

Item 3.

Development Application: 50-58 Sir John Young Crescent, Woolloomooloo - D/2026/38

File Number: D/2026/38

Summary

Date of Submission: 30 January 2026

Applicant: Hamptons Property Services Pty Ltd

Architect/Designer: Sissons

Developer: Pacific House Hostel

Owner: Pitch Properties Pty Ltd

Planning Consultant: Hamptons Property Services Pty Ltd

Heritage Consultant: Touring The Past Pty Ltd

Cost of Works: \$624,415.00

Zoning: MU1- Mixed Use

Proposal Summary: Development consent is sought for alterations to, and the use of, the existing rooftop as an outdoor communal space for the existing backpackers' accommodation known as the Pacific House Hostel.

The proposed maximum patron capacity on the rooftop is 62 people, comprising 50 patrons within the general area and an additional 12 people on the yoga/exercise lawn.

The proposed operating hours are 7:00am to 8:00pm, Monday to Sunday, with an extended one-year trial period allowing operation until 9:00pm.

The application is referred to the Local Planning Panel for determination as the proposal involves contentious development, due to the receipt of more than 25 unique submissions made in objection to the proposal.

The application was notified for 14 days between 2 February 2026 and 17 February 2026 in accordance with

the City of Sydney Community Participation Plan. A total of 99 properties were notified, and 44 submissions in opposition to the proposal were received. Issues raised in the submissions include:

- significant noise impacts
- poor management practices and lack of mitigation measures (historical and ongoing)
- increased risk of anti-social behaviour (including drinking, smoking and risks associated with falling objects)
- safety and security concerns
- over-intensification of communal area
- heritage impact
- privacy and overlooking/view concerns
- potential light pollution

Summary Recommendation: This proposal is recommended for refusal.

Development Controls:

- (i) Environmental Planning and Assessment Act 1979 (EPA Act)
- (ii) Environmental Planning and Assessment Regulation 2021 (EPA Regs)
- (iii) State Environmental Planning Policy (Biodiversity and Conservation) 2021
- (iv) Sydney Local Environmental Plan 2012
- (v) Sydney Development Control Plan 2012

Attachments:

- A. Selected Drawings
- B. Plan of Management
- C. Acoustic Report and Responses
- D. Submissions

Recommendation

It is resolved that consent be refused for Development Application Number D/2026/38.

Reasons for Recommendation

The application is recommended for refusal for the following reasons:

- (A) The applicant has not demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the height development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify the contravening of clause 4.3 of the Sydney LEP 2012.
- (B) The proposal fails to conserve the heritage significance of the heritage item, including its associated fabric. The proposed acoustic wall and rooftop structures adversely impact significant heritage fabric and visually compromise the historic parapet of the building, contrary to Clause 5.10 of the Sydney LEP 2012 and Section 3.9.5 'Heritage Items' of the Sydney DCP 2012.
- (C) The submitted acoustic report is deficient, the proposed development is likely to result in unreasonable noise and amenity impacts which fails to satisfy Section 4.15(1)(b) of the EPA Act 1979 and Section 4.2.3.11 'Acoustic Privacy' of the Sydney DCP 2012.
- (D) The proposed outdoor communal area is excessive and significantly exceeds the maximum permissible outdoor area by approximately 113%, contrary to Section 4.4.8.4 'Additional provisions for backpacker accommodation' (4)(a) of the Sydney DCP 2012.
- (E) The proposal seeks to intensify the use of the rooftop but fails to provide equitable access to this area, contrary to Section 3.12 'Accessible Design' of the Sydney DCP 2012.
- (F) The submitted Plan of Management does not provide sufficient or enforceable operational controls to adequately mitigate the potential amenity and safety impacts associated with the proposed rooftop use.
- (G) The proposed development fails to exhibit 'design excellence' pursuant to clause 6.21C of the Sydney LEP 2012.
- (H) The development is 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 6 March 2024 as contentious development because it received more than 25 unique submissions by way of objection.

The Site and Surrounding Development

2. The site has a legal description of Lot 1 DP882499, and is known as 50-58 Sir John Young Crescent, Woolloomooloo. It is irregular in shape with an area of approximately 576.7sqm. It has a primary street frontage to Sir John Young Crescent and a secondary street frontage to Crown Street.
3. The site contains a 4-storey backpacker accommodation building known as Pacific House Hostel, with a capacity of 224 persons. The main access to the building is from Sir John Young Crescent. A food and drink premises, known as Il Pacifico, occupies the ground floor at the corner of Sir John Young Crescent and Crown Street.
4. The surrounding area is characterised by a mixture of land uses, predominantly residential. The surrounding developments include:
 - South: 68 Sir John Young Crescent, known as the “Luxe Apartments”, is located immediately south of the site. It comprises a 7-storey residential flat building with approximately 76 units and ground-floor retail premises.
 - North: 22–40 Sir John Young Crescent, known as the “Domain Apartments”, comprise a multi-storey residential flat building located north of the site, across Crown Street.
 - East: Residential terrace houses at 2–34 Crown Street, listed as a local heritage item (I2138) “Bossley Terrace” (including interiors and front fencing), are located to the east of the site, across Crown Street.
 - West: The Domain, and Domain car park, is located to the west of the site, across Sir John Young Crescent. The Domain is listed as a state heritage item (I1653).
5. The site is a local heritage item (I2196) - Former Sydney Eye Hospital. It is located within the Woolloomooloo heritage conservation area (C71). The site is identified as a contributing building.
6. A site visit was carried out on 19 February 2026. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of site and surrounds



Figure 2: Aerial view of site and surrounds (Source: Google Earth)



Figure 3: Site viewed from the Domain looking south-east



Figure 4: Site viewed from the Domain looking north-east



Figure 5: Site viewed from Sir John Young Crescent



Figure 6: Site viewed from Crown Street



Figure 7: Existing roof top looking south-west



Figure 8: Existing roof top looking south-east



Figure 9: Existing rooftop looking north



Figure 10: Existing rooftop looking south - west



Figure 11: Existing rooftop looking north



Figure 12: Existing stair access to the rooftop

History Relevant to the Development Application

Development Applications

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

- **D/1997/00487** – Development consent was granted by Central Sydney Planning Committee on 26 February 1998 for conservation of the heritage building in the northern portion of the site for use as a hostel/hotel, demolition of the 3-storey building in the southern portion of the site, and the construction of a 7-storey building containing 96 serviced apartments, ground floor café and retail, a gym and one basement level containing 40 car parking spaces. A number of further modifications were made to modify the consent.
- **D/2009/1353** – Development consent was granted on 6 November 2009 for internal works to the reception area and ground floor of an existing hostel/hotel. A number of further modifications were made to amend the consent.
- **D/2009/899** – Development consent was granted on 16 December 2009 for the fit-out and use of ground floor within the Harbour City Hotel as a licensed bistro with footway seating and new signage. A number of further modifications were made to amend the consent.
- **D/2010/1193** – Shortly after lodgement, a development application application for rooftop addition to existing hotel for use as a bistro was rejected on 11 August 2010.
- **D/2025/268** - A development application was withdrawn on 26 May 2025 for alterations to use the rooftop area as a communal recreation space for guests of the existing backpackers' accommodation.

Prior to the withdrawal, the applicant was advised that the application was not supported due to multiple design deficiencies and insufficient documentation, including an inadequate acoustic report, the absence of a required BCA report, an unsuitable and excessive rooftop layout, an inadequate Plan of Management, as well as heritage and landscaping issues.

Compliance Action

8. The site has previously been subject to compliance actions that are now closed. The following matters are relevant to the current application:

- (a) **CDM3223777** - A complaint was received on 28 April 2024 regarding loud music at the premises until 12:30am. The complainant contacted both the owner and NSW Police. Council officers investigated and determined the incident was a one-off event.

- (b) CSM3324866 - A compliant was received on 24 April 2025 regarding late night noise at the Pacific House Hostel. Council officers attended on 3 May 2025 at approximately 11:15pm and observed noise emanating from inside the premises due to a large group in the dining area and karaoke in the lounge. No guests were observed outside the premises. Council later suggested that closing the windows would immediately reduce the noise impact.

The general manager of the Pacific House Hostel responded to the email and explained that the noise was due to a one-off cooking event hosted by an influencer. The hostel has agreed to close the TV room and dining room windows daily from 3pm, look into installing window locks, and add this to staff checklists.

- (c) CSM3457733 - A complaint was received on 17 February 2026 from residents of Luxe Apartments alleging Pacific Hostel guests were gathering on private property to smoke, drink, and socialise at all hours, causing noise and additional cleaning costs. Attempts to resolve the issue with hostel management were unsuccessful.

Council's compliance team conducted a site inspection on 7 March 2026 and observed no antisocial behaviour. On one occasion, people were seen sitting outside the ground entry of the Luxe Apartments, but no excessive or amplified noise was detected. The matter was subsequently closed.

Proposed Development

9. The application seeks consent for alterations to, and use of, the existing roof top as an outdoor communal space for the existing backpackers' accommodation. Details of the proposal are as follows:

Physical works

- a new relaxation lawn located at the northern end and a yoga/exercise lawn in the south-eastern corner
- outdoor furniture and shading comprising fixed umbrellas, tables, and sun lounges installed on the proposed decking, positioned at least 1 metre clear of the parapet edge
- a communal kitchen with parapet above and a new bathroom
- new elevated flooring system positioned 150 mm above the existing roof surface
- new acoustic wall along the southern side of the useable area, extending to 2.1m in height, returning at a 45-degree angle facing north, and constructed of glass for an additional 1m
- new fire stair extended to rooftop level adjacent to the southern boundary, with a new enclosure constructed over the stair
- the rooftop area has a total floor area of 438 sqm, comprising 313 sqm of useable space and 125 sqm of restricted-access area

Operational details

- patron capacity: total of 62 persons (50 persons + 12 persons for exercise space)
- proposed operating hours: 7.00am – 8.00pm Mondays to Sundays, with one-year trial period sought for extended hours until 9.00pm
- no amplified music or speech is permitted
- a staff member is to attend the outdoor area once per hour, during operating hours, to monitor the behaviour of guests

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

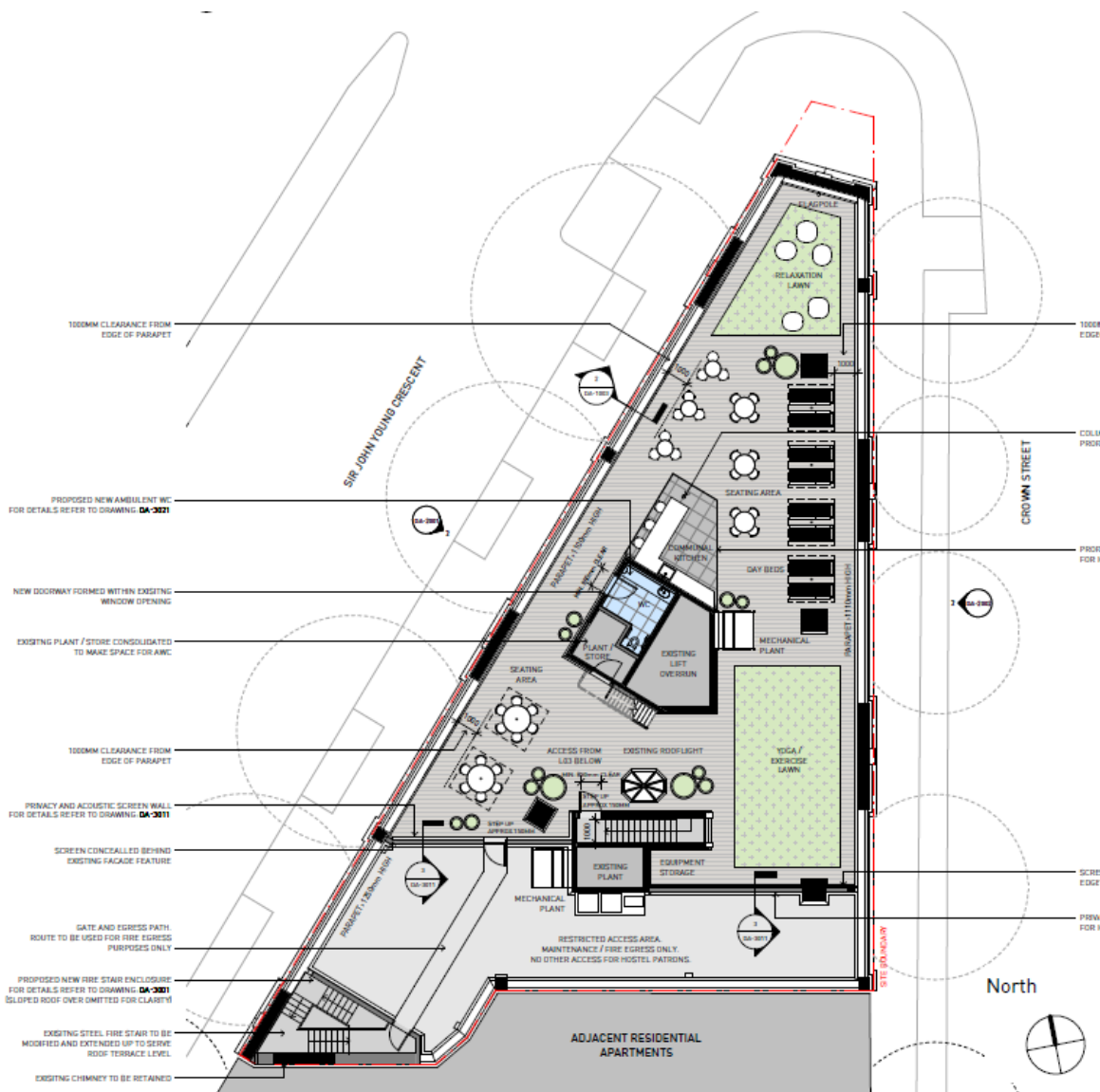


Figure 13: Proposed plan - roof terrace

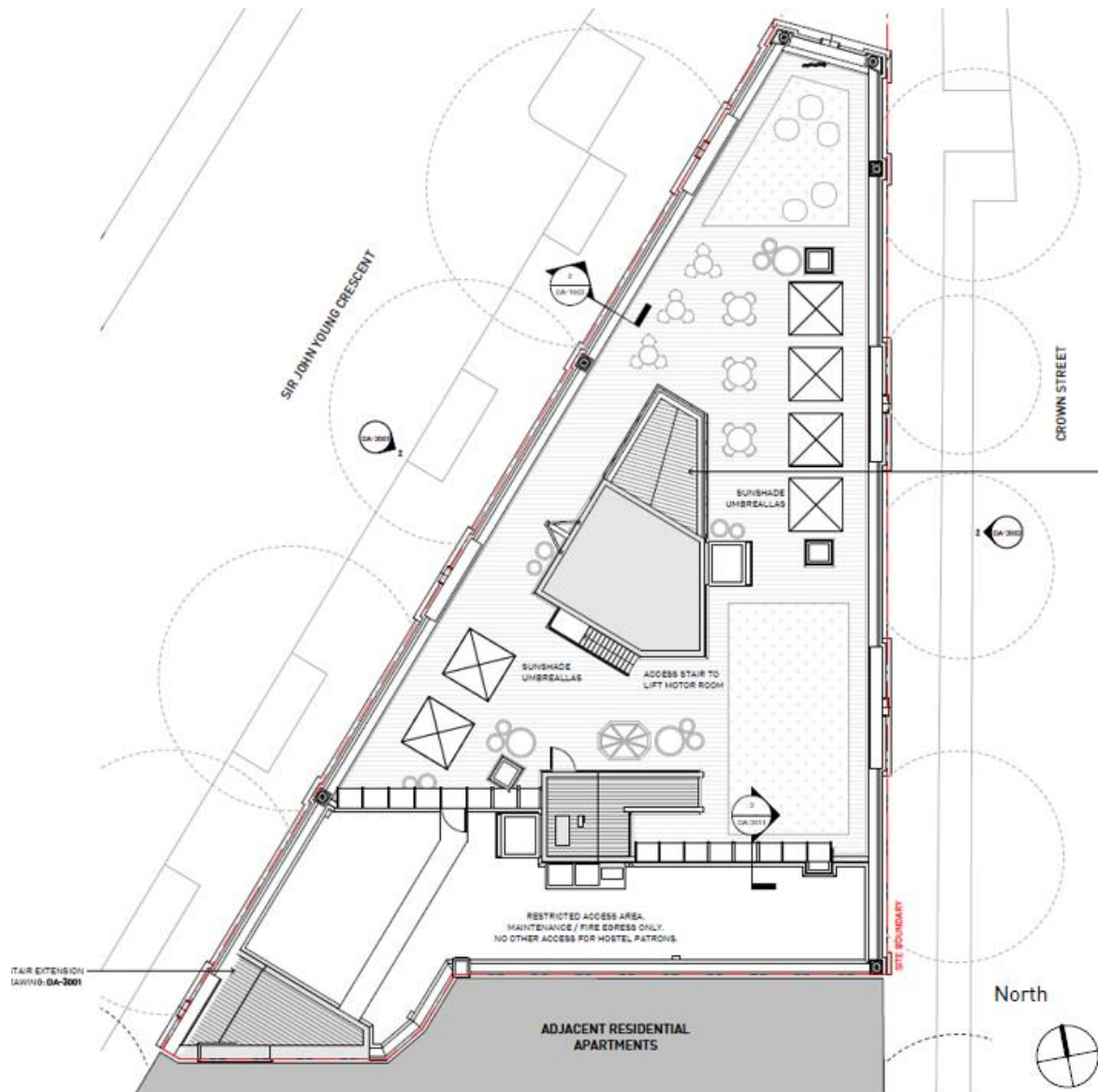


Figure 14: Proposed plan - roof

EXISTING vs PROPOSED KEY:

EXISTING BUILDING

PROPOSED NEW WORKS

**Figure 15:** Proposed west elevation - Sir John Young Crescent

EXISTING vs PROPOSED KEY:

EXISTING BUILDING

PROPOSED NEW WORKS

**Figure 16:** Proposed east elevation - Crown Street

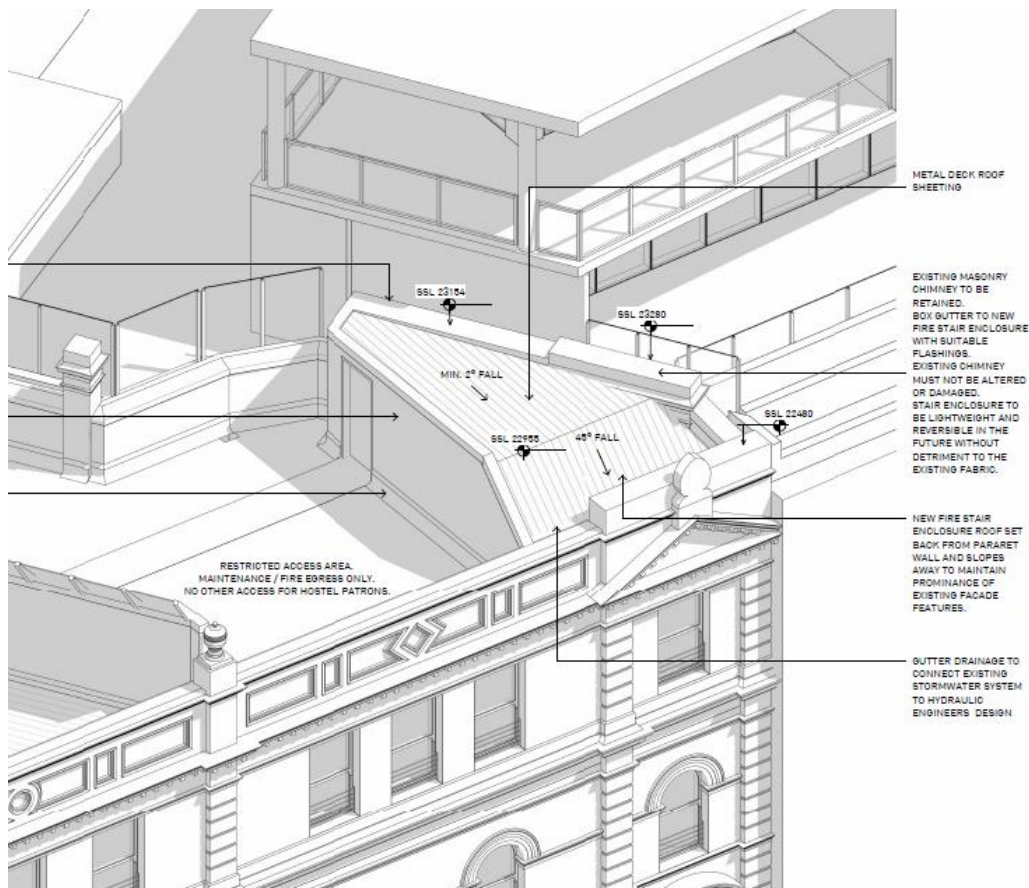


Figure 17: Proposed 3D view - fire stair enclosure

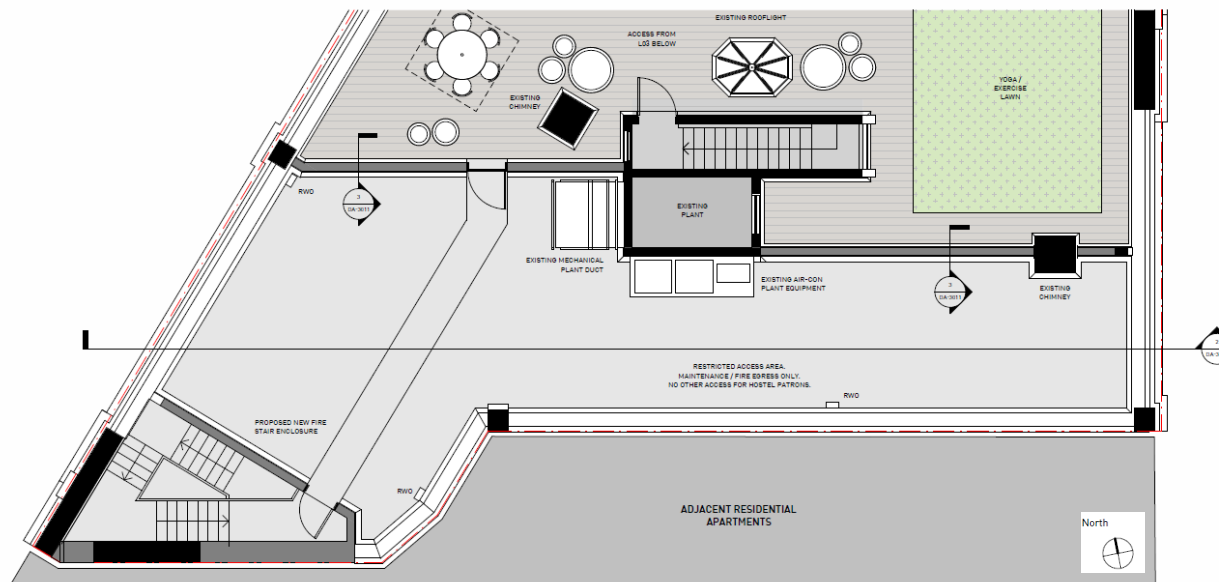


Figure 18: Proposed plan - acoustic screen wall

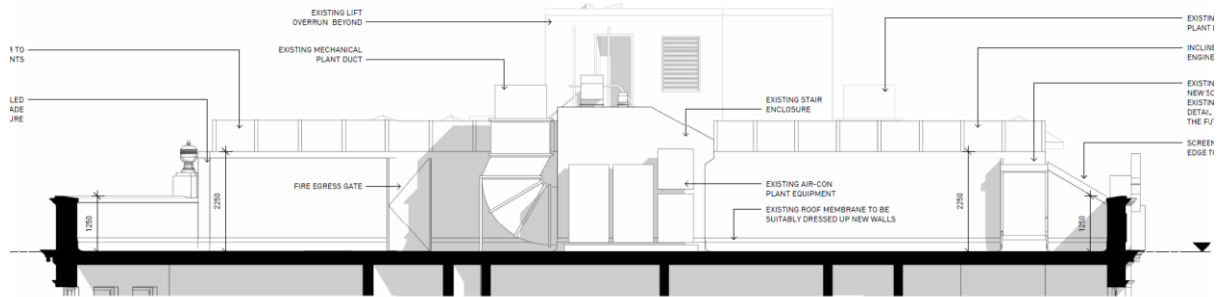


Figure 19: Proposed south elevation - acoustic screen wall

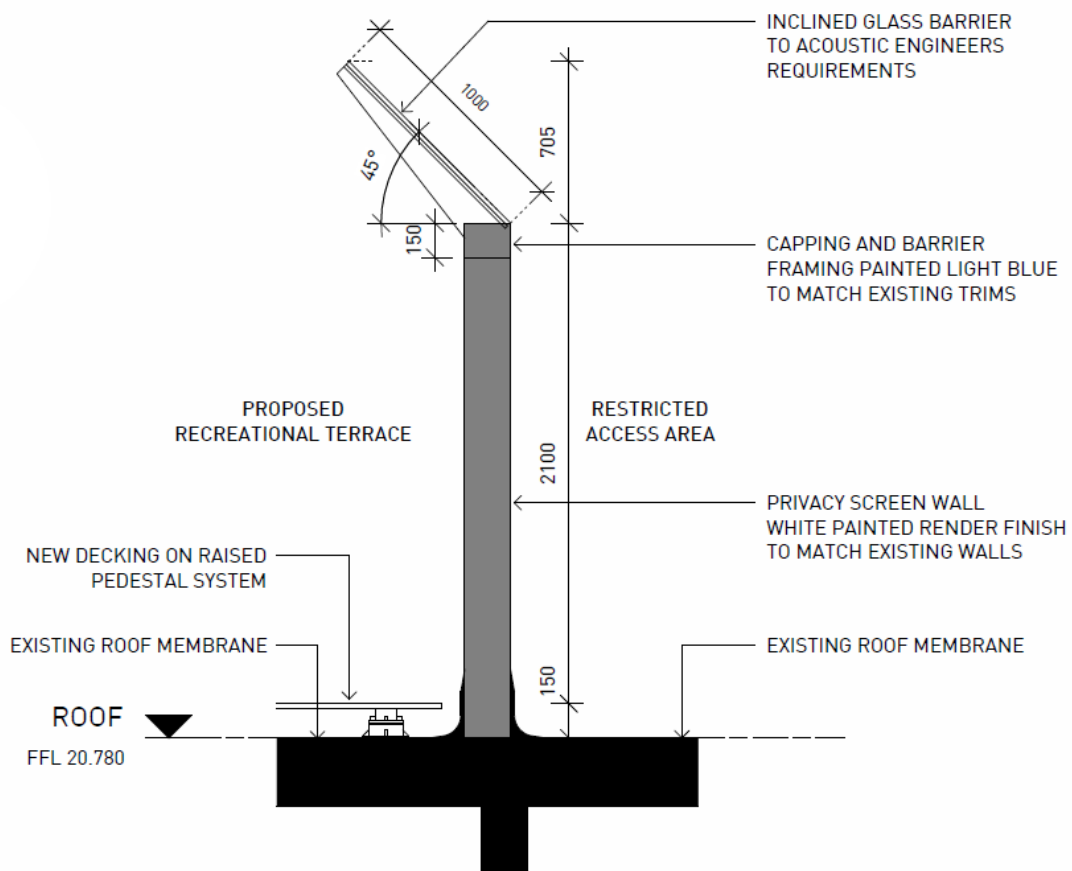


Figure 20: Details of the acoustic screen wall



Figure 21: Proposed 3D view

Assessment

11. 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

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

12. 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.
13. 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

14. 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 within the MU1 Mixed Use zone. The proposed development comprises alterations to an existing backpacker accommodation, which is a form of 'tourist and visitor accommodation' and is permissible with consent in the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	No	A maximum building height of 18m is permitted. A height of 18.8m is proposed. The proposed development does not comply with the maximum height of buildings development standard. No request to vary 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	Yes	A maximum floor space ratio (FSR) of 3.5:1 is permitted. The proposed development results in an increase in floor space associated with the proposed toilets, with a total additional area of 6 sqm. This results in an overall FSR of 2.78:1, which complies with the applicable control.
4.6 Exceptions to development standards	No	The proposed development does not comply with the development standard prescribed under Clause 4.3. No request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted.

Provision	Compliance	Comment
		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 (I2196) - Former Sydney Eye Hospital and is located within the Woolloomooloo heritage conservation area (C71). Several other heritage items are also situated in close proximity to the subject site. The proposed development will detrimental impact on the heritage significance of the heritage item. See further details in the 'Discussion' section below.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21C Design excellence	No	The proposed development does not demonstrate design excellence. See further details in the 'Discussion' section below.

Development Control Plans

Sydney Development Control Plan 2012

15. 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

16. The site is located within the Cathedral Street locality (Section 2.4.2). The proposed development is not consistent with the unique character or the established design principles of the Cathedral Street locality. In particular, principles (b) and (m) require development to respond to and complement heritage items and contributory buildings within heritage conservation areas, including their associated streetscapes and laneways.

17. The proposed fixed rooftop umbrellas and the poorly resolved acoustic wall would be visible from Sir John Young Crescent and The Domain. Due to their height, scale, and prominent siting, these elements fail to complement the heritage item and would detract from the building's historic character and visual presentation. Accordingly, the proposal does not satisfy the relevant locality principles, as it fails to appropriately respond to and complement the subject site, which is a heritage item.

Section 3 – General Provisions

Provision	Compliance	Comment
3.9 Heritage	No	The site is a local heritage item (I2196) - Former Sydney Eye Hospital and is located within the Woolloomooloo heritage conservation area (C71). Several other heritage items are also situated in close proximity to the subject site. The proposal is not supported due to the conjunction between the proposed acoustic wall to the decorative urn along the western parapet and the fixed umbrellas. See further details in the 'Discussion' section below.
3.12 Accessible Design	No	No accessible design has been provided for the proposed rooftop outdoor communal space. See further details in the 'Discussion' section below.
3.13 Social and Environmental Responsibilities	No	The proposed does not provide adequate passive surveillance. See further details in the 'Discussion' section below.
3.14 Waste	Yes	If the proposal was supported, a condition would be recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.3 Amenity		
4.2.3.1 Solar Access	Yes	The proposal does not generate any unacceptable overshadowing onto the neighbouring developments.
4.2.3.5 Landscaping	No	The proposed use of synthetic turf and composite timber decking is not supported. The use of hardwood timber and other low heat-retaining materials should be considered if the application was to be supported.
4.2.3.11 Acoustic privacy	No	The proposal was reviewed by Council's Environmental Health Team who does not support the proposal. See further details in the 'Discussion' section below.

4.4 Other Development Types and Uses

4.4.8 Visitor accommodation

Provision	Compliance	Comment
4.4.8.1 General	Yes	The application is accompanied by a Plan of Management and Noise Report.
4.4.8.4 Additional provisions for backpacker accommodation	No	The proposed outdoor space exceeds the maximum 20% of the total communal recreational area and has potential noise impact to surrounding property. See further details in the 'Discussion' section below.

Section 6 – Specific Sites

Provision	Compliance	Comment
6.1.6 50-58 & 60-72 Sir John Young Crescent, Former Sydney Eye Hospital, Woolloomooloo	Yes	The proposal generally complies with the relevant controls in this section.

Discussion

Clause 4.6 Request to Vary a Development Standard

18. The site is subject to a maximum building height control of 18 metres under the Sydney LEP 2012.
19. Prior to the acceptance of lodgement of the application, a request for additional information was issued to the applicant seeking confirmation as to whether the proposal exceeded the LEP height limit and advising that a Clause 4.6 variation would be required should any height exceedance be proposed. On 23 January 2026, the applicant submitted further information stating that the proposal does not exceed the 18-metre height limit.
20. However, as demonstrated in Figure 22 below, both the proposed fixed umbrellas and the proposed canopy above the kitchen area exceed the 18-metre height limit under the Sydney LEP 2012. These structures are not excluded from the LEP definition of 'building height' and therefore must be included in the height calculation. The fixed umbrellas reach a maximum height of 18.8 metres (a 4.4% exceedance), while the canopy reaches 18.5 metres (a 2.7% exceedance).

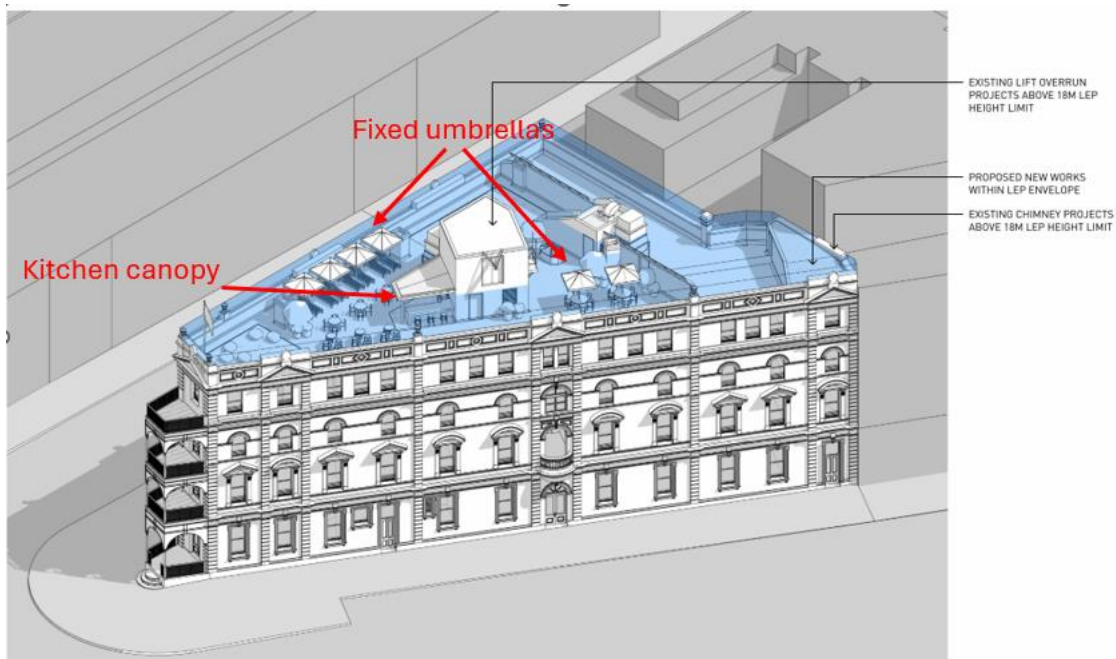


Figure 22: Proposed with 18m height LEP envelope

21. Clause 4.6(3) of the Sydney LEP 2012 provides that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant has demonstrated the following:
 - a. compliance with the development standard is unreasonable or unnecessary in the circumstances, and
 - b. there are sufficient environmental planning grounds to justify the contravention of the development standard.
22. It is noted that the site is also subject to a site-specific provision—Section 6.1.6 '50–58 and 60–72 Sir John Young Crescent, Former Sydney Eye Hospital' under the Sydney DCP 2012, which permits a maximum height of 22 metres for this site.
23. However, notwithstanding the site-specific DCP control, the applicant is still required to demonstrate that strict compliance with the height development standard under the Sydney LEP 2012 is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the variation. This justification has not been provided as part of the current application.
24. Accordingly, the proposed non-compliance with the height development standard cannot be supported, as the applicant has not provided information to adequately address the matters required to be addressed by Clause 4.6(3) of the Sydney Local Environmental Plan 2012.

Heritage and Urban Design

25. The site is listed as a local heritage item (I2196), known as the former Sydney Eye Hospital, and is identified as a contributory item within the Woolloomooloo Heritage Conservation Area (C71). Several other heritage items are located in close proximity to the subject site, including The Domain, which is situated to the west of the site across Sir John Young Crescent and is listed as a state heritage item (I1653).
26. The proposal includes the construction of a 2.1m-high rendered acoustic wall along the southern side of the usable rooftop area, with an additional 1m glazing returning at a 45-degree angle (refer to Figure 23). The parapet ornamentation, including the prominent urn, is a significant architectural feature of the building and must be conserved. The proposed interface between the acoustic wall and the western parapet and decorative urn is not supported, as it would result in an unacceptable impact on the significance of the heritage item (refer to Figure 24).

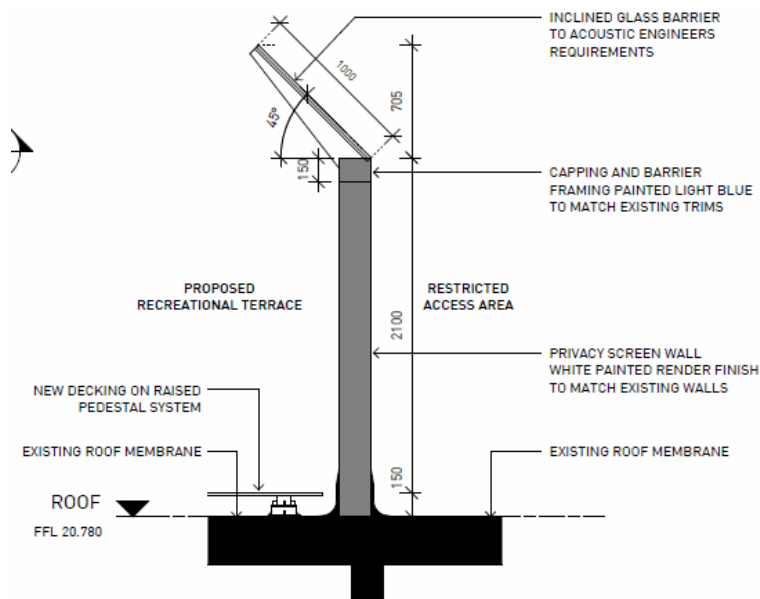


Figure 23: Section of proposed acoustic screen wall



Figure 24: The proposed acoustic screen wall will abut the western parapet immediately adjacent to the decorative urn - existing roof top looking south-west

27. In addition, the proposed rooftop fixed umbrellas and the poorly resolved acoustic wall would be visible from Sir John Young Crescent and The Domain. These elements do not complement the heritage item due to their height, scale, and prominent location, and would detract from the building's historic character and visual presentation.

28. As such, the proposal is not supported as it is inconsistent with Section 3.9.5 of the Sydney DCP 2012, which requires development to protect the heritage significance of heritage items. The proposed acoustic wall and rooftop structures would adversely impact significant heritage fabric and visually compromise the historic parapet of the building. The proposal does not comply with Clause 5.10 of Sydney LEP 2012 and fails to achieve design excellence under Clause 6.21C of the LEP, as the proposed rooftop elements are not sympathetic to the heritage item or its setting and would diminish its appearance when viewed from the public domain.

Acoustic

29. The proposal is accompanied by an acoustic assessment dated 18 December 2025, together with an acoustic response to submissions prepared by Pulse White Noise Acoustics.
30. The acoustic report includes a proposed acoustic screen wall (refer Figure 23 above). The proposed interface of the acoustic screen to the western parapet and the decorative urn is not supported on heritage and design excellence grounds. Any amendment to the acoustic screen to address heritage and design concerns would alter the form, height, or extent of the screen and, as a result, may invalidate or affect the outcomes and conclusions of the submitted acoustic assessment. Accordingly, the acoustic impacts of the proposal cannot be adequately resolved or supported based on the current application.

Inadequate noise monitoring location

31. The acoustic assessment relies on previously completed noise logging undertaken by Renzo Tonin, as documented in the report 50–58 Sir John Young Crescent, Woolloomooloo – Use of Rooftop Terrace dated 6 December 2024 (which was submitted in the previously withdrawn application (D/2025/268)). However, the noise monitoring conducted by Renzo Tonin is not considered appropriate, as the noise logger is located on the north east side of the rooftop (refer to Figure 25).
32. The applicant argues that the noise logger location, including a position to the east of the rooftop, is representative of potential noise impacts, noting that the most affected receivers are multi-storey residential buildings to the south. The applicant further submits that eastern residential receivers are already influenced by traffic noise from Sir John Young Crescent and Crown Street, and that the rooftop logging location is set back from these roads, reducing traffic noise interference.
33. Further, noise-sensitive receivers are located at lower levels, and receivers on one side of the proposed development are shielded from the higher noise exposure experienced at the monitoring location. As a result, background noise levels at street level are expected to be lower at these locations.
34. The report has not provided a comparison of long-term monitoring data with attended measurements undertaken during the same or comparable time periods, nor has it included new long-term background monitoring at a more representative and quieter location.

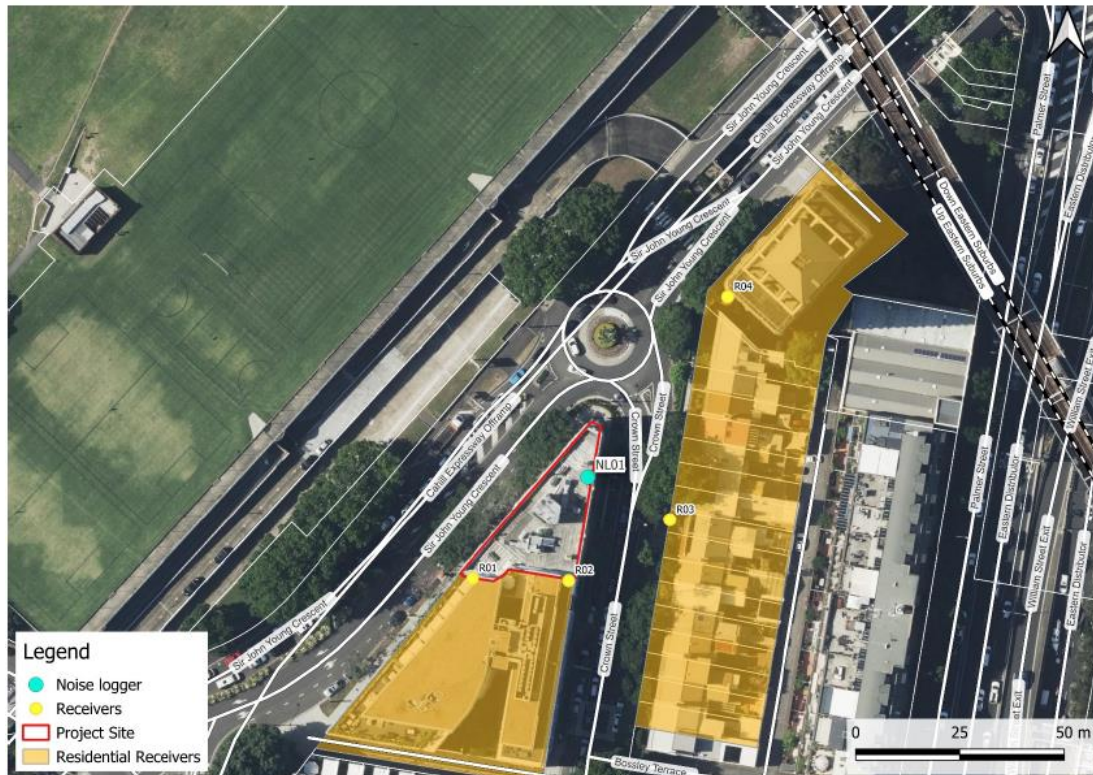


Figure 25: Measurement locations and surrounding receivers

Assessment of Cumulative Noise Impact

35. The assessment considers only noise generated by the operation of the rooftop space and does not include noise from the ground-floor café, which provides entertainment and will generate entertainment noise. The report therefore fails to assess all entertainment noise from the premises, including both current and future patron noise and any music associated with ground-level operations.
36. In the applicant's acoustic response to comments, it is contended that the café operates entirely within the building, with approved hours of operation from 8:00 am to 10:00 pm, Monday to Sunday. The café is located on the ground floor and is separated from the rooftop by approximately 3 storeys, providing substantial distance between potential noise sources. It is also situated near major roads, including Sir John Young Crescent and Crown Street, where higher ambient traffic noise levels prevail. On this basis, the applicant asserts that, with approved internal and external seating and compliance with existing and proposed mitigation measures, cumulative noise from the café and rooftop would comply with relevant noise criteria.
37. However, this justification is not supported by Council's Environmental Health Unit. The assessment has not included the café in the cumulative assessment as has been previously requested. Accordingly, the cumulative noise impacts of the proposal remain unresolved.

Outdoor communal area

38. Section 4.4.8 of the Sydney DCP 2012 contains provisions for visitor accommodation, including backpacker accommodation. In particular, Section 4.4.8.4(3)(a) requires communal recreational areas to be provided at a rate of 0.75 sqm per person, based on the maximum number of guests, and Section 4.4.8.4(4)(a) requires that communal outdoor facilities generally be no more than 20% of the total communal recreational area.
39. The submitted SEE states that the existing backpacker accommodation has a capacity of 224 persons and currently provides a total communal recreational area of 127 sqm, comprising 82 sqm of internal space and 45 sqm of external space.
40. Applying the DCP requirement of 0.75 sqm per person, a total of 168 sqm of communal recreational area is required for 224 persons, with a maximum allowable outdoor area of 33.6 sqm (20%). The proposal includes a total rooftop area of 438 sqm, comprising 313 sqm of usable space and 125 sqm of restricted area.
41. The proposal would result in a total outdoor communal area of 358 sqm (being 313 sqm of proposed usable rooftop space plus 45 sqm of existing outdoor space), which exceeds the maximum allowable outdoor area of 33.6 sqm by approximately 113%, contrary to Section 4.4.8.4(4)(a) of the Sydney DCP 2012.
42. Section 4.4.8.4(4)(b) of the DCP requires that the design and location of communal outdoor areas minimise noise impacts to surrounding properties. The design and location of the proposed rooftop communal space is inconsistent with this provision. The proposed rooftop is deemed to be excessive in scale, and the submitted acoustic report does not adequately demonstrate that noise impacts can be adequately mitigated and the use not adversely impact neighbouring properties.
43. Significant concerns are raised in relation to the scale of the proposed rooftop area, as the usable 313 sqm could easily accommodate all 224 occupants or more at any one time. A reduced useable rooftop space would better manage amenity impacts, including noise, improve equitable access outcomes, and minimise heritage and streetscape impacts. Use of a smaller area would also be more appropriate in terms of ongoing operation and self-management of the facility.

Accessibility

44. Section 3.12 Accessible Design of Sydney DCP 2012 provides controls for designs for people with disability for new and existing buildings. Objective (b) requires developments to provide equitable access and facilities for all people to all new development, as well as to upgraded or intensified uses in existing buildings.
45. The application is accompanied by a Performance based Design Brief prepared by Access Matters. The report concludes that, due to existing building layout, heritage considerations and safety constraints, access to the proposed rooftop terrace is provided via stairs only, with the lift terminating at Level 3.

46. The performance solution relies on the use of existing lift accessible common areas within the building, including balcony terraces on Levels 1 and 2 and a ground level lounge to provide equivalent amenity and function to the rooftop terrace. These measures are supported by tactile and braille warning signage at the rooftop stair, and a Plan of Management identifying accessible alternatives and staff assistance. On this basis, the report concludes that the proposal meets the intent of the NCC performance requirements for safe and equitable access to the degree necessary, without unreasonable safety or heritage impacts.
47. The proposal seeks to intensify use of the rooftop, and equitable access should be provided to this space. Reliance on existing internal common areas does not provide access to the rooftop itself and is not considered an equivalent outcome. The site includes an underutilised and oversized lift overrun, which presents an opportunity to extend lift access to the rooftop without resulting in unacceptable heritage impacts. Should use of the rooftop space proceed, equitable access is strongly encouraged, particularly as the amenities proposed for this space are not replicated within the existing small, accessible balcony areas on Level 1 and 2 of the building.

Plan of Management

48. The application is accompanied by a Plan of Management (PoM) prepared by Hamptons Property Services. This PoM is not supported, as it does not provide sufficient or enforceable operational controls to mitigate the potential amenity, safety, and heritage impacts of the proposed rooftop use.
49. In particular, the following concerns are identified:
 - (a) The proposal relies on a staff member attending the outdoor area once per hour to monitor guest behaviour. Given the significant number of submissions received, and the documented history of poor patron management associated with the operation of the premises (refer to compliance history and public submissions), concerns are raised that the capacity of patrons on the rooftop area could easily exceed the nominated 62 person capacity (based on the overall capacity of guests of the premises). The proposed extent of useable area of the rooftop space creates the potential for a large concentration of occupants, which would likely result in unacceptable noise disturbance and adverse amenity impacts for nearby residential receivers.
 - (b) The PoM states that “the outdoor area is not subject to the provisions of the Liquor Act 2007 and the associated regulations”; however, it does not include any clear provisions or prohibitions in respect of the bringing or consumption of alcohol (BYO) within the rooftop area. In the absence of any express alcohol management controls, the proposal fails to demonstrate how alcohol-related noise, behaviour and safety risks would be effectively prevented or managed.
 - (c) The PoM does not contain any information relating to smoking or vaping controls, nor does it set out any drug management or enforcement measures. Given the close proximity of the rooftop to sensitive residential uses, this omission raises concerns regarding smoke drift, odour, public health, and amenity impacts.

- (d) Concerns are raised regarding safety at the rooftop perimeter. While the proposal includes a 1-metre clearance zone between the parapet and fixed tables and umbrellas, the use of loose furniture such as chairs, together with the potential presence of alcohol-affected patrons on the rooftop, may result in the need for an increased balustrade height above the existing parapet. Any such outcome would have adverse impacts on the heritage significance of the building and has not been adequately addressed by the proposal.
- (e) The acoustic report assumes that no more than 50 people will use the rooftop, that use will only occur up to 9:00 pm, and that people will be confined to specific areas, including a maximum of 12 people in the yoga and wellness area. These assumptions would be critical to keeping noise impacts acceptable. If these limits are not strictly enforced then noise levels are likely to be significantly higher, particularly when combined with the above issues.
- (f) The Plan of Management relies heavily on staff checks, signage, booking conditions, and phone calls from staff or managers to control patron behaviour if an issue arises. However, Council has previously received complaints and submissions about poor patron management associated with the operation of the venue (Refer to compliance history and submissions). To date, the operator has not demonstrated that patron behaviour can be effectively managed in line with the controls proposed.

CPTED Design

- 50. Section 3.13 of the Sydney DCP 2012 requires development to provide a safe environment and to minimise opportunities for criminal and anti-social behaviour. The proposal includes a large area identified on the plans as “restricted access area” toward the southern portion of the rooftop, which raises crime prevention through environmental design (CPTED) concerns.
- 51. In practice, this area may not be restricted, as the fire egress door serving the space must remain unlocked and accessible to occupants using the rooftop. While the drawings indicate a defined path between the acoustic wall and the fire stair, there are no physical, visual, or operational measures to prevent residents from entering the broader restricted area. This area is largely concealed behind the acoustic wall, is not capable of passive surveillance from the main rooftop space, and may facilitate anti-social or noisy behaviour with potential impacts on adjoining properties. Although the plans annotate the area as “restricted access area,” the design does not incorporate any effective mechanisms to enforce this restriction. Consequently, the proposal does not adequately address the objectives of Provision (3) of Section 3.13.1 of the Sydney DCP relating to crime prevention through environmental design.

Insufficient information

52. The rooftop terrace is proposed to operate between 7.00 am and 8.00 pm, with extended use until 9.00 pm sought on a trial basis. However, no lighting strategy has been submitted to demonstrate that safe access, circulation, and use of the space can be achieved during evening hours. A detailed lighting plan would be required to identify fixture types, illumination levels (lux), mounting locations, and measures to prevent light spill and glare onto adjoining properties. Accordingly, the proposal is contrary to Section 3.2.8 'External Lighting' of the Sydney DCP 2012, which requires external lighting to minimise light pollution and not adversely reduce the amenity of residents in the locality.

Design Excellence

53. The proposed development fails to exhibit 'design excellence' pursuant to clause 6.21C of the Sydney LEP 2012 for the following reasons:
- (i) The application fails to appropriately address heritage considerations, contrary to Clause 6.21C(2)(d)(iii), as the proposal does not conserve the heritage significance of the heritage item, including its associated fabric; and
 - (ii) The application fails to adequately address environmental noise impacts, contrary to Clause 6.21C(2)(d)(vii), as the submitted acoustic report is deficient and the proposed development is likely to result in unreasonable noise and adverse amenity impacts.

View Impact

54. Concerns were raised in submissions that the proposed development may impact views from the upper apartments within the Luxe Apartments at 62–68 Sir John Young Crescent, particularly the northern views from Unit 51 and Unit 52. To better understand the potential visual impacts of the proposal, a site inspection was undertaken by the assessing officer on 17 March 2026.
55. In assessing the impact of the proposed development on existing views, consideration has been given to the principles of view sharing established by Senior Commissioner Roseth in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140 (*Tenacity*).
56. Unit 51 is located on the top floor of the Luxe Apartments and contains a north and west facing balconies. The apartment enjoys partial harbour views to the north and city views to the west. Figure 26 illustrates the views obtained when standing at the balcony looking north. The proposed acoustic screen generally aligns with the top of the decorative urns along the western parapet of the subject building, and the additional 1-metre-high glazed return angled at approximately 45 degrees sits well below the established harbour viewing corridor. Accordingly, the proposal would not result in any impact on the northerly harbour views from Unit 51, as demonstrated in Figure 26.

57. Unit 52 is located on the sixth floor of the Luxe Apartments and contains 2 balconies: a western balcony that gives city views and partial harbour views to the north, and a central terrace that overlooks the subject rooftop and obtains city views further to the north-west. Figures 27 and 28 show the views obtained when standing at the western balcony and central terrace respectively. The proposal would not obstruct the existing water views when viewed from the western balcony and would have a negligible impact on the city views available from the central terrace.
58. On balance, and having regard for the view-sharing principles in Tenacity, the impact of the proposal on views from Unit 51 and Unit 52 is considered acceptable. Notwithstanding this finding, the application is recommended for refusal for the reasons outlined elsewhere in this report.



Figure 26: Balcony viewed facing north at Unit 51/62-68 Sir John Young Crescent



Figure 27: Western balcony viewed facing north at Unit 52/62-68 Sir John Young Crescent



Figure 28: terrace viewed facing north/west at Unit 52/62-68 Sir John Young Crescent

Consultation

Internal Referrals

59. The application was discussed with Council's:

- (a) Construction and Building Unit
- (b) Environmental Health Unit
- (c) Landscape Unit
- (d) Licenced Premises Unit
- (e) Heritage and Urban Design Unit
- (f) Waste Management Unit

Advertising and Notification

60. In accordance with the City of Sydney Community Participation Plan, the proposed development was notified for a period of 14 days between 2 February 2026 and 17 February 2026. A total of 99 properties were notified and 48 submissions were received (4 in support and 44 objections).

61. The submissions raised the following issues:

- (a) **Issue:** Noise Impact - A significant number of submissions raised concerns regarding noise impacts from the proposed rooftop communal use. Objectors noted that the elevated and open nature of the rooftop would increase noise propagation from conversation, laughter and group activities, particularly during evenings and weekends when background noise levels are lower. Concerns were raised that the proposed operating hours, patron numbers and reliance on behavioural controls would result in unacceptable impacts to nearby residential apartments and adversely affect sleep and amenity.

Response: As discussed in the 'Acoustic' Section above, the noise monitoring location adopted in the assessment is not accepted, and the cumulative noise impacts of all proposed uses on the site, including the café, have not been adequately assessed. In addition, the proposed junction of the acoustic screen to the western parapet and the decorative urn is not supported. Any amendment to the acoustic screen to address heritage and design excellence concerns would likely alter its height, form, or extent and, as a result, may invalidate or affect the outcomes and conclusions of the submitted acoustic assessment. The acoustic report relies heavily on strict operational controls, including maximum patron numbers, defined use areas, and limited hours of operation to maintain acceptable noise levels. Exceedance of these parameters would result in a significant increase in noise impacts. While the PoM relies on staff supervision to enforce these controls, existing complaints relating to site operations indicate that patron behaviour has not been effectively managed to date.

- (b) **Issue:** Compliance and Management Concerns - Numerous submissions referred to existing issues associated with the operation of the backpackers' accommodation, including unmanaged group congregation, noise, antisocial behaviour and limited responsiveness by management to complaints. Submitters expressed a lack of confidence that the proposed Plan of Management would be effectively enforced, noting that the operational measures outlined are similar to those currently in place and perceived as ineffective.

Response: A review of Council's compliance history has confirmed several noise-related complaints (Refer to 'Compliance History' above for further details). The submitted PoM does not contain sufficient or enforceable operational controls to adequately mitigate the amenity, safety and heritage impacts associated with the proposed rooftop use.

- (c) **Issue:** Heritage and visual impacts- A number of submissions raised concerns that the rooftop use may necessitate additional safety measures, such as increased balustrade height or screening, which could detrimentally impact the heritage significance, skyline profile and visual presentation of the building. Concerns were also raised that the proposal would demolish the existing chimney to accommodate the proposed fire stair.

Response: The proposal retains the existing chimney. However, the proposed connection between the acoustic wall and the western parapet and the decorative urn is not supported, as it would result in an unacceptable impact on the significance of the heritage item. In addition, the proposed fixed umbrellas and poorly resolved acoustic wall would be visible from Sir John Young Crescent and The Domain. It is also noted that the proposed fire stair extension would require a box gutter adjacent to the existing parapet. Due to their height, extent and prominent location, these elements would detract from the building's historic character and visual presentation.

- (d) **Issue:** Over-intensification of communal area: Submissions were received stating that the proposal exceeds the maximum 20% control for outdoor space under Sydney DCP 2012.

Response: The proposal provides a total outdoor communal area of 358 sqm (being 313 sqm of proposed usable rooftop space plus 45 sqm of existing outdoor space), which exceeds the maximum allowable outdoor area DCP provision of 33.6 sqm by approximately 113%. This extent of variation is not supported.

- (e) **Issue:** A submission raised concern that the proposal would negatively impact the northern views and outlook from neighbouring apartments to the south.

Response: As discussed in the 'View Impact' section above, the impact of the proposal on views of the neighbouring apartments are considered acceptable.

- (f) **Issue:** Privacy/overlooking - Concerns were raised that the proposed rooftop area would result in direct overlooking of nearby apartments, including balconies and private terraces, leading to a loss of privacy.

Response: The proposed acoustic screen provides a separation distance of approximately 9.5 m to the west and 4.2 m to the east between the usable rooftop area and the southern site boundary. This area is identified as a restricted access area. These separation distances are generally considered acceptable, and it is noted that the north-facing balconies of the adjoining southern apartments also borrowing a degree of visual amenity from the subject site. However, as discussed elsewhere in this report, the effectiveness of the proposed restricted access area is uncertain. The fire egress door serving the rooftop must remain unlocked and freely accessible, which undermines the ability to genuinely restrict access to this area. This raises ongoing concerns regarding amenity and safety impacts.

- (g) **Issue:** Alcohol consumption: Several submissions raised concern that while the premises is not licensed, the proposal does not clearly prohibit the bringing or consumption of alcohol (BYO) on the rooftop. Objectors noted that alcohol consumption is likely to exacerbate noise, antisocial behaviour and safety risks, particularly in an unsupervised rooftop environment.

Response: The PoM states that the rooftop is not subject to the Liquor Act 2007; however, the PoM is considered to be deficient in its current form as it does not clearly prohibit or manage the bringing or consumption of alcohol. This exclusion raises concerns regarding noise, behaviour and safety impacts.

- (h) **Issue:** Safety and security: Submissions raised concerns regarding patron safety at the rooftop perimeter, risks associated with loose furniture, potential for objects to be thrown or dropped from height, and the interaction of alcohol affected patrons with elevated edges. In addition, submitters expressed anxiety about security impacts, including the potential for unauthorised access to neighbouring residential properties and increased concerns by residents entering or exiting their buildings.

Response: Concerns are raised regarding the use of loose furniture as such chairs may create risks of objects falling, or the need to implement an increased balustrade height above the existing parapet (which would have adverse impacts on the heritage significance of the building). The proposal does not adequately address or resolve these risks in its current form.

- (i) **Issue:** Smoking, vaping and drug use - Concerns were raised that the proposed Plan of Management does not adequately address smoking, vaping or drug management. Issues including smoke drift into nearby residences, health impacts, fire risks, and the likelihood of prohibited behaviour occurring without continuous supervision.

Response: The applicant's response to the submissions dated 25 February 2026 states that the proposed rooftop area is a smoke-free area. However, this restriction is not reflected in the submitted Plan of Management, nor does the PoM include any monitoring, enforcement, or compliance measures to ensure smoking or vaping prohibitions are upheld. In addition, the PoM does not address drug use or provide any management or enforcement mechanisms to prevent or respond to such behaviour.

- (j) **Issue:** Potential light pollution - Submissions raised concerns that the use of the rooftop until 9.00 pm would result in light spill into nearby apartments, balconies, and bedrooms. It was noted that the elevated and open nature of the rooftop would make lighting more visible and intrusive, particularly when viewed from adjoining residential properties and the public domain. Concerns were also raised that the proposal lacks detail regarding how light spill and glare would be controlled or minimised.

Response: No lighting strategy has been submitted to demonstrate that safe access, circulation, and use of the space can be achieved during evening hours. The potential impacts of the proposal on neighbouring residential amenity and public domain cannot be adequately assessed.

- (k) **Issue:** Waste Management - Concerns were raised that the inclusion of cooking and communal facilities on the rooftop is not supported by a sufficiently detailed waste management, cleaning or pest control strategy. Submitters noted the potential for rubbish accumulation, odours and vermin impacts affecting surrounding residential properties.

Response: The submitted plans indicate a kitchen with a single sink and no cooking equipment. The proposal was reviewed by Council's Waste Management Unit. In the event that the proposal was supported, a condition could be applied requiring compliance with Council's waste management requirements.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

62. The City of Sydney Development Contributions Plan 2015 does not apply to the site.

Contribution under Section 7.12 of the EP&A Act 1979

63. The Central Sydney Development Contributions Plan 2020 applies to the site. The estimated cost of the development exceeds \$250,000 and is therefore subject to a development contributions levy under the Central Sydney Development Contributions Plan 2020. A condition requiring payment of this levy would be imposed should the application be recommended for approval.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

64. The proposed development involves alterations to an existing building and will result in the creation of less than 60 square metres of additional gross floor area intended for a non-residential purpose. Accordingly, the development is exempt from a Section 7.13 affordable housing contribution under the provisions of the Sydney Local Environmental Plan 2012.

Housing and Productivity Contribution

65. The development is not subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

Relevant Legislation

66. Environmental Planning and Assessment Act 1979.

Conclusion

67. The application has been assessed in accordance with Section 4.15(1) of the Environmental Planning and Assessment Act 1979. The proposed alterations to, and use of, the existing rooftop as an outdoor communal space for the existing backpackers' accommodation are not supported.
68. The applicant has failed to demonstrate, in accordance with Clause 4.6(3) of the Sydney LEP 2012, that compliance with the height development standard is unreasonable or unnecessary, or that there are sufficient environmental planning grounds to justify contravention of Clause 4.3 of the Sydney LEP 2012.
69. The site is a local heritage item. The proposed acoustic wall and rooftop structures would adversely impact significant heritage fabric and visually compromise the historic roofscape. The proposal fails to conserve the heritage significance of the heritage item, including its associated fabric, contrary to Clause 5.10 of the Sydney LEP 2012 and Section 3.9.5 'Heritage Items' of the Sydney DCP 2012.
70. The submitted acoustic report is deficient, and the proposed design of the acoustic wall is not supported. As a result, the proposed development is likely to result in unreasonable noise and amenity impacts, failing to satisfy Section 4.15(1)(b) of the EPA Act and Section 4.2.3.11 'Acoustic Privacy' of the Sydney DCP 2012.
71. The proposed outdoor communal area is excessive and significantly exceeds the maximum permissible outdoor area by approximately 113%, contrary to Section 4.4.8.4 'Additional provisions for backpacker accommodation' (4)(a) of the Sydney DCP 2012, and is not supported.
72. The proposal seeks to intensify the use of the rooftop but fails to provide equitable access to this area, contrary to Section 3.12 'Accessible Design' of the Sydney DCP 2012.
73. The submitted Plan of Management does not provide sufficient or enforceable operational controls to adequately mitigate the potential amenity and safety impacts associated with the proposed rooftop use.
74. The proposal does not include a lighting strategy to demonstrate that safe access, circulation, and use of the space can be achieved during evening hours. The potential impacts of the proposal on neighbouring residential amenity and public domain cannot be adequately assessed.

75. The proposal fails to demonstrate design excellence pursuant to Clause 6.21C of the Sydney LEP 2012, as it does not adequately address heritage considerations, environmental noise impacts, or the integration of landscape design.
76. For the reasons outlined above, the proposed development is not in the public interest and is recommended for refusal.

NICOLA REEVE

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