Item 4.

Development Application: 275-277 Clarence Street and 420-424 Kent Street, Sydney - D/2026/304

File Number: D/2026/304

Summary

Date of Submission:	8 April 2026 Amended plans received 20 July 2026 Further amended plans received 14 September 2026 Further amended plans received 22 September 2026
Applicant:	The Trustee for KCSYD Investment Trust
Architect:	Stewart Architecture
Developer:	Revelop Building & Development Pty Ltd
Owner:	KCSYD Pty Ltd & Strata Plan No 17931
Planning Consultant:	Urbis
Heritage Consultant:	Weir Phillips Heritage
Cost of Works:	$55,336,276
Zoning:	SP5 - Metropolitan Centre. The proposed development is permissible with development consent.
Proposal Summary:	Demolition of all structures excluding the former church building, with associated excavation works. Construction of a mixed-use building including through-site link, basement car parking, food and drink premises, an indoor recreation facility and shop top housing, and alterations to the former church building. The application is Integrated Development requiring approval under the Water Management Act 2000.

During assessment the scheme was amended, and additional information was submitted to address the concerns of Council officers. These concerns principally related to:

- basement design
- visual privacy and building separation
- through site link design
- natural ventilation
- acoustic amenity
- architectural expression
- waste
- transport

These issues were addressed by the applicant in the amended plans. The proposal is compliant with all relevant development standards, and, subject to the adoption of the recommended conditions of consent, achieves a satisfactory degree of compliance with the relevant planning controls, and provides an acceptable level of residential amenity for the future occupants.

The proposal was first notified for a period of 28 days between 9 April 2026 and 8 May 2026. During this period the application was amended to be an Integrated Development Application, requiring approval under the Water Management Act 2000.The application was renotified for a period of 28 days between 21 April and 20 May 2026.

Two (2) submissions were received during the formal exhibition period. A further 14 submissions were received outside of the formal exhibition period. The key issues raised in the submissions relate to:

- heritage impacts
- potential loss of entertainment space
- bulk and scale
- construction impacts
- traffic, loading and servicing
- planning processes

Where relevant, issues raised in the submissions have been addressed through conditions of consent.

The amended drawings received following formal exhibition involved refinements to the design that did not warrant re-notification.

As the Capital Investment Value (CIV) exceeds $50M, the application is referred to the Central Sydney Planning Committee for determination.

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

Development Controls:

(i) Sydney Local Environmental Plan 2012 (as amended)

(ii) Sydney Development Control Plan 2012 as amended)

(iii) SEPP (Resilience and Hazards) 2021

(iv) SEPP (Transport and Infrastructure 2021

(v) SEPP (Biodiversity and Conservation) 2021

(vi) SEPP (Housing) 2021

(vii) SEPP (Sustainable Buildings) 2022

Attachments:

A. Recommended Conditions of Consent

B. Selected Drawings

C. Submissions

Recommendation

It is resolved that consent be granted to Development Application Number D/2026/304 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 proposed land uses are permissible with consent within the SP5 Metropolitan Centre zone.

(B) The proposal demonstrates satisfactory compliance with State Environmental Planning Policy (Housing) 2021 and the design criteria of the Apartment Design Guide.

(C) The proposal complies with the height of buildings and floor space ratio development standards.

(D) Subject to the recommended conditions of consent, the proposal is generally consistent with the relevant provisions of the Sydney Development Control Plan 2012. Where variations to the Development Control Plan are approved, the objectives of the provisions are met and impacts are acceptable.

(E) Subject to conditions of consent, the development will not adversely impact the amenity of the locality.

The Site and Surrounding Development

1. The site comprises four parcels of land. The legal description of each is as follows:

   (a) Lot 1 in DP 74422, commonly known as 275 Clarence Street, Sydney

   (b) Lot 1 in DP 67158 (Lot 2-8 in SP 17931 and Lot 9 in SP 20546), commonly known as 277 Clarence Street, Sydney

   (c) Lot 1 in DP 782342, commonly known as 420 Kent Street, Sydney

   (d) Lot 20 in DP 64289, commonly known as 422-424 Kent Street, Sydney

   This report will refer to the sites collectively as 'the site'.

2. The site is irregular in shape with a combined area of 806.9 sqm. It has a primary street frontage of 24.3m to Kent Street and a secondary street frontage of 15.2m to Clarence Street. On the western frontage, the site is located close to the intersection of Kent Street and Druitt Place. On the eastern frontage, the site is located close to the intersection of Clarence Street and Mullins Street. Levels on the site fall by approximately 6m in a westerly direction.

3. Number 275 Clarence Street contains a narrow (4.9m) 3-storey commercial building of masonry construction. A small bar is in the basement, the ground floor is in use as a business premises, and the upper levels are approved for office use.

4. Number 277 Clarence Street contains a 5-storey commercial building of masonry construction with a rendered facade, erected c1930. A car park is located on the lower ground floor, with the upper levels approved for office use.

5. Number 420 Kent street contains a single storey former church (St. John the Evangelist Roman Catholic Church) with a prominent gable, constructed in the Victorian Free Gothic Style, erected c1870. The building is constructed of hand pressed face brick on a sandstone plinth. The approved use is best described as an 'entertainment facility' that has predominantly involved use as a theatre since 1952. As a result, the building is more commonly known as the 'Genesian Theatre'. More recently it has been used as a nightclub, but it is presently vacant. It is a heritage item of local significance 'Former church including interior and front fence' (I1829).

6. Number 422-424 Kent Street contains a 3-storey plus attic commercial building of masonry construction. The ground floor is in use as a retail premises, Level 1 is approved for office use, and Level 2 is approved for use as a recreation facility (indoor).

7. The surrounding area is characterised by a mixture of land uses, primarily being commercial, tourist and visitor accommodation, with some residential uses. More specifically:

   (a) Directly adjoining to the north is 414-418 Kent Street; a 5-storey brick and sandstone commercial office building. The site is a local heritage item no. I1828 described as former warehouse 'Edward Dunlop & Co' including interiors and cart dock.

   (b) Also directly adjoining to the north is 263 Clarence Street; a 13-14 storey postmodern building with ground floor retail and office premises above. The building has a distinct geometric glass facade fronting Clarence Street.

(c) Directly adjoining to the south is 426-430 Kent Street; a 13-storey commercial building with ground floor retail and office premises above. The building has frontages to both Clarence and Kent Streets. It is a local heritage item no. I12276 described as ‘former Grace House warehouse including interiors'. The building is the subject of a recent development consent which involved alterations and additions that increased the number of floors from 9 to 13, with works now largely complete.

(d) To the north-west, on the opposite side of Kent Street, is 439-441 Kent Street; a 4-storey former warehouse building constructed in the Federation Warehouse Style, which is part of a local heritage item no. I1830 described as 'Carla Zampatti Building'.

(e) To the west, on the opposite side of Kent Street and north of Druitt Lane, is 447 Kent Street; an 18-storey postmodern commercial building containing ground floor retail with office premises on the levels above.

(f) To the south-west, on the opposite side of Kent Street and south of Druitt Lane, is 453-463 Kent Street; a six-storey commercial building containing office premises.

(g) To the north-east, on the opposite side of Clarence Street, and north of Mullins Street, is 210-216 Clarence Street; a 10-storey commercial building with a basement bar, ground level business premises uses, and education and office uses on the levels above.

(h) To the east, on the opposite side of Clarence Street, Mullins Street itself is a local heritage item no. I899 described as 'Mullins Street'.

(i) To the east, on the opposite side of Clarence Street, and south of Mullins Street, is 222 Clarence Street; an 8-storey commercial building with a basement bar, ground level retail uses, and predominantly office uses above. The building is a local heritage item no. I1723 described as 'former warehouse facade and external walls'.

(j) To the south-east, on the opposite side of Clarence Street is 230 Clarence Street; a 4-storey former Victorian era former warehouse building containing ground floor retail with office premises above. The building is a local heritage item no. I1724 described as 'former “Trafalgar Square” warehouse including interiors'.

8. A separated cycleway is located directly to the west of the site on the eastern side of the Kent Street carriageway.

9. While 420 Kent Street is a local heritage item, the remaining buildings on the site are not of heritage significance.

10. The site is in Central Sydney within the York Street/Clarence Street/Kent Street Special Character Area, and is identified as being subject to flooding (overland flow along the Clarence Street frontage).

11. A site visit was carried out on 15 April 2026. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Clarence Street

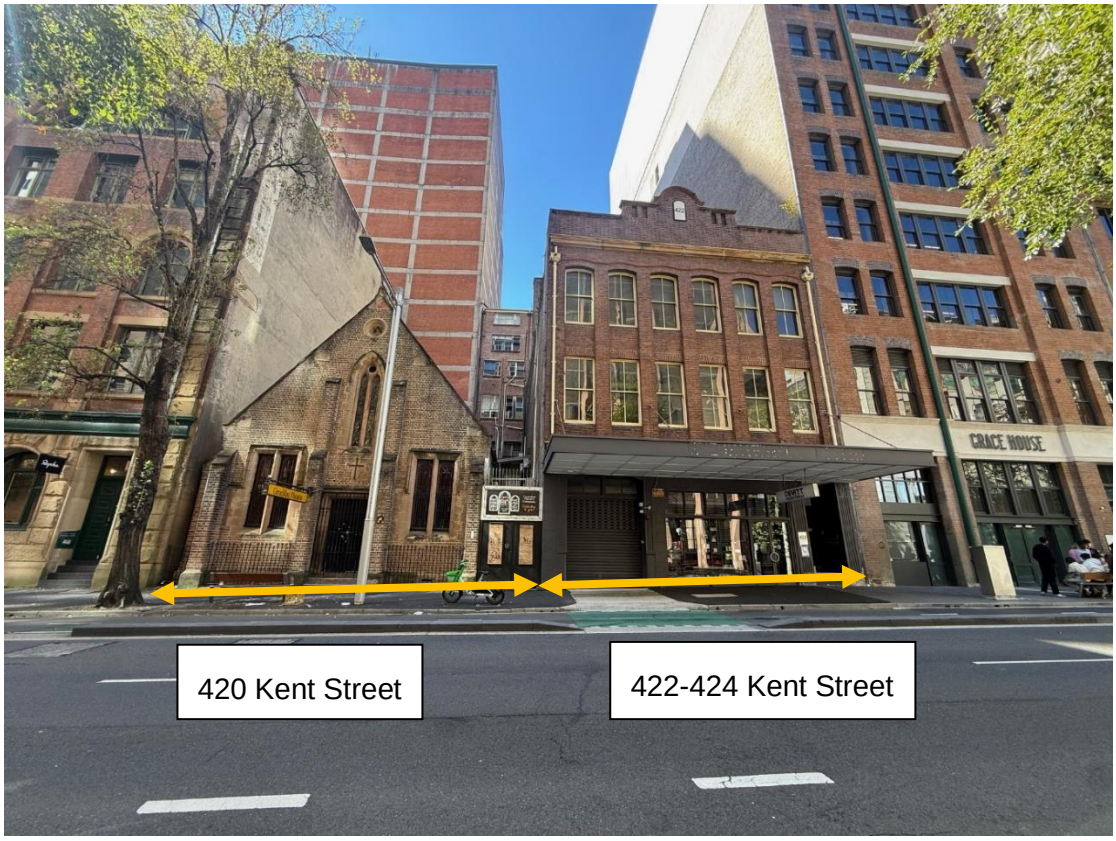


Figure 3: Site viewed from Kent Street



Figure 4: Adjoining development on Clarence Street, looking south-west



Figure 5: Adjoining development on Clarence Street, looking north-west



Figure 6: Development directly opposite on Clarence Street, looking east

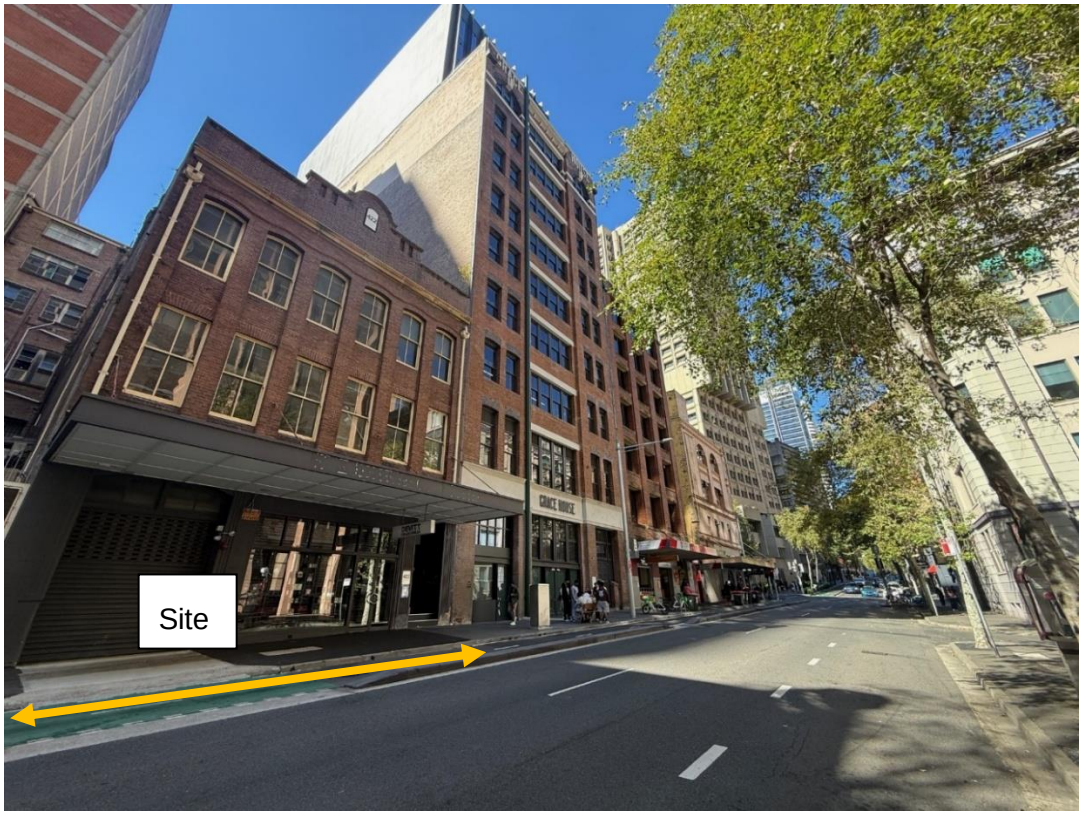


Figure 7: Adjoining development on Kent Street, looking south-east



Figure 8: Adjoining development on Kent Street, looking north-east



Figure 9: Development directly opposite on Kent Street, looking west

History Relevant to the Development Application

Development Applications

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

- **D/2018/1577** – Development consent was granted on 14 November 2019 for refurbishment works to Genesian Theatre, demolition of other structures, excavation for 2 basement levels and construction of a 19-storey development with a maximum height of 60m (RL75.92). The proposal included retail uses on the ground floor, hotel accommodation on upper floors, landscaping and public domain works and a through-site pedestrian link connecting Clarence and Kent Street.

  The consent lapses on 24 November 2026, inclusive of a 2-year extension provided for under the Covid-19 Legislation (Emergency Measures – Miscellaneous) Act 2020 (the Covid Act).

Compliance Action

13. The site has previously been subject to compliance action which is now closed. It is not relevant to the subject application.

Amendments

14. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information and amendments was sent to the applicant on 14 May 2026.

15. The applicant responded to the request on 20 July 2026, and submitted amended architectural plans and supporting documentation.

Proposed Development

16. The proposed development comprises the demolition of existing structures (with retention of the heritage item at 420 Kent Street), excavation, and construction of a mixed-use development incorporating basement parking and services, lower-level food and drink and recreation (indoor) uses, and a residential tower containing 25 apartments above, as follows:

    (a) Demolition and Excavation Works

    - Demolition of all existing structures on the site except the heritage item at 420 Kent Street (Genesian Theatre), including removal of all basements, buildings and services on the remainder of the site.

    - Excavation of the site to a depth of approximately RL 2.01, with no excavation beneath the retained heritage building.

    (b) Construction of Basement Structure

    - Construction of a multi-level basement structure accommodating parking, building services, waste facilities, plant and ancillary commercial uses.

        - Basement Level 2 to Upper Ground Level:

            (i) Vertical car stacker containing 25 vehicle spaces.

        - Basement Level 2:

            (i) Residential waste room
            (ii) Main Switchboard (MSB) room
            (iii) Commercial storage room
            (iv) Cold water pump room
            (v) Communications room
            (vi) Fire stair
            (vii) Lift serving Basement 2 to Upper Ground Level

        - Basement Level 1:

            (i) Fire stair
            (ii) Lift serving Basement 2 to Upper Ground Level
            (iii) Fire pump room
            (iv) Lower level of the proposed food and drink premises (speakeasy) containing:

i. Service area with approximately 53 seats and capacity for standing patrons
ii. Kitchen
iii. Back-of-house areas
iv. Five (5) all-gender WCs including 2 accessible WCs
v. Internal stair connection to the lower ground level above.

- Lower Ground Level (Kent Street):

(i) Fire stair
(ii) Fire storage tank
(iii) Laneway bar fronting the through-site link (described below)

- Mezzanine

(i) Fire stair
(ii) Fire storage tank
(iii) Void over laneway bar and servicing areas

- Construction of Above-Ground Tower containing:

- Lower Ground Level (Kent Street):

(i) Through site link between Kent Street and Clarence Street, including paving and landscaping
(ii) Service bay incorporating SRV turntable
(iii) Commercial waste storage area.
(iv) Upper level of the proposed food and drink premises, comprising:

i. Service area with approximately 25 seats and capacity for standing patrons
ii. Internal stair connection to the basement level below.

(v) Fire stair
(vi) Lift serving Basement 2 to Upper Ground Level
(vii) Water meter
(viii) Booster assembly

- Mezzanine (Kent Street):

(i) Continuation of through-site link including paving and landscaping.
(ii) Fire Stair
(iii) Lift shaft
(iv) Plant rooms

- Upper Ground Level (Clarence Street):

(i) Continuation of through-site link including paving, landscaping and bicycle parking
(ii) Main residential lobby and lift lobby
(iii) Mail room
(iv) Lift serving Basement 2 to Upper Ground Level
(v) Two (2) lifts serving Upper Ground Level to Level 14
(vi) Fire control room
(vii) Bin holding room

(viii) Café / coffee bar tenancy
(ix) Indoor recreational facilities
(x) Outdoor communal terrace
(xi) Commercial bicycle parking (3 bicycles and 3 lockers), 3 WCs (On male, one female, one unisex) and one accessible WC with shower
(xii) Vehicular entry to the car stacker
(xiii) Pedestrian access to the through-site link

- Levels 1 and 2 each:

  (i) Two (2) residential apartments (one 3-bedroom, 2-bathroom, 1-WC, 2-balcony and one 3-bedroom, 3-bathroom, 4-balcony)
  (ii) Residential circulation space (lift lobby and corridors)
  (iii) Two (2) lifts
  (iv) Fire stair
  (v) Waste chutes
  (vi) Services

- Level 3 to 9 each:

  (i) Two (2) residential apartments (one 3-bedroom, 2-bathroom, 1-WC, balcony and one 3-bedroom, 3-bathroom, 3-balcony)
  (ii) Residential circulation space (lift lobby and corridors)
  (iii) Two (2) lifts
  (iv) Fire stair
  (v) Waste chutes
  (vi) Services

- Level 10:

  (i) Two (2) residential apartments (one 3-bedroom, 2-bathroom, 1-WC, 2-balcony and one 3-bedroom, 4-bathroom 2-balcony and private open terrace)
  (ii) Residential circulation space (lift lobby and corridors)
  (iii) Two (2) lifts
  (iv) Fire stair
  (v) Waste chutes
  (vi) Services

- Level 11:

  (i) One (1) residential apartment (3-bedroom, 4-bathroom, 2-balcony)
  (ii) Internal residential communal space (82sqm) comprising:

    i. Open plan area with kitchen
    ii. Gym
    iii. Unisex WC

  (iii) Outdoor residential communal space (88sqm) comprising:

    i. Seating area
    ii. Planters
    iii. Partially enclosable area.

(iv) Residential circulation space (lift lobby and corridors)
(v) Two (2) lifts
(vi) Fire stair
(vii) Waste chutes
(viii) Services

- Level 12:

  (i) One (1) residential apartment (4-bedroom, 4-bathroom, 3-balcony)
  (ii) Residential circulation space
  (iii) Two (2) lifts

- Level 13:

  (i) One (1) single level residential apartment (3-bedroom, 4-bathroom, 2-balcony)
  (ii) The lower level of one (1) split level residential apartment (living areas kitchen, WC and 1 balcony)
  (iii) Residential circulation space
  (iv) Two (2) lifts

- Level 14:

  (i) The upper level of one (1) split level residential apartment (3-bedroom, 2-bathroom)
  (ii) The lower level of one (1) split level residential apartment (4-bedroom, 3-bathroom, 1-WC, living space, private lift accessing both levels of apartment, 2-balcony)
  (iii) Residential circulation space
  (iv) Two (2) lifts

- Level 15:

  (i) The upper level of one (1) split level residential apartment (living areas, 1-WC, private lift accessing both levels of apartment, 2-private open terraces)
  (ii) Lift overrun
  (iii) Rooftop plant
  (iv) Solar array
  (v) Maintenance access

- Roof

  (i) Pitched roof above upper level of apartment below with skylight

- West Elevation – Kent Street

  (i) Heritage item at 420 Kent Street retained
  (ii) Materials to the lower levels of the new building include glazing with aluminium framing, speckled red brick to the first 2 levels with a red brown brick spandrel, and red brick above to the Level 11 parapet.
  (iii) Above the street wall setback, the upper levels of the new building are of lightweight construction including glazed balcony enclosures, metal cladding and louvres.

- East Elevation – Clarence Street

  (i) Materials to the lower levels of the new building include glazing with aluminium framing, red brown brick at the base, speckled red brick to the first-floor level, and red brick above to the Level 10 parapet.
  (ii) Above the street wall setback, the upper levels of the new building are of lightweight construction including glazed balcony enclosures, metal cladding and louvres.

- Works to heritage item (former Genesian Theatre)

  (i) Removal of external non-original items, including stairs, walls and amenity structures.
  (ii) Removal of non-heritage walls, doors and openings associated with later additions are removed.
  (iii) Removal of non-original gates and gate structures.
  (iv) Removal of selected internal elements, including joinery, stage elements, walls, doors and services.
  (v) Existing openings retained and made good.
  (vi) Selected openings infilled or adjusted to match the existing heritage fabric.
  (vii) New doors introduced on southern elevation, detailed to match existing heritage doors.
  (viii) Integration with the proposed through-site link at lower levels.
  (ix) Acoustic treatments to the building as specified in the acoustic report.

17. 3D perspectives of the proposal are provided below. Selected Architectural Drawings are included as Attachment B.



Figure 10: 3D perspective of the proposal, Clarence Street elevation, looking south-west



Figure 11: 3D perspective of the proposal, Kent Street elevation, looking south-east



Figure 12: 3D perspective of the proposal, Kent Street elevation, street level looking east

Assessment

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

State Environmental Planning Policies

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

32. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.

33. Site investigations have identified the site is suitable for the proposed development and that a Remediation Action Plan (RAP) is not required.

34. The Council's Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

State Environmental Planning Policy (Housing) 2021

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

36. Section 7.32 of the EP&A Act and states that where the consent authority is satisfied that the development meets certain criteria, and a Local Environmental Plan authorises an affordable housing condition to be imposed, such a condition should be imposed so that mixed and balanced communities are created.

37. Clause 7.13 (Contribution for purpose of affordable housing) of the Sydney Local Environmental Plan 2012 allows for circumstances where an affordable housing contribution may be levied for development on residual land.

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

Chapter 4 - Design of Residential Apartment Development

39. The aim of Chapter 4 is to improve the design quality of residential apartment development in New South Wales.

40. When determining an application for a residential flat development of 3 or more floors and containing 4 or more apartments, the SEPP requires the consent authority to take into consideration a number of matters relating to design quality, including the design quality principles as set out in Schedule 9.

41. The applicant has submitted a design verification statement and design report prepared by Stewart Architecture with the application, addressing the design quality principles and the objectives of parts 3 and 4 of the Apartment Design Guide. The statement is deemed to satisfy Clause 29 of the Environmental Planning and Assessment Regulation 2021.

42. An assessment of the proposal against the design quality is provided as follows:

(a) Principle 1: Context and Neighbourhood Character

The site is located within the Sydney Central Business District (CBD), in the heart of Global Sydney. The site is within the catchment of Town Hall Train Station, the QVB Sydney Light Rail Station, and the Gadigal Sydney Metro Station. The proposal contributes to the vitality of the CBD, providing a mix of residential, food and drink, and recreation uses.

The development is proposed within the SP5 'Metropolitan Centre' zone and is broadly in accordance with the aims and objectives of the Sydney Local Environmental Plan 2012, and the Sydney Development Control Plan 2012.

(b) Principle 2: Built Form and Scale

The built form and scale of this proposal is consistent with that envisaged in the planning controls contained within the Sydney LEP 2012 and the Sydney DCP 2012.

The street wall height is responsive to the warehouse character of the York Street / Clarence Street / Kent Street Special Character Area, and the proposed overall height of 54.76m respects the 55m height restriction for sites with an area less than 1,000 sqm.

(c) Principle 3: Density

The proposal provides an FSR of 7.712:1, which is less than the base Floor Space Ratio (FSR) of 8:1 applicable to the site. The proposal does not seek accommodation floor space, of which up to 2.5:1 is available. The proposal is well below the potential maximum Gross Floor Area (GFA).

Accordingly, the proposal is considered to provide residential accommodation at an appropriate density.

(d) Principle 4: Sustainability

The proposal is compliant with the requirements of BASIX, and a condition is recommended to ensure that the development complies with the commitments contained within the BASIX certificate.

The proposed development has been designed with all-electric infrastructure, some PV generation allocated to commercial spaces, water efficient fixtures and involves the re-use of an existing building.

The application has provided all required reporting, including BASIX, NatHERS, Section J and embodied carbon reporting. NatHERS modelling has been completed in compliance with technical requirements and detailed plan markings have been submitted.

(e) Principle 5: Landscape

A mix of hard and soft landscaping is proposed, providing opportunities for passive recreation.

(f) Principle 6: Amenity

Compliance with amenity controls is detailed in the below ADG assessment table. In summary, the proposal presents an acceptable level of residential amenity for future occupants

(g) Principle 7: Safety

The proposal is broadly in line with the principles of Crime Prevention through Environmental Design (CPTED).

The development provides new opportunities for passive surveillance of streets and will increase on-street activity. Letterboxes are provided in a secure area.

(h) Principle 8: Housing Diversity and Social Interaction

The proposal provides 25 apartments, (23 x 3 bedroom and 2 x 4 bedroom), providing housing opportunities for larger households. The Sydney Development Control Plan 2012 (SDCP 2012) allows for 100% of apartments to be 3+ bedrooms. The proposal is considered to provide a desirable housing mix, contributing to greater housing choice for larger households within the LGA.

(i) Principle 9: Aesthetics

The proposal was reviewed by Council's Design Advisory Panel (DAP) and in response to their recommendation, amendments were made to the design such that the proposed materials and overall design will positively contribute to the aesthetic qualities of the streetscape. The lower part of the tower, up to the street wall height, is dominated by brick and is considered to be appropriately responsive to the warehouse character of the York Street / Clarence Street / Kent Street Special Character Area. The upper levels are lightweight, recessive and contemporary, which is considered an appropriate design response, ensuring the brick materials of the lower levels prevails within the Special Character Area.

43. The development is acceptable when assessed against the SEPP including the above stated principles and the associated Apartment Design Guide (ADG). These controls are generally replicated within the apartment design controls under the Sydney Development Control Plan 2012. Consequently, compliance with the SEPP generally implies compliance with Council's own controls. A detailed assessment of the proposal against the ADG is provided below.

2E Building Depth	**Consistency**	**Comment**
12-18m (glass to glass)	Yes	The building has a maximum depth of 16.54m

2F Building Separation	**Consistency**	**Comment**
Up to 4 storeys (approximately 12 metres):	Partial	The proposal generally complies, except for bedrooms within eastern apartments on Levels 1 and 2 in the under croft.

2F Building Separation	Consistency	Comment
• 12m between habitable rooms / balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms		These are positioned between 4.2m and 5m from the adjoining boundary of the commercial office building at 263-273 Clarence Street. Similarly, a balcony on Level 3 is positioned 4.2m from the same boundary. 6m would be required for equitable building separation between the 2 sites. This is a minor non-compliance and is acceptable given the bedrooms and balcony are fitted with motorised screens to facilitate privacy.
5 to 8 storeys (approximately 25 metres): • 18m between habitable rooms / balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms	Partial	Apartments on the western side of the building comply, however balconies on levels 4 to 7 servicing the eastern apartments are positioned 4.2m from the adjoining boundary of the commercial office building at 263-273 Clarence Street. 9m would be required for equitable building separation between the 2 sites. This is acceptable given the interface is with a commercial building in a dense urban environment, and bedrooms and balconies are fitted with motorised screens to facilitate privacy.
9 storeys and above (over 25m): • 24m between habitable rooms / balconies • 18m between habitable and non-habitable rooms • 12m between non-habitable rooms	No	The building results in a 10.43m separation between habitable rooms of the western apartments and the adjoining boundary of the commercial office building at 263-273 Clarence Street. 12m would be required for equitable building separation between the 2 sites. This is a minor non-compliance and is acceptable given the rooms are fitted with a motorised screen to facilitate privacy.
At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m.	Yes	The site is not located adjacent to an alternative zone or lower density area.

3D Communal and Public Open Space	Consistency	Comment
Communal open space has a minimum area equal to 25% of the site.	No	An outdoor communal area of 88sqm on Level 11, equivalent to 10.91% of the site area. While the quantum of communal open space does not comply, this is acceptable given the constrained nature of the site. It is noted that all apartments have more than one private balcony, allowing ample opportunities for the residents to benefit from outdoor space Moreover, the outdoor communal space directly adjoins an indoor communal space that is 82 sqm, increasing the utility of the space.
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	No	The proposal does not comply, achieving solar access between 12:00 midday and 1:00pm. The site is constrained in terms of solar access due to the surrounding tall buildings, and the 55m height restriction applying to the site. Sun's eye diagrams demonstrate increased compliance is not practical. The level of direct sunlight achieved is acceptable for this midrise building situated within a highly developed metropolitan urban context. Given the high level of amenity otherwise provided, this non-compliance is not a determinative factor that would warrant refusal of the application.

3E Deep Soil Zones	Consistency	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 3m	No	The Sydney DCP 2012 does not require deep soil. The Apartment Design Guide requirements for deep soil are not a matter which Section 149 of the Housing SEPP identifies as prevailing over a DCP. Accordingly, there is no requirement to provide deep soil.

3F Visual Privacy	Consistency	Comment
Up to 4 storeys (12 metres): • 6m between habitable rooms / balconies • 3m between non-habitable rooms	Yes	The proposal complies; however, a non-compliance could arise if the development to the north was to be redeveloped for residential purposes. The non-compliance is acceptable. Refer to the assessment of the building separation design criteria in the table above.
5 to 8 storeys (25 metres): • 9m between habitable rooms / balconies • 4.5m between non-habitable rooms	Yes	As above.
9 storeys and above (over 25m): • 12m between habitable rooms / balconies • 6m between non-habitable rooms	Yes	As above.
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	Yes	The proposal complies.

4A Solar and Daylight Access	Consistency	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	17 apartments achieve a minimum of 2 hours' direct sunlight between 9am and 3pm at the winter solstice. This is a minor non-compliance which is acceptable in the context of a midrise building situated within a highly developed metropolitan urban context.
Maximum of 15% of apartments in a building receive no direct sunlight	Yes	Two apartments (8%) receive no direct sunlight between 9am and 3pm at the winter solstice.

4A Solar and Daylight Access	Consistency	Comment
between 9am and 3pm at midwinter.		

4B Natural Ventilation	Consistency	Comment
All habitable rooms are naturally ventilated.	Yes	All habitable rooms are naturally ventilated.
Minimum 60% of apartments in the first 9 storeys of the building are naturally cross ventilated.	Yes	All apartments (100%) within the first 9 storeys are naturally cross ventilated.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Partial	All apartments generally comply, except for Apartment 1201 which is a 4-bedroom apartment occupying the entirety of level 12. The apartment has openings to the west, north and east. While there is a glass line to glass line depth of 24.2m measured east to west, there are window openings to the north ensuring airflow throughout the apartment.

4C Ceiling Heights	Consistency	Comment
Habitable rooms: 2.7m	Yes	Ceiling heights of 2.7m are provided for all apartments. Floor to floor heights are 3.2m, meaning that with an expected slab depth of 300mm, services will not result in reduced floor to ceiling heights below 2.7m in habitable rooms.
Non-habitable rooms: 2.4m	Yes	Ceiling heights of 2.7m are provided for all apartments. Floor to floor heights are 3.2m, meaning that with an expected slab depth of 300mm, services will not result in reduced floor to ceiling heights below 2.4m in non-habitable rooms.
2-storey apartments: 2.7m for main living area floor, 2.4m for second floor, where it does not	Yes	Ceiling heights of 2.7m are provided for all apartments.

4C Ceiling Heights	Consistency	Comment
exceed 50% of the apartment area.		
Attic spaces – 1.8m at edge of room with a 30-degree minimum ceiling slope	Yes	No attic spaces are provided.
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	Partial	To Kent Street, the lower ground floor (inclusive of mezzanine) has a floor-to-floor height of 6.05m, and the upper ground level has a floor-to-floor height of 4.2m. The level above this has a floor-to floor height of 3.2m. This means that compliance is achieved on the Kent Street facing side, however the first floor (as it presents to Clarence Street) is not compliant, as a 300mm slab will result in a floor to ceiling height of 2.9m. This is a minor non-compliance that is acceptable.

4D Apartment Size and Layout	Consistency	Comment
Minimum unit sizes: • Studio: 35sqm • 1 bed: 50sqm • 2 bed: 70sqm • 3 bed: 90sqm The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5sqm each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12sqm each.	Yes	All apartments have 3 or 4 bedrooms. All are far in excess of the minimum size requirements. The smallest apartment is 135sqm while the largest is 306sqm.
Every habitable room is to have a window in an external wall with a minimum glass	Yes	The proposal complies.

4D Apartment Size and Layout	Consistency	Comment
area of 10% of the floor area of the room.		
Habitable room depths are to be no more than 2.5 x the ceiling height, or 8m maximum depth for open plan layouts.	Partial	All apartments have open plan layouts. Three apartments (12%) have habitable areas (as defined by the ADG) that are located more than 8m from a window. All these apartments (1002, 1101 and 1302) do not exceed 8.5m in depth. The non-compliance is minor and acceptable.
Minimum area for bedrooms (excluding wardrobes): • master bedroom: 10sqm • all other bedrooms: 9sqm Minimum dimension of any bedroom is 3m (excluding wardrobes).	Yes	All bedrooms comply with the minimum size requirements.
Living and living/dining rooms minimum widths: • Studio and one-bedroom: 3.6m • 2-bedroom or more: 4m	Yes	The proposal generally complies, however there are several non-compliances. Two apartments have a minimum dimension in the living/dining area of 3.7m; however, the overall area of the living/dining area is generous at 30sqm. Eight apartments have a dining room that is 3.2m wide, however this is a standalone dining room partially partitioned from the living room that is 4.6m wide. Given the non-compliance is within a standalone dining area, and there is a compliant living area adjacent, this is not considered to be inconsistent with the room width development standard.
4m minimum width for cross over and cross through apartments.	Yes	The proposal complies.

4E Private Open Space and Balconies	Consistency	Comment
Studio apartments are to have a minimum balcony area of 4sqm with a minimum depth of 1m. One bed apartments are to have a minimum balcony area of 8sqm with a minimum depth of 2m. 2 bed apartments are to have a minimum balcony area of 10sqm with a minimum depth of 2m. 3 bed apartments are to have a minimum balcony area of 12sqm with a minimum depth of 2.4m.	Partial	The ADG requires a minimum principal balcony area of 12m² for apartments. Of the proposed apartments, 8 units (32%) do not comply with this requirement, each providing a principal balcony of 10m². The SDCP 2012 requires at least 75% of apartments to be provided with balconies and specifies a minimum balcony size of 10m² for upper-level apartments. While the proposal complies with the relevant DCP provisions, the ADG controls prevail over any inconsistent DCP requirements pursuant to Section 149 of the Housing SEPP. Notwithstanding this, the ADG balcony provisions are not identified as non-discretionary development standards under Section 148 of the Housing SEPP. As such, a degree of planning discretion may be exercised when assessing variations to these controls. The proposed variation is considered acceptable given its minor nature, with the affected balconies providing a usable outdoor area consistent with the minimum size prescribed by the Sydney DCP 2012. The variation is further offset by the generous internal living areas of the affected apartments, which ensure a high level of residential amenity is maintained. Accordingly, the proposal is considered to achieve the underlying objectives of Section 4E of the ADG despite the numerical non-compliance.
Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15sqm and a minimum depth of 3m.	Yes	There are no ground or podium level apartments.

4F Common Circulation and Spaces	Consistency	Comment
The maximum number of apartments off a circulation core on a single level is 8.	Yes	The maximum number of apartments sharing circulation from a core is 2.
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Yes	The proposal provides 25 apartments sharing 2 lifts.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	No living spaces open to common circulation spaces.
Daylight and natural ventilation are provided to all common circulation spaces.	No	The corridors do not receive natural light. This is acceptable given the constrained nature of the site necessitates the core being centrally located and adjacent to the side boundary. Further, doors to all apartments are immediately adjacent to the lifts, minimising dwell times within circulation spaces.

4G Storage	Consistency	Comment
Minimum storage provision facilities: • Studio: $4m^3$ • 1 bed: $6m^3$ • 2 bed: $8m^3$ • 3 bed: $10m^3$ (Minimum 50% storage area located within unit)	Yes	All apartments are furnished with compliant storage space within the apartments.

4J Noise and Pollution	Consistency	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	The proposal includes supporting documentation that demonstrates internal noise criteria can be achieved whilst simultaneously providing natural ventilation. This is achieved through acoustic treatments to balconies, and low-level window openings that are shielded from noise by the balcony balustrades.

State Environmental Planning Policy (Sustainable Buildings) 2022

44. 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

45. A BASIX Certificate (1839412M_03) has been submitted with the development application.

46. 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.

State Environmental Planning Policy (Transport and Infrastructure) 2021

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

Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network

Clause 2.48 Determination of development applications – other development

48. The application is subject to Clause 2.48 of the SEPP as the development involves the penetration of ground within 2m of an underground electricity power line.

49. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised.

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

Clause 2.99 – Excavation in, above, below or adjacent to rail corridors

50. The application is adjacent to the CBD rail link rail corridor and was subsequently referred to Transport for NSW for concurrence. Transport for NSW have provided concurrence, and recommended conditions which are included in the Notice of Determination.

Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations

Clause 2.100 – Impact of rail noise or vibration on non-rail development

51. The application is subject to Clause 2.100 of the SEPP as the site is adjacent to the CBD rail link corridor and the development is likely to be adversely affected by rail noise or vibration.

52. An acoustic report has been submitted with the application that addresses Clause 2.100 and concludes that rail noise and vibration impacts are unlikely to occur.

53. However, the assessment is largely qualitative and is not supported by detailed vibration or ground-borne noise modelling. The report is sufficient to empower the consent authority to grant consent to the application; however, a condition of consent is recommended requiring an addendum to the acoustic report, demonstrating how compliance with rail noise and vibration criteria will be achieved, is to be submitted and approved prior to the issue of a construction certificate.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 (Vegetation in Non-Rural Areas) 2017

54. The proposal includes the clearing of vegetation (one street tree) in a non-rural area and as such is subject to this SEPP.

55. Council's Tree Management Unit have reviewed the proposal and have advised that the replacement of the street tree is acceptable in the circumstances of the case. The tree is juvenile, and its retention would prevent vehicular access to the site. Alternative driveway locations have been considered, and all require replanning of the building core, which renders the site undevelopable on this narrow site.

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

56. 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.

57. The site is within the Darling 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

58. 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 SP5 Metropolitan Centre zone. The proposed development is defined as food and drink premises, recreation facility (indoor) and shop top housing and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	A maximum building height of 60m is permitted; however, as the site is less than 1,000sqm, the maximum height is limited to 55m as per subclause (4) of Clause 6.16 'Erection of tall buildings in Central Sydney'. A height of 54.76m is proposed. The proposed development complies with the maximum height of buildings development standard.

Provision	Compliance	Comment
4.4 Floor space ratio	Yes	A maximum Floor Space Ratio (FSR) of 8:1 equivalent to a Gross Floor Area (GFA) of 6,455.2sqm is permitted. The applicant states that a GFA of 6,157 is proposed which equates to an FSR of 7.63:1. The applicant has incorrectly excluded 3 screened balconies (30sqm total - see below), and the enclosable part of the outdoor communal space on Level 11 (36sqm). Despite this, City staff calculate the GFA to be 6,223sqm, which equates to an FSR of 7.712:1. The proposal complies.
4.5A Balconies on certain residential flat buildings	Partial compliance	The applicant identifies 10 balconies as above 30m as being wind affected balconies and therefore excluded from the definition of GFA. Three balconies do not meet this definition as they are not located above a podium, which is prerequisite (2)(b). This results in an additional 30sqm of GFA. The proposal remains compliant with the FSR development standard.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	The site contains a heritage item of local significance 'Former church including interior and front fence' (I1829), at 420 Kent Street. The site is adjacent to local heritage item no. I1828 described as former warehouse 'Edward Dunlop & Co' including interiors and cart dock to the north. It is also adjacent to local heritage item no. I12276 described as ‘former Grace House warehouse including interiors' to the south. The proposed development will not have a detrimental impact on the heritage

Provision	Compliance	Comment
		significance of the heritage item, nor the adjoining heritage items. See further details in the 'Discussion' section below.
5.21 Flood planning	Yes	The site is identified as being subject to flooding (overland flow along Clarence Street). A Flood Impact Risk Assessment has been submitted with the application. Infrastructure Services - Water Assets have reviewed the report, and advise it appropriately identifies and recommends flood planning levels that are consistent with, and compliant with, the City of Sydney's Interim Floodplain Management Policy. Key points of the proposal incorporate raised crests to the PMF level, including the entry to the car stacker and the through site link leading to Kent Street. No adverse flood impacts are anticipated, subject to the development being constructed in accordance with the recommended flood planning levels. Conditions of consent are recommended accordingly.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.16 'Erection of tall buildings in Central Sydney'.	Yes	As the site is less than 1,000sqm, the maximum height is limited to 55m. A height of 54.76m is proposed.
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

Provision	Compliance	Comment
		and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. The development therefore achieves design excellence.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.3 Car parking spaces not to exceed maximum set out in this Division	Yes	A maximum of 27 car parking spaces is permitted (see below). The proposed development includes 25 car parking spaces and complies with the relevant development standards.
7.5 Residential flat buildings, dual occupancies and multi dwelling housing	Yes	A maximum of 25 residential car parking spaces is permitted.
7.7 Retail premises	Yes	A maximum of 2 retail car parking spaces is permitted.
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	Yes	The proposal is situated on land within Central Sydney and the development involves the demolition of existing floor area and the subsequent creation of more than 100 sqm of gross floor area. The development attracts a levy of 3% of the total floor area of the development that is intended to be used for residential purposes and 1% of the total floor area of the development that is not intended to be used for residential purposes. See further details in the ‘Financial Contributions’ section below.

Provision	Compliance	Comment
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils (ASS). The site is within 500m of adjacent Class 2 ASS. A Detailed Site Investigation has been submitted which concludes that an ASS Management Plan is not required.
7.26 Public art	Partial compliance	A preliminary public art plan has been submitted which generally satisfies the requirements of the City's Interim Guidelines for Public Art in Private Development. In addition to the standard Public Art condition, a further condition is recommended requiring the preliminary public art plan to be updated to expand on the artist selection and note the City's Principles of Cooperation with the Metropolitan Local Aboriginal Land Council, prior to the preparation of the detailed public art plan.

Development Control Plans

Sydney Development Control Plan 2012

59. 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

60. The site is located within the York Street Special Character Area including Clarence Street and Kent Street. The proposed development is in keeping with the unique character and the design principles of the Special Character Area. Specifically, the street wall height is responsive to neighbouring buildings, the proposed materials respond to the prevailing warehouse character, and the heritage item on site is conserved.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	Partial compliance	While a through-site link is proposed, there is no strict requirement for one to be provided on this site. It does not appear on the DCP 'Through Site Link'

Provision	Compliance	Comment
		map, nor does the site meet the thresholds outlined in Section 3.1.2.2. The through-site link is considered to provide acceptable amenity and increased connectivity between Clarence and Kent Street and is a positive outcome. Strict compliance with the DCP requirements is not considered reasonable in the circumstances of the case. A condition requiring an easement for public access is recommended. The site will provide public art, and a condition of consent has been recommended accordingly.
3.2. Defining the Public Domain	Partial compliance	Shadow diagrams identify that the site will not overshadow the future Town Hall Square. Public views are unaffected by the proposal. An Environmental Wind Conditions Study has been submitted which confirms all locations on the streetscapes surrounding the proposed development satisfy the walking comfort standard at a minimum. The site is relatively narrow on Clarence Street, and the heritage item occupies much of the frontage on Kent Street. Due to these constraints, ensuring the site is serviceable and has vehicular access necessitates some flexibility in terms of compliance with the active frontage requirements. The DCP requires 70% of each public domain facing frontage to be active. 18% is achieved on Kent Street and 42% on Clarence Street. The proposal is acceptable in the circumstances of the case. See further details in the 'Discussion' section below.
3.5 Urban Ecology	Yes	The proposed development will result in the removal of the Green Ash street tree located on Clarence Street. Council's Tree Management Unit have reviewed the proposal and have advised

Provision	Compliance	Comment
		that the replacement of the street tree is acceptable in the circumstances of the case. The tree is juvenile, and its retention would prevent vehicular access to the site. Alternative driveway locations have been considered, and all require replanning of the building core, which renders the proposal undevelopable on this narrow site.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements. Refer to SEPP (Sustainable Buildings) section.
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. See discussion under Clause 7.15 of the SLEP 2012 table above.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	The proposed development includes a draft plan of consolidation; however, consolidation is not formally applied for. The new allotment is irregular in shape. The statement of significance and recommended management for the heritage item does not identify the existing subdivision pattern as being significant. The application was referred to Council's Specialist Surveyor, who supported the proposal, subject to condition of consent requiring the termination of existing strata plans at 277 Clarence Street, and subsequent consolidation being the subject of a separate development application.
3.9 Heritage	Yes	The site contains a heritage item local significance 'Former church including interior and front fence' (I1829), at 420 Kent Street. The site is adjacent to local heritage item no. I1828 described as former warehouse 'Edward Dunlop & Co' including interiors and cart dock to the north. It is also adjacent to local heritage item no. I12276 described as 'former

Provision	Compliance	Comment
		Grace House warehouse including interiors' to the south. The proposed development will not have a detrimental impact on the heritage significance of the heritage item, nor the adjoining heritage items. See further details in the 'Discussion' section below.
3.10 Significant Architectural Building Types	Yes	The heritage item was originally constructed as a church. The proposed alterations to the building are appropriate and will remove unsympathetic elements.
3.11 Transport and Parking	Yes	The proposal provides for 25 car parking spaces. The car parking is in the form of a mechanical stacker, with access provided via Clarence Street. A Traffic Impact Study has been prepared to Council's satisfaction. The proposed stacker renders the provision of car share parking spaces unfeasible. This is acceptable given the accessible nature of the locality. Parking for an SRV is provided via Kent Street, with a turntable to ensure forward entry and exit. The car stacker proposal does not allow for motorcycle parking. Given the stacker is the only feasible method of providing parking on the site, this is acceptable. Each apartment has sufficient space for bicycle storage, and sufficient bicycle parking is provided for the proposed commercial uses.
3.12 Accessible Design	Yes	The proposal can achieve equitable access. Compliance with the National Construction Code is required prior to the issue of a Construction Certificate.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.

Provision	Compliance	Comment
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.
3.15 Late Night Trading Management	N/A	The site is in a Late-Night Management Area. The new construction includes a 2-storey food and drink premises, which is proposed to be licensed, on the Kent Street frontage. A small café is also proposed on the Clarence Street frontage. A recreation facility (indoor) is proposed on the Upper Ground Level. The proposal does not specify the intended hours of operation for these tenancies. There is generally insufficient information with respect to these uses at this time; therefore, a condition of consent is recommended requiring a separate DA for the occupation, fit-out and operation of those tenancies. The hours of operation will be a matter of consideration for the future applications.
3.16 Signage and Advertising	Yes	The proposal does not include signage.
3.18.1.2 Development affected by entertainment sound	Yes	The heritage building is approved as an entertainment facility and is identified on the Entertainment Sound Management Map. The new apartments proposed on as part of the development are therefore categorised as sensitive receivers within radius 1. An acoustic report has been submitted which demonstrates the existing entertainment facility can be upgraded with acoustic treatments, and in conjunction with acoustic treatments to the shop top housing, the relevant acoustic amenity requirements will be met.

Provision	Compliance	Comment
		The proposed acoustic treatments are not supported by Council's heritage specialist, as discussed elsewhere in this report. However; planning staff are of the view that on balance the acoustic treatments should be supported, and accordingly, the proposal is able to comply, subject to the recommended conditions of consent.

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed-Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	Yes	The proposal is not identified on the building height in storeys map, and accordingly the only height restriction is the height of buildings development standard, with which the proposal complies. Street frontage heights are assessed against the relevant controls at 5.1.1.2 below.
4.2.2 Building setbacks	Yes	Upper-level setbacks align with the adjoining building at 426-430 Kent Street.
4.2.3 Amenity		
4.2.3.5 Landscaping	Yes	A landscape plan has been submitted. The scheme is acceptable subject to conditions of consent.
4.2.3.10 Outlook	Yes	All living areas are oriented to Kent Street or Clarence Street, providing a pleasant outlook within the urban environment. The proposal has no impact on existing views or outlook from existing dwellings.
4.2.3.11 Acoustic privacy	Yes	An acoustic report has been submitted which demonstrates that the specified

Provision	Compliance	Comment
		noise criteria within the apartments is satisfied. All apartments affected by road noise meet these criteria with windows open, through acoustic treatments to balconies, as required. The findings of the report have been accepted by Council's Urban Designer and Environmental Health officer.
4.2.3.12 Flexible housing and dwelling mix	Yes	All apartments have 3 or 4 bedrooms. The DCP permits a dwelling mix of between 10% and 100% for 3+ bedroom apartments. Accordingly, the proposal complies.
4.2.3.13 Wind affected balconies	Yes	The proposal provides well designed windscreens that are integrated into the design of the building. All wind affected balconies meet the minimum requirements in terms of their openable areas. Furthermore, all apartments achieve natural ventilation to habitable rooms, with unobstructed window openings equal to at least 5% of the floor area served.
4.2.4 Fine grain, architectural diversity and articulation	Yes	The street frontages are less than 40m wide, achieving automatic compliance with the DCP provisions.
4.2.6 Waste and recycling Management	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.
4.2.7 Heating and cooling infrastructure	Partial compliance	AC condensers are located in a centralised location on the rooftop. This is acceptable.
4.2.8 Letterboxes	Yes	The letterboxes are provided within the lobby of the building, and a condition has been recommended to ensure that they are installed in a secure manner to prevent mail theft.

Section 5 – Specific Areas

Provision	Compliance	Comment
5.1.1 Built form controls		
5.1.1.2 Street frontage heights and street setbacks in Special Character Areas	Yes	The site is within the York Street / Clarence Street / Kent Street Special Character Area. The DCP requires a minimum street wall height of 20m and a maximum height of 45m. The Clarence Street frontage has a street wall height of 34.4m, and the Kent Street frontage has a street wall height of 43.25m.
5.1.1.3 Side and rear setbacks and building form separations	Partial compliance	The DCP requires a 2m setback from side boundaries where windows are proposed. Technically, as the site is not yet subdivided, this would require the new building to maintain a 2m setback from the heritage item at 420 Kent Street. The tower protrudes into this setback, leaving around 0.4m separation in parts. The proposal is acceptable on the basis that the sites are to be amalgamated, and previous consent D/2018/1577, which is still active, approved a tower form that provided no setback and cantilevered over the heritage item.
5.1.1.4 Built form massing, tapering and maximum dimensions	Yes	The maximum horizontal dimension of the building is 32.5m, well below the maximum 50m dimension permitted.
5.1.2 Development outlook and demonstrating amenity compliance	Yes	The plans, elevations and sections indicate that habitable rooms obtain outlook toward either the street or the through-site link, with substantial visual separation and open sky above.
5.1.3 Heritage items, warehouses and special character areas		
5.1.3.1 Additions to heritage items	Yes	No additions are proposed to the heritage item, only modifications. These are discussed elsewhere in the report.
5.1.3.2 Development adjacent to heritage items	Yes	The proposal respects and is responsive to the adjoining heritage items. The proposal has been reviewed by Council's Heritage Specialist and no

Provision	Compliance	Comment
		concerns were raised regarding adjoining items.
5.1.3.4 Conservation of public domain features in Special Character Areas	Yes	Conditions of consent are recommended to protect stone kerbing within the public domain during construction.
5.1.4 Building exteriors	Yes	The proposal is predominantly brick up to the street wall height, in keeping with the warehouse typology predominant within the Special Character Area. The proposal does not result in expanses of blank glass or solid walls.
5.1.7 Sun protection of public parks and places		
5.1.7.2 No additional overshadowing	Yes	Shadow diagrams have been submitted that demonstrate there is no additional overshadowing to the future Town Hall Square.
5.1.9 Managing wind impacts	Yes	An Environmental Wind Conditions Study has been submitted which confirms all locations on the streetscapes surrounding the proposed development satisfy the walking comfort standard at a minimum.

Discussion

Heritage

61. 420 Kent Street contains the heritage-listed former St John the Evangelist Roman Catholic Church (Item I1829), which has historically operated as a theatre and, more recently, a nightclub. The building is currently vacant. The proposal includes conservation and adaptive reuse works to the heritage item but does not seek to intensify or alter the existing entertainment use.

62. Council's Heritage Specialist raises no objection to the redevelopment in principle, noting that it presents a significant opportunity to secure the long-term conservation of the heritage item through conservation works, reinstatement of original architectural features, heritage interpretation and improved public appreciation of the building through the proposed through-site link. These outcomes and a public access easement will be secured through recommended conditions of consent.

63. The proposal also raises competing heritage and acoustic considerations. The acoustic assessment assumes the continued operation of the building as an entertainment facility and recommends a range of acoustic upgrades. However, Council's Heritage Specialist does not support a number of these measures, including acoustic modifications to significant windows, roof elements and interior fabric, on the basis that they would adversely affect the heritage significance of the item. The heritage advice concludes that acoustic attenuation should primarily be achieved through the design of the new development rather than intrusive modification of the heritage building.

64. Notwithstanding this, the proposal will significantly improve both the conservation and acoustic performance of the site. While the heritage item cannot reasonably be expected to achieve contemporary acoustic standards without impacts on significant heritage fabric, the proposal provides substantial acoustic attenuation within the new development and secures a level of acoustic improvement to the theatre beyond that which presently exists.

65. Having regard to the heritage significance of the item, the existing lawful entertainment use, the objectives of Section 3.18 of Sydney DCP 2012, and the extensive conservation works secured by the proposal, the development is considered to achieve an appropriate balance between heritage conservation and residential amenity, and therefore the acoustic treatments are supported, provided they are implemented in a sympathetic manner that is reversible.

66. Subject to the recommended heritage conditions, including a condition preventing the replacement of existing windows for acoustic attenuation purposes, the proposal will result in an overall positive heritage outcome and will not unacceptably impact the significance of the heritage item.

Accessibility

67. The development provides an accessible route to the publicly accessible components of the building via the principal building entrances and lifts from both Clarence Street and Kent Street. Accordingly, the proposal satisfies the relevant requirements of the Disability (Access to Premises - Buildings) Standards 2010, including Schedule 1, Part D, DP1 (Access for people with a disability). Clause D3.2 provides that "an accessway must be provided to a building required to be accessible from the main points of pedestrian entry at the allotment boundary".

68. The proposal includes a through-site pedestrian link connecting Clarence Street and Kent Street through the subject site. A through-site link is not identified or required by the planning controls applying to the site. Further, the connection will remain in private ownership and is not proposed to be dedicated for public use through a Voluntary Planning Agreement.

69. The through-site link does not provide an accessible route between Clarence Street and Kent Street due to the significant change in level across the site. The width of the link, together with the site's steep topography, constrains opportunities to provide a compliant ramp within the available space. As the route does not provide equitable access, a condition of consent is recommended requiring the link to be secured with gates, with access restricted to building occupants only (who also have access to the private lift).

Active frontages

70. The proposal does not fully satisfy the active frontage provisions of the Sydney DCP 2012, with active frontages comprising approximately 18% of the Kent Street frontage and 42% of the Clarence Street frontage. The reduced extent of active frontages results from a combination of site constraints, including the retention and adaptive reuse of the heritage-listed former church building, the provision of the through-site link, fire egress, vehicle access arrangements and servicing.

71. Notwithstanding these departures, the development is considered to achieve the underlying objectives of the controls. The through-site link will improve connectivity between Kent Street and Clarence Street and provide additional activity by drawing users through the site. The proposal also removes a fence and other barriers to the side of the former church, improving permeability, and the activation of the building.

72. As strict compliance would likely compromise the heritage conservation outcome and functional operation of the development due to the site constraints, non-compliance with the active frontage controls is acceptable in the circumstances of this case.

Non-residential uses

73. The proposal does not include any change to the existing 'entertainment facility' within the heritage item.

74. The new construction includes a 2-storey food and drink premises, which is proposed to be licensed, on the Kent Street frontage. A small cafe is also proposed on the Clarence Street frontage.

75. The proposal does not specify the intended hours of operation or patron capacity for any of these tenancies. Nor does it specify the type of liquor license sought. There are no fit-out details for the recreation facility (indoor). No plans of management have been provided.

76. There is generally insufficient information with respect to the non-residential uses at this time; therefore, a condition of consent is recommended requiring a separate DA for the occupation, fit-out and operation of those tenancies.

77. As the operational details of these tenancies are not approved under this consent, the operational conditions recommended by Council's Health and Building Unit are not recommended for inclusion in the conditions of consent.

Consultation

Internal Referrals

78. The application was discussed with Council’s:

    (a) City Access and Transport

    (b) Cleansing and Waste

    (c) Construction and Building

    (d) Cultural Strategy

(e) Environmental Health

(f) Licensed Premises

(g) Environmental Projects

(h) Heritage

(i) Urban Design

(j) Landscaping

(k) Public Domain

(l) Public Art

(m) Tree Management

(n) Surveyors

79. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Recommended Conditions of Consent.

80. Outstanding concerns regarding the proposed development are discussed elsewhere in the report.

Design Advisory Panel

81. The scheme, as originally proposed, was presented to the City's Design Advisory Panel (DAP) on 28 May 2026. Generally, the DAP advised the original proposal should better respond to the surrounding context and built character. It was advised that further refinement of the materiality and form was required to achieve a cohesive architectural expression and stronger integration with adjacent buildings.

82. The applicant has made amendments to the design of the building to the satisfaction of Council officers. These changes principally include revised materials and finishes that are more sympathetic to the Special Character Area, and minor changes to the built form.

External Referrals

Ausgrid

83. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.

84. A response was received raising no objections to the proposed development.

NSW Police

85. The application was referred to NSW Police for comment.

86. A response was received raising no objections to the proposed development.

Transport for NSW

87. Pursuant to Section 2.99 of SEPP (Transport and Infrastructure) 2021 the application was referred to Transport for NSW (TfNSW) for concurrence.

88. The application was also referred to Transport for NSW (TfNSW) pursuant to Section 138 of the Roads Act 1993 for comment.

89. Concurrence was received on 6 August 2026. Conditions of consent were recommended which are included in the Recommended Conditions of Consent.

Water NSW

90. Pursuant to Section 90(2) of the Water Management Act 2000, the application was referred to Water NSW as Integrated Development.

91. Copies of public submissions made to the City of Sydney during the notification period were forwarded to Water NSW.

92. General Terms of Approval were issued by Water NSW on 5 August 2026 and have been included in the schedules within the recommended conditions of consent.

Advertising and Notification

93. In accordance with the City of Sydney Community Participation Plan 2019, the proposal was first notified for a period of 28 days between 9 April 2026. During this period the application was amended to be an Integrated Development Application, requiring approval under the Water Management Act 2000. The application was renotified for a period of 28 days between 21 April and 20 May 2026.

94. Two (2) submissions were received during the formal exhibition period. A further 14 submissions were received outside of the formal exhibition period.

95. The issues raised in the submission are summarised as follows:

    (a) **Issue:** Heritage impacts arising from the demolition of the existing warehouse buildings, the scale and bulk of the proposed tower, and the potential dominance of the development over the retained heritage-listed former church (Genesian Theatre).

        Response: The proposal has been assessed from a heritage perspective and is acceptable. Refer to discussion in the relevant sections above. The buildings proposed to be demolished have no heritage protections.

    (b) **Issue:** Loss of cultural and performance space, including concerns regarding the future use of the retained Genesian Theatre building, the closure of the Divine Playhouse venue and the absence of a requirement to maintain the site for ongoing cultural, community or performance uses.

Response: The proposal does not seek to change the use of the former church building, which is approved as an entertainment facility. Issues regarding the former tenant 'Divine Playhouse' are a civil matter between the site owner and the tenant and are not relevant to the application under consideration. In the context of this application, conditions preventing any future change of use to the former church would not be reasonable.

(c) **Issue:** Excessive scale, bulk and overdevelopment of the site, including concerns that the proposed building height, massing and cantilevered form are inconsistent with the character of the locality and result in over development of the site.

Response: The proposal complies with the key height and FSR development standards and is broadly consistent with the DCP built form controls. It is acceptable.

(d) **Issue**: Adverse impacts on neighbouring properties during demolition, excavation and construction, including concerns regarding structural damage, settlement, vibration, noise, dust and the need for dilapidation surveys and monitoring of adjacent buildings.

Response: A condition of consent is recommended requiring dilapidation reports to be prepared for the adjoining sites. Further conditions of consent are recommended to reduce impacts during the construction phase. Other matters raised in the submissions are beyond the scope of standard conditions of consent and would ordinarily be a civil matter between the relevant parties.

(e) **Issue**: Traffic, servicing and loading impacts, including concerns regarding basement loading arrangements, pedestrian safety, delivery vehicle movements, congestion and the absence of dedicated drop-off facilities.

Response: The proposal has been reviewed by Council's Transport Planner and was found to be acceptable. Conditions of consent have been imposed to ensure pedestrian safety, including the requirement for a signal system to indicate movement within the car lift and driveway. A traffic study has been submitted which demonstrates the proposal will not result in congestion. Dedicated drop off facilities are not required.

(f) **Issue**: Concerns regarding the waiving of the competitive design process and site-specific development control plan provisions applicable to tall buildings in Central Sydney.

Response: The proposal is less that 55m in height and the site is less than 1,500sqm in area, accordingly there is no requirement for a site-specific development control plan, nor a competitive design process.

Financial Contributions

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

96. 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

97. The site is located within the Central Sydney affordable housing contribution area. As the proposed development includes additional floor space, a contribution is required at a rate of $11,223.28 per square metre of 1% of total non-residential floor area being 24.84sqm, and 3% of total residential floor area being 171.21sqm, totalling 196.05sqm and attracting a levy of $2,200,324.04. A condition of consent is recommended requiring payment prior to the issue of a construction certificate.

98. Section 7.32 of the Act outlines that the consent authority may grant consent to a development application subject to a condition requiring dedication of part of the land for the purpose of providing affordable housing, or payment of a monetary contribution to be used for the purpose of providing affordable housing where the section of the Act applies.

99. The Act applies with respect to a development application for consent to carry out development within an area if a State Environmental Planning Policy identifies that there is a need for affordable housing within the area. Clause 14 of the Housing SEPP identifies that there is a need for affordable housing within each area of the State.

100. An affordable housing condition may be reasonably imposed under Section 7.32(3) of the Act subject to consideration of the following:

    (a) the condition complies with all relevant requirements made by a State environmental planning policy with respect to the imposition of conditions under this section, and

    (b) the condition is authorised to be imposed by a local environmental plan, and is in accordance with a scheme for dedications or contributions set out in or adopted by such a plan, and

    (c) the condition requires a reasonable dedication or contribution, having regard to the following -

        (i) any other dedication or contribution required to be made by the applicant under this section or section 7.11.

101. Having regard to the provisions of Section 7.32 of the Act, the imposition of an affordable housing contribution is reasonable. A condition of consent is recommended requiring the payment of an affordable housing contribution prior to the issue of a construction certificate.

Housing and Productivity Contribution

102. The development is subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

103. The site is located with the Greater Sydney region, the development is a type of residential and commercial development to which the Housing and Productivity Contribution applies, and the development is not of a type that is exempt from paying a contribution.

104. A condition relating to the Housing and Productivity Contribution has been included in the recommended conditions of consent.

Relevant Legislation

105. Environmental Planning and Assessment Act 1979.

106. Water Management Act 2000.

Conclusion

107. The proposed development is considered to be appropriate within its setting and is generally compliant with the relevant planning controls the SLEP 2012, the SDCP 2012 and SEPP (Housing) 2021.

108. Proposed variations to the controls are generally considered to be acceptable and have been discussed throughout the report. The proposal has been amended to address Council officers' concerns regarding compliance with the ADG and to improve residential amenity. The amended proposal is considered to be satisfactory, subject to conditions.

109. The proposal will provide for residential and retail development within Central Sydney, on a site with good access to existing and planned employment, services and community facilities.

110. The proposed alterations to the heritage item are, on balance, a net positive. The creation of the through-site links will remove detracting elements and reveal the southern side of the heritage item, allowing for greater appreciation from the public realm. Internal upgrades will ensure acoustic impacts from the existing ongoing use are ameliorated to the benefit of occupants in the wider vicinity.

111. Subject to the recommendations within this report, the proposal demonstrates a design that responds to the constraints of the site and contributes to the existing and desired future character of the site.

GRAHAM JAHN AM

Chief Planner / Executive Director City Planning, Development and Transport

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