

**Item 9.****Development Application: 1-7 Wellington Street, Chippendale****File No.:** D/2018/313**Summary**

**Date of Submission:** 29 March 2018  
Amended plans submitted 20 April 2018 and 4 May 2018

**Applicant:** Shepherd St Pty Ltd

**Architect:** SJB

**Owner:** Shepherd St Pty Ltd

**Cost of Works:** \$2,955,700

**Proposal Summary:** The application proposes alterations and additions to an existing two-storey commercial warehouse building for its adaptive re-use as commercial offices and cafe. Works consist of an additional third storey with solar panels above, facade improvements, new landscaped areas to the ground floor and second floor (third storey), internal alterations associated with the proposed commercial use, and end of journey facilities.

The application is referred to the Local Planning Panel for determination due to the proposed development exceeding the height of buildings standard by 42.3%.

Minor amendments have been made to the application relating to the proposed landscaping. Additional information relating to architectural details, flood management, and noise impacts was requested during the course of assessment.

**Proposal Summary:**  
**(continued)**

The Sydney Local Environmental Plan 2012 allows for a maximum building height of 9m; and the Sydney Development Control Plan 2012 allows up to two storeys in height. The application proposes a maximum building height of 12.81m (which is a 3.81m or a 42.3% exceedance to the LEP height standard). The elements of the building which exceed the LEP height control include the additional storey and lift overrun. The application seeks a variation to the height control under Clause 4.6. This variation is supported.

The application was notified in accordance with Council's notification policy. Two submissions have been received objecting to the proposed development. The following issues have been raised in the submissions: concerns with the proposal's exceedance in height, loss of outlook, overshadowing, noise impacts, emissions, and a subterranean sewage line.

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

**Development Controls:**

- (i) Sydney Local Environmental Plan 2012
- (ii) Sydney Development Control Plan 2012
- (iii) State Environmental Planning Policy No 55 — Remediation of Land
- (iv) State Environmental Planning Policy No 64 — Advertising and Signage
- (v) City of Sydney Development Contributions Plan 2015

**Attachments:**

- A. Recommended Conditions of Consent
- B. Architectural Drawings
- C. Clause 4.6 Variation Request

## Recommendation

It is resolved that:

- (A) pursuant to the provisions of Clause 4.6 "Exceptions to Development Standards" of the Sydney Local Environmental Plan (LEP) 2012, the variation sought to Clause 4.3 "Height of Buildings" be supported in this instance; and
- (B) consent be granted to Development Application No. D/2018/313, subject to the conditions set out in **Attachment A** to the subject report.

## Reasons for Recommendation:

- (A) The development is consistent with the objectives of the B4 - Mixed Use zone for the reasons set out in the report to the Local Planning Panel.
- (B) The variation to Clause 4.3 of the Sydney Local Environmental Plan 2012 "Height of Buildings" is consistent with the provisions of Clause 4.6 "Exceptions to development standards" and is in the public interest.
- (C) The built form and design of the addition responds appropriately to the scale of adjoining buildings along Wellington Street and to the rear at Queen Street.
- (D) The proposal is considered to utilise high quality materials and exhibits design excellence.
- (E) The proposal provides activation to Wellington Street at ground floor.
- (F) The recommended operational conditions for the second floor terrace will ensure the proposal does not result in adverse amenity impacts to the surrounding area.
- (G) As conditioned, it is generally consistent with the objectives of the relevant controls for the site and will not adversely impact the amenity of neighbouring properties.

## Background

### The Site and Surrounding Development

1. A site visit was carried out by Council staff on 9 April 2018.
2. The site is irregular in shape, with an area of approximately 602sqm. Its sole street frontage is to Wellington Street. A two storey commercial warehouse building is contained within the site.
3. Surrounding land uses are residential and commercial. Directly opposite the site, on the northern side of Wellington Street is the State Significant Development site known as 'Block 11', which is part of the Central Park development and is currently under construction.
4. To the immediate east of the site is a two storey commercial building at 9-11 Wellington Street. Further east at 13-17 Welling Street are three 2 storey residential terrace buildings, which are heritage listed items under Schedule 5 of the Sydney LEP 2012 (I210).
5. To the south-east, at 12-16 Queen Street, is a three storey commercial warehouse building. To the south-west, at Nos.8 and 8A Queen Street, are two four storey residential dwellings.
6. The immediately neighbouring site to the west, at 30-44 Balfour Street, is a four storey commercial warehouse building which has been converted to an art gallery, known as 'White Rabbit Gallery'.
7. The site is not a heritage item but is located within the Chippendale Heritage Conservation Area (C9). The site is identified as a contributory item within the conservation area.
8. Photos of the site and surrounds are provided below:

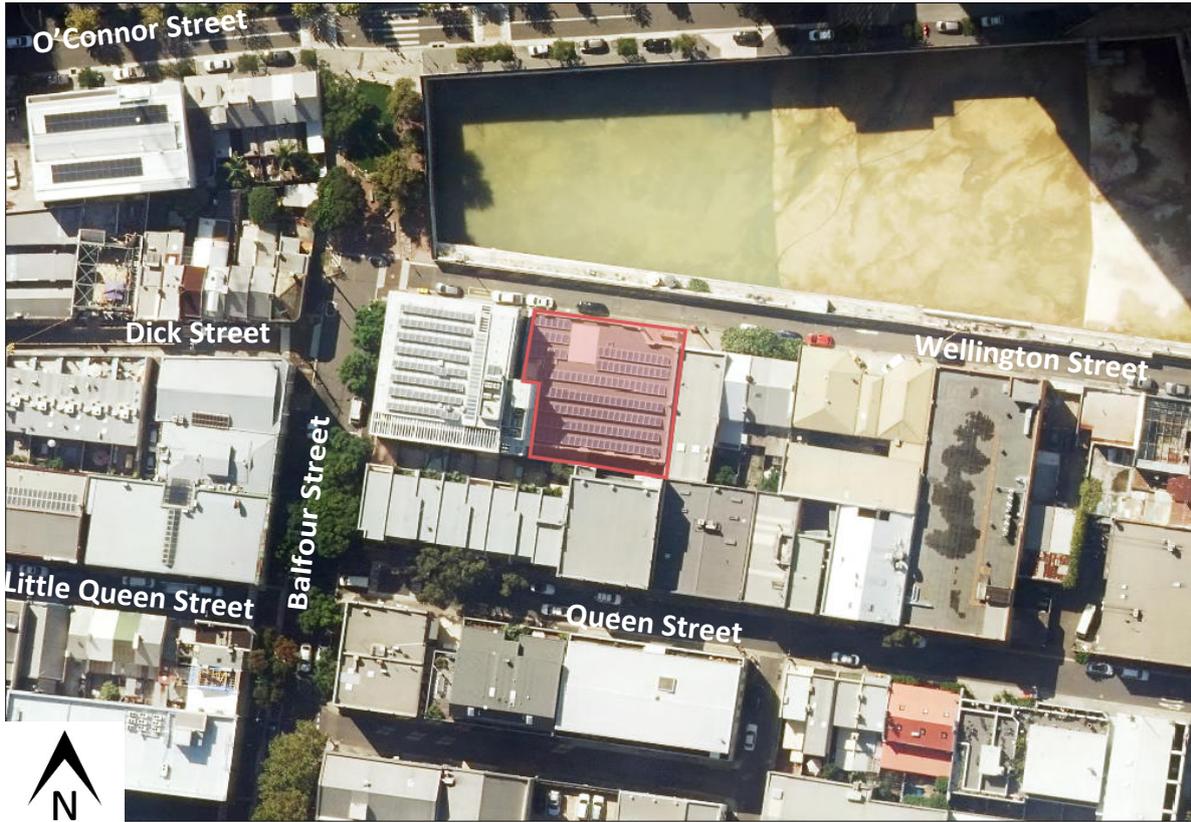


Figure 1: Aerial image of subject site and surrounding area



Figure 2: Site viewed from Wellington Street, looking west, indicated by the broken line



Figure 3: Site as viewed from Balfour Street, looking east down Wellington Street



**Figure 4:** Building facade viewed from Wellington Street



**Figure 5:** Buildings adjacent to site on Wellington Street, looking south east. The broken line (right) indicates the approximate boundary with the subject site



**Figure 6:** Existing roof, looking west towards White Rabbit Gallery (pictured), showing existing solar panels



**Figure 7:** Existing roof, looking south towards adjacent commercial warehouse building



**Figure 8:** View from existing roof, looking north east to Block 11 SSD, under construction



**Figure 9:** View from existing roof, looking east to neighbouring properties

**Proposal**

9. The application seeks consent for alterations and additions to an existing commercial warehouse building consisting of a new third storey addition and the following associated works:

**(a) Ground floor**

- (i) Demolition of roof and wall enclosing rear courtyard area, to provide new landscaped rear courtyard.
- (ii) Demolition of internal partition walls and construction of new internal partition walls for proposed commercial office space.
- (iii) New ground floor café tenancy (subject to future approval).
- (iv) New steel entry doors, roller door, awnings to Wellington Street elevation.
- (v) New stairs, lift, and voids.
- (vi) New kitchen and kitchenette.
- (vii) End of trip facilities including storage for 14 bicycles including amenities.
- (viii) Retention of one existing loading dock for waste collection and servicing.
- (ix) Toilet facilities including an accessible WC.
- (x) Bin storage.
- (xi) Mechanical plant to south east corner of rear courtyard.

**(b) Level 1**

- (i) Demolition of internal partition walls, construction of new partition walls.
- (ii) New stairs, lift, and voids.
- (iii) Toilet facilities including an accessible WC.

**(c) Level 2**

- (i) Additional storey constructed from steel-framed glazing to front, Colorbond cladding to sides, and new blockwork to rear.
  - (ii) New trafficable roof terrace to front/north of site including steel balustrade and planters.
  - (iii) Non-trafficable roof garden to rear/south of site.
  - (iv) New stairs, lift, void with skylight over.
  - (v) Toilet facilities.
  - (vi) Mechanical plant.
  - (vii) Solar panels to Colorbond roofing.
10. The proposal also involves work to make good the building exteriors including the removal of the existing paint finish to the brickwork and the repair and replacement of timber framed windows.
11. A signage strategy was submitted with the application.
12. Plans of the proposed development are provided below.



**Figure 10:** Photomontage of proposed development viewed from Wellington Street, looking south



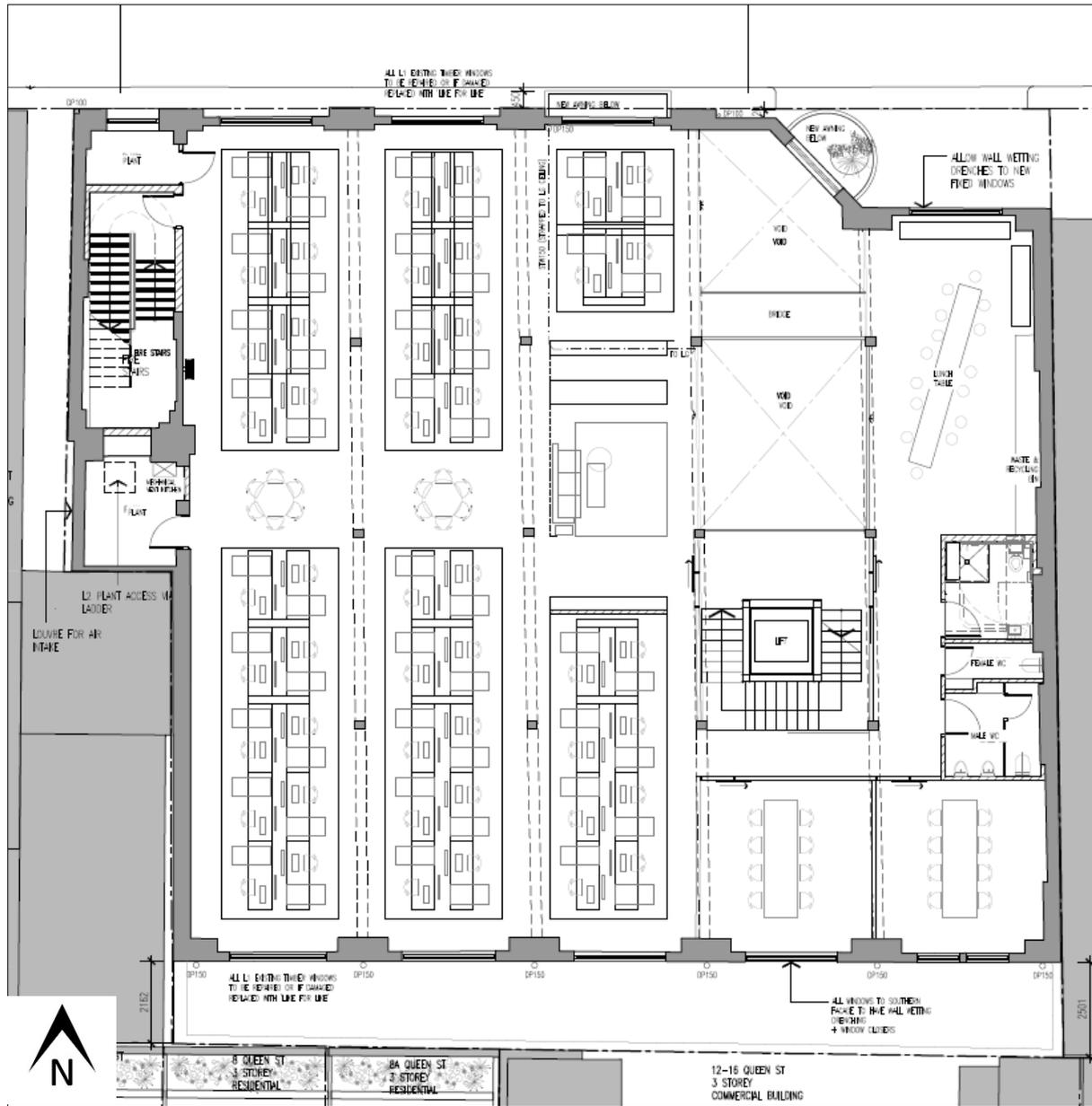


Figure 12: Proposed first floor

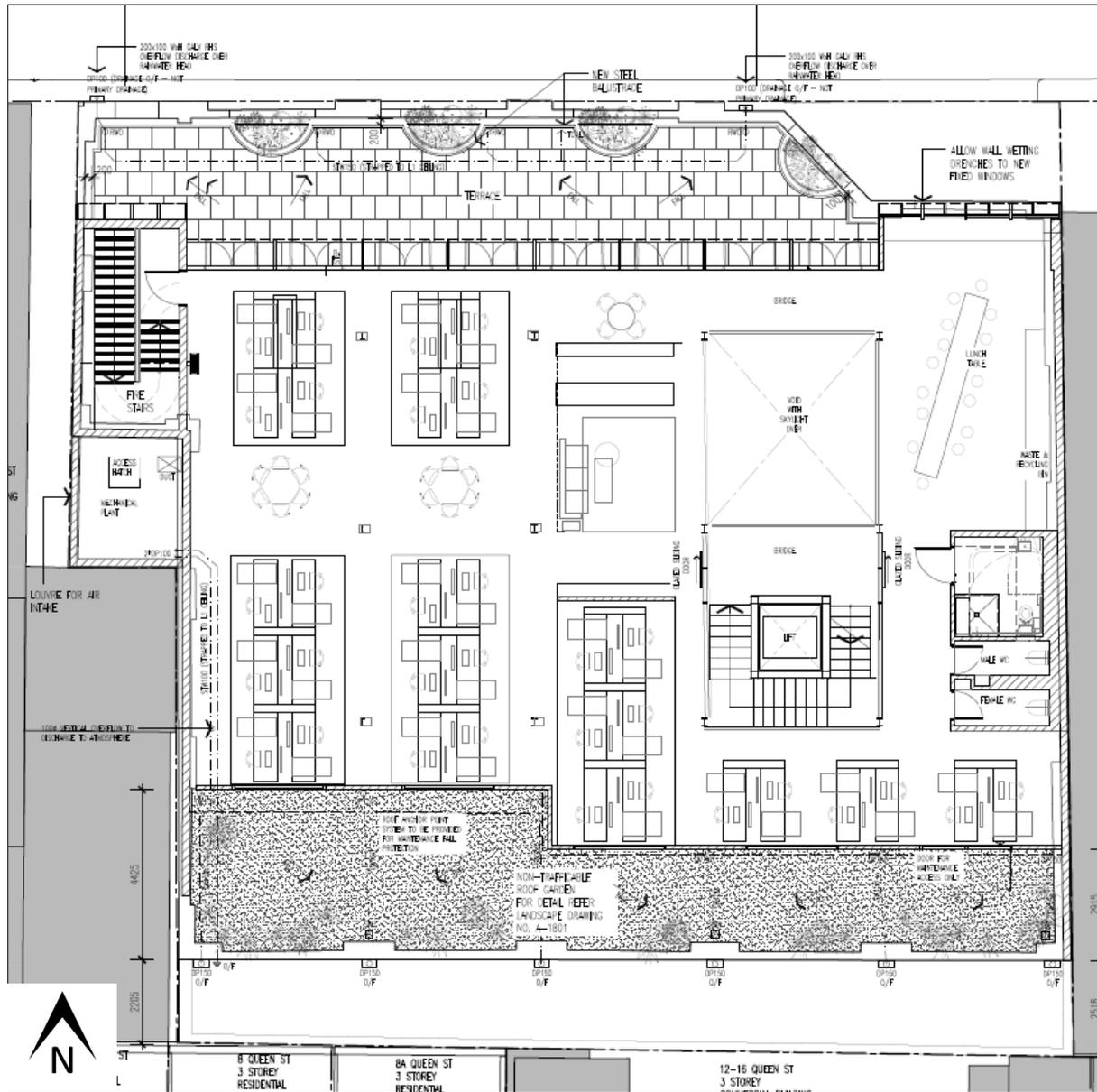


Figure 13: Proposed second floor

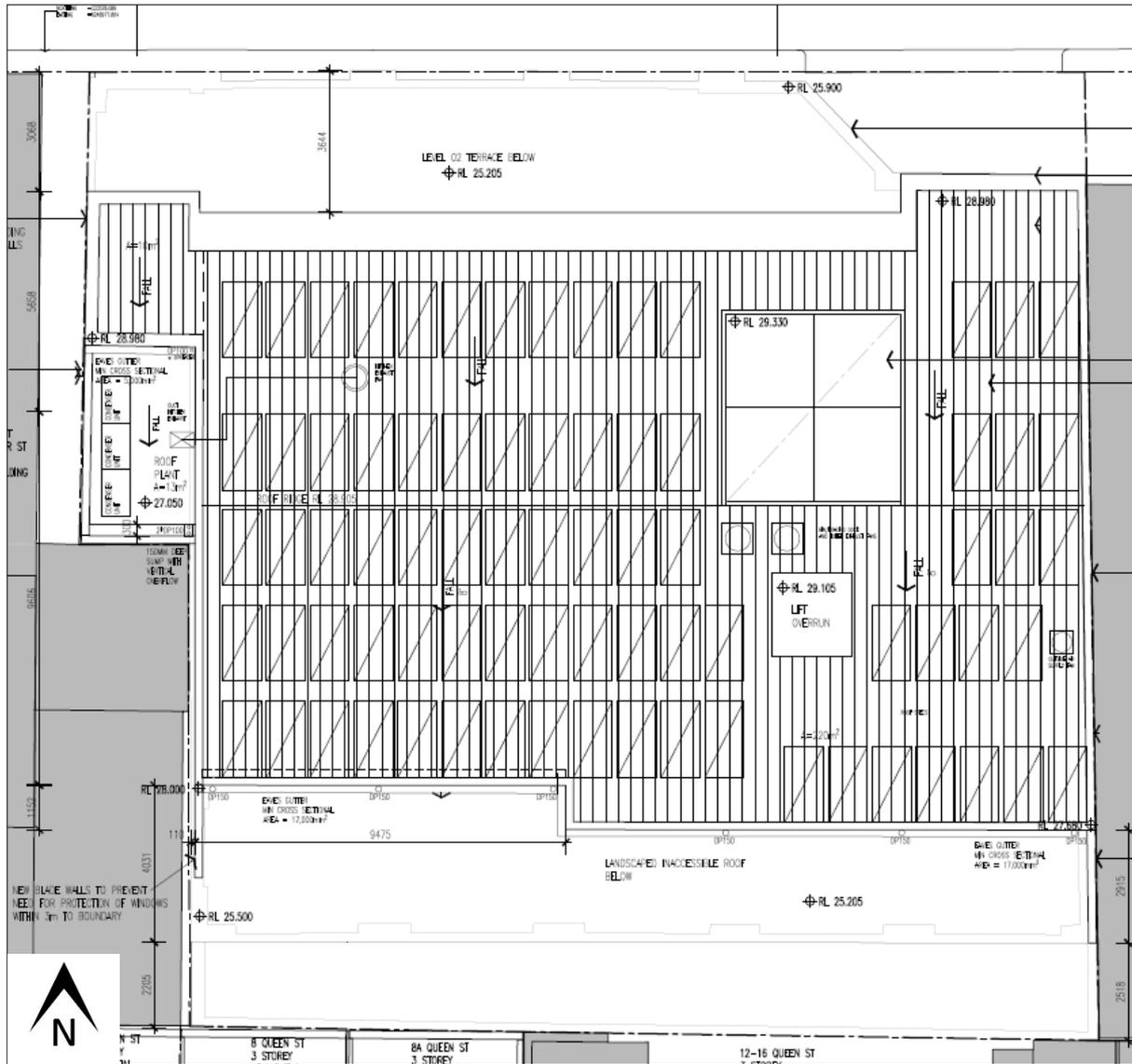


Figure 14: Proposed roof plan



Figure 15: Proposed north elevation (Wellington Street)

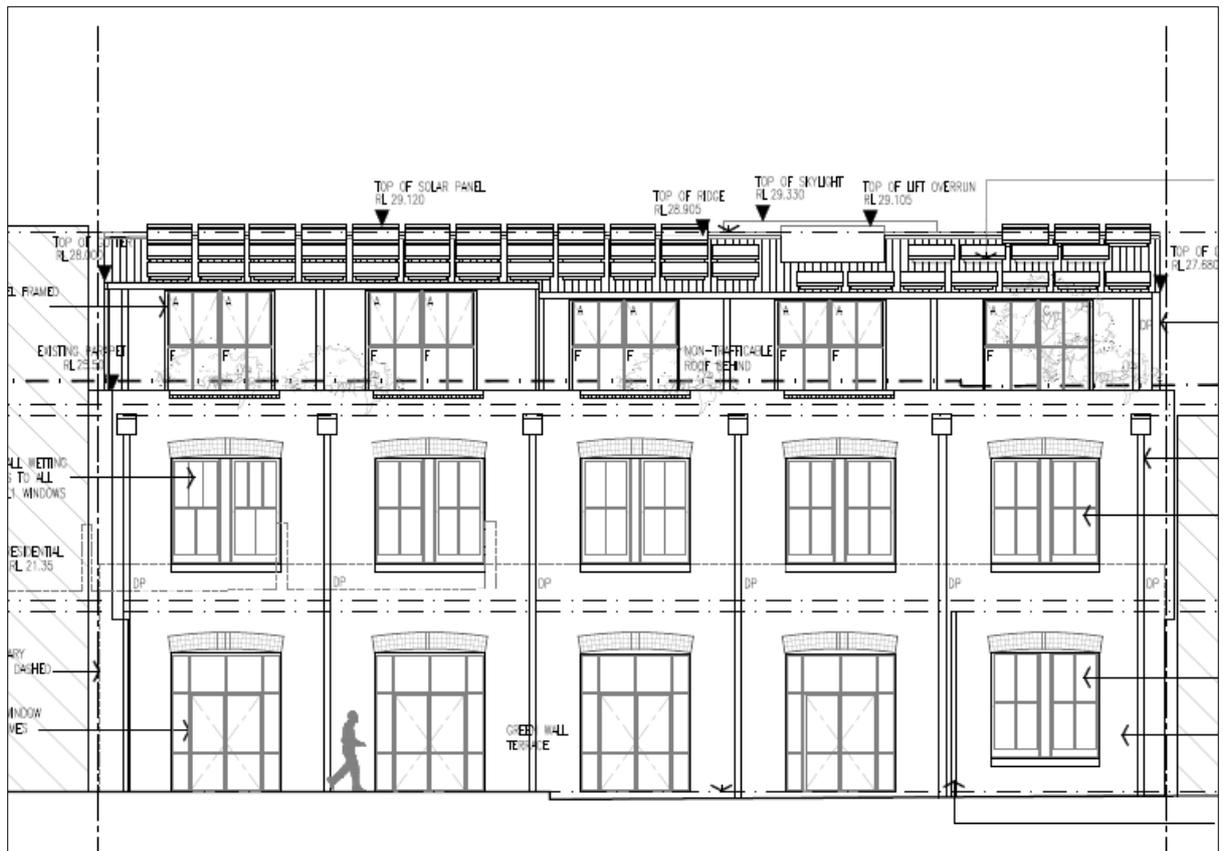


Figure 16: Proposed south elevation



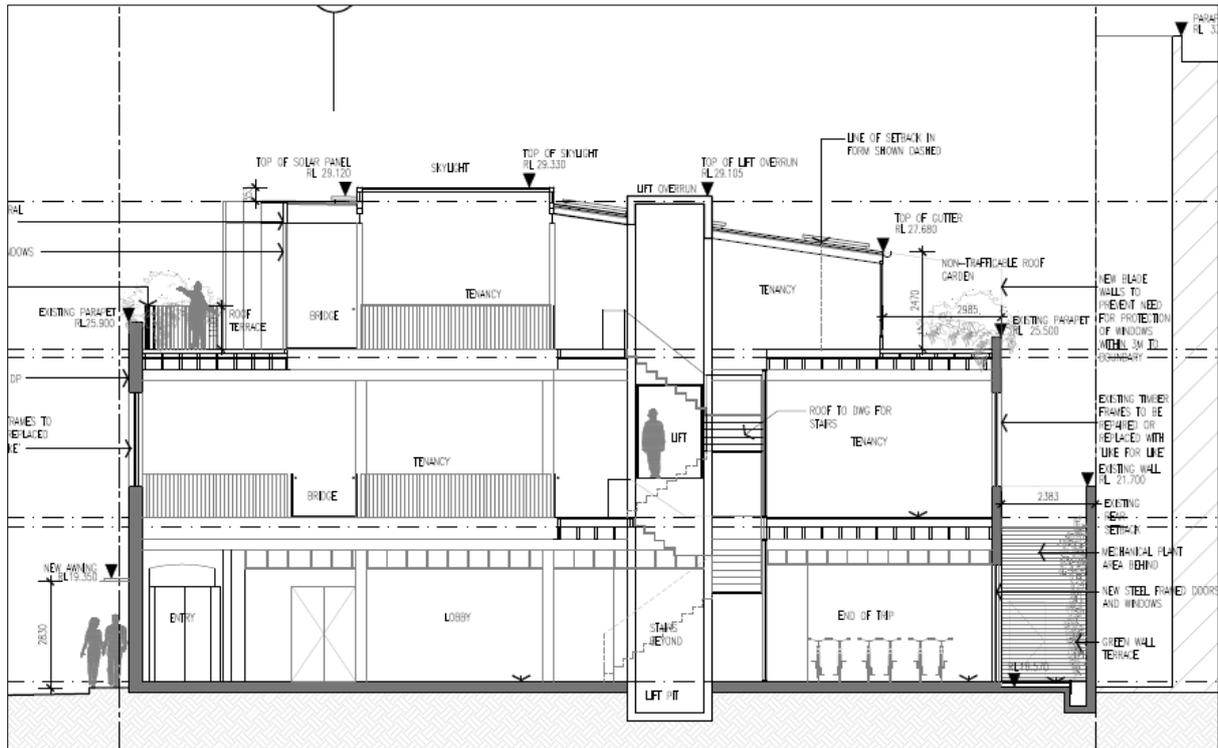


Figure 19: Section A (north-south), looking east

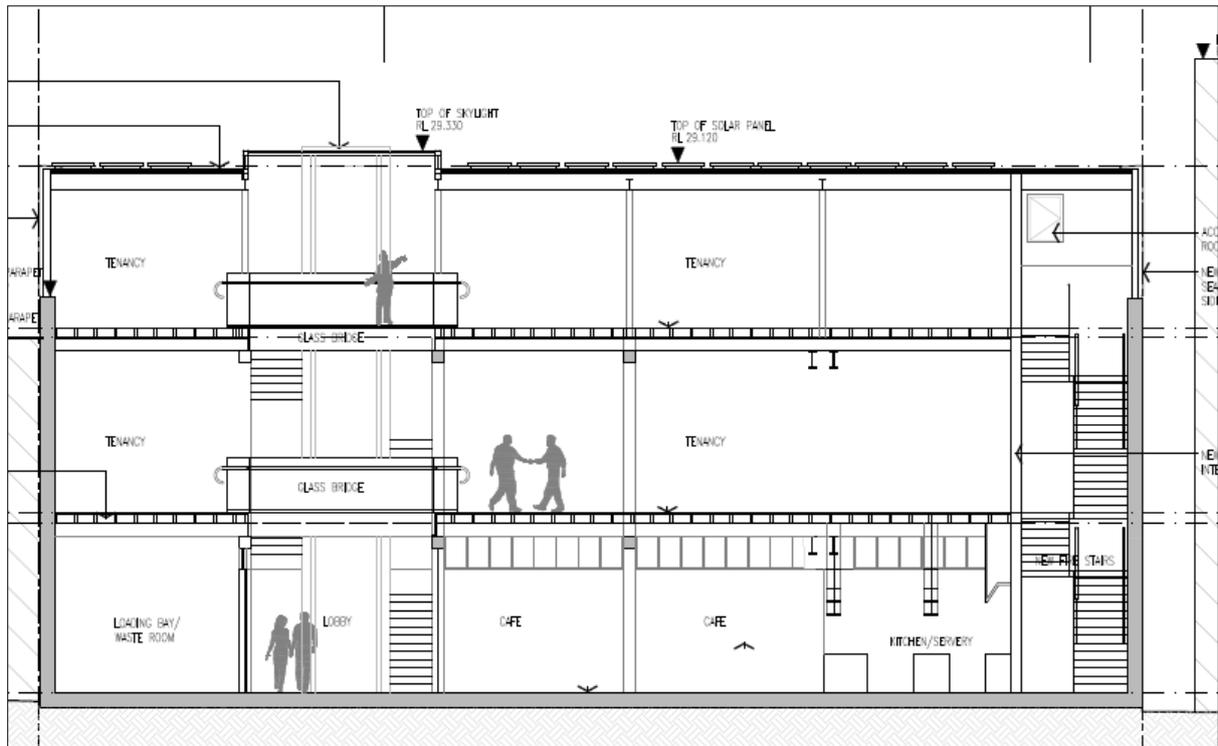


Figure 20: Section B (east-west), looking south



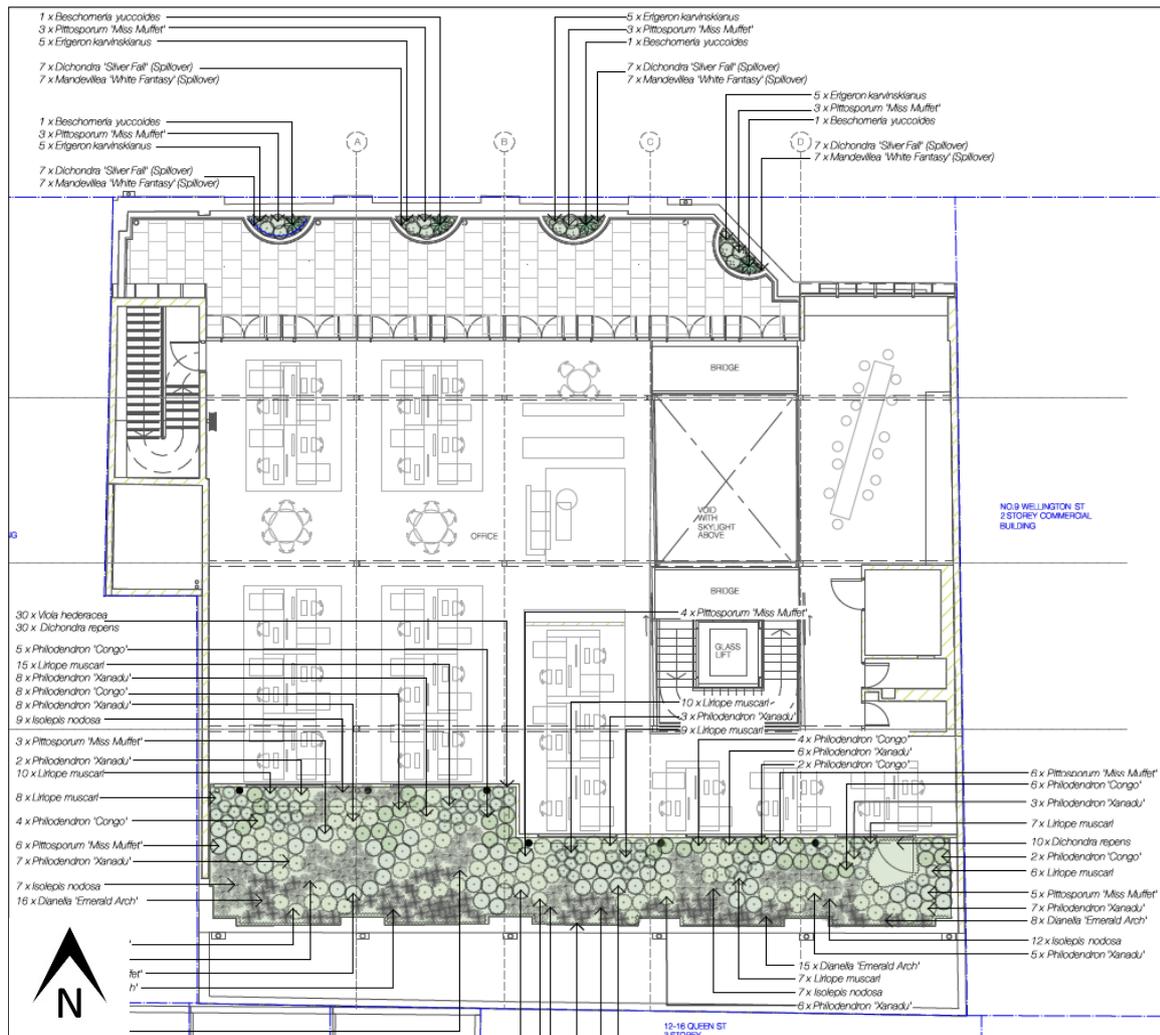


Figure 22: Second floor landscape plan

## History Relevant to the Development Application

13. Additional information has been requested during the course of assessment, including an acoustic report, a flood assessment report, amended landscape plans, and updated architectural drawings with clearer annotations and additional details.
14. In February 2003, U01-00913 issued a deferred commencement approval for alterations and additions to the existing building including an additional storey. At the time, the height of buildings control was 12m (under the South Sydney LEP 1998 and South Sydney DCP 1997). The development consent was not activated, and subsequently lapsed.
15. On 12 November 2008, D/2008/1961 was lodged . The application proposed alterations and additions to the existing warehouse building, including the construction of an additional storey with an internal mezzanine, and a maximum height of approximately 16.7m. The application was withdrawn on 27 January 2009.
16. On 30 October 2013, D/2013/1398 approved the installation of a photovoltaic solar panel system to the roof of the existing warehouse building.

17. A Pre-DA meeting concerning the subject proposal was held between Council staff and the applicant on 6 February 2018. Advice provided by Council indicated the scheme had in-principle support; however, some initial issues relating to the proposed height, setbacks, the use of appropriate materials, and the proposed awning were identified. These issues were either resolved prior to lodgement, or have been dealt with during the course of assessment of the subject application, and are detailed further in this report.

### **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.

### **State Environmental Planning Policy No 55—Remediation of Land**

19. The aim of SEPP 55 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.
20. Based on available information, the building was previously occupied by persons/companies associated with clothing and fabric manufacture for much of its history.
21. The proposal seeks consent for alterations and additions to the existing building, for future commercial uses, including minor localised excavation to accommodate the lift pit and an underground OSD tank.
22. The City's Health Unit is satisfied that subject to conditions, the proposal is consistent with the provisions of SEPP 55, and no further site contamination investigations are warranted.

### **State Environmental Planning Policy No 64—Advertising and Signage**

23. A signage strategy has been provided which includes the following signage:
  - (a) Two (2) vertical projecting wall signs measuring 400mm(w) x 2400mm(h) x 150mm(d) at the first floor;
  - (b) Two (2) wall-mounted building identification signs at the ground floor, consisting of individual metal sheet lettering measuring approximately 360mm(w) x 300mm(h), projecting 60mm from the wall; and
  - (c) One (1) horizontal identification above awning sign consisting of individual cut-out metal lettering. The lettering measures 300mm(h) x 90mm(d), and the proposed awning measures approximately 3200mm(w) in width.
24. See Figure 23 below for proposed location of signage.



**Figure 23:** Proposed signage locations indicated in red (projecting wall signs), blue (above awning signs), and green (building identification wall signs). Purple and pink indicate external lighting.

25. SEPP 64 was gazetted on 16 March 2001 and aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of a high quality design and finish.

26. Clause 8 of SEPP 64 states the following:

A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

- (a) that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and
- (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.

**Assessment Criteria**

27. The following table outlines the manner in which the proposed signage addresses the assessment criteria of SEPP 64.

1. Character of the area	Comment
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	No. The proposed above awning signs are not supported as these are inconsistent with the provisions of Clause 3.16.6.7 of the Sydney DCP 2012 which states that above awning signs are not permitted, and because the awning is not supported, for reasons detailed further in this report.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	Similarly, the proposed vertical projecting wall

1. Character of the area	Comment
	<p>signs at the first floor are not supported. Pursuant to DCP Clause 3.16.11(6), signs located between the first floor and the parapet are not permitted on buildings within heritage conservation areas. Furthermore, at 2.4m in length, the signs are considered to be excessive in size.</p> <p>A condition of consent has been recommended to require the submission of an amended signage strategy featuring signage that complies with the relevant provisions of DCP Clause 3.16, is compatible with the building and the desired future character of the Chippendale locality and utilises high quality materials and finishes..</p>

2. Special areas	Comment
<p>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</p>	<p>Yes. As detailed above, the vertical projecting wall signs and the above awning sign are not supported. A revised signage strategy which complies with the provisions of Clause 3.16 of the DCP will provide a framework within which building tenants can display signage so that it will not detract from the heritage significance, amenity, or visual quality of the area.</p>

3. Views and vistas	Comment
<p>Does the proposal obscure or compromise important views?</p>	<p>The proposed indicative signage does not obscure or compromise important views, affect the skyline, or reduce the quality of vistas. The signage will not affect any other signs in the vicinity of the development.</p>
<p>Does the proposal dominate the skyline and reduce the quality of vistas?</p>	
<p>Does the proposal respect the viewing rights of other advertisers?</p>	

4. Streetscape, setting or landscape	Comment
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The vertical projecting wall signs are considered excessive in scale and proportion, and are not appropriate to the building and streetscape.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	Similarly, the above awning sign is not considered to be suitable to the building or streetscape, and is not supported under the provisions of the DCP.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	A condition has been recommended requiring the deletion of the projecting wall signs and above awning sign, and the submission of a revised signage strategy.
Does the proposal screen unsightliness?	
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	
Does the proposal require ongoing vegetation management?	

5. Site and building	Comment
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The indicative individual lettering design of the signs and the selected metal material are suitable to the warehouse building.
Does the proposal respect important features of the site or building, or both?	A condition has been imposed advising that no signage has been approved as part of this consent. A condition has also been included that requires the submission of a revised signage strategy.
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	

6. Associated devices and logos with advertisements and advertising structures	Comment
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The signage does not feature internal illumination. External lighting devices are proposed to the building, to be affixed to the facade. See Figure 16 above, which indicates external lighting locations.

7. Illumination	Comment
Would illumination result in unacceptable glare?	No. The application does not propose internally illuminated signage. The proposed external lighting is not expected to result in unacceptable glare, affect the safety of others, or detract from the amenity of surrounding residences, subject to the recommended conditions of consent.
Would illumination affect safety for pedestrians, vehicles or aircraft?	
Would illumination detract from the amenity of any residence or other form of accommodation?	
Can the intensity of the illumination be adjusted, if necessary?	
Is the illumination subject to a curfew?	

8. Safety	Comment
Would the proposal reduce the safety for any public road?	It is considered that the location and scale of the proposed signage types do not pose any adverse impacts to pedestrian or cyclist safety, however as detailed above, the vertical projecting wall signs and the above awning sign are not supported.
Would the proposal reduce the safety for pedestrians or bicyclists?	
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	

28. The proposed signage is not consistent with the aims and objectives of Clause 3 of SEPP 64 and, as such, is not supported.
29. A condition has been imposed advising that no signage has been approved as part of this consent. A condition has also been included that requires the submission of a revised signage strategy.

**Sydney LEP 2012**

30. The site is located within the B4 - Mixed Use zone. The proposed use is defined as commercial and is permissible.
31. 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	<p>A maximum height of 9m is permitted.</p> <p>A height of 12.81m is proposed. See discussion under heading Issues.</p>
<p>4.4 Floor Space Ratio</p> <p>6.13 End of journey floor space</p>	Yes	<p>A maximum FSR of 1.75:1 is permitted.</p> <p>The existing building has a FSR of 1.27:1.</p> <p>The application proposes an additional 290sqm of commercial floor space, which results in a FSR of 1.75:1.</p> <p>The application also proposes 64sqm of end of journey floor space (consisting of change rooms, showers, lockers, and bicycle storage areas) at ground floor. This constitutes an FSR of 0.11:1.</p> <p>The total increase of GFA is 354sqm, which results in an overall FSR of 1.86:1.</p> <p>Clause 6.13 of the Sydney LEP 2012 allows an amount of additional floor space (end of journey floor space) equal to the floor space occupied by those facilities (up to an additional 0.3:1 of the site area). The proposed end of journey floor space equates to 0.11:1 and therefore complies.</p> <p>See discussion under the heading Issues.</p>

Development Control	Compliance	Comment
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the development standard prescribed under Clause 4.3 "Height of Buildings".</p> <p>The variation is consistent with the provisions of the development standard and will not adversely impact the character and amenity of the surrounding area. The variation is therefore accepted.</p> <p>See discussion under the heading Issues.</p>
5.10 Heritage conservation	Yes	<p>The subject site is a located within the Chippendale Heritage Conservation Area.</p> <p>A Heritage Impact Statement has been submitted with the application. The application has been reviewed by Council's Heritage Specialist, and is supported, subject to recommended conditions.</p> <p>See discussion under the heading Issues.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
Division 2 Additional floor space outside Central Sydney	Yes	<p>The application is eligible for an amount of additional floor space for the purpose of end of journey facilities. See discussion under "4.4 Floor Space Ratio" and "6.13 End of journey floor space" above, and under the heading Issues.</p>

<b>Part 6 Local Provisions - Height and Floor Space</b>	<b>Compliance</b>	<b>Comment</b>
Division 4 Design excellence	Yes	<p>The application proposes to utilise high quality materials and detailing, including glazing, steel, and Colorbond roofing and standing seam cladding, which are considered to be appropriate to the character of the subject warehouse building.</p> <p>The application also proposes to either retain, repair, and repaint existing timber windows, or replace them like for like, and to remove existing paint from the brickwork to restore the unpainted brick finish. These works are considered to enhance the existing facade, restoring original fabric and removing the unsympathetic paint finish.</p> <p>In terms of built form, the additional storey is appropriately set back from the existing parapet, distinguishing the proposed addition from the existing two-storey building, and ensuring the addition is visually recessive when viewed from the public domain.</p> <p>Overall, the proposed development is considered to satisfy the requirements of this provision.</p>

<b>Part 7 Local Provisions - General</b>	<b>Compliance</b>	<b>Comment</b>
Division 1 Car parking ancillary to other development	Yes	A maximum of 6 car parking spaces are permitted. No car parking spaces are proposed, however provision is made for on site loading and servicing.
7.15 Flood planning	Yes	The site is identified by Council as being flood prone. See discussion under the heading Issues.

### Sydney DCP 2012

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

## 2. Locality Statements – Chippendale locality

The subject site is located in the Chippendale locality. The proposed alterations and additions to the existing building are considered to be in keeping with the unique character of the area and design principles in that the development responds to and complements both the subject contributory building and surrounding streetscape, and retains an early industrial warehouse building.

Principle 2.3.1(i) states that the design of additions and alterations is to retain the scale and massing of front elevations as viewed from the primary street frontages. The proposal achieves this, as the additional storey is appropriately set back from the existing parapet, ensuring it is visually recessive.

Principle 2.3.1(n) states that development should maintain the existing pattern of retail and small scale commercial uses scattered throughout the neighbourhood. The proposal seeks to retain commercial use for the warehouse building, as well as providing a separate café use at the ground floor, thereby contributing to the activation of Wellington Street.

The proposal is considered to adequately maintain and respond to the scale and proportions of the existing pre-war warehouse building, respecting the existing roof design and materials palette, and contributing to the legibility of the area's history and neighbourhood quality. The proposed development is considered to achieve high quality alterations and additions to the building,

Overall, the proposed development is considered to achieve high quality alterations and additions to the building, whilst maintaining the character of the heritage conservation area.

3. General Provisions	Compliance	Comment
3.2 Defining the Public Domain	Yes, subject to conditions	<p>The application proposes two awnings to the ground floor facade, with one curved awning to be located at the main building entry, and one rectangular awning to be located at the entrance to the separate ground floor café tenancy.</p> <p>Clause 3.2.4(14)(c) of the DCP 2012 stipulates awnings are to have a minimum setback of 1m from the face of the kerb. Similarly, Schedule 4 of the SDCP 2012 stipulates projections over or into public roads must be at least 3m above the footpath, and at least 800mm from the face of the kerb.</p>

3. General Provisions	Compliance	Comment
		<p>The proposed rectangular awning to the cafe entry, measuring 3200mm(w) x 450mm(d), projects beyond the site boundary and over a narrow footpath, which measures approx. 500mm. The awning is situated between 2.7m-2.83m above the footpath.</p> <p>The constrained footpath in this location does not allow for an adequate setback from the face of the kerb (approx. 50mm). As such, the proposed awning to the café tenancy entry is not supported, and a condition has been recommended to require its deletion.</p> <p>The proposed curved awning to the main entry, measuring approximately 2600mm(w) x 1500mm(d), is located wholly within the site boundary and will not project beyond the primary building line, and as such, is considered acceptable.</p> <p>Subject to the aforementioned deletion of the rectangular awning, the proposed development will enhance the public domain. The proposal will activate the ground floor by providing a separate tenancy to be used as a café, and by utilising glazing where possible.</p> <p>The proposal will ensure adequate sun access to publicly accessible spaces, contribute to the activity, safety, amenity and quality of the streetscape, and presents an appropriate frontage to Wellington Street in terms of scale, finishes, and architectural character.</p>
3.7 Water and Flood Management	Yes, subject to conditions	<p>The subject site is identified as being flood prone.</p> <p>The application has been reviewed by Council's Public Domain Unit, who have advised the proposal is acceptable, subject to recommended conditions relating to flood planning levels, and the provision of a revised Stormwater Plan.</p>

3. General Provisions	Compliance	Comment
3.9 Heritage	Yes	<p>The existing building is identified as a contributory building within the Chippendale Heritage Conservation Area.</p> <p>A Heritage Impact Statement has been submitted with the application. The application has been reviewed by Council's Heritage Specialist, and is supported, subject to recommended conditions.</p> <p>See discussion under the heading Issues.</p>
3.10 Significant Architectural Building Types	Yes	<p>The subject warehouse building is older than 50 years and as such, is subject to the provisions of Clause 3.10 of the Sydney DCP 2012.</p> <p>The provisions of Clause 3.10.1 of the DCP require that alterations and additions to a warehouse building are to maintain significant fabric and building elements.</p> <p>The proposal is considered to achieve the objectives of this clause, as the additional third storey has been designed such that it is visually recessive and readily distinguished as new work, the new works complement the materials and articulation of the existing building, the original pattern of windows and openings is retained, and the original brick will be restored by removing the detracting paint finish.</p> <p>Similarly, the proposed commercial and café will not compromise significant fabric and building elements, and is considered to be an appropriate use.</p>

3. General Provisions	Compliance	Comment
3.11 Transport and Parking	Yes	<p>The application proposes 13 bicycle parking spaces and associated end of trip facilities, including showers, change rooms, lockers, and bicycle storage areas, and the retention of 1 existing loading dock accessed from Wellington Street for waste collection and servicing purposes. This complies with the requirements of the DCP and is supported.</p> <p>A condition of consent is recommended requiring the bike parking to comply with relevant Australian Standards for security and access.</p>
3.12 Accessible Design	Yes	<p>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.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles. The ground floor features some glazing, which enables surveillance from the public domain to the inside of the building, and the building entry is clearly visible and identifiable from the street.</p>
3.14 Waste	Yes	<p>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.</p>

3. General Provisions	Compliance	Comment
<p>3.16 Signage and Advertising</p> <p>3.16.1 Signage Strategy</p>	No	<p>The application proposes indicative signage consisting of five (5) signs in total:</p> <ul style="list-style-type: none"> <li>• Two (2) vertical projecting wall signs measuring 400mm(w) x 2400mm(h) x 150mm(d) located at the first floor, with a maximum height of approximately 7.6m;</li> <li>• Two (2) wall-mounted building identification signs to be located on either side of the café tenancy entrance, consisting of individual metal sheet lettering measuring approximately 360mm(w) x 300mm(h), projecting 60mm from the wall; and</li> <li>• One (1) horizontal business identification above awning sign consisting of individual cut-out metal lettering, to sit atop the awning to the café tenancy. The lettering measures 300mm(h) x 90mm(d), and the proposed awning measures approximately 3200mm(w) in width.</li> </ul> <p>Clause 3.16.6.4(1) of the DCP stipulates projecting wall signs are to be located at ground level, and that no part of a projecting wall sign is to be higher than 5m above ground level (existing).</p> <p>Similarly, Clause 3.16.11(6) states new signage located between the first floor level and parapet for any building is not permitted for buildings in heritage conservation areas.</p> <p>The proposed vertical projecting wall signs do not comply with these provisions and are also considered to be excessive in size, measuring 0.4m(w) x 2.4m(h). On this basis, the proposed vertical projecting wall signs are not supported.</p>

3. General Provisions	Compliance	Comment
		<p>Similarly, for reasons discussed above, the proposed awning to the café tenancy is recommended to be deleted (see discussion above under Section 3.2 - Defining the public domain). As such the above awning signage is not supported. It is also noted that pursuant to Clause 3.16.6.7 of the DCP, above awning signs are not permitted.</p> <p>The proposed building identification signage is supported in principle, however a condition requiring the submission of a revised and refined signage strategy, which complies with the provisions of Clause 3.16 of the DCP, has been recommended.</p>

4. Development Types  4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.1 Building height	No, but acceptable	<p>The DCP specifies a maximum height in storeys of 2.</p> <p>The application proposes a height of 3 storeys. Refer to Issues section of this report.</p>
4.2.1.2 Building height - Floor to ceiling heights and floor to floor heights	Partial compliance	<p>The DCP requires a minimum floor to floor height of 4.5m for the ground floor, and 3.6m for each storey above.</p> <p>The proposal retains the existing floor levels of the building, resulting in a floor to floor height of 4.175m on the ground floor and 4.310m on the first floor. The floor to ceiling height of the new second floor is 3.775m, sloping down to approximately 2.55m at the rear of the site.</p>

4. Development Types  4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
		<p>The variation to the floor to floor height of the ground floor is considered acceptable in this instance given that the application proposes the adaptive re-use of an existing warehouse building, and the minimum height requirement for the first and second floor is achieved.</p>
4.2.2 Building setbacks	Yes	<p>A street frontage height is not prescribed for this site under the DCP.</p> <p>The additional storey is set back from the existing parapet wall by approximately 4m for most of the length of the Wellington Street facade. The eastern portion of the additional storey is consistent with the setback of the existing building (approximately 2.9m from the front site boundary) and aligns with the neighbouring 2 storey building to the east.</p> <p>The existing rear setback alignment is maintained and is consistent with adjoining buildings.</p> <p>Overall, the setback to the additional storey is considered acceptable as it provides for a recessed addition that reinforces the predominant, lower-scale existing street frontages of Wellington Street.</p>

4. Development Types  4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.3 Amenity	Yes	<p><b>Solar access</b></p> <p>New development must not create any additional overshadowing onto a neighbouring dwelling where that dwelling currently receives less than 2 hours direct sunlight to habitable rooms and 50% of the private open space between 9am and 3pm on 21 June.</p> <p>The documentation provided with the application demonstrates that there is little, if any, reduction in solar access to the residential buildings to the south of the site. The proposal is considered acceptable in this regard.</p> <p><b>Landscaping</b></p> <p>The application proposes an outdoor courtyard to the rear of the ground floor with some planters and a trellis to run the length of the courtyard, some minor internal landscape elements to the ground floor lobby, four curved planters to the parapet of the second floor terrace, and a landscaped, non-trafficable garden to the rear of the second floor.</p> <p>Additional information pertaining to the proposed landscaping was requested during the course of assessment, and amended landscape plans have been provided. The proposed landscaping is supported in principle, however it is noted that outstanding issues remain relating to soil volumes and depths, irrigation, and the general maintenance of all proposed landscaping. A condition has been recommended, requiring the applicant to provide amended landscape plans that address these concerns, prior to construction.</p>

4. Development Types  4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
		<p><b>Acoustic privacy</b></p> <p>The application proposes mechanical plant for the proposed commercial use, which is to be housed at the rear ground floor of the site, and on a portion of the roof. An acoustic report was requested to address potential impacts on the acoustic privacy of surrounding residential development. Council's Environmental Health Unit have reviewed the acoustic report and have advised the proposal is acceptable, subject to recommended conditions relating to noise, and compliance with the recommendations of the submitted acoustic report.</p>
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>The proposed three-storey form of the warehouse building provides an appropriate transition between the neighbouring four-storey building to the west, and the adjacent two-storey building to the east.</p> <p>The architectural articulation of the proposed additional storey is considered to integrate the new development well in terms of the scale and character of surrounding buildings and streetscape, proposed materials (largely consisting of glazing, Colorbond, and steel), and finer elements such as metal balustrading and planters to the second floor terrace.</p>

4. Development Types  4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.6 Waste minimisation	Yes	<p>The application proposes adequate waste storage facilities. The development includes commercial waste bins stored near the loading dock for easy servicing, and sufficient kitchen space to allow the interim storage of waste.</p> <p>A Waste Management Plan has been provided which details the ongoing management of waste on-site. Conditions relating to the collection of waste/recycling have been recommended.</p>
4.2.9 Non-residential development in the B4 Mixed Use zone	Yes	<p>Residential development within the mixed uses zone is to be maintained and complemented by future development. In this regard, it is required that non-residential development is compatible with, and does not detract from the amenity of existing nearby residential development.</p> <p>The proposal seeks approval for the use of site as commercial offices and includes a separate tenancy at ground level for use as a cafe. No details as to the operation of the café tenancy have been specified as part of this application.</p> <p>Having regard to the mixed use zone and surrounding land uses (including residential and commercial), a commercial office and café use at ground floor are considered appropriate. A condition restricting the trading hours of the café tenancy has been recommended. See discussion under heading Issues.</p>



37. The applicant submits that the height of the proposed development is consistent with the height objectives of Clause 4.3 of the Sydney LEP 2012 in that:
- (a) The existing two storey building has a maximum building height of approximately 9.18m to Wellington Street. As such the existing building exceeds the maximum height control by 0.18m (2 per cent);
  - (b) The proposed breach of the height standard does not result in any discernible environmental impacts as it does not reduce solar access or increase overshadowing, does not result in adverse visual impacts or loss of iconic views from adjoining properties, and provides an appropriate response to the context of the site which is characterised by buildings ranging from two to four storeys in height;
  - (c) The proposed height of the development is an appropriate response to the condition of the site being a commercial building within a heritage conservation area. The development proposes the retention and reuse of the existing two levels. This results in the ground floor maintaining a floor to ceiling height of 3.95m, and the first floor with a floor to ceiling height of 4.085m.
- It is considered that the retention of these floor levels better responds to the characterisation of the adapted building, and avoids conflicts of floor levels with retained window openings. The retention of the floor levels also serves to retain and showcase the important internal fabric of the building including exposed ceilings (beams, timbers and joists) and exposed timber support columns.
- (d) A numerically compliant building height could be achieved with a three level building, but would result in floor levels traversing through the window openings of the existing warehouse and the removal of the original floors, resulting in a poorer architectural outcome;
  - (e) The proposal has been designed to provide a height transition between the four storey commercial building immediately to the west of the site, three storey building to the south and the 10 storey Central Park Block 11 building currently under construction to the north;
  - (f) The site is located within an area undergoing transformation within the Chippendale locality resultant from the redevelopment of the former Carlton United Brewery site for mixed uses (known as Central Park) which has encouraged adaptive reuse and renewal of existing buildings within the locality;
  - (g) The proposal satisfied the objectives of the B4 Mixed Use zone as the site is well located to take advantage of existing public transport, pedestrian and cycling facilities and infrastructure.
38. The proposed height of 12.81m is considered acceptable in this instance, and is consistent with the objectives for height contained in Clause 4.3(1) of the Sydney LEP 2012 as:
- (a) The proposed development is within a highly accessible location and provides commercial uses compatible with the area, and is therefore consistent with the objectives of the B4 – Mixed Use zone;

- (b) The proposal is consistent with the objectives of the building height development standard pursuant to Clause 4.3 of the Sydney LEP 2012 as the proposal is appropriate to the context of the site and the desired future character of Chippendale, and does not result in any loss of significant views;
- (c) The proposal is consistent with the objectives of the building height in storeys control pursuant to Clause 4.2 of the Sydney DCP 2012 as the proposal reinforces the existing neighbourhood character:

Immediately to the east of the subject site is a two storey commercial building. Adjacent to the west is a four storey commercial warehouse building that has been adaptively re-used as an art gallery. The proposed additional (third) storey will provide an appropriate transition between the four storey building to the west down to the two storey building to the east.

Whilst this results in a variation to the height standard and the height in storeys control, the proposed additional storey is appropriately set back from the existing parapet, and the scale and built form of the proposed development is consistent with surrounding development.

- (d) The proposed exceedance of the height of buildings standard will not result in any significant adverse amenity impacts to surrounding development.
39. It is noted there is a minor discrepancy between the applicants' figures as stated in the Clause 4.6 variation request, and those calculated by Council staff. This is due to the nominated height of ground level (existing) - see Figure 24 above - and does not result in any significant changes to the proposed development or its environmental impacts.
40. It is therefore considered that the written statement provided by the applicant has sufficiently justified that strict numeric compliance with the development standard is unreasonable and unnecessary in this instance.
41. For the reasons outlined above, there are sufficient environmental planning grounds to justify contravening the building height development standard and it is recommended that an exception be granted in accordance with Clause 4.6.

#### **Floor space ratio and end of journey floor space**

42. Clause 6.13 of the Sydney LEP 2012 states that a building on land outside Central Sydney that is used only for the purposes of a commercial premises and that has all of the required facilities together in one area of the building is eligible for an amount of additional floor space (up to an additional 0.3:1 of the site area).
43. The subject development has a site area of 601.9sqm. Under Clause 6.13 an additional amount of floor space up to 180.57sqm is permissible for end of journey floor space. The proposed end of journey facilities will occupy an area of 64sqm which will equate to an additional FSR of 0.11:1 for the site, and complies with the maximum amount of end of journey floor space permitted.
44. A condition has been imposed requiring a restrictive covenant be placed on the title of the land to ensure that the area identified as 'end of journey floor space' will be maintained at all times.

### Working Hours

45. The application proposes a commercial office use across most of the ground, first, and second floors of the subject development, and a separate ground floor tenancy to Wellington Street with an indicative café use. Trading hours for the proposed commercial office and café have not been specified by the applicant.
46. Pursuant to Section 4.19 of the Environmental Planning and Assessment Act 1979, a development consent that authorises works to a building is sufficient to authorise the use of the building, if that use was specified in the application.
47. Consequently, in light of the subject site's proximity to residential development to the south and to the east, a condition has been imposed restricting the hours of operation of both the proposed commercial office space and proposed café to between 7.00am and 8.00pm, seven days a week.

### Heritage

48. The site is located within the Chippendale Heritage Conservation Area (C9) and is identified as a contributory building within the conservation area. It is therefore subject to the relevant heritage provisions of Clause 5.10 of the Sydney LEP 2012 and Clause 3.9 of the Sydney DCP 2012.
49. A group of three heritage-listed terraces are located at 13, 15, and 17 Wellington Street, to the east of the site.
50. The proposed third storey addition is contemporary in appearance, clad with standing-seam metals and featuring steel framed glazing. It is set back from Wellington Street by approximately 4m, and is set back from the rear boundary by 5.5m-6.2m. The south-eastern corner of the addition is built directly above the existing parapet, with no setbacks to the eastern and western boundaries.
51. The proposed addition is considered to have an acceptable heritage impact, given the front and rear setbacks. The existing warehouse building will remain visually prominent on the street, and the proposed reinstatement of the unpainted brickwork and retention and restoration of the timber window joinery will result in a positive heritage outcome.
52. The internal timber structures, including posts, beams, joists, and floors, are retained, except for the central entrance area, where a double storey void space is created.
53. The proposed new curved awning to the main entrance, and steel framed joinery at the entries on Wellington Street, are considered acceptable. Council's Heritage Specialist has advised that galvanised steel should be used to ensure the proposal is in keeping with the industrial character of the building. An appropriate condition of consent has been recommended.
54. The external lighting devices proposed to the facade are supported, however as detailed above under Section 3.16 - Signage and Advertising, the vertical projecting wall signs are not considered appropriate to the contributory item or heritage conservation area, and are to be deleted. A condition has been recommended as such.

55. Overall, the proposal generally complies with the relevant aims, objectives and controls of Clause 3.9 of the DCP. Appropriate heritage related conditions have been recommended, relating to the western and eastern parapet walls, the roller shutter door to the loading dock entrance, removal of the paint finish from the existing external walls, the creation of internal void spaces, and a schedule of conservation works.

#### **Other Impacts of the Development**

56. The proposed development is capable of complying with the BCA.
57. 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**

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

#### **Internal Referrals**

59. Where relevant, the conditions of other sections of Council have been included in the proposed conditions.
60. The application was discussed with Council's Heritage and Urban Design Specialists; Landscape Architect; Building Services Unit; Environmental Health; Public Domain; Surveyors; Transport and Access; who advised that the proposal is acceptable subject to conditions.

#### **External Referrals**

##### **Notification, Advertising and Delegation (Submissions Received)**

61. In accordance with Schedule 1 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 21 days between 5 April 2018 and 27 April 2018. As a result of this notification, there were two submissions received (refer Attachment D).

- (a) A shared sewage line runs between the subject site (no. 1-7), the site immediately adjacent to the east (no. 9-11), and the three heritage-listed terrace houses at no. 13, no. 15, and no. 17 Wellington Street. There are concerns it may be disrupted, as it runs through the middle of each property and would be difficult to relocate.

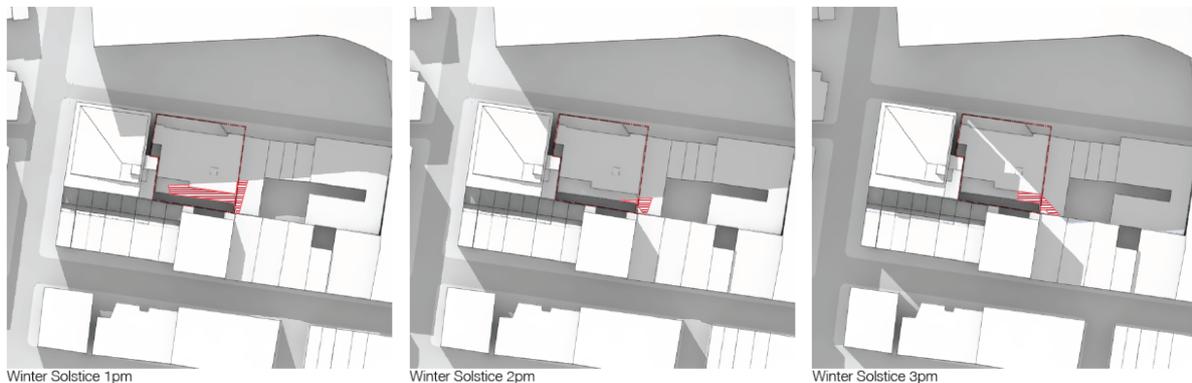
**Response** - The application proposes minor excavation, involving a lift pit for the proposed lift shaft, and excavation for an on-site detention tank, to be located underground, in the north-eastern corner of the site.

A condition has been imposed requiring the applicant to submit plans to Sydney Water to determine whether the development will affect sewer and water mains and stormwater drains, and if further requirements need to be met. A condition has also been included to ensure that utility services are not disrupted prior to the commencement of work.

- (b) At present the rear of the terrace dwellings to the south of the subject site receive unobstructed solar access (with the exception of the ground floor). The existing and proposed views from the sun appear to be inaccurate. Solar access should be maintained to the dwellings to the south.

**Response** - The application has been reviewed by Council's Urban Design team, who have advised that the shadow diagrams and views to the sun prepared by the applicant are accurate, and that the proposal will result in minimal, if any, additional mid-winter overshadowing to properties to the south, with the greatest impact being to the commercial building to the east in the afternoon. See Figure 25 below.

Overall, the proposal is considered acceptable with regard to solar access, as it has been demonstrated that the additional storey will not cause adverse overshadowing impacts to nearby residential properties.



**Figure 25:** Shadow diagrams for 1pm, 2pm, and 3pm on June 21 (winter solstice)

- (c) The height restriction according to the 'height of buildings map' applicable to the subject site is 9m, yet the proposal is requesting a variation to the maximum height under Clause 4.6, 40% above the current height limit. The additional height will:
- (i) Impede the open view of terrace dwellings to the south, substantially reducing the amenity and likely the value of these properties;
  - (ii) Make the terrace feel more confined due to the close proximity of the additional bulk/massing created from the addition of a third storey;
  - (iii) Restrict airflow to the lower storeys of the adjacent terrace dwellings; and
  - (iv) Impinge on residential privacy due to the proximity of the development to the courtyards, internal living area, and bedrooms located at the rear of the terraces.

**Response** - The applicant has submitted a request to vary the height standard under Clause 4.6, outlining the reasons why compliance with the control is unnecessary and unreasonable in this instance. This request has been reviewed and is supported by Council, as detailed above in the Issues section.

Supporting documentation provided by the applicant demonstrates that the proposal does not result in substantial loss of outlook, particularly with consideration to the multi-storey State Significant Development currently being constructed at Central Park (Block 11). See Figures 26 and 27 below, which depict the approximate extent of the proposed addition and its impacts on outlook from the south.



**Figure 26:** Proposed building envelope outlined in red, Block 11 SSD development building envelope in purple (currently under construction), as viewed from ground floor of adjoining terrace, looking north

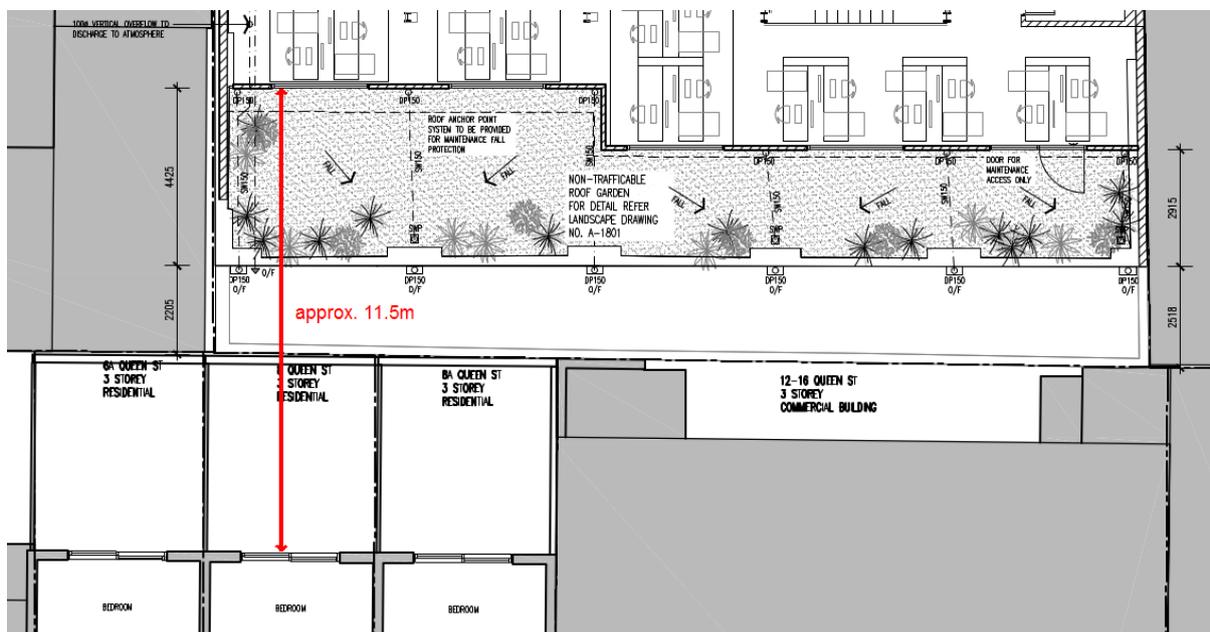


**Figure 27:** Proposed building envelope outlined in red, Block 11 SSD development building envelope in purple (currently under construction), as viewed from second floor of adjoining terrace, looking north

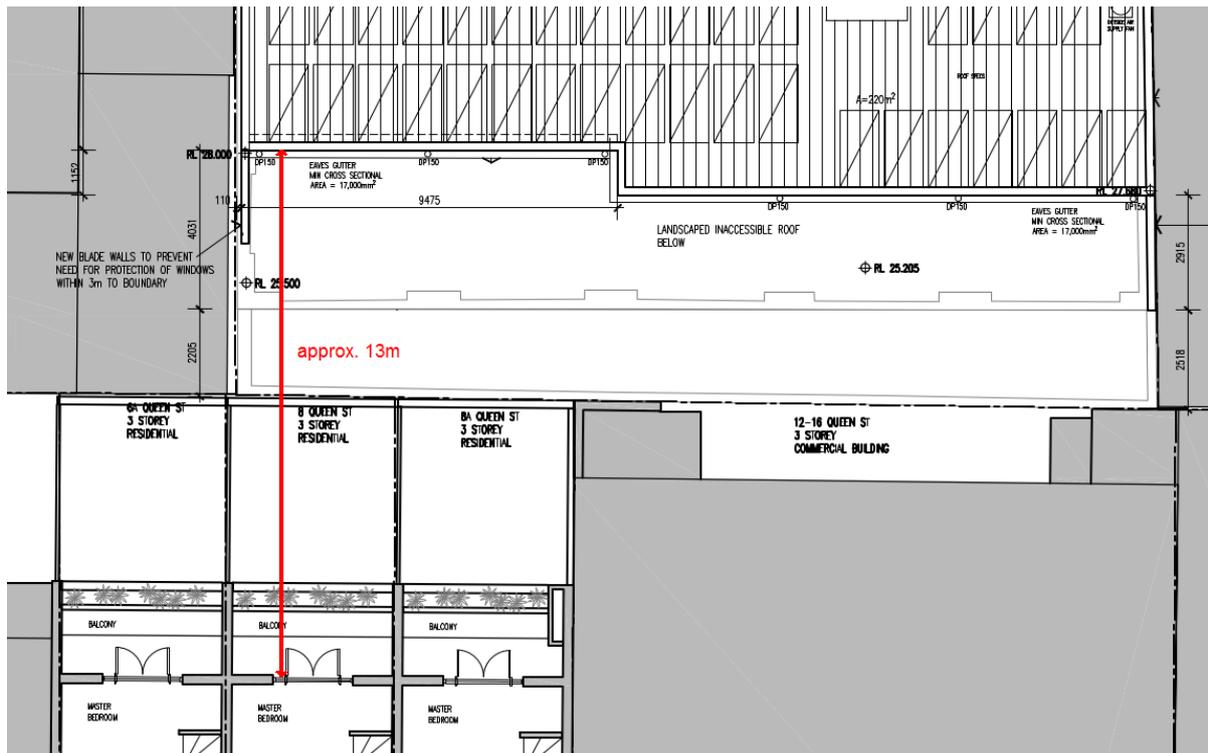
As demonstrated by the Figures above, the proposed addition will not result in considerable impacts to the outlook or sense of enclosure of the existing terrace dwellings to the south.

The proposed third storey addition is setback from the residential dwellings to the south by approximately 6.6m to the common boundary. The building alignment of the existing terraces are further setback from this common boundary by approximately 5m.

It is also noted that the second and third floor bedrooms of the terrace dwellings are located across a courtyard/balcony, and are considerably set back from the rear building line of the proposed third storey addition (approx. 11.5m for the second floor bedroom and approx. 13m for the third floor bedroom, which is located above the proposed addition with no direct line of sight to the rear windows of the subject development). See Figures 28 and 29 below.



**Figure 28:** approximate distance between proposed third storey addition and existing second floor bedroom windows at adjacent residential dwellings



**Figure 29:** approximate distance between proposed third storey addition and existing third floor bedroom windows at adjacent residential dwellings

These distances are considered to provide adequate separation between the existing residential terraces and the proposed third level addition, preserving visual privacy, and adequate natural light and ventilation to the terrace dwellings.

- (d) The proposal will create unacceptable levels of noise and air pollution. Mechanical plant should be located as far away from residential development as practicable and be acoustically treated to mitigate any adverse effects to neighbouring terraces.

**Response** - Mechanical plant associated with the development is proposed to be located at the rear south-eastern corner of the subject site, and at the western boundary of the rooftop. All plant is proposed to be enclosed with metal vertical blade louvres, and open to the sky.

An acoustic report submitted by the applicant details the specifications of the mechanical plant proposed. This has been reviewed by Council's Environmental Health Unit, who have advised that subject to recommended conditions, the proposal can be supported. These conditions relate to noise, emissions, and compliance with the submitted acoustic report, and have been included in the consent.

## Public Interest

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

### S7.11 Contribution

63. The development is subject of a S7.11 contribution under the provisions of the City of Sydney Development Contributions Plan 2015.
64. The following monetary contribution is required towards the cost of public amenities:
- |                           |              |
|---------------------------|--------------|
| (a) Open Space            | \$55,530.97  |
| (b) Community Facilities  | \$8,605.29   |
| (c) Traffic and Transport | \$70,264.37  |
| (d) Stormwater Drainage   | \$27,784.87  |
| Total                     | \$162,005.50 |

### Relevant Legislation

65. The Environmental Planning and Assessment Act 1979.

### Conclusion

66. The application proposes alterations and additions to an existing two-storey commercial warehouse building for use as commercial offices and a ground floor cafe. Works consist of an additional third-storey with solar panels above, facade improvements, new landscaped areas to the ground floor and second floor, internal alterations associated with the proposed commercial uses, and end of journey facilities.
67. Amended landscape plans have been submitted in response to concerns raised by Council staff during the assessment. The proposed landscaping is supported in principle.
68. The applicant has submitted a Clause 4.6 variation to the height of buildings development standard under the Sydney LEP 2012. The variation to the development standard is supported.
69. Overall, the amended proposal is generally consistent with the objectives, standards, and guidelines of the relevant planning controls.
70. Accordingly, the Development Application is recommended for approval, subject to conditions.

### GRAHAM JAHN, AM

Director City Planning, Development and Transport

Anna Kaskanlian, Planner