

Item 4.**Development Application: 34-36 Oxford Street, Darlinghurst**

File No.: D/2017/1293

Summary**Date of Submission:** 27 September 2017

Amended plans and documentation received on 27 November 2017 and 23 March 2018

Applicant: Complete Package Australia**Architect:** PBD Architects**Developer:** Oxford Street Property Holdings Pty Ltd**Owner:** Oxford Street Property Holdings Pty Ltd**Cost of Works:** \$910,000

Proposal Summary: The application proposes the construction and use of a two storey contemporary addition on top of an existing heritage listed building, internal refurbishment works of existing levels to facilitate access and services, change of use of existing Levels 1 and 2 from hotel to commercial office, and external heritage conservation works.

The application is reported to the Local Planning Panel as it is development that exceeds the floor space ratio development standard outlined in Clause 4.4 of Sydney Local Environmental Plan (LEP) 2012 by more than 10%.

The application proposes a maximum height of 23.87 (to the lift overrun) and floor space ratio of 3.33:1. Sydney LEP 2012 allows for a height of 22m and floor space ratio of 2.5:1. The applicant has submitted a request to vary the height and floor space ratio standards under Clause 4.6 of Sydney LEP 2012. This request is supported.

Proposal Summary: The proposal has been amended to address a number of issues identified by Council during assessment of the application and in response to consultation with the City's Design Advisory Panel. These issues relate to the retention of heritage features, setback of the built form, amenity impacts on adjoining properties and details of materials and finishes.

(continued)

Twenty individual letters and 55 pro-forma letters were received objecting to the proposal. Issues raised include heritage conservation, compliance with planning controls, concerns with visual and acoustic privacy, overshadowing impacts, bicycle and car parking, incorrect details within the application and the public interest.

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

Development Controls:

- (i) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
- (ii) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings

Recommendation

It is resolved that:

- (A) the variation sought to Clause 4.3 Height of Buildings development standard in accordance with Clause 4.6 Exceptions to Development Standards of Sydney Local Environmental Plan 2012 be supported in this instance;
- (B) the variation sought to Clause 4.4 Floor Space Ratio development standard in accordance with Clause 4.6 Exceptions to Development Standards of Sydney Local Environmental Plan 2012 be supported in this instance;
- (C) consent be granted to Development Application No. D/2017/1293 subject to the conditions set out in Attachment A to this report.

Reasons for Recommendation

The reasons for the recommendation are as follows:

- (A) the proposal is generally consistent with the objectives, standards and guidelines of the relevant planning controls;
- (B) strict numerical compliance with the height and floor space ratio standards outlined in Sydney LEP 2012 is considered to be unreasonable and unnecessary in this instance and departure from these standards pursuant to Clause 4.6 of Sydney LEP 2012 is supported;
- (C) the proposal provides an appropriate built form given the site's context;
- (D) the proposal will not result in unacceptable amenity impacts on surrounding properties;
- (E) the proposal results in public benefit in the form of heritage conservation as it allows for the retention and preservation of internal and external original heritage fabric and restoration of the Oxford Street facade.

Background

The Site and Surrounding Development

1. Site visits were carried out by staff on 26 October 2017 and 12 April 2018.
2. The site is irregular in shape, with area of approximately 282.5sqm. It has a primary street frontage to Oxford Street and a secondary, rear street frontage to Winns Lane, which is a private street. The site is located at the western end of Oxford Street, 130m from the intersection of Liverpool Street and is located within the East Sydney Conservation Area (C13).
3. The site contains a locally listed heritage building known as 'The Exchange Hotel'. The building presents as three storeys to Oxford Street and four storeys to Winns Lane, due to the fall of the site.
4. The site has a long history of use as a pub and entertainment venue. Current approved uses include a bar and music venue at basement level, a bar/restaurant with gaming room at the ground floor, a bar and music venue at the first floor and bar/nightclub at the second floor. The first and second floors are currently being used as commercial office space without development consent. Services, waste areas and storage exist within the basement, accessible via Winns Lane. The roof top contains mechanical plant.
5. Surrounding land uses are residential and commercial. Immediately to the west of the site is 'The Park Apartments' (18-32 Oxford Street) a 16 storey residential flat building with ground floor commercial uses. Immediately to the east of the subject site (38-46 Oxford Street) is a three storey locally listed heritage item of commercial use. To the north of the site across Winns Lane (223-225 Liverpool Street) is the Former 'Winns Ltd Department Store', a locally listed heritage building. This building is currently undergoing refurbishment for commercial use. Buildings on the opposite side of Oxford Street and within the immediate surrounds comprise primarily of commercial buildings of varying style and character.
6. Photos of the site and surrounds are provided below:



Figure 1: Aerial image of subject site and surrounding area



Figure 2: Site viewed from Oxford Street, looking north



Figure 3: Existing ground floor facade



Figure 4: Looking north east along Oxford Street



Figure 5: Looking north west along Oxford Street



Figure 6 Looking north west along Oxford Street



Figure 7: Looking west along Oxford Street to buildings on the opposite side of the road



Figure 8: Site viewed from Norman Street looking west



Figure 9: Rear of site viewed from Winns Lane



Figure 10: Rear of site viewed from Winns Lane looking south



Figure 11: Site viewed from Liverpool Street looking south



Figure 12: Existing rooftop and mechanical plant looking south



Figure 13: View to The Park Apartments from existing rooftop

Proposal

7. The application seeks consent for the construction and use of a two storey contemporary addition on top of an existing building, internal refurbishment works to existing Levels to facilitate access and services, change of use to existing Levels 1 and 2, and external heritage conservation works. Details of the proposal are as follows:
 - (a) Basement, ground floor, Levels 1 and 2 (existing)
 - (i) removal of part of an existing bar within the basement for a new lift pit and new fire stairs;
 - (ii) removal of the existing basement kitchen and cool room for a new staircase and egress doorway to Winns Lane;
 - (iii) retention and restoration of existing heritage stairs on all floors, located in the north eastern corner of the building;
 - (iv) new ground floor lobby and lift entrance for access to upper commercial tenancies;
 - (v) removal of existing bar and toilets on Level 2 to facilitate a new boardroom;
 - (vi) new rear façade and roof over the new boardroom on Level 2;

- (vii) change of use for Level 1 (first floor) from a bar and live music venue to commercial offices associated with the hotel use;
 - (viii) change of use for Level 2 (second floor) from a bar/nightclub to a commercial office space (separate tenancy);
 - (ix) existing hotel uses for the basement and ground floor are to remain.
- (b) Levels 3-4 (new levels)
- (i) removal of existing roof top mechanical plant and services;
 - (ii) new Level 3 and 4 comprising 129sqm of commercial gross floor area on each level;
 - (iii) new consolidated rooftop plant area and lift overrun;
 - (iv) use of Levels 3 and 4 as commercial office space.
- (c) Oxford Street facade works
- (i) repointing of damaged brickwork;
 - (ii) removal of paint from face brickwork;
 - (iii) replacement of intrusive balustrades on existing projecting balconies;
 - (iv) repainting of previously painted elements;
 - (v) removal of wood cladding on ground floor and replacement with new tile façade to match existing brick/façade detailing;
 - (vi) removal of vegetation from parapet;
 - (vii) removal of unsympathetic services above the ground floor awning;
 - (viii) repair and repainting of timber framed double hung sash windows.
8. Selected drawings of the proposed development are provided below. A full set of drawings are provided in Attachment B.



Figure 14: Photomontage of proposal viewed from Oxford Street

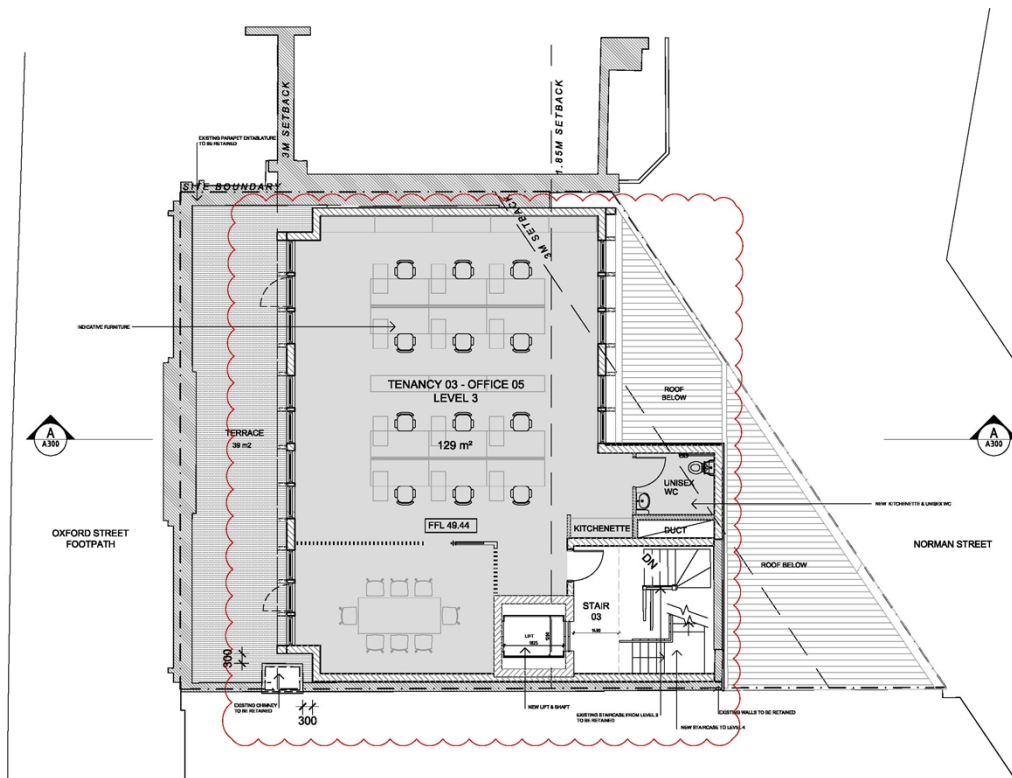


Figure 15: Proposed level 3 floor plan. This floor plan is also typical of proposed level 4.

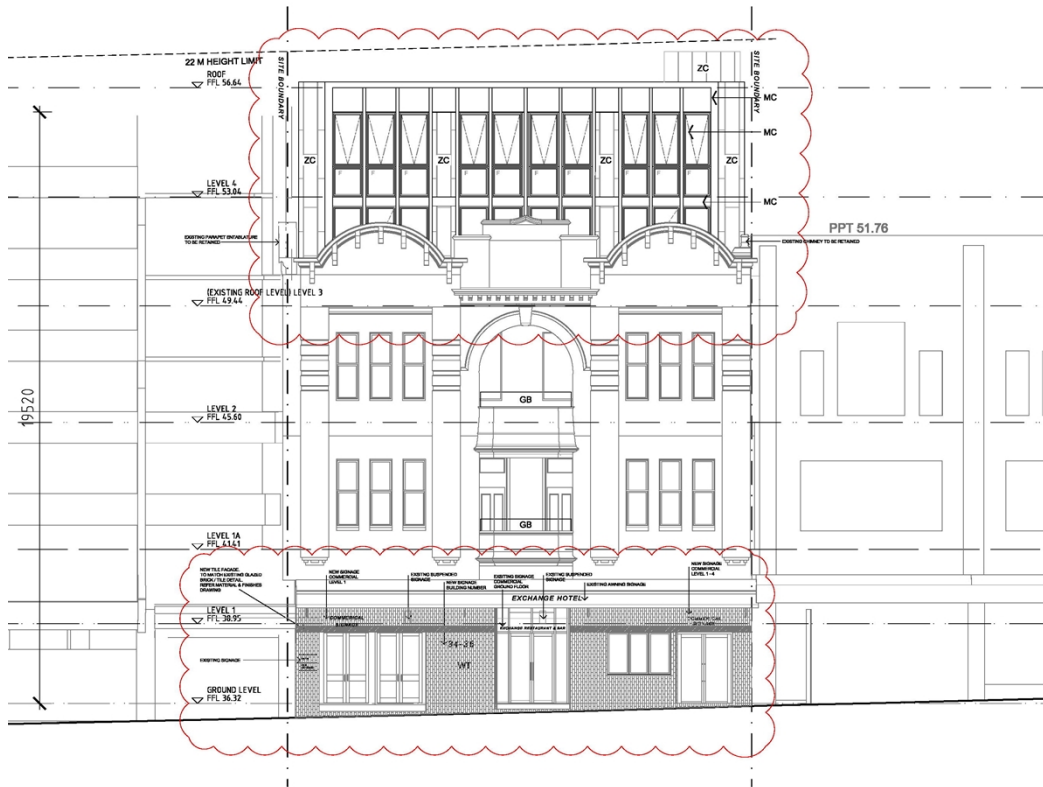


Figure 16: Proposed front (Oxford Street) elevation

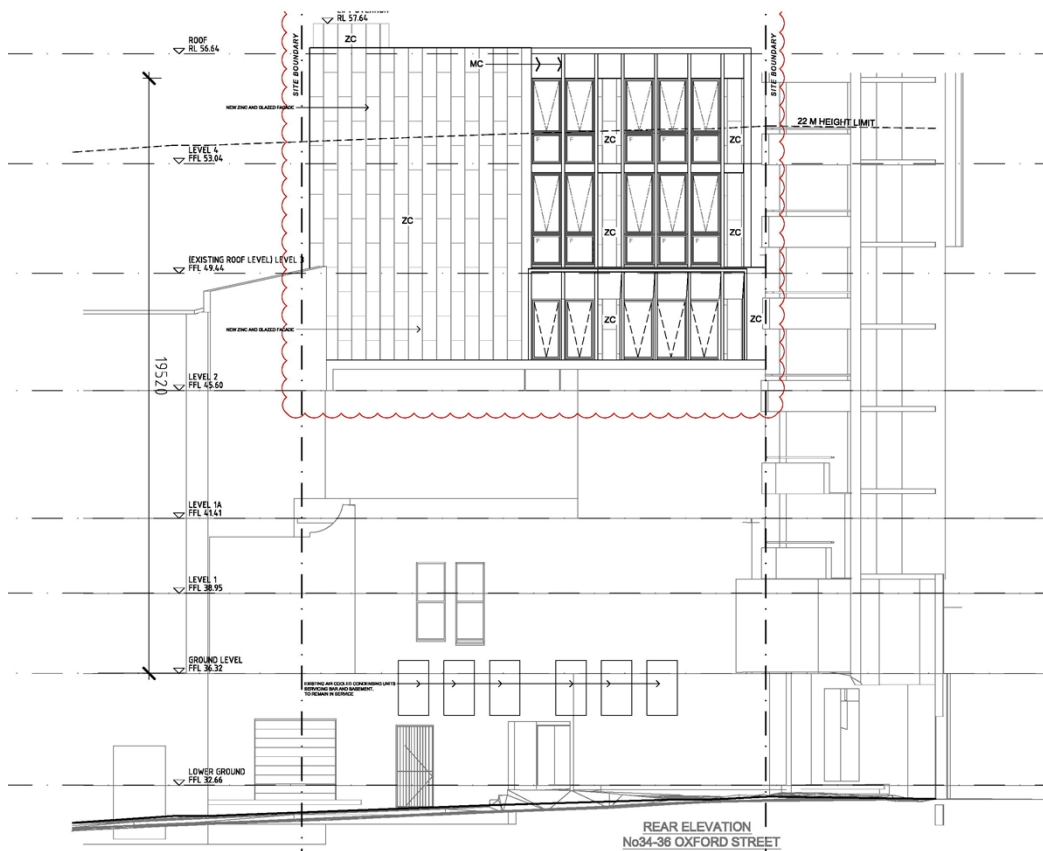


Figure 17: Proposed rear elevation

History Relevant to the Development Application

D/2013/860

9. On 25 March 2014, deferred commencement consent was granted for the 'Consolidation of consents for the continued use of the licensed hotel known as The Exchange Hotel'. This application, which was activated on 30 January 2015 approved the following uses:
 - (a) basement - live music venue and bar;
 - (b) ground floor - hotel bar, lounge and gaming room, external smoking area;
 - (c) first floor (Level 1) - live music venue and bar;
 - (d) second floor (Level 2) - bar/nightclub.
10. This consent has been modified on 5 August 2014 and 29 January 2015 to amend Condition 2 relating to approved hours of operation.

Compliance Action

11. No current compliance action exists for the site, however the site has previously been the subject of compliance action. Relevant compliance action is summarised below:
 - (a) unauthorised works on the ground floor consisting of replacement and renovation of internal doorways, walls, ceiling and floor lining and change of configuration of the floorplan, including enclosing the outdoor smoking area;
 - (b) unauthorised works on the first and second floors consisting of replacement and renovation of internal doorways, walls and floors and change of configuration of floor plan and unauthorised use of the first and second floors as commercial office space.
12. The above unauthorised work and uses were investigated by Council and based on the findings, the following relevant action has been taken:
 - (a) a Building Certificate was submitted and approved for the unauthorised building works to the ground floor (BC/2016/87, approved 6 March 2017);
 - (b) no building code or fire safety issues were found with unauthorised building works to the first and second floors;
 - (c) the applicant was advised to submit a development application to formalise the unauthorised use of the first and second floors as commercial premises.
13. The subject development application was submitted, which seeks to formalise (amongst other things) the previously unauthorised use of the first and second floors. The approval of the change of use of these areas going forward is possible under the Environmental Planning and Assessment Act 1979.

D/2017/1293 (subject development application)

14. The subject proposal has been amended to address a number of issues identified by Council officers during assessment of the application and in response to consultation with the City's Design Advisory Panel.

15. The Panel was presented with the Development Application and the Panel were generally supportive of the adaptive reuse but noted and recommended the following:
 - (a) The southern façade should be recessed further than is currently proposed (to be in line with the adjacent building) the northern facade is acceptable,
 - (b) the addition should be limited to two storeys, provided other improvements to the design are addressed to benefit the integrity of the existing heritage item,
 - (c) internally the planning should be improved to create better internal spaces and retain the existing heritage stair. A more elegant lift could be more sensitively located within the building possibly moving west which would be better for protecting the integrity and curtilage of the stair case,
 - (d) the floor plans should be reconsidered to create better arrangements of the internal spaces and rooms. For example rearrange the kitchen and toilet on the upper levels to avoid direct views into the spaces from the communal work space.
 - (e) the existing structure should be checked re capacity to carry the additional floors, and the possibility of cross laminated timber construction be investigated to minimise additional loads.
16. Subsequent amendments include:
 - (a) retention of original heritage fabric, including the original staircase located in the north eastern corner of the building and rooftop chimney;
 - (b) increase the front setback of additional levels to a minimum of 3m to provide consistency with the setback of the adjoining Park Apartments building;
 - (c) increase ceiling heights for the proposed new commercial levels;
 - (d) deletion of balconies proposed to be located at the rear of new levels 3 and 4;
 - (e) submission of an acoustic statement and additional information relating to the proposed rooftop plant;
 - (f) submission of additional information relating to the proposed façade restoration works and schedule of materials and finishes;
 - (g) Submission of additional information relating to existing and proposed signage.
17. The revised drawings and supporting documentation submitted to Council on the 27 November 2017 and 23 March 2018 satisfy the issues raised by Council and the Design Advisory Panel.

Economic/Social/Environmental Impacts

18. The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:
 - (a) Environmental Planning Instruments and DCPs.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)

19. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.
20. The Sydney Harbour Catchment Planning Principles must be considered in the carrying out of development within the catchment. The key relevant principles include:
 - (a) protect and improve hydrological, ecological and geomorphologic processes;
 - (b) consider cumulative impacts of development within the catchment;
 - (c) improve water quality of urban runoff and reduce quantity and frequency of urban run-off;
 - (d) Protect and rehabilitate riparian corridors and remnant vegetation.
21. The site is within the Sydney Harbour Catchment and eventually drains into the 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 SREP are not applicable to the proposed development. The development is consistent with the controls contained with the deemed SEPP.

Sydney LEP 2012

22. The site is located within the B2 Local Centre zone. The proposed use is defined as commercial and is permissible.
23. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	No	A maximum height of 22m is permitted. A maximum height of 23.87m is proposed. See discussion under the heading Issues.
4.4 Floor Space Ratio	No	A maximum FSR of 2.5:1 is permitted. A FSR of 3.33:1 is proposed. See discussion under the heading Issues.
4.6 Exceptions to development standards	Yes	The proposal seeks to vary the development standard prescribed under Clause 4.3 and 4.4. See discussion under the heading Issues.

Development Control	Compliance	Comment
5.10 Heritage conservation	Yes	The subject site is a heritage item and is located within a heritage conservation area. See discussion under the heading Issues.

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
Division 4 Design excellence	Yes	The proposed development satisfies the requirements of this provision.

Sydney DCP 2012

24. The relevant matters to be considered under Sydney Development Control Plan 2012 for the proposed development are outlined below.

2. Locality Statements – Oxford Street

The subject site is located in the Oxford Street locality. The proposed alterations and additions to a heritage item is considered to be in keeping with the unique character of the area and design principles in that it retains and responds to the existing heritage building by respecting the prevailing scale of the item and maintains the existing entertainment and commercial uses while providing for additional complementary commercial uses.

3. General Provisions	Compliance	Comment
3.2 Defining the Public Domain	Yes	The proposed development will enhance the public domain by maintaining the existing active frontage to Oxford Street and refurbishing the existing awning over the Oxford Street footpath and carrying out conservation works to the buildings facade.
3.9 Heritage	Yes	The existing building is a heritage item and a contributory building within a conservation area See discussion under the heading Issues.

3. General Provisions	Compliance	Comment
3.10 Significant Architectural Building Types	Yes	The site contains a hotel that is older than 50 years. The proposal does not seek to remove the historical use of the site as a pub, with these uses being maintained at basement and ground floor.
3.11 Transport and Parking	No	The proposal does not include provision for bicycle parking. A condition has been recommended requiring provision of two bicycle parking spaces for the new commercial floors. Due to site constraints, these spaces can be provided on Levels 3 and 4 which will be accessible via the lift.
3.12 Accessible Design	Yes	A condition has been recommended for the proposed development to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.
3.14 Waste	Yes	A condition has been recommended for the proposed development to comply with the relevant provisions of the City of Sydney Code for Waste Minimisation in New Developments 2005.
3.16 Signage and Advertising	No	The proposed development includes new signage. See discussion in the heading Issues.
3.16.1 Signage Strategy	No	A signage strategy for the building is required and has not been submitted. See discussion in the heading Issues.

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.1 Building height	Yes	<p>A maximum height in storeys of six storeys is permitted.</p> <p>The proposal is five storeys when viewed from Oxford Street and six Storeys when view from Winns Lane.</p> <p>The proposal provides 3.6m floor to floor heights for the new commercial floors (Levels 3 and 4).</p>
4.2.2 Building setbacks	Yes	<p>The proposed new floors will be setback 3m from the front property boundary. This setback is acceptable as it is consistent with the adjoining Park Apartments building to the west and maintains the setting of the heritage item.</p> <p>The additional floors are provided with a staggered setback from the rear property boundary of up to 6.8m in order to reduce the appearance of the addition when viewed from the rear.</p>
4.2.3 Amenity	Yes	<p>Shadow diagrams submitted with the application demonstrate that the proposed addition will not result in additional overshadowing on existing residential living areas or private open space.</p> <p>Initial visual and acoustic privacy concerns were raised as a result of proposal rear balconies located on new Levels 3 and 4. These balconies have been removed. Conditions have been recommended regarding the use of the terrace fronting Oxford Street.</p> <p>An acoustic report has been submitted that shows that new rooftop plant will not result in unacceptable noise impacts.</p>

Issues

Height, Scale and Bulk

25. The application proposes the departures to the building height and floor space ratio controls outlined in Sydney LEP 2012 as follows:
- an increase in allowable building height from the permitted 22m to a proposed 23.87m. This equates to a maximum of 1.87m of additional height and a departure from the development standard of approximately 8.5% (Figure 18);
 - an increase in allowable FSR from the permitted 2.5:1 to a proposed 3.33:1. This equates to approximately 234.75m² of additional allowable gross floor area and a departure from the development standard of approximately 33%.



Figure 18: Building height contour illustrating extent of building above the 22m height control

26. The proposal seeks to vary the height and FSR development standards, pursuant to Clause 4.6 of Sydney LEP 2012. The Local Planning Panel may grant an exception pursuant to the Section 9.1 direction granted by the Minister for Planning on 23 February 2018.
27. In order to demonstrate whether strict compliance is unreasonable and unnecessary in this instance, the proposed exceptions to the height and FSR development standards have been considered against the objectives and provisions of Clause 4.6 below.

Departure to Clause 4.3 Height of Buildings

28. The applicant has submitted a written request, pursuant to Clause 4.6(4)(a)(i), justifying the proposed departure to the building height development standard on the following basis:
- the proposal satisfies the objectives of the zone and the height of building objectives;

- (b) the proposal has been designed to respect the historical significance of the heritage listed building;
 - (c) the variation to the height standard only applies to the lift overrun and rear of the building and will not be discernible from Oxford Street;
 - (d) the proposal maintains a three storey street wall height and five storey height when viewed from Oxford Street with significant areas of the building remaining under the height control;
 - (e) the area of non-compliance is relatively minor and does not unreasonably add to the bulk and scale of the building when viewed from the public domain and surrounding buildings;
 - (f) the breach is a result of the existing fall of the site from front to rear;
 - (g) the proposal provides a desirable built form that enhances the streetscape character of the immediate area;
 - (h) the height departure does not create any significant impact by way of privacy, overshadowing or excessive bulk and scale.
29. The proposed height of 23.87m is considered acceptable in this instance, and strict compliance with the height control is unreasonable and unnecessary pursuant to Clause 4.6(4)(a)(ii), as there are sufficient grounds to justify exceeding the standards as follows:
- (a) the proposal is consistent with the objectives of the B2 Local Centre zone in that it:
 - (i) maintains the existing entertainment uses onsite, which will continue to serve the needs of residents, workers and visitors to the area; and
 - (ii) provides for additional commercial space that will encourage employment opportunities in a location that is easily accessible and well serviced by public transport;
 - (b) the proposal is consistent with the objectives of the height of buildings development standard in that:
 - (i) it complies with the building height control at the front of the site, resulting in an appropriate height in relation to the sites context and located within the East Sydney Conservation Area and Oxford Street streetscape;
 - (ii) provides an appropriate height transition from the existing multi-storey building located immediately to the north west to the existing heritage listed buildings located to the south east of the site;
 - (iii) the proposed exceedance in height will not impact on any views or result in any adverse amenity impacts to surrounding development.
 - (c) the proposal complies with the relevant provisions of Sydney DCP 2012 in that:
 - (i) it complies with the height in storeys control of six storeys, presenting as five storeys to Oxford Street and six storeys to the rear;

- (ii) the upper levels are setback from the property boundaries to reduce their visual prominence;
 - (iii) the proposal will not result in unacceptable overshadowing or privacy impacts as a result of the additional height.
30. It is considered that the written statement provided by the applicant has sufficiently justified that strict numerical compliance with the development standard is unreasonable and unnecessary in this instance.
31. For the reasons outlined above, there are sufficient environmental planning grounds to justify contravening the building height development standard and it is recommended that the Clause 4.6 exception be granted.

Departure from Clause 4.4 Floor Space Ratio

32. The applicant has submitted a written request, pursuant to Clause 4.6(4)(a)(i), justifying the proposed departure to the floor space ratio development standard on the following basis:
- (a) the proposal satisfies the objectives of the zone and the floor space ratio objectives;
 - (b) the proposal results in a significant upgrade and revitalisation of the building, including upgrades to the heritage facade. The additional floor space creates a project that is viable and sustainable for the site without adversely impacting on streetscape, conservation values or amenity;
 - (c) the addition tempers the abrupt scale at the boundary with the adjoining 16 storey Park Apartments tower;
 - (d) the proposal provides a desirable built form that enhances the streetscape character and urban form of the area;
 - (e) the FSR departure does not create any significant adverse impact by way of privacy, overshadowing, bulk or scale.
33. The proposed FSR of 3.33:1 is considered acceptable in this instance, and strict compliance with the height control is unreasonable and unnecessary pursuant to Clause 4.6(4)(a)(ii) as there are sufficient grounds to justify exceeding the standards as follows:
- (a) the proposal is consistent with the objectives of the B2 Local Centre zone in that it:
 - (i) maintains the existing entertainment uses onsite, which will continue to serve the needs of residents, workers and visitors to the area; and
 - (ii) provides for additional commercial space that will encourage employment opportunities in a location that is easily accessible and well serviced by public transport.

- (b) the proposal is consistent with the objectives of the floor space ratio development standard in that:
 - (i) the additional floor space is contained within a built form that largely complies and is generally consistent with LEP and DCP development controls, with the exception of height which has been discussed above
 - (ii) the additional floor space constitutes 242sqm. However the existing basement contains 164sqm of floor space which has been repurposed and does not contribute to the overall bulk of the building;
 - (iii) the additional floor space is contained within a built form that is appropriate to the sites context and its location within the conservation area and streetscape ;
 - (iv) the additional floor space will provide for commercial floor space in a location that is well serviced by existing infrastructure, including public transport;
 - (v) the proposed exceedance in FSR will not result in any adverse amenity impacts to surrounding development.
 - (c) the proposal results in public benefit in the form of heritage conservation as it allows for the retention and preservation of internal and external original heritage fabric and restoration of the Oxford Street facade.
34. It is considered that the written statement provided by the applicant has sufficiently justified that strict numerical compliance with the development standard is unreasonable and unnecessary in this instance.
35. For the reasons outlined above, there are sufficient environmental planning grounds to justify contravening the floor space ratio development standard and it is recommended that the Clause 4.6 exception be granted.

Heritage

36. The site is a heritage item and is located within the East Sydney Conservation Area and is therefore subject to the heritage provisions of Sydney DCP 2012.

Statement of significance of heritage item and conservation area

37. The site of the Exchange Hotel has been associated with hotel uses continuously since the 1870s. The building provides evidence of Council involvement in the design, construction and operation of public houses in the first half of the twentieth century and is an example of the work of the Municipal Council of Sydney's architectural branch, in particular the work of architect John Merriman. The Exchange Hotel is one of several purpose designed hotels erected on this side of the street after the resumptions of 1909, and has been a focus of social activity since it was completed in 1911.
38. The building's Oxford Street facade demonstrates in a representative and well resolved manner the characteristics of the Federation Free Style and the way it could be used in public house architecture. The building is an important contributory item in the streetscape along the northern side of Oxford Street extending from No. 34-36 (the Exchange Hotel) to No. 134 (the Oxford Hotel).

39. Sections of Oxford Street contain remarkably homogenous and intact streetscapes. These include the consistent groups of Federation Free Style buildings along the northern side of Oxford Street, between Liverpool and Bourke Streets. This part of the street is arguably the finest Federation era commercial streetscape within New South Wales and it demonstrates many of the characteristics of a Victorian era High Street and still retains evidence of changing patterns of retailing in the nineteenth and twentieth centuries.

Assessment of heritage impact of proposal

40. The application was amended to address a number of issues identified by Council's Heritage Specialist during assessment of the application. These amendments include the retention of original heritage fabric, including the original staircase located in the north eastern corner of the building and rooftop chimney.
41. The proposed works to retain and conserve the original stairwell and stairs and modify the timber stairs are acceptable and supported.
42. The proposed addition of two new floors (Levels 3 and 4) above the heritage item, with the proposed setback from the original front facade, is acceptable in this instance given the site context (immediately adjacent the tall residential tower, The Park Apartments) and the development controls for this site. The design articulation of the new work above the original building and the modulation of the new facades are acceptable. The proposed setback of the new addition from the south in order to retain the original chimney and the curved pediment is also acceptable.
43. As outlined above, the amended plans have satisfactorily addressed the initial heritage concerns. The amended proposal generally complies with the relevant heritage aims, objectives and controls of the DCP and is considered to be acceptable.

Signage Strategy

44. As outlined in Section 3.16.1 of Sydney DCP 2012, a signage strategy is to be prepared for all signage applications involving a heritage item. A signage strategy was not submitted with the subject development application.
45. The application proposes to retain existing signage on the Oxford Street facade in the form of awning fascia signage and top hamper signage. New signage is also proposed on the ground floor of the Oxford Street facade in the form of top hamper signage and flat mounted wall signs.
46. Due to the heritage significance of the existing building and the requirement for the submission of a signage strategy, it is recommended that no changes to existing and proposed signage be approved. A condition has been recommended requiring the submission and approval of a signage strategy prior to the issue of a construction certificate.

Other Impacts of the Development

47. The proposed development is capable of complying with the BCA.
48. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

Suitability of the site for the Development

49. The proposal is of a nature in keeping with the overall function of the site. The premises are in a commercial/residential surrounding and amongst similar uses to that proposed.

Internal Referrals

50. The conditions of other sections of Council have been included in the proposed conditions.
51. The application was discussed with the City's Heritage and Urban Design Specialists, Building Services Unit, Compliance Unit, Surveyors and Transport and Access Unit, who advised that the proposal is acceptable subject to the recommended conditions. As specified above the application was also referred to the Design Advisory Panel.

External Referrals

Notification, Advertising and Delegation (Submission(s) Received)

52. In accordance with Schedule 1 of the Sydney DCP 2012, the proposed development is required to be notified and advertised. As such the application was notified and advertised for a period of 28 days between 5 October 2017 and 3 November 2017. As a result of this notification there were 20 individual letters and 55 pro-forma letters received.

- (a) The additional height in the form of the two new levels will significantly impact on the heritage significance of the building and the streetscape. The setback is minimal and the addition will be visible from Oxford Street, Norman Street and surrounding buildings. Existing buildings on the northern side of Oxford Street have a uniform height and the proposed addition is inconsistent with this.

Response - The impact of the addition on the heritage item and conservation area has been discussed in the Issues section of this report. In summary, the proposed setback is considered to be acceptable given the site context, being adjacent to a tall tower (The Park Apartments) and the development controls for the site. In this regard, the proposed addition complies with the height in storeys control and building height control when viewed from Oxford Street. The proposal was amended to address initial concerns relating to the setback of the new addition and retention of existing chimney. The proposed addition has been assessed against the heritage provisions of the LEP and DCP and found to be acceptable.

- (b) The approval of a two storey addition would set an unacceptable precedent to be used for other heritage listed buildings along Oxford Street. Future applications may seek higher additions which would have an even more serious impact.

Response - The exceedance of the control at the rear of the site in regard to height has been assessed and is considered acceptable in this instance. As such, it is not considered that an unacceptable precedent would be established by the proposal. Any future development application that may be submitted for other buildings along Oxford Street would be assessed against the relevant planning controls for the site and on their individual merits.

- (c) The proposal does not comply with the LEP height or floor space ratio controls.

Response - The non-compliance with the LEP height and floor space ratio controls has been discussed in detail in the Issues section of this report. In summary, the proposal seeks to vary the height and FSR development standards, pursuant to Clause 4.6 of Sydney LEP 2012. It is considered that the written statement provided by the applicant has sufficiently justified that strict numerical compliance with the development standards is unreasonable and unnecessary in this instance.

- (d) There is no bicycle parking proposed within the building.

Response - A condition has been recommended requiring provision of two bicycle parking spaces for the new commercial floors. Due to site constraints, these spaces can be provided on Levels 3 and 4 which will be accessible via the lift.

- (e) There is no parking on the premises and there is limited on-street parking in the area. This will be further reduced as a result of the proposal and result in congestion on streets, adversely impacting the current pedestrian and bicycle rights of way.

Response - The City's transport and parking controls seek to encourage walking, cycling, public transport and car sharing, as opposed to the use of private vehicles. As such the City does not require new developments or additions to provide onsite parking. The site is located within close proximity to frequent public transport services and is easily accessible via foot from the neighbouring and surrounds.

- (f) The application states that they have parking available in Winns Lane. This is incorrect as Winns Lane is a right of carriageway, not a public lane.

Response - The application refers to parking being available on Norman Street, which is correct. No parking signs exist along Winns Lane, including immediately at the rear of the site.

- (g) The increased commercial floor space will result in increased activity and usage of Winns Lane. Winns Lane is private lane owned by SP 20734 (The Park Apartments). Use of Winns Lane is currently limited for building maintenance, deliveries, garbage collection etc. Use of Winns Lane is granted by permission from SP 20734 only.

The current arrangement for waste collection for the existing building is in keeping with the right of carriageway. If there is a change to this, including an increase in waste disposal and collection, the owners of the laneway should be consulted.

Response - The application does not propose any specific use of Winns Lane, above what is already taking place to service the existing building. There will be an increase in waste generation onsite due to the new commercial use, however this increase is not expected to be significant. The site is currently serviced by a private waste contract, which will continue for the existing and proposed uses as Council does not collect commercial waste. Conditions have been recommended requiring a Waste Management Plan be submitted in accordance with Council policy.

- (h) The proposal will block the windows of units in close proximity to the additional storeys. The proposal will limit the flow of light and air within apartments and there will be an impact on view corridors and privacy for some units.

Response - The proposal will not block any windows of adjoining properties or allow for overlooking to adjoining properties from the new built form. The southern and northern building facades of the new storeys have been setback to sit in line with the Park Apartments building. No windows exist along the western elevation of the Park Apartments, adjacent to the proposed addition (Figure 13). Shadow diagrams submitted with the application demonstrate that the proposed addition will not result in additional overshadowing on existing residential living areas or private open space.

- (i) There is no indication as to what type of commercial use is proposed on the new levels. There is concern that the new levels will be used as an entertainment venue, as per the existing building.

Response - The Statement of Environmental Effects notes that the use of the proposed additional floors will be commercial office space and the submitted floor plans show the layout of an office on Levels 3 and 4.

- (j) Use of the open terraces will affect units on the eastern side of the Park Apartments due to overlooking, noise, smoke and other disturbances. There is no indication that the terrace areas will not be used as a café/bar/restaurant as the premises is currently licenced for these uses.

Response - Approval is sought for use of Levels 3 and 4 as commercial office space. The existing pub and restaurant uses located on the ground floor and basement are proposed to be retained, as per previous development consent (with Level 1 converted to office use associated with that pub tenancy), and are not to be extended to the new floors. It is not anticipated that use of the terrace area within the front setback of Level 3 will have an unacceptable impact if used in association with the commercial office space. Appropriate conditions have been recommended in this regard.

- (k) The existing building consists of double brick between the building and the Park Apartments. There is concern that the proposed construction will not have adequate noise insulation to prevent noise transfer to the neighbouring property.

Response - The additional floors are setback from the southern brick wall of the Park Apartments building by 350mm, reducing opportunity for transfer of noise. A condition has been imposed requiring compliance with the City's standard noise condition regarding emission of noise.

- (l) There are incorrect descriptions in the documentation e.g. Winns Lane is referred to as Norman Street, reference to parking along Winns Lane is not correct and incorrectly referenced adjoining buildings.

Response - The documentation does contain some errors, however these errors do not impact the proper assessment of the application.

- (m) The proposal is not in the public interest as it will impact the rights of surrounding occupants to enjoy their properties, particularly if the commercial use is for entertainment purposes.

Response - The proposed addition will not be used for entertainment purposes. It is not considered that the commercial office use of the addition, or the design of the addition will result in unacceptable amenity impacts to surrounding properties.

Public Interest

53. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

S7.11 Contribution

54. The development is subject of a S7.11 contribution under the provisions of the City of Sydney Development Contributions Plan 2015.
55. The following monetary contribution is required towards the cost of public amenities:

(a) Open Space	\$9,913.11
(b) Community Facilities	\$9,340.57
(c) Traffic and Transport	\$1,554.04
(d) Stormwater Drainage	\$0.00
Total	\$20,807.71

Relevant Legislation

56. The Environmental Planning and Assessment Act 1979.

Conclusion

57. The application proposes the construction and use of a two storey contemporary addition on top of the existing heritage building, internal refurbishment works of existing levels to facilitate access and services, change of use to existing Levels 1 and 2 to commercial office, and external heritage conservation works.
58. The proposal has been amended to address a number of issues identified by Council during assessment of the application and in response to consultation with the City's Design Advisory Panel. These issues relate to the retention of heritage features, setback of the proposed built form, amenity impacts on adjoining properties and details of proposed materials and finishes.
59. The applicant has submitted a request to vary the height and floor space ratio standards under Clause 4.6 of Sydney LEP 2012. This request is supported.
60. The amended proposal is generally consistent with the objectives, standards and guidelines of the relevant planning controls and is recommended for approval, subject to conditions.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Natasha Ridler, Area Coordinator