

Item 5.**Development Application: 79-83 Abercrombie Street, Chippendale**

File No.: D/2018/947

Summary

Date of Submission:	17 August 2018
Applicant:	Collier International Project Management Pty Ltd
Architect:	Tzannes
Owner:	Chippendale Foundation Limited
Cost of Works:	\$10,712,900
Zoning:	The use is defined as an educational establishment and business premises which is permissible with consent in the B4 Mixed Use zone.
Proposal Summary:	<p>The application proposes alterations and additions to an existing mixed-use development including partial demolition, construction of a three storey side extension, and adaptive re-use of the existing heritage listed building for use as a multi-function venue containing offices and a lecture theatre.</p> <p>The application is referred to the Local Planning Panel for determination as the proposal seeks to vary the floor space ratio and height development standards pursuant to Clause 4.6 of the Sydney LEP 2012 by more than 10%.</p> <p>The development has a floor space ratio of 2.31:1 (31.5% over the standard) and building height of 14.2m (16.8% over the standard). A request to vary the standards has been made pursuant to Clause 4.6 of the Sydney LEP 2012. The variation to the standards is in the public interest and is supported.</p> <p>The proposal has been considered by the City of Sydney Design Advisory Panel who recommended the applicant amend the design to improve the ground floor frontage, integrate the rooftop plant into the design of the building, consider changes to the heritage facade, and reduce the width of the building elements on the south elevation.</p>

**Proposal Summary
(continued):**

The application was amended on 14 December 2018 following feedback from City staff. The amendments have adequately addressed the concerns raised.

The application was notified in accordance with Council's notification policy. Two submissions have been received relating to construction impacts.

Summary Recommendation:

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

Development Controls:

- (i) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)
- (ii) State Environmental Planning Policy (Infrastructure) 2007
- (iii) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
- (iv) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Requests

Recommendation

It is resolved that

- (A) the variations sought to the height development standard under Clause 4.3 and the floor space ratio standard Clause 4.4 in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012 be supported in this instance; and
- (B) consent be granted to Development Application No. D/2018/947 subject to the conditions set out in **Attachment A** to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposed development is consistent with the objectives of the B4 Mixed Use zone.
- (B) The proposed development is consistent with the relevant objectives and controls outlined in the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012.
- (C) The variations to Clause 4.3 and Clause 4.4 of the Sydney Local Environmental Plan 2012 are consistent with the provisions of Clause 4.6 and are in the public interest.
- (D) The proposal is sympathetic to the heritage item on the site and the Chippendale Conservation Area (C9).
- (E) The built form and design of the addition responds appropriately to the scale and form of the heritage item on the site and of adjoining buildings.
- (F) The proposal is considered to utilise high quality materials and exhibits design excellence.
- (G) The proposal will not adversely impact on the amenity of the neighbouring properties.

Background

The Site and Surrounding Development

1. A site visit was carried out by staff on 18 September 2018.
2. The site is rectangular with a splayed corner, with an area of approximately 393sqm. It is located on the north-western corner of Abercrombie Street and Myrtle Street with its primary frontage to Abercrombie Street.
3. The site comprises three allotments that were amalgamated in the mid-twentieth century and contains two separate buildings which have been altered to function as one mixed-use premises. The premises includes an office, meeting room and parking on the ground floor; an office, staff room, living rooms and bedroom on the first floor; and a studio and family room on the second floor. There are no records to suggest that the residential components of the premises have been previously rented or used as affordable rental housing. Therefore, the provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009 do not apply to this development.
4. The northernmost building (79 Abercrombie Street) comprises a three storey Victorian warehouse constructed in 1888 known as "JC Goodwin & Co" , while the adjoining building to the south (81-83 Abercrombie Street) comprises a three storey Victorian commercial building also dating from 1888. The building occupying 81 Abercrombie Street has undergone significant alterations, including the addition of a third storey and extensions to the southern boundary of the site in the 1990s.
5. Surrounding land uses are residential and commercial. The site is located at the end of the row of five terraces fronting Abercrombie Street. A three storey residential flat building neighbours the site to the west. The Chippendale Hotel is located opposite Myrtle Street to the south. A two storey commercial building and four storey residential flat building are located opposite on Abercrombie Street to the east.
6. The site is identified as a heritage item (I160) and is located within the Chippendale Conservation Area (C9).
7. Photos of the site and surrounds are provided below:

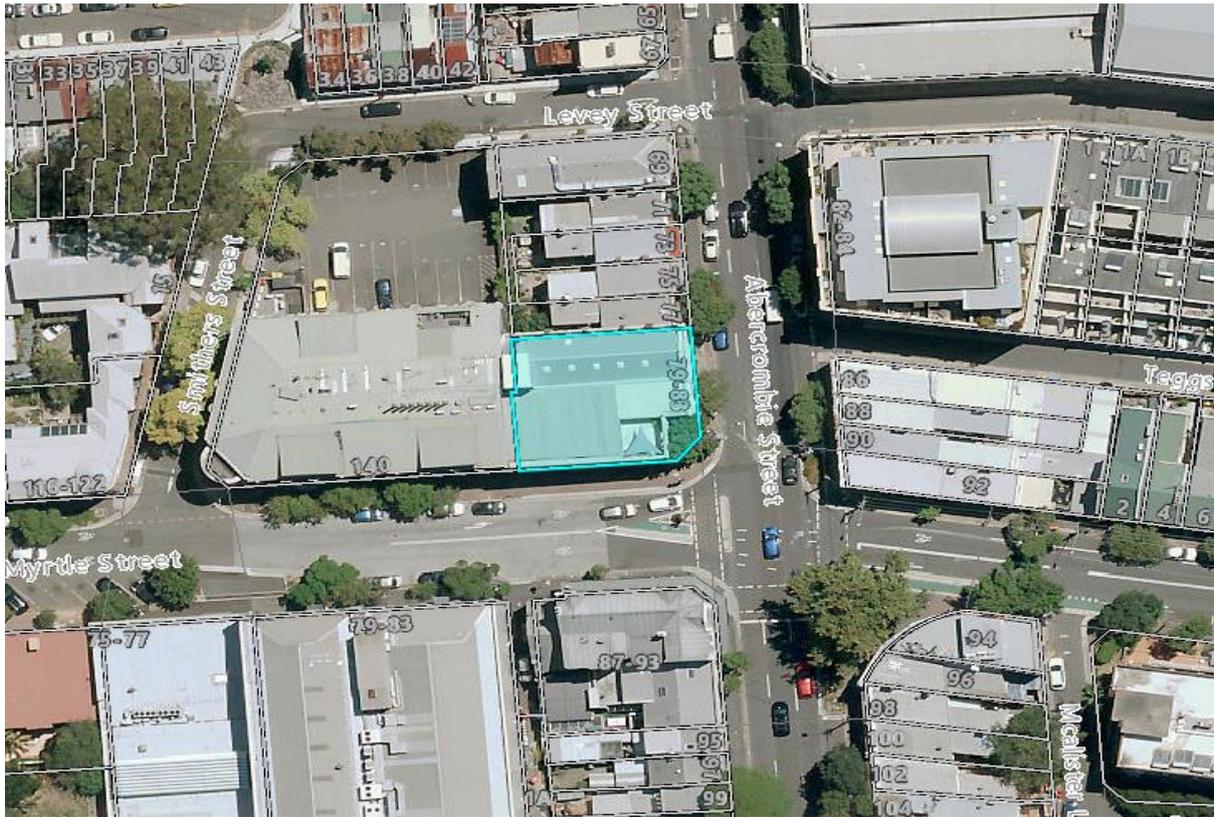


Figure 1: Aerial image of subject site and surrounding area



Figure 2: Site viewed from Abercrombie Street



Figure 3: Site viewed from Myrtle Street



Figure 4: Site viewed the south-eastern corner of Abercrombie and Myrtle Streets



Figure 5: Looking south down Abercrombie Street towards the site



Figure 6: Abercrombie Street looking north

Proposal

8. The application seeks consent for alterations and additions to an existing mixed-use development including demolition of the building occupying the southern portion of the site (with the exception of the upper level Victorian facade), and replacement with a three storey side addition to the retained building at 79 Abercrombie Street, and use as a multi-function venue containing offices and a lecture theatre.
9. The proposal includes changes to the retained Victorian facades to Abercrombie Street including new shopfronts, glazing, enamel feature panel, awning and entry doors.
10. The works specific to each level are outlined below:

(a) Level 1 (Ground Floor)

- (i) removal of internal walls, stair, flooring and mezzanine;
- (ii) removal of external walls along the Myrtle Street frontage;
- (iii) addition of garage with parking for one vehicle and 10 bicycles;
- (iv) addition of storage room and bin room;
- (v) addition of 101 seat lecture theatre with demountable stage and storage room;
- (vi) addition of pre-lecture ante-room with bar;
- (vii) addition of three toilets; and
- (viii) addition of lift, stair and fire exit.

(b) Level 2 (First Floor)

- (i) removal of internal walls, stair and flooring;
- (ii) removal of external walls along the Myrtle Street frontage;
- (iii) addition of reception area, open plan office space with kitchen and five private offices, and board room; and
- (iv) addition of communications and security room, storage, and four toilets.

(c) Level 3 (Second Floor)

- (i) removal of internal walls, stair and flooring;
- (ii) removal of external walls along the Myrtle Street frontage;
- (iii) addition of open plan activity based office space with kitchen;
- (iv) addition of communal work room; and
- (v) addition of storage and four toilets.

11. The maximum capacity of each level is up to 104 persons on Level 1, 44 persons on Level 2 and 3 and up to 20 staff throughout the building, for a total of 168 persons.
12. The proposed hours of operation are from 7.00am to 6.00pm Monday to Sunday, with lecture presentations being held between 7.00am and 10.00pm Monday to Sunday.
13. Following preliminary assessment of the application by City staff and a presentation to the City of Sydney Design Advisory Panel, a request for amended plans was sent to the applicant on 31 October 2018. The applicant was required to address a number of issues, including:
 - (i) request to amend the design to better activate the street frontage;
 - (ii) request to reduce the visual prominence of the rooftop plant;
 - (iii) request to reduce the width of the garage door; and
 - (iv) request to consider removing the facade of 81 Abercrombie Street if a more appropriate addition to the main heritage elements/façade can be achieved.
14. The amended application was received on 14 December 2018 and forms the basis of this assessment.
15. Plans of the proposed development (as amended) are provided below.

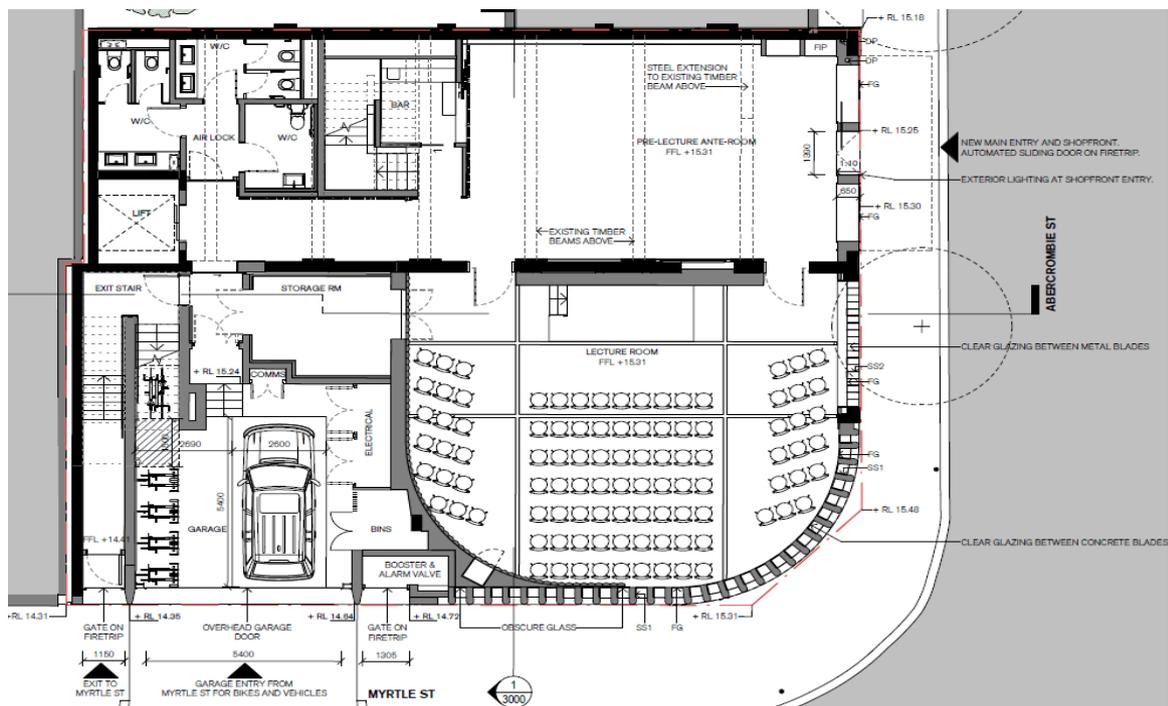


Figure 7: Level 1 Plan (Ground)

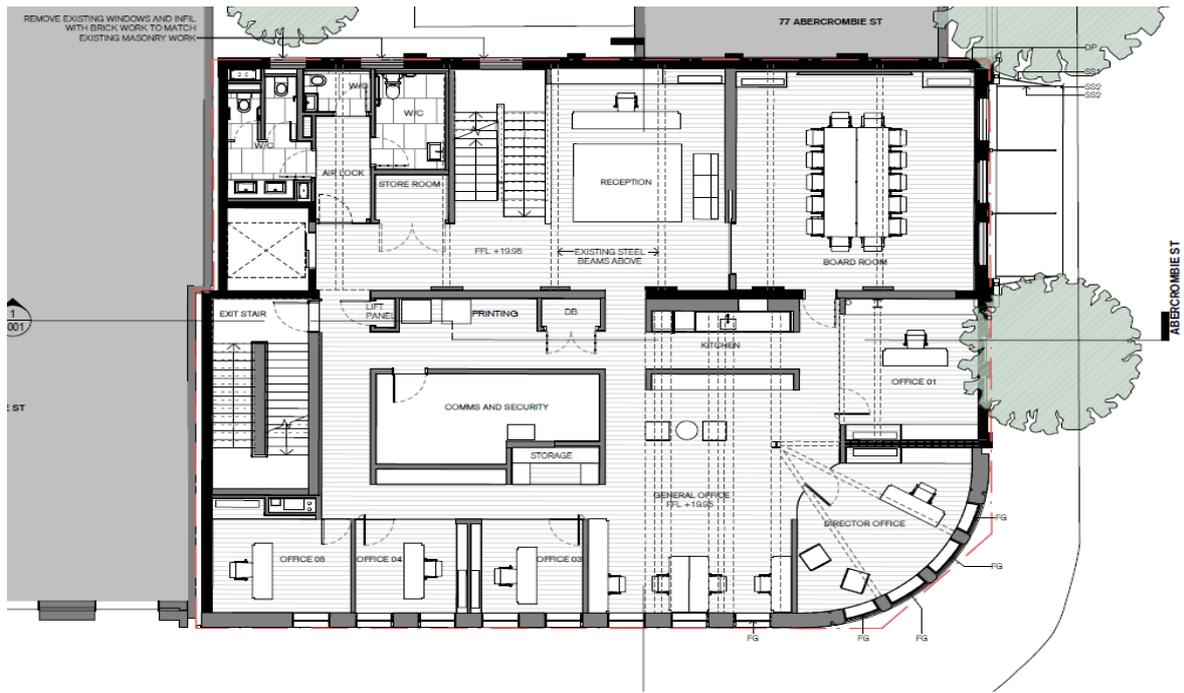


Figure 8: Level 2 Plan (First Floor)

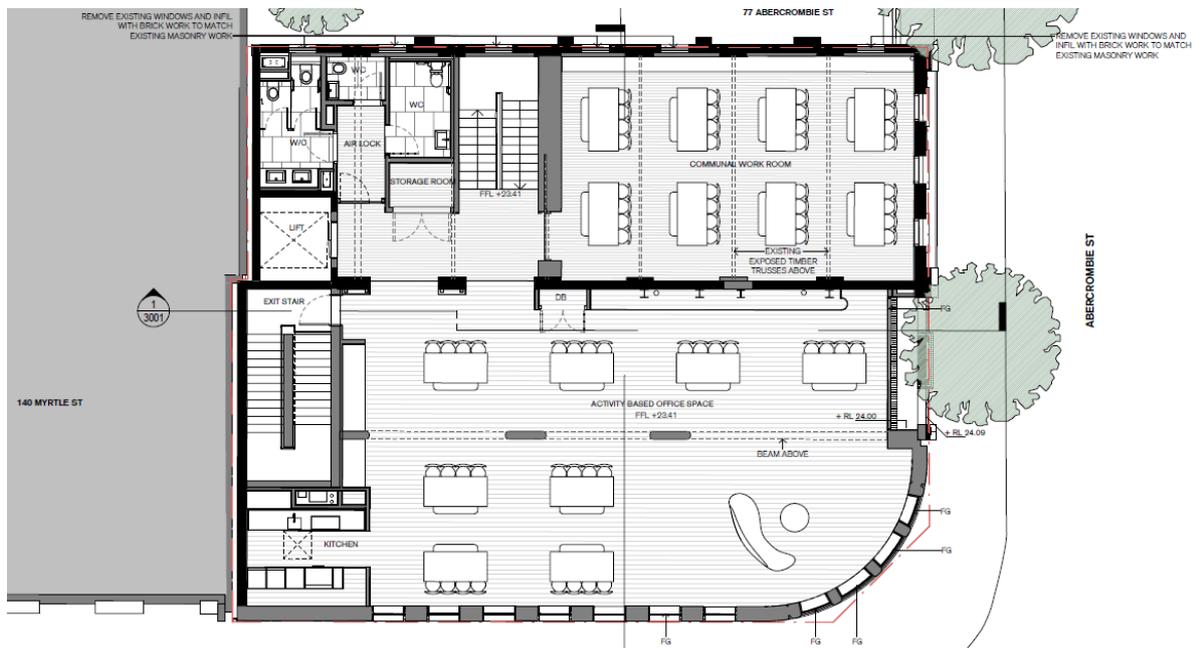


Figure 9: Level 3 Plan (Second Floor)

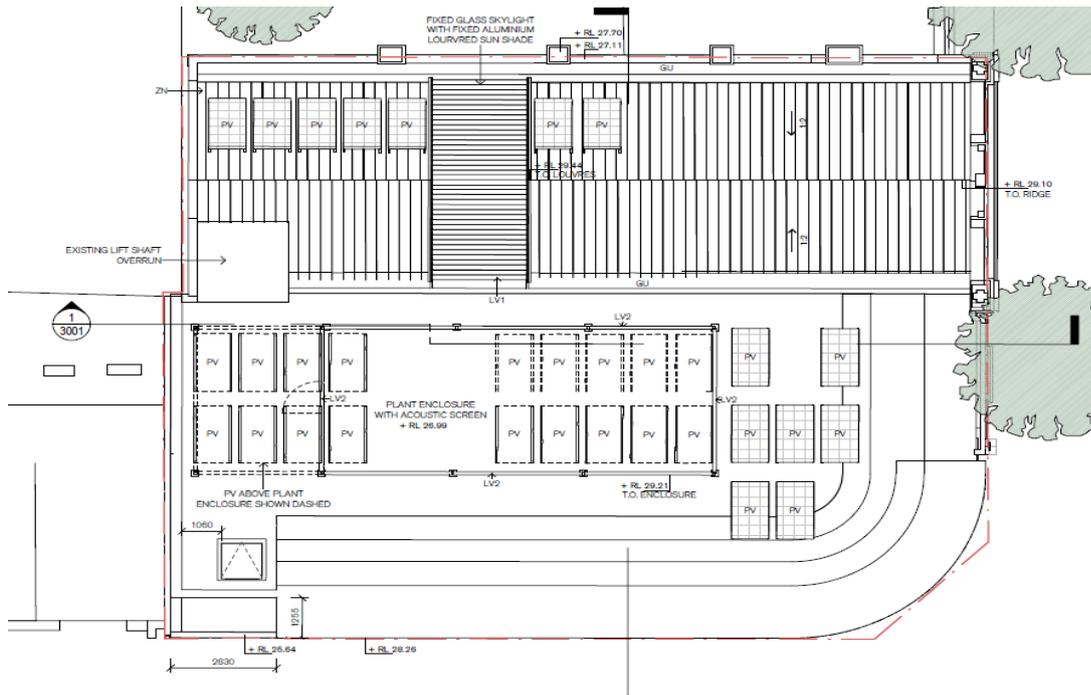


Figure 10: Roof Plan



Figure 11: North Elevation



Figure 12: South Elevation



Figure 13: East Elevation

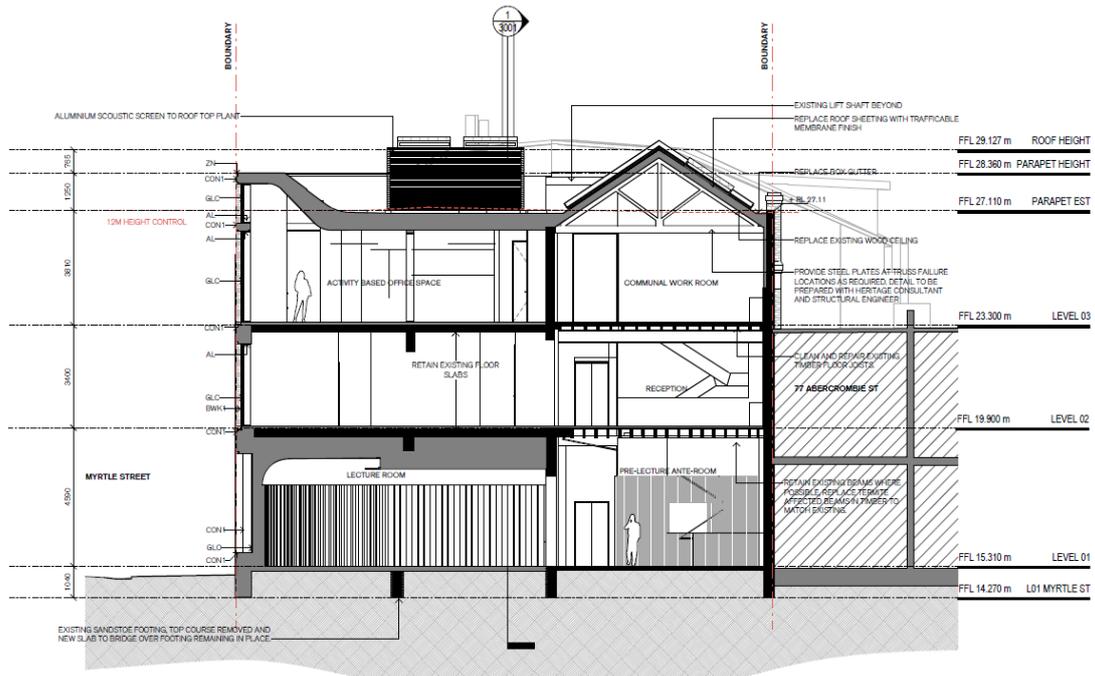


Figure 14: Section A

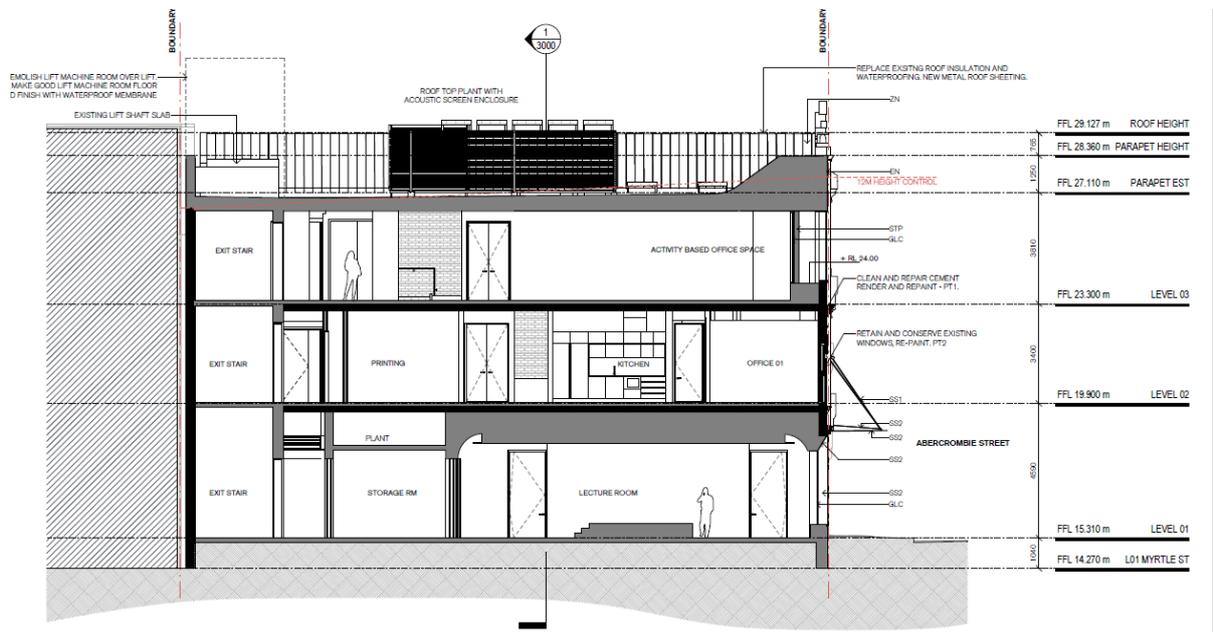


Figure 15: Section B

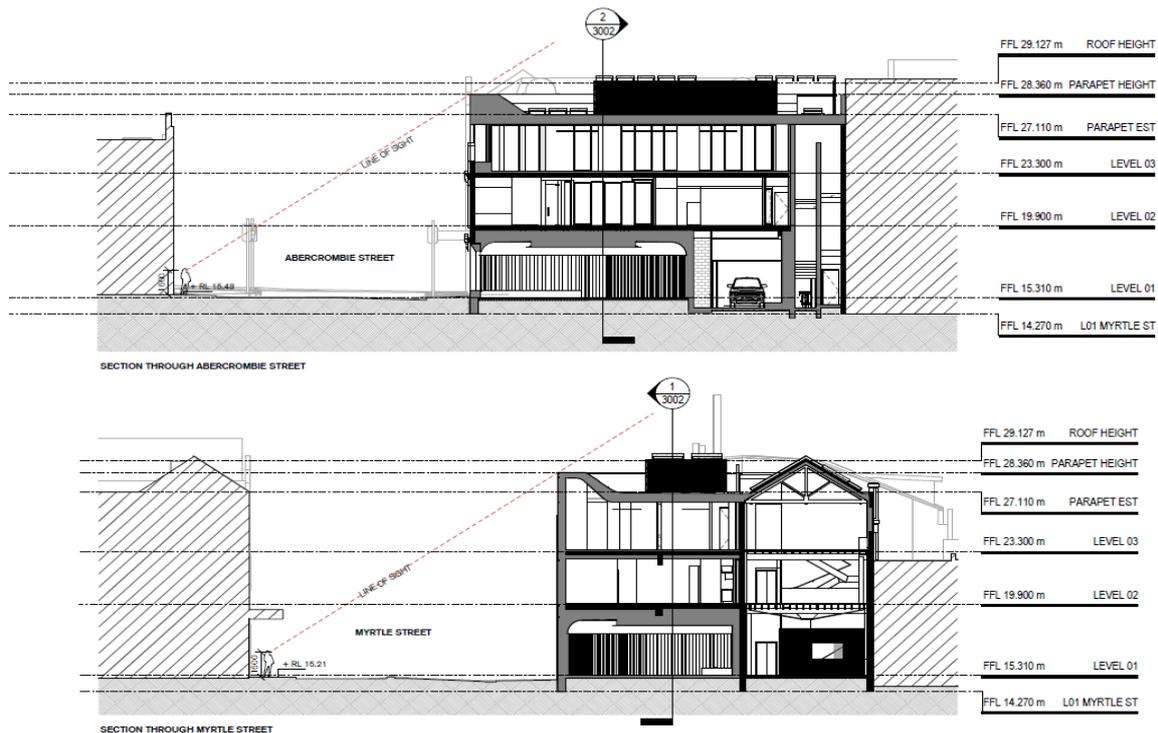


Figure 16: Section C

History Relevant to the Development Application

16. On 23 February 1990, D/1989/952 was approved for the addition of a two storey warehouse, office and showroom.

Economic/Social/Environmental Impacts

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

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

18. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.
19. The Sydney Harbour Catchment Planning Principles must be considered in the carrying out of development within the catchment. The key relevant principles include:
- protect and improve hydrological, ecological and geomorphologic processes;
 - consider cumulative impacts of development within the catchment;
 - improve water quality of urban runoff and reduce quantity and frequency of urban run-off; and

- (d) protect and rehabilitate riparian corridors and remnant vegetation.
20. 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.

State Environmental Planning Policy (Infrastructure) 2007

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

Clause 101

22. The application is subject to Clause 101 of the SEPP as the site has frontage to Abercrombie Street, which is a classified road. The application is considered to satisfy Clause 101 of the Infrastructure SEPP subject to conditions of consent, as it does not provide access to the site from the classified road and appropriate acoustic conditions have been included within the recommended Conditions of Consent to ensure that potential traffic noise is ameliorated.

Sydney LEP 2012

23. The site is located within the B4 Mixed Use zone. The proposed use is defined as an educational establishment and business premises and is permissible in the B4 Mixed use zone
24. 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 12m is permitted.</p> <p>The existing building at 79 Abercrombie Street has a maximum height of 14.8m to the top of the parapet. The proposed new works have a maximum height of 14.2m to the top of the rooftop plant, exceeding the development standard by 16.8%.</p> <p>See discussion on Clause 4.6 under the heading Issues.</p>

Development Control	Compliance	Comment
4.4 Floor Space Ratio	No	<p>A maximum FSR of 1.75:1 is permitted.</p> <p>The existing building has a floor space ratio of 2.21:1 and currently exceeds the development standard. The proposal includes an additional 36.09qm of floor space resulting in a further exceedance of the floor space ratio of 2.31:1, exceeding the standard by 31.5%.</p> <p>See discussion on Clause 4.6 under the heading Issues.</p>
4.6 Exceptions to development standards	Yes	<p>A written request has been submitted seeking to vary the development standards prescribed under Clause 4.3 and Clause 4.4.</p> <p>See discussion on Clause 4.6 under the heading Issues.</p>
5.9 Preservation of trees or vegetation	Yes	<p>The site includes three <i>Brachychiton acerifolius</i> (Illawarra Flame) trees located in a shallow garden bed at the south-eastern corner of the site that are proposed to be removed. Two of the trees are 12m in height and have canopy spreads of approximately 3m. The trees partially suppress each other and a significant area of the canopies are within 1m of the building facade.</p> <p>The long term viability of the trees is reduced as a result of the limited soil volume and limited space for the canopies to develop. As the trees are not likely to be viable in the long term, their removal is supported by the City's Tree Management Officer.</p> <p>A condition of consent has been included for a <i>Corymbia eximia</i> (Yellow Bloodwood) street tree to be planted in Myrtle Street to replace the canopy which will be lost from the removal of the three trees.</p>

Development Control	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is identified as a heritage item (I160) and is located within the Chippendale Conservation Area (C9).</p> <p>The northernmost building (79 Abercrombie Street) comprises a three storey Victorian warehouse constructed in 1888 known as "JC Goodwin & Co", while the adjoining building to the south (81-83 Abercrombie Street) comprises a three storey Victorian commercial building also dating from 1888. The building at 81 Abercrombie Street has undergone significant alterations, including the addition of a third storey and extensions to the southern boundary of the site in the 1990s.</p> <p>The application is accompanied by a Heritage Impact Statement. Council officers consider the proposed development to be sympathetic to the heritage significance of the site and of the heritage conservation area.</p> <p>See discussion under the heading Issues.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
Division 4 Design excellence	Yes	<p>The application proposes to utilise high quality materials and detailing on the new addition, including a visually recessive façade with intricate brickwork, off-form concrete, glazing, and concrete and metal blades.</p> <p>The application will conserve the original Victorian façade to 79 Abercrombie Street, including cleaning and repair and replacement of the doors, windows and awnings.</p> <p>During the assessment of the application, the design of the shorter facade to 81 Abercrombie Street has been amended to include glazing behind metal fins at the ground and second level facades and addition of an enamel panel on the second level façade to reference the existing signage on the building. These changes better activate the street frontage and provide a more appropriate transition between old and new.</p> <p>The proposal satisfies the requirements of this provision.</p>

Part 7 Local Provisions - General	Compliance	Comment
Division 1 Car parking ancillary to other development	Yes	<p>The site is identified as a Category A site under the Land Use and Transport Integration Map, the highest category identified in the LEP with regards to the site's accessibility to public transport. The site is located within 500m of Central and Redfern Railway Stations and is proximate to various bus routes.</p> <p>The existing building includes a garage with three car parking spaces accessed from Myrtle Street. The proposal retains one car parking space at the ground floor within the reduced and reconfigured garage.</p>

Sydney DCP 2012

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

2. Locality Statements – Chippendale locality

The subject site is located in the Chippendale locality. The proposal is considered to be in keeping with the unique character of the area and design principles in that it retains and conserves intact significant heritage fabric, and provides a built form that responds to and complements the character of the conservation area in terms of height, design, scale and massing.

3. General Provisions	Compliance	Comment
3.2 Defining the Public Domain	Yes	<p>The proposal will make a positive contribution to the public domain through excellence in design and high quality materials. The proposal presents an appropriate frontage to the street in terms of scale, finishes and architectural character.</p> <p>The proposal includes the replacement of the existing awning above the main entry of the northernmost building (79 Abercrombie Street), which was added in the 1950s. The new awning is thin and lightweight and responds positively to the architectural character and features of the building.</p> <p>Clause 3.2.4 of the DCP stipulates awnings are to have a minimum setback of 1m from the face of a kerb. The proposed awning maintains the existing awning's 0.4m setback to the kerb. Given the narrow footpath, the non-compliance is considered appropriate.</p> <p>The Abercrombie Street frontage is subject to the active frontage controls in Section 3.2.3.</p> <p>See discussion under the heading Issues.</p>

3. General Provisions	Compliance	Comment
3.5 Urban Ecology	Yes	<p>As discussed above, the proposal involves the removal of three <i>Brachychiton acerifolius</i> (Illawarra Flame) trees at the front of the site. The application has been reviewed by the City's Tree Management Officer, and the removal of the three trees is supported. A condition of consent has been recommended for a <i>Corymbia eximia</i> (Yellow Bloodwood) street tree to be planted on the Myrtle Street frontage.</p>
3.9 Heritage	Yes	<p>The site is identified as a heritage item (I160) and is located within the Chippendale Conservation Area (C9).</p> <p>The northernmost building (79 Abercrombie Street) comprises a three storey Victorian warehouse constructed in 1888 known as "JC Goodwin & Co" , while the adjoining building to the south (81-83 Abercrombie Street) comprises a three storey Victorian commercial building also dating from 1888. The building occupying 81 Abercrombie Street has undergone significant alterations, including the addition of a third storey and extensions to the southern boundary of the site in the 1990s.</p> <p>A Heritage Impact Statement has been submitted with the application. The application has been reviewed by the City's Heritage Specialist, and is supported, subject to recommended conditions.</p> <p>See discussion under the heading Issues.</p>

3. General Provisions	Compliance	Comment
3.10 Significant Architectural Building Types	Yes	<p>The site contains two buildings that are older than 50 years, and as such, are subject to the provisions of Clause 3.10 of the DCP.</p> <p>The DCP requires alterations and additions to warehouse buildings to maintain significant fabric and building elements.</p> <p>The proposed alterations, additions and adaptive re-use of the northernmost building maintains the legibility of the historic use. The side addition is sympathetic in scale and style to the existing building to be retained, and will be integrated with the retained Victorian façade of 81 Abercrombie Street.</p> <p>During the assessment of the application, the applicant was encouraged to improve the interface between the retained building and new addition. The design was amended to include a higher parapet to the new addition and alterations to the shorter facade bay of 81 Abercrombie Street. The alterations are visually recessive and readily distinguished as new work. The new works complement the materials and articulation of the existing building.</p> <p>See discussion under heading Issues.</p>
3.11 Transport and Parking	Yes	<p>The DCP requires six parking bicycle spaces for staff and two bicycle spaces for visitors.</p> <p>The proposal includes 10 bicycle spaces within the garage with access from Myrtle Street.</p>
3.12 Accessible Design	Yes	<p>A condition has been recommended for the proposed development to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.</p>

3. General Provisions	Compliance	Comment
3.13 Social and Environmental Responsibilities	Yes	The proposal has been amended to provide adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	A condition has been recommended to ensure the development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Developments 2018.

4. Development Types	Compliance	Comment
4.2 Residential flat, commercial and mixed use developments		
4.2.1 Building height	Yes	<p>The site is subject to a three storey height control. The proposal is three storeys in height.</p> <p>The DCP requires a minimum floor to floor height of 4.5m for the ground floor, and 3.6m for each storey above.</p> <p>The proposal includes a floor to floor height of 4.59m on the ground floor, 3.4m on the first floor and 3.81m on the second floor. Given the floor levels are consistent with the floor levels of the retained heritage item, the non-compliance is considered minor and is acceptable. Adequate internal amenity is provided for the occupants of all floors of the development.</p>
4.2.2 Building setbacks	Yes	<p>A street frontage height is not prescribed for this site under the DCP.</p> <p>The existing rear and side setback alignments are maintained, which is consistent with the adjoining buildings.</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.3 Amenity	Yes	<p>Solar Access</p> <p>New development must not create any additional overshadowing onto neighbouring dwellings where that dwelling currently receives less than two hours direct sunlight to habitable rooms and 50% of the private open space between 9.00am and 3.00pm on 21 June.</p> <p>The shadow diagrams submitted with the application show some additional overshadowing on the commercial building at 79-83 Myrtle Street at 9.00am, the Chippendale Hotel at 87-93 Abercrombie Street at 12.00 noon, the mixed commercial/residential building at 94 Abercrombie Street at 3.00pm and the public domain in mid-winter. It is noted that the extent of additional shadows cast by the proposal is minor, and that the affected properties maintain a minimum of two hours solar access, as per DCP requirements. As such the proposal is not considered to result in significant adverse impacts in relation to solar access.</p> <p>Acoustic Privacy</p> <p>The proposal includes mechanical plant on the roof of the heritage building to support the lecture theatre and office uses. An acoustic report was submitted to address potential impacts on the acoustic privacy of surrounding residential development. The City's Environmental Health Unit have reviewed the acoustic report and assessed it as acceptable. Appropriate conditions relating to noise have been included in the consent. The use of the lecture theatre will be restricted to 10.00pm in the evening period to ensure there are no unreasonable impacts on neighbourhood amenity.</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.4 Fine grain, architectural diversity and articulation	Yes	The site features a variety of facades, articulation, massing and architectural character, which will create visual interest.
4.2.5 Types of development	Yes	The site has a frontage to Abercrombie Street, an RMS classified road, which carries more than 20,000 vehicles per day. The acoustic report submitted with the application included an evaluation of noise intrusion from traffic. A condition of consent is included to ensure compliance with the acoustic report.
4.2.6 Waste minimisation	Partial compliance	The proposal includes a 3.1sqm waste room on the ground floor, partially below the 4sqm required for non-residential development. The use is not considered to be a large generator of waste, so the minor non-compliance is considered acceptable. Sufficient storage space for bins/waste within the offices and kitchens is provided on the other levels of the building.

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.9 Non-residential development in the B4 Mixed Use zone	Yes	<p>The objectives of this clause are to ensure non-residential development is compatible with, and does not detract from, the amenity of residential development within the B4 Mixed Use zone.</p> <p>The site is located adjacent to residential development along Abercrombie Street and Myrtle Street.</p> <p>The proposal is not considered likely to have adverse impacts on surrounding residential uses. The application has identified that lectures may occur until 10.00pm. Refer to issues section below.</p> <p>Operating until 10.00pm is not considered to have an adverse impact considering the mix of uses in the surrounding area, particularly the Chippendale Hotel.</p> <p>The proposal is not considered to result in a significant increase in vehicular traffic. The site is located in close proximity to Central and Redfern Railway Stations. The increase in pedestrian activity is unlikely to impact on residential amenity.</p> <p>A Plan of Management has been submitted with the application to address the operational and security measures of the site.</p>

Issues

Clause 4.6 Variation to Height Development Standard

26. The site is subject to a maximum height control of 12m. The proposed development has a height of 15m.

27. The existing building at 79 Abercrombie Street has a maximum height of 14.8m to the top of the parapet at the front. This building is being retained. The proposed addition has a maximum height of 14.2m to the top of the rooftop plant. The variation to the height control results in an exceedance to the development standard by 2.2m (or a 16.8% variation). The red arrow in Figure 17 indicates the 12m height control.
28. During the assessment of the application, an electronic model of the site prepared by City staff found that the rooftop plant would be visible from the street. The applicant was encouraged to raise the height of the parapet of the addition in order to conceal the rooftop plant. The raising of the parapet also provided a more sympathetic transition from the new addition to that of the existing building which is being retained. The parapet as originally proposed showed a maximum height of 12.6m at the south-western corner of the building (4.8% over the standard). The amendments requested by City staff have resulted in the parapet having a maximum height of 13.7m at the south-western corner of the building (13.2% variation to the control).



Figure 17: South elevation with the 12m height limit plane indicated by the red arrow

29. 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 height of buildings development standard by demonstrating:
- 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.
30. A copy of the applicant's written request is provided at Attachment C.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

31. The applicant seeks to justify the contravention of the height development standard to permit a maximum height of 14.2m to the top of the rooftop plant on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) The existing building exhibits a height above what is permitted on the site under the Sydney LEP 2012. The existing building is heritage-listed and contributes to the heritage conservation area. The preservation of the building (and thereby the maintenance of the height non-compliance) is therefore required from a heritage perspective. By contrast, the demolition of the building (which would be required to rectify the height non-compliance) would be unreasonable.
 - (ii) The proposal generally maintains the existing building height, and accordingly, the density and scale of the built form would remain generally consistent with the established building on the site, ensuring the development effectively integrates with the streetscape and character of the area.
 - (iii) Through maintaining and replicating the existing building height on the site, the built form relationship of the site with adjoining built form, the streetscape and surrounding area, would remain consistent with the existing situation. The height of the Myrtle Street façade is consistent with the directly-adjointing building on the neighbouring site, thereby contributing to a coherent streetscape and consistent roofline.
 - (iv) The new façade and parapet to the new addition would align with the primary parapet of the heritage building. The consistent height and architectural design of the facades contributes to greater unity, visual cohesion and continuity of the streetscape around the street corner. Simultaneously, the new façade and parapet design effectively conceals the rooftop plant from the street, with further contributes to a positive visual outcome.
 - (v) The built form character of the surrounding conservation area is generally defined by two and three storey buildings, therefore the three storey form of the development is reflective of this context.
 - (vi) The development would protect neighbouring amenity. On the basis that the proposed additions would be consistent with the existing building height, together with the maintenance of the existing building footprint and envelope (with the exception of the south-eastern corner), the proposal would generally maintain existing levels of solar access, privacy, views/outlook and sense of enclosure.
 - (vii) Maintaining the existing building height is key to also creating an internal building environment that delivers the space and level of amenity required to support the operations of the future tenant and thereby the productive use of the site.
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard:

- (i) The proposal is consistent with the objective and purpose of the height development standard and the objectives of the Sydney LEP 2012 for the B4 Mixed Use zone.
- (ii) The proposal generally maintains the height of the existing heritage building on the site, with the extent of additional height being limited to the acoustic plant screen and parapet. The plant screen will not be visible from an observer on the street. The plant screen will assist in protecting the acoustic amenity of the surrounding area, thereby achieving the public interest.
- (iii) The proposed alterations and additions, including those relating to sections of the building above the height limit, would uplift the visual character of the site as viewed from the public domain.
- (iv) The new facade and parapet of the addition would align with the primary parapet of the heritage building. The consistent height and architectural design of the facades contributes to greater unity, visual cohesion and continuity of the streetscape around the street corner. Simultaneously, the new facade and parapet design effectively conceals the rooftop plant from the street, with further contributes to a positive visual outcome.
- (v) The proposal effectively supports the conservation of significant heritage features whilst enabling the adaptive re-use of the building.
- (vi) As the maximum building height of the new addition remains consistent with the existing heritage building, the building as altered and added to would integrate with its context. The relationship of the building with surrounding development, with respect to height, would remain consistent with the existing situation.
- (vii) Three storey built form is reflective of the character of the heritage conservation area of which the site forms a part.
- (viii) The development would maintain neighbourhood amenity as well as the amenity of the public domain.
- (ix) The proposal will support the productive economic use of a site that is ideally located within a mixed-use precinct and in close proximity of major commercial centres and public transport networks.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

32. 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)?

33. The applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case as the development satisfies the objectives of the standard notwithstanding the non-compliance. The development is consistent with the objectives of the standard as its density is in keeping with the surrounding built form elements, it provides appropriate height transitions, and it does not impact on views.

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

34. The development reflects the existing conditions of the site and its context, is a positive heritage and streetscape outcome, and will not result in any unreasonable impacts on the neighbouring properties or public domain.
35. The facade and parapet design, as amended, effectively conceals the rooftop plant from the street. This results in an improved heritage and streetscape outcome. Accordingly, it is considered that the applicant has adequately demonstrated that there are sufficient environmental planning grounds to justify the contravention of the standard.

Is the development in the public interest?

36. The objectives of the height development standard include:
- (a) To ensure the height of the development is appropriate to the condition of the site and its context.
 - (b) To ensure appropriate height transitions between new development and heritage items.
 - (c) To promote the sharing of views.
37. The design and form of the new addition is appropriate to the site and its context and provides an appropriate transition to the heritage building on the site. The parapet to the new addition matches the parapet height of the heritage building and steps down to match the parapet height of the residential flat building to the rear on Myrtle Street. The proposal will not obstruct views from or to highly utilised areas of the public domain.
38. The objectives of the B4 Mixed Use zone include:
- (a) To provide a mixture of compatible land uses.
 - (b) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
 - (c) To ensure uses support the viability of centres.
39. The application proposes a multi-function venue containing offices and a lecture theatre. This use is consistent with the mixed-use nature of Chippendale. The proposal also encourages the adaptive re-use of heritage buildings. The proposal is located in close proximity to public transport and includes bicycle parking on-site for staff and visitors.

40. The proposal is in the public interest because it is consistent with both the objectives of the height development standard and the objectives of the B8 Metropolitan Centre zone.

Conclusion

41. 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 Clause 4.6 of the Sydney LEP 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 B4 Mixed Use zone.

Clause 4.6 Variation to Floor Space Ratio Development Standard

42. The site is subject to a floor space ratio of 1.75:1. The proposed development has a floor space ratio of 2.31:1.
43. The existing building has a gross floor area of 872.04sqm and a floor space ratio of 2.21:1 which presently exceeds the maximum floor space control. The proposal includes the provision of an additional 36.09sqm of floor space which results in a variation to the floor space ratio control of 31.5%.
44. The proposal includes the demolition of the building occupying the southern portion of the site (with the exception of the upper level Victorian facade), and replacement with a three storey building that will be located to the side of the retained building at 79 Abercrombie Street. The applicant attributes the non-compliant gross floor area to minor changes made to the building footprint, which include the infill of the existing landscaped area of the splayed corner of the site. The proposed addition incorporates well-articulated facades and a mix of materials to provide visual interest on the prominent street corner.

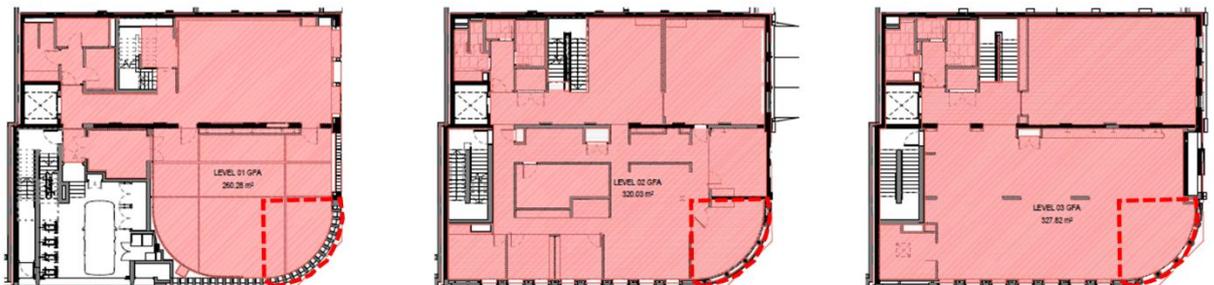


Figure 18: The applicant's GFA diagrams with the additional floor space indicated by the red dotted lines

45. 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:
- 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.
46. A copy of the applicant's written request is provided at Attachment C.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

47. The applicant seeks to justify the contravention of the floor space ratio 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 existing building comprises a quantity of gross floor area above what is permitted on the site under the Sydney LEP 2012. The existing building is heritage-listed and contributes to the heritage conservation area. The preservation of the building (and thereby the maintenance of the floor space ratio non-compliance) is therefore required from a heritage perspective. By contrast, the demolition of the building (which would be required to rectify the floor space ratio non-compliance) would be unreasonable.
 - (ii) The proposal generally maintains the existing building footprint and envelope, except at the south-eastern corner of the site where the building has been extended over the small area of the existing planter. Accordingly, the density and scale of the built form would remain generally consistent with the established building on the site, ensuring the development effectively integrates with the streetscape and character of the area.
 - (iii) The remodelling of the building corner described above has been designed to better address the street corner and both street frontages. The treatment of the street and building corner responds to the surrounding context and the building's unique function, through geometry, glazed bricks and glazed elements.
 - (iv) The development would protect neighbouring amenity. On the basis that the established building footprint and envelope would be generally retained (with the exception of the south-eastern corner), the proposal would generally maintain existing levels of solar access, privacy, views/outlook and sense of enclosure. Any potential impacts associated with the operation of the premises would be mitigated through the implementation of the measures within the Plan of Management.
 - (v) The additional gross floor area proposed for the site is partly attributable to the internal alterations that are proposed. The proposal would make efficient use of the internal spaces of an existing building, thereby supporting the productive use of a strategically-located site.
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The proposed development is entirely consistent with the underlying objectives and purpose of the floor space ratio standard and the B4 Mixed Use zone.

- (ii) The additional floor space ratio results from the infill of the landscaped area at the south-eastern corner of the building. The remodelling of the building corner would reinforce the street corner and better address both street frontages. The building corner infill would make efficient use of the existing building, thereby supporting the productive use of a strategically located site.
- (iii) Excepting the remodelled street corner, the proposed alterations and additions to the existing building on the site would generally preserve the existing building footprint and building envelope.
- (iv) Accordingly, the density of development and scale of the built form would remain generally consistent with the established building on the site. This would ensure the development effectively integrates with the streetscape and character of the area.
- (v) The proposal effectively supports the conservation of significant heritage features whilst enabling the adaptive re-use of the existing building and its long term conservation. The detail, scale and materials for the new internal and external additions have been designed to sympathetically integrate with the heritage value of the site and conservation area.
- (vi) The footprint, envelope, density and scale of the development on the site would remain generally consistent with the existing heritage building, and thereby the building as altered and added to would integrate with its context.
- (vii) The design of the alterations and additions, including the remodelling of the street corner, respond to the characteristics and heritage fabric of the existing building, adjoining buildings, the streetscape, and wider heritage conservation area.
- (viii) The development would maintain neighbouring amenity as well as the amenity of the public domain.
- (ix) The proposal will support the productive economic use of a site that is ideally located within a mixed-use precinct and in proximity of major commercial centres and public transport networks.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

48. 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)?

49. The applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case as the development satisfies the objectives of the standard notwithstanding the non-compliance. The alterations and additions appropriately address each street frontage and the proposal is contextually appropriate in terms of bulk and scale, and resulting in a sympathetic response to the streetscape and the character of the heritage conservation area.
50. The development generally maintains the existing built form, with a minor change to the building footprint at the corner of Abercrombie and Myrtle Street. The density and scale of the built form would remain generally consistent with the established buildings on the site, and adjoining development.
51. The additional floor space does not result in any adverse environmental impacts to surrounding properties and the public domain, and as such, compliance with the standard is unreasonable and unnecessary.
52. The development will be suitably serviced by existing infrastructure, including public transport, cycling, pedestrian and road networks, and will not result in a significant increase in pedestrian and vehicle traffic or intensification of the site. The nature and intensity of the proposed development are not inconsistent with the capacity of planned infrastructure.

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

53. The applicant's written request has adequately addressed that there are sufficient environmental planning grounds to justify contravening the development standard as the development responds appropriately to the bulk and scale of the heritage item being retained and surrounding development and improves the site's relationship with the public domain through design excellence, which contributes to street activation on the prominent corner.
54. Given the existing building exceeds the maximum floor space ratio for the site, compliance with the standard would not result in a better urban outcome. The density, scale and intensity of the development are generally consistent with the existing development on the site, and with existing and planned infrastructure. The development will not result in adverse impacts on amenity or generate significant pedestrian or vehicular traffic.

Is the development in the public interest?

55. The objectives of the floor space ratio development standard include:
 - (a) To provide sufficient floor space to meet anticipated development needs for the foreseeable future.
 - (b) To regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic.
 - (c) To provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure.
 - (d) To ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.

56. The density and built form of the proposed alterations and additions are generally consistent with the existing building being retained and with surrounding development, with a minor change to the building footprint to extend over the splayed corner. The retention and adaptive re-use of the northernmost building at 79 Abercrombie Street, and parts of the Victorian facade of 81 Abercrombie Street reflects the desired future character of the area. The proposal positively addresses all frontages, including the splayed corner, reduces the extent of the driveways to Myrtle Street and improves passive surveillance and activation of the ground floor frontages, resulting in a positive contribution to the streetscape.
57. The proposal seeks to reduce the number of off-street car parking spaces by two and provide 10 bicycle spaces. The site is located in close proximity to Central and Redfern Railway Stations and various bus routes, which will ensure there is no significant increase in vehicle traffic arising from the development. As the site has a capacity of 168 persons, an increase in pedestrian activity in the locality is anticipated. Given the walkability of this area of Chippendale, there is considered to be adequate existing infrastructure to support the increase. It is noted that the use rather than the further non-compliance with the standard is responsible for the increase.
58. The City of Sydney Development Contributions Plan 2015 does not require monetary contributions toward the cost of public amenities, such as open space, community facilities, traffic and transport, and stormwater drainage, as it does not consider the development to result in a significant intensification of the site. The proposed office and educational use replaces a residential use within the existing building, which generally requires more public amenities.
59. The objectives of the B4 Mixed Use zone include:
 - (a) To provide a mixture of compatible land uses.
 - (b) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
 - (c) To ensure uses support the viability of centres.
60. The application proposes a multi-function venue containing offices and a lecture theatre. This use is consistent with the mixed-use nature of Chippendale. The proposal also involves the adaptive re-use of the heritage building. The site is located in close proximity to public transport and includes bicycle parking on-site for staff and visitors.
61. The proposal is in the public interest because it is consistent with both the objectives of the floor space ratio development standard and the objectives of the B8 Metropolitan Centre zone.

Conclusion

62. For the reasons provided above the requested variation to the floor space ratio standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the Sydney LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the floor space ratio standard and the B4 Mixed Use zone.

Heritage and Streetscape Presentation

63. The site is identified as a heritage item (I160) and is located within the Chippendale Conservation Area (C9).
64. The northernmost building (79 Abercrombie Street) comprises a three storey Victorian warehouse constructed in 1888 known as "JC Goodwin & Co" , while the adjoining building to the south (81-83 Abercrombie Street) comprises a three storey Victorian commercial building also dating from 1888. 81 Abercrombie Street has undergone significant alterations, including the addition of a third storey and extensions to the southern boundary of the site in the 1990s.
65. The proposal includes the demolition of the later extensions to the southern part of the site and construction of a three storey side addition to the retained building occupying the northern part of the site. The addition is contemporary in appearance with a mix of high quality materials. The addition includes an infill of the landscaped area on the south-eastern corner of the site with a curved wall.
66. The Abercrombie Street frontage is subject to the active frontage controls of Section 3.2.3 of the Sydney DCP 2012. The objectives of these controls are to ensure ground floor frontages are pedestrian orientated and of high design quality to add vitality to streets.
67. The original proposal included glazed bricks along the curved wall of the new extension and enclosure of two of the windows on the heritage building. Concern was raised with the applicant that given the site's location on a prominent corner, the frontage failed to satisfy the active frontage controls in terms of minimising blank walls, incorporating glazing, and providing elements of visual interest. The applicant was also encouraged to reduce the extent of the building elements on the south elevation.
68. In response to this, the applicant submitted amended plans detailing clear glazing along the curved wall between concrete blades which enable passive surveillance to the street. The shorter façade bay of the heritage building has also been amended to provide clear glazing between metal blades. The addition of the glazing is consistent with the active frontage controls and represents a good streetscape outcome. The width of the garage door has been reduced from 6m to 5.4m.
69. The original proposal included rooftop plant with an aluminium acoustic screen, which was over 2m in height. Concern was raised that the rooftop plant was not integrated into the design of the building and would be visible from street level. The applicant was encouraged to provide a continuation of the higher parapet into the new addition, which would enable the concealment of the rooftop plant.
70. In response to this, the applicant submitted amended plans detailing the extension of the higher parapet along the full extent of the new addition until it steps to match the height of the neighbouring building to the west. The higher parapet allows for further articulation to the façade, improves the relationship between the new extension and the heritage building, and conceals the rooftop plant. The upper section of the shorter façade bay of the heritage building has also been re-designed to include an enamel panel (to reference the enamel sign on the heritage building) and a glazed wall behind dark metal fins set back 1m from the heritage façade. This enables the parapet and its ornamental features to be discerned.

71. The proposal includes changes to the main facade bay of the heritage building including replacement of the 1950s awning with a contemporary awning, removal of the existing windows and entry doors with a frameless glass shopfront, and the cleaning and repair of the cement render and enamel signage. These changes are sympathetic to the heritage item.



Figure 19: Photomontage of the proposed development

Use and Working Hours

72. The application proposes to establish a multi-function venue containing offices and a lecture theatre.
73. The maximum capacity of each level is: up to 104 persons on Level 1, 44 persons on Level 2 and 3 and up to 20 staff throughout the building, resulting in a total of 168 persons.
74. The hours of operation of the offices will typically be between 7.00am and 6.00pm Monday to Sunday, but will be available 24 hours per day. The lecture presentations will be held between 7.00am and 10.00pm Monday to Sunday. In order to protect neighbourhood amenity, a condition of consent is recommended to restrict the hours of the lecture presentations to between 7.00am and 10.00pm Monday to Sunday.
75. The application was accompanied by a Plan of Management, which outlines the operational and security requirements of the building. The Plan of Management states that management and staff will be responsible for ensuring all reasonable measures are taken to ensure that patron behaviour does not result in significant noise or disturbance to the locality. The staff will establish and manage any external complaints through a complaints management register, include signage reminding patrons to leave quietly, and enact risk management processes. The premises will be fitted with CCTV equipment.

76. The City's Environmental Health Unit have reviewed the proposal and assessed it as acceptable. Appropriate noise restriction conditions have been included in the consent.

Other Impacts of the Development

77. The proposed development is capable of complying with the BCA.
78. 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

79. 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

80. The application was discussed with the Heritage and Urban Design Specialists; Building Services Unit; Environmental Health Unit; Public Domain; Transport and Access; Tree Management; and Waste Management; who advised that the proposal is acceptable subject to the recommended conditions.

External Referrals

81. The application was referred to RMS as the site is located on a classified road. RMS raised no objection to the proposal subject to the submission of a Construction Traffic Management Plan prior to the issue of a Construction Certificate.

Notification, Advertising and Delegation

82. In accordance with Schedule 1 the Sydney DCP 2012, the proposed development is required to be notified. As such the application was notified for a period of 28 days between 14 September 2018 and 13 October 2018. As a result of this notification there were three submissions received, including one submission of support and two submissions of objection. The issues raised in the submissions are outlined below.

- (a) Construction impacts such as increased traffic and lack of parking and vibrations on the neighbouring terraces.

Response - Standard conditions have been recommended to ensure that construction impacts are managed appropriately. A Construction Traffic Management Plan will be required to be submitted prior to the issue of a Construction Certificate. The applicant will be required to prepare a dilapidation report for affected properties.

83. In accordance with Section 1.3 in Schedule 1 of the City's Notification Policy, the proposal was not required to be re-notified as the amendments are not considered to result in significant additional environmental impacts to the neighbouring properties or public domain or exacerbate issues raised in relation to construction impacts. The amendments were the result of negotiations with the applicant for an improved streetscape and heritage outcome, which it achieves.

Public Interest

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

S7.11 Contribution

85. The development is exempt from the provisions of the City of Sydney Development Contributions Plan 2015 as it will not increase the need for additional services. As discussed above, the proposed office and educational use replaces a residential use within the existing building, which generally requires more public amenities.

Relevant Legislation

86. The Environmental Planning and Assessment Act 1979, Heritage Act 1977.

Conclusion

87. The application proposes alterations and additions to an existing mixed-use development including partial demolition, construction of a three storey side extension, and adaptive re-use of the existing heritage building for use as a multi-function venue containing offices and a lecture theatre.
88. Amended plans have been submitted in response to concerns raised by City staff during the assessment relating to heritage and streetscape presentation.
89. The applicant has submitted Clause 4.6 variations to the height and floor space ratio development standards under the Sydney LEP 2012. The variation to the standards is supported.
90. Overall, the amended proposal is generally consistent with the objectives, standards, and guidelines of the relevant planning controls.
91. The proposal, as conditioned, will result in acceptable residential amenity.

GRAHAM JAHN

Director City Planning, Development and Transport

Zeb McInnes, Planner