

Item 4.**Development Application: 51 Buckingham Street, Surry Hills - D/2026/64**

File Number: D/2026/64

Summary**Date of Submission:** 3 February 2026

Amended plans received 3 March 2026

Applicant: L.G.S. Enterprises Pty Ltd**Architect:** Jeff Madden & Associates**Owner:** L.G.S. Enterprises Pty Ltd**Cost of Works:** \$432,300.00**Zoning:** MU1 Mixed Use zone - The 'commercial office' use is proposed to be retained and is permissible with consent in the zone.**Proposal Summary:** Alterations and additions to Cleveland House including the demolition and construction of a new WC block, new cellar doors and changes to windows, doors and internal partition walls. The application is Integrated Development requiring the approval of Heritage NSW under the Heritage Act 1977.

This application is referred to the Local Planning Panel as the proposal seeks a variation of the height of building development standard under the Sydney Local Environmental Plan 2012 by 10% or more. The proposed height variation is 31.7%.

The application was notified between 4 February 2026 and 7 March 2026. Two submissions were received. One submission was in objection to the proposal, and one was in support.

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) SEPP (Resilience and Hazards) 2021
- (iv) SEPP (Sustainable Buildings) 2022
- (v) SEPP (Biodiversity and Conservation) 2021
- (vi) Sydney Local Environmental Plan 2012 (Sydney LEP)
- (vii) Sydney Development Control Plan 2012 (Sydney DCP)

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation - Height of Buildings
- D. Submissions

Recommendation

It is resolved that

- (A) the variation requested to Clause 4.3 'Height of buildings' in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (B) consent be granted to Development Application Number D/2026/64 subject to the conditions set out in Attachment A of the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposed development is consistent with the objectives of the MU1 Mixed Use zone and the retention of the existing commercial office use is permissible with consent in the zone.
- (B) The proposed development satisfies the relevant objectives, aims and provisions of the Sydney LEP and the Sydney DCP.
- (C) The proposed development satisfies the heritage conservation requirements under the Heritage Act 1977, Sydney LEP, Sydney DCP for the building and surrounding site curtilage which are listed on the state heritage register, as a heritage item under the Sydney LEP and as a contributing building to the Cleveland Gardens heritage conservation area (C62) under the Sydney LEP.
- (D) The proposed development exhibits design excellence having considered the matters in Clause 6.21C of the Sydney LEP.
- (E) 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 buildings' development standard under Clause 4.3 of the Sydney Local Environmental Plan 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 LEP.
- (F) The proposal is in the public interest as it is consistent with the objectives of the MU1 Mixed Use zone.

Background

The Reason the Application is Reported to the Local Planning Panel

1. The application is reported to the Local Planning Panel for determination as it is identified in Schedule 3 of the Local Planning Panels Direction of 3 March 2024 as being within the following category:
 - (a) Departure from Development Standards by 10% or more
2. This development application proposes a 31.7% variation to the maximum height of building development standard stipulated by the Sydney LEP.
3. A near identical proposal under D/2019/1163 was approved by the Local Planning Panel on 25 November 2020. Several design amendments were made as part of condition satisfied matters submitted to Council and subsequent modification applications. These design amendments have been reflected in the subject proposal.
4. This development application and subsequent modifications lapsed on 25 November 2025.

The Site and Surrounding Development

5. The site has a legal description of Lot 1 in DP 788696 known as 51 Buckingham Street, Surry Hills. It is rectangular in shape with a site area of approximately 742 sqm.
6. The site is located on the southwestern corner of the intersection of Buckingham Street and Bedford Street. The site contains a 2-storey building which is used as an office and was originally a dwelling house. The building has undergone many changes of use over time.
7. It is one of the earliest remaining buildings that was constructed in Surry Hills. Cleveland House is considered to be of exceptional historical significance as it is a rare and surviving example of an Old Colonial Georgian style dwelling.
8. The site is listed on the state heritage register and is known as 'Cleveland House Including Interior and Surrounding Grounds' (SHR 00065). The site also contains a local heritage item under the Sydney LEP (Item 1462) known as 'Cleveland House including interior and surrounding grounds'. The site is located within the Cleveland Gardens heritage conservation area (C62) and is a contributing building.
9. The site is within the Prince Alfred Park East (2.11.8) locality. The site is not identified as being prone to flooding.
10. The surrounding area is characterised by a mixture of land uses, primarily being residential and commercial premises. Directly north of the site is the Bedford Street pedestrian thoroughfare from the corner of Buckingham Street and Bedford Street, which connects to Chalmers Street.

11. North of the Bedford Street pedestrian area is 47-49 Buckingham Street which contains a 4-storey residential flat building, which was formerly a church. South of the subject site at 156-164 Chalmers Street are 2 residential flat buildings, known as 'Princes Gardens'. The eastern building of the Princes Gardens complex which is closest to Cleveland House is eight storeys in height and the western building is ten storeys in height. An open lawn area also bounds the site to the west which is owned by the Princes Gardens site. A portion of this open area also forms part of the curtilage of the Cleveland House item under the state heritage register. To the site's east are 3 to 5-storey buildings which contain mixed residential and commercial uses.
12. A site inspection was carried out on 27 February 2026. Photos of the site and surrounding area are provided below.

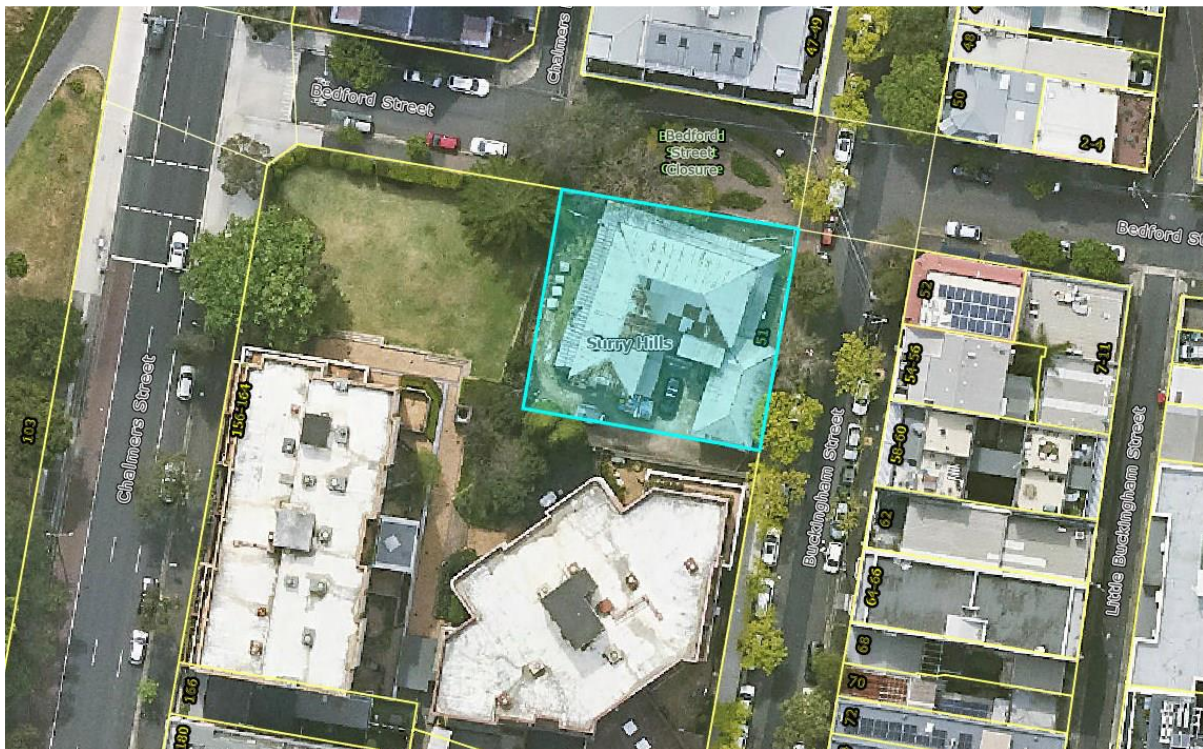


Figure 1: Aerial view of the site and surrounding area



Figure 2: Front of Cleveland House viewed from Bedford Street facing south



Figure 3: Side and rear viewed from Buckingham Street at the south-western corner of the site



Figure 4: Rear wing at the south-western corner



Figure 5: Courtyard facing north

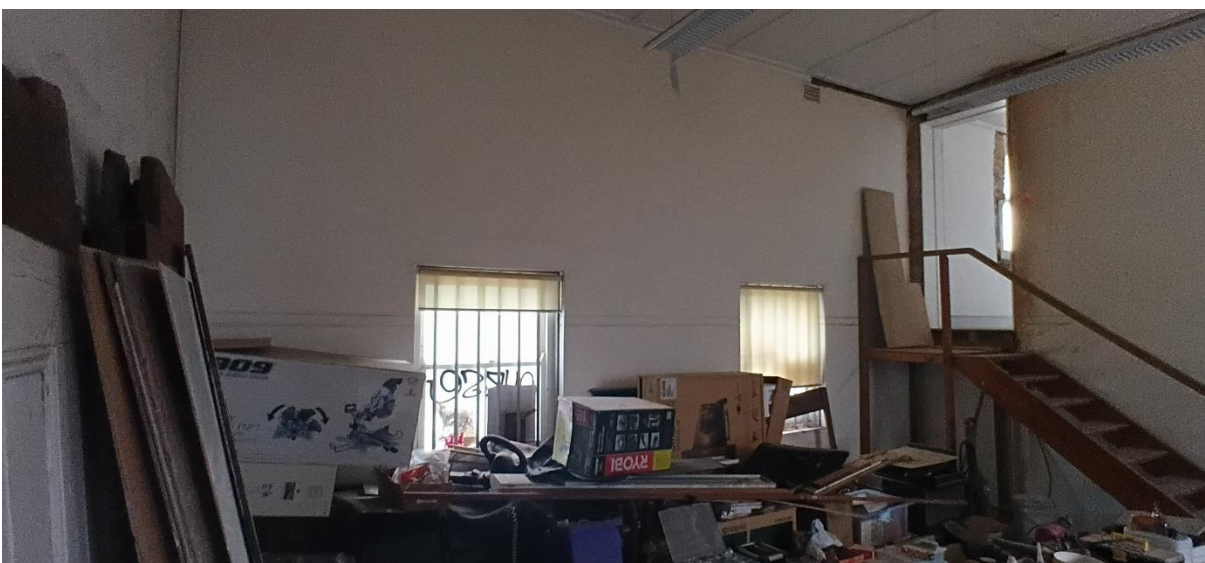


Figure 6: Ground floor storage space within the south-eastern wing



Figure 7: Ground floor storage space at the far end of the south-eastern wing

History Relevant to the Development Application

Development Applications

13. The following applications are relevant to the current proposal:
 - Heritage NSW granted approval to a Section 60 application under the Heritage Act, 1977 **2015/S60/151** on 1 February 2016 for the replacement and reconstruction of 2 chimneys, the roof and gutters.
 - Development consent **D/2019/1163** was granted consent by the Local Planning Panel on 25 November 2020 for alterations and additions to the state heritage listed item known as Cleveland House, including the construction of a new toilet block at the rear of the property. 'Modification A' of this consent and the condition satisfied requirements obtained approval for the same materials, colours and finishes proposed as part of the subject development application before the Local Planning Panel.
 - Development consent **D/2025/1270** was refused on 19 March 2026 for the removal of the render from the exteriors of the building to expose the face brickwork beneath the render, and for the removal of in-fill at the north-eastern corner of the building which was to be replaced with the extension of the existing veranda. This was an integrated development application where Heritage NSW resolved not to grant General Terms of Approval (GTAs).

Amendments

14. The following amendments were requested by Council and Heritage NSW and were provided by the applicant:
 - accurate labelling of all new works that are proposed in this development application
 - weatherproofing details for the cellar doors

- a material and colours schedule of the proposed works
- a survey by a registered surveyor

Proposed Development

15. Development approval is sought for the following alterations and additions:

- Construction of a 2-storey WC block at the south-western corner of the building with the demolition of part of a wall for internal access and concrete footings. The addition comprises new south-facing opaque windows, a Mist Green metal downpipe, tung oil timber siding for the toilets with ventilated doors, and clear glass treatment for the exterior walls of the fire stair component.
- Extend existing verandas on both sides of the south-western WC block extension with shake roofs, decorative columns and stonework to match the designs of the existing verandas.
- Demolition of the first floor toilet block that is located above the south-facing veranda to instead install new walls, windows and veranda roofing to make good and match the surrounding built form.
- Demolition, construction and installation of selected internal walls, doors, concrete floors and windows.
- Demolition and installation of 2 staircases in the ground floor storeroom to provide access internally to the new bathrooms and provide improved access to the proposed first floor office area.
- Internal alterations at ground floor level to provide new bathrooms and a new garbage room.
- Install new granite paving to the rear courtyard.
- Install new basement cellar doors, new stone arch and walls to the cellar entrance.

16. Plans and elevations of the proposed amended development are provided below.

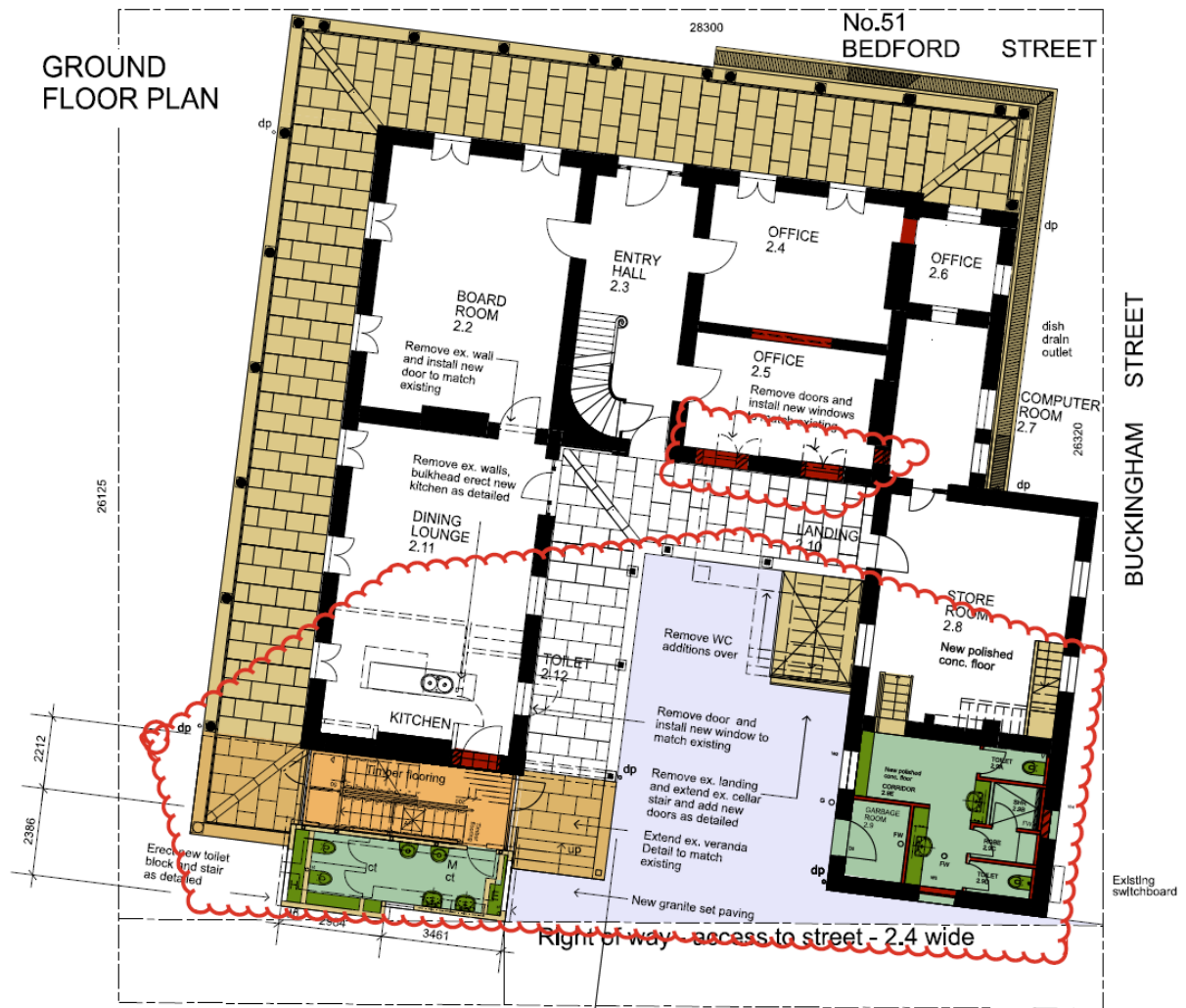


Figure 8: Proposed ground floor plan

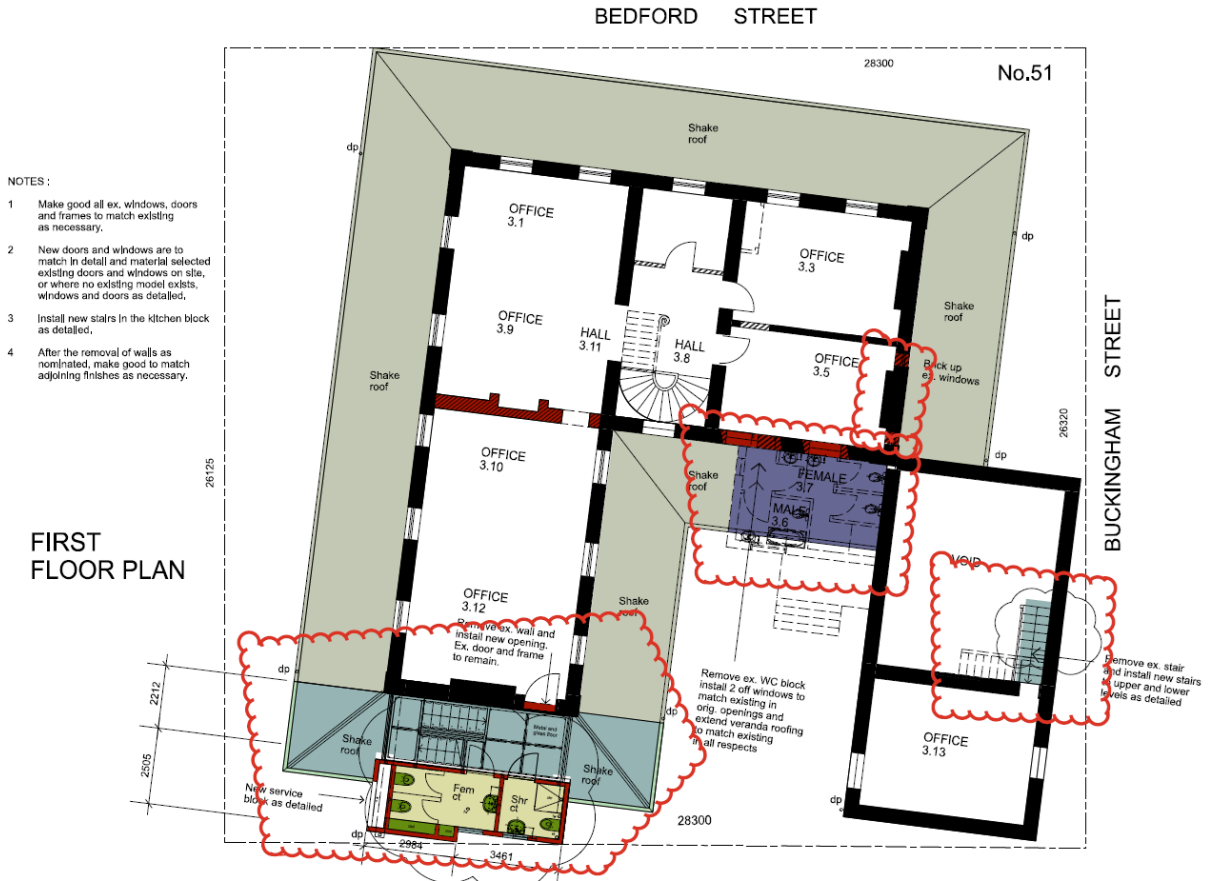


Figure 9: Proposed first floor plan

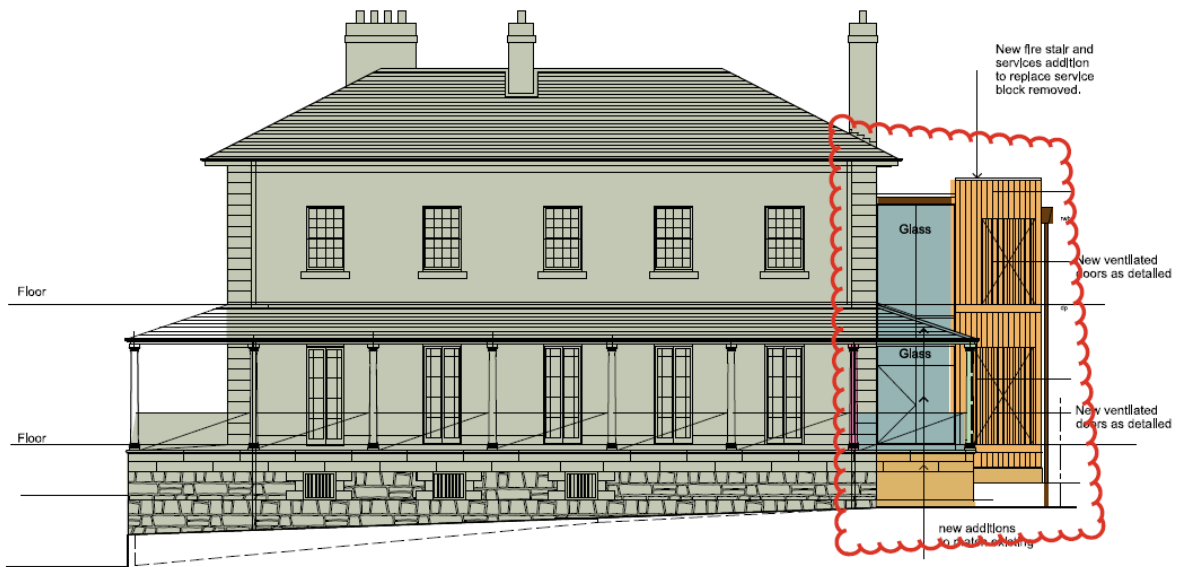


Figure 10: West elevation

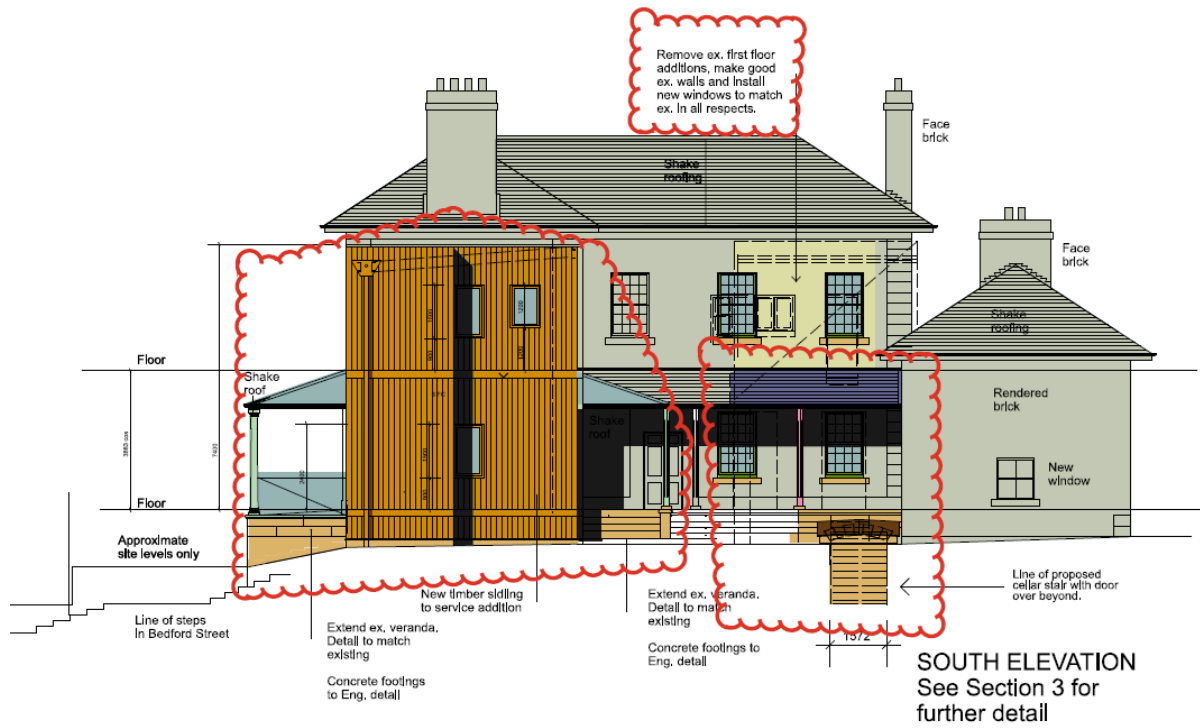


Figure 11: South elevation

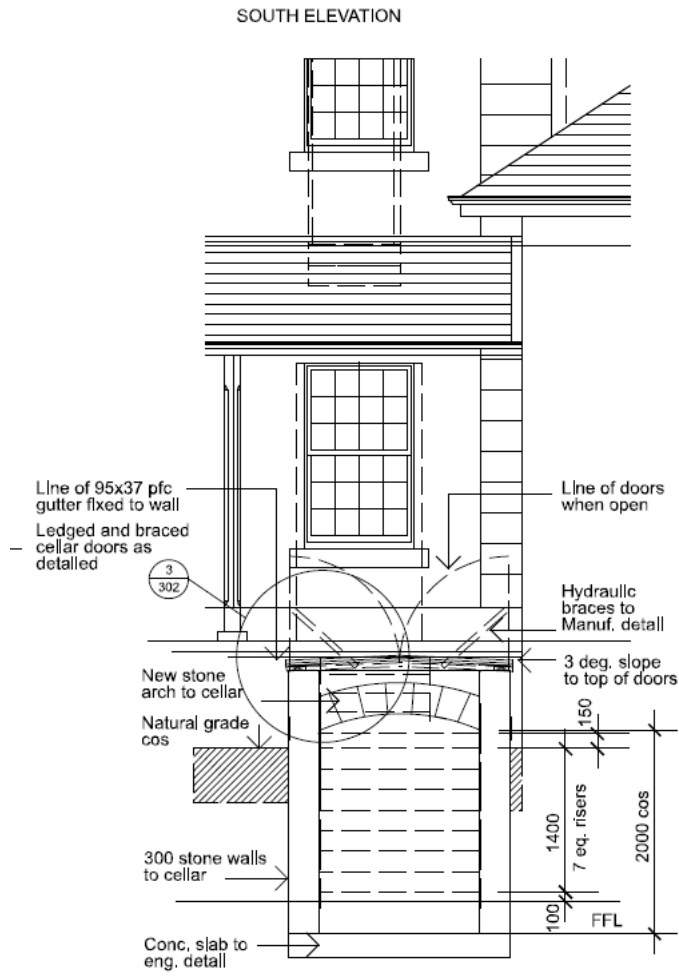


Figure 12: Detailed part of the south elevation where the cellar door is proposed

Assessment

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

Heritage Act 1977

18. The subject site is listed on the State Heritage Register under the Heritage Act 1977 and is known as 'Cleveland House', register number SHR 00065).
19. As Integrated Development requiring approval under the Heritage Act 1977, a copy of the application was referred to the Heritage Council on 13 February 2026 seeking general terms of approval in accordance with Section 42 of the Environmental Planning and Assessment Regulation 2021.
20. Following the completion of the notification period on 10 March 2026, the Heritage Council were provided copies of the 2 public submissions.
21. The Heritage Council resolved to issue General Terms of Approval on 31 March 2026. These are included in Schedule 2 of the recommended conditions.
22. As the General Terms of Approval have been granted, any consent granted by the Local Planning Panel is required to remain consistent with the General Terms of Approval of Heritage NSW. Also, as General Terms of Approval have been issued the application cannot be refused on heritage grounds.

State Environmental Planning Policies

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

23. The aim of SEPP (Resilience and Hazards) 2021 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.
24. Clause 4.6(1) of the SEPP requires the consent authority to consider whether land is contaminated prior to the consent of development on that land. Given that the long-term use of the site has been for residential, boarding school and commercial uses, it is unlikely that the site is contaminated, and further investigation is subsequently not considered necessary in this instance. The application is also not proposing a change of use.

State Environmental Planning Policy (Sustainable Buildings) 2022 – Chapter 3 Standards for Non-Residential Development

25. Chapter 3 of the SEPP does not apply to this non-residential development, as it involves alterations, the enlargement of, and extension of an existing building that has an estimated development cost of less than \$10 million.

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

26. The site is subject to the provisions of this SEPP as it is located within the designated hydrological catchment of Sydney Harbour and eventually drains into Sydney Harbour.

The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.

27. As the site is not located in the Foreshores Waterways Area and is not adjacent to a waterway, the objectives of the SEPP, with the exception of the objective of improved water quality, are not applicable to the proposed development.

Local Environmental Plans

Sydney Local Environmental Plan 2012 (Sydney LEP)

28. An assessment of the proposed amended development against the relevant provisions of the Sydney LEP is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the MU1 Mixed Use zone. The development is proposed to retain its existing commercial office use, which is permissible with consent in the zone and is consistent with the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Acceptable, Clause 4.6 supported.	<p>A maximum building height of 6 metres is permitted. The highest point of the proposed development is 7.9 metres.</p> <p>This constitutes a 31.7% variation from the stipulated development standard.</p> <p>The highest point of the existing building, defined as 'building height' under the Sydney LEP, is the roof ridge which is at a height of 11.4 metres.</p> <p>It is noted, the 2 chimneys are higher at 13 metres but do not count in the calculation of the definition of 'building height' under the Sydney LEP definition.</p> <p>A variation to the height of buildings development standard in accordance with clause 4.6 has been submitted in response and is supported. Refer to further information under the 'Discussion' section.</p>

Provision	Compliance	Comment
4.4 Floor space ratio	Yes	The proposed development has a floor space ratio (FSR) of 0.625:1 (or 463.9 sqm). The existing FSR is 447.3 sqm (0.603:1). This is a 16.6 sqm increase to the gross floor area and remains compliant with the maximum FSR of 1:1 (742.1 sqm).
4.6 Exceptions to development standards	Yes, refer to discussion section	As discussed above, a Clause 4.6 variation has been submitted in response to the exceedance of the height of building development standard and is supported. Refer to further information in the Discussion section.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes, subject to conditions	Refer to further details under the 'Heritage Conservation' heading of the Discussion section.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21C Design excellence	Yes	<p>The proposed development is of a high standard and uses materials and detailing compatible with the existing development along the street and will contribute positively to the character of the heritage significant building and the area. The toilet block addition is setback significantly from the street and no works other than a window change are proposed along the Buckingham and Bedford Street frontages.</p> <p>The development achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the future occupants of the site and surrounding sites. The development therefore achieves design excellence.</p>

Development Control Plans

Sydney Development Control Plan 2012 (Sydney DCP)

29. An assessment of the proposed amended development against the relevant provisions within the Sydney DCP is provided in the following sections.

Section 2 – Locality Statements

30. The proposed development is in keeping with the unique character and design principles of the Prince Alfred Park East locality (2.11.8) as follows:
- (a) The visual relationship between Cleveland House, Prince Alfred Park and surrounding gardens and open spaces are maintained.
 - (b) The existing commercial and mixed-use nature of the area remains unchanged.
 - (c) The proposed development, subject to conditions, responds to and complements Cleveland House which is listed as a heritage item and is located within a heritage conservation area.

Section 3 – General Provisions

Provision	Compliance	Comment
3.5 Urban Ecology	Yes	<p>The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology. Appropriate conditions are recommended to ensure the protection of nearby trees on private property and the street.</p> <p>The deep soil planting provisions require 15% (or 111 sqm) of the site area to allow for tree canopy coverage. Given the existing footprint of the heritage building and right of carriageway, there is no viable location for an additional large tree without significantly impacting the useability of the site or detracting from the heritage significant built form. Due to these circumstances, this is acceptable for this site. This position is also supported by the City's Tree Management team in this instance.</p>
3.9 Heritage	Yes	Refer to further details in the 'Heritage conservation' section of the Discussion below.
3.10 Significant Architectural Building Types	Not applicable	The building was built as a residential dwelling. As a result, Section 3.10 does not apply despite some earlier uses of the building for community purposes.

Provision	Compliance	Comment
3.11 Transport and Parking	Yes	No change.
3.14 Waste	Yes	A condition has been recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development and a commercial waste collection contract is entered into.

Section 4 – Development Types

4.2 Residential Flat, Non-Residential and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height	Yes	The site is permitted a maximum building height of 2 storeys. The proposed development is 2 storeys in height and complies.
4.2.2 Building setbacks	Yes	There are no predominant setback alignments applying to the site. The setbacks of the building are retained on the north, west and east elevations. The proposed rear addition is considered acceptable as it maintains the setting of the heritage item and is setback from the neighbouring residential buildings to the south.
4.2.3 Amenity	Yes	As demonstrated below, the proposed development will have acceptable residential amenity and will not have unreasonable impacts on the residential amenity of neighbouring properties.
4.2.3.1 Solar access	Yes	Solar diagrams were submitted as part of D/2019/1163 which demonstrated minor additional overshadowing impacts to the private open space of the neighbouring residential development to the south. The same bulk is proposed in this development application was approved as part of D/2019/1163. Refer to further details in the 'Discussion' section below.
4.2.3.10 Outlook	Yes	All apartments of the neighbouring residential building at 156-164 Chalmers

Provision	Compliance	Comment
		Street, Surry Hills will maintain a pleasant outlook with the proposal. Refer to the 'View Impacts' section of the Discussion heading below for further information.
4.2.6 Waste and recycling management	Yes	A condition has been recommended to ensure the proposed commercial development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development. A garbage room has been proposed.
4.2.9 Non-residential development in the B4 Mixed Uses zone (now known as MU1 Mixed Use zone)	Yes	The development will not adversely impact the amenity of neighbouring residential properties through noise or similar impacts, subject to compliance with the recommended conditions. Visual privacy is maintained as the proposed southern elevation windows facing towards neighbouring residential apartments are proposed to have translucent glazing which is recommended for approval.

Discussion

31. Contravention of a development standard pursuant to clause 4.6 of the Sydney LEP
The site is subject to a maximum height of buildings development standard of 6 metres under Clause 4.3 of the Sydney LEP.
32. The proposed development at its highest point has a height of 7.9 metres, which represents a variation of 31.7% from the development standard. It is noted the highest point of the building as defined under the 'building height' definition of the Sydney LEP is currently 11.4 metres being the heritage-significant roof ridge.
33. Pursuant to the requirements of Regulation 35B of the Environmental Planning and Assessment Regulation 2021, the application has been accompanied by a document setting out the grounds on which the applicant seeks to demonstrate:
 - (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard;

:

Applicant's regulation 35B document

34. The applicant seeks to justify the contravention of the height development standard on the following basis:
- (a) Strict compliance with the height of building development standard is unreasonable and unnecessary in this case as the maximum height of building development standard is already exceeded.

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

- (b) The addition is not greatly visible from the public domain and is significantly setback from Buckingham Street and Bedford Street.
- (c) The proposed addition and extent of bulk of the rear toilet block at the south-western corner of the building where the exceeded height is proposed has previously been supported and approved under D/2019/1163/A (with minor design amendments to the materials, colours and finishes). The subject application is consistent with the previously approved development (as modified by the details that were required to be satisfied as a condition of development consent).
- (d) The proposed rear toilet block addition is in a modern contemporary style that can be clearly discerned from the original building with its height designed to be subservient to the roof of the original building.
- (e) The proposal will not have detrimental impacts on the state heritage item and allows for the relocation of bathrooms from the main building. This will alleviate heritage damage and intrusiveness into heritage significant walls for plumbing purposes.
- (f) The proposed use is consistent with the objectives of the MU1 Mixed Use zone and the objectives of the development standard for the height of building which includes the provision of flexibility to result in better heritage and environmental planning outcomes.

Precondition to granting consent where a development standard has been contravened

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

Conclusion

36. For the reasons provided above the variation to the height development standard is supported as the applicant has demonstrated the matters required to be addressed by cl 4.6 of the Sydney LEP.

Heritage Conservation

37. The site is a state heritage item on the State Heritage Register, a local heritage item under the Sydney LEP and a contributing building in the Cleveland Gardens heritage conservation area.

38. The local heritage item consists of the 51 Buckingham Street site which includes Cleveland House and its immediate surroundings. The listing on the state heritage register comprises both 51 Buckingham Street and the open space to the east, which is part of the adjacent site at 156-164 Chalmers Street, Surry Hills.
39. The proposed development will not have unacceptable impacts on the significance of the heritage item and the heritage conservation area subject to the recommended conditions in the Notice of Determination. The colours and materiality proposed have been clarified by amended plans which are consistent with the approval under D/2019/1163, as amended. These have also been supported by the City's Heritage Specialist and Heritage NSW.
40. It is noted the demolition of internal walls of Rooms 2.4, 2.5, 2.6, 3.9 and 3.10 are not approved by Condition 2 of Heritage NSW's General Terms of Approval with the reason cited as being the applicant advised Heritage NSW that they are no longer proposing the demolition of these walls. As required by the Environmental Planning and Assessment Act, an appropriate condition is recommended under Schedule 2 of the Notice of Determination as per the wording of Heritage NSW, along with the other General Terms of Approval.

Solar Access

41. The proposed dimensions of the alterations and additions for the toilet block were approved as part of previous development consent for the site under D/2019/1163/A. Solar diagrams submitted as part of D/2019/1163 demonstrate that additional shadows would be cast to the private open space of the neighbouring site (containing an 8-storey residential flat building) at 156-164 Chalmers Street, particularly between 12pm and 3pm.
42. The balconies, living spaces and private open spaces of the neighbouring residential apartments will maintain adequate solar access for the remainder of the day and meet the minimum requirement under the Sydney DCP of 2 hours of direct sunlight between 9am and 3pm during the mid-winter solstice to 50% of the required minimum area of private open space.
43. At 3pm, the proposal results in minor overshadowing to one balcony of the neighbouring building. However, this balcony receives adequate solar access in the morning during the mid-winter solstice, and is therefore, the proposal would be compliant with the solar access requirements under the Sydney DCP.

View Impacts

44. Whilst the proposed addition at the rear would have some impact on views/outlook, it should be noted that the proposed addition is replicating the previously approved built form in this location under development consent D/2019/1163/A. As such, the associated impacts on views and outlooks from neighbouring developments have previously been considered and the impacts assessed as acceptable.
45. Notwithstanding this, the impact of the additions on views and outlook have been assessed against the planning principles identified under *Tenacity Consulting v Warringah Council* [2004] (NSW LEC).



Figure 15: View from north facing living room of apartment on second floor of Princes Gardens apartment building, looking north-west. View impact assessment completed as part of D/2019/1163



Figure 16: View from balcony of apartment on second floor of Princes Gardens apartment building, looking north-west. Inspection undertaken as part of D/2019/1163.

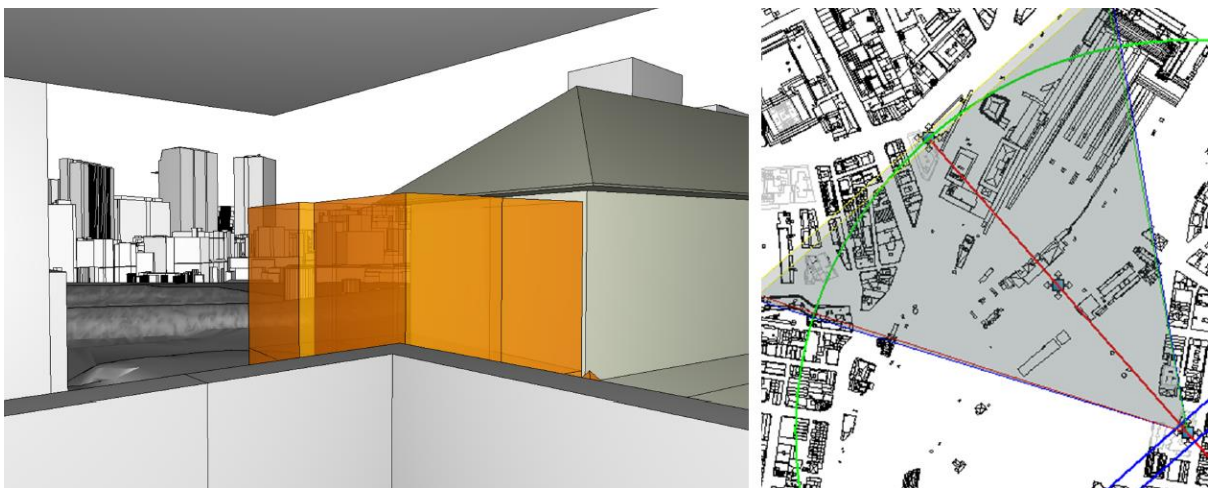


Figure 17: View analysis by the City of Sydney Model Team from the neighbouring residential balcony of the apartment on the second floor

- (a) Views to be affected
 - (i) The view in question is a keyhole view between the Princes Gardens 'Residence A' building and the south-west section of Cleveland House. The view is of the lawn and gardens at Princes Gardens, Chalmers Street, Prince Alfred Park and some city buildings beyond. Refer to Figures 15 to 17 above with view impact imagery which were verified by the City's Model team.
 - (ii) The abovementioned views are not water views nor iconic views (e.g. of the Opera House or the Harbour Bridge). It is also a partial district view or outlook, rather than a whole view of the Sydney skyline. Therefore, the view/outlook in question has minimal value compared to water or iconic views or a wider panoramic view of the Sydney skyline being affected.
 - (b) From what part of the property the views are obtained
 - (i) The view is at an oblique angle and is across numerous side boundaries, which is more difficult to protect. As noted in the relevant LEC judgement, the expectation to retain side views is often unrealistic and difficult to protect.
 - (c) Extent of the impact
 - (i) The view is obtained from a balcony and living room. It is acknowledged the impact on views from living areas and balconies is considered more significant than from bedrooms or service areas.
 - (d) Reasonableness of the proposal that is causing the impact
 - (i) The proposal is supported from a heritage perspective with regard to the overall impact on the state heritage item that is in need of repairs and requires maximum retention of heritage fabric. The proposed exceedance from the maximum height of buildings development standard is supported as it is well below the height of the existing roof ridge of the building which is nearly double the height control. Refer above to the Clause 4.6 heading within the discussion section for further height calculations.
46. Given the above, the proposed view impacts are considered reasonable in this instance.

Tree Protection

47. Several conditions have been recommended by the City's Tree Management Team to ensure 6 trees, including 4 near the site and 2 street trees which may be impacted by construction vehicles are properly protected during and after the construction of the site. This includes the requirement for additional tree information to be submitted and approved by Council prior to the issue of a construction certificate.

Right of Carriageway

48. The survey documentation demonstrate the proposed 2-storey addition would not protrude onto or impede access along the right of carriageway which runs along the southern boundary of the property. Appropriate conditions of consent are recommended to ensure that all new structures are contained within the property boundary including the need for a final identification survey to ensure appropriate details of the proposed works in relation to the boundaries are submitted and any easements that may be required are finalised prior to the issue of an occupation certificate.

Consultation

Internal Referrals

49. The application was discussed with Council's:
- (a) Heritage Specialist;
 - (b) Surveyor;
 - (c) Model Team; and
 - (d) Tree Management Unit.
50. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

External Referrals

NSW Heritage Council

51. Pursuant to Section 42 of the Heritage Act 1977, the application was referred to NSW Heritage Council on 13 February 2026 for concurrence.
52. Copies of public submissions made to the City of Sydney during the notification period were forwarded to the NSW Heritage Council on 10 March 2026.
53. General Terms of Approval were issued by NSW Heritage Council on 31 March 2026 and are included in the recommended conditions of consent.

Advertising and Notification

54. In accordance with the City of Sydney Community Participation Plan 2025, the proposed development was notified for a period of 28 days as it is integrated development, between 4 February 2026 and 7 March 2026. A total of 657 properties were notified and 2 submissions were received. One submission was in support of the proposal and one other submission was in objection.
55. The following issues were raised in the submission objecting to the proposal:

- (a) **Issue:** The proposed toilet block will be highly visible from the northern and western vistas of the site which is also visible for rail commuters around Central railway station with significant amounts of glass and wood added to the view. As such, the 7.9 metre height variation request should not be supported.

Response: The proposed development will not be visible from the front elevation and will be set back from the public domain along Buckingham Street. The site is significantly set back from the view of the rail corridor. See further information under the View Impacts in this report.

- (b) **Issue:** The 7.9-metre-height variation request from the height control should not be supported due to the proposal's detrimental impacts to the heritage conservation area.

Response: A Clause 4.6 variation has been submitted and is supported for the reasons outlined in this report. The heritage impacts and scale of the addition were assessed as acceptable by Heritage NSW.

- (c) **Issue:** The floor-to-ceiling heights of the toilet block extension can be reduced so it does not match the remainder of the building which would reduce the height and bulk.

Response: A reduction in floor to ceiling heights is not considered necessary and would result in inconsistent window heights. The proposed addition remains subservient to the first floor ceiling height of the original building.

- (d) **Issue:** A dilapidation report should be submitted for the neighbouring property known as 156-164 Chalmers Street, Surry Hills.

- **Response:** A dilapidation report is recommended as a condition of consent for the relevant directly adjacent parts of the neighbouring development at 156-164 Chalmers Street, Surry Hills.

⋮

- (e) **Issue:** Internal areas should be repurposed for toilets instead and the roof repairs should be a priority as opposed to new toilets.

Response: This alternative proposition would require intrusions into the internal heritage fabric of the building and would require several internal plumbing changes that would be difficult to navigate with the deep heritage significant walls.

- (f) **Issue:** Solar access for the neighbouring Princes Gardens apartment development will be impacted by the proposal.

Response: The proposed sunlight access levels are compliant with the Sydney DCP. See the 'Solar Access' heading under the discussion section above for further information.

- (g) **Issue:** A balcony of the neighbouring Princes Gardens apartment development will have its views impacted by the proposal.

Response: An assessment of impacts of views is included in this body of this report. The proposed impacts on views and outlooks are not considered to impact on any iconic views and the impacts assessed as acceptable against the Land and Environment Court planning principle of *Tenacity Consulting v Warringah Council* [2004]. Refer to the 'view impacts' discussion above for further information.

Financial Contributions

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

56. The Central Sydney Development Contributions Plan 2020 does not apply as the site is not located in Central Sydney.

Contribution under Section 7.11 of the EP&A Act 1979

57. The City of Sydney Development Contributions Plan 2015 applies to the site. The development is subject to a section 7.11 local infrastructure contribution under this Plan.
58. Credits have been applied for the most recent past use of the site for the addition of 17 sqm of office floor space.
59. A condition relating to this local infrastructure contribution has been included in the recommended conditions of consent in the Notice of Determination. The condition requires the contributions to be paid prior to the issue of a construction certificate.

Contribution under Section 7.13 of the Sydney LEP 2012

60. The site is located within the residual land affordable housing contribution area. As the development is development for purposes other than residential accommodation that will result in the creation of less than 60 square metres of gross floor area, the development is excluded and not subject to a Section 7.13 affordable housing contribution.

Housing and Productivity Contribution

61. The development is subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.
62. The site is located within the Greater Sydney region, the development is a type of 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.
63. A condition relating to the Housing and Productivity Contribution has been included in the recommended conditions of consent calculated at \$32.44 for every square metre of new gross floor area calculated at the 1 January 2026 indexed base rate for commercial developments in Greater Sydney.

Relevant Legislation

64. Environmental Planning and Assessment Act 1979.

65. Heritage Act 1977.

Conclusion

66. The application seeks approval for alterations and additions to a building listed on the State Heritage Register, as well as identified as a local heritage item and a contributing building within a heritage conservation area under the Sydney LEP.
67. The variation requested to Clause 4.3 Height of Buildings development standard, in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan is supported.
68. The proposal comprises an appropriate bulk and scale within the context of the subject site and streetscape, consistent with what has previously been approved under the recently lapses development consent D/2019/1163 (as amended). The development will result in a positive heritage outcome and Heritage NSW have granted General terms of Approval to the application.
69. The proposed office use is permissible with consent in the zone and would continue to have an acceptable level of amenity impact, subject to the recommended conditions.
70. The proposal will not result in unreasonable adverse impacts in terms of overshadowing or visual privacy, subject to the recommended conditions.
71. The proposed development exhibits design excellence in accordance with the provisions of Clause 6.21C of the Sydney LEP.
72. Subject to conditions, the development is in the public interest and is recommended for approval.

NICOLA REEVE

Acting Executive Manager Planning and Development

Costa Dantos, Planner