

**Item 5.****Development Application - 311-315 Sussex Street and 317 Sussex Street, Sydney**

File No.: D/2018/686

**Summary****Date of Submission:** 22 June 2018**Applicant:** Guansheng Australia Pty Ltd**Architect/Designer:** FJMT**Owner:** Guansheng Australia Pty Ltd**Cost of Works:** \$48,396,700**Zoning:** B8 Metropolitan Centre zone - '*residential accommodation*' and '*retail premises*' is permissible with consent.**Proposal Summary:** Partial demolition of existing building, excavation of two levels and construct a 15 part 16 storey mixed use building with a maximum height of 54.9 m (RL 63.69) to accommodate three retail tenancies on the lower ground and ground floor and residential accommodation in the form of nine residential apartments and 83 boarding house rooms.

The proposal seeks to vary the height of buildings development standard pursuant to Clause 4.6 of Sydney Local Environmental Plan 2012.

The proposal presents a maximum 4.9m departure to the 50m height development standard, an exceedance of 9.8%.

The application was notified for a period of 28 days from 6 July 2018 to 4 August 2018. No submissions were received.

The application is referred to the Local Planning Panel as the proposal is 4 or more storeys in height and involves consideration of State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development.

**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. 65 - Design Quality of Residential Apartment Development;
- (v) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- (vi) State Environmental Planning Policy (Infrastructure) 2007;
- (vii) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; and
- (viii) Central Sydney Development Contributions Plan 2013.

**Attachments:**

- A. Recommended Conditions
- B. Selected Drawings
- C. Clause 4.6 Variation Request
- D. Solar Analysis Study on 336-346 Sussex Street

**Recommendation**

It is resolved that:

- (A) the variation requested to the height of buildings development standard in accordance with Clause 4.6 'Exceptions to development standards' of Sydney Local Environmental Plan 2012 be upheld; and
- (B) consent be granted to Development Application No. D/2018/686 subject to the conditions set out in Attachment A to the subject report:

**Reasons for Recommendation**

The application is recommended for approval for the following reasons:

- (A) The proposal satisfies the objects of the Environmental Planning and Assessment Act 1979.
- (B) The proposal generally satisfies the objectives and provisions of Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (C) The proposal would provide a high level of amenity to the boarding house and residential apartments and would not unreasonably impact on the amenity of neighbouring properties.
- (D) The requested variation to the height of buildings development standard is upheld because the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the height development standard and the B8 Metropolitan Centre zone.

## Background

### The Site and Surrounding Development

1. A site visit was carried out by staff on 22 August 2018.
2. The subject site comprises of two separate allotments being 311-315 Sussex Street and 317 Sussex Street, Sydney. 311-315 Sussex Street has a legal description of Lot 313 DP 609811 and 317 Sussex Street has a legal description of Lot 1 DP 168327.
3. The site is located on the western side of Sussex Street, between Bathurst and James Streets, with a site area of 535.9sqm. It has a primary street frontage measuring 25.32m to Sussex Street to the east and secondary street frontage to James Lane to the west.
4. An aerial photograph of the site and its context is provided in **Figure 1** below.



**Figure 1:** Aerial photograph of the subject site, indicated in red, and surrounding development.

5. The site accommodates two 3 storey warehouse buildings. These buildings, along with the existing and former warehouse buildings located between 301-325 Sussex Street, are collectively known as the former Hordern Warehouse group. The buildings are not heritage listed and the site is not located in a heritage conservation or special character area.
6. James Lane abuts the site the west and is identified to be a heritage item of local significance under Sydney Local Environmental Plan 2012 (L1812). It provides vehicular access, servicing and loading to the site as well as to buildings located within this respective block of Sussex Street.
7. **Figures 2 and 3** below, illustrate the existing development on the site.



**Figure 2:** Subject site, viewed from Sussex Street looking west.



**Figure 3:** Subject site, viewed from James Lane looking south-east.

8. Surrounding land uses are mixed use developments and are generally characterised by retail, commercial, residential and tourist and visitor accommodation land uses.
9. Located to the east on the opposite side of the road of the site at 320-334 Sussex Street is the 'Former Sussex Street Public School including grounds, fence and interiors', which is also identified as a local heritage item under Sydney LEP 2012 (I1965).
10. To the south-east of the site and on the opposite side of the road at 336-346 Sussex Street, Sydney is an 18 storey mixed use building. It contains 154 residential units with commercial and retail uses within the podium.
11. The properties directly to the north of the site at 307 and 309 Sussex Street are 3 storey warehouse buildings used for retail and commercial purposes
12. The properties directly to the south of site being 319-325 Sussex Street Sydney are currently under construction for a 16 storey hotel development approved under D/2017/188. Approval was granted for the demolition of the warehouse buildings that existed on these sites that made up part of the Hordern Warehouse group.
13. Located on the opposite side of James Lane to the west of the site is 188 Day Street containing a 15 storey mixed use development comprising of retail at ground floor and residential apartments above.
14. Figures 4 to 10 illustrate the existing development in the immediate vicinity of the subject site.



**Figure 4:** Streetscape photograph of Sussex Street, looking south west with the subject site indicated in red outline.



**Figure 5:** Heritage building at 320-334 Sussex Street, located opposite the site to the east.



**Figure 6:** Neighbouring residential building to the west at 188 Day Street, looking south west from James Lane.



**Figure 7:** 188 Day Street, viewed from Harbour Street, looking east.



**Figure 8:** Mixed use residential development at 336-346 Sussex Street, diagonally opposite the site to the south east.

## Proposal

15. Approval is sought for the partial demolition of the existing warehouse buildings, excavation for two basement levels and construct a 15 part 16 storey mixed use building comprising of the following:
- (a) Basement Levels 1 and 2
    - (i) Car stacker parking to accommodate 11 vehicles;
    - (ii) Services and plant;
  - (b) Lower Ground Floor
    - (i) Vehicle and servicing entry with turntable;
    - (ii) Services and plant;
    - (iii) Waste storage areas;
    - (iv) Bike parking;
    - (v) Boarding house lobby;
    - (vi) 1 retail tenancy with an area of 16sqm;
  - (c) Ground Floor
    - (i) 2 retail tenancies with a total area of 175.7sqm;
    - (ii) Residential and boarding house lobby/reception;
    - (iii) Indoor communal area;

### *Boarding House*

- (d) Level 1
  - (i) Indoor communal area
  - (ii) Amenities;
- (e) Level 2
  - (i) Indoor communal area
  - (ii) Amenities;
  - (iii) Communal laundry;
- (f) Levels 3 and 4
  - (i) 2 x boarding house studio units with balconies;
  - (ii) 2 x boarding house multi-bedroom units containing living, kitchen and balcony areas with:

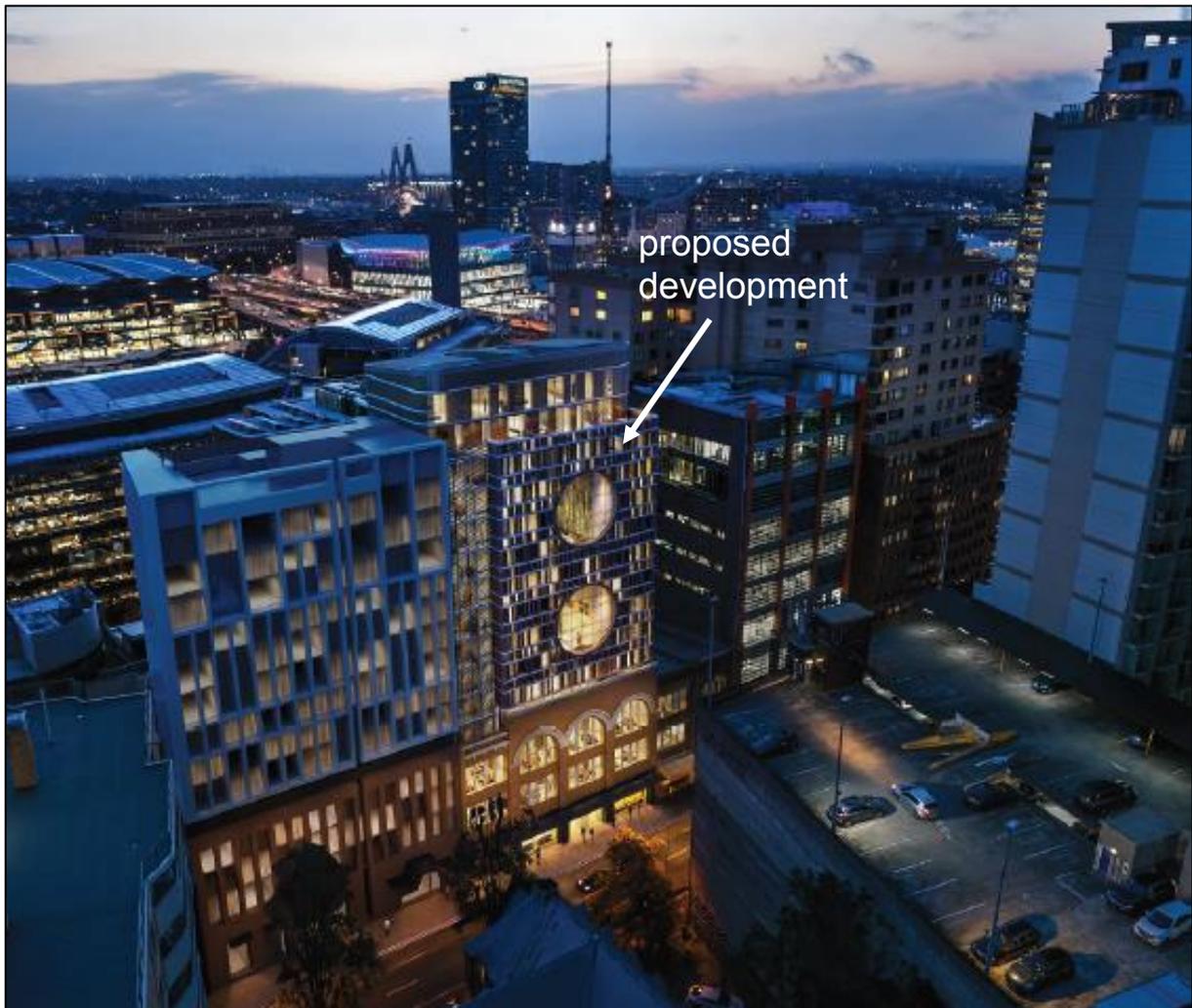
- (i) 4 single bedrooms;
  - (ii) 3 double bedrooms;
- (g) Levels 5 and 9
  - (i) 3 x boarding house multi-bedroom units containing living, kitchen and balcony areas with:
    - (i) 7 single bedrooms;
    - (ii) 2 double bedrooms;
  - (ii) Indoor communal area;
- (h) Levels 6, 7, 10 and 11
  - (i) 3 x boarding house multi-bedroom units containing living, kitchen and balcony areas with:
    - (i) 7 single bedrooms;
    - (ii) 2 double bedrooms;
  - (i) Level 8
    - (i) 4 x boarding house multi-bedroom units containing living, kitchen and balcony areas with:
      - (i) 9 single bedrooms;
      - (ii) 2 double bedrooms;

*Residential apartments*

- (j) Level 12
  - (i) 4 apartments comprising of:
    - (i) 2 x one bedroom apartments;
    - (ii) 2 x two bedroom apartments;
- (k) Level 13
  - (i) 5 apartments comprising of:
    - (i) 3 x one bedroom apartments;
    - (ii) 1 x two bedroom apartments;
    - (iii) 1 x four bedroom apartment
- (l) Level 14
  - (i) Upper levels of the apartments entered from Level 13 for the following:
    - (i) 1 x one bedroom;
    - (ii) 1 x two bedroom;
    - (iii) 1 x four bedroom;
- (m) Roof

(i) Plant and services.

16. The proposal, notably the James Lane elevation, has been designed with the ground floor to Level 3 facade being of masonry construction to reference the portion of the existing warehouse building to be demolished as part of this application. A 12 storey addition is contained above.
17. The proposal has a maximum height of 54.9m, a floor space ratio (FSR) of 8.86:1 and gross floor area (GFA) of 4750sqm.
18. **Figures 9 to 14** contain relevant photomontages and elevations of the proposed development.



**Figure 9:** Photomontage of the proposal with existing and approved surrounding development.



**Figure 10:** Photomontage of the proposed development from Sussex Street, looking south-west.

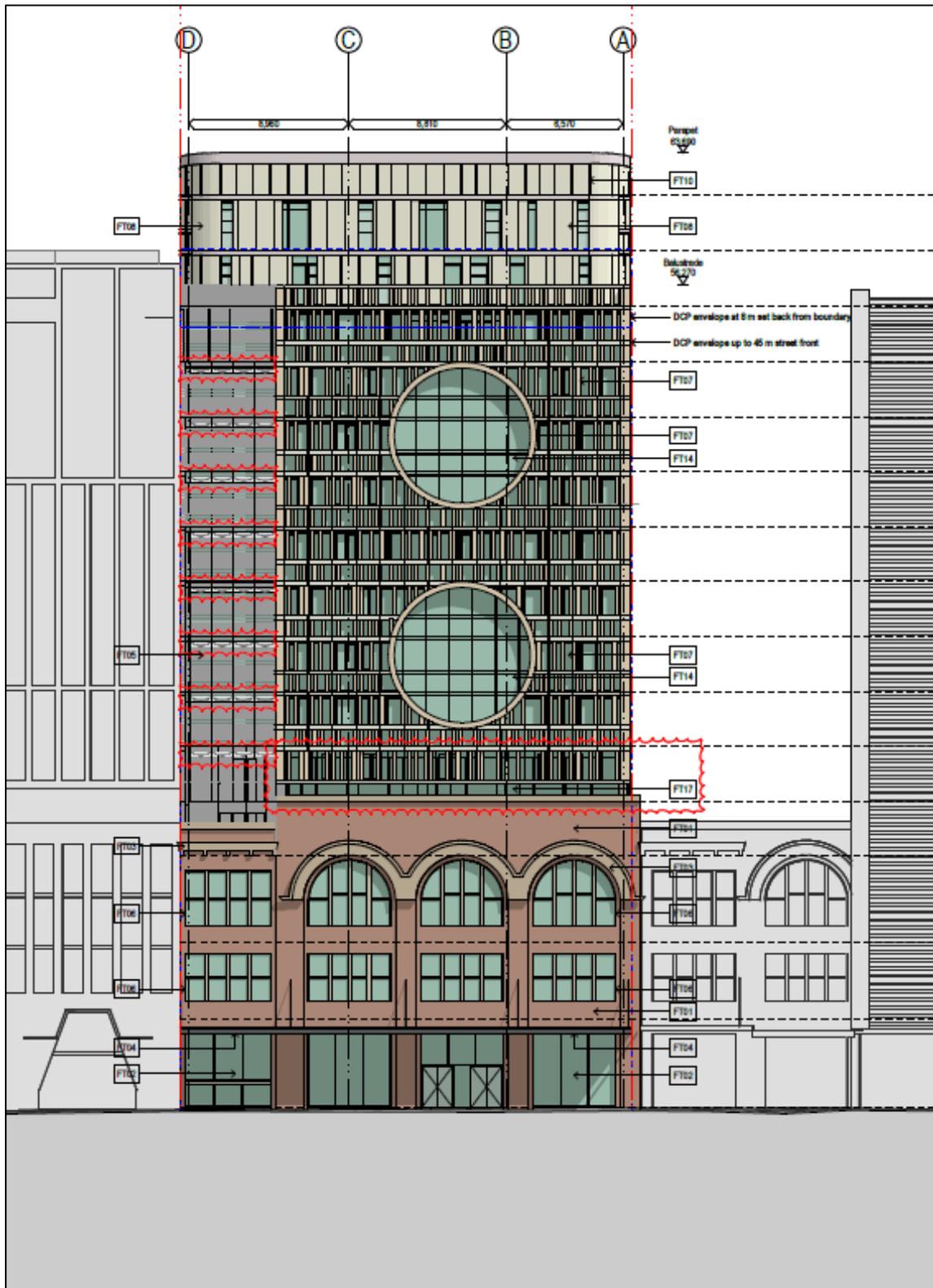


Figure 11: Eastern elevation (Sussex Street).

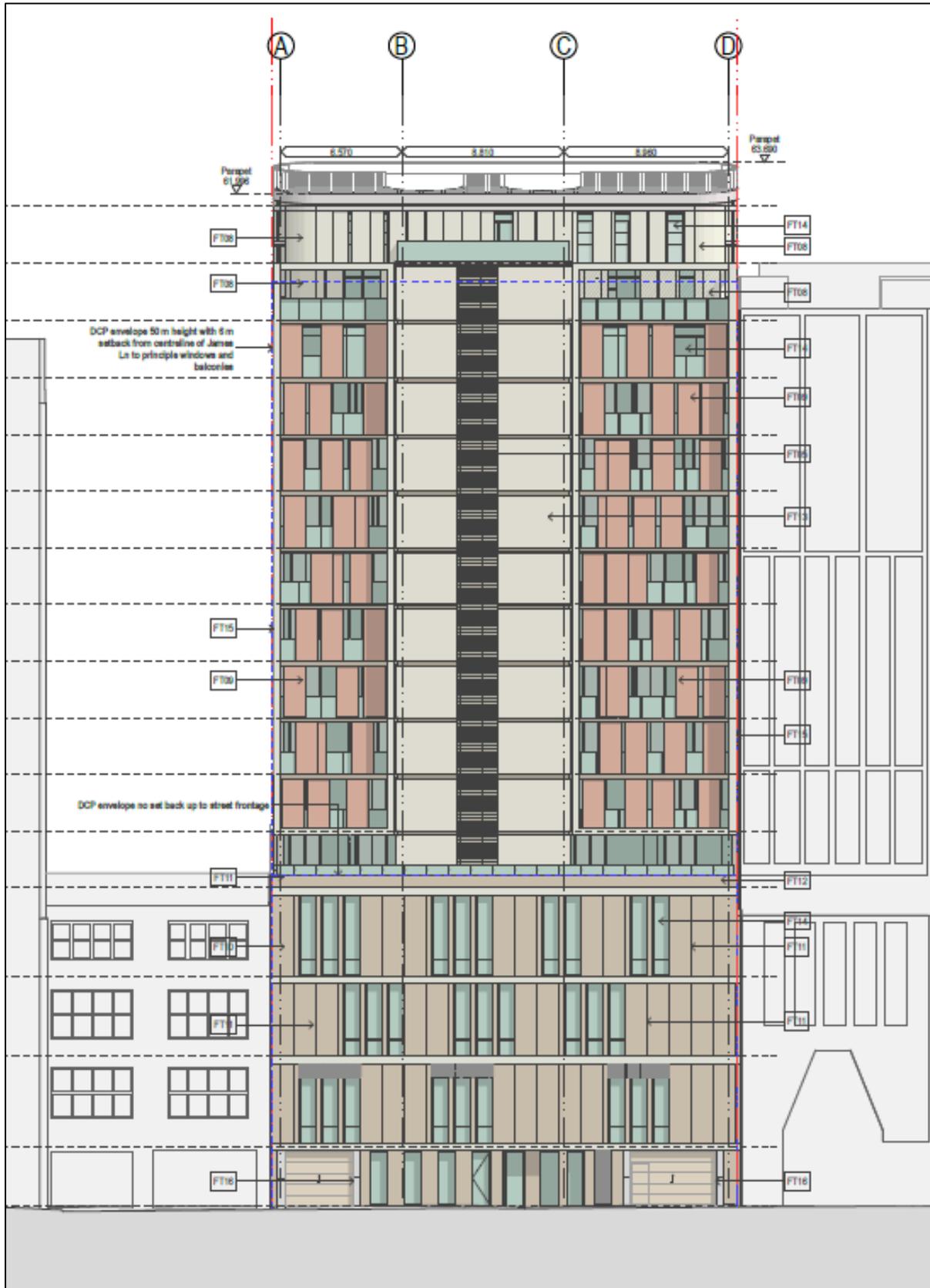


Figure 12: Western Elevation (James Lane).

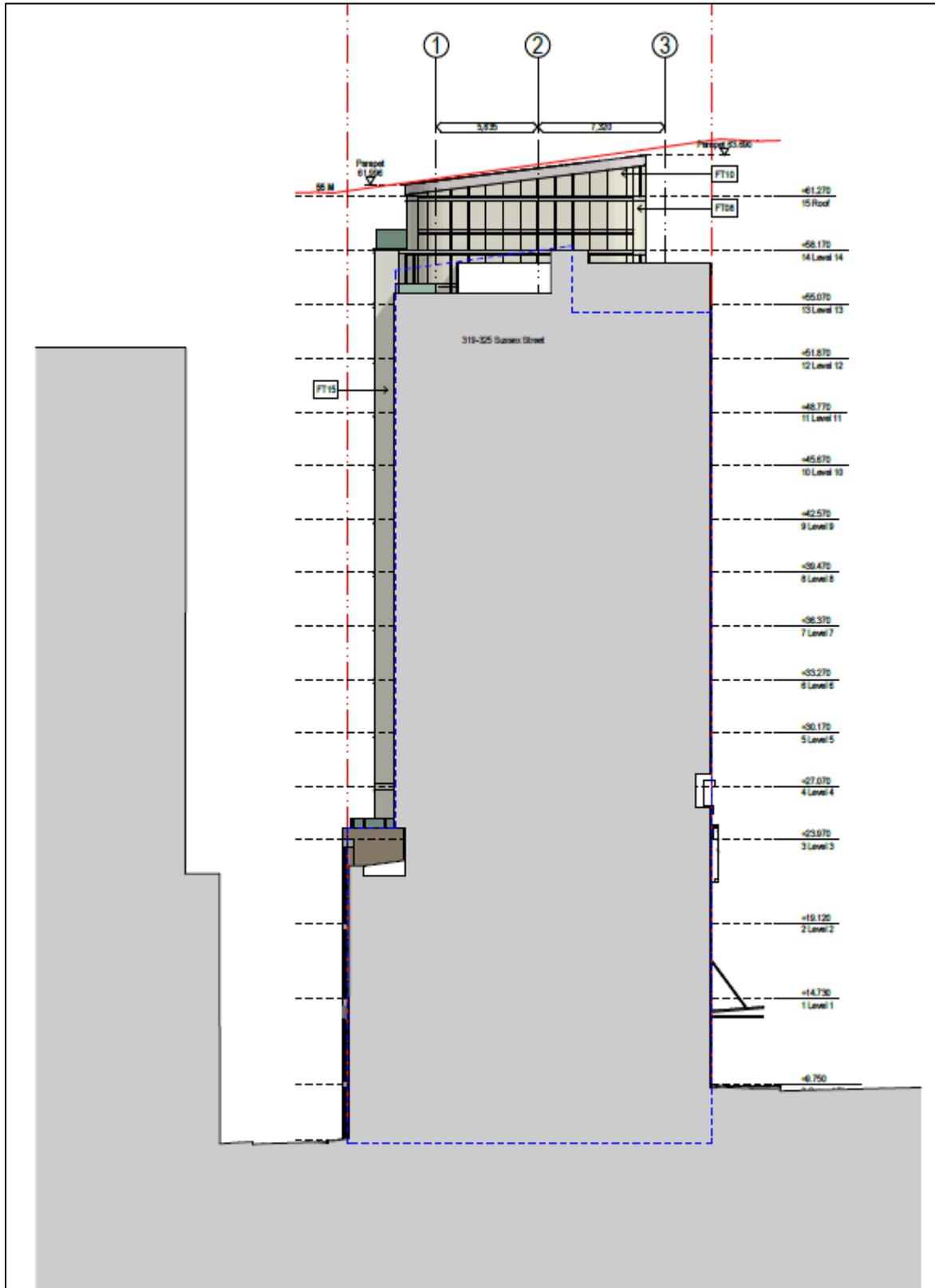


Figure 13: South Elevation.

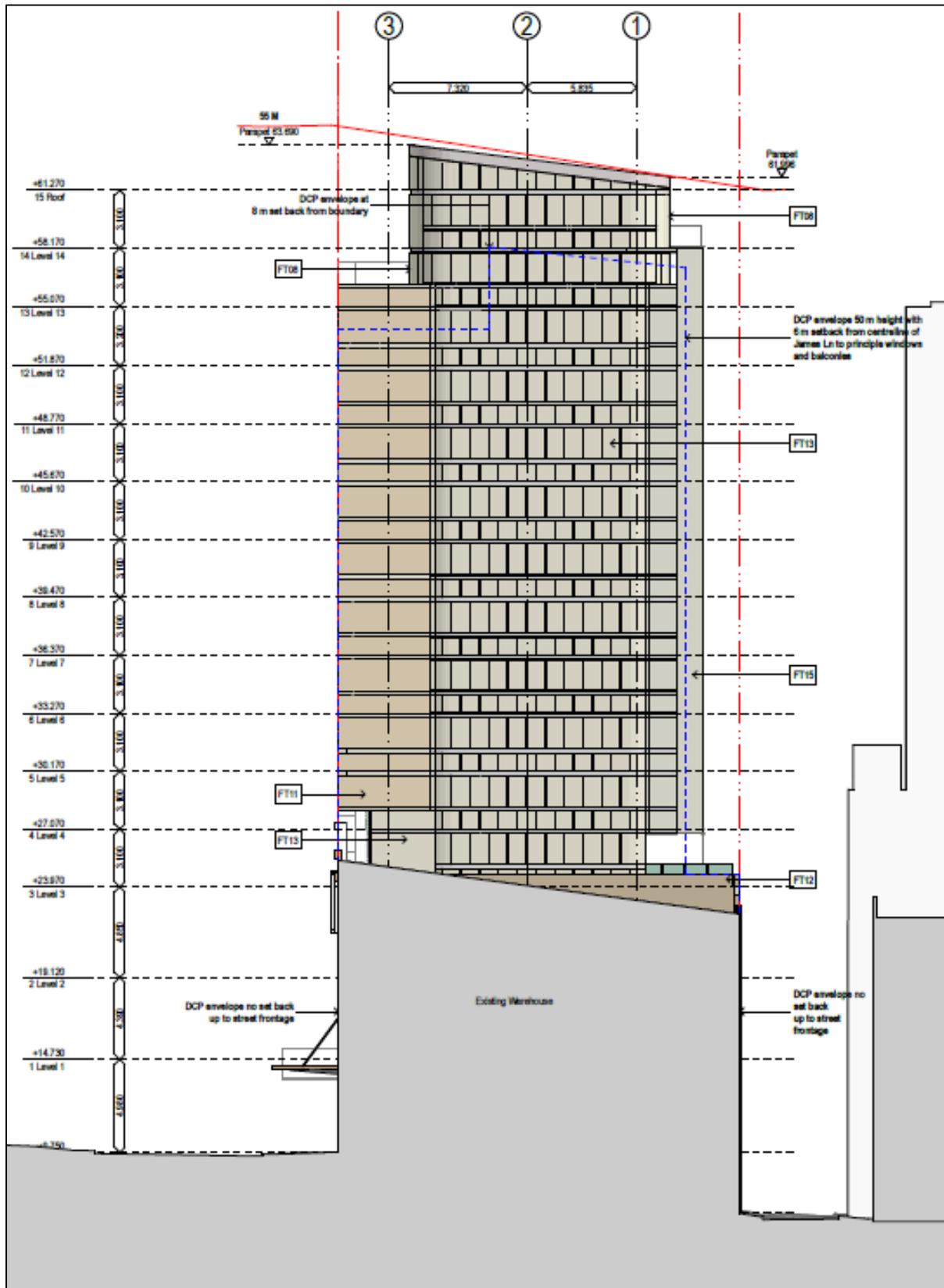


Figure 14: North Elevation.

## History Relevant to the Development Application

19. On 5 February 2018, Development Application (D/2016/1845) was withdrawn. The proposal involved the retention of the existing Sussex Street and James Lane facades, demolition of the remaining buildings and construction of a mixed use development containing 3 levels of basement car parking, ground floor retail and commercial tenancies, student accommodation (108 units) from Levels 1 to 10 and 19 apartments from Levels 11 to 16.
20. The proposal was not supported as it was essentially "facadism" with new floors levels built behind the retained walls unrelated to each other and creating a poor internal amenity.
21. A photomontage of the withdrawn scheme is provided in **Figure 15** below.



**Figure 15:** Photomontage viewed from Sussex Street.

22. On 16 April 2018, a Pre-DA meeting (PDA/2018/54) was held with Council officers and the applicant regarding a potential new development application for the sites at 311-315 and 317 Sussex Street, Sydney. The applicant sought advice on the retention of two structural bays of the existing warehouse building and construction of a mixed use building comprising of retail, boarding house and residential uses, which exceeded the maximum permissible height control of the site.
23. Following from the Pre-DA meeting, written advice was provided to the applicant on 3 May 2018 and the following comments were provided on the proposed scheme:
- (a) Height of building:
    - (i) Should a development that contravenes the 50m height control be pursued, massing studies must be provided that demonstrate that the proposal provides setbacks in accordance with Sydney DCP 2012 and does not impact on solar access and view loss to neighbouring properties at 188 Day Street and 336-346 Sussex Street.
    - (ii) Services associated with the building should be contained within the building and not exceed 55m in height.
  - (b) Residential Levels 13 and 14
    - (i) The Level 13 and 14 residential levels should provide a setback and should not contain windows that are built flush to the boundary and thus raise concern of fire rating.
    - (ii) Concerns of privacy is raised to the communal open space located at Level 13, which is located directly outside the proposed residential units.
    - (iii) The articulation of the residential component of the proposal detracts from the overall aesthetic of the building and should be consistent with the rest of the building.
  - (c) Facade
    - (i) The proposed podium should complement the character and prominent masonry materiality of James Lane.
    - (ii) Exploration of shading devices to the upper levels should be carried out to ensure that the design of the facade is not disrupted.
    - (iii) Consideration should be made to the treatment of the southern façade.
  - (d) General matters
    - (i) Concern is raised regarding the potential fill of the double height voids above the common rooms to the boarding house.
    - (ii) Car parking rates prescribed in State Environmental Planning Policy (Affordable Rental Housing) 2009 should not be used as a guide for the development having regard to the location of the site within close proximity of public transport.

- (iii) With respect to the proposed boarding house use, it was suggested that a targeted operator be sought to manage the shared and recreation space at the lower levels of the use.

### **Economic/Social/Environmental Impacts**

- 24. 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**

- 25. 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.
- 26. A Detailed Site Investigation Report, prepared by Douglas Partners, was submitted to Council on 23 August 2018. The City's Health Unit is satisfied that subject to conditions, the site can be made suitable for the proposed use.

### **State Environmental Planning Policy No 65—Design Quality of Residential Flat Development**

- 27. The proposed development is subject to SEPP 65 as it contains nine apartments on the upper levels. SEPP 65 provides that in determining an application for a residential flat development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality, including 9 design quality principles. A Design Verification Statement, prepared by FJMT, was submitted with the application and demonstrates the proposal addresses these principles as follows:
  - (a) **Principle 1: Context and Neighbourhood Character**
    - (i) The site is located in an established mixed-use area within the CBD comprising of retail, commercial, residential and hotel uses. The immediate locality is undergoing significant uplift in which small lots are being consolidated and developed to contain new tall buildings. There is no distinctive neighbourhood character as the context consists of buildings of varying eras and is reflective in the differing built form characteristics and articulation of buildings.
    - (ii) The proposal retains the warehouse character whilst incorporating a contemporary building addition above that complements the evolving urban character of the locality.
  - (b) **Principle 2: Built Form and Scale**
    - (i) The built form and scale of buildings in the locality ranges from 3 storeys to 17 storeys. The proposed 15 and 16 storey built form is appropriate for the site, having regard to the existing and future character of Sussex Street and surrounding buildings.

- (c) **Principle 3: Density**
- (i) The proposal seeks to utilise the additional floor space ratio of 1.5:1 permitted under Clause 6.4 of Sydney LEP 2012 for residential accommodation, allowing for an overall maximum FSR of 9:1. The development comprises of 9 residential apartments in addition to a boarding house use, which collectively has an FSR of 8.86:1. As such, the proposal achieves a suitable density for the site and context.
- (d) **Principle 4: Sustainability**
- (i) The development satisfies the BASIX requirements in achieving amenity and liveability for residents. An Energy Efficiency and Sustainability Report was submitted with the application. The proposal incorporates various energy efficiency and sustainability initiatives into the design.
- (e) **Principle 5: Landscape**
- (i) The site is located in an established CBD block with a notable absence of natural landscape features, other than the occasional street tree. The site is within close proximity to Tumbalong Park, which provides open space and natural setting for future residents of the development.
- (f) **Principle 6: Amenity**
- (i) The proposal achieves good internal and external amenity for occupants and neighbours. The apartments provide appropriate room dimensions and shapes that receive adequate solar access and natural ventilation. Acoustic and visual privacy is also attained for the development and neighbouring properties.
- (g) **Principle 7: Safety**
- (i) The proposal provides a clearly defined address from Sussex Street, which optimises safety and security from the public domain. Apartments are accessed from a dedicated lift from the ground floor lobby with apartments located appropriately within proximity to the central core and promotes safety and security within the development.
- (h) **Principle 8: Housing Diversity and Social Interaction**
- (i) The proposal provides 1, 2 and 4 bedroom apartment sizes with a greater offering on 1 bedroom apartments. This is considered appropriate within the CBD setting and young professional demographic of the area. The location of the site within a CBD context that allows for social interaction.
- (i) **Principle 9: Aesthetics**
- (i) The residential apartment component of the development has been well integrated into the overall design and visual appearance of the building. The built form is of a suitable proportion to the surrounding context, which employs materials, colours and textures that reflect the past and future characteristics of the area.

28. The development is considered generally acceptable when assessed against the above stated principles and the SEPP generally, which are replicated in large part within Council's planning controls.

## Apartment Design Guide

2E Building Depth	Compliance	Comment
12-18m (glass to glass)	Yes	A maximum building depth of 18m is provided.

2F Building Separation	Compliance	Comment
<p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> <li>• 24m between habitable rooms / balconies</li> <li>• 18m between habitable and non-habitable rooms</li> <li>• 12m between non-habitable rooms</li> </ul>	Yes	<p>The residential apartments are located from Levels 12 to 14 of the proposed development.</p> <p>The site has common boundaries with the adjoining properties to the north and south. Consideration is made for any future development on the northern properties at 307-309 Sussex Street that currently contain 4 storey warehouse buildings.</p> <p>The proposal has a minimum building separation of 12m from the western property located at 188 Day Street. Perusal of Council records indicate the eastern elevation at 188 Day that immediately fronts the subject site contains non-habitable rooms.</p>

3B Orientation	Compliance	Comment
Overshadowing of neighbouring properties is minimised during mid-winter: Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%	Yes	<p>The proposal will result in minor additional overshadowing to the neighbouring property at 336-346 Sussex Street.</p> <p>To ensure the proposal would have acceptable overshadowing impact, a Solar Access Study was requested.</p> <p>Refer to <b>Issues</b> discussion below.</p>

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	No but acceptable	The proposal does not provide communal and public open space. This is acceptable having regard to the context of the site within the CBD and that the apartments are provided with adequate private open space.
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).		

3E Deep Soil Zones	Compliance	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 3m	No but acceptable	No deep soil planting areas are proposed.  This is acceptable having regard to the location of the site within a highly urbanised area in the CBD where there is a lack of deep soil planting areas.

Separation between windows and balconies is required to ensure visual privacy is achieved. Minimum separation distances from buildings to the side and rear boundaries are outlined below.

3F Visual Privacy	Compliance	Comment
<p>Nine storeys and above (over 25m):</p> <ul style="list-style-type: none"> <li>• 12m between habitable rooms / balconies</li> <li>• 6m between non-habitable rooms</li> </ul>	Yes	<p>The site is bounded by Sussex Street to the east and James Lane to the west, which provides a sufficient buffer to neighbouring properties to enable visual privacy to be provided.</p> <p>Specifically, the proposal achieves a minimum building separation of 12m from 188 Day Street. As previously mentioned, the eastern elevation of the neighbouring development comprises of blank walls and balconies. As such, the proposal allows for visual privacy to be maintained. Additionally, the proposal contains balconies with appropriate screening devices that would provide visual privacy between adjacent properties.</p>

4A Solar and Daylight Access	Compliance	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	6 out of 9 apartments (70%) will receive the minimum 2 hours of direct sunlight to habitable rooms and private open spaces in midwinter.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	All apartments receive direct sunlight between 9am to 3pm at midwinter.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes	The residential apartments are located above 10 storeys and each contain balconies that are not fully enclosed thereby allowing natural ventilation.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.		

<b>4B Natural Ventilation</b>	<b>Compliance</b>	<b>Comment</b>
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	The overall depth of the development does not exceed 18m.

Measured from finished floor level to finished ceiling level, minimum ceiling heights are as follows in the table below.

<b>4C Ceiling Heights</b>	<b>Compliance</b>	<b>Comment</b>
Habitable rooms: 2.7m	Yes	The proposal provides a minimum floor to ceiling height of 2.7m for all apartments, including the floor to ceiling heights of the two storey apartments.
Non-habitable rooms: 2.4m		
Two-storey apartments: 2.7m for main living area floor, 2.4m for second floor, where it does not exceed 50% of the apartment area.		
If located in mixed use areas – 3.3m for ground and first floor to promote future flexibility of use.	Yes	The proposal provides 4.98m floor to floor height on the ground floor and 4.3m on the first floor and would therefore promote future flexibility of use.

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> <li>• Studio: 35m<sup>2</sup></li> <li>• 1 bed: 50m<sup>2</sup></li> <li>• 2 bed: 70m<sup>2</sup></li> <li>• 3 bed: 90m<sup>2</sup></li> </ul> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m<sup>2</sup> each.</p>	Yes	<p>5 x one bedroom units are provided and achieve the minimum area of 50sqm unit size requirement.</p> <p>2 x two bedroom units are provided and achieve the minimum 70sqm unit size requirement.</p> <p>1 x four bedroom unit is provided and achieves the 102sqm unit size requirements.</p> <p>All units contain at least one bathroom.</p>
<p>Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.</p>	Yes	<p>All habitable rooms contain a window in an external wall with a minimum glass area of 10%.</p>
<p>Habitable room depths are to be no more than 2.5 x the ceiling height.</p>	Yes	<p>The habitable rooms of all apartments provide sufficient room depths to allow for natural ventilation.</p>
<p>8m maximum depth for open plan layouts.</p>	Yes	<p>The open plan apartments do not exceed the maximum 8m depth.</p>
<p>Minimum area for bedrooms (excluding wardrobes):</p> <ul style="list-style-type: none"> <li>• master bedroom: 10m<sup>2</sup></li> <li>• all other bedrooms: 9m<sup>2</sup></li> </ul> <p>Minimum dimension of any bedroom is 3m (excluding wardrobes).</p>	Yes	<p>All apartments contain bedrooms that satisfy the minimum areas and dimensions.</p>

<b>4D Apartment Size and Layout</b>	<b>Compliance</b>	<b>Comment</b>
<p>Living and living/dining rooms minimum widths:</p> <ul style="list-style-type: none"> <li>• Studio and one-bedroom: 3.6m</li> <li>• Two-bedroom or more: 4m</li> </ul>	Yes	The relevant minimum widths of living and dining rooms are provided for all apartments.

<b>4E Private Open Space and Balconies</b>	<b>Compliance</b>	<b>Comment</b>
<p>Studio apartments are to have a minimum balcony area of 4m<sup>2</sup> with a minimum depth of 1m.</p> <p>One bed apartments are to have a minimum balcony area of 8m<sup>2</sup> with a minimum depth of 2m.</p> <p>Two bed apartments are to have a minimum balcony area of 10m<sup>2</sup> with a minimum depth of 2m.</p> <p>Three bed apartments are to have a minimum balcony area of 12m<sup>2</sup> with a minimum depth of 2.4m.</p>	Yes	All apartments contain a private balcony and achieve the minimum areas and depths.

<b>4F Common Circulation and Spaces</b>	<b>Compliance</b>	<b>Comment</b>
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	A maximum of 5 apartments are serviced off a circulation core on one single level.
For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Yes	As above, the proposal provides a maximum of 5 apartments that would share a single lift.

4F Common Circulation and Spaces	Compliance	Comment
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	The primary living rooms or bedroom windows of the apartments do not open up onto common circulation spaces.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	Natural daylight and ventilation is provided to the common circulation spaces of the development through window openings from James Lane. Common hallways are not long and narrow and would receive adequate daylight.

4G Storage	Compliance	Comment
<p>Minimum storage provision facilities:</p> <ul style="list-style-type: none"> <li>• Studio: 4m<sup>3</sup></li> <li>• 1 bed: 6m<sup>3</sup></li> <li>• 2 bed: 8m<sup>3</sup></li> <li>• 3 bed: 10m<sup>3</sup></li> </ul> <p>(Minimum 50% storage area located within unit)</p>	Yes	Sufficient storage facilities are provided within the apartments.

#### State Environmental Planning Policy (Affordable Rental Housing) 2009

29. The site is located in land zoned B8 Metropolitan Centre and is not identified to be land to which the SEPP applies under Clause 26. Therefore, the provisions of the SEPP are not applicable.

#### State Environmental Planning Policy (Infrastructure) 2007

30. The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.

## Clause 45

31. The application is subject to Clause 45 (Subdivision 2 Development likely to affect an electricity transmission or distribution network) of the SEPP as the development would involve the penetration of the ground within 2m of an underground electricity power line and works would be carried out within an easement for electricity purposes (whether or not the electricity infrastructure exists or not).
32. In accordance with the Clause, the application was referred to Energy Australia for a period of 21 days and no objection was raised.

## Clause 88

33. The application is subject to Clause 88 of the SEPP (Development within or adjacent to interim rail corridor). The subject site is located in land shown as 'Zone B' on the rail corridor map for the CBD Rail Link (CBDRL) corridor.
34. The proposal was referred to Transport for NSW (TfNSW) for concurrence as the delegated rail authority on 5 July 2018.
35. On 4 September 2018, TfNSW provided their concurrence to the proposal, subject to conditions contained in **Attachment A**.
36. The application was referred to the CBD Coordination Office within TfNSW as the site is in close proximity to the Sydney Light Rail Project and construction works may have an impact on traffic within the area.
37. On 8 August 2018, written correspondence was received from TfNSW requesting that conditions be included that require submission of a Construction Pedestrian and Traffic Management Plan and Loading and Servicing Management Plan to TfNSW prior to the commencement of works. These have been included in the proposed conditions of consent in **Attachment A**.

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

38. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.
39. 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.
40. 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.

41. The development is consistent with the controls contained with the deemed SEPP.

#### State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

42. The BASIX Certificate has been submitted for the residential apartments and the boarding house with the development application.
43. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal. A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.

#### Sydney LEP 2012

44. The site is located within the B8 Metropolitan Centre zone. The proposed uses are defined as '*residential accommodation*' and '*retail premises*' and are permissible.
45. 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 50m is permitted.</p> <p>A maximum height of 54.9m is proposed.</p> <p>The application is subject of a Clause 4.6 variation request. See discussion under the heading <b>Issues</b>.</p>
4.4 Floor Space Ratio 6.4 Accommodation Floor Space	Yes	<p>A base FSR of 7.5:1 (4019.25sqm) is permitted.</p> <p>The site is located in Area 4 and is eligible for additional floor space of 1.5:1 if the building is used for residential accommodation purposes under Clause 6.4 of Sydney LEP 2012. Therefore, the maximum FSR of 9:1 and GFA of 4823.1sqm is permitted.</p> <p>The development proposes a boarding house and multi dwelling housing to be provided on the site and is eligible for accommodation floor space.</p> <p>A total FSR of 8.86:1 and GFA of 4750sqm is proposed and is compliant.</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. A written request to contravene the development standard was submitted with the application and adequately satisfies the provisions of this Clause.</p> <p>See discussion under the heading <b>Issues.</b></p>
5.10 Heritage conservation	Yes	<p>The subject site does not contain a heritage item and is not located within a heritage conservation area. The site adjoins a local heritage item, being James Lane (11812) to the rear of the site.</p> <p>The western facade has been designed to be sympathetic to the heritage quality of James Lane by incorporating bricks and vertically proportioned windows set in deep reveals.</p> <p>The application was referred to Council's Heritage Specialist and Urban Designer who supports the proposal, subject to conditions, specifically pertaining to the re-use and salvage of original fabric resulted from the demolition of the warehouse building.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
Division 1 Additional floor space in Central Sydney  6.4 Accommodation floor space	Yes	<p>As discussed above, the development is eligible for additional accommodation floor space in accordance with this Clause and complies with the maximum permitted FSR of 9:1.</p>

<b>Part 6 Local Provisions - Height and Floor Space</b>	<b>Compliance</b>	<b>Comment</b>
Division 4 Design excellence	Yes	<p>The proposal involves the partial retention of the warehouse buildings and construction of a 12 storey addition above.</p> <p>The proposal achieves a high standard of architectural design that incorporates the heritage character by way of partially retaining significant elements of the warehouse buildings and integrating this with the new modern addition. Overall, the development appropriately responds to the scale, setbacks and street frontage heights of neighbouring buildings and context. The proposal would not result in any significant adverse impacts to nearby properties or the public domain.</p> <p>Collectively, the materiality, articulation and architectural quality of the building is considered to exhibit design excellence.</p>

<b>Part 7 Local Provisions - General</b>	<b>Compliance</b>	<b>Comment</b>
Division 1 Car parking ancillary to other development	Yes	<p>A maximum of 5 residential car parking spaces and 1 retail car parking space is permitted.</p> <p>The development provides 5 spaces for the residential apartments and one space for the retail uses.</p> <p>A total of 11 car parking spaces are proposed in a stacked arrangement within the basement levels of the development</p> <p>This provision does not stipulate a maximum provision for boarding houses.</p> <p>The five spaces of those to be used in conjunction with the residential apartments and the retail uses are proposed to be used for car share and the boarding house use. Refer to DCP discussion below.</p>

Part 7 Local Provisions - General	Compliance	Comment
7.14 Acid Sulphate Soils	Yes	The site is identified as containing class 5 Acid Sulphate Soil at an Australian Height Datum of 7-9 meters. Therefore, an Acid Sulphate Soil Management Plan is not required.
7.15 Flood planning	Yes	<p>The site is identified by Council as being flood prone and located within the Darling Harbour Catchment.</p> <p>The application was accompanied with a Flood Report, prepared by Calibre Consulting that was reviewed by Council's Engineer. The development has been adequately designed to mitigate flooding impacts, subject to recommended conditions.</p>
7.16 Airspace operations	Yes	The proposed development will not penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Sydney Airport.
7.19 Demolition must not result in long term adverse visual impact	Yes	The proposal involves the partial demolition of the existing building. The proposal would not result in long term adverse visual impacts as a result of the demolition.
7.24 Development near Cross City Tunnel ventilation stack	Yes	<p>The site is located within the vicinity of the Cross City Tunnel Ventilation Stack.</p> <p>An Air Quality Assessment Report, prepared by GHD, was submitted with the application and confirms that the development would not affect the dispersion of emissions from the Cross City Tunnel Ventilation Stack and future occupants of the development would not be unduly effected by these emissions.</p>

### Sydney DCP 2012

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

3. General Provisions	Compliance	Comment
3.1 Public Domain Elements	Yes	The proposed development would make a positive contribution to the public domain by providing an active street frontage to Sussex Street.
3.2 Defining the Public Domain	Yes	<p>The proposed development will enhance the public domain by ensuring adequate sun access to publicly accessible spaces and considering public views.</p> <p>All relevant sections are addressed below.</p>
<i>3.2.2 Addressing the street and public domain</i>	Yes	<p>The ground floor of the development provides retail uses that positively address Sussex Street.</p> <p>Basement parking is provided and accessed from James Lane and does not protrude above the street level or the public domain.</p> <p>Both the boarding house and residential apartments are accessed from Sussex Street in which a separate lift access is provided to each use.</p>
<i>3.2.3 Active frontages</i>	Yes	<p>The DCP does not require an active frontage to be provided on Sussex Street or James Lane.</p> <p>Notwithstanding, the development provides retail uses as well as reception and common areas on the ground floor that open up to the street.</p>

3. General Provisions	Compliance	Comment
3.2.4 <i>Footpath awnings</i>	Yes	<p>The DCP does not require an awning or colonnade to be provided on Sussex Street or James Lane.</p> <p>The proposal involves a new steel painted plate awning to be hung from the existing warehouse facade on Sussex Street at a height of 4.9m.</p> <p>Notwithstanding the numerical exceedance of the awning height to the 4.2m requirement, the height of the awning is relative to the floor to ceiling height of the warehouse building and is consistent with the appearance of neighbouring buildings. The proposal satisfies the objectives of this Section in that the footpath awning enhances pedestrian amenity and weather protection.</p>
3.2.6 <i>Wind effects</i>	Yes	<p>A Pedestrian and Wind Environment Study, prepared by Windtech Consultants, was submitted with the application. The Study confirms the proposed development benefits from the shielding of neighbouring buildings and would generally have a negligible impact on the local wind environment.</p> <p>It was noted that the use of loose glass tops and light weight coverings is not appropriate on the upper level balconies unless secured or attached to the balcony or floor slab. Further it was recommended that private balconies have impermeable balustrades. A condition of consent is recommended to this effect, and is contained in <b>Attachment A</b>.</p>

3. General Provisions	Compliance	Comment
3.2.7 Reflectivity	Yes	A Solar Light Reflectivity Analysis, prepared by Windtech Consultants, was submitted with the application. The report recommends that glazing used on the external façade should have a maximum normal specular reflectance of visible light of 20%, which is required under the DCP. As such, a condition of consent is recommended and is contained in <b>Attachment A</b> .
3.3 Design Excellence and Competitive Design Processes	Yes	As outlined above, the proposed development exhibits a high quality design and satisfactory urban design outcome. It is not required to undergo a competitive design process.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. Appropriate conditions of consent have been recommended and contained in <b>Attachment A</b> relating to storm water drainage and flood management as recommended by Council's Engineer.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	Conditions of consent have been recommended to require consolidation of the site into one allotment.  Additionally, conditions are also recommended to restrict the strata subdivision of the boarding house.
3.9 Heritage	Yes	The site adjoins a heritage item of local significance being James Lane. The proposal is sympathetic to the quality of the heritage item.
3.10 Significant Architectural Building Types	Yes	The site contains two warehouse buildings that are older than 50 years.  Refer to <b>Issues</b> discussion.

3. General Provisions	Compliance	Comment
3.11 Transport and Parking	Yes	<p>The proposed development provides 2 levels of basement car parking to accommodate 11 vehicles in a stacked car parking arrangement with a turntable. Servicing and loading is carried out in designated loading areas with a turntable and is accessed via James Lane.</p> <p>30 bicycle spaces are contained within the lower ground floor and is also accessed James Lane.</p> <p>A Traffic Report was submitted with the application and was reviewed by Council's Traffic Planner. Subject to conditions, the proposal is considered to satisfy the objectives of this Section in ensuring that the demand for transport generated by the development is managed sustainably.</p>
3.11.2 Car share scheme parking spaces	Yes	<p>The site is located in Category A area in the Land Use and Transport Integration Map in Sydney LEP 2012 and sets a minimum of 1 car share space per 50 car parking spaces to be provided for residential development.</p> <p>The site is also located in Category D in the Public Transport Accessibility Map in Sydney LEP 2012 and sets a minimum of 1 car share space per 30 car spaces to be provided for retail premises.</p> <p>The proposal provides 2 car share spaces. A condition of consent is recommended to ensure these car share spaces remain as common property and are used for the purposes of car share.</p>

3. General Provisions	Compliance	Comment
3.11.3 <i>Bike parking and associated facilities</i>	Able to comply	<p>The proposal provides 30 bicycle parking spaces on the lower ground floor accessed from James Lane. End of trip facilities are not provided.</p> <p>The proposal is required to provide a total of 56 spaces being 1 space per residential dwelling including the boarding house accommodation (51 spaces), 1 space per 250sqm for a shop (1 space) and visitor spaces (4 spaces).</p> <p>Council's Traffic Planner has reviewed the proposal and has recommended conditions requiring additional bicycle parking to be provided in accordance with this Section.</p> <p>A condition requiring the provision of 56 spaces is provided in the recommendation.</p>
3.11.6 <i>Service vehicle parking</i>	Yes	<p>The proposal provides service vehicle parking on the site with a loading bay and turntable that is not shared with any purpose.</p> <p>A condition is recommended for a Loading Dock Management Plan to be provided to the satisfaction of Council prior to the issue of Construction Certificate to ensure that loading and access for servicing is adequately managed.</p>
3.11.12 <i>Tandem, stacked and mechanical parking areas</i>	Yes	<p>The proposal provides car parking in a stacked mechanical arrangement within the basement levels of the development with a turntable.</p> <p>A maximum of two spaces is accommodated within the stack arrangement and manoeuvring is able to occur wholly within the site.</p>

3. General Provisions	Compliance	Comment
3.11.13 <i>Design and location of waste collection points and loading areas</i>	Yes	<p>The proposal allows for waste collection and loading to be carried out at grade in the dedicated collection and loading bay that is accessed from James Lane.</p> <p>The proposal was referred to Council's Waste Officer. In consideration of the predominant residential uses of the development, waste would be collected by Council. The proposal, in its current form, does not provide the required vertical clearances for Council collection vehicles prescribed by the DCP. However, smaller Council fleet will be available to service waste for most laneways and difficult to access areas. As such, the proposed waste collection points and loading areas are acceptable.</p>
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.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	A condition 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 3.16.1 Signage Strategy	Yes	The proposed development does not include signage. Notwithstanding, a condition of consent is recommended for any future sign or signage strategy to be subject to a separate application.

4. Development Types  4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.1 Building height	No	<p>The site has a maximum building height of 50m under Sydney LEP 2012. The proposal presents a maximum height of 54.9m and exceeds the control.</p> <p>However, the proposal presents a building height and street frontage height that is consistent with the scale and form of surrounding buildings.</p> <p>The proposal generally satisfies the floor to ceiling height requirements of this Section. The ground floor provides a floor to ceiling height greater than the 4.5m control. This is considered acceptable having regard to the partial retention of the existing warehouse.</p> <p>Refer to <b>Issues</b> discussion below.</p>
4.2.2 Building setbacks	Partial compliance	The proposal generally complies with the DCP setback requirements. This is discussed below in Section 5.1.2.2.
4.2.3 Amenity	Yes	<p>The proposal provides a high level of amenity to the residential apartments and would not result in adverse amenity impacts to neighbouring properties, as discussed elsewhere in this report.</p> <p>The proposal would result in minor overshadowing the mixed use residential development at 336-346 Sussex Street between 2pm and 3pm during the winter solstice.</p> <p>Refer to <b>Issues</b> discussion below.</p>
4.2.4 Fine grain, architectural diversity and articulation	Yes	The proposal responds to the scale, modulation and façade articulation of surrounding development.

4. Development Types  4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.6 Waste minimisation	Yes	<p>The proposal provides adequate facilities to manage waste. Residential amenity would not be impacted by waste systems and collection.</p> <p>Notwithstanding this, conditions of consent are recommended to ensure that waste storage and collection is managed appropriately.</p>

4. Development Types  4.4 Other development types and uses	Compliance	Comment
4.4.1 Boarding houses and student accommodation	Yes	<p>The proposal involves the provision of a boarding house containing 83 units with 107 beds and satisfies the objectives of this Section. The proposal provides an acceptable level of amenity and accommodation for residents and owners and would not adversely impact on neighbouring properties and the locality.</p>
4.4.1.1 <i>Subdivision</i>	Yes	<p>A condition of consent is recommended restricting the strata subdivision and community title subdivision of the boarding house development.</p>

4. Development Types 4.4 Other development types and uses	Compliance	Comment
4.4.1.2 <i>Bedrooms</i>	Yes	<p>The boarding house provides 5 unit types in the following configurations:</p> <p><b>Type A:</b> 1 double room and 2 single rooms</p> <p><b>Type B:</b> 2 double rooms and 2 single rooms</p> <p><b>Type C:</b> 1 double studio</p> <p><b>Type D:</b> 1 double room and 3 single rooms</p> <p><b>Type E:</b> 2 single rooms</p> <p>Each unit type provides the minimum 12sqm for single rooms and minimum 16sqm for double rooms. Ensuities consists of a hand basin, toilet and shower. Each unit contains a kitchenette and provides sufficient area for a small fridge, cupboard, shelves and microwave.</p> <p>Each room has access to natural light from a balcony or window and provides the required floor to ceiling height of 2.7m.</p> <p>A condition of consent is recommended requiring the development to comply with the relevant fire safety standards.</p>
4.4.1.3 <i>Communal kitchen areas</i>	Yes	<p>Each unit type contains a kitchenette with a sink and stove to service each bedroom occupant and meets the minimum 6.5sqm requirement.</p>

4. Development Types  4.4 Other development types and uses	Compliance	Comment
4.4.1.4 Communal living areas and open space	Acceptable	<p>The boarding house does not provide indoor communal areas on each floor, however the location of communal areas on the ground floor and Levels 1, 2, 5 and 9 is acceptable. An approximate area of 560sqm of indoor communal area is provided and are located from common circulation paths and lift access that would have minimal impact on bedrooms and adjoining properties. Some boarding house rooms are also designed in an apartment format, which incorporate communal space within the unit.</p> <p>The plans submitted with the application indicate that the indoor communal areas receive 1 hour of solar access during the winter solstice and does not satisfy the minimum 2 hour solar access requirement to at least 50% of windows. Having regard to the east-west orientation of the site and context of the immediate locality comprising of tall buildings built to boundary, this is considered acceptable. All indoor communal areas contain large windows that would provide adequate daylight.</p>
4.4.1.5 Bathroom, laundry and drying facilities	Yes	<p>Each boarding room contains ensuite bathroom facilities with a wash basin, toilet and shower.</p> <p>Shared bathroom facilities are also provided within close proximity to the indoor common areas on Levels 1 and 2. A shared laundry facility with a laundry tub and drying facilities is provided on Level 2 and provides sufficient area to accommodate several washing machines and dryers for occupants.</p>

4. Development Types  4.4 Other development types and uses	Compliance	Comment
4.4.1.6 <i>Amenity, safety and privacy</i>	Yes	<p>The boarding house maintains a high level of resident amenity, safety and privacy by locating communal spaces such as common areas and laundry facilities from centrally located common circulation paths and lift access. Rooms are also accessed from the central core that provide adequate lobby areas and hallways.</p> <p>Primary access to the boarding house is provided on Sussex Street, with common rooms also orientated towards the Sussex Street frontage to minimise visual and acoustic privacy to other neighbouring residential accommodation.</p> <p>An Acoustic Report, prepared by Acoustic Logic, was submitted with the application and was reviewed by Council's Environmental Health Officer. Subject to conditions recommended in <b>Attachment A</b>, the proposal would not result in adverse noise impacts.</p> <p>Given the proposed boarding house incorporates more than 75 rooms, a Traffic and Parking Assessment Report, prepared by Varga Traffic Planning, was submitted with the application and reviewed by Council's Traffic Planner. Subject to conditions recommended in <b>Attachment A</b>, the proposal would not result in adverse traffic and parking impacts.</p>

4. Development Types 4.4 Other development types and uses	Compliance	Comment
4.4.1.7 <i>Plan of management</i>	Yes	<p>A Plan of Management and Security Management Plan, prepared by Root Partnership, was submitted with the application. It adequately demonstrates that the boarding house would be operated and managed in a manner that results in minimal environmental impact on adjoining properties and maintains a high level of amenity for residents.</p> <p>Details of staff arrangements, house rules, waste and pest management, management of common areas as well as safety and security measures was outlined in the Plan.</p> <p>The application was referred to Council's Safe City Unit who considers the Plan of Management acceptable. The application was also referred to NSW Police. No comments were received, therefore it is assumed that no issues are raised regarding the proposed boarding house.</p>

5. Specific Areas 5.1 Central Sydney	Compliance	Comment
5.1.1 Street frontage heights	Acceptable	<p>The proposed building exceeds the street frontage height control of 45m having a street frontage height of 47m. However, the proposal is consistent with the street frontage heights of buildings on Sussex Street, which have street frontage heights ranging from 46 to 48m.</p> <p>Refer to <b>Issues</b> discussion below.</p>

5. Specific Areas 5.1 Central Sydney	Compliance	Comment
5.1.2.1 Front setbacks	Acceptable	<p>The proposal does not comply with the 8m set back requirement above street frontage height having a setback 3.8m from the Sussex Street. The non-compliance is considered appropriate within the surrounding streetscape context.</p> <p>Refer to <b>Issues</b> discussion below.</p>
5.1.2.2 Side and rear setbacks 5.1.2.3 Setbacks for buildings adjoining or fronting lanes	Yes	<p>The proposal provides a zero side setback on the northern and southern boundaries. These elevations are blank and do not provide windows or openings and is therefore consistent with the BCA. The zero side setback is also acceptable having regard to the existing streetscape.</p> <p>The proposal maintains a zero rear setback up to the street frontage height of the existing warehouse. From Level 3, the development is setback 6m to the centre of James Lane as required in the DCP. This allows for a separation of at least 12m between the development and neighbouring building at 188 Day Street.</p>
5.1.6 Building exteriors	Yes	<p>The proposal has been appropriately designed to consider the street alignment, street frontage heights, setbacks and facade proportions of adjoining buildings. Notably, the Sussex Street and James Lane building exterior integrates the masonry character of the warehouse building with modern materials and facade articulation, which allows the building to achieve a horizontal and vertical balance.</p>
5.1.8 Warehouse buildings	Yes	<p>The proposal involves the partial retention of the warehouse building, particularly the Sussex Street facade and first two structural bays and allows for the fundamental configuration of the warehouse to be preserved.</p>

## Issues

### Height of Buildings and Clause 4.6 request to vary a development standard

47. The site is permitted a maximum height of 50m under Clause 4.3 of Sydney LEP 2012.
48. The proposed development has a maximum height of 54.9m, which represents a 4.9m or 9.8% variation to the height control. The exceedance results from the roof of the development containing plant room, with variations ranging from 4.6 to 4.9m.
49. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
  - (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
  - (b) That there are sufficient environmental planning grounds to justify contravening the standard.
50. A copy of the applicant's written request is provided at **Attachment C**.

#### *Applicants Written Request - Clause 4.6(3)(a) and (b)*

51. The applicant seeks to justify the contravention of the height development standard on the following basis:
  - (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
    - (i) The objectives of the development standard are achieved notwithstanding the non-compliance. The proposed height of the development is appropriate to the condition of the site and its context, having regard to the site's inner city location and presents an opportunity to design a building that responds to the topography, heritage characteristics, dual outlook to the east and west and surrounding established and future built form.
    - (ii) The proposal would respond to the existing and future development contexts of the site:

#### ***Existing Development***

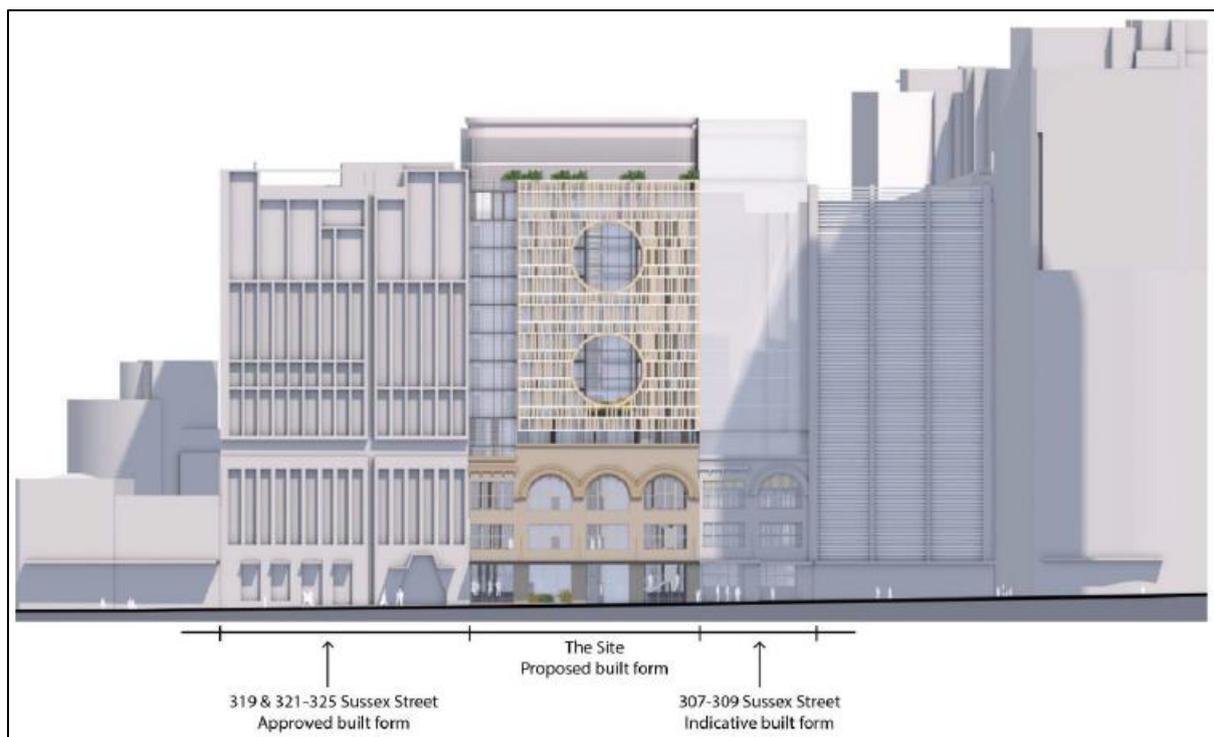
- (iii) The locality presents a varied and layered streetscape character and it is considered that the proposed built form complements this character and is appropriate to the established building heights.
- (iv) The proposed height maintains the street hierarchy within the street block with taller buildings to the north located near street intersections (including Millennium Towers at 289-295 Sussex Street and Maestri Towers at 298 Sussex Street), shifting to a lower height plane to the south of the site closer to Chinatown. The proposal demonstrates a transitional built form between denser CBD developments to the east and Darling Harbour and Tumbalong Park to the west.
- (v) The proposed height variation results in the addition of one habitable floor, which will not result in additional visual bulk compared with a compliant

scheme. From Sussex Street the visual bulk of the additional floor is reduced through simplification of the built form articulation and materiality and the setback of the upper levels (level 13 and 14) by 3.8 metres above the street frontage height. The proposed setback above the James Lane street wall height of 6 metres from the centre line of the laneway reduces the visual impact of the development, with the additional height not visible from the public domain.

- (vi) The proposal partially retains the existing warehouse building (not listed as a local or State heritage item), including the Sussex Street façade. In doing so, the proposal maintains the existing characteristics of the area including predominant street wall height, views and vistas from street level, providing visual interest at the street level.

### ***Future Development***

- (vii) An understanding of future developments has informed the proposed building height, which responds to the existing and proposed characteristics of the site. As demonstrated in **Figure 16** below, the proposal provides visual compatibility with neighbouring properties and creates a general stepping in height while maintaining a clear podium and street wall height. In this context, the proposed variation in height is not unreasonable.

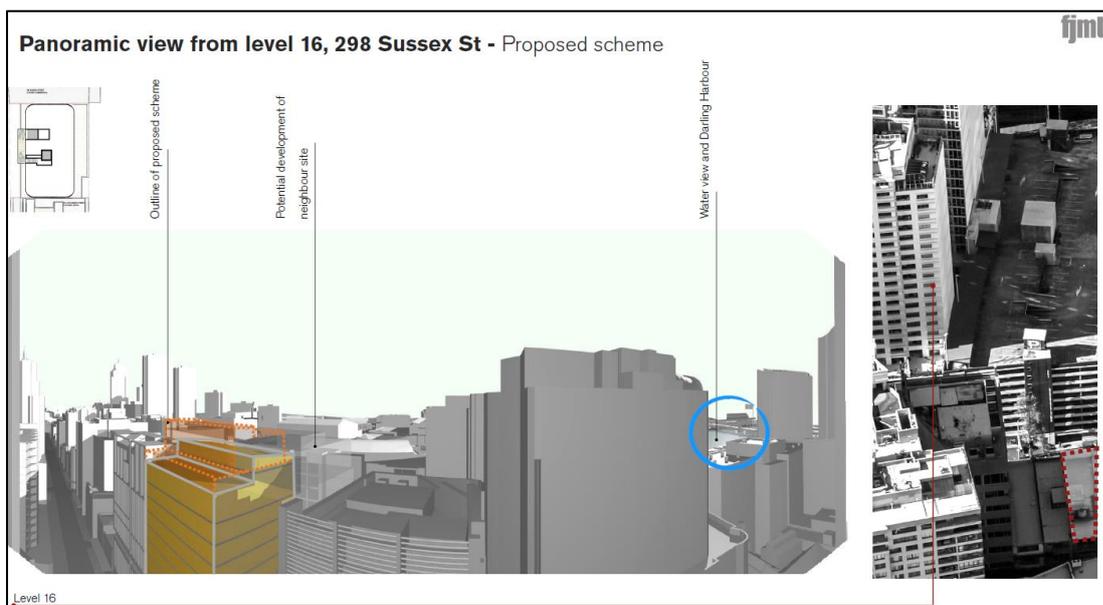


**Figure 16:** Extract of the Clause 4.6 Variation Statement, illustrating built form comparisons on Sussex Street.

- (viii) Future development of the surrounding area is further envisaged within the draft Central Sydney Planning Strategy (CSPS). Under the draft CSPS the site is located within the 'Western Edge'. Whilst the site has not been identified for height uplift under the draft CSPS, the eastern side of Sussex Street, immediately adjacent the site, has been marked for height increases from 80 metres up to 110 metres. This has the potential to impact the site's immediate built form context in the medium to long-term.
- (ix) The draft CSPS Structure Plan locates the site at the western edge of a "high density zone" and identified "tower cluster". Maximising height and densities above the established maximum limits seeks to increase growth opportunities for employment floor space, promote the efficient use of land, and encourage innovative design within these zones has been proposed. With increased heights to the east of the site, the proposed development will maintain a stepped transition to the west towards Darling Harbour.
- (x) The proposed height results in a scale and density of development that is acceptable given the varied nature of the area. As a result, the proposal does not present as being-out-of-character for the street, or to neighbouring buildings, with particular regard to the future site conditions.
- (xi) The site is not a local or state heritage item nor is located within a heritage conservation area or special character area. Two heritage items are located within proximity to the site. It is considered that there would be no negative impacts to surrounding heritage items as a result of the proposed works. The proposal retains the significant relationship to the land by being built to the boundary and by the use of a masonry podium for the new development. The former Sussex Street Public School will not be negatively impacted by the proposal either physically or visually.
- (xii) The proposed development would be entirely in line with the existing pattern of development in the city, being high density development with zero street setbacks.
- (xiii) The proposed development seeks to mitigate potential view impacts on neighbouring residential and commercial properties within an already established dense city environment. A series of view studies been undertaken to test the impact of the proposed development from surrounding residential buildings, particularly with regard to views to the west across Darling Harbour, as indicated in **Figures 18** and **19** below.



**Figure 18:** Excerpt from Clause 4.6 Variation Statement, illustrating view sharing and setback analysis from 336 Sussex Street.



**Figure 19:** Excerpt from Clause 4.6 Variation Statement, illustrating view sharing and setback analysis from 298 Sussex Street.

- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) The variation stems from the desire to retain a portion of the existing warehouse building. Although not a heritage item, the proposal partially retains the significant elements of the building that is representative of a significant architectural building type;

- (ii) The retention of the existing structural bays introduces additional structural complexities, requiring the new structure to cantilever over the existing structure. Large transfer beams (full height walls) are required on levels 3 and 4. The requirements for these structural walls have had an impact on the planning of these levels and dictates a specific layout, reducing the overall flexibility of the boarding house levels. Additional structural columns are also required adjacent to the party walls, which further introduces layout and floor space efficiencies.
- (iii) Whilst the partial retention of the warehouse building provides a special character for the project and will retain existing fabric it does result in significant spatial and structural constraints. These constraints are accommodated within the proposed development as a result of the increased height, providing a comparable floor space area if the warehouse building was to be removed.
- (iv) Notwithstanding the variation, the proposal seeks to ensure that overshadowing of adjacent residential properties is minimised during the 21st June. A detailed shadow analysis has been carried out and presents the following:
  - (i) The proposal would not result in additional overshadowing to the western property at 188 Day Street.
  - (ii) The proposal would result in minor additional overshadowing to the living and private open space areas to 11 apartments at 336-346 Sussex Street. Due to the orientation and design of this building, 3 of these apartments already received less than the 2 hour requirement. The minor impact is considered acceptable given the constrained context of the site. The upper levels of the proposal have been appropriately set back to minimise overshadowing whilst providing an efficient development floor plate for residential development.
- (v) The proposal would not result in unacceptable view loss from the surrounding residential properties or the public domain. The changes to the current visual outlook resulting from the propose height variation is acceptable given the site's built form context.
- (vi) The variation will result in a better overall outcome in terms of residential amenity for future occupants.

*Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)*

52. Development consent must not be granted unless the consent authority is satisfied that:
- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
  - (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

*Does the written request adequately address those issues at Clause 4.6(3)(a)?*

53. The applicant's written request has adequately demonstrated that compliance with the height of buildings development standard is unreasonable and unnecessary in the circumstances of the case as the proposed development satisfies the objectives for the standard, notwithstanding the small non-compliance. The proposal appropriately responds to the existing and anticipated context of the area and presents a transitional building height with surrounding developments.
54. The written request outlines the proposal also appropriately responds to site-specific conditions relating to topography, heritage character and east-west orientation of the site. Additionally, the proposal demonstrates consistency with the street frontage height and masonry podium character of neighbouring buildings. In retaining the warehouse building, the proposal reinforces the diminishing heritage characteristics of the area whilst demonstrating compatibility with neighbouring heritage items. In light of the above, the written request addresses the contextual and site specific conditions as to why compliance with the development standard is unreasonable and unnecessary.
55. The proposed development is consistent with the objectives of the B8 Metropolitan Centre zone and height development standard under Sydney LEP 2012 and is in the public interest. The area of non-compliance results from the roof of the development above residential accommodation. The proposal would facilitate the objectives of the zone that would not result in unacceptable environmental impacts to neighbouring properties in an existing dense block within the CBD. Compliance with the development standard is considered to be unreasonable and unnecessary.

*Does the written request adequately address those issues at clause 4.6(3)(b)?*

56. The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravention of the development standard. The variation results from a desire to retain a significant warehouse building that currently provides generous floor to ceiling heights.
57. The proposal has been designed to minimise unacceptable environmental impacts, notably overshadowing to neighbouring properties, by providing adequate building setbacks from the front and rear street frontage and well as providing sufficient building separation. The setback of the building above street frontage height would still result in minor additional overshadowing to 11 apartments at 336-346 Sussex Street during 2pm and 3pm during the winter solstice.
58. The applicant's written justification provided extracts of a detailed overshadowing analysis carried out for the shadows cast to these apartments. It was found that 3 of the 12 apartments already receive less than 2 hours of solar access during mid-winter and that the neighbouring building itself, as a result of its design and orientation, overshadows the private open space and living areas of these apartments.
59. In consideration of the constrained nature of the site, the dense CBD context and noting the development has been designed with adequate setbacks that are appropriate to the site and context, the minor additional overshadowing to the 12 apartments at 336-346 Sussex Street is acceptable in this circumstance. This is discussed further in this report.
60. Notwithstanding the non-compliance to the height development standard, the proposal would not result in unacceptable view loss from the surrounding residential properties or the public domain. The area of non-compliance would not be discernible from the street having regard to the site's built form context.

61. Specifically, for the residential uses of the site that attribute to the additional height of the development as well as the surrounding context of tall buildings, the variation would allow for a better outcome in terms of residential amenity for future occupants, whilst maintaining consistency with neighbouring built form of adjoining buildings.
62. In light of the above, the proposal demonstrates that there are sufficient environmental planning grounds to justify contravention to the height development standard.

*Is the development in the public interest?*

63. The proposed development would be in the public interest as it is consistent with the objectives of the height development standard and the B8 Metropolitan Centre zone.
64. The height of the development is appropriate for the site and is consistent with the existing and future height of the development in the locality. The proposal would not compromise views and satisfactorily responds to topographical and heritage constraints.
65. The proposal satisfies the objectives of the B8 Metropolitan Centre zone as follows:
  - *"To recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy"*
  - *To provide opportunities for an intensity of land uses commensurate with Sydney's global status*
  - *To permit a diversity of compatible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community.*
  - *To encourage use of alternatives to private motor vehicles, such as public transport, walking or cycling.*
  - *To promote uses with an active street frontage on main streets and on streets in which buildings are used primarily (at street level) for the purposes of retail premises".*
66. The proposal would contain a diversity of land uses, notably residential and retail uses, which are encouraged by the zone and is appropriate within the context of Central Sydney.
67. The site is located within close proximity to public transport and would encourage walking and cycling. The proposal would encourage alternative modes of transport to private motor vehicles.
68. Retail uses are proposed on the ground floor of the development and would promote an active street frontage and public domain.

*Conclusion*

69. For the reasons provided above the requested variation to the height development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height development standard and the B8 Metropolitan Centre zone.

### Solar Access

70. The proposed building has a maximum height of 54.9m. The building will result in minor additional overshadowing to the neighbouring mixed use residential development located opposite and to the east at 336-346 Sussex Street.
71. 336-346 Sussex Street contains 154 residential apartments over 14 levels, approved under Development Application D/1981/961. The proposal will affect 11 apartments on the north-eastern elevation of the building, as illustrated in **Figure 20** below, at mid-winter.



**Figure 20:** Extract from the Solar Access Study, illustrating the subject site (in dashed outline) and the affected residential apartments at 336-346 Sussex Street.

72. To assess the overshadowing impact to the neighbouring property, the applicant was requested to submit a Solar Access Study in consideration of the ADG *Objective 4A: Solar and Daylight Access* as well as *Objective 3B-2: Overshadowing of neighbouring properties is minimised during mid-winter*, which prescribes the following design criteria principles:
  - (a) living rooms and private open spaces of at least 70% of apartments in a building receive a minimum 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas; and
  - (b) where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20% (measured as a period of time).

*For example: If a building has 100 apartments of which 60 (60%) receive 2 hours direct sunlight and 40 (40%) receive 1 hour then at least 10 of the apartments receiving 1 hour should still receive 48 minutes of direct sunlight (i.e. 20% x 1 hour = 12 minute reduction).*

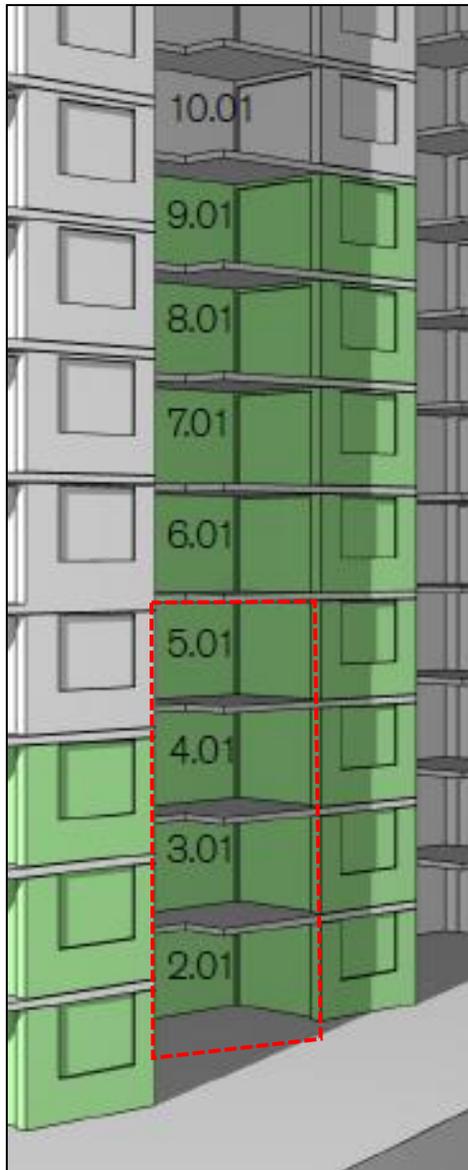
73. The Solar Access Study, contained in **Attachment D**, provides a comprehensive solar analysis on the overall building as well as a minute-by-minute solar analysis on the affected apartments of the neighbouring building. The Study also provides a comparative analysis on the existing solar conditions with the solar conditions of a compliant DCP envelope and the proposed envelope.
74. A summary of the Study is as follows:
- (a) The neighbouring property currently has 154 apartments of which 61 (39.6 %) receive a minimum of 2 hours direct solar access in mid-winter.
  - (b) The proposal impacts 11 out of the 93 apartments that do not receive the 2 hour solar access requirement in mid-winter. These apartments currently receive a minimum of 1 hour and 45 minutes. The 11 apartments are located on the lower levels of the north-eastern elevation of the building, as indicated in Figure 21 below.



**Figure 21:** Extract from the Solar Access Study, highlighting apartments impacted by the proposal in green.

- (c) In consideration of the ADG design criteria prescribed in Objective 4A-1, the neighbouring building currently does not receive the required direct solar access to 70% of apartments during mid-winter;
- (d) In this light, the development must demonstrate it achieves the design criteria outlined in ADG Objective 3B-2, where solar access to the neighbouring property must not be reduced by more than 20%, measured in a period of time. To achieve this, the apartments that receive 1 hour and 45 minutes of solar access should still receive 1 hour and 24 minutes of solar access (20% x 105 minutes = 21 minute reduction).

- (e) In the case of the subject development, 4 of the 11 impacted apartments will receive less than 1 hour and 24 minutes of solar access. These apartments are 2.01, 3.01, 4.01, and 5.01 as illustrated in **Figure 22** below.



**Figure 22:** Extract from the Solar Access Study, illustrating impacted apartments.

- (f) Unit 2.01 will receive 1 hour and 10 minutes (14 minute reduction), Unit 3.01 will receive 1 hour and 15 minutes (9 minute reduction), Unit 4.01 will receive 1 hour and 19 minutes (5 minute reduction) and Unit 5.01 will receive 1 hour and 23 minutes (1 minute reduction).
- (g) Notwithstanding the impact of overshadowing to these properties of a maximum 14 minutes, it is considered that the overshadowing impacts of the development are acceptable for the following reasons:

- (i) The Study reveals the reduction in solar access to the affected apartments below the 20% criteria in the ADG is relatively minor, with Unit 2.01 being impacted the most. Solar access to Unit 2.01 will be reduced to 1 hour and 10 minutes being 14 minutes below the 20% ADG criteria.
  - (ii) The Study reveals that solar access to Unit 2.01 will be reduced to 1 hour and 15 minutes with a compliant DCP envelope (with a height of 50 metres, street frontage height of 45 metres and 8 metre front setback). The reduction of solar access to a compliant DCP envelope to the proposed development is 5 minutes and is considered to be minor.
  - (iii) The affected apartments are located on the second bay of the western elevation of the building. The elevation shadow diagrams demonstrate the building itself contributes to the overshadowing of these apartments due to its orientation and massing modulation;
  - (iv) The neighbouring building was designed and constructed in the 1980s, which did not have controls to the same extent as now, to guide the planning of solar access of developments;
  - (v) Notwithstanding the reduction in solar access, the affected apartments will still receive solar access during mid-winter. Having regard to the existing and anticipated context of the area, this is acceptable. Further, these apartment would still receive solar access during other seasons throughout the year.
75. Therefore, given the proposal generally satisfies the objectives of the ADG relating to minimising overshadowing of neighbouring properties, the proposed development is considered to have an acceptable overshadowing impact to the neighbouring property at 336-346 Sussex Street. In this case, the proposed exceedance in the height control would not result in adverse environmental impacts to the surrounding area.

#### **Heritage significance/retention of warehouse**

76. The subject site contains two 3 storey warehouse buildings that make up a row of former and existing warehouses known as the Hordern Buildings (circa 1914) located between 299-325 Sussex Street. The warehouse buildings back onto the local heritage item 'James Lane', which has aesthetic and historic significance as a rare surviving example of Victorian Sydney's lane network.
77. The Hordern Buildings were originally constructed as a symmetrically-faced warehouse with 13 bays fronting Sussex Street with shop frontages below the ground floor awning. Overtime, the warehouse group has been altered with approval granted for the demolition of the warehouses located at Nos 299-305 and 319-325 Sussex Street.
78. Section 3.9.1(2) of Sydney DCP 2012 requires any development application for the demolition of a building older than 50 years to be accompanied with a Heritage Impact Statement (HIS) before development consent can be granted, in order to establish the heritage significance of the building.
79. A HIS was submitted with the application. The report specifies the intactness of the building row has been significantly degraded with the symmetry of the buildings lost from the demolition of the northern 3 bays as well as from the complete reconfiguration of the ground floor shop fronts and replacement of the awning.

80. However, the warehouse building on the subject site at 311-315 Sussex Street is identified to have a greater level of detail befitting of the original central bays notably the Sussex Street elevation, with much of its significance lost as a result of the subdivision, alterations and poor conditions of the site and building.
81. As discussed in the Background section of this report, the retention of the warehouse buildings on the subject site was encouraged in pre DA discussions with the applicant. The proposal seeks to retain the entire Sussex Street facade as well as the first two structural bays of the warehouse buildings.
82. The proposal was referred to Council's Heritage Specialist and Design Advisory Panel both of whom would prefer to see more of the existing building retained. Given the dilapidated nature of the rear portion of the warehouse and the structural implications of retaining more of the original building, it was requested that amended plans be submitted to retain more of the warehouse or alternatively, provide a structural statement that certified that the existing building was not capable of withstanding the additional load resulted from the development.
83. On 21 September 2018, a structural design statement was submitted, which outlines that retention of the rear portion of the warehouse is not practical as the existing footings of the warehouse are not capable of supporting the new tower structure loads, additional structural requirements to the rear portion of the building will impact on the future railway corridor due to further excavation for deeper footings to carry the load as well as the overall design and structural integrity of the development would have building complications during construction.
84. To this effect, it has been adequately demonstrated that further retention of the warehouses is not achievable. Notwithstanding this, the proposal would demonstrate consistency with the objectives and provisions of Section 3.10.1 of Sydney DCP 2012 for the following reasons:
  - (a) A structural report was submitted for the alterations and additions, which certifies that the works would not jeopardise the structural integrity of the portion of the building to be retained;
  - (b) The proposal maintains significant fabric and building elements as well as retains the essential geometric form of the existing building when viewed from the public domain;
  - (c) Notwithstanding the demolition of the entire rear portion of the warehouse, the development has been articulated to interpret the height and materiality of the former warehouse building through the use of masonry materials and re-use of architectural elements to the western façade fronting James Lane;
  - (d) The proposal retains the Sussex Street facades of the two warehouses existing on each lot and maintains the existing floor levels of the warehouse buildings. Retail uses are proposed on the ground floor and provide active frontages on Sussex Street to be integrated into the existing fabric. In doing so, the external appearance of the warehouse is not compromised.

#### **Street frontage height and setbacks**

85. The proposal exceeds the 45m street frontage height control in DCP 2012 having a street frontage height of 47m. In addition the proposal does not satisfy the 8m set back requirement above street frontage height having a setback of 3.8m.

86. Section 5.1.1 of Sydney DCP requires new development to have a street frontage height between 20m and 45m that is consistent with the predominant street frontage heights of adjacent buildings and buildings in the vicinity. Further, Section 5.1.2 of Sydney DCP 2012 requires additions to be setback a minimum weighted average of 8m above the 45m street frontage height.
87. The proposal provides an addition above the existing warehouse buildings that are built flush to the facade, which results in a consistent street frontage height of the development measuring 47.6m from the existing ground floor on Sussex Street. The addition above the street frontage height has a setback of 3.6m from Sussex Street. The design of the tower results in a numerical non-compliance with the street frontage height of approximately 2.6m or 1 storey, and this area of non-compliance is not setback the required 8m.
88. The proposed variation to the street frontage height and front setback requirements contained in Section 5.1.1 and 5.1.2 in Sydney DCP 2012 is acceptable in this instance for the following reasons:
  - (a) The development responds to the predominant street frontage height of adjacent buildings. Notwithstanding the tower portion of the development being built flush to the façade of the existing warehouse buildings, the visual dominance from the streetscape is reduced through the use of materials and contrast in the vertical and horizontal proportions of the existing building and new tower addition; and
  - (b) Compliance with the setback above the street frontage height would not create any beneficial streetscape, perceived scale and amenity impacts for the public domain. The proposal would not result in acceptable reduction in daylight, outlook and wind impacts to both the public domain or to the development

#### **Boarding house and the filling of voids**

89. The proposal contains a number of double height voids throughout the development, notably on Levels 1 and 2 above the ground floor retail tenancy and on Levels 6, 7, 10 and 11 above the boarding house indoor communal area located on Levels 5 and 9.
90. The concern for the future infill of the voids was raised at the Pre-DA meeting of the development as detailed in the Background section of this report, particularly having regard to compliance with the FSR as an offset to the non-compliance with the height development standard.
91. The application was accompanied with an Architectural Design Statement, prepared by FJMT, which provides the following commentary on the voids:
  - (a) The voids would provide circulation opportunities and visual connection between levels; and
  - (b) The voids would allow for sunlight and daylight penetration into internal areas.
92. Extracts from the Architectural Design Statement of the proposed void areas are illustrated in **Figures 23** and **24** below.



**Figure 23:** Extract from Architectural Design Statement of double height void areas to the Level 5 and 9 indoor communal areas.



**Figure 24:** Extract from Architectural Design Statement of stair voids, facing towards James Lane.

93. In consideration of the east-west orientation and difficulty in obtaining direct solar access due to the context of the site, the provision of the voids is acceptable in this instance. The voids also create a unique internal and external architectural feature.
94. In this regard, to ensure that these voids are not filled in the future, a condition of consent is recommended for a Restrictive Covenant on the infill voids be created and registered on Title.

**Other Impacts of the Development**

95. The proposed development is capable of complying with the BCA.
96. 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**

97. 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***Referrals*

98. The conditions of other sections of Council have been included in the proposed conditions.
99. The application was discussed with the Heritage and Urban Design Specialists; Building Services Unit; Environmental Health; Public Domain; Safe City; Surveyors; Transport and Access; Social Planning; Waste Management; who advised that the proposal is acceptable subject to the recommended conditions.

*Design Advisory Panel*

100. On 2 August 2018, the development application was presented to Council's Design Advisory Panel (DAP) in which the following comments were provided regarding the proposal:
  - (a) It was noted that the proposal involved partial demolition of an existing warehouse building;
  - (b) It was noted that the proposal exceeds the 50m Sydney LEP 2012 height control, resulting in additional overshadowing of residential apartments to the south of the site;
  - (c) The Panel recommended that the height of the development be reduced to minimise solar impacts to neighbouring apartments; and
  - (d) Further, the Panel recommended that the building design should retain as much of the original warehouse fabric as physically possible.
101. In response to these issues raised by DAP, the applicant was requested to provide a revised Structural Statement/Report to confirm the capability of the existing warehouse to withstand the additional load of the development as well as amended plans to reduce the height of the development.
102. The applicant submitted a Structural Design Statement, which confirmed that no more of the existing warehouse building could be retained if it was to withstand the additional load of the proposed development.

103. This was further discussed with Council's Heritage Specialist and Urban Designer who recommended that a condition be imposed requiring the reuse of original fabric of the existing warehouse into the new development. A condition is recommended to this effect and is contained in **Attachment A**.
104. In response to Council's concern to the height of the development and the resulted additional overshadowing to the neighbouring property, the applicant submitted a detail Solar Analysis Study on 336-346 Sussex Street, (contained in **Attachment D**). As discussed above, the proposal would not result in unacceptable overshadowing to the neighbouring property notwithstanding the height non-compliance and achieves the objectives of ADG Objective 3B-2.

## External Referrals

### *Referrals*

105. The application was referred to TfNSW, Sydney Trains, NSW Police, Transgrid and Ausgrid.
106. Concurrence from TfNSW was received on 5 September 2018 for the development in accordance with Clause 88 of SEPP (Infrastructure) 2007.
107. Written correspondence was received from Transgrid on 6 July 2018 confirming no objections were raised regarding the proposal.
108. Written correspondence was received from TfNSW on 8 August 2018, confirming the proposal would not impact on the works in the CBD, subject to recommended conditions contained in **Attachment A**.
109. No response was received from NSW and Ausgrid, and as such, it is assumed that no objections are raised regarding the proposal.

## Notification, Advertising and Delegation (No Submissions Received)

110. 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 6 July 2018 and 4 August 2018, no submissions were received.

## Public Interest

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

## S61 Contribution

112. The cost of the development is in excess of \$200,000 and is therefore subject to a development levy pursuant to the Central Sydney (Section 61) Contributions Plan 2003. An appropriate condition has been included in the recommendation of this report.

## Relevant Legislation

113. The Environmental Planning and Assessment Act 1979.

## Conclusion

114. The proposal seeks consent for the partial demolition of the existing warehouse buildings, excavation and construction of a mixed use development containing retail uses on the ground floor and residential accommodation in the form of nine residential apartments and 83 boarding house rooms.
115. The proposal is generally consistent with the objectives, standards and guidelines of relevant planning controls with the exception of the height development standard.
116. A written request to justify the contravention to the height development standard pursuant to Clause 4.6 of Sydney LEP 2012 has been submitted and adequately justifies that compliance with the development standard is unreasonable or unnecessary in this circumstance and that there are sufficient environmental planning grounds to justify contravening the development standard.
117. Further, the proposal is satisfactory and satisfies the objectives of the Height of Buildings prescribed in Clause 4.3 as well as the objectives of the B8 Metropolitan Centre zoning in Sydney LEP 2012.
118. The proposal would not result in adverse environmental impacts and appropriately responds to the characteristics of the site and locality and is considered to achieve a good design outcome in its CBD context.
119. The proposal would provide a high level of amenity to the boarding house and residential apartments and would not unreasonably impact on the amenity of neighbouring properties.
120. Accordingly, the Development Application is recommended for approval, subject to conditions.

## GRAHAM JAHN, AM

Director City Planning, Development and Transport

Reinah Urqueza, Specialist Planner