

Item 4.**Development Application: 14 and 16 Trinity Avenue, Dawes Point - D/2026/298****File Number: D/2026/298****Summary**

Date of submission:	7 April 2026
Applicant:	Aidan Norden
Architect/Designer:	David Selden Design
Owner:	Daniel Tower and Tobias Buchanan
Planning consultant:	GSA Planning
Heritage consultant:	Cracknell and Lonergan Architects
Cost of works:	360,597.16
Zoning:	R1 General Residential. The proposal is for alterations and additions to existing residential dwellings which is permissible with consent in the zone.
Proposal summary:	The subject application seeks consent for alterations and additions to the existing 2 x two-storey terrace dwellings, comprising rear second storey wing additions with internal spiral staircases for access. The terraces are State Heritage listed (SHR 00911) and are located within the State Heritage listed Millers Point heritage conservation area (SHR 00884) and the Millers Point and Dawes Point village precinct (SHR 01682). The application is Integrated Development requiring the approval of Heritage NSW under the Heritage Act 1977. General Terms of Approval were issued by Heritage NSW on 8 July 2026. This application is referred to the Local Planning Panel as the proposal seeks a variation to the existing building height, which is prescribed to be the maximum height permitted as at the commencement of the site-specific provisions of the Millers Point heritage conservation area under the Sydney Local Environmental Plan 2012 for heritage items.

The existing rear additions are 4.01m in height, and the area where the stair is to be installed has an existing height of 8.04m. The proposed rear additions are 6.075m in height, resulting in a height variation of 51.5%. The stair is 9.51m in height, creating a variation of 18%. The proposed variation to the development standard has merit and is supported.

The application was notified for a period of 28 days between 8 April and 7 May 2026. No submissions were received.

The proposal is generally consistent with the relevant objectives and provisions of the Sydney LEP 2012 and the Sydney DCP 2012.

Subject to the recommended conditions at Attachment A, the development application is recommended for approval.

Summary recommendation: The development application is recommended for approval, subject to conditions.

Development controls:

- (i) Environmental Planning and Assessment Act 1979
- (ii) Heritage Act 1977
- (iii) State Environmental Planning Policy (Transport and Infrastructure) 2021
- (iv) State Environmental Planning Policy (Biodiversity and Conservation) 2021
- (v) State Environmental Planning Policy (Sustainability) 2022
- (vi) Sydney Local Environmental Plan 2012
- (vii) Sydney Development Control Plan 2012

Attachments:

- A. Recommended conditions of consent
- B. Selected drawings
- C. Clause 4.6 variation - Height

Recommendation

It is resolved that:

- (A) the variation requested to Clause 6.47(5) 'Millers Point heritage conservation area' in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld
- (B) consent be granted to Development Application Number D/2026/298 subject to the conditions set out in Attachment A to the subject report.

Reasons for recommendation

The application is recommended for approval for the following reasons:

- (A) The development is consistent with the objectives of the R1 General Residential zone.
- (B) The proposed development satisfies the relevant objectives and provisions of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (C) The design of the additions, subject to conditions, responds appropriately to the scale of surrounding buildings.
- (D) Appropriate conditions are to be imposed to ensure the development does not detrimentally impact on the heritage significance of the site.
- (E) The development will not adversely affect the character of the State Heritage listed Millers Point heritage conservation area and the Millers Point and Dawes Point village precinct.
- (F) Having considered the matters in Clause 6.21C of the Sydney LEP 2012, the proposal exhibits design excellence.
- (G) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that the applicant has demonstrated that compliance with the maximum height of a building on land to which 6.47 'Millers Point heritage conservation area' of the Sydney Local Environmental Plan 2012 applies, is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify the contravention of the development standard in accordance with the requirements of Clause 4.6(3) of the Sydney Local Environmental Plan 2012.

Background

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:
 - Departure from Development Standards
2. The development application falls within the category of Departure from Development Standard as the proposed additions contravene the maximum building height permitted under Clause 6.47 'Millers Point heritage conservation area' of the Sydney Local Environmental Plan 2012, by more than 25%.

Site and surrounding development

3. The subject site comprises 2 lots, with a legal description of Lot 1 and Lot 2 in DP 1275148, commonly known as 14 and 16 Trinity Avenue, Dawes Point. The 2 lots are irregular in shape. No. 14 Trinity Avenue has an area of 94.1sqm and 16 Trinity Avenue has an area of 94.7sqm; with a total site area of 188.8sqm.
4. The site has a primary street frontage of 10.28m to Trinity Avenue, and no rear access. The nearest cross street is Lower Fort Street to the immediate north of the site. Levels on the site fall by 7.75m from the rear (east) to Trinity Avenue (west). The site is not identified as being subject to flooding.
5. The site contains a pair of 2-storey Federation terraces constructed of brick, with single storey rear wing additions that are located at level 1 due to the stepped topography of the site. The terraces share a central corridor, leading to courtyards for each property. There is no landscaping within the site.
6. The site forms part of a State Heritage Item known as 'Terrace', comprising 14, 16, 18, 20 and 22 Trinity Avenue, Dawes Point (SHR 00911). The site is located within the State Heritage listed Millers Point heritage conservation area (SHR 00884) and the Millers Point and Dawes Point village precinct (SHR 01682). The site is also locally listed under the Sydney Local Environmental Plan (SLEP) 2012 as 'Terrace group' (I550) and is located in the Millers Point heritage conservation area (C35).
7. The surrounding area is characterised by a mixture of land uses, predominantly being residential in nature. In the immediate vicinity, the site is adjacent to a 2-storey heritage manor used as a single dwelling known as 'Darling House' at 8-12 Trinity Avenue. Further north is a 3-storey residential flat building. To the south are the 2-storey terraces that form part of the heritage group with the subject site, at 18-22 Trinity Avenue. Further south is a small playground. Directly behind the site to the east is the heritage listed item known as 'Sydney Harbour Bridge approaches group', which comprises paved areas adjacent to Bradfield Highway.
8. A site visit was carried out on 13 July 2026. Photos of the site and surrounds are provided below.



Figure 1: Aerial view of site and surrounds



Figure 2: Site (14 and 16 Trinity Avenue) viewed from Trinity Avenue



Figure 3: Rear elevation of subject site, looking back towards Trinity Avenue



Figure 4: Rear elevation of subject site looking east to the railway line above the site



Figure 5: View to the rear of 18 to 22 Trinity Avenue



Figure 6: View to development to the north of the site, including Darling House, and the Harbour Bridge to the right



Figure 7: North (side) elevation of 14 Trinity Avenue



Figure 8: State heritage listed terrace row (including subject site), viewed from Trinity Avenue



Figure 9: Surrounding development to the north, comprising State heritage listed items Darling House (8-12 Trinity Avenue), and a 3-storey residential flat building (30A Lower Fort Street)

History relevant to the development application

Development applications

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

- **D/2020/692** – Development consent was granted on 29 September 2020 for the subdivision of land (14 and 16 Trinity Avenue) into 2 lots.
- The applicant received advice from the Heritage Council of NSW on 4 March 2025 for an additional rear storey for the pair of terraces. Additional information was requested, including fire separation, structural impacts, planting elements, reducing the impact of the lantern, demolition plans, a schedule of conservation works, a heritage impact statement, a visual analysis and potential archaeological impact.
- **PDA/2025/249** – Pre-DA written advice was provided on 3 December 2025 based on the scheme reviewed by the Heritage Council of NSW. In particular, the proposal needed to have regard to the endorsed Conservation Management Plan (CMP) for the terraces, with any non-compliances to be fully justified. The following non-compliances with the CMP were noted.

- The additions were not located within the external areas suitable for possible change as indicated by the CMP and were contrary to its policies relating to new additions and building envelope. This includes changes are not to impact areas and fabric of exceptional/high/moderate significance and the envelopes are not to be increased upwards or outwards.
- The additions would be removing fabric of exceptional and moderate significance and were not considered to be of minor impact to the heritage significance of the terraces.
- The non-compliances were considered to be a major departure from CMP policies, and support on heritage grounds for the proposed additions would be dependent on the views of Heritage NSW.

Amendments

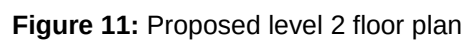
10. Following a preliminary assessment of the proposed development by Council Officers and Heritage NSW, requests for additional information were sent to the applicant on 22 May 2026 and 18 June 2026.
11. Specifically, Council requested additional shadow diagrams depicting correct lot boundaries, and Heritage NSW requested a Visual Impact Assessment and updated Heritage Impact Assessment detailing conservation works. Heritage NSW then requested further amendments to the Visual Impact Assessment.
12. The applicant responded to the request on 26 May 2026 and 1 July 2026, and submitted:
 - (a) a Visual Impact Assessment (as amended)
 - (b) a Heritage Impact Assessment
 - (c) survey plan depicting lot boundaries of adjoining terraces to the south
 - (d) shadow diagrams depicting impact to adjoining terraces to the south.

Proposed development

13. The application seeks consent for alterations and additions to the existing 2x two-storey residential terraces at 14 and 16 Trinity Avenue, including an additional storey at the rear to both terraces. The proposed works involve the following:
 - (a) demolition of the existing roof and rafters of the single storey rear wing additions and part of the metal roof sheets of the main terraces
 - (b) construction of an additional storey to the rear wing additions, including 2x internal spiral staircases at level 1. The new additions are to comprise 1 bedroom, ensuite and rear facing balcony each, and planters along the north, part of the east and along the west boundaries of the new additions. The additions are to be constructed of full height glazing and lightweight zinc cladding
 - (c) new box gutters to main terraces to be installed where the new additions meet the main roof profile.

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- Architectural floor plan of the Proposed Level 1. The plan shows a symmetrical layout with two main wings, each containing a large open area (NO. 14 and NO. 16), a smaller room (NO. 15), and a staircase. A central corridor connects the wings. The plan is surrounded by a site boundary and includes a north arrow. Annotations include: 'New down pipe from new low gutter', 'New spiral stair to Level 2', 'Overhead line of proposed road 3', 'New spiral stair to Level 2', and 'New spiral stair to Level 2'. A scale bar is provided at the bottom left.

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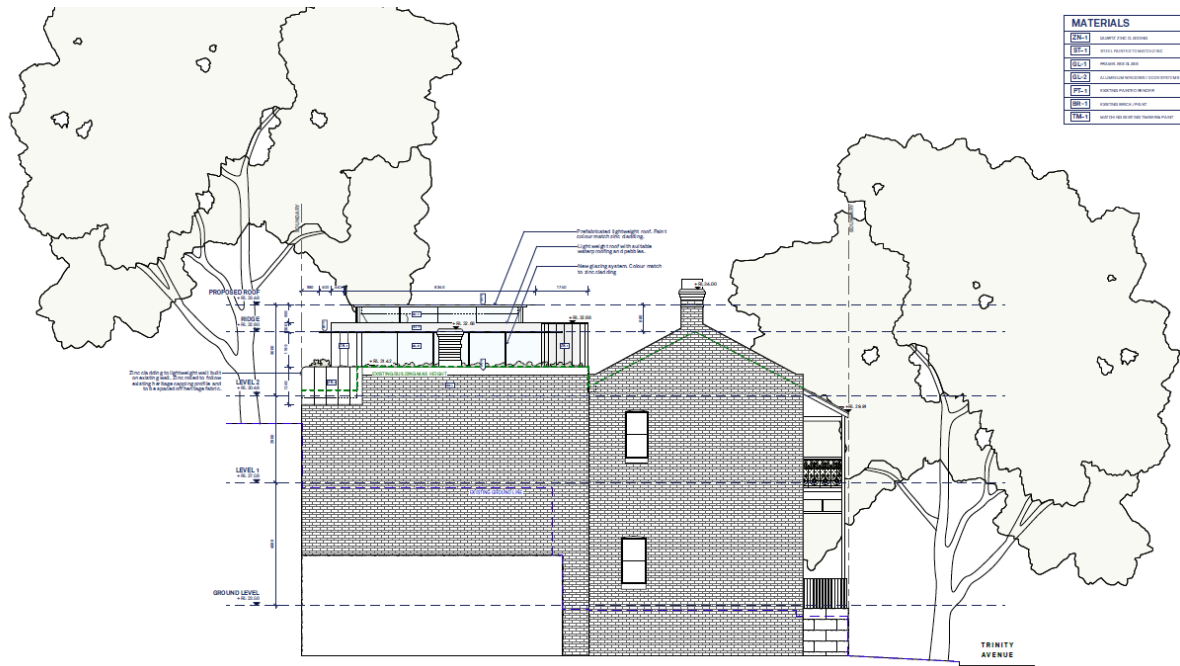


Figure 13: Proposed north elevation



Figure 14: Proposed east (Trinity Avenue - left) and west (rear - right) elevations

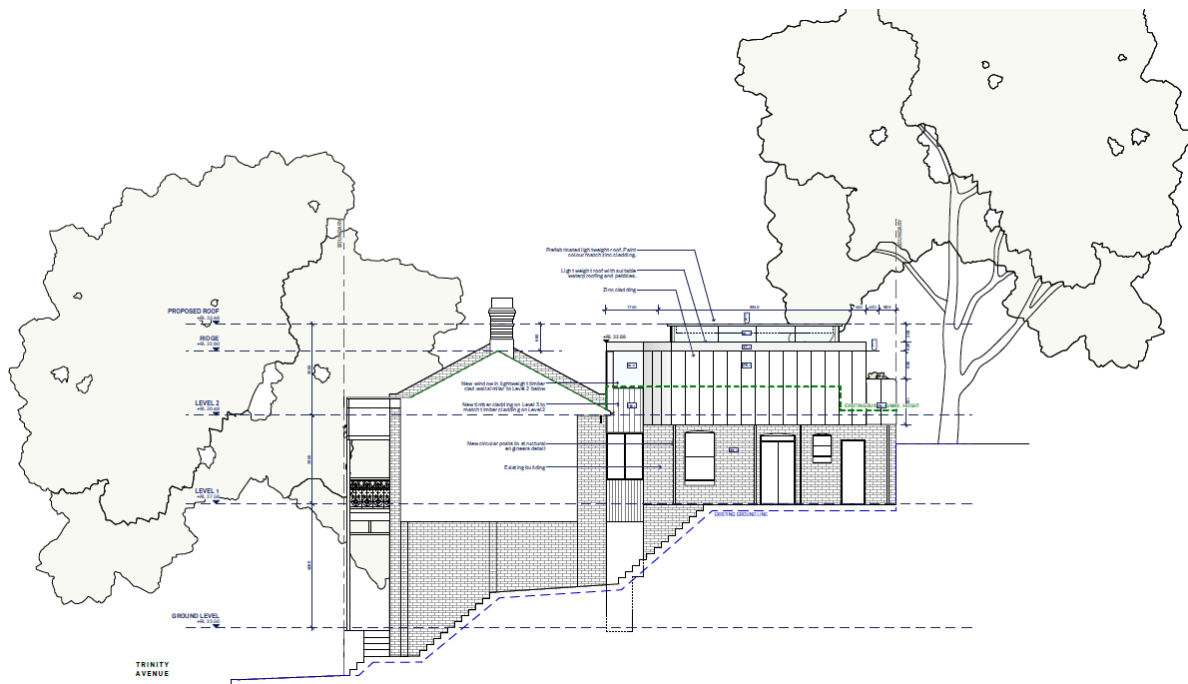


Figure 15: Proposed section AA

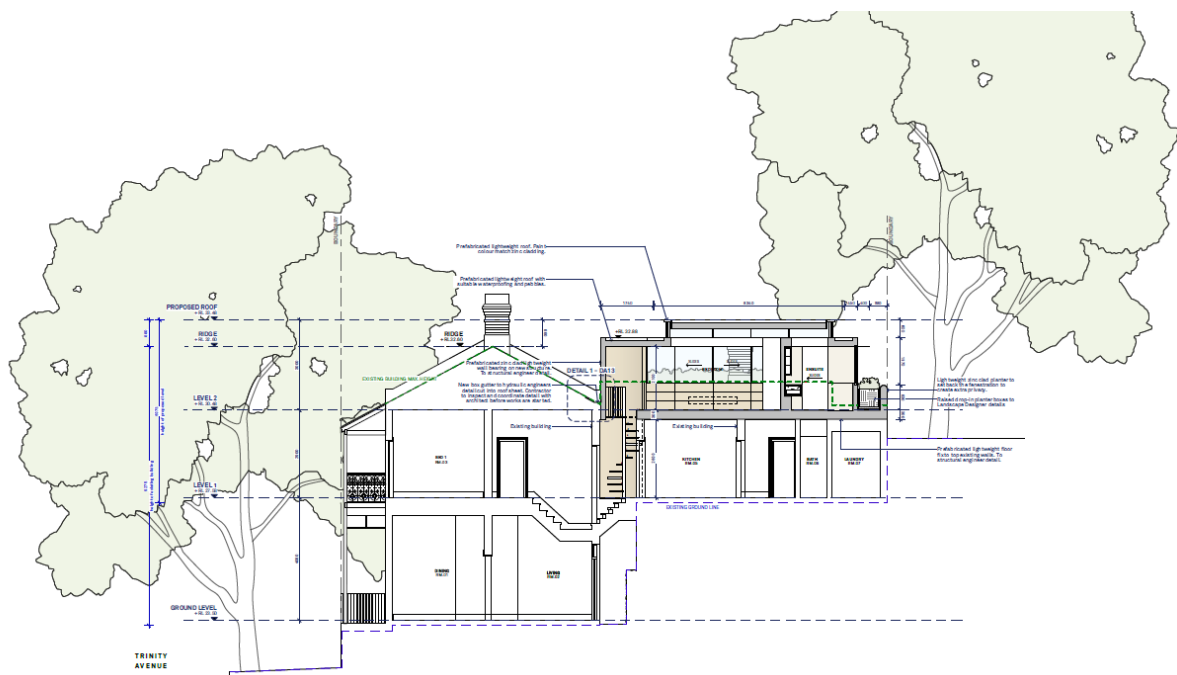


Figure 16: Proposed section BB

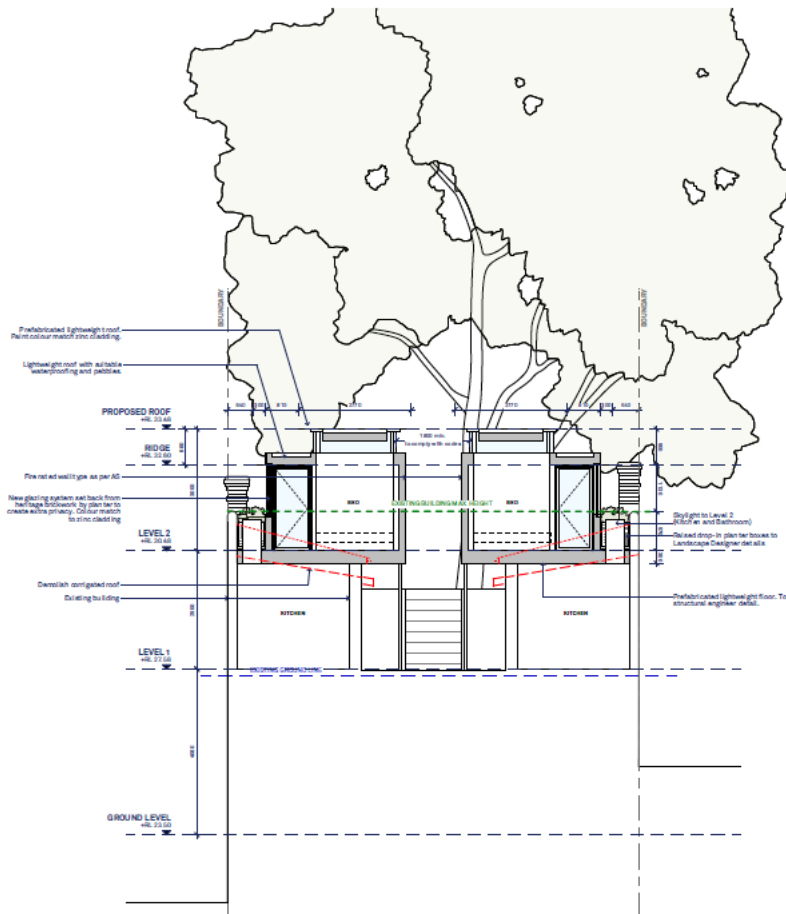


Figure 17: Proposed section CC

Assessment

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

Heritage Act 1977

19. The subject site forms part of an item known as 'Terrace' on the State Heritage Register under the Heritage Act 1977 (SHR 00911) and is located within the Millers Point heritage conservation area (SHR 00884) and the Millers Point and Dawes Point village precinct (SHR 01682).
20. An endorsed Conservation Management Plan prepared by Lucas Stapleton Johnson and Partners Pty Ltd and dated 1 March 2017, applies to the site.
21. As Integrated Development requiring approval under the Heritage Act 1977, a copy of the application was referred to the Heritage Council on 10 April 2026 in accordance with Clause 66 of the Environmental Planning and Assessment Regulation 2000. In correspondence dated 18 May 2026, the NSW Heritage Council was advised that the exhibition period had been completed and no submissions were received.

22. On 8 July 2026, the Heritage Council of NSW issued the General Terms of Approval subject to recommended standard conditions which are included in the Notice of Determination.

State Environmental Planning Policies

State Environmental Planning Policy (Transport and Infrastructure) 2021

23. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

Division 15, Subdivision 2: Development in or adjacent to rail corridors and interim rail corridors

Clause 2.98 – Excavation in, above, below or adjacent to rail corridors

24. The application is adjacent to a heavy rail corridor and was subsequently referred to Transport for NSW (TfNSW) as delegate for Sydney Trains for comment. TfNSW have recommended conditions which are included in the Notice of Determination.

Clause 2.100 - Impact of rail noise or vibration on non-rail development and Clause 2.120 - Impact of road noise or vibration on non-road development

25. A consideration of rail noise or vibration and road noise or vibration on the residential accommodation is required by these sections of the legislation. These are not a referral or concurrence requirement.
26. If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—
- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10.00 pm and 7.00 am,
 - (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.
27. The proposed development consists of an addition to existing residential dwellings (that are considered 'residential accommodation') that are within proximity to the Bradfield Highway (Sydney Harbour Bridge) and the heavy rail corridor of the north shore line. It is noted that there is an elevated buffer between the site and the rail corridor located approximately 12m from the rear boundary of the site comprising paved areas. The rail land adjoining the site to the east is higher than the roof of the subject building, and the train line itself is 27.5m from the site's rear boundary, which is also higher than the subject buildings. It is separated by a bike lane and sits atop an infill (solid) structure that absorbs train and traffic noise. These elements in combination limit the noise impact to the site, so complying with the abovementioned noise criteria is considered achievable with appropriate noise attenuation measures including double glazing and insulation. It is important to note, that the windows serving the bedrooms on the top floor are oriented at right angles to the noise source and set behind the ensuite which also would buffer noise. A condition is recommended requiring compliance with the acoustic standards.

28. Accordingly, the continued residential use is considered acceptable in respect to rail and traffic noise, and no further building upgrades are required to the State Heritage Items to mitigate against noise impacts are considered warranted in this instance.

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

29. 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.
30. 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.

State Environmental Planning Policy (Sustainable Buildings) 2022

31. 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

32. BASIX Certificates for both properties (A1837109_02 and A1837110_02) have been submitted with the development application.
33. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A condition of consent is recommended ensuring the measures detailed in the BASIX certificate are implemented.

Local Environmental Plans

Sydney Local Environmental Plan 2012

34. 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 R1 General Residential zone. The proposed development is defined as alterations and additions to residential dwellings 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	The site is identified in 'Area 10' on the Height of Buildings Map. In accordance with Clause 6.47 of the Sydney LEP 2012, the maximum height of a building that is a heritage item is the height of the building on the land as at the commencement of this clause. The existing rear additions are 4.01m in height, and the area where the stair is to be installed has an existing height of 8.04m. The proposed rear additions are 6.075m in height, resulting in a height variation of 51.5%. The stair is 9.51m in height, creating a variation of 18%. A 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	The site is identified in 'Area 11' of the Floor Space Ratio Map. Clause 6.47 of the Sydney LEP 2012 does not specify a maximum FSR development standard for development that affects a heritage item. As reference, the maximum FSR relevant to development affecting a building that is not a heritage item is 2:1. The proposal results in a GFA of 95.3sqm, and FSR of 1.01:1 for 14 Trinity Avenue; and a GFA of 101.7sqm and an FSR of 1.07:1 for 16 Trinity Avenue. Combined, the sites have an FSR of 1.04:1.

Provision	Compliance	Comment
4.6 Exceptions to development standards	Yes	The proposed development seeks to vary the development standard prescribed under Clause 6.47 'Millers Point heritage conservation area'. A Clause 4.6 variation request has 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 subject site forms part of an item known as 'Terrace' on the State Heritage Register under the Heritage Act 1977 (SHR 00911) and is located within the Millers Point heritage conservation area (SHR 00884) and the Millers Point and Dawes Point village precinct (SHR 01682). The proposed development will not have unacceptable impacts on the significance of the heritage items. See further details in the 'Discussion' section below.
5.21 Flood planning	Yes	The site is not identified as being subject to flooding.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	Yes	The proposed development is of a high standard and uses materials and detailing which are compatible with the existing development along the street and will contribute positively to the character of the area. The development achieves the principle of ecologically sustainable development and has an acceptable environmental

Provision	Compliance	Comment
		impact with regard to the amenity of the surrounding area and future occupants. The development therefore achieves design excellence.
Division 5 Site specific provisions		
6.47 Millers Point heritage conservation area	Yes	The proposed development has an acceptable impact on the built form significance of the Millers Point heritage conservation area; and on the built form, fabric and heritage significance of the subject site and neighbouring heritage items. The endorsed conservation management plan has been considered in the assessment of this application, and the new additions are considered to have an acceptable impact as the heritage values of the terraces are largely retained. See Discussion section.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.4 Dwelling houses, attached dwellings and semi-detached dwellings	Yes	A maximum of 4 car parking spaces are permitted. The proposed development does not propose any car parking spaces, which complies with the relevant development standards.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils. The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan.

Development Control Plans

Sydney Development Control Plan 2012

35. 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

36. The site is located within the Millers Point locality. The proposed development is in keeping with the unique character and the design principles of the Millers Point locality. The proposal retains its fine grain character when viewed within the streetscape, with the additions confined to the rear. The new additions are below the existing height of the terraces and respond appropriately to the heritage items, respecting the overall scale and form of the existing dwellings.

Section 3 – General Provisions

Provision	Compliance	Comment
3.5 Urban Ecology	Yes	The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology. Notwithstanding, standard conditions are recommended to protect an existing street tree and a tree located directly behind the site to the east. Refer to Attachment A.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements. Refer to SEPP (Sustainable Buildings).
3.9 Heritage	Yes	The subject site forms part of an item known as 'Terrace' on the State Heritage Register under the Heritage Act 1977 (SHR 00911) and is located within the Millers Point heritage conservation area (SHR 00884) and the Millers Point and Dawes Point village precinct (SHR 01682). Refer to Discussion section.
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	Yes	A condition is 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

4.1 Single Dwellings, Terraces and Dual Occupancies

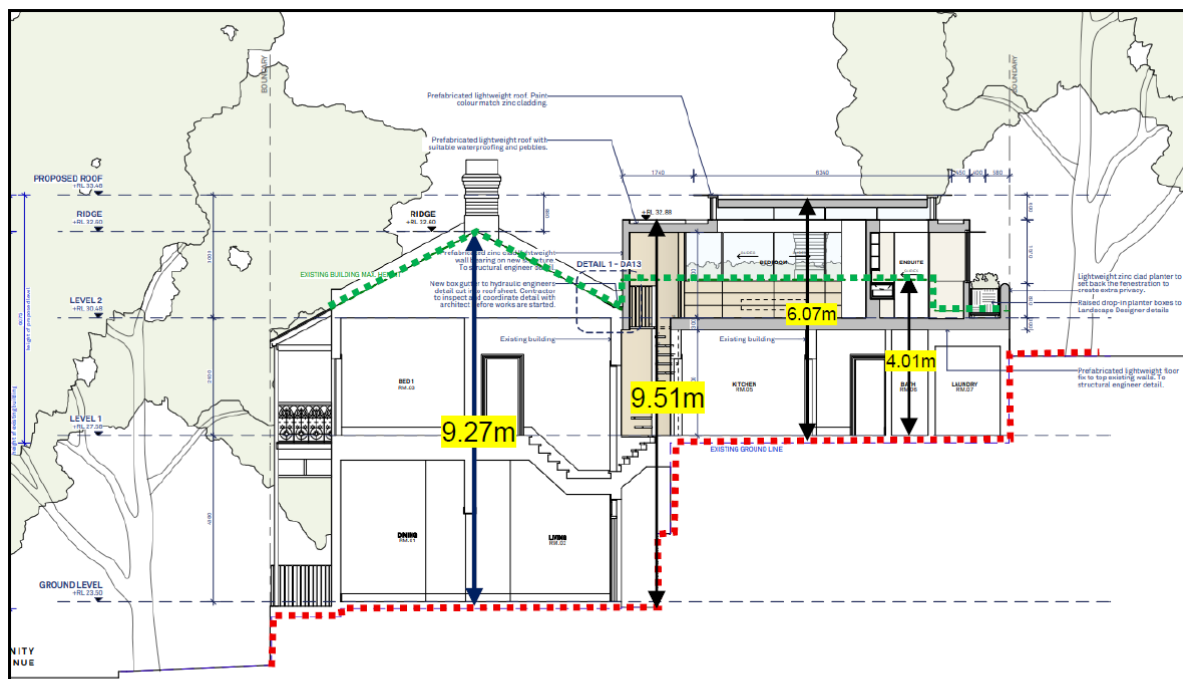
Provision	Compliance	Comment
4.1.1 Building height	Yes	A maximum height in storeys is not prescribed for the site. Notwithstanding, the proposal maintains a 2 storey presentation within the streetscape, with the second floor addition confined to the rear of the site.
4.1.2 Building setbacks	Yes	The proposed development relates to the existing setback patterns along the street and respects the predominant rear building line of the terrace group. The proposed rear additions will not extend beyond the footprint of the existing rear wings.
4.1.3 Residential amenity As demonstrated below, the proposed development will have acceptable residential amenity and will not have unreasonable impacts on the residential amenity of neighbouring properties.		
4.1.3.1 Solar access	Yes	The living areas of the existing dwellings are contained within the ground floor of the main terraces. No. 14 Trinity Avenue has an existing window to the north elevation, that maintains 2 hours of solar access during the winter solstice. No. 16 Trinity Avenue, however, has an angled window to its north elevation that faces the shared stair access in the middle of the site. This window currently does not receive 2 hours' solar access during the winter solstice, and this arrangement is not made worse by the proposal. The development provides a minimum of 2 hours of solar access during the winter solstice to rear private open space facing east, and results in only minor additional overshadowing to the roofs of adjoining terraces to the south.
4.1.3.3 Landscaping	Yes	The proposal involves the installation of planters to the north, east and west boundaries of the site. Conditions are recommended to confirm frequency of manual watering as well as how the terrace planters and roof overflow will

Provision	Compliance	Comment
		connect to the stormwater system. Refer to Attachment A.
4.1.3.4 Deep soil planting	Acceptable	The site is unable to achieve the required 15% canopy cover target due to site constraints, noting that the existing site does not provide any deep soil as it is essentially entirely built upon. Notwithstanding, planters are proposed which are appropriate.
4.1.3.5 Private open space	Acceptable	With consideration to the balcony areas proposed at the rear, as well as the existing balconies at first floor and terrace areas at the rear, 20sqm of private open space is provided to each terrace.
4.1.3.6 Visual privacy	Yes	The proposed additions are setback 940mm from each side boundary, so that there are no direct sightlines into the rear courtyards of adjoining properties. Additionally, the perimeter of the bedroom and bathroom ensuites on the top floor are to be flanked with landscape planter beds that will assist in mitigating overlooking into adjoining neighbours.
4.1.4 Alterations and additions		
4.1.4.1 General	Yes	The proposed development has been designed to minimise alterations to significant building elements. See 'Heritage' discussion below. The proposal generally respects the form, scale and setbacks of the dwellings and the overall terrace row, noting the varied bulk and scale of rear additions across the north and south.
4.1.4.6 Additional storeys	Yes	The additional storey proposed at the rear of the dwellings is located so that it retains the main form of the buildings, and are located behind the ridge line so that they are not readily visible in the streetscape.

Discussion

Contravention of a development standard pursuant to clause 4.6 of the Sydney LEP

37. The site is subject to the site specific controls of Clause 6.47 'Millers Point heritage conservation area' of the Sydney LEP 2012. The site is identified in 'Area 10' on the Height of Buildings Map. In accordance with Clause 6.47, the maximum height of a building that is a heritage item is the height of the building on the land as at the commencement of this clause (at 18 October 2019).
38. The existing rear additions are 4.01m in height, and the area where the spiral staircases are to be installed has an existing height of 8.04m. The proposed rear additions are 6.075m in height. The stairs are 9.51m in height.



Existing Maximum Building Height (green dashed line)

Existing Ground Line (red dashed line)

Figure 18: Proposed section through the development, depicting the existing height plane in green dashed lines, and existing ground level in red dashed lines

39. 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:
- 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;

Applicant's Regulation 35B document

40. The applicant seeks to justify the contravention of Clause 6.47 'Millers Point heritage conservation area' with regard to the existing height of the heritage items 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 proposal retains the principal building form, front façade, principal roof form and overall streetscape presentation to Trinity Avenue, which are the primary contributors to the heritage significance of the heritage item and Millers Point Heritage Conservation Area. The proposed works are limited to the rear wing, ensuring the dominant heritage form and character of the terrace pair and wider streetscape remain unchanged.
 - (ii) The proposal retains the principal building, and limits change to the rear wing, ensuring that the heritage significance of the item is conserved, and that the endorsed conservation management plan has been meaningfully considered in both the design development and assessment of the proposal.
 - (b) That there are sufficient environmental planning grounds to justify contravention of the standard:
 - (i) The proposed works are confined to the rear wing, which comprises non-original fabric of limited heritage significance. The existing non-original rear wing roofs are to be demolished and replaced with a well-integrated second-storey addition that is sympathetic in form, materiality and scale to the existing dwelling. The proposal has been designed to be recessive and subordinate to the principal built form.
 - (ii) The increased height accommodates the second-storey rear wing addition which improves solar access and ventilation to the rear wing through sliding windows, clerestory lights and skylights. Strict compliance with the height control would perpetuate the existing ground-floor rear wing, which has no side or rear openings and has limited solar access and natural ventilation. The proposed design is considered a more efficient use of land and will enhance the overall amenity and functionality of the dwellings.
 - (iii) The additional planting will contribute to this landscape setting, reinforce the garden character of the area, and provide an improved visual and environmental outcome when compared to the current condition of the site.

Precondition to granting consent where a development standard has been contravened

41. 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.
42. The applicant has demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the standard for the following reasons:

- (a) The applicant has demonstrated that the proposed development achieves the objectives of Clause 6.47. With consideration to development in the Millers Point heritage conservation area that is not a heritage item, the permitted height is 9m and FSR is 2:1, The proposal is generally consistent with the permitted height and FSR controls and therefore the desired future character of the locality.
- (b) The proposed additions are to have a lightweight, contemporary appearance to be clearly discernible as new development. The additions have been sited to reduce any impacts on heritage significant fabric and are not readily visible in the heritage streetscape, conserving the principal view and built form of the terraces in the Millers Point heritage conservation area, and as required by the endorsed conservation management plan for the site.
- (c) The proposal does not result in any significant adverse impact upon the site and surrounds as the proposed design is otherwise in accordance with the relevant amenity controls. The rear additions have been designed so that they do not remove solar access to surrounding development at the winter solstice, and setback from the north and south side boundaries to reduce sightlines to neighbouring courtyards and windows.
- (d) The proposal is in keeping with the objectives of the R1 - General Residential zone, as it will provide residential accommodation within an accessible area.
- (e) The proposal is of an appropriate bulk and scale within the context of the site and surrounding development.

Conclusion

- 43. For the reasons provided above the variation to Clause 6.47 'Millers Point heritage conservation area' with regard to the existing height of the heritage items is supported as the applicant has demonstrated the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012.

Heritage

- 44. Clause 6.47(1)(b) 'Millers Point heritage conservation area' of the Sydney LEP 2012 requires any endorsed conservation management plan (CMP) to be considered in the assessment of development that impacts a heritage item in the Millers Point heritage conservation area. Further to this, development consent must not be granted under this clause, unless, amongst other things, the impact on the built form and heritage significance of the heritage conservation area, and the impact on the built form, fabric and heritage significance of the heritage item is considered.
- 45. On 8 July 2026, Heritage NSW issued General Terms of Approval, which are included in the Notice of Determination. The application is considered to have an acceptable impact on the significance of the items of environmental heritage because the heritage values of the terraces are largely retained.
- 46. The applicant has submitted a Heritage Impact Statement with the proposal, which has undertaken a detailed assessment of endorsed Conservation Management Plan (CMP), to address Clause 6.47(1)(b) of the Sydney LEP 2012. In particular:

- (a) The CMP ranks the overall form and configuration of the main and kitchen wing roofs as being of exceptional significance, whilst the roof material itself is ranked as being of moderate significance. The ceilings within the wings have been identified as mid or late century additions, and of little significance. In January 2025 however, the properties suffered extensive water damage due to heavy rains, resulting in the collapse of the roofs of the rear wings. The ceilings and roofing were completely replaced as part of emergency repair works. As such, none of the existing ceilings or roofing materials of the skillion rear wings are original. The proposal seeks to remove the skillion roofs to construct the additional storeys.
 - (b) The new additions have been designed with a 940mm setback on each side to limit impact to the existing views to the site from the streetscape. The existing masonry parapet form visible from the street will be maintained as part of the proposal.
 - (c) The wing additions comprise lightweight materiality and architectural language, situated at the rear of the site behind the retained primary roof form.
 - (d) Although the CMP discourages any upward or outward increases in the envelope, the vertical additions allow for the existing layouts and significant fabric of the houses to be retained. Additionally, no works are proposed to elements of high significance as identified in the CMP.
47. The endorsed CMP also contains a number of priority conservation works, which have largely been carried out except for:
- (a) installation of additional handrails for Building Code of Australia compliance to the first floor front verandah balustrades for both 14 and 16 Trinity Avenue, details of which are to be shown on drawings
 - (b) restoration of the frame and provision of a new door leaf and lock to Door D15 in 14 Trinity Avenue
 - (c) replacement of a flush door and installation of salvaged hardware at Door D7 in 14 Trinity Avenue.
48. As part of the assessment undertaken by Heritage NSW, the applicant confirmed that the above conservation works are within the scope of works for this development application. However, they are not shown on any drawings nor addressed in the General Terms of Approval. Additionally, not all proposed external materials, finishes and colours have been specified and keyed to elevations. It is therefore recommended that a design modification condition be imposed requiring the conservation works and materials to be included in the drawing set submitted to Heritage NSW as part of the Section 60 Heritage Act application.
49. In light of the above and subject to conditions, the proposed development has an acceptable impact on the built form significance of the Millers Point heritage conservation area; and on the built form, fabric and heritage significance of the subject site and neighbouring heritage items, satisfying the objectives of Clause 6.47 of the Sydney LEP 2012.

Consultation

Internal referrals

50. The application was discussed with Council's:
- (a) Heritage and Urban Design Unit
 - (b) Tree Management Unit
 - (c) Landscape officer
 - (d) Tree Management Unit.
51. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Recommended Conditions of Consent, shown at Attachment A to the subject report.

Advertising and notification

52. In accordance with the City of Sydney Community Participation Plan 2025, the proposed development was notified and advertised for a period of 28 days between 8 April 2026 and 7 May 2026. A total of 144 properties were notified and no submissions were received.

Financial contributions

Contribution under Section 7.11 of the EP&A Act 1979

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

Levy under Section 7.12 of the Environmental Planning and Assessment Regulation 2000

54. The Central Sydney Development Contributions Plan 2020 applies to the site. The cost of the development is over \$250,000. The development is therefore subject to a s7.12 contribution under this Plan. A condition relating to this contribution has been included in the recommended conditions. The condition requires the contribution to be paid prior to the issue of a construction certificate.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

55. The site is located within the Residual lands affordable housing contribution area.
56. As the development is development for the purposes of residential accommodation that will result in the creation of less than 200 square metres of gross floor area, the development is excluded and is not subject to a Section 7.13 affordable housing contribution.

Housing and Productivity Contribution

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

58. While the site is located with the Greater Sydney region, the development is not a type of residential development to which the Housing and Productivity Contribution applies.

Relevant legislation

59. Environmental Planning and Assessment Act 1979.
60. Heritage Act 1977.

Conclusion

61. The proposed development is for alterations and additions to the existing 2x two-storey residential dwellings at 14 and 16 Trinity Avenue, Dawes Point, including new rear additions above the existing rear wings to both terraces and the installation of spiral staircases for access. The sites are State Heritage listed and are located within 2 State Heritage listed heritage conservation areas, requiring approval under the Heritage Act 1977 as Integrated Development. General Terms of Approval from Heritage NSW were obtained on 8 July 2026.
62. The proposal generally satisfies the relevant provisions of the City's controls. The development is consistent with the objectives of the R1 General Residential zone.
63. The proposed development is consistent with the objectives of Clause 6.47 'Millers Point heritage conservation area' of the Sydney LEP 2012 despite the variation of the existing building height, which is prescribed to be the maximum height permitted as at the commencement of the site-specific provisions. The consent authority is satisfied that compliance with the development standard in terms of height would be unreasonable and unnecessary in this instance.
64. Subject to the imposition of conditions set out in Attachment A, the proposed development will not result in any unacceptable adverse impacts and will facilitate the continued need for residential accommodation in the locality. Therefore, the proposal is recommended for approval.

ANDREW THOMAS

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