

Item 5.**Development Application: 183-187 Harris Street, Pyrmont - D/2025/1163****File Number: D/2025/1163****Summary**

Date of Submission:	20 November 2025, Amended 9 March 2026
Applicant:	COSO Architecture
Architect/Designer:	COSO Architecture
Developer:	N/A
Owner:	Mr Woon Hong Chung
Planning Consultant:	BBF Town Planners
Heritage Consultant:	Weir Phillips Heritage
Cost of Works:	\$2,117,500
Zoning:	E1 Local Centre Zone
Proposal Summary:	Alterations and additions to change the use of an existing 2-3 storey commercial building to a 3-4 storey shop-top housing development with residential apartments on a new top floor. Works include refurbishment and alterations to the main facade on Harris Street and reconfiguration of internal commercial tenancies and lift core. The application is reported to the Local Planning Panel as the development is sensitive development which is subject to Chapter 4 of the State Environmental Planning Policy (Housing) 2021 and proposes departures from the development standards including a 45.2% variation of Clause 4.3 Height of Buildings Development Standard and a 42% variation of Clause 4.4 Floor Space Ratio Development Standard of the Sydney LEP 2012. The application was notified for 21 days between 1 December 2025 and 17 January 2026. One objection was received.

The development is recommended for refusal as Council is not satisfied the applicant has demonstrated the requirements of Clause 4.6(3) of the Sydney LEP 2012 in relation to the Height of Buildings and Floor Space Ratio development standards, the development exhibits overdevelopment through breaches of bulk and massing controls, it does not exhibit design excellence, does not meet Principles 2 or 5 of Schedule 9 in the SEPP (Housing) 2021 and includes insufficient information to demonstrate compliance with technical requirements such as transport, landscaping, accessibility and waste.

Summary Recommendation: This proposal is recommended for refusal.

Development Controls:

- (i) Sydney Local Environmental Plan 2012 (LEP)
- (ii) Sydney Development Control Plan 2012 (DCP)
- (iii) SEPP (Industry and Employment) 2021
- (iv) SEPP (Housing) 2021
- (v) SEPP (Sustainable Buildings) 2022
- (vi) SEPP (Biodiversity and Conservation) 2021

Attachments:

- A. Selected Drawings
- B. Clause 4.6 Variation Request - Height of Buildings
- C. Clause 4.6 Variation Request - Floor Space Ratio
- D. Submissions

Recommendation

It is resolved that consent be refused for Development Application Number D/2025/1163 for the following reasons:

- (A) the variation to Clause 4.3 'Height of Buildings' development standard as requested in accordance with Clause 4.6 'Exceptions to Development Standards' of the Sydney LEP 2012 is not supported;
- (B) the variation to Clause 4.4 'Floor Space Ratio' development standard as requested in accordance with Clause 4.6 'Exceptions to Development Standards' of the Sydney LEP 2012 is not supported; and
- (C) consent be refused to Development Application D/2025/1163 for the reasons outlined below.

Reasons for Recommendation

The application is recommended for refusal for the following reasons:

- (A) Council is not satisfied that the applicant has demonstrated that compliance with Clause 4.3 Height of Building development standard of the Sydney LEP 2012 is unreasonable or unnecessary in the circumstances and there are insufficient environmental planning grounds to justify the contravention of the development standard in accordance with Clause 4.6(3) of the Sydney LEP 2012.
- (B) Council is not satisfied that the applicant has demonstrated that compliance with Clause 4.4 Floor Space Ratio development standard of the Sydney LEP 2012 is unreasonable or unnecessary in the circumstances and there are insufficient environmental planning grounds to justify the contravention of the development standard in accordance with Clause 4.6(3) of the Sydney LEP 2012.
- (C) The development breaches the bulk and massing controls including the Clause 4.3 height of buildings and Clause 4.4 floor space ratio development standards of the Sydney LEP 2012, the height in storeys controls under Section 4.2.1.1 of the Sydney DCP 2012. The additional bulk and mass from the new third storey will be visible from the side elevations from the public domain exceeding the current roofline and the non-compliances to achieve this additional storey are an indication of overdevelopment for the site.
- (D) The apartment design does not meet Section 147(1)(a) of the SEPP (Housing) 2021 as it does not meet Design Principles 2 (Built Form and Scale) or 5 (Landscape) under Schedule 9 of the SEPP.
- (E) The apartment design does not comply with the Building Separation at zone boundaries under Design Criteria 2F, Communal Open Space under Design Criteria 3D-1, Deep Soil Zones under Design Criteria 3E-1 and Ceiling Heights under 4C-1 of the Apartment Design Guide.
- (F) The development does not exhibit design excellence as per Section 6.21C of the Sydney LEP 2012.

- (G) There is insufficient information and detail to demonstrate compliance with technical requirements including accessibility, landscaping, waste, transport, environmental impacts, surveying, sustainability and public domain requirements.
- (H) The public interest is not achieved by this development for the reasons above.

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 as being within the following category(s):
 - (a) Departure from Development Standards
 - (b) Sensitive Development
2. The development application falls within the category of Departure from Development Standards as the departure from the height in buildings development standard is a variation of 45.2% and the departure from the floor space ratio development standard is 42%.
3. The development falls within the category of Sensitive Development as the development, which is 4 storeys and contains 4 apartments, is subject to Chapter 4 (Design of residential apartment) of the State Environmental Planning Policy (Housing) 2021.

The Site and Surrounding Development

4. The site has a legal description of Lot 2 DP 533563, known as 183-187 Harris Street, Pyrmont. It is rectangular in shape with area of approximately 390.4sqm. It has a primary street frontage of 16.06m to Harris Street and a secondary street frontage of 17m to Little Mount Street. The site is located north of the intersection of Harris Street and the Pyrmont Bridge Road. Levels on the site fall by 1m to the west.
5. The site contains a two-storey commercial building that is currently approved for office use with 2 tenancies at ground floor and a single commercial tenancy on the first floor. The entrance to the ground floor on Harris Street is elevated from the street level. There is a basement parking area accessible from Little Mount Street.
6. The surrounding area is characterised by a mixture of land uses, primarily being mixed use. Immediately to the south are a row of terraces that are also local heritage items including residential uses and boarding houses and business premises. Immediately to the north is a commercial premises. To the rear of the site across Little Mount Street are single storey workers cottages in the heritage conservation area. Opposite the street are a range of commercial premises including food and drinks premises, retail premises, a business premises and a gym.
7. The site is located within the C52 Pyrmont heritage conservation area. The site is identified as a detracting building.
8. The site is located within the Pyrmont locality.
9. A site visit was carried out on 9 December 2025. Photos of the site and surrounds are provided below.

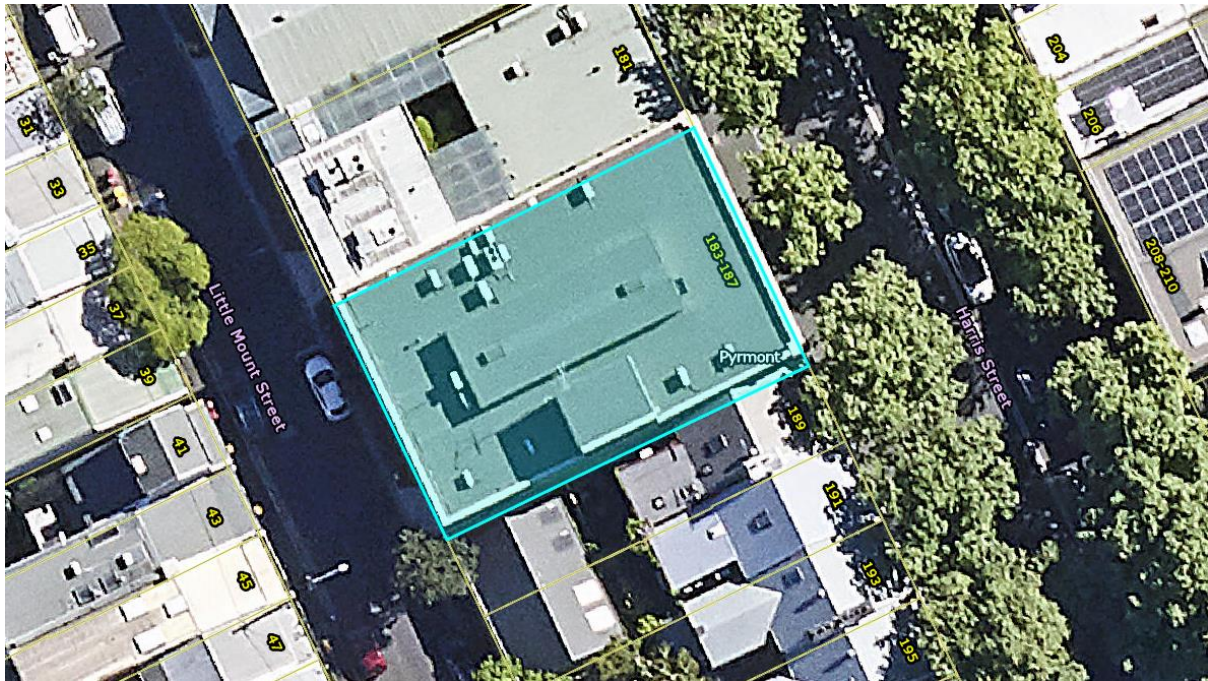


Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Harris Street facing west (in yellow and blue)



Figure 3: Site viewed from Little Mount Street



Figure 4: Site viewed from Little Mount Street



Figure 5: View of the row of heritage items immediately south of the subject site



Figure 6: View of the row of terraces immediately north of the subject site

History Relevant to the Development Application

Development Applications

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

- **PDA/2023/99** – Pre-development advice was provided on 1 June 2023 for alterations and additions to the existing building including two additional floors comprising commercial and residential uses. It was advised that:
 - the new upper levels would breach all controls relating to bulk and scale and would not be supported as the existing building already achieves the maximum development potential available for the site
 - the increase of height along the Little Mount Street frontage from three storeys to four storeys would not be supported due to exceedances in the height of buildings development standard, floor space ratio development standard and the height in storeys control.
- **D/2024/135** – The proposal sought approval for alterations and additions to the existing commercial building for a 4 storey mixed use development comprising parking and services at basement/lower ground level, co-living and commercial uses at ground and co-living uses on first and second floors above. The application was withdrawn on 9 October 2024 following a request for amendments letter that raised concerns regarding breaches to the height, bulk and scale controls for the site.

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 16 February 2026.
12. The request raised significant concerns with the exceedance of the height of buildings development standard, floor space ratio development standards, non-compliance with the building height in storeys control and design criteria non-compliances with the ADG.
13. The letter advised that the proposed form and the additional storey could not be supported. The remainder of the letter outlined inadequate and insufficient information submitted with the application to address technical matters including accessibility, landscaping, public domain, transport and waste management.
14. The applicant responded to the letter on 9 March 2026, and submitted draft amended plans that did not include changes to address the non-compliances to the height of buildings and floor space ratio development standards or comply with the building height in storeys control. The applicant's response did not include any additional information to address outstanding technical matters.
15. The assessment outlined in this report has been made against the draft plans submitted on 9 March 2026. As detailed throughout this report, the plans have not meaningfully addressed the bulk and scale concerns or provided further information to address technical requirements raised by Council officers.

Design Advisory Panel Residential Subcommittee

16. The Design Advisory Panel Residential Subcommittee (DAPRS) considered the proposal on the 3 February 2026.
17. DAPRS raised concerns with the bulk of the development and suggested that design changes were required to reduce and manage the overall bulk.
18. To address poor amenity for the proposed first floor commercial level, they suggested the top floor slab be adjusted to improve clearance for a minimum 3 metre commercial ceiling height and the springing point for the apartment sloped roof be reduced to 2.7 metres.
19. DAPRS also stated the top floor apartments have potential for good amenity due to ample access to natural light and ventilation, but the balance of apartment size and provision of balconies needed to be addressed.
20. DAPRS suggested several design solutions to improve the design at the top floor such as setting back the top floor from both side boundary walls and introducing different roof forms to further reduce bulk. Other minor changes were suggested such as relocating the lift shaft, retaining street wall heights and recessing new roof forms and adding sky lighting for the office level.
21. DAPRS also raised concerns regarding drawings containing inconsistencies and lack of coordination throughout the documentation.

Ultimo Pyrmont Planning Proposal

22. The Ultimo Pyrmont Planning Proposal was finalised and returned to the Department of Planning for assessment and drafting of the Sydney LEP 2012 on 31 October 2025. The objective of the proposal was to facilitate the renewal of Ultimo and Pyrmont and to provide additional floor space and uplift for employment and residential floor space close to the Pyrmont Metro Station.
23. Rather than taking an overarching, precinct wide approach, the proposal has focused on identifying individual sites for floor space and height uplift where development can sensitively accommodate change whilst delivering place benefits for the community.
24. The subject site was not included as one of the sites for floor space or height uplift through the proposal.

Proposed Development

25. The application seeks consent for alterations and additions to the existing commercial building to support a shop top housing use by constructing an additional storey containing 4 apartments.
26. The proposed works include:

Basement Level

- Reconfiguration works to facilitate retention of 7 carparking spaces and addition of a turntable

- Commercial and residential waste storage areas and alterations to the fenestration facing Little Mount Street

Ground Floor Level

- A new entry foyer internalising the access ramp from Harris Street with the ground level realigned to the street edge
- The reconfiguration of the two commercial ground floor tenancies and the shared bathroom facilities
- One building identification sign to Harris Street

First Floor Level

- Refurbishment of the commercial tenancy and associated bathroom amenities

Second Floor Level

- Construction of an additional storey to include 2 one-bedroom apartments and 2 studio apartments accessed via a central courtyard with landscaping

Roof Plan

- A green roof with a void in the middle of the roof over the central courtyard

Facade Works

- Replacement of the Harris Street building façade and fenestration using face brick.

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

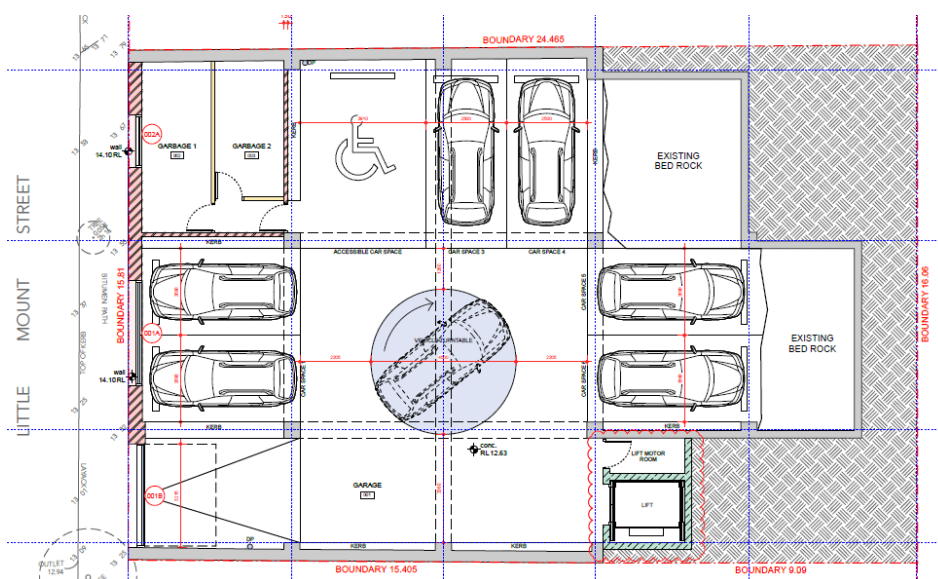


Figure 7: Proposed basement floor plan

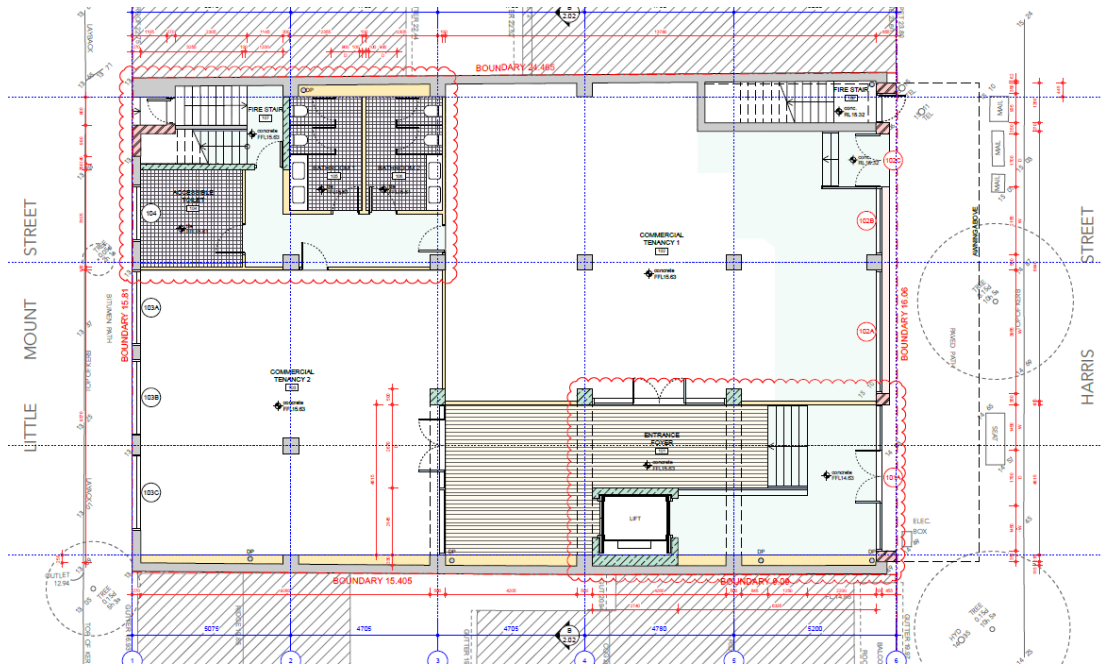


Figure 8: Proposed ground floor plan

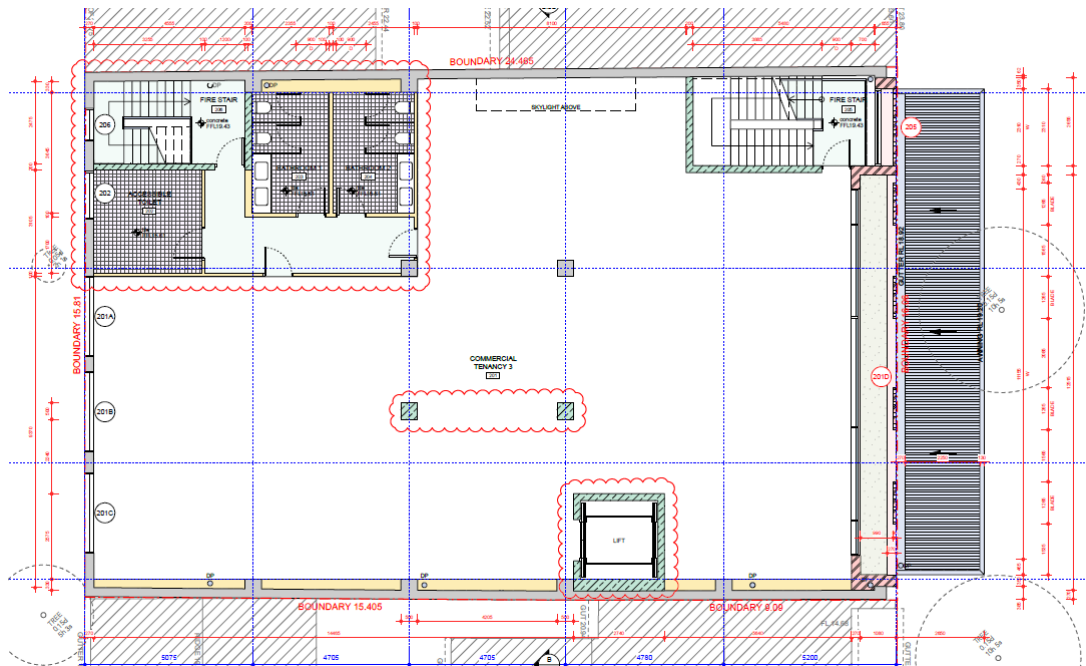


Figure 9: Proposed first floor plan

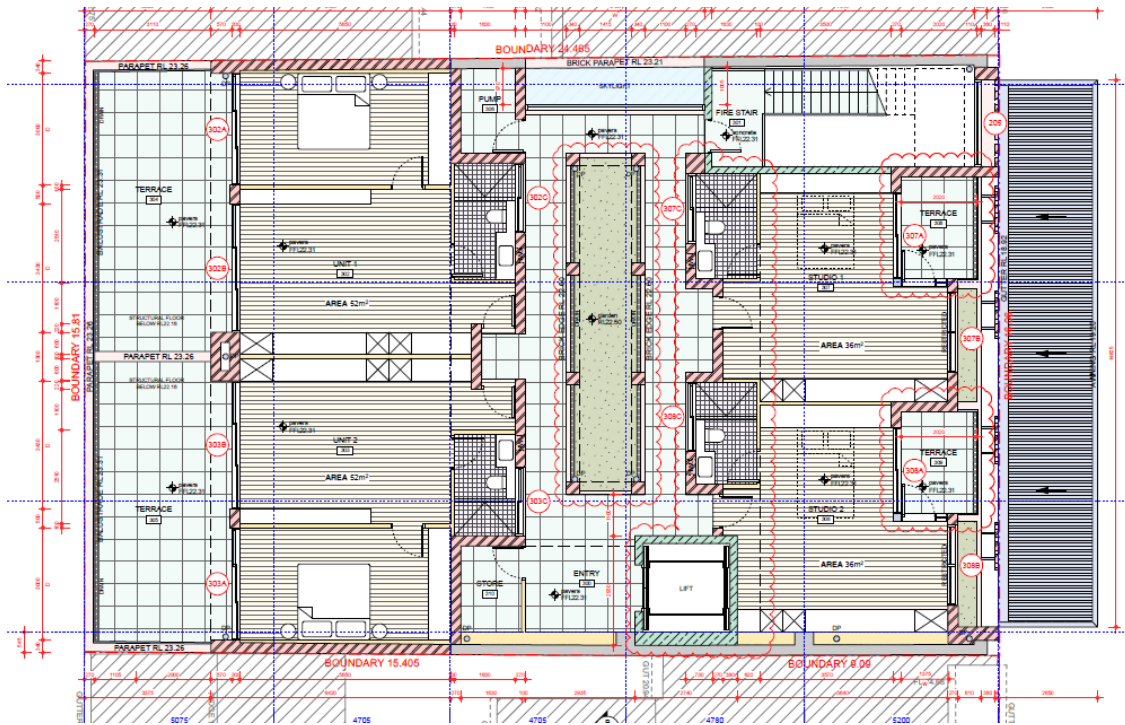


Figure 10: Proposed second floor plan

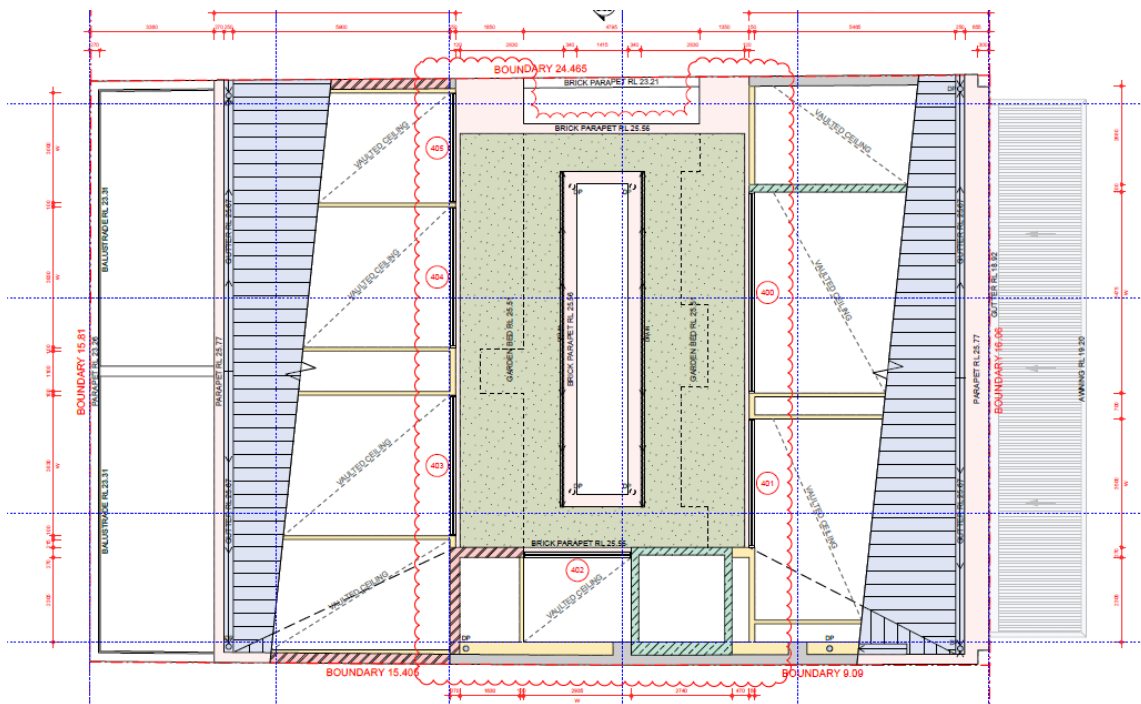


Figure 11: Proposed roof plan



Figure 12: Propose Harris Street elevation

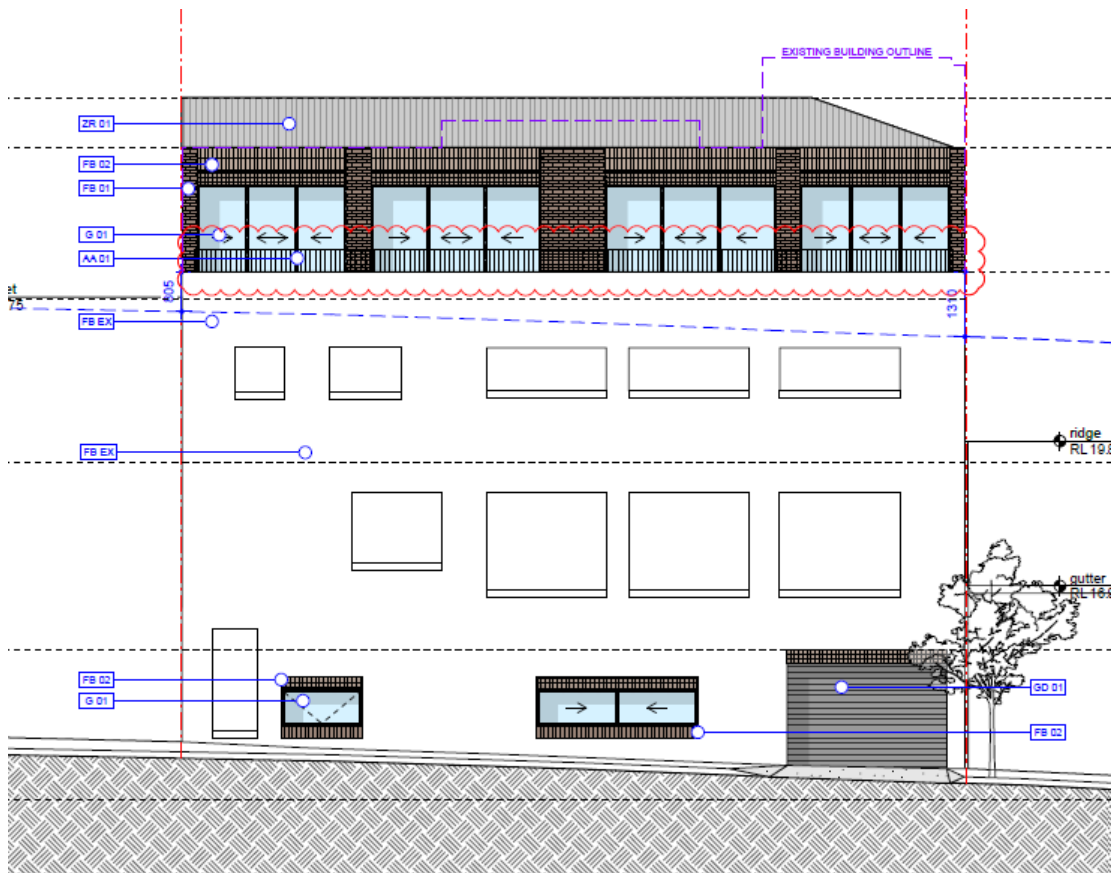


Figure 13: Proposed Little Mount Street elevation

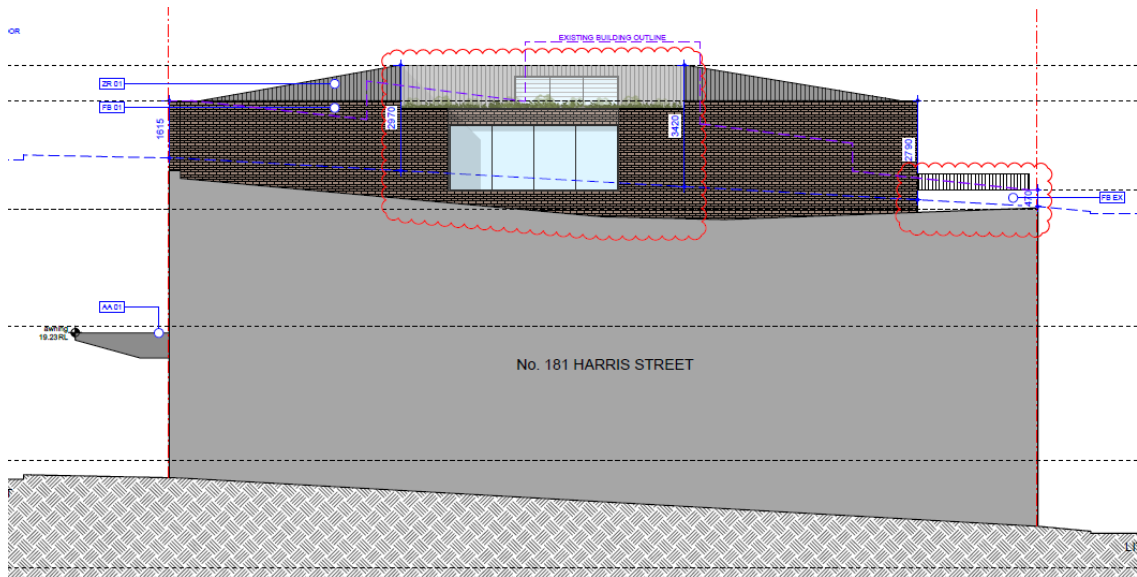


Figure 14: Proposed north elevation

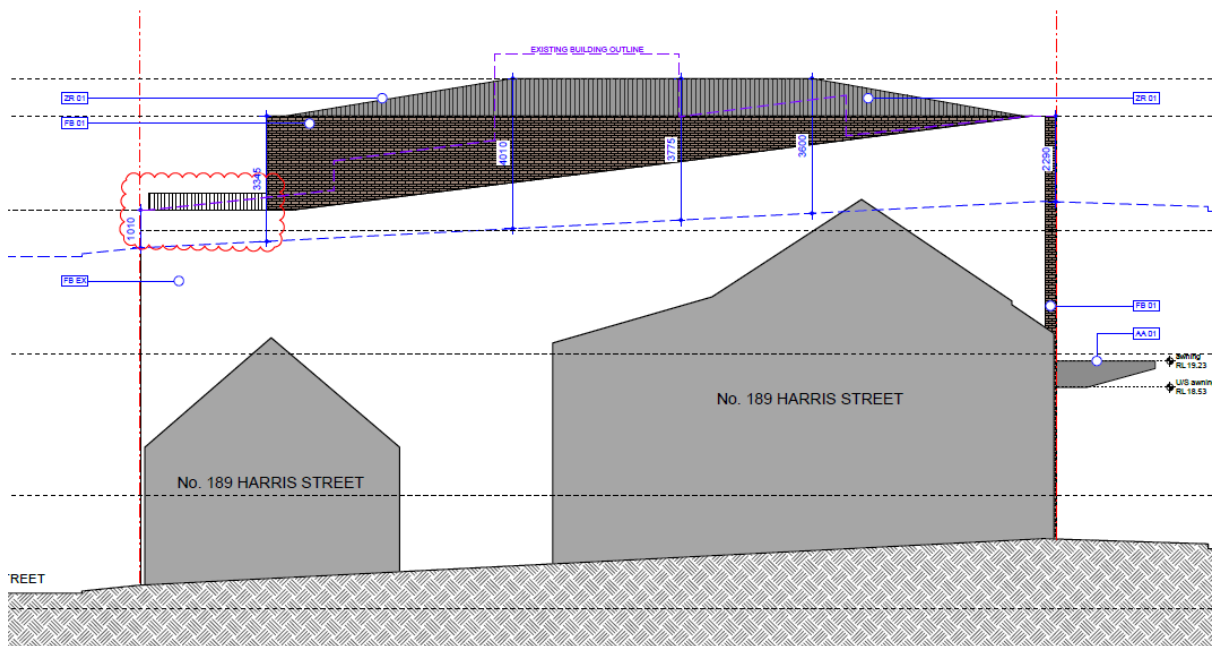


Figure 15: Proposed south elevation



Figure 16: Proposed photomontage

Assessment

28. 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 (Industry and Employment) 2021 – Chapter 3 Advertising and Signage

29. The aim of SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage is to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high-quality design and finish.
30. One top hamper sign signage (2.4 metres by 0.23 metres) is proposed on top of proposed the main entry. This has been considered against the objectives of the policy and an assessment against the provisions within the assessment criteria set out in Schedule 5 is provided in the table below.

Provision	Compliance	Comment
1. Character of the area	Yes	The proposed signage is consistent with the character of the area, subject to conditions.

Provision	Compliance	Comment
2. Special areas	Yes	The proposed signage does not detract from the amenity or visual quality of the locality or the Pyrmont Heritage Conservation Area, subject to conditions.
3. Views and vistas	Yes	The proposed signage does not obscure or compromise any important views. It does not dominate the skyline and has no impact on the viewing rights of other advertisers.
4. Streetscape, setting or landscape	Yes	The proposed signage is of an appropriate scale, proportion and form and provides a positive contribution to the streetscape and setting of the area.
5. Site and building	Yes	The scale, proportion and positioning of the proposed signage is acceptable and the materiality is compatible with the finishes and colours of the building.
6. Associated devices and logos	Yes	Not applicable.
7. Illumination	Yes	Not applicable.
8. Safety	Yes	The proposed signage will not reduce the safety for pedestrians, cyclists or vehicles on public roads or areas.

31. The proposed signage is generally consistent with the objectives of SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage as set out in Clause 3.1 and it satisfies the assessment criteria specified in Schedule 5.

State Environmental Planning Policy (Housing) 2021

32. 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.
33. Section 7.32 of the EP&A Act and states that where the consent authority is satisfied that the development meets certain criteria, and a Local Environmental Plan authorises an affordable housing condition to be imposed, such a condition should be imposed so that mixed and balanced communities are created.
34. Clause 7.13 (Contribution for purpose of affordable housing) of the Sydney Local Environmental Plan 2012 allows for circumstances where an affordable housing contribution may be levied for development of land in Ultimo/Pyrmont

35. This matter is discussed in further detail under the heading Financial Contributions below.

Chapter 4 - Design of Residential Apartment Development

36. The aim of Chapter 4 is to improve the design quality of residential apartment development in New South Wales.
37. When determining an application for a residential flat development of 3 or more floors and containing 4 or more apartments, the SEPP requires the consent authority take into consideration a number of matters relating to design quality, including the design quality principles as set out in Schedule 9.
38. The applicant has submitted a design verification statement and design report prepared by Anthony Solomon (RAIA number 5684) with the application, addressing the design quality principles and the objectives of parts 3 and 4 of the Apartment Design Guide. The statement is deemed to satisfy Clause 29 of the Environmental Planning and Assessment Regulation 2021.
39. An assessment of the proposal against the design quality is provided as follows:
- (a) Principle 1: Context and Neighbourhood Character
 - (i) The development improves the streetscape by including a refurbished front facade on Harris Street which will use face brick and maintain the existing street wall height. This responds to the heritage conservation area. However the development has an inappropriate bulk and scale. Refer below.
 - (b) Principle 2: Built Form and Scale
 - (i) The bulk and scale of the development is inappropriate for the existing or desired future character of the street or the site. The development has significant departures from the bulk and scale controls for this site. The additional bulk from the new storey will also be visible from Little Mount Street as the building is the tallest in its immediate vicinity.
 - (ii) The proposal results in a four storey building overall with a three storey presentation to Harris Street and Little Mount Street with the top floor set back. The additional storey on the top of the building is disproportionate to the neighbouring buildings or the 2 storey control for the building.
 - (c) Principle 3: Density
 - (i) Each apartment achieves a reasonable level of amenity. The site is accessible with bus stops located on Harris Street.
 - (d) Principle 4: Sustainability

Whilst the apartments have cross ventilation this will not be optimal given the small nature of the windows adjacent to the central circulation space. The apartments will achieve adequate sunlight according to the solar diagrams provided and being on the top floor of the building. The BASIX certificate is not acceptable as it contains discrepancies with other documentation relating to solar panels and the hot water systems.

- (e) Principle 5: Landscape
 - (i) The landscaping for the apartments and the communal open space with the landscaping at the centre does not meet the minimum requirements. There are insufficient details to demonstrate the landscaping will be able to achieve the practical establishment or long term management.
 - (f) Principle 6: Amenity
 - (i) The apartments each have adequate amenity provided for the users with access to sunlight, outlook, natural ventilation and private balconies.
 - (g) Principle 7: Safety
 - (i) The development offers passive surveillance to the hallway and over the street.
 - (h) Principle 8: Housing Diversity and Social Interaction
 - (i) The development provides two studios and two single bedroom apartments. The design has a small amount of communal open space in between the apartments forming the circulation space.
 - (i) Principle 9: Aesthetics
 - (i) The proposed development improves the front facade of the building and its presentation to the streetscape.
40. As per the assessment above, the development does not meet Principle 2 (built form and scale) and Principle 5 (Landscape). Given certain principles are not achieved, the development is not acceptable when assessed against the SEPP including the above stated principles and the associated Apartment Design Guide (ADG).
41. A detailed assessment of the proposal against the ADG is provided below. These controls are generally replicated within the apartment design controls under the Sydney Development Control Plan 2012. Consequently, compliance with the SEPP generally implies compliance with Council's own controls.

2E Building Depth	Consistency	Comment
12-18m (glass to glass)	Yes	The glass-to-glass depth complies.

2F Building Separation	Consistency	Comment
Up to 4 storeys (approximately 12 metres): • 12m between habitable rooms / balconies	Yes	There is only one building on site and there are no surrounding buildings with the proposed height.

2F Building Separation	Consistency	Comment
9m between habitable and non-habitable rooms 6m between non-habitable rooms		
5 to 8 storeys (approximately 25 metres): 18m between habitable rooms / balconies 12m between habitable and non-habitable rooms 9m between non-habitable rooms	N/A	The building is less than 5 storeys.
At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m.	No	The zone boundary changes to R1 General Residential Zone on Little Mount Street. The balcony of the apartments facing Little Mount Street are built up to the property boundary and across the road are predominantly single storey terrace dwellings. In accordance with this control, the edge of the balcony should be setback an additional 3 metres.

3D Communal and Public Open Space	Consistency	Comment
Communal open space has a minimum area equal to 25% of the site.	No	The communal open space landscaping between the apartments amounts to 4.8% of the site.
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	No	The communal open space is not useable for activities and is only used as landscaped area within the communal access area between the apartments. Direct sunlight can only access the space at 1pm-2pm on 21 June for 1 hour.

3E Deep Soil Zones	Consistency	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 3m	No	No deep soil is provided as the development proposes apartments over the existing commercial levels that are built to the boundary.

3F Visual Privacy	Consistency	Comment
Up to 4 storeys (12 metres): 6m between habitable rooms / balconies 3m between non-habitable rooms	Yes	This is compliant as the balconies face the streets.
5 to 8 storeys (25 metres): 9m between habitable rooms / balconies 4.5m between non-habitable rooms	N/A	The development is less than 5 storeys.
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	Yes	The studio apartments open to the communal open space and circulation access. The one-bedroom apartments have located their bedroom away from the circulation access.

4A Solar and Daylight Access	Consistency	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Partial	A clerestory window is provided to each apartment to assist with achieving 2 hours of direct sunlight. Internal shadow diagrams have not been provided to demonstrate the living rooms of these units will be able to comply with this control midwinter. All balconies will be able to receive 2 hours of sunlight midwinter.

4A Solar and Daylight Access	Consistency	Comment
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	All dwellings receive 2 hours of sunlight to the living rooms and open spaces midwinter.

4B Natural Ventilation	Consistency	Comment
All habitable rooms are naturally ventilated.	Yes	All habitable rooms are naturally ventilated.
Minimum 60% of apartments in the first 9 storeys of the building are naturally cross ventilated.	Yes	All apartments are naturally cross ventilated. Refer above.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	No apartment has a depth exceeding 18m.

4C Ceiling Heights	Consistency	Comment
Habitable rooms: 2.7m	Yes	The living room and bedroom ranges between 2.7m to 3.8m for all apartments.
Non-habitable rooms: 2.4m	No	The bathroom floor to ceiling height is 2.2m
2-storey apartments: 2.7m for main living area floor, 2.4m for second floor, where it does not exceed 50% of the apartment area.	N/A	There are no 2 storey apartments.
Attic spaces – 1.8m at edge of room with a 30 degree minimum ceiling slope	N/A	There are no attic spaces.
If located in mixed use areas – 3.3m for ground and first floor	No	The first floor does not achieve a floor to ceiling height of 3.3 metres and only

4C Ceiling Heights	Consistency	Comment
to promote future flexibility of use.		provides a height of 2.98 metres. See further details under the 'Discussion' heading below.

4D Apartment Size and Layout	Consistency	Comment
Minimum unit sizes: • Studio: 35sqm • 1 bed: 50sqm • 2 bed: 70sqm • 3 bed: 90sqm The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12sqm each.	Yes	The unit sizes are met for both types.
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	The balcony windows are sufficient to meet 10% of the floor area of the room.
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	The living rooms of each unit are not deeper than the ceiling height.
8m maximum depth for open plan layouts.	Yes	No apartment is deeper than 8 metres.
Minimum area for bedrooms (excluding wardrobes): • master bedroom: 10sqm	Yes	The bedrooms in the single bedroom apartments are larger than 10sqm.

4D Apartment Size and Layout	Consistency	Comment
all other bedrooms: 9sqm Minimum dimension of any bedroom is 3m (excluding wardrobes).		
Living and living/dining rooms minimum widths: - Studio and one-bedroom: 3.6m 2-bedroom or more: 4m	Yes	The dwelling widths of the living rooms are greater than 3.6m.

4E Private Open Space and Balconies	Consistency	Comment
Studio apartments are to have a minimum balcony area of 4sqm with a minimum depth of 1m. One bed apartments are to have a minimum balcony area of 8sqm with a minimum depth of 2m.	Yes	All balconies are larger than the minimum size and depths.
Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15sqm and a minimum depth of 3m.	N/A	There are no ground floor apartments.

4F Common Circulation and Spaces	Consistency	Comment
The maximum number of apartments off a circulation core on a single level is 8.	Yes	Complies.
For buildings of 10 storeys and over, the maximum number of	N/A	Not applicable.

4F Common Circulation and Spaces	Consistency	Comment
apartments sharing a single lift is 40.		
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	Bedroom windows and living rooms open to the street.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	There is a void in the roof enabling daylight and natural ventilation.

4G Storage	Consistency	Comment
Minimum storage provision facilities: • Studio: 4m³ • 1 bed: 6m³ • 2 bed: 8m³ • 3 bed: 10m³ (Minimum 50% storage area located within unit)	Yes	Storage has been provided to each apartment.

4J Noise and Pollution	Consistency	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	An acoustic report has been submitted with recommendations to improve noise insulation for the residential apartments proposed.

State Environmental Planning Policy (Sustainable Buildings) 2022

42. 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

43. A BASIX Certificate has been submitted with the development application 1790049M_03
44. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal.
45. A review of the submitted documentation found discrepancies between the submitted Design for Environmental Performance Report (DEP) and the BASIX Certificate. These being related to the omission of solar panels in the DEP and discrepancies in hot water systems. The information submitted is not to an acceptable level to demonstrate compliance.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 6 Water Catchments

46. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.
47. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SEPP are not applicable to the proposed development.

Local Environmental Plans

Sydney Local Environmental Plan 2012

48. 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 E1 Local Centre zone. The proposed development is defined as shop top housing 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 9m is permitted. A height of 13.1m is proposed. A variation to the height of buildings development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.
4.4 Floor space ratio	No	A maximum floor space ratio of 1.5:1 or 585.5sqm is permitted. A floor space ratio of 2.13:1 or 831.7sqm is proposed. A variation to the floor space ratio development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.
4.6 Exceptions to development standards	No	The proposed development seeks to vary the development standards for height and floor space prescribed under Clauses 4.3 and 4.4. Clause 4.6 variations have been submitted with the application. See further details in the 'Discussion' section below.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	The site is located within the Pyrmont heritage conservation area C52. The site is adjacent to a local heritage item I1230, known as a terrace group including interiors at 189-203 Harris Street immediately south adjoining the site. Council's Heritage Officer has reviewed the proposed refurbishment to the street facades of the building and has no objection to the works as the use of face brickwork to the streetscape is appropriate in this context and does not impact views to the heritage items.

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 further details in the 'Discussion' section below.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.5 Residential flat buildings, dual occupancies and multi dwelling housing 7.6 Office premises and business premises	Yes	A maximum of 7 car parking spaces is permitted. The proposed development maintains the existing 7 car parking spaces and does not increase the number of car parking spaces on the site.
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	Yes	The site is located in the Ultimo-Pyrmont area but is not subject to a Section 7.13 contribution for affordable housing as it does not meet any of the relevant

Provision	Compliance	Comment
		clauses under Section 7.13(1)(a) or (b). Less than 200sqm of residential gross floor area is created and there is no change of use of the existing commercial floor space on the ground and first floor.

Development Control Plans

Sydney Development Control Plan 2012

49. 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

50. The site is located within the 2.12.2 Pymont locality. The proposed development would be in keeping with the design principles of the Pymont locality. The development with its refurbished facade and materiality using face brick helps improve the architecture of the building and its presentation in the streetscape. However, the scale of the building and additional bulk is at odds with the character of the streetscape. This is recognised in the controls that apply to the site. The additional storey does not complement the existing scale of buildings in the heritage conservation area and is contrary to the principles of the locality.

Section 3 – General Provisions

Provision	Compliance	Comment
3.2. Defining the Public Domain 3.2.3 Active Frontages	No	The site has been identified to provide an active frontage along Harris Street and is required to provide an active frontage of 80%. The ground floor level of the building will have 71% of the street frontage as an active frontage and does not meet this control.
3.2.4 Footpath Awnings	Partial Compliance	This site is not nominated to have a footpath awning. If this development was supported, the footpath awning would need to be reduced in depth to preserve the existing street trees and be amended to meet the provisions in this section of the DCP.
3.5 Urban Ecology	No	The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology.

Provision	Compliance	Comment
		The site will not provide any canopy cover on the site, maintaining the existing situation. Insufficient details have been provided to demonstrate the viability of the proposed landscaping in terms of soil depths, drainage, species, structural requirements or maintenance access. The information provided is insufficient to comply with the control.
3.6 Ecologically Sustainable Development	No	A review of the Design for Environmental Performance Report and the BASIX certificate has identified discrepancies between the documents. The information is insufficient to comply with the control. Refer to SEPP (Sustainable Buildings) and discussion section.
3.9 Heritage	Yes	The site is located within the Pymont heritage conservation area C52. The building is identified as a detracting building. The site is adjacent to a local heritage item known as terrace group including interiors (I1230). The development would be consistent with the heritage controls as the works would protect the views of the heritage items, the refurbishment of the facade will contribute to the streetscape and respond sympathetically to the character of the conservation area by using brickwork and having an appropriate solid to void ratio.
3.11 Transport and Parking	No	Insufficient information has been provided and the development does not comply with the controls. The development does not provide bicycle parking for the commercial or residential uses, swept paths for B85 vehicles are not provided, an accessible car space has not been provided, and details of servicing vehicles have not been included.

Provision	Compliance	Comment
3.12 Accessible Design	No	There are significant accessibility non-compliances highlighted in the Accessibility Report submitted with the development application including non-compliant doorway widths, non-compliant ramp design. This has not been incorporated or addressed in the development.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	No	The waste management plan and the plans submitted are not compliant with the Sections 3.14 Waste or Section 4.2.6 Waste and Recycling Management in the DCP 2012. These include the compliant gradient for the path of travel from the waste storage area to the collection point, the mark up of residential, commercial and bulky waste collection, waste storage areas need to demonstrate compliance with minimum spatial requirements.
3.16 Signs and Advertisements	Yes	The height of the top hamper building identification sign is 3.7 metres. The sign is not illuminated and fits with the architectural elements of the building above the entry.

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	No	The proposed development is 3-4 storeys in height with a street frontage height of 3 storeys from Harris Street and 3 storeys from Little Mount Street and does not comply. See further details under the 'Discussion' section below.
4.2.1.2 Floor to ceiling heights and floor to floor heights	No	Section 149 of the SEPP (Housing) 2021 requires this control to be

Provision	Compliance	Comment
		superseded by the ADG equivalent control.
4.2.2 Building setbacks	Yes	The proposed development maintains the existing street setback alignment and brings the ground floor to the street edge. The street frontage heights are maintained on both Little Mount Street and Harris Street.
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	Section 149 of the SEPP (Housing) 2021 requires this control to be superseded by the ADG equivalent control. Please see the ADG assessment above.
4.2.3.2 Lightwells	Yes	A lightwell has been added to allow daylight to access the first floor commercial level.
4.2.3.3 Internal common areas	Yes	The internal corridor for the apartment level has daylight due to the void in the roof and is at least 2 metres wide.
4.2.3.4 Design features to manage solar access	Yes	The brickwork screen on the façade along Harris Street will assist with providing passive shading for the multiple levels and 2 apartments.
4.2.3.5 Landscaping	No	Insufficient information has been provided to complete an assessment of the landscaping.
4.2.3.6 Deep Soil	No	There is currently no deep soil on the site. The development does not provide deep soil.
4.2.3.7 Private open space and balconies	N/A	See the ADG assessment above.
4.2.3.8 Common open space	No	The site does provide 4.8% of communal open space instead of the 25% as required by the control.

Provision	Compliance	Comment
4.2.3.9 Ventilation	N/A	See the ADG assessment above.
4.2.3.10 Outlook	Yes	The apartments look out to the street.
4.2.3.11 Acoustic privacy	Yes	An acoustic report has been submitted with recommendations to improve noise insulation for the residential apartments proposed.
4.2.3.12 Flexible housing and dwelling mix	N/A	There are less than 20 apartments in this development.
4.2.6 Waste and recycling Management	No	The drawings and the waste management plan submitted are not compliant with the Sections 3.14 Waste or Section 4.2.6 Waste and Recycling Management in the DCP.
4.2.8 Letterboxes	No	Letterboxes have not been provided.

Discussion

Contravention of a development standard pursuant to clause 4.6 - Clause 4.3 Height of Buildings

51. The site is subject to a maximum height of buildings control of 9m. The existing building has a maximum building height of 13.79m and the tallest point of the existing building is the lift overrun. The proposed development has a proposed building height of 13.1m.
52. The submitted report states the variation is an exceedance of 37.7% or 3.395m. Council officers measured the variance and noted an exceedance of 45.22% or 4.07m. The breach is caused by the additional new storey.
53. 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

54. The applicant seeks to justify the contravention of the height of buildings 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 proposed building height is consistent with the height of the existing building and appropriate for adaptive reuse.
 - (ii) The proposed building height would not be found to be offensive, jarring or unsympathetic from the streetscape or create adverse public or private views.
 - (iii) The exceedance of height will have an acceptable visual impact from Harris Street and Little Mount Street. It will not have an impact on the heritage conservation area or surrounding heritage items.
 - (b) That there are sufficient environmental planning grounds to justify contravention of the standard:
 - (i) The adaptive reuse of the building is ecologically sustainable by reducing waste materials from construction and reduces resources.
 - (ii) Compliance with the standard requires the demolition of the upper portion of the existing building and associated floor space. Demolition to be left with less gross floor area is uneconomic and disorderly.
 - (iii) The proposal increases stock of housing in Sydney and is a social benefit.
 - (iv) The proposed development generally maintains the height of the building but enhances the design and visual appearance, improving the amenity of the built environment.
 - (v) The exceedance does not result in any additional environmental impacts that already exists.

Precondition to granting consent where a development standard has been contravened

55. 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.
56. The applicant has not demonstrated that compliance with the height of buildings development standard is unreasonable or unnecessary as the objectives of the standard are:
- (a) to ensure the height of development is appropriate to the condition of the site and its context,*
 - (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,*

- (i) The development does not comply with objectives 4.3(1)(a) and (b) as it exceeds the height of the development standard and exceeds the 2-storey height in storeys control for this site. The buildings in the immediate context and adjacent to the building are limited to 2 storeys on the same street block. Opposite Little Mount Street the heritage listed dwellings are largely single storey buildings.
 - (ii) The applicant maintains that the proposed building height is consistent with the height of the existing building, however the existing exceedance is centrally located and confined to a lift overrun and non-habitable roof form. The proposal seeks to exacerbate the existing height non-compliance by locating additional habitable height and bulk closer to the site boundaries.
- 57. The applicant has not demonstrated that there are sufficient environmental planning grounds as:
 - (a) The additional storey and change to the roof form will add bulk to the top of the building that will be visible from the Little Mount Street and Harris Street. The bulk is visible from the side elevations of the building as it is taller than the other surrounding 2 storey buildings.
 - (b) The applicant argues this is an adaptive reuse of an existing commercial building, however this is not acceptable justification as it is not only the reuse of an existing building but constructing another storey above the existing building and changing the use by constructing apartments above.
 - (c) The increase in housing stock can be achieved without adding an additional storey to the building. Significant partial demolition to the existing roof and first floor is required for this development causing waste materials in construction. The new apartments can be located at the first floor instead of an additional second storey which can reduce use of additional construction materials to construct an additional storey.

Conclusion

- 58. For the reasons provided above the variation to the height of buildings 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.

Contravention of a development standard pursuant to clause 4.6 - Clause 4.4 Floor Space Ratio

- 59. The site is subject to a maximum floor space ratio control of 1.5:1. The existing building has a floor space ratio of 1.69:1 or a gross floor area of 662sqm.
- 60. The proposed development has a FSR of 2.13:1 or 831.7sqm. This is a departure of 42%. The existing exceedance is exacerbated by the extension of the ground floor commercial tenancy and lobby area as well as the additional apartments on the new storey.
- 61. 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;
62. Applicant's regulation 35B document The applicant seeks to justify the contravention of the floor space ratio 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 non-compliant floor space is for residential accommodation and provides additional housing in Sydney.
 - (ii) The property will not generate unmanageable vehicle or pedestrian traffic. The development has off street parking despite the departure of the floor space ratio.
 - (iii) The development will not exceed the capacity of existing and planned infrastructure.
 - (iv) The development still meets the desired character of Pyrmont and does not impact the adjoining heritage items or buildings in the heritage conservation area.
 - (v) The height, scale and density is consistent with the streetscape and floor space has been distributed across each floor of the site.
 - (vi) The adaptive reuse of the building promotes orderly and economic use of the land for housing in Sydney.
 - (vii) There will be no unacceptable amenity impacts to views, solar access or visual privacy.
 - (b) That there are sufficient environmental planning grounds to justify contravention of the standard:
 - (i) The adaptive reuse of the building avoids unnecessary demolition and waste, it reduces construction materials and is ecologically sustainable.
 - (ii) It achieves provision of affordable rental housing in Sydney.
 - (iii) A development that demolished and did not replace the non-complying element of the development would be inconsistent and hinder the supply and delivery of housing.
 - (iv) The adaptive reuse and exceedance of floor space ratio will promote economic use of development of this land.
 - (v) There are no environmental impacts beyond what currently exists and improves the appearance of the building.

63. Precondition to granting consent where a development standard has been contravened 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.
64. The applicant has not demonstrated compliance with the floor space ratio standard is unreasonable and unnecessary with reference to the objectives:
- (a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,*
- (i) The development is contrary to this objective as the additional floor space is not required to meet anticipated development needs for the foreseeable future, the new apartments can be housed on the first floor, largely within the existing FSR exceedance, without needing another storey or a significant variation of the development control.
- (b) to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,*
- (ii) The development is contrary to this objective as the additional gross floor area is manifested in an additional storey which does not comply with the built form controls for this site.
- (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.*
- (iii) The development is contrary to this objective as the additional floor will add additional bulk in the form of a new storey and altered roofline, that will be visible from the side elevation especially on Little Mount Street. The desired character is to respond and complement the existing scale of the buildings in the heritage conservation area and a further increase in bulk will not reflect the desired character of this street.
65. The applicant has not demonstrated that there are sufficient environmental planning grounds as:
- (a) The new bulk from additional storey and exceedance of floor space ratio will be visible from the side elevations when viewed on Harris Street and Little Mount Street as this is the tallest building amongst the adjoining buildings.
- (b) The information provided relating to the servicing, parking and access requirements have not been provided. There is insufficient information to accept that the additional floor space ratio will have no environmental impact on access or servicing to the site which may impact other properties along Little Mount Street.
- (c) The "adaptive reuse" does not require the additional storey to provide dwellings. Since the development already includes significant demolition above the ground floor, it would be less costly, use less waste and use less construction materials if the apartments were limited to level 1.
- (d) There is no affordable rental housing in this development.

- (e) The development can deliver housing without breaching the floor space ratio development standard by relocating the works to level 1.

Conclusion

66. For the reasons provided above the variation to the floor space ratio development standard is not supported as the applicant's request has not adequately addressed the matters required to be addressed by Clause 4.6(3) of the Sydney Local Environmental Plan 2012.

Height in Storeys

67. Section 4.2.1.1(1) under the DCP 2012 requires the site to have a maximum height in storeys of 2 storeys.
68. The control states the maximum storeys permitted may only be achieved where it is demonstrated the development reinforces the neighbourhood character and is consistent with the scale and form of surrounding buildings in the heritage conservation area.
69. The development seeks to add an additional floor and justifies the exceedance of the 2 storey control as the additional floor is contained well within the existing building height. The existing building has a maximum building height of 13.79m, and the tallest point of the existing building is the lift overrun/stairs. The proposed development has a proposed building height of 13.1m and will be 3 storeys to 4 storeys.
70. The existing exceedance of the 9m height control is primarily formed by the centralised non-habitable roof form and the lift overrun/stairs as shown in the figures 17 and 18 below. Figure 19 clearly depicts the 2 main areas (lift overrun/stairs and central roof form) that gives rise to the main areas of the existing exceedances. Figure 20 depicts the new bulk added to the top of the building because of the new roof form and additional storey.

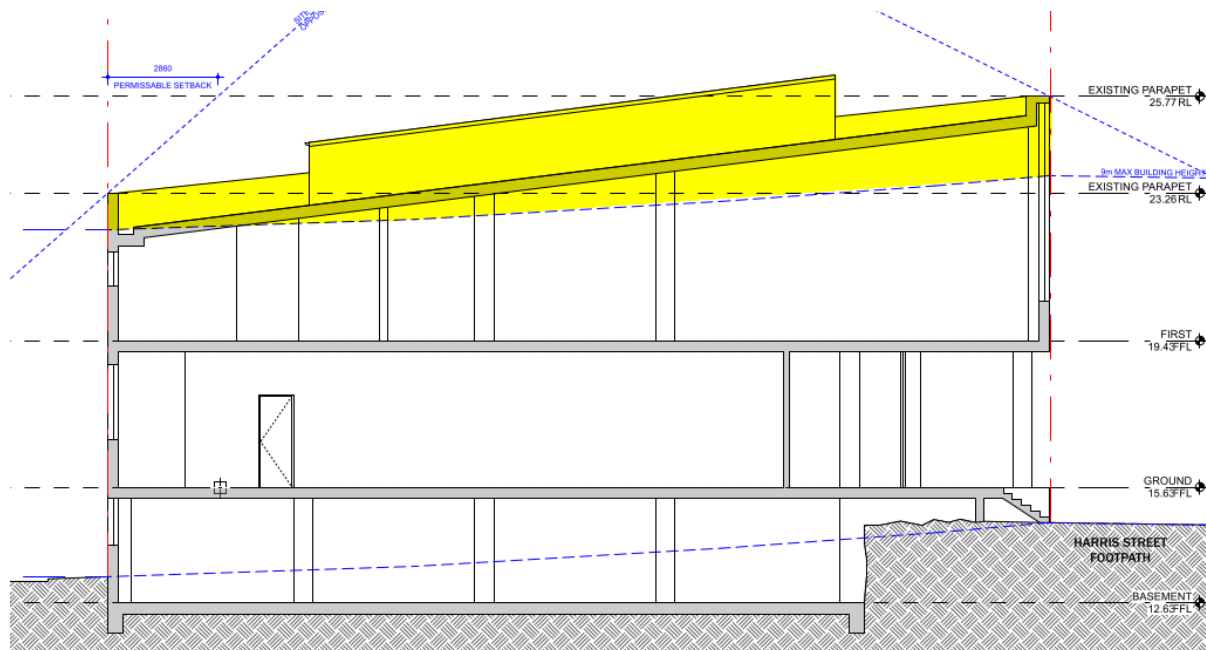


Figure 17: Existing cross section with central roof form exceedance over the 9m building height limit highlighted in yellow

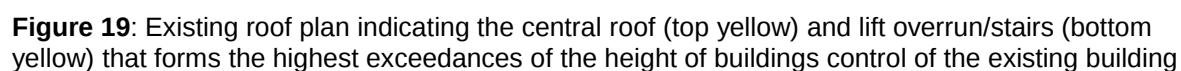
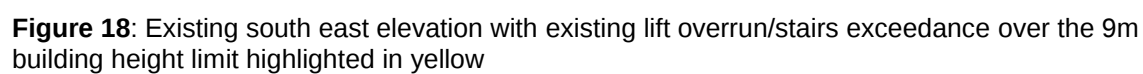




Figure 20: Photo of the existing roof looking north, showing the central non-habitable roof form (left) and lift overrun/stairs (right)



Figure 21: Proposed south east elevation with combine existing and proposed exceedance highlighted in yellow

71. The additional storey with the new roof form will generate additional bulk across the whole roof plane and have tangible bulk and massing impacts when viewed from the Little Mount Street and Harris Street. There will be visual bulk and additional massing even if the design attempts to achieve built form below the existing building height.
72. Objective 4.2.1.1(a) states:
- (a) Ensure the height in storeys and street frontage height in storeys reinforces the existing or future neighbourhood character*
73. The development is contrary to the objective as the existing and future neighbourhood character as the current controls and buildings are comprised of single and two storey buildings (as shown in figure 22) and as per the Pymont Ultimo Planning Proposal, there are no plans to allow this subject site or this streetblock to have higher densities.



Figure 22: Sydney DCP 2012 map indicating the building height in storeys control

Floor to Ceiling Heights and Floor to Floor Heights

74. The floor-to-ceiling design criteria of the Objective 4C-1 requires the ground floor and the first floor of a mixed use development to be 3.3m.
75. The existing building has floor to floor heights of 3.8 metres at the ground floor and between 2.5m to 5.6m at the first floor. See figure 23 below.

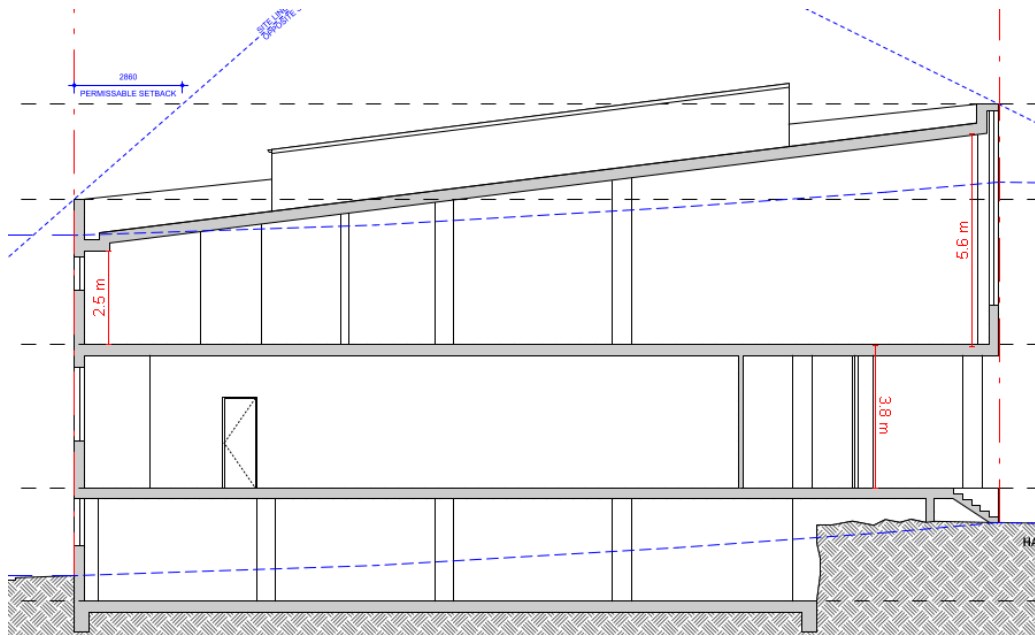


Figure 23: Existing building floor to floor ceiling heights

76. The proposed development has a floor-to-ceiling height of 2.98m at first floor. See figure 24 below.

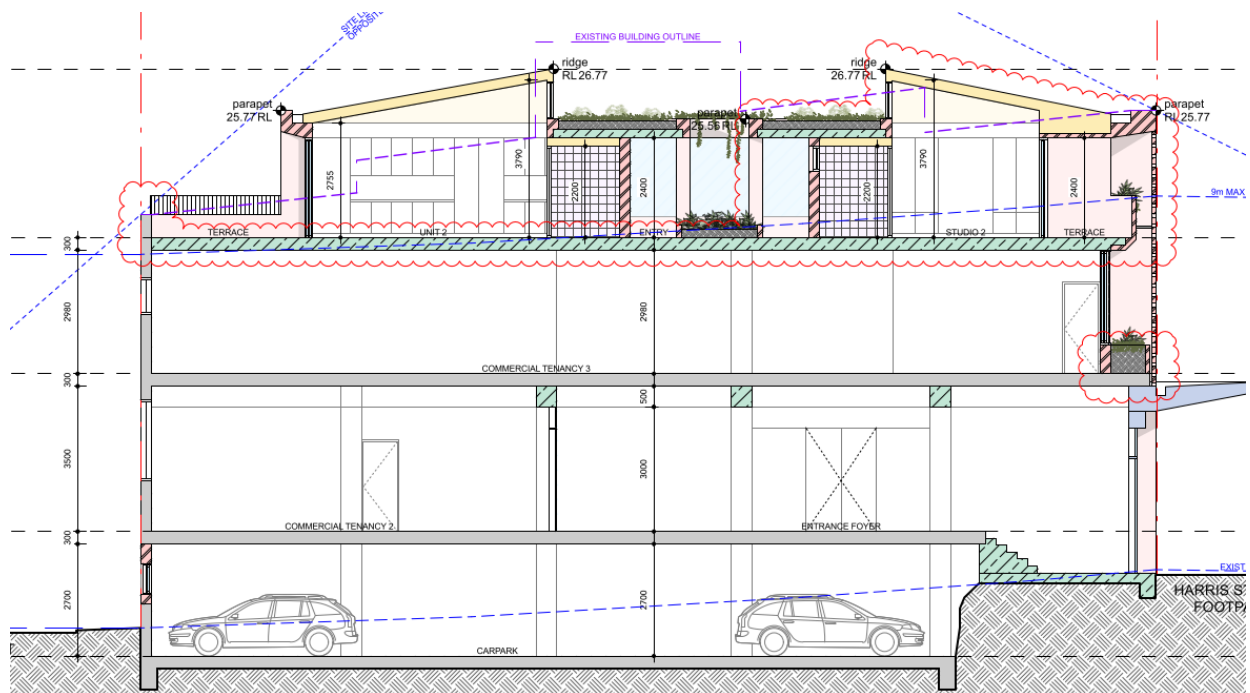


Figure 24: Proposed building floor to floor ceiling heights.

77. The proposed development retains the ground level and basement floor to floor as existing, but compresses two additional storeys above, with the commercial first floor tenancy resulting in a non-compliant floor to ceiling height of 2.98m. This demonstrates the site cannot accommodate an additional storey without breaching the controls for bulk and massing on this site.

78. The objective 4C-1 of the ADG states:

(a) Ceiling height achieves sufficient natural ventilation and daylight access.

79. The reduced first floor ceiling height does not promote future flexibility of use or a height promoting sufficient daylight.

Design Excellence

80. The development is not considered to exhibit design excellence as per Section 6.21C of the LEP 2012 for the exceedances of development standards and controls relating to bulk and scale as well as the lack of information to demonstrate compliance with other parts of the design. The development does not meet Section 6.21C for the following:

- (2)(b) - whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain and 2(d)(v) - the bulk, massing and modulation of buildings,
- (i) The bulk and massing exceedances from will be visible from the street at Harris Steet and Little Mount Street as the proposed development will create a new roof form and the side elevations will be clearly visible as the neighbouring buildings are lower in height. The additional bulk will be out of character with the streetscape and does not improve the quality of the public domain.
- (b) (2)(d)(i) - the suitability of the land for development,
 - The exceedances of the height of buildings and floor space ratio development standards, as well as the building height in storeys, floor to ceiling heights controls are indicators of overdevelopment from this proposal and the development is not suitable for this site.
- (c) (2)(d)(vii) - environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,
 - The details in the shadow diagrams and lack of internal solar diagrams are inadequate to comply with the controls in the Apartment Design Guide or DCP 2012.
- (d) (2)(d)(viii) - the achievement of the principles of ecologically sustainable development,
 - The discrepancies in the information submitted including the BASIX certificate is inadequate to comply with the controls in the DCP 2012.
- (e) (2)(d)(ix) - pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network,
 - The parking and access details are insufficient to comply with the controls in the DCP 2012.
- (f) (2)(d)(xii) achieving appropriate interfaces at ground level between the building and the public domain.

- A detailed stormwater concept plan and discharge volumes were not provided, the levels for the driveway sections and footpaths were not provided, the existing driveway from Little Mount Street does not meet the City's standard requirements.
- (g) (2)(d)(xiii) - excellence and integration of landscape design.
- The landscaping details are insufficient to comply with the controls in the DCP 2012.

Consultation

Internal Referrals

81. The application was discussed with Council's:

- (a) Building Services Unit;
- (b) Environmental Health Unit;
- (c) Environmental Projects Unit;
- (d) Heritage and Urban Design Unit;
- (e) Landscape Assessment Officer;
- (f) Public Domain Unit;
- (g) Surveyor;
- (h) Transport and Access Unit;
- (i) Tree Management Unit;
- (j) Urban Designer; and
- (k) Waste Management Unit.

82. There were concerns raised by almost all the relevant units including Environmental Projects Unit, Urban Designer, Landscape Assessment Officer, Public Domain Unit, Surveyor, Transport and Access Unit, Tree Management Unit and the Waste Management Unit. These issues were raised in the 'Request for Additional Information' letter and examples of which have been listed above in the report.

Advertising and Notification

83. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 21 days between 1 December 2025 and 17 January 2026. A total of 142 properties were notified and one submission was received.

84. The submissions raised the following issues:

- (a) **Issue:** There are concerns 51 Little Mount Street will be impacted by the breach of height limits. The overshadowing will exacerbate rising damp. The existing building already exceeds the height limit and any further exceedances will worsen the overshadowing impacts.

Response: According to the shadow diagrams submitted, the impact to the front of 51 Little Mount Street will be reduced at 9am and afterwards, there are no further impacts between 9am to 3pm on 21 June.

- (b) **Issue:** The breach of the floor space ratio for this type of development should not be supported.

Response: See the assessment of the exceedance of the Floor Space Ratio development standard in the Clause 4.6 assessment above.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

85. The City of Sydney Development Contributions Plan 2015 applies to the site and the development would be subject to a section 7.11 local infrastructure contribution under this Plan if it was supported.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

86. As the development is located in the Ultimo-Pyrmont area but does not create 200sqm of total floor area for residential accommodation, maintains the existing commercial use for the remainder of the ground and first floor tenancies, the development is excluded and would not be subject to a Section 7.13 affordable housing contribution if it was supported.

Housing and Productivity Contribution

87. The development is subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.
88. The site is located with the Greater Sydney region, the development is a type of residential and commercial development to which the Housing and Productivity Contribution applies, and the development is not of a type that is exempt from paying a contribution.
89. A condition relating to the Housing and Productivity Contribution would be included in the recommended conditions of consent if it was supported.

Relevant Legislation

90. Environmental Planning and Assessment Act 1979.

Conclusion

91. The applicant has not adequately demonstrated that compliance with Clause 4.3 Height of Building and Clause 4.4 Floor Space Ratio development standards of the Sydney LEP 2012 are unreasonable or unnecessary in the circumstances and there are insufficient environmental planning grounds to justify the contravention of these development standards in accordance with Clause 4.6(3) of the Sydney LEP 2012.
92. The proposal also breaches the bulk and massing controls including the height in storeys controls under Section 4.2.1.1 of the Sydney DCP 2012. The additional bulk and mass from the new third storey will be visible from the side elevations from the public domain exceeding the current roofline and the non-compliances to achieve this additional storey are an indication of overdevelopment for the site.
93. The apartment design does not meet Section 147(1)(a) of the SEPP (Housing) 2021 as it does not meet Design Principles 2 (Built Form and Scale) or 5 (Landscape) under Schedule 9 of the SEPP.
94. The apartment design does not comply with the Building Separation at zone boundaries under Design Criteria 2F, Communal Open Space under Design Criteria 3D-1, Deep Soil Zones under Design Criteria 3E-1 and Ceiling Heights under Design Criteria 4C-1 of the Apartment Design Guide.
95. The development does not exhibit design excellence as per Section 6.21C of the Sydney LEP 2012.
96. There is insufficient information and detail to demonstrate compliance with technical requirements including accessibility, landscaping, waste, transport, environmental impacts, surveying, sustainability and public domain requirements.
97. The public interest is not achieved by this development for the reasons above.

ANDREW THOMAS

Executive Manager Planning and Development

Harry Choi, Specialist Planner