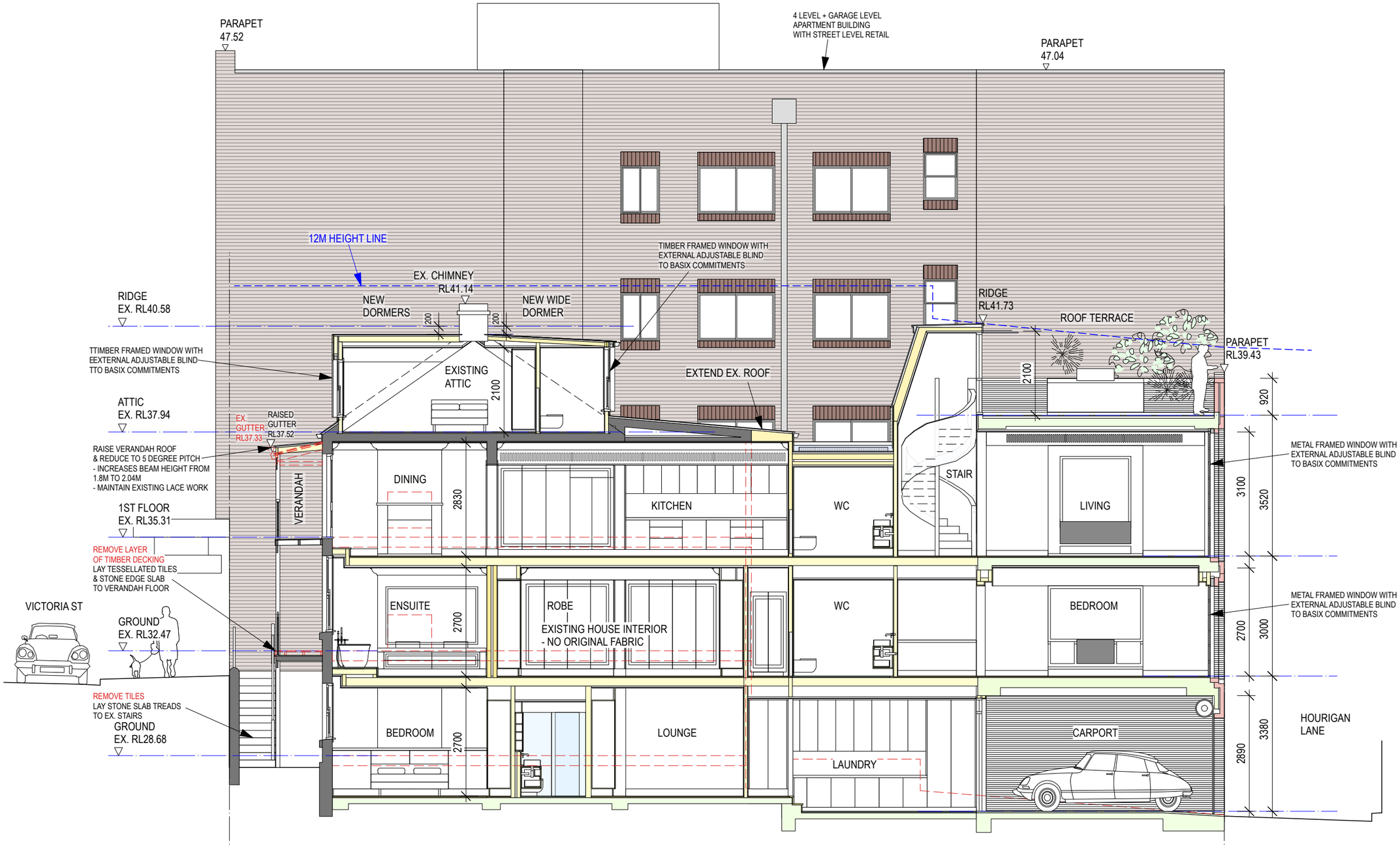
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ISSUE	REVISION	DATE
B	DA SUBMISSION	18 05 26
A	PRE DA SUBMISSION	08 08 25

ALTERATIONS & ADDITIONS
163 VICTORIA ST, POTTS POINT
PROJECT

FIRST & SECOND FLOOR PLANS
DWG TITLE

2406
JOB NO
1:100 @ A3
SCALE
A 03
DWG NO



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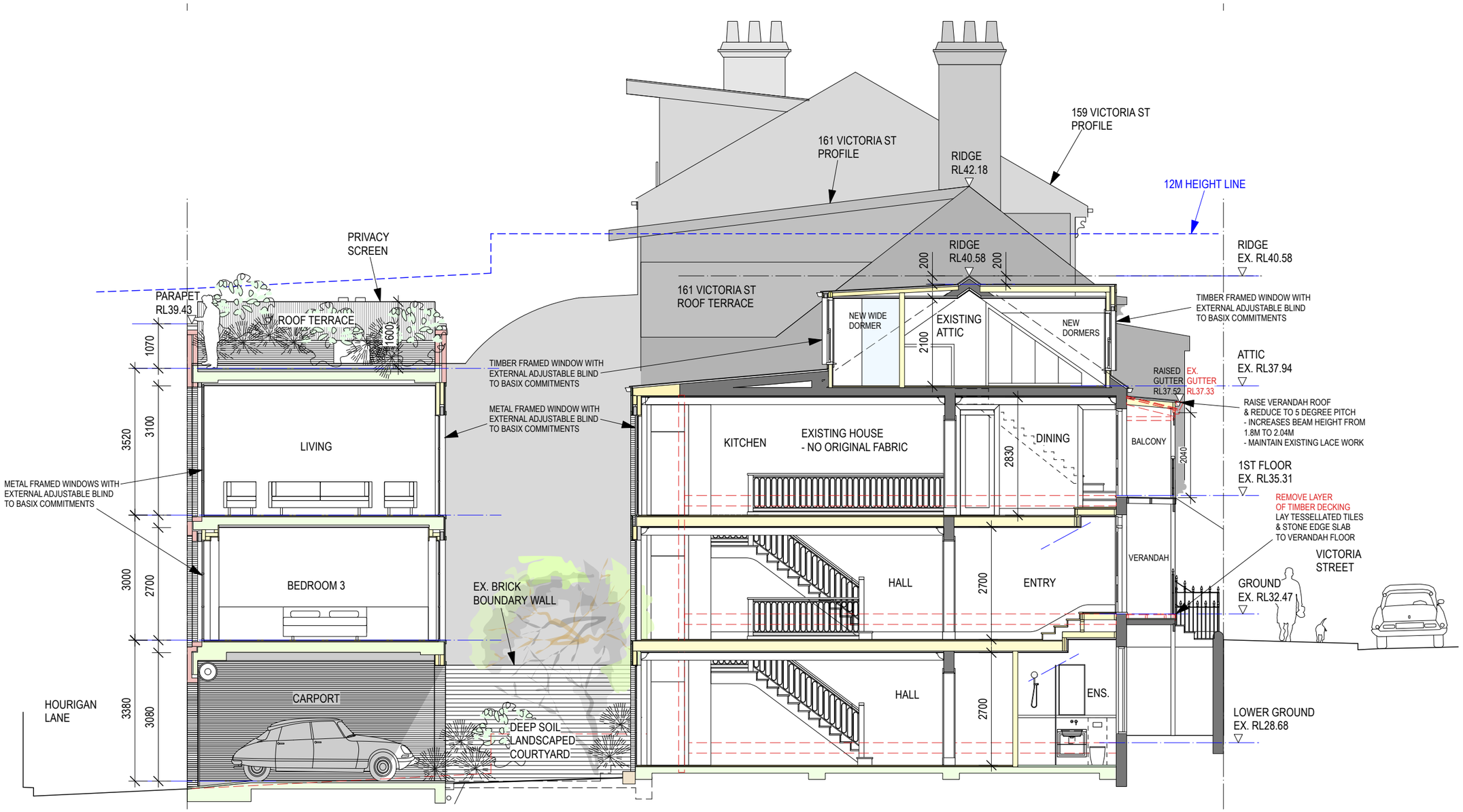
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B	DA SUBMISSION	18 05 26
A	PRE DA SUBMISSION	08 08 25

ALTERATIONS & ADDITIONS
163 VICTORIA ST, POTTS POINT
PROJECT

SECTION 1
DWG TITLE

2406
JOB NO
1:100 @ A3
SCALE
A 04
DWG NO



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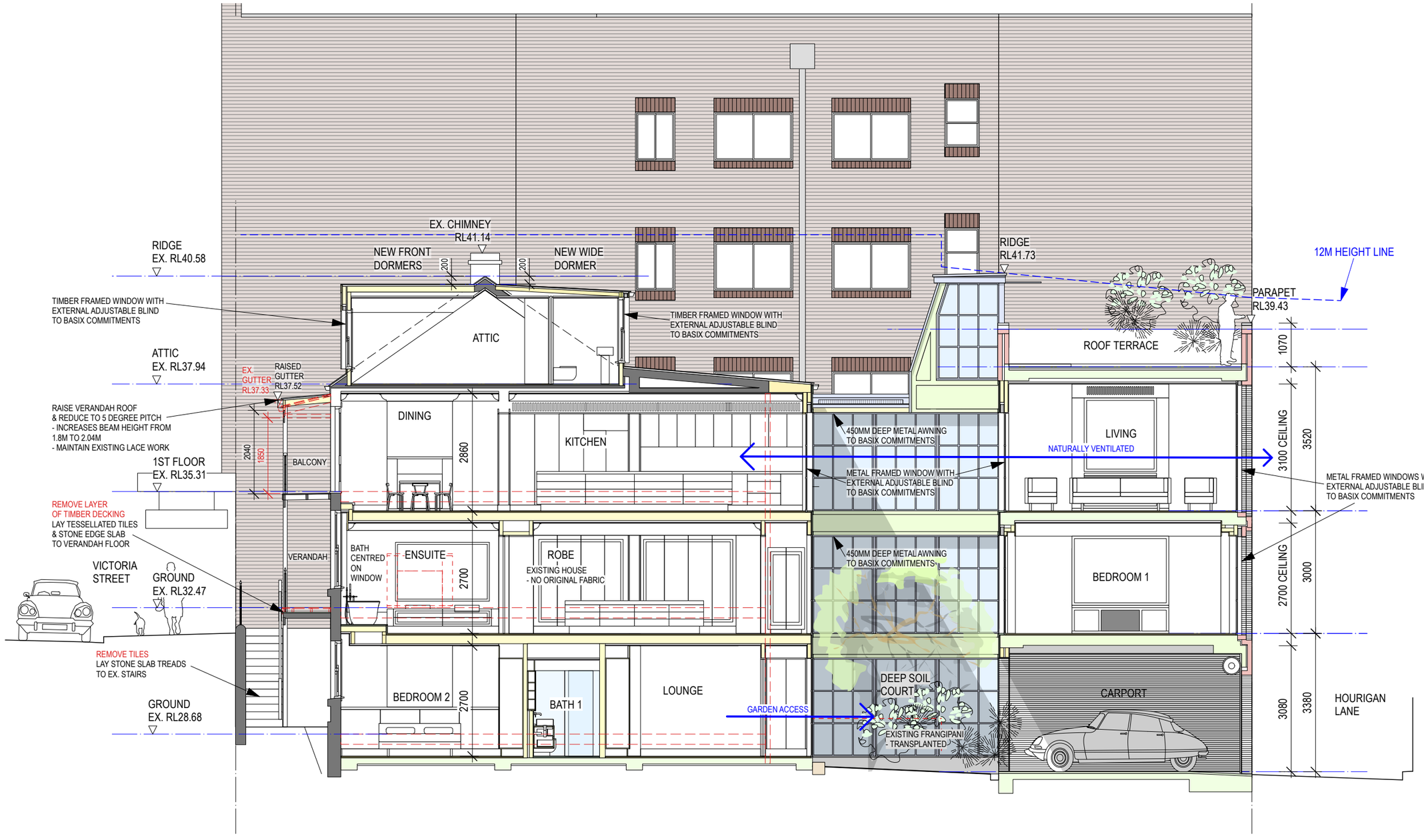
The proposed works shall comply with the Deemed-to-Satisfy Provisions of the BCA.

ISSUE	REVISION	DATE
B	DA SUBMISSION	18 05 26
A	PRE DA SUBMISSION	08 08 25

ALTERATIONS & ADDITIONS
163 VICTORIA ST, POTTS POINT
PROJECT

SECTION - 2
DWG TITLE

2406
JOB NO
1:100 @ A3
SCALE
A 05
DWG NO



The proposed works shall comply with the Deemed-to-Satisfy Provisions of the BCA.

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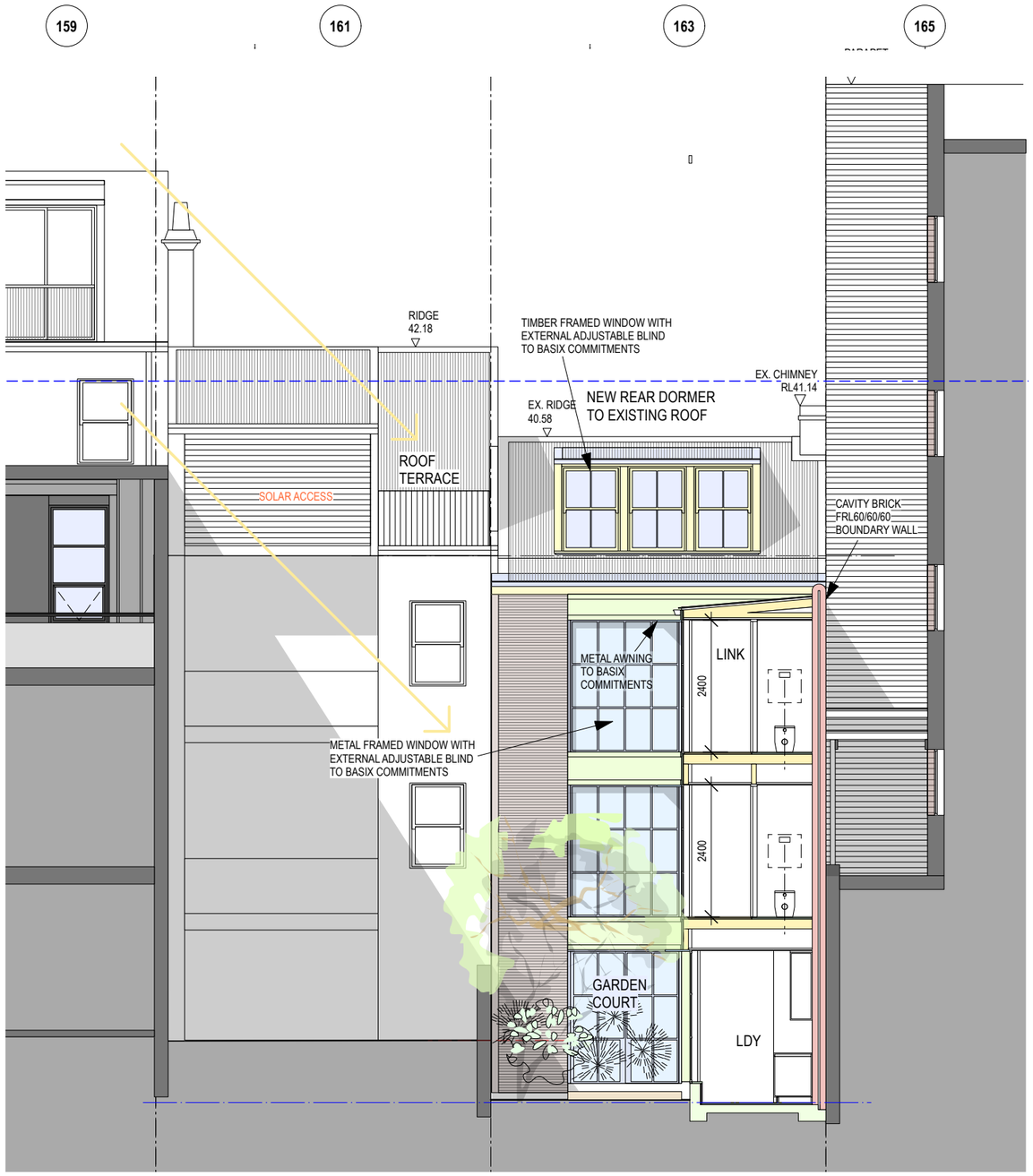
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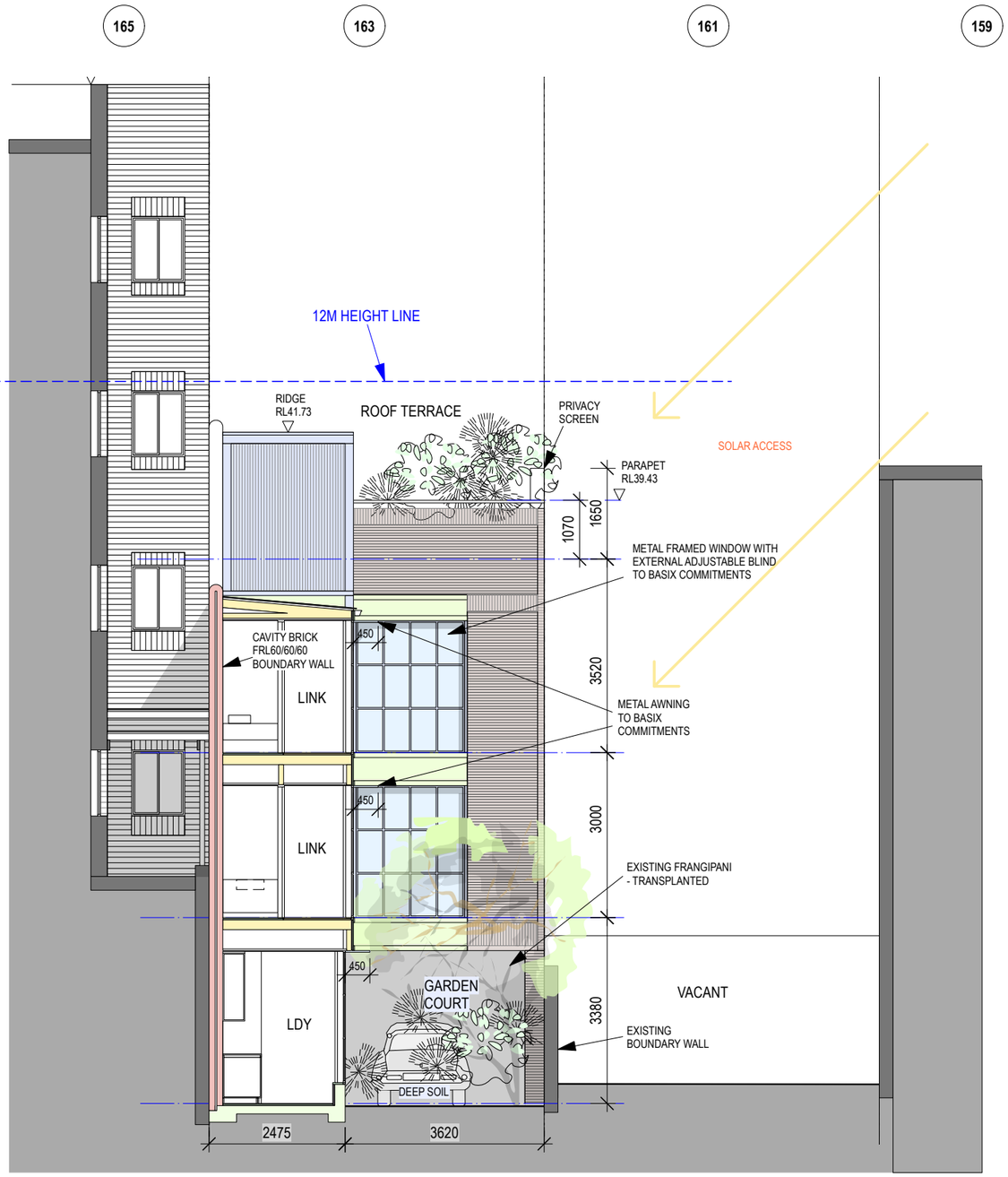
ALTERATIONS & ADDITIONS
163 VICTORIA ST, POTTS POINT
PROJECT

SECTION
DWG TITLE

2406
JOB NO
1:100 @ A3
SCALE
A 06
DWG NO



1 SECTION / EAST COURT ELEVATION



2 SECTION / WEST COURT ELEVATION

The proposed works shall comply with the Deemed-to-Satisfy Provisions of the BCA.

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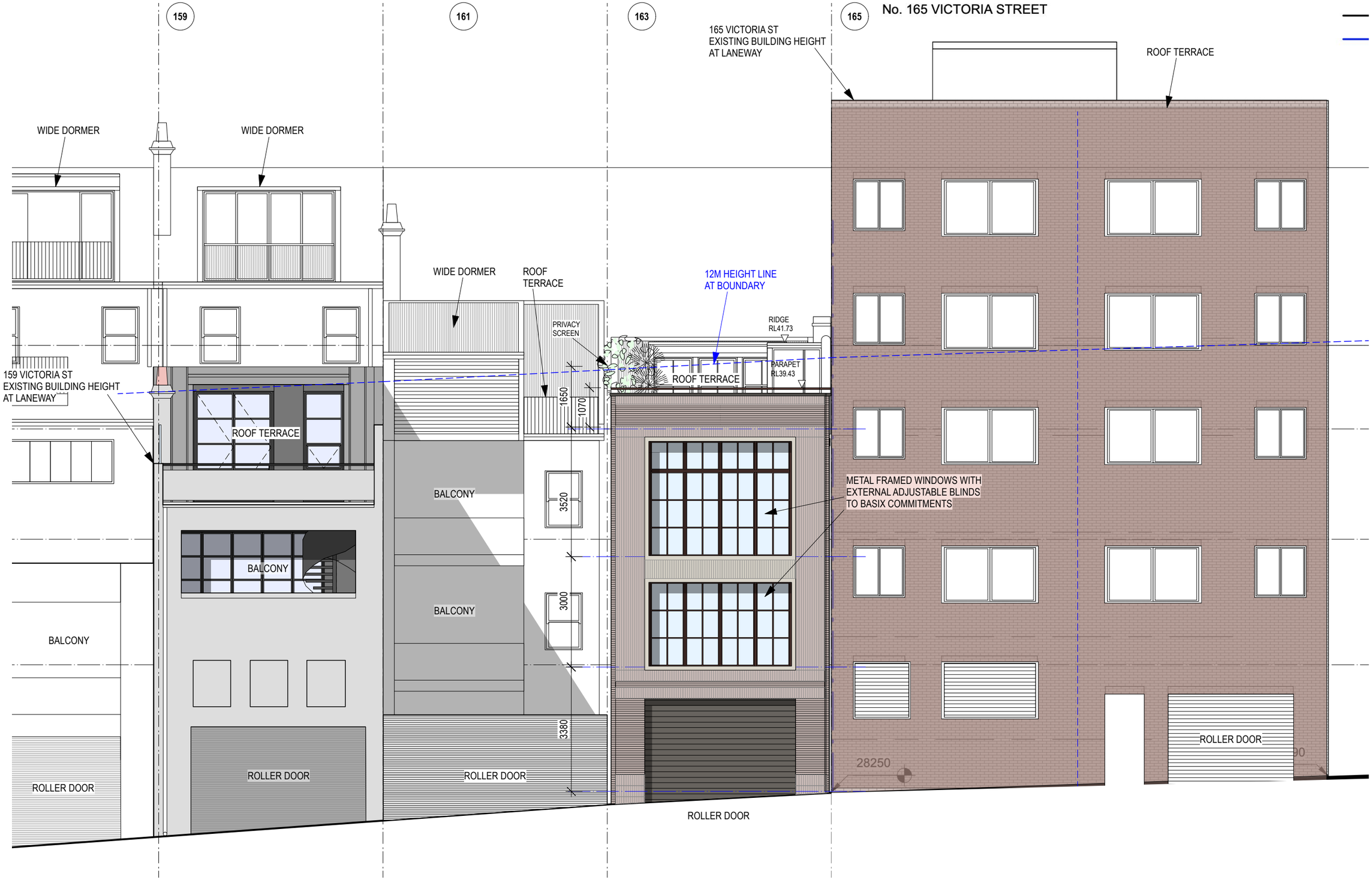
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ALTERATIONS & ADDITIONS
163 VICTORIA ST, POTTS POINT
PROJECT

SECTION / ELEVATIONS
DWG TITLE

2406
JOB NO
1:100 @ A3
SCALE
A 07
DWG NO



The proposed works shall comply with the Deemed-to-Satisfy Provisions of the BCA.

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ALTERATIONS & ADDITIONS
163 VICTORIA ST, POTTS POINT
PROJECT

WEST ELEVATION - HOURIGAN LANE
DWG TITLE

2406
JOB NO
1:100 @ A3
SCALE
A 08
DWG NO



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ALTERATIONS & ADDITIONS
163 VICTORIA ST, POTTS POINT
PROJECT

CONTEXT WEST ELEVATION - HOURIGAN LANE
DWG TITLE

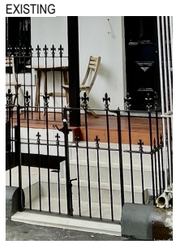
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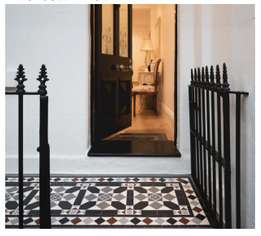
EXISTING EXTERNAL COLOURS
TO CURRENT APPROVED DA DRAWINGS

Dulux SN3H3 Mount Buller	PAINTED RENDER FINISH	DULUX MOUNT BULLER SN3h3	EXTERNAL PAINTED WALLS UNLESS NOTED OTHERWISE
Dulux Luck SG6B9	PAINT FINISH	DULUX LUCK	PAINTED TIMBER DOORS, AND WINDOW FRAMES / METAL WORK FACING VICTORIA STREET

EXISTING



PROPOSED IMAGE



HOUSE ENTRY
REMOVE LAYER
OF TIMBER DECKING
LAY TESSELLATED TILES
& STONE EDGE SLAB TO ORIGINAL
VERANDAH FLOOR LEVEL

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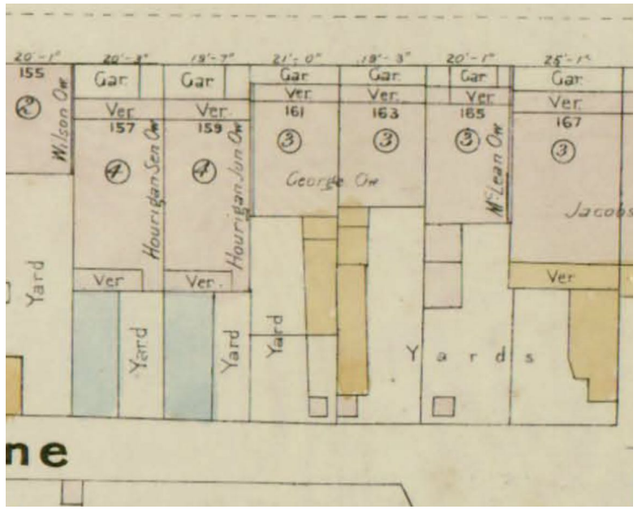
The proposed works shall comply with the Deemed-to-Satisfy Provisions of the BCA.

ISSUE	REVISION	DATE
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A	PRE DA SUBMISSION	08 08 25

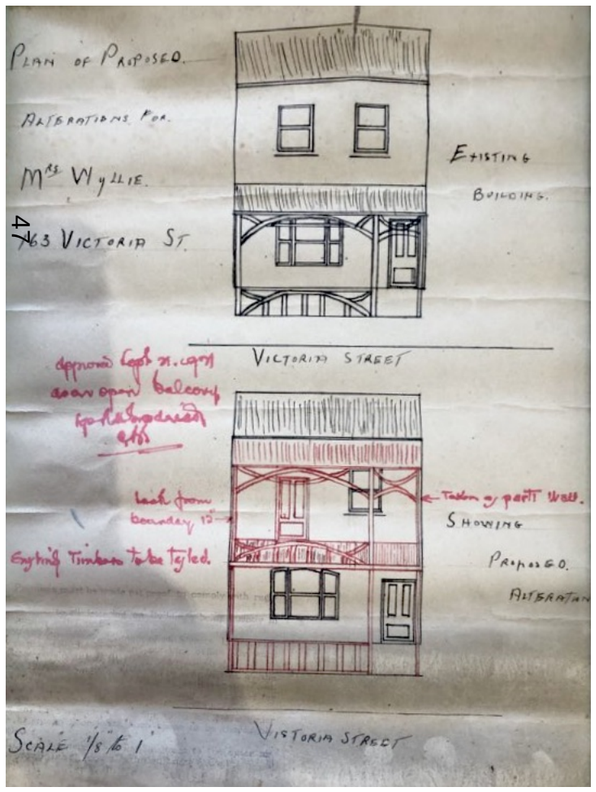
ALTERATIONS & ADDITIONS
163 VICTORIA ST, POTTS POINT
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EAST ELEVATION - VICTORIA STREET
DWG TITLE

2406
JOB NO
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SCALE
A 10
DWG NO



PLANS OF SYDNEY (RYGATE & WEST), 1888: SHEET 7



APPROVED ALTERATION PLANS - SEPT 21, 1931



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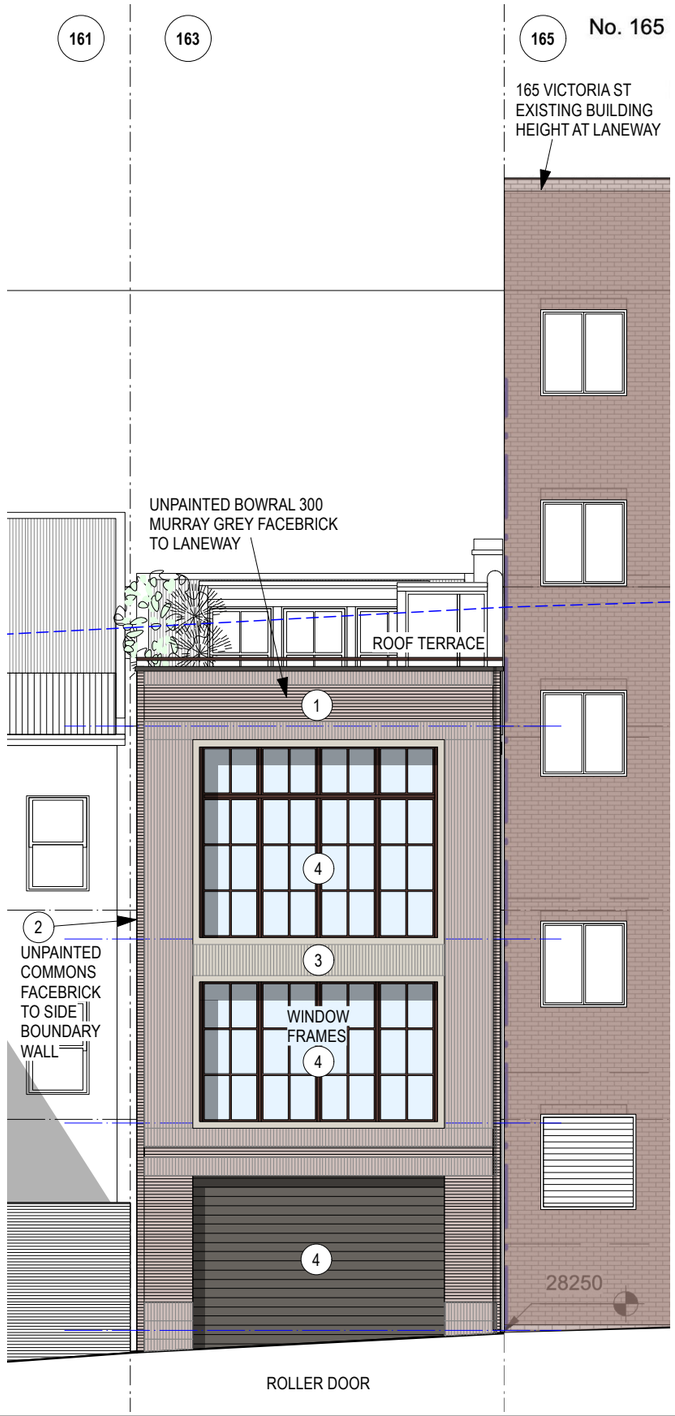
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VICTORIA STREET - ORIGINAL STREETSCAPE
DWG TITLE

2406
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SCALE
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DWG NO





EXTERNAL COLOUR SCHEME

1. UNPAINTED FACE BRICKWORK - IRON JOINTS
2. - BOWRAL 300 DRY PRESSED MURRAY GREY
   - DRY PRESSED COMMONS TO SIDE BOUNDARY
3. NEW BARGE & FASCIA BOARDS, CEMENT RENDER & WEATHERBOARDS

   DULUX
   BEIGE ROYAL
4. NEW STEEL WINDOWS & DOORS:

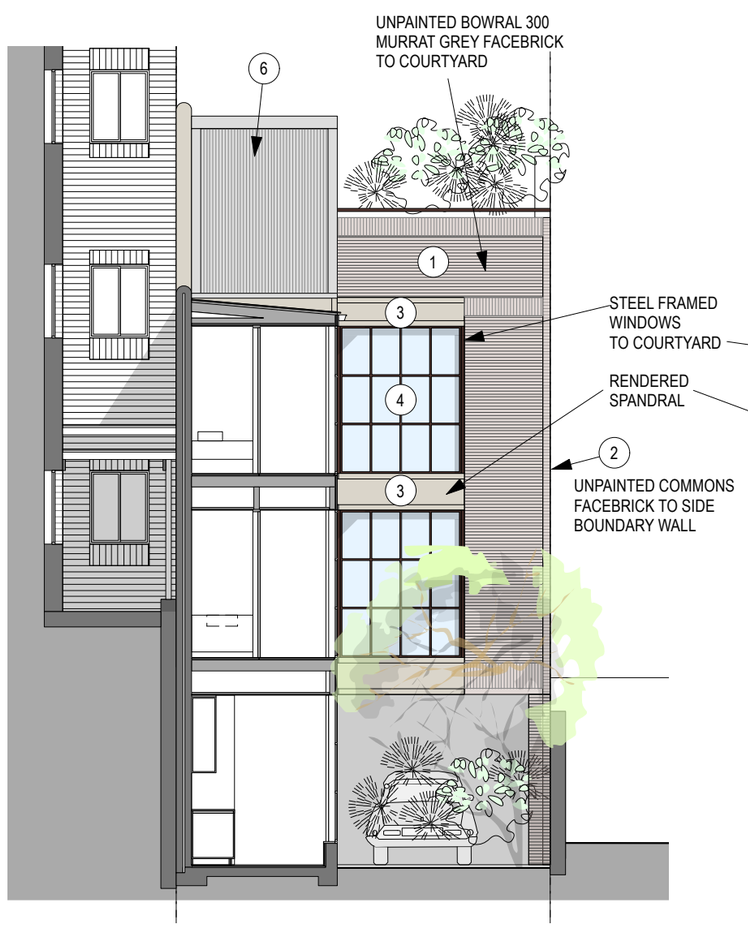
   - DULUX POWDERCOAT JASPER MATT
5. NEW TIMBER WINDOWS & SURROUNDS,

   DULUX
   BEIGE ROYAL
6. ROOF SHEETING, FLASHINGS, GUTTERS, DP'S

   ZINC GALVANISED STEEL

EXISTING VICTORIA ST ELEVATION
EXTERNAL COLOURS
PAINTING COMPLETED
TO CURRENT APPROVED DA DRAWINGS

Dulux SN3H3 Mount Buller	PAINTED RENDER FINISH	DULUX MOUNT BULLER SN3h3	EXTERNAL PAINTED WALLS UNLESS NOTED OTHERWISE
Dulux Luck SG689	PAINT FINISH	DULUX LUCK	PAINTED TIMBER DOORS, AND WINDOW FRAMES / METAL WORK FACING VICTORIA STREET





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ALTERATIONS & ADDITIONS
163 VICTORIA ST, POTTS POINT
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EXTERNAL MATERIALS & COLOURS
DWG TITLE

2406
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A 12
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4 SECOND

3 FIRST

2 GROUND

1 LOWER GROUND



VICTORIA STREET

FLOOR SPACE RATIO
CALCULATIONS (FSR):

	GFA
2ND FLOOR / ATTIC	- 20.5M2
1ST FLOOR	- 88.4M2
GROUND	- 93.2M2
LOWER GROUND	- 68.5M2
TOTAL GFA	- 270.6M2
SITE AREA (BY SURVEY)	- 149M2
FSR	- 1.82:1

OUTSIDE PRIVATE SPACE:

	AREA	
ROOF TERRACE	- 31M2	OPEN WITH PRIVACY SCREENS
LOWER GROUND	- 16M2	3.5M X 4.55M DEEP SOIL GARDEN
TOTAL AREA	- 47M2	

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ALTERATIONS & ADDITIONS
163 VICTORIA ST, POTTS POINT
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FLOOR SPACE RATIO
DWG TITLE

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DWG NO

Fixtures and systems

Hot water

The applicant must install the following hot water system in the development: electric heat pump system that is eligible to create Renewable Energy Certificates under the (Commonwealth) Renewable Energy (Electricity) Regulations 2001 (incorporating Amendment Regulations 2005 (No. 2)).

Lighting

The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting-diode (LED) lamps.

Fixtures

The applicant must ensure new or altered showerheads have a flow rate no greater than 9 litres per minute or a 3 star water rating.

The applicant must ensure new or altered toilets have a flow rate no greater than 4 litres per average flush or a minimum 3 star water rating.

The applicant must ensure new or altered taps have a flow rate no greater than 9 litres per minute or minimum 3 star water rating.

Construction

Insulation requirements

The applicant must construct the new or altered construction (floor(s), walls, and ceilings/roofs) in accordance with the specifications listed in the table below, except that a) additional insulation is not required where the area of new construction is less than 2m2, b) insulation specified is not required for parts of altered construction where insulation already exists.

Construction	Additional insulation required (R-value)	Other specifications
concrete slab on ground floor.	nil	N/A
suspended floor above garage: concrete (R0.6).	nil	N/A
external wall: cavity brick	nil	
external wall: framed (weatherboard, fibro, metal clad)	R1.30 (or R1.70 including construction)	
internal wall shared with garage: cavity brick wall (R0.67)	nil	
flat ceiling, pitched roof	ceiling: R0.70 (up), roof: foil backed blanket (55 mm)	light (solar absorptance < 0.475)
raked ceiling, pitched/skillion roof: framed	ceiling: R1.00 (up), roof: foil backed blanket (55 mm)	light (solar absorptance < 0.475)
flat ceiling, flat roof: concrete/ plasterboard internal	ceiling: R0.90 (up), roof: foil backed blanket (55 mm)	light (solar absorptance < 0.475)

Glazing requirements

Windows and glazed doors

The applicant must install the windows, glazed doors and shading devices, in accordance with the specifications listed in the table below. Relevant overshadowing specifications must be satisfied for each window and glazed door.

The following requirements must also be satisfied in relation to each window and glazed door:

Each window or glazed door with improved frames, or pyrolytic low-e glass, or clear/air gap/clear glazing, or toned/air gap/clear glazing must have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below. Total system U-values and SHGCs must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions. The description is provided for information only. Alternative systems with complying U-value and SHGC may be substituted.

For projections described in millimetres, the leading edge of each eave, pergola, verandah, balcony or awning must be no more than 500 mm above the head of the window or glazed door and no more than 2400 mm above the sill.

Pergolas with polycarbonate roof or similar translucent material must have a shading coefficient of less than 0.35.

External louvres and blinds must fully shade the window or glazed door beside which they are situated when fully drawn or closed.

Pergolas with fixed battens must have battens parallel to the window or glazed door above which they are situated, unless the pergola also shades a perpendicular window. The spacing between battens must not be more than 50 mm.

Overshadowing buildings or vegetation must be of the height and distance from the centre and the base of the window and glazed door, as specified in the 'overshadowing' column in the table below.

Glazing requirements

Windows and glazed doors glazing requirements

Window/door number	Orientation	Area of glass including frame (m2)	Overshadowing height (m)	Overshadowing distance (m)	Shading device	Frame and glass type
W1	N	11	11.2	9.3	eave/ verandah/ pergola/balcony >=450 mm	improved aluminium, clear/air gap/ clear, (U-value: 4.12, SHGC: 0.66)
W2	N	11	8.2	9.3	eave/ verandah/ pergola/balcony >=450 mm	improved aluminium, clear/air gap/ clear, (U-value: 4.12, SHGC: 0.66)
W3	N	11	5.2	9.3	eave/ verandah/ pergola/balcony >=450 mm	improved aluminium, clear/air gap/ clear, (U-value: 4.12, SHGC: 0.66)
W4	E	6	9.5	4.4	none	improved aluminium, clear/air gap/ clear, (U-value: 4.12, SHGC: 0.66)
W5	E	5	6	4.4	none	improved aluminium, clear/air gap/ clear, (U-value: 4.12, SHGC: 0.66)
W6	E	5	3.1	4.4	external louvre/blind (adjustable)	improved aluminium, clear/air gap/ clear, (U-value: 4.12, SHGC: 0.66)
W7	E	2.6	0	0	eave/ verandah/ pergola/balcony >=900 mm	improved aluminium, clear/air gap/ clear, (U-value: 4.12, SHGC: 0.66)
W8	E	2.6	0	0	eave/ verandah/ pergola/balcony >=900 mm	improved aluminium, clear/air gap/ clear, (U-value: 4.12, SHGC: 0.66)
W9	E	1.4	0	0	external louvre/blind (adjustable)	improved aluminium, clear/air gap/ clear, (U-value: 4.12, SHGC: 0.66)
W10	E	1.4	0	0	external louvre/blind (adjustable)	improved aluminium, clear/air gap/ clear, (U-value: 4.12, SHGC: 0.66)
W11	W	5	10	4.4	none	improved aluminium, clear/air gap/ clear, (U-value: 4.12, SHGC: 0.66)
W12	W	5	7	4.4	none	improved aluminium, clear/air gap/ clear, (U-value: 4.12, SHGC: 0.66)
W13	W	8.9	0	0	external louvre/blind (adjustable)	improved aluminium, clear/air gap/ clear, (U-value: 4.12, SHGC: 0.66)
W14	W	5	4	4.4	external louvre/blind (adjustable)	improved aluminium, clear/air gap/ clear, (U-value: 4.12, SHGC: 0.66)
W15	W	12.1	0	0	external louvre/blind (adjustable)	improved aluminium, clear/air gap/ clear, (U-value: 4.12, SHGC: 0.66)
W16	W	5.5	0	0	external louvre/blind (adjustable)	standard aluminium, clear/air gap/ clear, (U-value: 5.34, SHGC: 0.67)

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ALTERATIONS & ADDITIONS
163 VICTORIA ST, POTTS POINT
PROJECT

BASIX COMMITMENTS
DWG TITLE

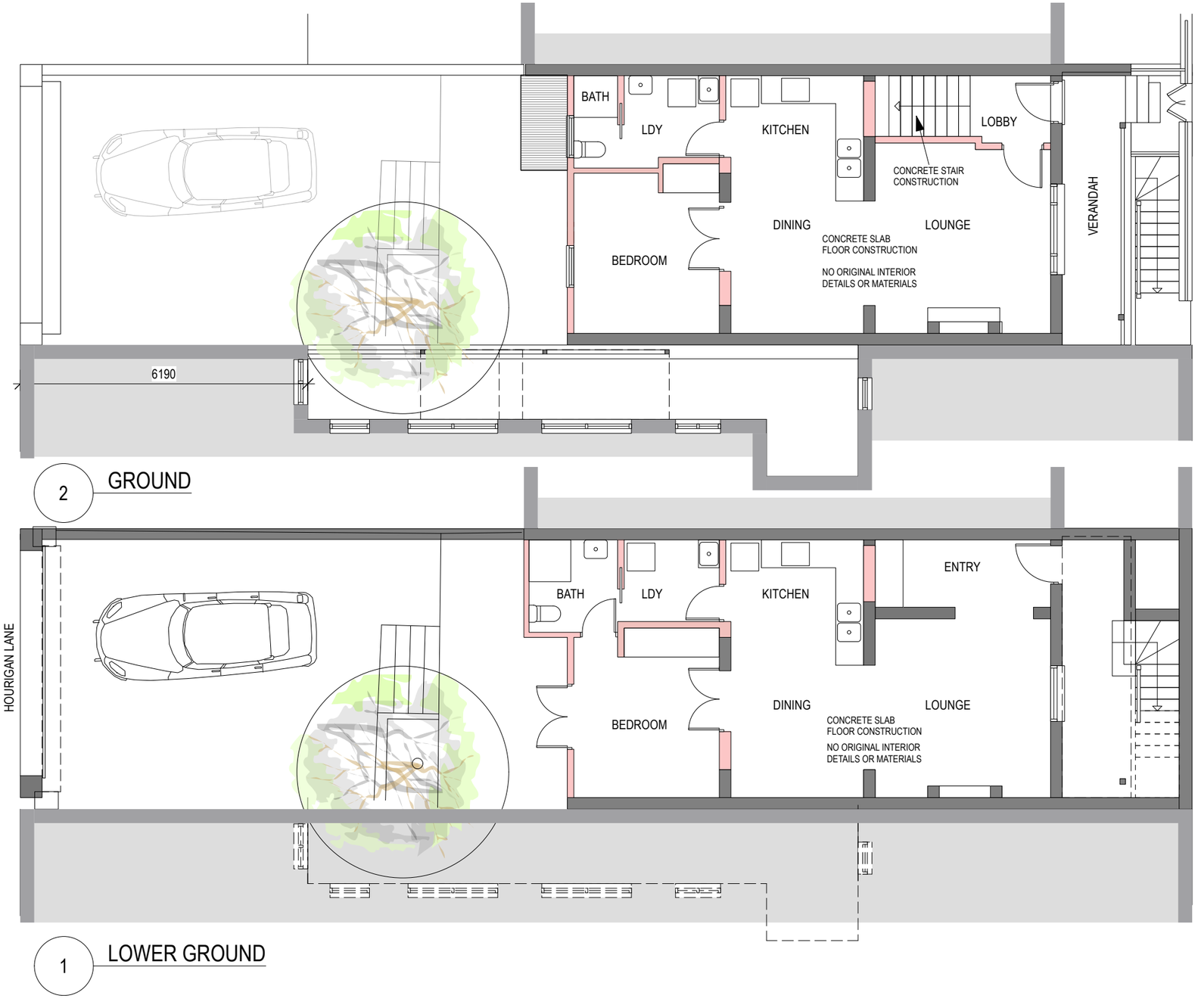
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-
SCALE
BASIX
DWG NO











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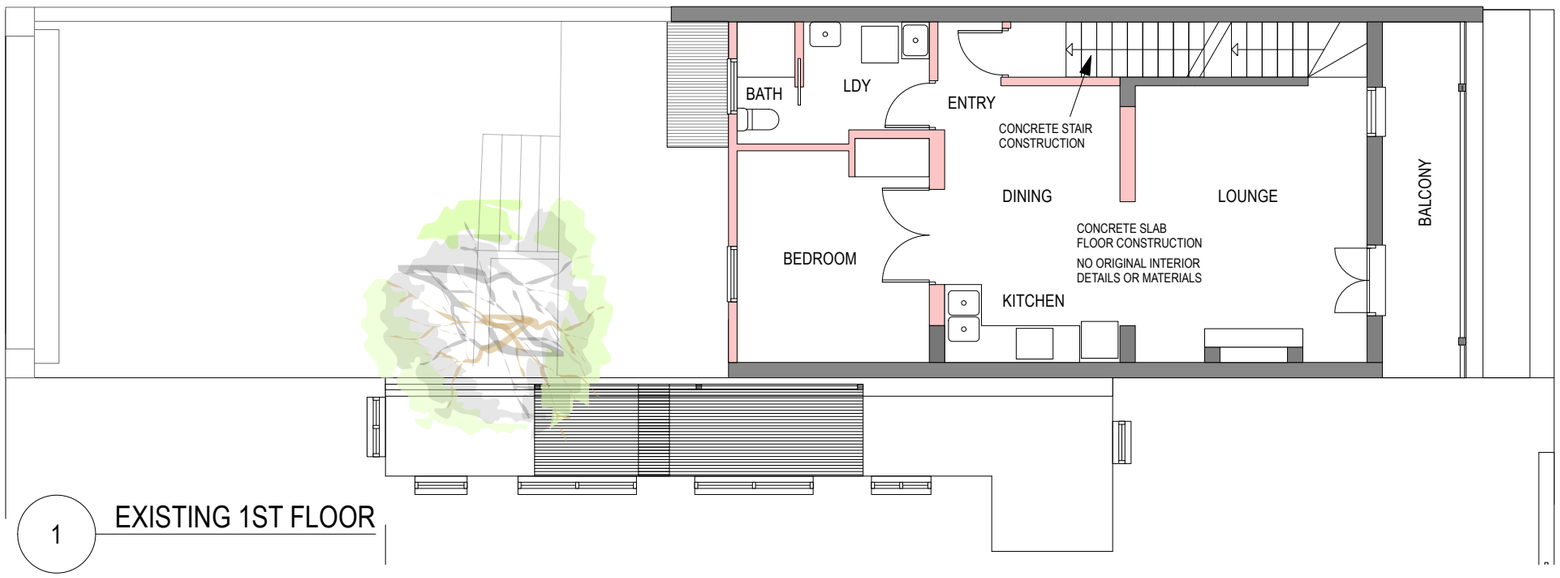
ALTERATIONS & ADDITIONS
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PROJECT

EXISTING LOWER GROUND & GROUND FLOOR PLANS
DWG TITLE

2406
JOB NO
1:100 @ A3
SCALE
EX 01
DWG NO



2 EXISTING ATTIC



1 EXISTING 1ST FLOOR









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ALTERATIONS & ADDITIONS
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PROJECT

EXISTING 1ST FLOOR & ATTIC FLOOR PLANS
DWG TITLE

2406
JOB NO
1:100 @ A3
SCALE
EX 02
DWG NO

Attachment B

Clause 4.6 Variation – Floor Space Ratio

REQUEST TO CONTRAVENE A DEVELOPMENT STANDARD UNDER CLAUSE 4.6

cl. 4.4(2), Sydney LEP 2012: Floor space ratio



163 Victoria Street, Potts Point NSW

Alterations and additions to existing residential flat building and change of use to dwelling house

1 June 2026 | P843_01

PCN Urban

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Report Preparation	
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Senior Planner	-

Revisions			
Revision	**Date**	**Prepared by**	**Reviewed by**
Draft 1	12.06.2025	PN	PN
Draft 2	06.08.2025	PN	PN
Final	01.06.2026	PN	PN
Revision A			PN

We acknowledge that the land on which we live, learn and work as the traditional country of the Gadigal people of the Eora Nation. We acknowledge these traditional owners of this land and acknowledge their living cultures and the unique roles they have played in maintaining life, language, and culture in this region. We pay respect to their Elders past, present and emerging and all aboriginal people.

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1.0 INTRODUCTION

This request to contravene a development standard in respect of height of buildings under Clause 4.4(2) of Sydney Local Environmental Plan 2012 is submitted to accompany a development application for:

Alterations and additions to an existing residential flat building and change of use to a dwelling house

at 163 Victoria Street, Potts Point NSW.

It has been prepared with particular reference to the decisions of the Court in respect of:

- Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118;
- Four2Five Pty Limited v Ashfield Council [2015] NSWLEC 90;
- Wehbe v Pittwater Council [2007] NSWLEC 827;

and other relevant case law.

2.0 THE DEVELOPMENT STANDARD

2.1 The applicable planning instrument which specifies the development standard:

Sydney Local Environmental Plan 2012 (SLEP 2012)

2.2 The number of the relevant clause:

Clause 4.4 –Floor space ratio.

2.3 The provisions of the relevant clause:

a) Clause 4.4 – Floor space ratio.

The development standard to which this request for contravention relates is Clause 4.4(2) of SLEP 2012 – Floor space ratio, which specifies that:

The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

The Floor Space Ratio Map nominates an FSR of 1.5:1.

3.0 THE CONTRAVENTION SOUGHT:

3.1 Description of the contravention:

The proposed development would contravene the non-discretionary development standard as follows:

3.1.1 Site Area:

- 149m^2

3.1.2 Maximum FSR:

- 1:5:1 (223.5m^2)

3.1.3 Proposed FSR

- 1:82:1 (270.6m^2)

3.1.4 Extent of Proposed Contravention:

- 0:32:1 (47.1m^2)
- 21%

3.1.5 Elements comprising contravention:

The contravention comprises:

- The area at the front of the lower ground floor (which could technically defined as basement): 26m^2; and
- The attic level (which is contained primarily within the roof form): 21m^2;

- Being a total of 47m^2.

3.1.6 Cause of the contravention:

The contravention results from a combination of the following:

- the use of the attic space and the front part of the lower ground floor which total a GFA of 47m2 which is the entire extent of the contravention.

If the attic space were deleted and the front part of the lower ground floor allocated to 'storage' or non-habitable uses, then the FSR would be compliant.

4.0 PROVISIONS OF CLAUSE 4.6

4.1 Cl. 4.6(1): Objectives

Clause 4.6 seeks to provide appropriate flexibility to the application of development standards in order to achieve better planning outcomes both for the development and from the development. The objectives of Clause 4.6 are as follows:

Cl. 4.6(1) Objectives of Clause		
Clause	**Control**	**Justification**
(1)(a)	to provide an appropriate degree of flexibility in applying certain development standards to particular development	The proposal contravenes the development standard which sets a maximum floor space ratio. It seeks to utilise this clause to provide appropriate flexibility in application of the standard to permit approval.
(1)(b)	to achieve better outcomes for and from development by allowing flexibility in particular circumstances.	The proposal would achieve better outcomes: • ***For*** the development: The contravention would permit: o The use of roof space and the lower ground floor which would otherwise be empty volumes. • ***From*** the development: The contravention would result in: o A development consistent with the character of surrounding properties.

4.2 Cl. 4.6(2): Development standards excluded form operation of clause

Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

The relevant clause is not expressly excluded from the operation of clause 4.6.

4.3 Cl. 4.6(3): Justification of the Contravention of the Development Standard

Under the provisions of clause 4.6(3) – Exceptions to development standards of WLEP 2011, the consent authority must satisfied that the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify contravening the development standard. This is summarised in the table below:

Cl. 4.6(3) Justification of Contravention		
Clause	**Control**	**Justification**
4.6(3)	Development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant has demonstrated that:	This written request addresses this clause.
4.6(3)(a)	compliance with the development standard is unreasonable or	Compliance with the development standard is unnecessary given that:

Cl. 4.6(3) Justification of Contravention		
Clause	**Control**	**Justification**
	unnecessary in the circumstances (see the test under Wehbe v Pittwater Council below and assessment against the objectives of the zone and development standard), and	• The objectives of the development standard are met (see below). notwithstanding the non-compliance. Compliance with the development standard is unreasonable given that: • The development standard has been varied in similar circumstances to a greater degree where there is no impact on neighbours, no impact on character of area, no material increase in intensity of use; • There are no adverse amenity impacts which arise from the contravention; • The built form would remain the same even if the attic and lower ground floor level were deleted; and • The site is bookended by other sites with an FSR limit of 2:1 at Nos. 159 and 165-167 (the latter appears to significantly exceed even this FSR).
4.6(3)(b)	That there are sufficient environmental planning grounds to justify contravening the development standard.	Sufficient environmental planning grounds, in accordance with the criteria established in Initial Action, are outlined below:
	As established in Initial Action [23], 'environmental planning grounds' refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act. These are as follows:	See below:
1.3(a)	to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	The contravention would maximise use of existing urban infrastructure and marginally lessen demand for development on the urban edge.
1.3(b)	to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The contravention would maximise use of existing urban infrastructure and marginally lessen demand for development on the urban edge.
1.3(c)	to promote the orderly and economic use and development of land,	N/A.
1.3(d)	to promote the delivery and maintenance of affordable housing,	N/A.
1.3(e)	to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	The contravention would maximise use of existing urban infrastructure and marginally lessen demand for development on the urban edge.
1.3(f)	to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	The contravention would result in a built form which is compatible with the character of the conservation area and heritage items in the vicinity of the site.
1.3(g)	to promote good design and amenity of the built environment,	The contravention would allow a development consistent with the character of surrounding development by providing a built form and scale consistent with the character of the locality.

Cl. 4.6(3) Justification of Contravention		
Clause	**Control**	**Justification**
1.3(h)	to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	N/A
1.3(i)	to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	Not applicable.
1.3(j)	to provide increased opportunity for community participation in environmental planning and assessment.	Not applicable.

In Wehbe v Pittwater Council [2007] NSWLEC 827, Preston CJ established five potential tests for determining whether a development standard could be considered to be unreasonable or unnecessary. These are examined below:

The Five Part Test: (in accordance with Preston CJ in Wehbe v Pittwater Council [2007] NSW LEC 827)		
Part	**Test**	**Discussion**
1.	The objectives of the standard are achieved notwithstanding non-compliance with the standard.	The objectives of the development standard are achieved. See discussion under 4.4 below.
2.	The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.	The objectives of the standard are relevant to the proposal and an assessment of compliance is provided above. It is considered that the objectives of the standard have been met and therefore strict compliance is unnecessary.
3.	The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.	The underlying object would be thwarted if compliance were required as it would result in: • A development markedly inconsistent with the established character and scale of surrounding development.
4.	The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable	Council has varied the FSR to a similar and greater extent in similar circumstances where the development is consistent with that of the surrounding development and does not result in adverse impacts (refer to Council's 4.6 register). • 157 Victoria Street (DA/2013/536): 2:1 • 165-167 Victoria Street (adjacent property): approx. 3:1 – this is a historical consent; • 169 Victoria Street (DA/2011/1505): 3.41:1 • 186 Victoria Street (DA/2016/746): 2.96:1
5.	the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.	Not applicable. The zoning of the land is considered appropriate.

4.4 Cl. 4.6(3)(a) Objectives of the Zone & Development Standard

Under the Five Part Test established in Wehbe v Pittwater Council, it may be demonstrated that the objectives of the standard are achieved notwithstanding non-compliance with the standard. This can be determined by an assessment of the consistency of the contravention with the objectives of the development standard. This assessment is summarised in the table below:

Cl. 4.6(3)(a): Objectives of the development standard		
Clause	**Objectives**	**Justification**
4.4	**Floor space ratio**	
1(a)	to provide sufficient floor space to meet anticipated development needs for the foreseeable future,	The contravention would provide anticipated floor space requirements for the subject site.
1(b)	to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,	The contravention would not be associated with any additional pedestrian or vehicular traffic generation as it would not increase the occupancy anticipated on the site.
1(c)	to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure,	The contravention would not result in any additional occupancies and would not exceed the capacity of existing infrastructure to support it.
1(d)	to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.	The contravention would result in a development of a scale consistent with surrounding and adjacent development including: • 165-167 Victoria Street (adjacent property): approx. 3:1 (with a nominated max FSR of 2:1) • 157 Victoria Street: 2:1

In circumstances where there are no significant adverse impacts resulting from the contravention of the development standard (ie in respect of the lower ground floor and the attic), it is unreasonable and unnecessary to require strict compliance.

5.0 CONCLUSION

This Clause 4.6 contravention request to clause 4.4 of SLEP 2012 – Floor space ratio should be supported on the basis that strict application of the development standard is unnecessary and unreasonable given that:

a) The development meets the stated objectives of clause 4.4, specifically:

   a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,

   b) to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,

   c) to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure,

   d) to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.

b) There are sufficient environmental planning grounds to justify contravening the development standard.

For the reasons set out above, the development may be granted consent notwithstanding the contravention of the development standard in respect of floor space ratio under clause 4.4 of SLEP 2012 – Floor space ratio.

Attachment C

Clause 4.6 Variation – Dwelling Retention

REQUEST TO CONTRAVENE A DEVELOPMENT STANDARD UNDER CLAUSE 4.6

cl. 7.36, Sydney LEP 2012, Dwelling retention



163 Victoria Street, Potts Point NSW

Alterations and additions to existing residential flat building and change of use to dwelling house

1 July May 2026 | P843_01

PCN Urban

ABN 18 697 758 660

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Report Preparation	
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Revisions			
Revision	**Date**	**Prepared by**	**Reviewed by**
Draft 1	01.06.2026	PN	PN
Final	01.07.2026	PN	PN
Revision A			
Revision B			
Revision C			

We acknowledge that the land on which we live, learn and work as the traditional country of the Gadigal people of the Eora Nation. We acknowledge these traditional owners of this land and acknowledge their living cultures and the unique roles they have played in maintaining life, language, and culture in this region. We pay respect to their Elders past, present and emerging and all aboriginal people.

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1.0 INTRODUCTION

This request to contravene a development standard in respect of height under Clause 7.36 – *Dwelling retention* of the *Sydney Local Environmental Plan 2012* is submitted to accompany a development application for:

alterations and additions to an existing residential flat building

at 163 Victoria Street, Potts Point NSW.

It has been prepared with particular reference to the decisions of the Court in respect of:

- Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118;
- Four2Five Pty Limited v Ashfield Council [2015] NSWLEC 90;
- Wehbe v Pittwater Council [2007] NSWLEC 827;

and other relevant case law.

2.0 THE DEVELOPMENT STANDARD

2.1 The applicable planning instrument which specifies the development standard:

Sydney Local Environmental Plan 2012

2.2 The number of the relevant clause:

Clause 7.36 – Dwelling retention

2.3 The provisions of the relevant clause:

Clause 7.36(2)

Development consent must not be granted for the following development in relation to a residential flat building or a building containing 3 or more dwellings if the development would reduce the number of dwellings on the site of the building by more than the greater of 15%, rounded to the nearest whole number of dwellings, or 1 dwelling—

(a) making alterations to the building,

(b) enlarging or extending the building,

(c) demolishing the building and erecting a new building.

The existing building is a residential flat building and contains 3 dwellings and, as such, is subject to this clause.

This clause limits the reduction in the number of dwellings to 15% (0.45 dwellings) or one, whichever is the greater – which is one. It therefore limits the resultant number of dwellings to no less than 2.

3.0 THE CONTRAVENTION SOUGHT:

3.1 Description of the contravention:

It is proposed to amalgamate all 3 of the dwellings in the existing building into a single dwelling, resulting a reduction in the number of dwellings by 2.

3.1.1 Maximum permitted reduction in the number of dwellings:

- 1 dwelling

3.1.2 Proposed reduction in the number of dwellings:

- 2 dwellings

3.1.3 Extent of contravention:

- 1 dwelling

3.1.4 Percentage contravention:

- 100%

3.1.5 Cause of the contravention:

The contravention is associated with amalgamation of all 3 existing dwellings into a single dwelling to create a single dwelling.

4.0 PROVISIONS OF CLAUSE 4.6

4.1 Cl. 4.6(1): Objectives

Clause 4.6 seeks to provide appropriate flexibility to the application of development standards in order to achieve better planning outcomes both for the development and from the development. The objectives of Clause 4.6 are as follows:

Cl. 4.6(1) Objectives of Clause		
Clause	**Control**	**Justification**
(1)(a)	to provide an appropriate degree of flexibility in applying certain development standards to particular development	The proposal contravenes the development standard which sets a maximum by which the number of dwellings in a building may be reduced. It seeks to utilise this clause to provide appropriate flexibility in application of the standard to permit approval.
(1)(b)	to achieve better outcomes for and from development by allowing flexibility in particular circumstances.	The proposal would achieve better outcomes: • ***For*** the development: The contravention would permit: o Alterations and additions to the existing dwelling to enable the accommodation sought by the present owners and occupants, o A number of dwellings consistent with those approved under the most recent and still active development consent (D/2022/686). • ***From*** the development: The contravention would result in: o A configuration more consistent with the original historical use of the site as a single dwelling house; o Less demand upon local infrastructure.

4.2 Cl. 4.6(2): Development standards excluded form operation of clause

Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

The relevant clause is not expressly excluded from the operation of clause 4.6.

4.3 Cl. 4.6(3): Justification of the Contravention of the Development Standard

Under the provisions of clause 4.6(3) – Exceptions to development standards of *SLEP 2012*, the consent authority must be satisfied that the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify contravening the development standard. This is summarised in the table below:

Cl. 4.6(3) Justification of Contravention		
Clause	**Control**	**Justification**
4.6(3)	Development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant has demonstrated that:	This written request addresses this clause.

Cl. 4.6(3) Justification of Contravention		
Clause	**Control**	**Justification**

4.6(3)(a)	compliance with the development standard is unreasonable or unnecessary in the circumstances (see the test under Wehbe v Pittwater Council below and assessment against the objectives of the zone and development standard), and	• Compliance with the development standard is unreasonable given that:
		  • The site has a current consent (D/2022/686) to convert the building to a single dwelling which is still active and does not lapse until 19 June 2028 and could still be acted upon; and
		  • No adverse impacts are associated with the contravention.

4.6(3)(b)	That there are sufficient environmental planning grounds to justify contravening the development standard.	Sufficient environmental planning grounds, in accordance with the criteria established in Initial Action, are outlined below:
	As established in Initial Action [23], 'environmental planning grounds' refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act. These are as follows:	See below:
1.3(a)	to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	The contravention would enable the occupation of the site for multi-generational living enabling the care of young children by grandparents who also reside in the same building.
1.3(b)	to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	The contravention would have no measurable impact upon the intensity of the development on the site which would, nevertheless, accommodate the same or a greater number of residents as a compliant development – but with more flexibility.
1.3(c)	to promote the orderly and economic use and development of land,	Allowing the use of an existing building in a manner which is consistent with its zoning is consistent with the orderly and economic use of the land.
1.3(d)	to promote the delivery and maintenance of affordable housing,	Not applicable.
1.3(e)	to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	The contravention would provide incentive for the upgrading of the existing building to be more energy efficient.
1.3(f)	to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	The contravention would be more consistent with the historical form of the building which was originally constructed as a single dwelling.
1.3(g)	to promote good design and amenity of the built environment,	The contravention would provide better amenity for the owner and occupants of the existing dwelling as it would be more suitable to their specific functional requirements.
1.3(h)	to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The contravention would enable alterations and additions to provide a higher standard of thermal performance and more sustainable construction.
1.3(i)	to promote the sharing of the responsibility for environmental planning and assessment between the	Not applicable.

Cl. 4.6(3) Justification of Contravention		
Clause	**Control**	**Justification**
	different levels of government in the State,	
1.3(j)	to provide increased opportunity for community participation in environmental planning and assessment.	Not applicable.

In Wehbe v Pittwater Council [2007] NSWLEC 827, Preston CJ established five potential tests for determining whether a development standard could be considered to be unreasonable or unnecessary. These are examined below:

The Five Part Test: (in accordance with Preston CJ in Wehbe v Pittwater Council [2007] NSW LEC 827)		
Part	**Test**	**Discussion**
1.	The objectives of the standard are achieved notwithstanding non-compliance with the standard.	The objectives of the development standard are achieved. See discussion under 4.4 below.
2.	The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.	The objectives of the standard are relevant to the proposal and an assessment of compliance is provided above. It is considered that the objectives of the standard have been met and therefore strict compliance is unnecessary.
3.	The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.	The underlying object of the development standard would be thwarted if strict compliance were required (see 4.4 below).
4.	The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable	It is unknown if the development standard has already been varied although this may be the case.
5.	the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.	Not applicable. The zoning of the land is considered appropriate.

4.4 Cl. 4.6(3)(a) Objectives of the Zone & Development Standard

Under the Five Part Test established in Wehbe v Pittwater Council, it may be demonstrated that the objectives of the standard are achieved notwithstanding non-compliance with the standard. This can be determined by an assessment of the consistency of the contravention with the objectives of the development standard. This assessment is summarised in the table below:

Cl. 4.6(3)(a): Objectives of the development standard		
Clause	**Objectives**	**Justification**
7.36	**Dwelling retention**	
(1)	The objective of this clause is to maximise dwelling retention.	By extrapolation, this objective is also associated with the maximisation of the number of residents which is intended to address the housing shortage.

Cl. 4.6(3)(a): Objectives of the development standard		
Clause	**Objectives**	**Justification**
		The reduction of the number of nominal dwelling son the site, however, does not necessarily imply a reduction in the number of occupants. In this case, it is intended that the existing building will be entirely owner occupied but for three generations of family members to accommodate multi-generational family living. This would include: • The two owners; • Their 2 new children; and • Each of their parents. Because there would be care relationships, especially between the grandparents and the grandchildren, it is most appropriate that this take place under the umbrella of a single dwelling. Instead of reducing supply of residential accommodation, the proposal would allow for a greater number of residents on the site but with the greater level of social connection and support in place as facilitated by multi-generational living.

In circumstances where there are no significant adverse impacts resulting from the contravention of the development standard, it is unreasonable and unnecessary to require strict compliance.

5.0 CONCLUSION

This Clause 4.6 contravention request to clause 7.36 of SLEP 2012 – Dwelling retention, should be supported on the basis that strict application of the development standard is unnecessary and unreasonable given that:

a) The development meets the stated objectives of clause 7.36, specifically:

   a) to maximise dwelling retention.

b) there are sufficient environmental planning grounds to justify contravening the development standard.

For the reasons set out above, the development may be granted consent notwithstanding the contravention of the development standard in respect of the height of buildings clause 4.36 of the SLEP 2012 – Dwelling retention.

Attachment D

Submissions

From: Anson Li [redacted]

Sent on: Thursday, July 9, 2026 1:48:53 AM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2026/650 - 163 Victoria Street POTTS POINT NSW 2011 - Attention

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,

As a Potts Point local, I strongly support this application.

This is an exemplary Victorian Terrace alteration that secures the long-term conservation while meeting modern living standards. This proposal retains the heritage from the streetscape and respectfully restores the terrace back to a single residence that was its original use when built, ensuring its ongoing preservation.

The proposed front elevation is successful. The addition of the two dormer windows is sympathetic to the Victorian architectural style, enhancing the building's proportions and restoring a more complete and elegant roof form without diminishing its heritage significance.

Importantly, the proposal is a high-quality alteration project that will improve the streetscape. I strongly encourage Council to approve this application.

Best regards,
Anson Li

From: rebeccamccarthy [redacted]

Sent on: Tuesday, July 14, 2026 2:22:46 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2026/650 - 163 Victoria Street POTTS POINT NSW 2011 - Attention Kaitlin McCaffery

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 Assessment Officer,

How are you? I am a local resident with a longstanding interest in Potts Point's heritage architecture, and I wish to express my support for D/2026/650.

In my view, the most important heritage outcome for this property is the conservation and recovery of its genuine Victorian character, rather than the preservation of every later alteration made when the building was converted into three units.

The exhibited Heritage Impact Statement explains that 163 Victoria Street was originally constructed as a single terrace residence and was subsequently divided into three units. That conversion substantially altered the interior, with much of the original flooring, joinery, doors, ceilings and decorative detailing removed or replaced. It would be unfortunate if those later interventions were now treated as more important than the opportunity to restore the building's architectural coherence.

Returning the property to one residence would not erase its history. Rather, it would recover its original residential purpose and allow the building to function and be understood once again as a complete Victorian terrace.

I also support the proposed adjustment of the internal floor structures. The heritage report identifies the relevant concrete floors as later additions rather than original Victorian fabric. Removing or modifying those structures to increase the ceiling heights would help re-establish room proportions more characteristic of a Victorian terrace whereas now the proportions of ceiling heights are so low due to changes from before not standard like Victorian terraces on Victoria.

Heritage conservation should allow unsympathetic later work to be carefully corrected, particularly where the building's original use and character are strengthened.

I respectfully ask Council to approve the application and support the return of 163 Victoria Street to use as a single residence. This would provide a balanced heritage outcome: significant surviving fabric would be protected, while the building would once again function and read as a coherent Victorian terrace home.

Yours sincerely,

Rebecca M.

From: Leon Barker [redacted]

Sent on: Tuesday, July 14, 2026 4:24:31 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2026/650 - 163 Victoria Street POTTS POINT NSW 2011 - Attention Kaitlin McCaffery

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

Dear Ms McCaffery,

Hope you are well. I support the proposed works at 163 Victoria Street because they offer a coherent, long-term future for a Victorian terrace that has been heavily altered over time.

The question is not simply whether the property should change. Council has already approved substantial alterations and additions under an existing consent that remains valid until 2028. The realistic issue is therefore which design provides the better heritage, architectural and residential outcome.

In my view, the current proposal is the more considered scheme. It improves the Victoria Street presentation, creates more appropriate internal proportions for a family home, introduces a landscaped courtyard and establishes a carefully designed relationship with Hourigan Lane that will be more coherent with the row of neighbours.

The internal layout and overall design are also a significant improvement on the currently approved scheme, which appears more compartmentalised and less residential in character. If the current valid DA is built, for certain there will be more additional changes and add on in the future for the unused back area. The present proposal reads as a complete and thoughtfully designed home.

The courtyard is particularly valuable. Rather than filling the entire site with continuous building mass, the proposal retains an open landscaped area between the main terrace and the rear pavilion. This provides breathing space within the site and creates a more balanced outcome, particularly in the context of the much larger apartment building next door and the substantial rear terraces found along this row that takes the whole site.

The additional space will support one household and help secure the ongoing maintenance of a heritage property. Given the level of investment required to undertake work of this scale, the proposal is also likely to support the building's conservation for decades to come.

Council's role is not simply to prevent change, but to balance heritage, amenity and the reasonable adaptation of buildings. Council should also enable good conservation outcomes and support investment in the long-term care of these Victorian terrace properties.

For these reasons, I believe approval of the current application would be the more constructive and publicly beneficial outcome.

Regards,

L Barker

From: [redacted]

Sent on: Friday, July 17, 2026 9:42:01 PM

To: City of Sydney <council@cityofsydney.nsw.gov.au>

Subject: Comment for D/2026/650 , 163 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 City of Sydney,

Please do not publish my email address or personal details.

I support this DA for this Victorian terrace. Potts Point is one of Sydney's most densely developed inner-city areas. In such a location, scarce urban land should be used reasonably and efficiently, provided that new development respects the heritage character and amenity of the surrounding area.

Some effect on neighbouring terraces/units is an ordinary and unavoidable part of development in an established terrace neighbourhood. The traditional terrace form was itself created on narrow sites, with attached buildings, party walls and construction from boundary to boundary. Changes to light, outlook or a sense of enclosure are therefore not unusual in this urban setting and should be assessed reasonably and proportionately rather than treated as grounds to prevent appropriate development altogether.

The proposal at 163 Victoria Street achieves a sensible balance. It preserves the Victorian presentation and character of Victoria Street while concentrating the additional built form toward Hourigan Lane, where the surrounding buildings are already larger and more varied in scale.

It also retains a landscaped courtyard rather than building continuously across the entire property. This allows the land to be used more effectively while maintaining the charm, rhythm and historic character of the Victoria Street streetscape.

In my view, the proposal is a positive example of how appropriate development can be accommodated in a dense inner-city area without losing the qualities that make Victoria Street distinctive. Neighbouring amenity should not result in a substantially smaller property being prevented from achieving an appropriate and well-designed development outcome.

For these reasons, I support the approval of D/2026/650. Thank you.

From: Jean-Louis Amiel [redacted]

Sent on: Thursday, July 30, 2026 1:17:36 PM

To: DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>

Subject: Submission - D/2026/650 - 163 Victoria Street POTTS POINT NSW 2011 - Attention Kaitlin McCaffery

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 Kaitlin,

I reviewed Development Application D/2026/650 for 163 Victoria Street, Potts Point NSW 2011.

I wish to lodge a formal objection to this application due to the significant adverse impact it will have on my property, Unit 4/165 Victoria Street, Potts Point.

The proposed construction over the existing car spaces will substantially reduce the amount of natural light entering my ground floor apartment. Natural light is one of the defining characteristics of my home and contributes significantly to its liveability, comfort, and value.
The loss of daylight will negatively affect my kitchen, living areas, and overall quality of life.

I purchased my property in good faith, with the expectation that its existing level of natural light would be preserved. The proposed development represents a significant loss of residential amenity and will diminish my reasonable enjoyment of my home. The reduction in natural light will create a darker living environment, increase the need for artificial lighting during the day, and adversely affect the overall amenity of my apartment.

I previously raised these concerns in 2022 (D/2022/686), and my apartment was inspected and assessed by Isaac Toledano of the City of Sydney Council. Despite this, I remain concerned that the current application does not adequately demonstrate or accurately assess the true extent of the impact on my apartment.

I respectfully request that the developer and the architect prepare a comprehensive and realistic daylight and overshadowing assessment that accurately reflects the effect of the proposed structure on my apartment. In my opinion the documentation submitted with the application significantly understates the extent of the loss of residential amenity.

The City of Sydney should carefully consider whether this proposal unreasonably impacts the amenity of neighbouring properties. Protecting the reasonable enjoyment of existing residents is an important planning consideration, and I believe this proposal fails to achieve appropriate balance between redevelopment and the preservation of neighbouring residential amenity.

Please find attached photographs showing the current levels of natural light within my apartment at different times of the day. These photographs demonstrate the importance of the existing light to my living environment and should be taken into account when assessing this application.

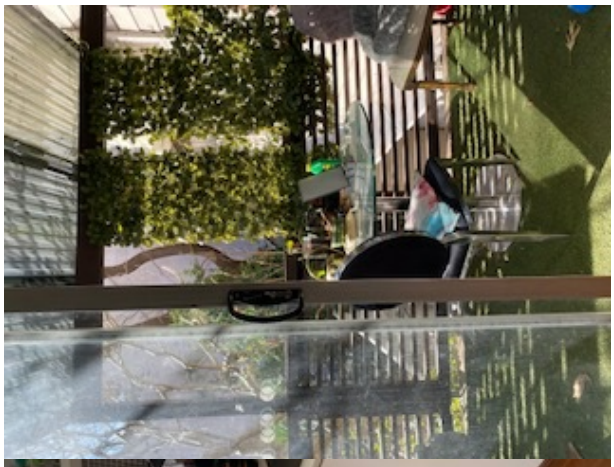
Thank you for your time and consideration. I look forward to your response.

Kind regards,

Jean-Louis Amiel

Unit 4/165 Victoria Street
Potts Point NSW 2011
[redacted]









From: Katrina Israel [redacted]

Sent on: Friday, July 31, 2026 3:25:38 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2026/650 - 163 Victoria Street POTTS POINT NSW 2011 - Attention Kaitlin McCaffery

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,
Hope you are well? As an owner of a next door apartment at 165 Victoria Street, Potts Point, I would like to object to the multi story garage that is proposed to be built at 163 as it will block light into the apartments next door by adding this whole new building that was not an existing structure. As it is now this is a backyard/driveway and in addition to the construction it will mean these apts next door look right into concrete and have zero natural light.

Thank you,
Katrina Israel

Katrina Israel | [redacted]

From: [redacted]

Sent on: Friday, July 31, 2026 3:29:11 PM

To: City of Sydney <council@cityofsydney.nsw.gov.au>

Subject: D/2026/650 - feedback on development proposal

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.

Keeping identifying information private: please do not publish the below:

- Name
- Address
- Phone number
- [redacted]
- [redacted]
- This sentence: [redacted]

Hi there,

I am writing to provide feedback regarding the proposed development at 163 Victoria Street, Potts Point NSW 2011 (**D/2026/650).**

I am the owner and resident of a studio apartment on [redacted] 165 Victoria Street. All windows in my apartment face [redacted] the proposed development.

I strongly object to this proposal due to the significant adverse impacts it will have on the amenity and liveability of my property.

My concerns include the following:

- **Loss of natural light:** The proposed building will substantially reduce the amount of natural light entering my apartment. As my apartment relies entirely on its north-facing windows, this will have a significant impact on the comfort and liveability of my home.
- **Loss of outlook:** My apartment currently has views of the Sydney Harbour Bridge and the city skyline. These views will be entirely lost, significantly reducing the amenity and enjoyment of my property, plus devaluing it.
- **Proximity to the boundary:** The proposed building [redacted] close to my windows, meaning my outlook will become a nearby wall and roof rather than open sky. This will create an enclosed feeling and further reduce access to daylight.
- **Construction impacts:** The construction period will have a substantial effect on my ability to live in the apartment. Due to dust allergies and overall health concerns, I will be unable to keep my windows open due to dust generated by the works. Dust infiltration is also likely to damage or contaminate my belongings. In addition, I work from home, and prolonged construction noise will make it difficult to carry out my work - or just enjoy peace in my unit in general.
- **Emergency exit options:** The proposed development will remove the ability to exit through my windows (as we are built in) in the event that my apartment door cannot be used during an emergency. I am concerned that this will reduce the overall safety of my apartment.

My apartment [redacted] living space. Because the entire apartment depends on one aspect for light and outlook, the impacts of this development will be felt throughout the whole property. The reduction in natural light, openness and outlook will make an already compact living space feel [redacted] less habitable.

[redacted] I am concerned that the proposed development will significantly

diminish its value due to the loss of natural light, outlook and overall amenity. This may also reduce its rental appeal and resale value, causing substantial financial hardship.

I respectfully ask that these impacts on neighbouring residents be given careful consideration when assessing this proposal. In its current form, I believe the development will have an unreasonable and significant adverse effect on the amenity, liveability and value of my home.

Thank you for considering my submission.

[redacted]
165 Victoria Street, Potts Point
[redacted]

From: Katrina Israel [redacted]

Sent on: Friday, July 31, 2026 3:22:49 PM

To: City of Sydney <council@cityofsydney.nsw.gov.au>

Subject: D/2026/650 Address 163 Victoria Street POTTS POINT NSW 2011 Applicant

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,
Hope you are well? As an owner of a next door apartment at 165 Victoria Street, Potts Point, I would like to object to the multi story garage that is proposed to be built at 163 as it will block light into the apartments next door by adding this whole new building that was not an existing structure. As it is now this is a backyard/driveway and in addition to the construction it will mean these apts next door look right into concrete and have zero natural light.

Thank you,
Katrina Israel

Katrina Israel | [redacted]

From: Yang L [redacted]
Sent on: Monday, August 3, 2026 10:19:27 AM
To: dasubmissions@cityofsydney.nsw.gov.au
Subject: Fw: Attention: Kaitlin McCaffery - re: Submission D/2026/650

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 Kaitlin and Sydney Council team,

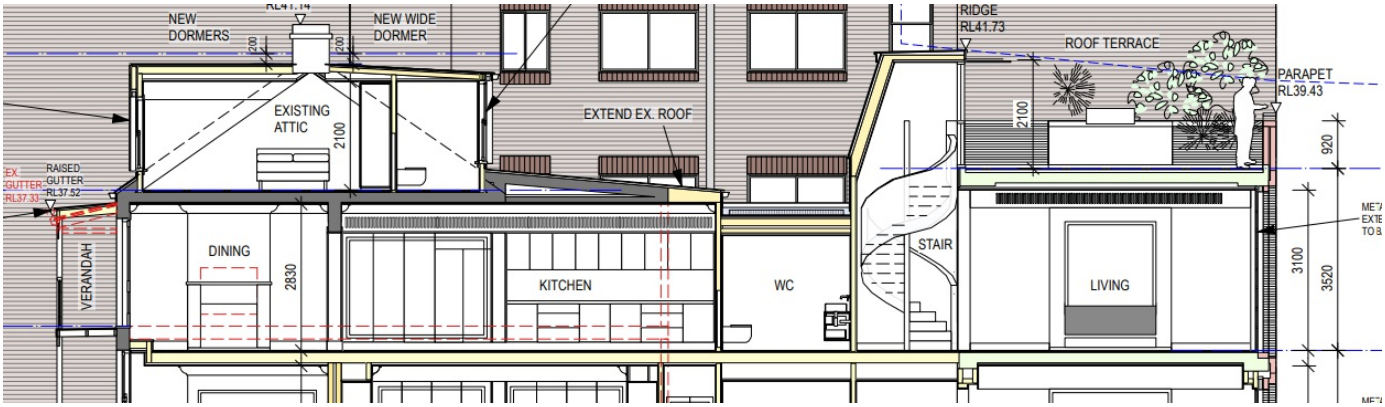
We would like to raise our concerns and objection to the Development Application D/2026/650 for 163 Victoria Street, Potts Point.

We are the owner of Lot 2, 165 Victoria St, Potts Point. This DA proposal of 163 Victoria Street is a substantial development that will have a significant impact to our building.

1. Structural impact: the demolition, new dwelling and extension will likely affect our building's foundation and stability, as two buildings almost having the shared wall at the moment (see photo as below).
   If in the long-term, anything happens to our building's foundation or stability after the renovation and extension, the owner of 163 Victoria Street has the obligation to the damage and repair, and the value loss of the building of 165 Victoria St. We will need the insurance from the owner of 163 Victoria Street on this point.



2. New DA will have one level up than the existing condition; it will block the lights and view for many apartments in our building. These are the new obstacles right in front of the windows of our building; this will result decrease in value of the affecting apartments in the building.



3. The light and sun from the north will be blocked, which may affect in the rising damp of the external all of our building in the long term. There will be moulds growing on the wall. It will be a big concern when this happens, because of the water penetration from the external wall may damage the membrane and will result in leaks when it rains heavily (we had one apartment having the similar issues right now!)





Based on the above facts and concerns, we object to the DA plan of 163 Victoria St.

Please keep us updated about the DA progress. Thank you.

Cheers,

Daniel Walker and Yang Liu
Lot 2, 165 Victoria St.

From: Mackay, Scott [redacted]

Sent on: Monday, August 3, 2026 12:55:50 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2026/650 - 163 Victoria Street POTTS POINT NSW 2011 - Attention Kaitlin McCaffery

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.

I have not any particular issue with this DA (conversion to a micro bar) other than to note that Kellett Street has laboured for years under mismanagement of bins by a number of the property owners on that stretch and there should be very STRICT requirements in their DA approval around not leaving the bins on the street all day. Also if they are looking for sidewalk seating it sould be included in the DA seating plan.

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From: Robert Gerrish [redacted]

Sent on: Monday, August 3, 2026 10:06:02 AM

To: City of Sydney <council@cityofsydney.nsw.gov.au>

Subject: Attn: Kaitlin McCaffery, Submission D/2026/650

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

Dear Ms McCaffery

As owners of Unit 20, 165 Victoria Street, Potts Point we would like to formally register our objection to the Submission D/2026/650 regarding the adjoining property at 163 Victoria Street.

In our opinion the height of the rear addition (AND its roof terrace that will clearly add further visual elements - plants, umbrellas and other inevitable shading structures), is unacceptably tall and will impact the light into our property in a substantial manner.

To have the development of one dwelling negatively impact the multiple dwellings and lives of so many others does seem totally unreasonable.

Kind regards

Jane & Robert Gerrish

From: Robert Gerrish [redacted]

Sent on: Monday, August 3, 2026 12:57:43 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Attn: Kaitlin McCaffery, Submission D/2026/650

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

Dear Ms McCaffery

As owners of Unit 20, 165 Victoria Street, Potts Point we would like to formally register our objection to the Submission D/2026/650 regarding the adjoining property at 163 Victoria Street.

In our opinion the height of the rear addition (AND its roof terrace that will clearly add further visual elements - plants, umbrellas and other inevitable shading structures), is unacceptably tall and will impact the light into our property in a substantial manner.

To have the development of one dwelling negatively impact the multiple dwellings and lives of so many others does seem totally unreasonable.

Kind regards

Jane & Robert Gerrish

From: Luke Bowen [redacted]

Sent on: Tuesday, August 4, 2026 10:56:27 AM

To: City of Sydney <council@cityofsydney.nsw.gov.au>

CC: Luke Bowen [redacted]

Subject: Submission D/2026/650

Attachments: Council Objection.pdf (247.29 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 Ms McCaffery,

Please see attached.

Regards,

Luke Bowen | ***Managing Director*** | ***Sky Living Strata***
Level 7, 234 George Street, Sydney NSW 2000
PO Box 2345, Strawberry Hills NSW 2012
P. 02 9299 1100 | **F**. 02 9299 7729 | [redacted]
W. www.skylivingstrata.com.au
A boutique Strata Management company providing a superior customer experience.

Awards (to date):
Winner of NSW Strata Management Business of the year (SCA)
Finalist of National Strata Management Business of the year (SCA)
Finalist of NSW Strata Management Business of the year (SCA)
Finalist of National Property Business of the year (Mybusiness Awards)

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Liability limited by a scheme approved under Professional Standards Legislation.

Attention Kaitlin McCaffery
City of Sydney Council
Town Hall House, 456 Kent Street
Sydney NSW 2000

3 August 2026

Dear Sir / Madam,

RE: STRATA PLAN 69426 | 165-167 VICTORIA STREET, POTTS POINT
Objection to Development Application D/2026/650 – 163 Victoria Street, Potts Point (alterations and additions to existing residential flat building and change of use to dwelling house)

We write to formally object to the above development application. We represent the Strata Committee of 165-167 Victoria Street, Potts Point, which directly adjoins the subject site to the south and shares a common boundary along which the proposed rear pavilion addition is to be built.

We have reviewed the Statement of Environmental Effects (PCN Urban, ref. P843_01, 1 June 2026), the Statement of Heritage Impact (Weir Phillips Heritage, ref. J6844_03, June 2026) and the accompanying architectural plans. While I do not object to the principle of sensitive alterations to this heritage-listed terrace, I consider that the application as lodged should be refused, or substantially amended, for the reasons set out below.

1. The application does not comply with the floor space ratio standard, and the scale of non-compliance is not adequately justified

The proposal has a floor space ratio of 1.82:1 (270.6m²), against a maximum permitted under clause 4.4 of the Sydney Local Environmental Plan 2012 of 1.5:1 (223.5m²) – an excess of approximately 21%. This is a significant departure from a key development standard.

It is relevant that Council's own pre-DA advice (PDA/2025/182) told the applicant that the floor space ratio proposed was "unlikely to be supported given the impacts arising from the non-compliance," and that any new application should be compliant with this. The current application has not reduced the non-compliance in any material way and we submit that the request does not overcome the real, on-the-ground amenity impacts of the additional floor area, which are set out further below.

2. The loss of two dwellings reduces housing supply

The site currently comprises three residential dwellings. The proposal would reduce this to a single dwelling house – a loss of two dwellings, where clause 7.36(2) of the SLEP 2012 permits a maximum reduction of only one dwelling (or 15%, whichever is greater) without a clause 4.6 variation.

P. 02 9299 1100 | F. 02 9299 7729 | A. PO Box 2345, STRAWBERRY HILLS NSW 2012 | E. ENQUIRIES@SKYLIVINGSTRATA.COM.AU | A.B.N. 74 609 258 246

The applicant's justification rests solely on the property having been owner-occupied since mid-2024 and therefore not currently used as low-rental accommodation. This does not, in my submission, answer the underlying planning objective of clause 7.36, which is to protect housing supply and diversity within the City of Sydney LGA independent of current tenure. Approving the loss of two dwellings on this basis would set an unwelcome precedent for the amalgamation of multi-dwelling buildings into single dwelling houses across the Potts Point/Kings Cross area at a time of acute housing pressure in inner Sydney.

I note that the applicant's own Statement of Heritage Impact confirms the building currently comprises three genuine, self-contained residential units (Unit 1 on the lower ground floor, Unit 2 on the ground floor, and Unit 3 on the first floor and attic), each with its own kitchen, bathroom and bedroom(s). The heritage consultant's further submission that the conversion to a single dwelling would simply 'return' the building to its original nineteenth century configuration is a heritage argument about historic form, and is not a planning justification for extinguishing two lawfully existing homes. Heritage authenticity and housing supply are separate statutory considerations, and the former should not be used to outweigh the latter under clause 7.36.

I also note that the Statement of Heritage Impact states that the return to a single dwelling "is consistent with the change of use approved under the 2023 DA, which is valid until 2028," separately from the demolition consent (referenced elsewhere in that report) said to remain valid until the same year. To the extent the applicant relies on an earlier change-of-use approval to justify the current loss of two dwellings, we submit that any such earlier consent does not relieve this application of the need to independently satisfy clause 7.36(2) on its own merits, and I ask Council to clarify the status, scope and currency of that earlier approval as part of its assessment of this DA.

3. The scale of the rear pavilion is excessive and out of keeping with the laneway built form controls

The proposed pavilion addition fronting Hourigan Lane is three storeys with a wall height of approximately 11.2m, built to the rear boundary immediately adjoining my building. Clause 4.1.6.1(1) of the Sydney DCP 2012 contemplates a one-storey structure with an attic above (maximum height 5.4m) as the default built form for laneway sites – the proposed pavilion is more than double this height.

While the applicant has sought to justify this by reference to other larger-scale buildings along Hourigan Lane, several of the comparison buildings cited (including the 5-storey apartment building at No. 165 and the 10-storey tower behind No. 145-153) are of a scale and context materially different to this fine-grain heritage laneway. The cumulative bulk of the pavilion, together with the three-storey link to the main dwelling, will present an overbearing wall of built form hard against the boundary shared with our building, well in excess of what the laneway controls anticipate.

I am also concerned that the Statement of Heritage Impact asserts that the laneway building 'is in keeping with the scale of No. 165-167 Victoria Street as recommended by the City of Sydney'. This is not, in my reading, an accurate characterisation of Council's pre-DA advice (PDA/2025/182). That advice stated only that a single-level link addition, sitting near the height of the existing roller door structure, might be considered – not a three-storey pavilion matching the height of a five-storey Interwar apartment building. We ask Council to look closely at whether the scale now proposed is consistent with what was actually conveyed at pre-lodgement stage, rather than the applicant's characterisation of it.

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4. The rooftop terrace over the pavilion is contrary to the DCP and will increase overlooking

Clause 4.1.4.4(3) of the Sydney DCP 2012 states that the roof of a pavilion addition is not to accommodate a roof terrace or usable open space. The application proposes exactly this – a roof terrace above the pavilion addition, directly adjacent to my building. The privacy screen proposed along the northern boundary does not, in my submission, adequately address the elevated sightlines and additional overlooking that a roof-level terrace at this height and this proximity will create for the apartments at 165-167 Victoria Street.

We note that the Statement of Heritage Impact seeks to justify the roof terrace on the basis that roof terraces have been introduced at several neighbouring terraces, including Nos. 157, 159, 161 and 165 Victoria Street. That is, at most, an argument about heritage character and streetscape consistency; it is not an answer to clause 4.1.4.4(3) of the DCP, which prohibits a roof terrace on a pavilion addition specifically, nor to the amenity and overlooking impacts on my building that a roof-level terrace in this location will create. Heritage character and residential amenity are separate assessment criteria, and consistency with the former should not be treated as satisfying the latter.

5. Loss of solar access and views to adjoining apartments

The additional height and bulk of the rear built form will overshadow the north-facing windows of the apartments at 165-167 Victoria Street, including units 4, 8 and 14. We note that Council's own pre-DA advice specifically identified that the adjoining impacted dwellings are studio apartments whose only windows face this boundary, and that the adverse amenity impact on units 4, 8 and (to a lesser extent) 14 was "very unlikely to be supported," particularly given the floor space ratio non-compliance.

While clause 4.1.3.1(5) of the DCP generally permits overshadowing of windows facing side boundaries, this general permission should not be applied mechanically where Council's own detailed pre-DA assessment has already identified an unacceptable amenity outcome for these specific, light-starved dwellings. This violates the core amenity protections of the Sydney DCP 2012, which mandates a minimum of 2 hours of direct mid-winter sunlight. Where existing solar access is already limited, planning principles dictate that any further reduction must be rigorously minimized. Reducing an adjoining dwelling's sunlight to practically zero hours is an unreasonable and unacceptable impact.

We therefore believe that the loss of solar access to these units' only windows should be given significant weight in the assessment of this application.

The applicant's own Statement of Heritage Impact also acknowledges, in terms, that the proposed three-storey link will block views from the northern units of No. 165 Victoria Street. The report seeks to dismiss this on the basis that these are not 'public domain' views and are therefore of lesser heritage significance. That may be a valid observation for the purposes of assessing streetscape and heritage setting, but it is not an answer to the separate question of residential amenity for the affected occupants. The loss of outlook and views experienced by residents inside their own homes is a real amenity impact that should be assessed on its own terms under the residential amenity provisions of the DCP, not discounted because the view happens not to be visible from the street.

This is consistent with the Statement of Heritage Impact's own stated methodology, which describes itself as "a merit-based assessment" that "does not consider compliance or otherwise with numerical controls unless non-compliance will result in an adverse heritage impact." On its own terms, therefore, that report does not purport to assess, and cannot substitute for, a proper assessment of the residential amenity impacts of the proposal under the DCP.

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6. Deep soil provision is deficient

The proposal provides only 11% (16m²) deep soil area, against the DCP requirement of a minimum 15% (21.81m²) for a site of this size. This shortfall is symptomatic of the overall overdevelopment of the site and reduces the capacity for on-site stormwater absorption, canopy cover and heat mitigation for a development that is already over the permitted floor space ratio.

We note that the Statement of Heritage Impact confirms the proposed deep soil courtyard between the existing dwelling and the pavilion addition is intended primarily to accommodate the site's existing frangipani tree, transplanted from its current position in the rear yard. The genuine, unencumbered deep soil provision available to the site is therefore likely to be smaller in practice than the bare percentage figures suggest, further underscoring the overdevelopment of this small site.

7. Cumulative impact

Taken individually, several of the above departures from the development standards and DCP controls might be capable of justification. Taken together – a proposed 21% FSR overshoot, the loss of two dwellings, a laneway pavilion more than double the anticipated height, a roof terrace expressly discouraged by the DCP, and a deep soil shortfall – they represent a cumulative overdevelopment of a heritage-constrained site that will materially reduce the amenity of neighbouring residents.

Conclusion and request

For the reasons set out above, I request that Council refuse the application in its current form. In the alternative, I request that Council require the application to be amended to substantially reduce the floor space ratio, retain at least two of the three existing dwellings (consistent with clause 7.36), reduce the height and bulk of the rear pavilion to align with the DCP laneway controls, remove the roof terrace over the pavilion, and provide compliant deep soil area – consistent with the built form previously approved under D/2022/686 and with Council's own pre-DA advice (PDA/2025/182).

Yours faithfully,

Luke Bowen
Managing Director
Sky Living Strata

P. 02 9299 1100 | F. 02 9299 7729 | A. PO Box 2345, STRAWBERRY HILLS NSW 2012 | E. ENQUIRIES@SKYLIVINGSTRATA.COM.AU | A.B.N. 74 609 258 246

From: [redacted]

Sent on: Tuesday, August 4, 2026 6:51:41 PM

To: council@cityofsydney.nsw.gov.au; dasubmissions@cityofsydney.nsw.gov.au

Subject: D/2026/650 163 Victoria Street POTTS POINT NSW 2011

Attachments: 163 Vic St Objection_Letter_D2026_650_165_Victoria_St.pdf (58.64 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.

D/2026/650 163 Victoria Street POTTS POINT NSW 2011

TO: Kaitlin McCaffery
FROM: Mary and Michiel Berkhout, 165-167 Victoria St Potts Point
The following identifying Information to be kept PRIVATE:
- Names
- email address
- mobile number
- Address
- document content

Dear Kaitlin
As an owner of a unit on the North side of 165-167 Victoria St, Potts Point, we object to the development D/2026/650. Please refer to the attached document.
Best wishes

[redacted]

FORMAL OBJECTION LETTER

Date: 4 August 2026
To: The Chief Executive Officer / Assessment Officer
Council: City of Sydney Council
Email: dasubmissions@cityofsydney.nsw.gov.au
Application Reference: D/2026/650
Subject Property: 163 Victoria Street, Potts Point NSW 2011
Objector Property: 165 Victoria Street, Potts Point NSW 2011 (Adjoining Property)

> **SUBJECT: SUBMISSION OF OBJECTION – Development Application D/2026/650 at 163 Victoria Street, Potts Point**

Dear Kaitlin,

I am writing as one of the owners of the directly adjoining property at 165 Victoria Street, Potts Point. I wish to lodge a formal objection to Development Application D/2026/650 in its current form due to specific adverse amenity, structural, and operational impacts on the adjoining property at 165 Victoria St, Potts Point.

I request that Council address the following planning and amenity concerns prior to determining this application:

1. Excessive Floor Space Ratio (Clause 4.6 Exception Request)

The applicant is proposing a Floor Space Ratio (FSR) of 1.82:1 (270.6 m² GFA), which exceeds the maximum permissible standard of 1.5:1 (223.5 m² GFA) under the Sydney LEP 2012 by 47.1 m² (approx. 21%).

- **Impact on 165 Victoria Street:** This substantial bulk and floor area over-development—specifically across upper levels and attic conversions—creates unnecessary visual bulk and scale along our shared boundary.
- **Requested Relief:** Council should strictly enforce the 1.5:1 FSR development standard or require reductions in upper-level building mass to prevent an unreasonable bulk impact on 165 Victoria Street.

2. Privacy & Overlooking Impacts (31 m² First-Floor Roof Terrace & Rear Dormers)

The proposal includes a new 31 m² elevated roof terrace on the first floor and new rear dormer windows on the second floor.

- **Impact on 165 Victoria Street:** Direct visual privacy impacts into balcony, lounge, bedroom and kitchen windows on the north side.

- **Requested Condition of Consent:** Should Council be minded to approve the roof terrace, a strict condition of consent must be imposed requiring a minimum 1.8-meter high fixed, opaque privacy screen along the southern boundary facing 165 Victoria Street to prevent direct overlooking.

3. Structural Integrity & Party Wall Protection

Given the age and terrace-style building fabric along Victoria Street, major internal alterations across four levels—including structural modifications, lift core installation, and lower ground works—pose structural risks to the shared party wall and building stability.

- **Requested Condition of Consent:** A comprehensive pre-construction Dilapidation Report of 165 Victoria Street must be undertaken by an independent, qualified structural engineer at the applicant's expense prior to the issue of any Construction Certificate, followed by a post-construction inspection.

4. Construction Traffic & Amenity Management

The proposed works represent an estimated project value of $1,720,000, requiring extensive demolition, structural work, and trades access via Hourigan Lane over an extended construction timeline.

- **Impact on 165 Victoria Street:** Significant potential for noise, vibration, dust, and traffic congestion affecting tenancy retention and quiet enjoyment.
- **Requested Condition of Consent:** Council must require a detailed Construction Environmental & Traffic Management Plan (CTMP) specifying strict construction hours, dust suppression measures, and noise management to ensure rear access along Hourigan Lane remains unobstructed.

Conclusion

I trust Council will carefully consider the impacts on the adjoining residence at 165 Victoria Street. I request to be kept informed of any amended plans, public hearing dates, or final assessment determinations regarding DA D/2026/650.

Yours sincerely,

[redacted]
Owner, 165 Victoria Street, Potts Point NSW 2011
Email: [redacted]
Phone: [redacted]

From: Unit 16 Paul Nathan [redacted]

Sent on: Tuesday, August 4, 2026 5:25:41 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2026/650 - 163 Victoria Street POTTS POINT NSW 2011 - Attention Kaitlin McCaffery

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 Kaitlin.

I object to the DA proposal D/2026/650 because the proposed dwelling would be built directly against the side of our building.

If our building ever requires repairs or maintenance to the side wall, it would not be possible to carry out that work due to the lack of access created by the proposed development. This raises significant concerns about the ongoing maintenance and preservation of our property.

For these reasons, we object to the proposal.

Regards,

Paul & Kathy Nathan

Paul Simon Nathan

16/165-167 Victoria Street
Potts Point
NSW 2011

T: Paul - [redacted]
E: [redacted]

Paul Simon Nathan

16/165-167 Victoria Street
Potts Point
NSW 2011

T: [redacted]
E: [redacted]

From: Planning Systems Admin <planningsystemsadmin@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: Wednesday, August 12, 2026 3:32:35 PM
To: DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>
Subject: Objection to Development Application D/2026/650 – 163 Victoria Street, Potts Point

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From: Kaitlin McCaffery <KMcCaffery@cityofsydney.nsw.gov.au>
Sent: Wednesday, 12 August 2026 3:24 PM
To: Planning Systems Admin <planningsystemsadmin@cityofsydney.nsw.gov.au>
Subject: FW: TRIM CM: Objection to Development Application D/2026/650 – 163 Victoria Street, Potts Point

Hi Team,

Could you please register this submission.

Kind regards

Kaitlin McCaffery (she/her)
Specialist Planner
Planning Assessments

CITY OF SYDNEY

Telephone: +612 9246 7240
cityofsydney.nsw.gov.au



The City of Sydney acknowledges the Gadigal of the Eora nation as the Traditional Custodians of our local area.

From: Mikel Crawley [redacted]>
Sent: Saturday, 8 August 2026 11:48 PM
To: Kaitlin McCaffery <KMcCaffery@cityofsydney.nsw.gov.au>
Subject: TRIM CM: Objection to Development Application D/2026/650 – 163 Victoria Street, Potts Point

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.

Attn: City of Sydney Local Planning Panel

I want to write to again object to the proposal put forward for the development of 163 Victoria St, Potts Point, for the same reasons, twice previously, that saw the proposals rejected.

The two previous rejections were for;
* **D/2024/204**
* **RD/2011/1505/A**

This development represents a complete overdevelopment of the site with the building being extended to the height of the current frontage and to the back boundary of the land.

Directly impacting to the building of my residence, 165 Victoria St Potts Point, the development will completely cover one side of the building, with the proposed development providing plans for a building up to the height of of the current frontage extending to the back of the block. This will mean that appartments on the south side of the building (165 Victoria St) will loose all available sunlight and airflow.
There are appartments on the south side of the building, including my own, that only has external wall on the south side of the building, so there will be no other available natural light, for appartments that are small studio appartments with no balcony, making them largely inhabitable.
This will also significantly impact he the value of the building as a whole, more significantly for the appartments on the south side of the building.

For the apartments at the back of the building, there will be further impact from the additional structure to the roof of 90 Brougham lane reducing light, as well as additional noise with Hourigan lane providing the access for 6 additional car spaces.

As a testament to the unacceptable development proposed for the reasons outlined within this objection directly negatively impacting the south side of 165 Victoria St, Potts Point, City of Sydney council already rejected twice similar development submitted in 2012:- **RD/2011/1505/A, and D/2024/204 in 2024,**

which created the same negative impact as the current DA now being reviewed. This rejections in 2012 was made after significant consideration, consultations, as well as site visits in order to see the direct impact on the residents living in the building.

I request this current DA submission is considered with the same understanding of impact and seriousness in order to maintain an acceptable way of living for the residents in the Crosspoint building, 165 Victoria St, Potts Point, and is rejected.

Many Thanks,
Mikel Crawley
11/165 Victoria St, Potts Point.

Begin forwarded message:

From: Mikel Crawley <[redacted]>
Subject: Submission - D/2024/204 - 169 Victoria Street POTTS POINT NSW 2011 - Attention Rebecca Gordon
Date: 29 April 2024 at 11:57:39 pm AEST
To: dasubmissions@cityofsydney.nsw.gov.au

Attn: City of Sydney Local Planning Panel

I want to write to you stating my OBJECTION to the Submission **D/2024/204 - 169 Victoria Street POTTS POINT NSW 2011.**

This development represents a complete overdevelopment of the site with the building being extended to the height of the current frontage and to the back boundary of the land.

Directly impacting to the building of my residence, 165 Victoria St Potts Point, the development will completely cover one side of the building, with the proposed development providing plans for a building up to the height of of the current frontage extending to the back of the block. This will mean that appartments on the south side of the building (165 Victoria St) will loose all

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As a testament to the unacceptable development proposed for the reasons outlined within this objection directly negatively impacting the south side of 165 Victoria St, Potts Point, City of Sydney council already rejected a development submitted in 2012:- **RD/2011/1505/A,** which created the same negative impact as the current DA now being reviewed. This rejections in 2012 was made after significant consideration, consultations, as well as site visits in order to see the direct impact on the residents living in the building.

I request this current DA submission is considered with the same understanding of impact and seriousness in order to maintain an acceptable way of living for the residents in the Crosspoint building, 165 Victoria St, Potts Point, and is rejected.

Many Thanks,
Mikel Crawley.

From: Planning Systems Admin <planningsystemsadmin@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: Wednesday, August 12, 2026 3:32:35 PM
To: DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>
Subject: Objection to Development Application D/2026/650 – 163 Victoria Street, Potts Point

---

From: Kaitlin McCaffery <KMcCaffery@cityofsydney.nsw.gov.au>
Sent: Wednesday, 12 August 2026 3:24 PM
To: Planning Systems Admin <planningsystemsadmin@cityofsydney.nsw.gov.au>
Subject: FW: TRIM CM: Objection to Development Application D/2026/650 – 163 Victoria Street, Potts Point

Hi Team,

Could you please register this submission.

Kind regards

Kaitlin McCaffery (she/her)
Specialist Planner
Planning Assessments

CITY OF SYDNEY

Telephone: +612 9246 7240
cityofsydney.nsw.gov.au



The City of Sydney acknowledges the Gadigal of the Eora nation as the Traditional Custodians of our local area.

From: Mikel Crawley <
Sent: Saturday, 8 August 2026 11:48 PM
To: Kaitlin McCaffery <KMcCaffery@cityofsydney.nsw.gov.au>
Subject: TRIM CM: Objection to Development Application D/2026/650 – 163 Victoria Street, Potts Point

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Attn: City of Sydney Local Planning Panel

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The two previous rejections were for;
* **D/2024/204**
* **RD/2011/1505/A**

This development represents a complete overdevelopment of the site with the building being extended to the height of the current frontage and to the back boundary of the land.

Directly impacting to the building of my residence, 165 Victoria St Potts Point, the development will completely cover one side of the building, with the proposed development providing plans for a building up to the height of of the current frontage extending to the back of the block. This will mean that appartments on the south side of the building (165 Victoria St) will loose all available sunlight and airflow.
There are appartments on the south side of the building, including my own, that only has external wall on the south side of the building, so there will be no other available natural light, for appartments that are small studio appartments with no balcony, making them largely inhabitable.
This will also significantly impact he the value of the building as a whole, more significantly for the appartments on the south side of the building.

For the apartments at the back of the building, there will be further impact from the additional structure to the roof of 90 Brougham lane reducing light, as well as additional noise with Hourigan lane providing the access for 6 additional car spaces.

As a testament to the unacceptable development proposed for the reasons outlined within this objection directly negatively impacting the south side of 165 Victoria St, Potts Point, City of Sydney council already rejected twice similar development submitted in 2012:- **RD/2011/1505/A, and D/2024/204 in 2024,**

which created the same negative impact as the current DA now being reviewed. This rejections in 2012 was made after significant consideration, consultations, as well as site visits in order to see the direct impact on the residents living in the building.

I request this current DA submission is considered with the same understanding of impact and seriousness in order to maintain an acceptable way of living for the residents in the Crosspoint building, 165 Victoria St, Potts Point, and is rejected.

Many Thanks,
Mikel Crawley
11/165 Victoria St, Potts Point.

Begin forwarded message:

From: Mikel Crawley <
Subject: Submission - D/2024/204 - 169 Victoria Street POTTS POINT NSW 2011 - Attention Rebecca Gordon
Date: 29 April 2024 at 11:57:39 pm AEST
To: dasubmissions@cityofsydney.nsw.gov.au

Attn: City of Sydney Local Planning Panel

I want to write to you stating my OBJECTION to the Submission **D/2024/204 - 169 Victoria Street POTTS POINT NSW 2011.**

This development represents a complete overdevelopment of the site with the building being extended to the height of the current frontage and to the back boundary of the land.

Directly impacting to the building of my residence, 165 Victoria St Potts Point, the development will completely cover one side of the building, with the proposed development providing plans for a building up to the height of of the current frontage extending to the back of the block. This will mean that appartments on the south side of the building (165 Victoria St) will loose all

available sunlight and airflow.
There are appartments on the south side of the building, including my own, that only has external wall on the south side of the building, so there will be no other available natural light, for appartments that are small studio appartments with no balcony, making them largely inhabitable.
This will also significantly impact he the value of the building as a whole, more significantly for the appartments on the south side of the building.

For the apartments at the back of the building, there will be further impact from the additional structure to the roof of 90 Brougham lane reducing light, as well as additional noise with Hourigan lane providing the access for 6 additional car spaces.

As a testament to the unacceptable development proposed for the reasons outlined within this objection directly negatively impacting the south side of 165 Victoria St, Potts Point, City of Sydney council already rejected a development submitted in 2012:- **RD/2011/1505/A,** which created the same negative impact as the current DA now being reviewed. This rejections in 2012 was made after significant consideration, consultations, as well as site visits in order to see the direct impact on the residents living in the building.

I request this current DA submission is considered with the same understanding of impact and seriousness in order to maintain an acceptable way of living for the residents in the Crosspoint building, 165 Victoria St, Potts Point, and is rejected.

Many Thanks,
Mikel Crawley.

From: Planning Systems Admin <planningsystemsadmin@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: Monday, August 24, 2026 2:22:36 PM
To: DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>
Subject: FW: D/2026/650 Address: 163 Victoria Street POTTS POINT NSW 2011

From: [redacted] <[redacted]
Sent: Saturday, 22 August 2026 6:45 PM
To: Kaitlin McCaffery <KMcCaffery@cityofsydney.nsw.gov.au>
Subject: D/2026/650 Address: 163 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 Ms McCaffery,

We refer to the above DA and write as next-door neighbours, being the owners and residents (with family) at 161 Victoria St.

We did not receive any notification whatsoever of the DA despite being the next-door neighbours.

We only learned of the planned works today.

On a superficial view of the architectural plans on your website, this email serves to notify you that**we strongly object to the DA** and will, after having reviewed the documents more fully, write in more detail.

For the moment, suffice it to say, the description *"Alterations and additions to existing residential flat building and change of use to single dwelling"* is disingenuous and misleading. It represents a MASSIVE change to the DA lodged in 2022 (D/2022/686) which, incidentally, we supported.

Please feel free to call at your convenience.

Yours sincerely,
Les Schmalzbach & Samantha Tidbeck
161 Victoria St, Potts Point
[redacted]

From: Planning Systems Admin <planningsystemsadmin@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: Monday, September 7, 2026 2:33:43 PM
To: DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>
Subject: FW: DA D/2026/650
Attachments: DA objection Isla Tooth.docx (14.4 KB)

From: Kaitlin McCaffery <KMcCaffery@cityofsydney.nsw.gov.au>
Sent: Monday, 7 September 2026 1:45 PM
To: Planning Systems Admin <planningsystemsadmin@cityofsydney.nsw.gov.au>
Subject: FW: DA D/2026/650

Hi team,

Can you please register this submission in TRIM.

Kind regards

Kaitlin McCaffery (she/her)
Specialist Planner
Planning Assessments

CITY OF SYDNEY

Telephone: +612 9246 7240
cityofsydney.nsw.gov.au



The City of Sydney acknowledges the Gadigal of the Eora nation as the Traditional Custodians of our local area.

From: [redacted] <[redacted]>
Sent: Monday, 7 September 2026 11:29 AM
To: Kaitlin McCaffery <KMcCaffery@cityofsydney.nsw.gov.au>
Subject: DA D/2026/650

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.

Please find attached my letter of objection to the proposed developments at 163 Victoria Street Potts Point.
Thank you for considering my comments on these plans.

Regards
Isla

Isla Tooth
Funeral Celebrant
88 Brougham St
POTTS POINT 2011

Ph [redacted]
Mob [redacted]

88 Brougham St

POTTS POINT 2011

Kaitlin McCaffery

Town Planner

City of Sydney

7th September 2026

Having only just been made aware of this DA I would like to lodge an objection to the proposed plans for the extension of the house at

163 Victoria Street Potts Point

DA D/2026/650

My house (where I have lived for 40 years) is across Hourigan Lane from this property. It will have closer and more direct view into my home than the flats at 165 Victoria Street. There will be potential noise from the roof top terrace (The noise from balcony /terrace is already bad from 159 as they were allowed to extend right up to the lane.)

There is also potential for Western sun to be bouncing off the proposed windows. We should be keeping more backyards as green spaces and relief from hard surfaces and increasing heat. We have lost more greenery and space with development behind the Piccadilly Hotel which is significantly increasing the built space in this pocket of Potts Point.

I understand the need for increasing density in the city but this property has gone from being 3 flats to one house to accommodate one family. This extension is not about housing more people.

Please consider all these factors when assessing the proposed plans.

Your sincerely

Isla Tooth

Ph

From: Melinda Futcher <MFutcher@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: Tuesday, September 15, 2026 1:41:45 PM
To: DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>
Subject: FW: Objection to DA D/2026/650 @ 163 Victoria St, Potts Point
Attachments: OBJECTION to 163 DEVELOPMENT PROPOSAL - 11 September 2026.pdf (3.26 MB)

From: Kaitlin McCaffery <KMcCaffery@cityofsydney.nsw.gov.au>
Sent: Tuesday, 15 September 2026 1:28 PM
To: Planning Systems Admin <planningsystemsadmin@cityofsydney.nsw.gov.au>
Subject: FW: Objection to DA D/2026/650 @ 163 Victoria St, Potts Point

Hi team,

Could you please register this objection.

Kind regards

Kaitlin McCaffery (she/her)
Specialist Planner
Planning Assessments

CITY OF SYDNEY

Telephone: +612 9246 7240
cityofsydney.nsw.gov.au



The City of Sydney acknowledges the Gadigal of the Eora nation as the Traditional Custodians of our local area.

From: [redacted] <[redacted]>
Sent: Friday, 11 September 2026 6:22 PM
To: Michael Soo <MSoo@cityofsydney.nsw.gov.au>; Kaitlin McCaffery <KMcCaffery@cityofsydney.nsw.gov.au>
Cc: Samantha Tidbeck <[redacted]>
Subject: Objection to DA D/2026/650 @ 163 Victoria St, Potts Point

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 Kaitlin & Michael,

Attached please find our detailed objection to the proposed development next door at 163 Victoria St, Potts Point.

Would you kindly acknowledge receipt and advise when we will be able to address the Planning Committee.

Kind regards,
Les Schmalzbach

att x 1

On Tue Sep 01 2026 < [redacted] wrote:
---------- Original Message ----------
Hi Kaitlin & Michael,

Thank you for your time today.

To summarise our meeting, in brief:
- we are not opposed to renovation of the existing building at 163 Victoria St;
- we have serious objections to the proposed extensions/additions;
- we will provide a written, detailed, documented submission to Council, hopefully by the end of next week.

Kind regards,
Les Schmalzbach

> On Tue Aug 25 2026 Kaitlin McCaffery <KMcCaffery@cityofsydney.nsw.gov.au> wrote:
> ---------- Original Message ----------
>
> **In person meeting to be held at Town Hall House, 456 Kent Street, Sydney.** Please sign in at level 1 concierge and we will escort you to the conference room.

_____ This email and any files transmitted with it are intended solely for the use of the addressee(s) and may contain information that is confidential or subject to legal privilege. If you receive this email and you are not the addressee (or responsible for delivery of the email to the addressee), please note that any copying, distribution or use of this email is prohibited and as such, please disregard the contents of the email, delete the email and notify the sender immediately.

OBJECTION to PROPOSED DEVELOPMENT

Response to a **Development Application**
Submitted via the **NSW Planning Portal** to **City of Sydney Council**
D/2026/650,
for Alterations + Additions to an Attached Dwelling at

163 VICTORIA STREET, POTTS POINT, NSW 2011

Submission on behalf of the owners and occupants of 161 Victoria Street

Revision: Final submission

Prepared for: Les Schmalzbach & Samantha Tidbeck

Prepared by: Rupert Ansted, B.Sc (EnvDsgn), B.Arch

Date: 11.Sep.2026

EXECUTIVE SUMMARY

This submission is made on by and on behalf of the owners and occupants of 161 Victoria Street, Potts Point, the property immediately adjoining the subject site to the north, to formally object to the development proposed at No.163 in its present form.

We do not object to the reasonable renovation or redevelopment of No.163. The objection concerns the particular scale, height, intensity and configuration of the proposed rear development, comprising a three-storey pavilion, three-storey connecting element and elevated 31m² roof terrace.

The proposal should be refused or substantially redesigned on the following grounds, which are described in detail below:

1. Excessive scale and bulk — the three-storey pavilion and three-storey link do not provide the low-scale, subordinate rear development contemplated by Sydney DCP 2012;
2. Prohibited pavilion roof terrace — Sydney DCP 2012 cl 4.1.4.4(3) expressly provides that the roof of a pavilion addition is not to accommodate a roof terrace or usable open space;
3. Unacceptable privacy impacts — the proposal creates new elevated sightlines toward No.161 from the roof terrace, pavilion windows and windows/openings within the three-storey link;
4. Increased enclosure and loss of outlook, visible sky and spatial separation — substantial new building mass is introduced into the immediate foreground of occupied areas of No.161;
5. Adverse heritage relationship — the proposed rear development does not remain subordinate to the principal terrace building and materially compresses the setting of adjoining heritage item No.161;
6. Floor space ratio (clause 4.6), unjustified 21% FSR exceedance — the application seeks approximately 47.1m² of GFA above the applicable development standard and has not demonstrated that the resulting development intensity produces an acceptable site-specific outcome;
7. Inadequate information concerning excavation and shared-boundary works — no site-specific structural or geotechnical reports have been identified in the application material.

These impacts are interrelated and should also be assessed cumulatively under s4.15 of the Environmental Planning and Assessment Act 1979.

In addition, we provide a brief appendix outlining the negative effects of this proposal on other, neigbouring properties.

THE DEVELOPMENT MUST BE ASSESSED AS A WHOLE

A central problem with the application is that different components are justified independently by reference to different surrounding examples.

The three-storey rear form is justified by reference to No.159 and the substantially larger building at No.165. Existing roof terraces are relied upon to justify the proposed roof terrace. The three-storey link is said to be low scale because portions of its roof are sloping or skillion.

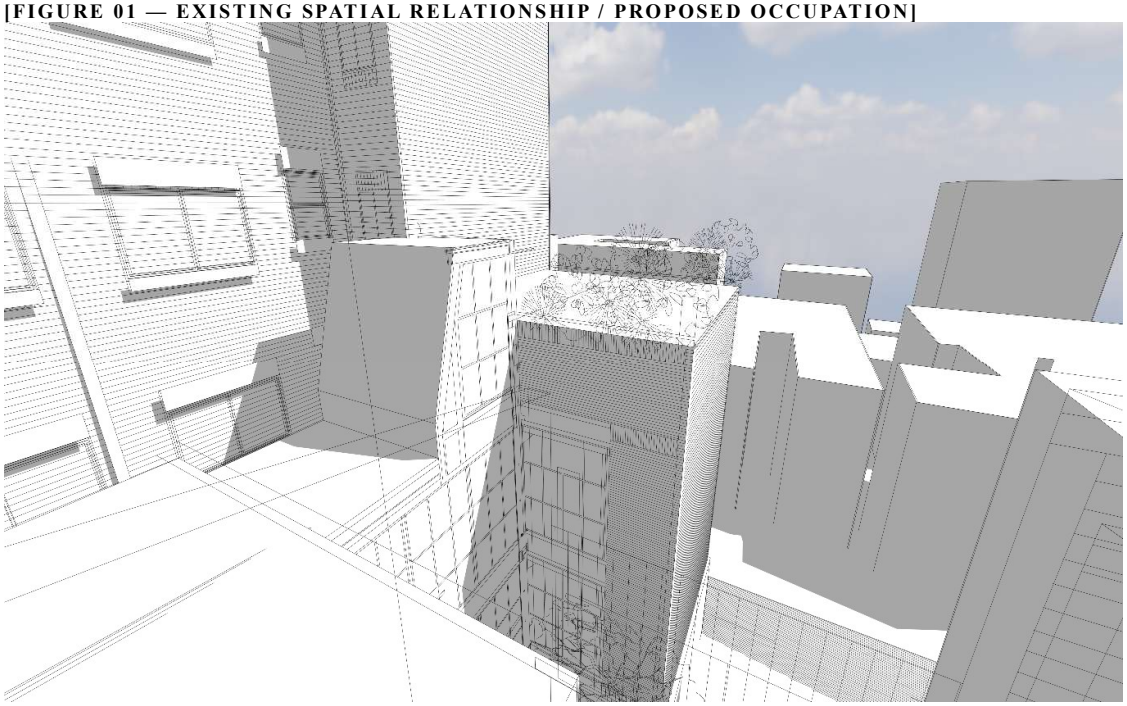
Those propositions do not adequately address the physical outcome of the development as a whole.

The applicant's Heritage Impact Statement itself describes the pavilion and link as three storeys and says that they "modulate" between No.161 and the substantially larger No.165.

The proposal instead introduces a substantial three-storey rear building, a three-storey connection back to the primary structure, an elevated recreational terrace and substantial privacy screening into an area which presently provides separation between buildings of markedly different scale.

The cumulative effect is an unacceptable planning outcome.

[FIGURE 01 — EXISTING SPATIAL RELATIONSHIP / PROPOSED OCCUPATION]



OBECTION GROUND 1: EXCESSIVE SCALE AND BULK

Relevant controls: Sydney DCP 2012 ss4.1.4 and 4.1.4.4(2).

Sydney DCP 2012 cl 4.1.4.4(2) requires the element linking a pavilion addition to the existing building to be "of low scale" and minimise its impact.

Applicant's position

The applicant acknowledges this requirement but states that the partial sloping and skillion roof forms "ensure the link is of a low scale."

Objection

We disagree.

The proposed link is a three-storey occupied connecting structure. Its scale is determined by its actual height, volume and relationship to surrounding buildings, not merely by the shape of part of its roof.

A sloping or skillion roof does not convert a three-storey structure into a low-scale link.

The rear pavilion is similarly substantial. Although described as a pavilion addition, it no longer reads as a subordinate rear element when considered in three dimensions.

The submitted sections identify successive pavilion floor-to-floor heights of approximately 3.38m, 3.00m and 3.52m, with the elevated roof terrace and privacy screen above.

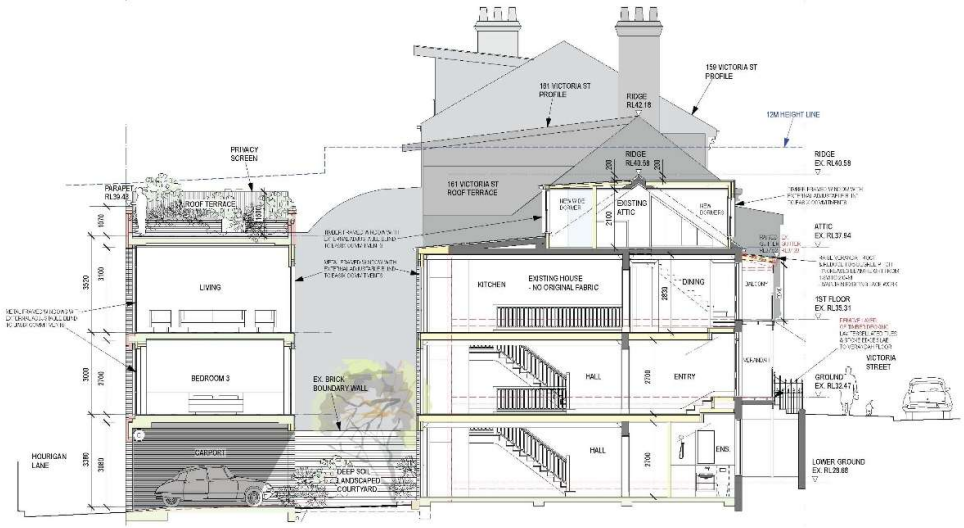
The generous upper vertical dimension is particularly significant because it directly raises:

the overall rear building envelope;
the roof terrace;
the privacy screening; and
the amount of built form experienced from No.161.

The resulting pavilion/link arrangement is substantially more dominant than the low-scale rear relationship contemplated by the pavilion provisions.

We submit the proposal does not satisfy cl 4.1.4.4(2).

[FIGURE 02 — PAVILION / LINK VERTICAL SECTION + RELATIVE HEIGHTS]



OBJECTION GROUND 2: PROHIBITED PAVILION ROOF TERRACE

Relevant control: Sydney DCP 2012 cl 4.1.4.4(3).

The relevant provision is clear:

"The roof of a pavilion addition is not to accommodate a roof terrace or useable open space."

The applicant nevertheless proposes approximately 31m² of usable open space on the pavilion roof.

The applicant also identifies a compliant 16m² lower-level private open space area, satisfying the stated minimum private-open-space requirement.

The elevated roof terrace is therefore additional recreational space rather than space required to achieve the minimum provision.

Applicant's comparator argument

The applicant relies upon existing roof terraces at Nos.159 and 161, amongst others, as evidence that the proposed terrace is consistent with the area. The HIS expressly relies upon those terraces.

That comparison is not persuasive.

We advise that the terraces at Nos.159 and 161 have existed certainly for more than 35 years and substantially predate Sydney DCP 2012.

More importantly, their physical relationships are materially different.

The No.159 terrace is approximately 2.1m below the proposed No.163 roof terrace, based on our scaled comparison of the available drawings. Its rear development remains visually subordinate to the principal terrace building and the terrace itself is substantially contained within the surrounding building form.

The existing terrace at No.161 likewise does not create the same elevated and direct overlooking relationship with adjoining residential property.

By contrast, the proposed No.163 terrace:

+ sits above a substantial three-storey rear pavilion;
+ is positioned at a materially higher and more exposed level;
+ creates a new elevated recreational interface immediately beside No.161; and
+ requires substantial privacy screening because of that relationship.

The fact that older roof terraces exist elsewhere does not demonstrate that this terrace, in this position and at this level, achieves the current control.

We submit the departure from cl 4.1.4.4(3) is not justified.

[FIGURE 03 — ROOF TERRACE COMPARISON: NOS.159 / 161 / PROPOSED 163]



OBJECTION GROUND 3: UNACCEPTABLE PRIVACY IMPACTS

Relevant control: Sydney DCP 2012 cl 4.1.3.6.

The proposal creates multiple new elevated viewing relationships with No.161.

These arise from:

a. the elevated roof terrace;

b. windows/openings within the rear pavilion; and

c. windows/openings within the three-storey connecting element.

The applicant's privacy assessment principally relies upon orientation of openings and a privacy screen along the northern boundary of the roof terrace.

The SEE also states that the three-storey link assists in reducing overlooking from No.165 into the proposed dwelling. That does not address the separate question of overlooking from the proposed development toward No.161.

The applicant has therefore not adequately demonstrated the actual sightline relationships between these new elevated openings/recreational areas and the existing occupied rooms and external areas of No.161.

The submitted documents also appear inconsistent as to the proposed northern privacy-screen height, variously indicating approximately 1.5m, 1.6m and 1.65m.

Increasing screening does not necessarily resolve the planning problem.

A more substantial screen may reduce direct overlooking but will simultaneously increase:

visual bulk;
enclosure;
obstruction; and
loss of visible sky.

The fundamental issue is the elevation and location of the roof terrace itself.

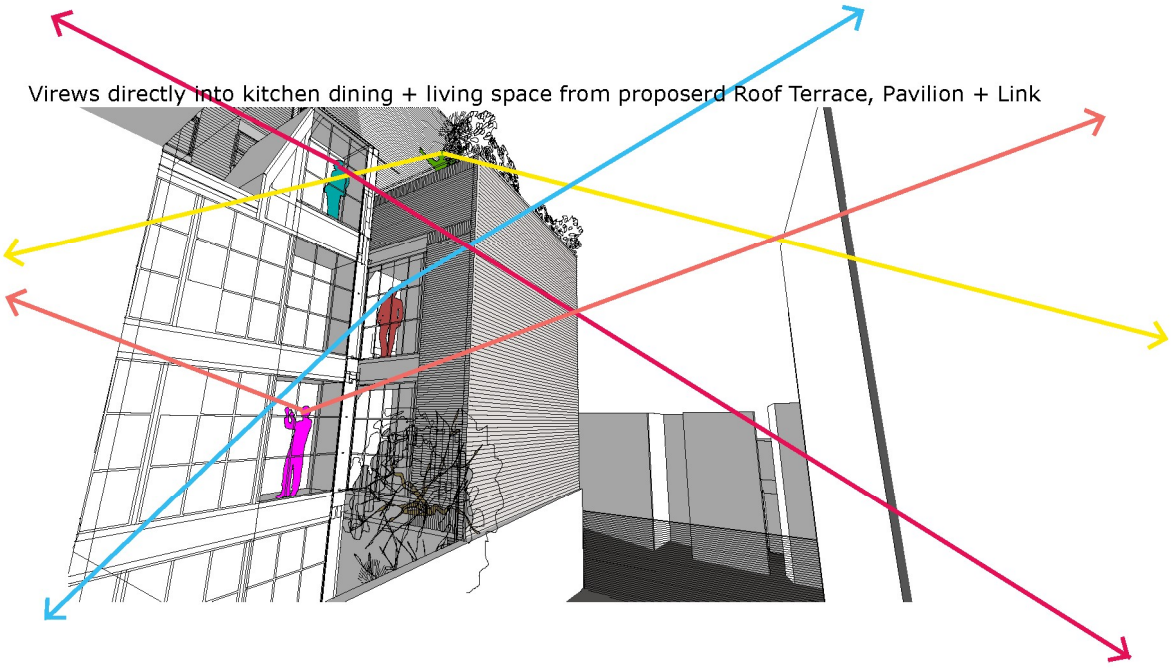
The submitted drawing set also does not contain a dedicated northern elevation showing the proposal directly in relation to No.161, despite this being the principal elevation at which privacy and built-form impacts arise.

The application has not demonstrated that reasonable visual privacy to No.161 will be maintained.

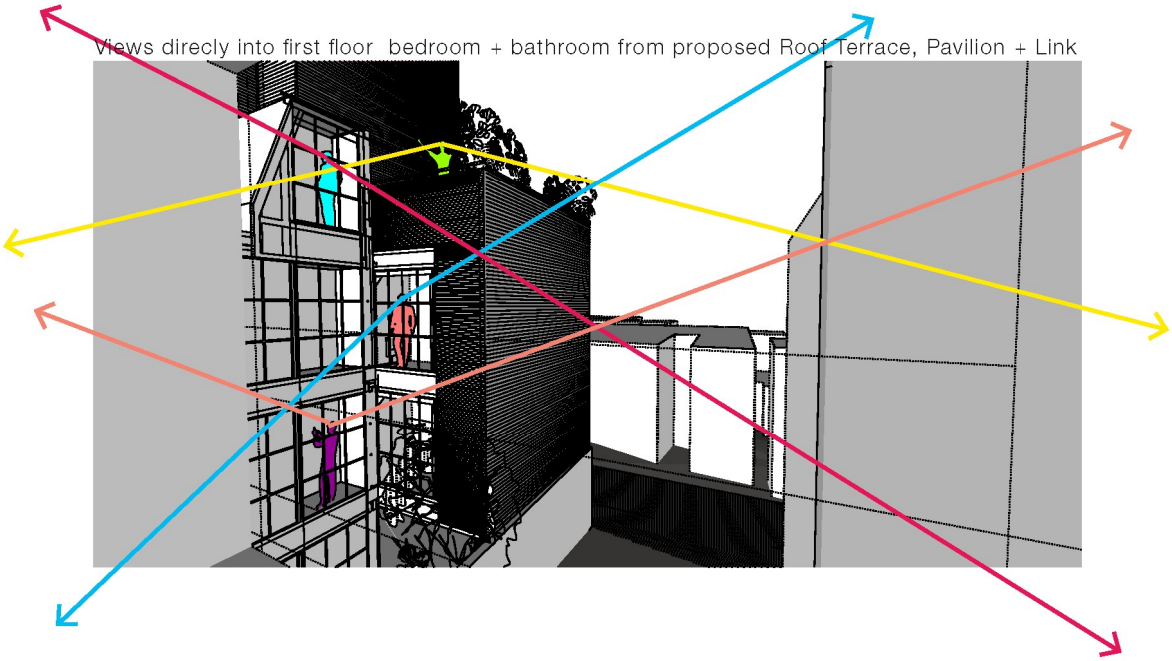
We assert it will not maintain reasonable privacy.

See following sightlines.

[FIGURE 04A + 04B— VISUAL PRIVACY / NEW ELEVATED SIGHTLINE RELATIONSHIPS]



Level 2 Entry/Ground Floor



Level 3 Bedroom + Bathroom

OBJECTION GROUND 4: ENCLOSURE, OUTLOOK, VISIBLE SKY, SPATIAL SEPARATION

Relevant considerations: Environmental Planning and Assessment Act 1979, s4.15(1)(b) and (c); *Tenacity Consulting Pty Ltd v Warringah Council* [2004] NSWLEC 140.

The proposal would materially alter the outlook presently enjoyed from No.161 Victoria Street.

This objection does not assert a proprietary right to retain all existing views across No.163. The issue is whether the scale and configuration of the proposed development produces a reasonable view-sharing and residential amenity outcome.

The principal impact is not simply the removal of a particular distant object or skyline view. It is the introduction of a substantial three-storey building form into the immediate foreground of No.161, substantially reducing visual depth and visible sky and increasing the sense of enclosure from occupied areas of the dwelling.

The impact is particularly significant from Level 2 — Entry / Ground / Living Level, which contains the principal living accommodation of No.161 and experiences the greatest change.

1.1 Existing outlook

The existing outlook from No.161 comprises a layered urban view incorporating:

+ substantial visible sky;
+ mature vegetation;
+ separation between adjoining building forms;
+ surrounding roofscape and district outlook; and
+ from all levels, views toward the Sydney CBD skyline and identifiable city buildings.

The applicant's own Heritage Impact Statement records that views and glimpses toward the city skyline and harbour are integral to the character of the Potts Point Heritage Conservation Area.

That does not create an entitlement to preservation of a private view. It does, however, confirm that the wider district and skyline outlook forms an established characteristic of the locality.

1.2 View-sharing assessment

The view impacts have been considered having regard to the four-step approach established in *Tenacity Consulting Pty Ltd v Warringah Council*.

Step 1 — Nature of the views affected

The affected views are predominantly urban district and skyline views rather than water views.

They nevertheless have substantial amenity value because they combine distant outlook with open sky, vegetation and significant visual depth.

The more significant effect is that the proposed pavilion introduces a large new foreground obstruction into an outlook which is presently substantially open.

Accordingly, the impact should be understood as a combination of:

partial view loss + substantial loss of visual depth + reduced visible sky + increased foreground enclosure.

Step 2 — Where the views are obtained – The relevant levels of No.161 are:

Level 1 — Lower Ground

Level 2 — Entry / Ground / Living Level
This level contains the principal living accommodation and is the most significantly affected viewpoint.

Level 3 — Bedroom Level

Level 4 — Master Bedroom Level

The most important affected view is therefore not from a bathroom, circulation space or incidental viewing position. It is obtained from the principal living level of the dwelling.

The photographic analysis accordingly gives greatest weight to Level 2 — Entry / Ground / Living Level.

Views from the upper bedroom levels remain relevant, but the degree of impact is assessed separately rather than assuming that every level is affected equally.

Step 3 — Extent of impact – The effect varies materially by level.

Level 2 — Entry / Ground / Living Level – This is the primary affected viewpoint.

From the principal living accommodation, the proposed pavilion would occupy a substantial part of the presently open foreground.

The principal effects are:

+ substantial introduction of close-range building mass;
+ significant reduction in visible sky;
+ loss of visual depth between the buildings;
+ substantial loss of district and skyline outlook; and
+ a materially increased sense of enclosure.

The impact at this level is therefore significantly greater than a simple partial loss of distant skyline.

The existing spatial character of the view changes from an open, layered outlook to one substantially dominated by the proposed rear building.

See following current and indicative view analysis/loss photos.

[FIGURE 05A — LEVEL 2 / ENTRY-GROUND-LIVING LEVEL — EXISTING]



[FIGURE 05B — LEVEL 2 / ENTRY-GROUND-LIVING LEVEL — INDICATIVE PROPOSED]



Level 3 — Bedroom Level

At Level 3, a greater proportion of the district outlook remains available.

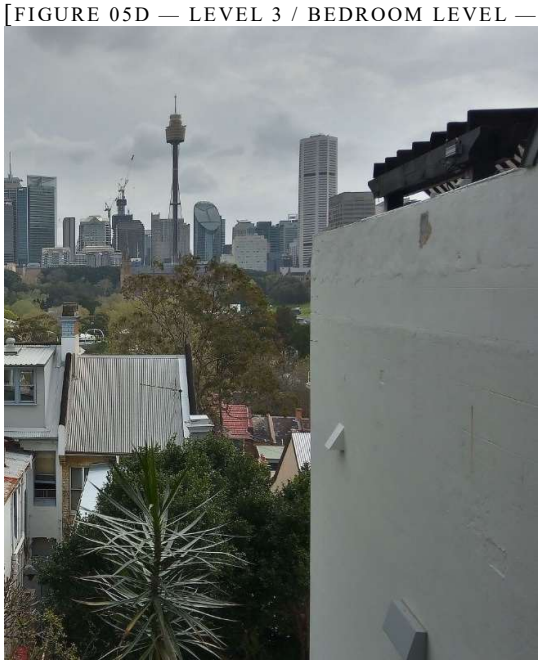
The proposed development nevertheless introduces substantial new foreground mass and materially reduces visible sky and spatial depth.

The effect is therefore considered material, but less severe than at the principal living level.

[FIGURE 05C — LEVEL 3 / BEDROOM LEVEL — EXISTING]



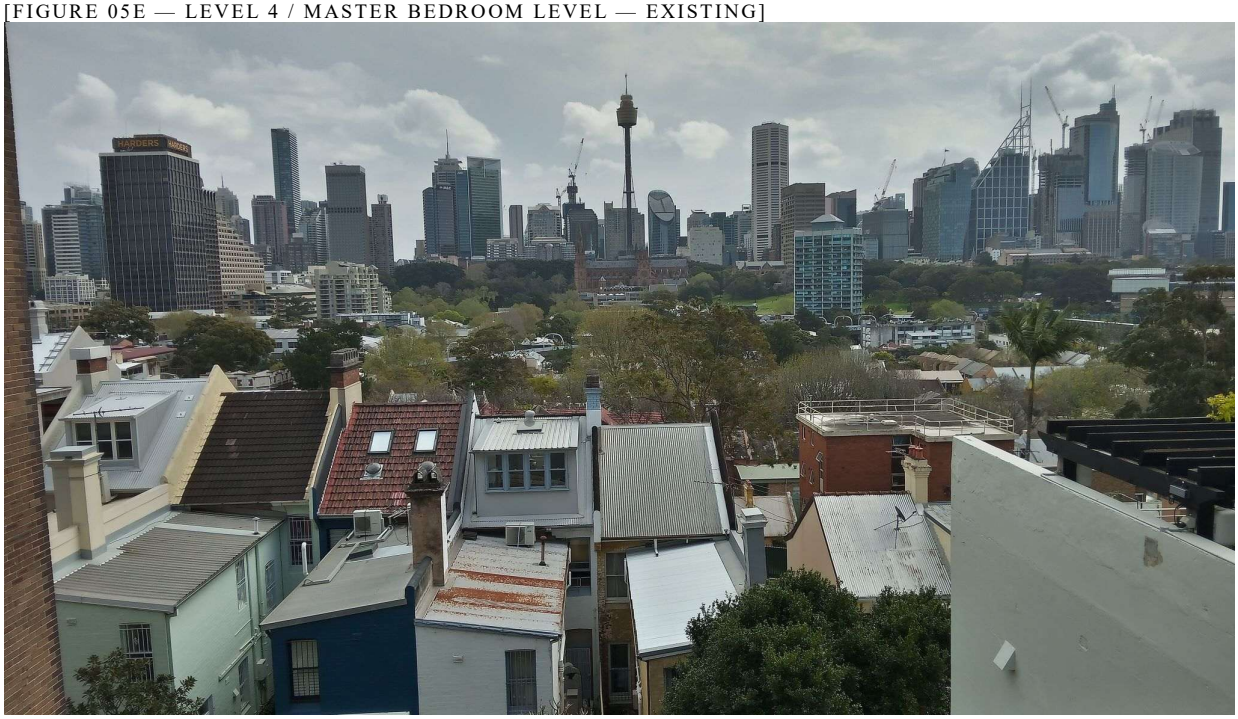
[FIGURE 05D — LEVEL 3 / BEDROOM LEVEL — INDICATIVE PROPOSED]



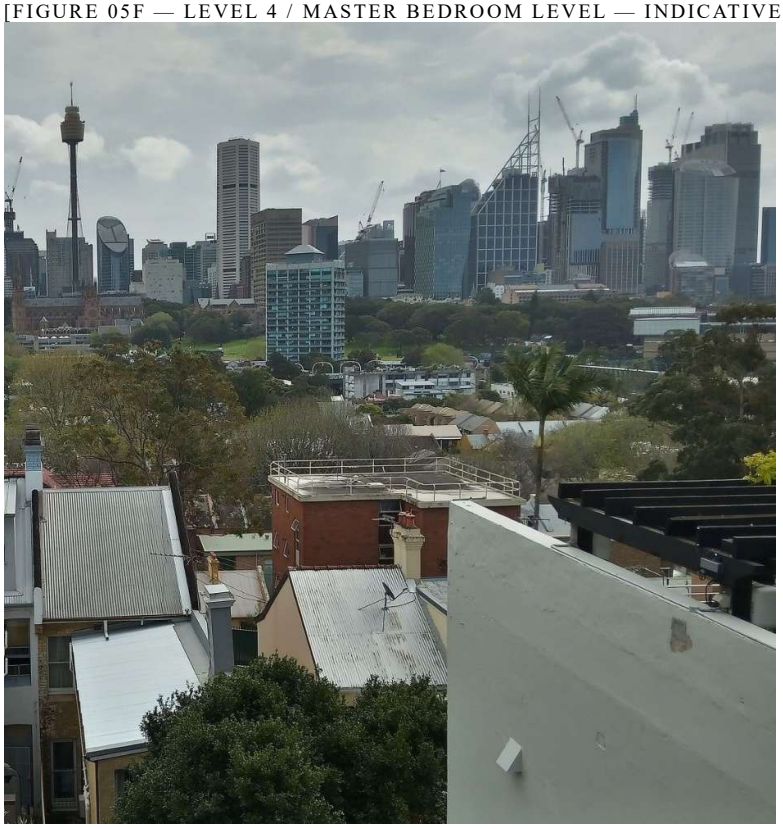
Level 4 — Master Bedroom Level

The material change is the introduction of substantial new building mass into the immediate foreground and partial obstruction of the existing district/city outlook.

[FIGURE 05E — LEVEL 4 / MASTER BEDROOM LEVEL — EXISTING]



[FIGURE 05F — LEVEL 4 / MASTER BEDROOM LEVEL — INDICATIVE PROPOSED]



Taken across the dwelling as a whole, the effect ranges from substantial at the principal Level 2 living space to moderate at the uppermost level, with increased foreground enclosure occurring throughout the affected levels.

1.3 Scale of the pavilion as foreground obstruction

The extent of view and enclosure impact is directly related to the vertical scale of the proposed pavilion.

The applicant's sections show three successive pavilion levels of approximately 3.38m, 3.00m and 3.52m, with a roof terrace and privacy screening above.

Based upon the submitted levels, the pavilion therefore presents an approximately 10–11m high building form across the rear of the site before the additional roof-terrace privacy screen is considered.

Despite the direct relationship between this building form and No.161, no dedicated northern elevation showing the pavilion as experienced from No.161 has been identified in the submitted architectural set.

When reconstructed directly from the applicant's submitted plans, sections and levels, the pavilion presents as a substantial vertical building plane within the immediate outlook of No.161.

This is materially different from a conventional subordinate rear pavilion.

The resulting enclosure is therefore a direct consequence of the scale and vertical configuration of the proposal rather than an unavoidable consequence of any reasonable redevelopment of the site.

1.4 Reasonableness of the impact

The final tenacity consideration is whether the impact is reasonable in the circumstances of the development proposed.

That question is particularly important here because the impacts do not arise from a wholly compliant, low-scale rear addition.

The proposal includes:

+ a three-storey rear pavilion;
+ a three-storey connecting element;
+ a link described as "low scale" despite its physical height and occupied volume;
+ a 31m² roof terrace contrary to Sydney DCP 2012 cl 4.1.4.4(3);
+ privacy screening above the pavilion roof;
+ a 21% FSR exceedance; and
+ a rear built form which is materially greater in scale than the more subordinate rear development relied upon as surrounding precedent.

The applicant's Heritage Impact Statement itself relies upon the proposition that the rear extension, pavilion and link "modulate" between No.165 and No.161 and should not have undue prominence.

The accompanying view analysis demonstrates that, when experienced from No.161, the proposed pavilion does not perform as an unobtrusive or subordinate transition. *It becomes a substantial foreground object.*

There appears to be clear scope for a materially lower-scale rear development which would retain reasonable development potential while substantially reducing:

+ foreground obstruction;
+ loss of visible sky;
+ enclosure;
+ privacy impacts; and
+ loss of spatial separation.

Accordingly, we do not consider the view and outlook impacts of the proposal to represent a reasonable view-sharing outcome.

1.5 Conclusion

The objection is not based upon preservation of every existing view from No.161.

The objection is that the proposed development introduces an unnecessarily large building form into the immediate foreground of No.161, with its greatest effect occurring from the principal Level 2 living accommodation.

The combination of view loss, reduced visible sky, diminished visual depth and substantially increased enclosure is a material residential amenity impact and should be afforded significant weight in Council's assessment of the proposal under s4.15 of the Environmental Planning and Assessment Act 1979.

OBJECTION GROUND 5: ADVERSE HERITAGE RELATIONSHIP AND SUBORDINATION

Relevant controls: Sydney LEP 2012 cl5.10; Sydney DCP 2012 heritage provisions and s4.1.4.

No.161 Victoria Street is an adjoining local heritage item.

The applicant's Heritage Impact Statement argues that the three-storey pavilion and link "modulate" between the larger apartment building at No.165 and No.161. It relies in particular upon the three-storey rear extension at No.159 and the scale of No.165.

We disagree.

The existing spatial separation between the buildings already performs an important mediating function between the fine-grain terrace form and the substantially larger apartment building.

The appropriate response to a disparity in neighbouring building scale is not necessarily to fill the intervening space with progressively larger development.

The rear development at No.159 demonstrates a materially different relationship; despite its alterations and roof terrace, the rear form remains visually subordinate to the principal terrace building.

The proposed No.163 pavilion does not maintain that hierarchy.

Its three-storey height, generous upper-level dimension, elevated roof terrace and screening result in a rear building form of substantial prominence in its own right.

The proposal therefore materially compresses the setting of No.161 and weakens the legibility of the principal terrace buildings as the dominant historic building forms.

[SEE FIGURES 01–03 ABOVE]

OBJECTION GROUND 6: FLOOR SPACE RATIO / CLAUSE 4.6

Relevant controls: Sydney LEP 2012 cls4.4 and 4.6.

The applicable FSR is 1.5:1.

The applicant identifies:

Site area: 149m²

Permitted GFA: 223.5m²

Proposed GFA: 270.6m²

Proposed FSR: 1.82:1\

Contravention: approximately 47.1m² or 21%.

The applicant states that the entire contravention arises from approximately 26m² of lower-ground area and approximately 21m² of attic space, and that compliance could be achieved if those areas were not used as GFA.

That does not remove the relevance of the development standard.

FSR regulates the amount and intensity of usable floor space on a site, not simply the external dimensions of the building envelope.

If these areas constitute GFA, their use is precisely what creates the excess.

The relevant question is therefore not whether additional floor area can physically fit within the building.

It is whether allowing an additional 47.1m² of GFA above the development standard produces an acceptable planning outcome on this site.

That question must be considered together with the excessive rear scale, heritage relationship, elevated roof terrace, privacy impacts and residential amenity consequences identified above.

The applicant itself acknowledges that the objectives of the FSR standard remain relevant.

We submit the Clause 4.6 request has not demonstrated that the proposed exceedance produces a better planning outcome in the circumstances of this site.

OBJECTION GROUND 7: EXCAVATION, SHARED BOUNDARY AND ENGINEERING INFORMATION

Relevant controls: Sydney DCP 2012 heritage excavation provisions; EP&A Act s4.15(1)(b).

The proposal includes lowering existing floor levels and excavation immediately adjacent to No.161 within a constrained heritage setting.

We have reviewed the application material available through both the City of Sydney development application record and the NSW Planning Portal and have been unable to identify a site-specific:

Structural Engineering Report; or

Geotechnical Engineering Report

addressing the proposed excavation and its relationship to the shared boundary and adjoining heritage building.

If such reports have been submitted, we request that Council make them available to the owners of No.161.

If they have not been submitted, Council should not determine the application until sufficient information has been provided to assess:

existing/shared footings;

excavation depth;

temporary support and underpinning requirements;

likely ground movement;

construction sequencing; and

protection of adjoining heritage fabric.

This is not an assertion that damage will occur.

We object to substantial excavation works adjacent to a heritage property without the technical information necessary to assess the likely consequences.

CONCLUSION AND REQUESTED OUTCOME

The owners of No.161 do not seek to prevent renovation of the existing terrace nor reasonable development of No.163.

We object to the particular scale, height and intensity of the development presently proposed.

The proposal combines:

- a three-storey rear pavilion of substantial vertical scale;
- a three-storey connecting element said to be “low scale”;
- a 31m² roof terrace expressly contrary to the pavilion provision;
- new elevated privacy relationships;
- substantial occupation of the existing separation between adjoining buildings; and
- a 21% exceedance of the applicable FSR development standard.

These are not minor or isolated departures.

Taken together, they produce a rear development which is neither subordinate to the principal terrace nor compatible with the amenity and heritage relationship of No.161.

There appears, however, to be scope for a materially lower-scale and more compliant rear development of No.163 without producing the cumulative impacts identified in this submission.

The owners of No.161 seek neither to prescribe an alternative design nor indicate acceptance of any particular non-compliance.

Accordingly, we request that Council not grant consent to the application.

APPENDIX: NEGATIVE EFFECTS ON OTHER NEIGHTBOURING PROPERTIES

The following are our brief observations of likely negative impacts on the properties at 165 Victoria St (apartment building) and the terraces at 82, 84, 86, 88 and 88A Brougham St.

In respect of 165 Victoria St:

Several of the north-facing apartments will be completely bricked in – no light, no sky, no setback, essentially turning cheery homes into cells;

Other apartments will have their outlook completely changed.

In respect of the terraces on Brougham St:

Loss of residential amenity – 3 levels directly looking down into the properties just across Hourigan Lane;

Light & heat reflection – the rear of the proposed extension will have large windows. Especially in the summer afternoons, hours of reflected glare straight into homes. Also, likely reflection of heat as well as light.

From: Melinda Futcher <MFutcher@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: Tuesday, October 6, 2026 11:16:11 AM

To: DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>

Subject: FW: Query: D/2026/650 - 163 Victoria Street POTTS POINT NSW 2011

Urgent: High

-----Original Message-----
From: Michael Silman <
Sent: Monday, 5 October 2026 11:40 AM
To: Kaitlin McCaffery <KMcCaffery@cityofsydney.nsw.gov.au>
Subject: Query: D/2026/650 - 163 Victoria Street POTTS POINT NSW 2011
Importance: High

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

Dear City of Sydney Planning Team,

I am the owner of 86 Brougham St Potts Point directly behind this property. I have just returned from a long trip overseas and have therefore only just become aware of this application.

I have very strong objections to the size of the windows and the very large rooftop terrace that directly face my property - the rear courtyard and bedrooms. It would be appropriate that the rooftop terrace is rejected and the windows are scaled back to be similar in size and scale to the apartments next door.

I also would prefer that the development not be constructed right up to the boundary but this is a lower order objection to the significant scale of the windows and the large rooftop terrace.

I hope that you can consider my two objections so that the amenity of my property is not impacted.

Please call me if needed to inspect my property or to give me an update on the application.

Kind regards

Michael Silman

From: Melinda Futcher <MFutcher@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: Tuesday, October 6, 2026 11:15:27 AM
To: DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>
Subject: FW: Query: D/2026/650 - 163 Victoria Street POTTS POINT NSW 2011

From: gavin sommer <[redacted]>
Sent: Monday, 5 October 2026 11:46 AM
To: Kaitlin McCaffery <KMcCaffery@cityofsydney.nsw.gov.au>
Subject: Query: D/2026/650 - 163 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 City of Sydney Planning Team,

I am a resident of 86 Brougham Street, Potts Point, directly behind the proposed development. I am writing to formally object to the proposal in its current form, particularly the substantial rooftop terrace and the size of the windows facing our home.

Having recently returned from an extended overseas trip, I have only just become aware of this application. I ask that Council acknowledge and consider this submission before determining the application.

Overlooking and loss of privacy

The proposed rooftop terrace and large windows would directly overlook our rear courtyard and bedrooms. These are private spaces we use daily, and I am deeply concerned that the proposal would significantly compromise our privacy and enjoyment of our home.

The scale of the rooftop terrace also raises concerns about noise and disturbance in close proximity to our bedrooms and courtyard. I ask that the terrace be removed from the proposal.

The windows facing our property should also be substantially reduced to a size and scale comparable with those of the neighbouring apartments, with appropriate measures to prevent direct overlooking into our home.

Development at the boundary

I also object to the proposal being constructed directly up to the boundary and ask Council to seek a greater setback. While this is secondary to my concerns about privacy and the rooftop terrace, it adds to the development's impact on our property.

Requested action

I ask Council to:

- Register this letter as a formal objection and confirm its receipt.
- Seek amendments addressing the rooftop terrace, window size and overlooking before granting any approval.
- Arrange a site inspection from our property so the relationship between the proposed development, our bedrooms and our courtyard can be properly understood.

- Confirm the application's current status and advise how my concerns will be addressed.

These concerns relate directly to the everyday liveability of our home. I urge Council not to approve the application in its current form and to give proper weight to the impact on neighbouring residents.

I am available to discuss this objection and facilitate a site inspection. Please contact me on

Kind regards,
Gavin Sommer
86 Brougham Street
Potts Point