Development Application: 62 Glebe Point Road, Glebe – D/2019/1234

File No.: D/2019/1234

Summary

Date of Submission: 05 November 2019

Applicant: Alexander Symes

Architect/Designer: Alexander Symes Architect

Owner: Peter John Feely

Cost of Works: $1,175,782

Zoning: B2 Local Centre zone. The proposal is permissible with consent.

Proposal Summary: The subject application is for alterations and additions to existing retail and commercial building. The proposal seeks consent for alterations to extend the building to accommodate a partial third storey centrally within the site, alterations to the retail tenancy and commercial tenancies and reinstatement of a front verandah.

The proposal will result in one retail tenancy on the ground floor and two commercial tenancies on the upper levels.

The application is reported to the Local Planning Panel for determination as the proposal exceeds the height development standard by more than 10%. The development has a total height of 13.6m, exceeding the 9m height control by 4.6m (51% variation). The existing building has a total height of 12.7m (41% variation).
The application is reported to the Local Planning Panel for determination as the proposal exceeds the floor space ratio development standard by more than 10%. The site is subject to a maximum floor space ratio (FSR) control of 1.5:1. The existing building has a gross floor area (GFA) of 801.22sqm, resulting in a 1.79:1 FSR (19% variation from the control). The proposed development results in a reduction in gross floor area on the site by 17.28sqm reducing the total gross floor area to 783.94sqm. The proposed development has a FSR of 1.75:1, which is a 16.7% variation from the development standard.

The applicant has submitted written requests to vary both the development standards for building height and floor space ratio under the provisions of Clause 4.6 of the Sydney LEP 2012. In both instances it is considered that these written requests have demonstrated that strict compliance with the development standards is unreasonable and unnecessary for the circumstances of this application.

The application was notified to the public for a period of 14 days between 12 November 2019 and 27 November 2019. No submissions were received.

The site is a locally listed heritage item and located within the Glebe Point Road heritage conservation area. The proposal is considered to be sympathetic to the heritage significance of the building and will not adversely impact on the heritage conservation area.

The application has been amended during the assessment of the application to reduce the extent of floor space, retain the existing loading dock on the site and amendments to the front verandah.

The development exhibits design excellence, is in keeping with the desired future character of the area and is in the public interest.

The proposal introduces a third storey element contrary to the two-storey “height in storeys” control. The third storey is integrated within the central portion of the building and will maintain two-storey street frontage heights to Glebe Point Road and Derwent Lane. The third storey will not be visually prominent.

**Summary Recommendation:** The development application is recommended for approval, subject to conditions.
Development Controls:
(i) Environmental Planning and Assessment Act 1979
(ii) State Environmental Planning Policy (Infrastructure) 2007
(iii) State Environmental Planning Policy No. 64 - Advertising and Signage
(iv) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2018
(v) State Environmental Planning Policy (Sydney Harbour Catchment) 2005 (Deemed SEPP)
(vi) Sydney Local Environmental Plan 2012
(vii) Sydney Development Control Plan 2012

Attachments:
A. Recommended Conditions of Consent
B. Selected Drawings
C. Clause 4.6 Variation Request - Height
D. Clause 4.6 Variation Request - Floor Space
**Recommendation**

It is resolved that consent be granted to Development Application No. D/2019/1234 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) Based upon the material available to the Committee at the time of determining this application, the Committee is satisfied that:

(i) the applicant’s written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the height development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 of the Sydney LEP 2012;

(ii) the applicant’s written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the floor space ratio development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.4 of the Sydney LEP 2012; and

(iii) the proposal is in the public interest because it is consistent with the objectives of the B2 Local Centre zone, the height development standard and the floor space ratio development standard.

(B) The proposal is sympathetic to the heritage significance of the building, will not adversely impact of the surrounding heritage conservation area, and is generally consistent with the objectives and provisions in Clause 5.10 of the Sydney LEP 2012 and Section 3.9 of the Sydney LEP 2012.

(C) The proposal exhibits design excellence in accordance with Clause 6.21 of the Sydney LEP 2012. The additional bulk appropriately responds to the site context and streetscape constraints, and is integrated within the central roof form.

(D) The third storey addition will not be visually prominent from the streetscape and the two storey street frontage heights are retained to Glebe Point Road and Derwent Lane.

(E) The proposal is in keeping with the future desired character of the area and is considered to be in the public interest.
Background

The Site and Surrounding Development

1. A site visit was carried out by staff on 26 November 2019.

2. The site is rectangular, with an area of approximately 447.7sqm. It has a primary street frontage to Glebe Point Road and a secondary street frontage to Derwent Lane. The site is located on the south-western side of Glebe Point Road approximately mid-way between Derby Place to the south-east and Mitchell Street to the north-west. Levels fall across the site by approximately 2.6m from Derwent Lane to Glebe Point Road.

3. A two-storey warehouse style building is contained within the site and is currently occupied by a retail tenancy on the ground floor fronting Glebe Point Road. The rear and upper level of the building is currently vacant and was most recently used for commercial office space.

4. Surrounding land uses are residential and commercial. Adjacent to the south-west of the site at No. 58-60 Glebe Point Road is a boarding house fronting Glebe Point Road with a single dwelling to the rear along Derwent Lane. Adjacent to the north-east of the site at No. 66 and 64 Glebe Point Road is another boarding house. The opposite side of Glebe Point Road is comprised of mixed use buildings with commercial and food and drink premises on the ground floor with residential units above. Derwent Lane is characterised by one and two storey single dwellings which front onto Derwent Street.

5. The site is a locally listed heritage item No. I697 'Former bakery Raithus'. The site is located within the Glebe Point Road Conservation Area (C29).

6. Photos of the site and surrounds are provided below:

Figure 1: Aerial image of subject site and surrounding area
Figure 2: Site viewed from Glebe Point Road

Figure 3: Neighbouring development to the south-west of the site along Glebe Point Road, with the boarding house at 58-60 Glebe Point Road shown
Figure 4: Neighbouring development along Glebe Point Road, with a view of the subject site and neighbouring boarding house development at 64 and 66 Glebe Point Road

Figure 5: Looking south-east along the footpath adjacent to the subject site
Figure 6: Looking north towards Glebe Point Road from Elise Walk. Area of proposed height increase noted with an arrow.

Figure 7: Existing south-east (side) elevation of building on site as viewed from Elise Walk.
Figure 8: Site viewed from Derwent Lane, looking north-west

Figure 9: Looking north east along Derwent Lane
Figure 10: Neighbouring development along Derwent Lane, to the north-west of the site

Figure 11: Ground floor retail tenancy, looking south-west
Figure 12: Upper level commercial tenancy, looking south-west

Figure 13: Upper level commercial tenancy, looking north-east
Figure 14: Development located on the opposite of Derwent Lane

Proposal

7. The application seeks consent for alterations and additions to the existing building for use of the building as a ground floor retail tenancy and use for two commercial tenancies on Levels 1 and 2.

8. The proposed development includes the following works:

   (a) Third storey addition within the central roof form to facilitate an extension of the commercial use. The existing roof form is conserved and raised by approximately 3.1m and includes the provision of clerestory windows.

   (b) Replacement of the existing front awning with a steel framed, posted, ornamental verandah with new French doors on the first floor level to access new balcony.

   (c) Modified pedestrian entrances off Glebe Point Road including the provision of separated entrances / exits on the ground floor and a new timber door.

   (d) Modified entrance off Derwent Lane to provide a commercial foyer from the rear for Commercial tenancy B (located on Levels 1 and 2).

   (e) Internal alterations to the retail and commercial tenancies, including excavation for a new commercial lift, new commercial bike storage and bathrooms / end of trip facilities.

   (f) Demolition of parts of the existing Level 2 floor level slab to create new voids with associated new balustrades.
(g) Removal of air conditioning from the rear elevation of the building.

(h) Addition of solar panels on the roof.

9. Elevations and photomontages of the proposed development are provided below.

Figure 15: Photomontage section of proposed development

Figure 16: Glebe Point Road photomontage of proposed development
Figure 17: Proposed Glebe Point Road (north-east) elevation

Figure 18: Proposed Derwent Lane (south-west) elevation
Figure 19: Proposed section

Figure 20: View study from Glebe Point Road
History Relevant to the Development Application

Pre-DA Advice

10. On 26 July 2019, Pre-Development Application (PDA/2019/1234) advice was sought in relation to a proposal including the replacement of the entire rear roof form (refer to Figure 21, below).

11. The pre-lodgement advice provided by Council staff raised concerns in relation to the heritage implications of the removal of the existing roof form. It was recommended that the applicant obtain the advice of a Heritage consultant detailing the significance of the existing roof form.

12. As a result, the applicant obtained specialist Heritage advice, which recommended the conservation of the roof form, and limited the raising of the roof to the central portion only, rather than a full replacement.

13. The verandah reinstatement was also redesigned to match similar verandahs within the Glebe Point Road Main Street Study.

Current Application

14. Following a preliminary assessment of the subject application, Council staff requested the following information on 19 December 2019:

(a) The front verandah to be designed such that the posts are non-structural and self-supporting in the event of the removal of a post. A detailed structural engineering design and drawings were requested, including details of any intervention on the fabric of the building.

(b) A detailed drawing illustrating the changes proposed to the shop front, to accommodate the new entry lobby, including details and materials of new doors and windows.
(c) The front external colour scheme is to be appropriate to the style and period of the building. The proposed vivid white wall colour is not an appropriate wall colour for a Victorian commercial façade and a revised external colour scheme is required.

(d) All downpipes from the verandah roof are to be directed back to the building and are to be concealed within the façade. A stormwater plan was requested.

(e) The submitted Arborist Report only considers the two street trees on Glebe Point Road, but has omitted trees that stand in the front yard of the adjoining property (64-66 Glebe Point Road). The proposed verandah may impact on the trees or require pruning to facilitate construction.

The requested information and amendments were received on 29 January 2020.

15. On 18 February 2020, further amendments were requested by Council staff including:

(a) that the design be amended to reduce the gross floor area (GFA) to result in a FSR neutral development (noting that the existing building already exceeds FSR).

(b) the submission of an amended Clause 4.6 variation for floor space ratio to reflect the abovementioned amendments.

(c) retention of the existing ground floor loading dock accessed from Derwent Lane.

16. On 27 February 2020, the applicant submitted an amended design which reduces the gross floor area by 17.28sqm and deletes the Derwent Lane lobby to retain the on-site loading dock. Amended Clause 4.6 variations requests were also submitted.

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:

(a) Environmental Planning Instruments and DCPs.

State Environmental Planning Policy (Infrastructure) 2007

18. The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application. The application is subject to Clause 45 of the SEPP as the development is within 5m of an overhead power line.

19. The application was referred to Ausgrid under these provisions. On 26 February 2020 Ausgrid responded to the referral and raised no objections.

State Environmental Planning Policy No. 64 - Advertising and Signage

20. The application does not include the provision of signage.
21. A condition is recommended for imposition requiring the preparation and approval of a signage strategy for the building prior to the issue of a Construction Certificate. The preparation of a signage strategy is a requirement of the Sydney Development Control Plan 2012 where there will be signage on a heritage item. The preparation of a signage strategy will ensure a cohesive consideration of signage for all tenancies within the building.

22. Following the approval of a signage strategy as a condition of consent of the subject application, separate development application/s will be required for any proposed signs (other than exempt or complying signs) and these signs will be required to be consistent with the approved signage strategy.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

23. The application does not propose the removal of any trees, however, tree pruning of the existing street trees on Glebe Point Road will be required to facilitate the development.

24. Appropriate conditions have been recommended for imposition requiring adequate protection and pruning of the two street trees along Glebe Point Road. Subject to the recommended conditions, the proposal is consistent with the aims of the Policy in that it preserves the amenity of the existing vegetation in a non-rural area.

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

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

26. 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; and
(d) protect and rehabilitate riparian corridors and remnant vegetation.

27. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development. The development is consistent with the controls contained with the deemed SEPP.

Sydney Local Environmental Plan 2012

28. The site is located within the B2 Local Centre zone. The proposed alterations and additions to the existing building do not alter the existing use of the site as a 'retail premises' and a 'commercial premises'. Both uses are permissible with consent in the zone.
29. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

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<tr>
<th>Development Control</th>
<th>Compliance</th>
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<tr>
<td>4.3 Height of Buildings</td>
<td>No</td>
<td>A maximum height of 9m is permitted. The development has a total height of 13.6m, exceeding the 9m height control by 4.6m (51% variation). The existing building has a total height of 12.7m (41% variation). The applicant has submitted a written request to vary the development standard under the provisions of Clause 4.6 of the SLEP 2012. Refer to further discussion in the issues section.</td>
</tr>
<tr>
<td>4.4 Floor Space Ratio</td>
<td>No</td>
<td>A maximum FSR of 1.5:1 is permitted. The existing building has a gross floor area (GFA) of 801.22sqm, resulting in a 1.79:1 FSR (19% variation from the control). The proposed development results in a GFA reduction of 17.28sqm from the existing building. This equates to a total gross floor area of 783.94sqm, resulting in a FSR of 1.75:1 (16.7% variation from the control). Notwithstanding the floor space reduction, the development still exceeds the FSR control, and as such, the applicant has submitted a written request to vary the development standard under the provisions of Clause 4.6 of the SLEP 2012. Refer to further discussion in the issues section.</td>
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<td>4.6 Exceptions to development standards</td>
<td>Yes</td>
<td>The proposal seeks to vary the development standard prescribed under Clause 4.3 and 4.4. See discussion under the heading Issues.</td>
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<td>Development Control</td>
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<td>5.10 Heritage conservation</td>
<td>Yes</td>
<td>The subject site is a heritage item of local significance (Item No. 1697) located within the Glebe Point Road heritage conservation area (C29). The proposed alterations and additions conserve the heritage significance of the building and will not adversely impact the heritage conservation area. The addition is set behind the parapet, will maintain the pitch and form of the existing roof, and will not be visually prominent. The Glebe Point Road street presence will be generally maintained with the exception of a reinstated posted verandah, which has been designed based on historical evidence.</td>
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<th>Part 6 Local Provisions - Height and Floor Space</th>
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<td>6.13 End of journey floor space</td>
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<td>The proposal includes on-site bicycle parking spaces and end of trip facilities. It is noted that these facilities are not all co-located within the building, and as such, are not eligible for the additional end of journey floor space under this clause.</td>
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<td>6.21 Design excellence</td>
<td>Yes</td>
<td>The proposed development is considered to exhibit design excellence. The proposal appropriately responds to the context of the site whilst improving the functionality of the existing building. The works conserve the heritage significance of the building and will not adversely impact of the surrounding heritage conservation area. The development retains the 2 storey street frontage height viewed from Glebe Point Road and Derwent Lane, with the additional bulk integrated within the central portion of the building. The front elevation will retain an appropriate interface at ground level between the building and the public domain.</td>
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Part 6 Local Provisions - Height and Floor Space

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<td></td>
<td>The proposed development is compatible with the existing building and is in keeping with the desired future character of the area.</td>
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Part 7 Local Provisions - General

| Division 1 Car parking ancillary to other development | Yes | Under the provisions of Clauses 7.6 and 7.7 of the SLEP 2012, based on the floor space, a maximum of 8 parking spaces are permitted. The proposal does not include the provision of any on-site car parking spaces. This is consistent with the objectives of this Division to minimise the amount of vehicular traffic generated by the proposed development. |
| 7.6 Office premises and business premises | Yes | |
| 7.7 Retail premises | Yes | |
| 7.14 Acid Sulphate Soils | Yes | The site is identified as containing Class 5 acid sulphate soils. The proposed development does not include any disturbance to the existing slabs. No further assessment required. |
| 7.15 Flood planning | Yes | The site is not identified as flood prone. No further assessment required. |

Sydney Development Control Plan 2012

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

2. Locality Statements – Glebe Point Road

The subject site is located in the Glebe Point Road locality. This locality is described as a diverse mix of commercial and retail uses, with a pedestrian focussed 'main street'. The proposed refurbishment of the retail/commercial building is considered to be in keeping with the unique character of the area and design principles as the proposal will retain active uses on the ground floor and enhance the pedestrian amenity of the public domain. The proposal appropriately responds to the heritage significance of the site, streetscape and laneway.
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<th>3. General Provisions</th>
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<td>3.2.3 Active Frontages</td>
<td>Yes</td>
<td>The site is identified as an active frontage in accordance with the Active frontages map. The proposed development will have a positive contribution to the activity and amenity of Glebe Point Road. The retail tenancy will be retained along the ground floor and the proposal will provide distinguished entries to the commercial tenancies on upper levels. The proposal provides a high standard of finishing's and appropriate level of architectural detail for the shopfront.</td>
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<tr>
<td>3.2.4 Footpath Awnings</td>
<td>Yes</td>
<td>The proposal includes the replacement of the existing cantilevered awning along the Glebe Point Road frontage with a steel framed ornamental posted verandah. The new verandah is designed so as the posts are non-structural in the event of the removal of a post. The posts are appropriately set back 1m from the existing kerb and the new awning will maintain the height of the existing awning. The existing smart pole along Glebe Point Road will be retained. The proposed verandah is based on physical and documentary evidence that suggests that there was a former verandah. The proposed verandah will reinforce the heritage significance of the heritage item. Council's Public Domain unit has reviewed the proposal and raised no objections subject to recommended conditions including removal of the redundant crossovers on Glebe Point Road. The proposed verandah will encroach upon the Council footpath. Council's Property Services has granted owners consent in this regard.</td>
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<td>3.2.4.1 Awnings with posts and balconies</td>
<td>Yes</td>
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<td>3.5 Urban Ecology</td>
<td>Yes</td>
<td>The proposed development does not involve the removal of any trees and will not adversely impact on the local urban ecology. There are two street trees located adjacent to the site along Glebe Point Road and one tree located within the neighbouring property at No. 64 Glebe Point Road. The trees will require protection and pruning during construction. Council’s Tree Management Unit has recommended appropriate conditions of consent in this regard.</td>
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<td>3.6 Ecologically Sustainable Development</td>
<td></td>
<td>It is recommended that the development install water efficient taps and toilets to meet the objectives of sustainable development principles. Conditions have been included in the consent in this regard. The application includes photovoltaic solar panels on the rear roof plane. A condition is recommended requiring the solar to be fitted flush to the roof, so as to limit visibility and potential impacts to surrounding development and vegetation</td>
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<td>3.7 Water and flood management</td>
<td></td>
<td>The site is not identified as flood prone land. A condition is recommended requiring the approved plans to be submitted to Sydney Water to determine the effect on Sydney Water’s sewer and water mains, stormwater drains, and/or easements.</td>
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<td>3. General Provisions</td>
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<td>3.9 Heritage</td>
<td>Yes</td>
<td>The subject is a heritage item located within a heritage conservation area. The proposal has been designed in accordance with detailed heritage advice through a Heritage Impact Statement and pre-development advice from Council staff. The application has been amended through the assessment in accordance with Heritage comments and requests. Most notably, the addition has been amended at the request of Council staff to minimise visibility of the works and maintain the general roof form and pitch. The result is an addition that is sympathetic to the heritage building with minimal impacts to the streetscape. Physical evidence suggests that the building previously had a posted verandah, and as such, the proposal will reinstate what was an original feature of the building. The verandah has been designed to be appropriate to the style and period of the building. The proposed materials, colours and detailing are of high quality and complement the heritage building and surrounding area. Whilst the interior has been altered over time, the works will appropriately retain key significant elements such as steel post and beam structures, brick columns and trusses.</td>
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<tr>
<td>3.10.1 Warehouse and Industrial Buildings Older than 50 Years</td>
<td>Yes</td>
<td>The proposal conserves the existing warehouse style of the building, maintaining legibility of the historic use. The additions and alterations are sympathetic in scale and style to the existing building. The additional storey maintains the existing roof form and retains existing internal timber trusses and rafters. New work will be able to be distinguished.</td>
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<td>3. General Provisions</td>
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<td>3.11 Transport and Parking</td>
<td>Yes</td>
<td>In accordance with Table 3.5 of this section, the development is required to provide 5 employee and 2 visitor bike parking spaces. The proposal includes 10 bike parking spaces. The application was reviewed by Council's Transport Planner, who raised no objection to the proposal. The proposal has been amended during the assessment of the application to retain the existing on-site loading dock accessed off Derwent Lane.</td>
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<td>3.11.3 Bike parking and associated facilities</td>
<td>Yes</td>
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<td>3.12 Accessible Design</td>
<td>Yes</td>
<td>The proposal will improve the accessibility of the building with the provision of an internal lift providing access to the upper level commercial tenancies from Glebe Point Road. The Derwent Lane access has been modified to provide access to the commercial foyer from the rear.</td>
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<tr>
<td>3.14 Waste</td>
<td>Yes</td>
<td>Separate waste rooms for the retail and commercial tenancies are provided and are will utilise existing waste collections from Derwent Lane. A condition has been recommended for the proposed development to comply with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</td>
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<tr>
<td>3.15 Late Night Trading Management</td>
<td></td>
<td>The application does not propose specific uses for the individual tenancies. A condition is recommended requiring a DA or CDC (as appropriate) to be obtained for the use and fitout prior to commencement. Standard CDC hours of operation have been included in the consent.</td>
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### 3. General Provisions

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<tr>
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<td></td>
<td>The application does not include the provision of signage.</td>
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<td>In accordance with Section 3.16.1, a signage strategy would be required for the site as the building is a heritage item. A condition of consent is recommended requiring a signage strategy to be submitted and approved by Council prior to the issue of a Construction Certificate.</td>
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### 4. Development Types

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<tr>
<td>4.2 Residential flat, commercial and mixed use developments</td>
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<td>The site is within a 2 storey character area.</td>
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<td>No</td>
<td>The proposal introduces a third storey element within the central portion of the building.</td>
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<td>See discussion under the heading Issues.</td>
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<tr>
<td>4.2.1.2 Floor to Ceiling Heights</td>
<td>Yes</td>
<td>In accordance with this Section, buildings with a commercial or retail use are to have a minimum floor to floor height of 4.5m on the ground floor and 3.6m on upper floors</td>
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<td>The existing floor to floor heights at the ground floor are retained, with a floor to floor height of 4m to Glebe Point Road and 4.2m to Derwent Land. As the site is a heritage item, the proposal seeks to retain existing floor slabs. In this regard, the floor to floor heights are acceptable.</td>
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<td>The upper storey floor to floor heights exceed the required 3.6m, with a maximum height of approximately 5.5m.</td>
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<td>4. Development Types</td>
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<tr>
<td>4.2 Residential flat, commercial and mixed use developments</td>
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<td>4.2.2 Building Setbacks</td>
<td>Yes</td>
<td>The proposed alterations and additions maintain the existing setbacks to the front and rear.</td>
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<td>The raised roof element of the central portion of the building is appropriately setback from the street frontage whilst maintaining the general height, pitch and form of the existing roof.</td>
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<td>4.2.3 Amenity</td>
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<tr>
<td>4.2.3.1 Solar access</td>
<td>Yes</td>
<td>Solar access impact has been assessed in the Issues section, below.</td>
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<tr>
<td>4.2.3.6 Deep soil</td>
<td></td>
<td>The proposal does not include the provision of 10% deep soil however is acceptable in this instance as the existing site has 100% site coverage and the site is a heritage item.</td>
</tr>
<tr>
<td>4.2.3.11 Acoustic privacy</td>
<td></td>
<td>The proposal retains the existing use of the building as a commercial / retail space. The proposed refurbishment is not considered to adversely impact on the acoustic amenity of neighbouring residential development.</td>
</tr>
</tbody>
</table>

**Issues**

**Clause 4.6 request to vary a development standard - Height**

31. The site is subject to a maximum height control of 9m. The proposed development has a total height of 13.6m, exceeding the 9m height control by 4.6m (resulting in a 51% variation).

32. The existing building has a total height of 12.7m (a 41% variation from the development standard).
33. 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.

34. A copy of the applicant's written request is provided at Attachment C.

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

35. 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 proposed development is generally consistent with the objectives of the building height control, notwithstanding the numerical variation.

(ii) Strict compliance with the building height control would effectively eliminate the ability to modify the existing building, and restrict the ability to improve the functionality of the floor space, including the existing non-compliant access arrangements.

(iii) The variation to the building height control primarily relates to the requirement to physically raise the central portion of the roof and conserve the existing roof form.

(iv) Strict compliance with the building height control would not produce any material benefits in terms of the amenity of surrounding properties, or the overall streetscape contribution of the building.
(v) The adjoining terrace houses to the south-east and north-west both include partial variations to the building height control, and the proposed development will be within the context of the existing built form.

(vi) Council has consistently adopted a flexible and orderly approach to the implementation of development standards in appropriate circumstances, including when the objectives of the standard are achieved.

(b) That there are sufficient environmental planning grounds to justify contravening the standard:

(i) The conserved and raised roof which is in breach of the height control effectively matches the alignment of the ridgeline of the adjoining terrace house to the south-east, providing comfortable transition with the adjoining terrace houses to the north-west.

(ii) The existing parapet will conceal the majority of the additional height.

(iii) The DA is accompanied by a detailed Statement of Heritage Impact which includes a series of recommendations that have been integrated into the design. The proposal will retain and enhance the significant fabric and qualities of the item, the conservation area and will have no adverse impact on the items in the vicinity.

(iv) The variation to the building height control primarily relates to the requirement to physically raise the central portion of the roof and conserve the existing roof form.

(v) The variation to the building height will allow for the provision of disabled access from the front of the site to the rear of the upper level, which is not currently possible on the site.

(vi) Strict compliance with the building height control would effectively eliminate the ability to modify the existing building and ability to improve the functionality of the space, including existing non-compliant access arrangements.

(vii) The shadow diagrams demonstrate that the additional shadows cast by the addition that breaches the height control will fall over the roof spaces of the adjoining properties to the south-east, resulting in no additional overshadowing on private open spaces.

(viii) The additional height does not contribute any loss of privacy or loss of views to neighbouring development.

(ix) The proposed works will materially improve the functionality of the existing building, without imposing any significant or unreasonable impacts on the amenity of any surrounding land.
(x) The improved functionality of the building and the improved streetscape contribution will promote good design and the amenity of the built environment.

(xi) The scale of the building when viewed from the public domain will not be antipathetic to the existing buildings in the locality or visually jarring when viewed from either the public domain or the adjoining properties.

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

36. 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)?

37. The applicant's written request has adequately addressed that compliance with the development standard is unreasonable or unnecessary. The existing building exceeds the prescribed height control with the additional height set within the central portion of the building to minimise its visibility, protecting the streetscape appearance and heritage significance of the building and minimise the environmental impacts. The elements in breach of the height control will improve the environmental and amenity benefits to the future occupants of the building, including increased light from clerestory windows and skylights and addition of solar panels.

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

38. The applicant's written request has adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard. The additional height will not have an adverse impact on the heritage building or conservation as it is set back behind the parapet and will have minimal visibility when viewed from the street. A reasonable level of amenity maintained to neighbouring development and no objections from the public were raised during the notification period.

Is the development in the public interest?

39. The objectives of the height development standard include:

(i) To ensure the height of development is appropriate to the condition of the site and its context;

(ii) To ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas;

(iii) To promote the sharing of views.
40. The height of the development has appropriately responded to the context of the site. The increased height has been adequately set back behind the parapet to minimise the visibility of the additions from Glebe Point Road and the siting of the additions has occurred to conserve as much of the significant roof form as possible. The increased ridge height of the central portion of the roof form will match the existing ridge to the rear of the building and will result in an appropriate transition to neighbouring properties. The proposal will not impact on views.

41. The objectives of the B2 Local Centre zone include:

(i) To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area;

(ii) To encourage employment opportunities in accessible locations;

(iii) To maximise public transport patronage and encourage walking and cycling;

(iv) To allow appropriate residential uses so as to support the vitality of local centres.

42. The proposal aims to refurbish an existing commercial building, maintaining a mixture of compatible land uses and will provide a positive contribution to the zone whilst supporting a variety of services and economic activity in Glebe. The additional height will allow for facilities of the building to be upgraded with equitable access throughout the entirety of the building. The additional height improves the amenity and sustainability of the building through increased natural light.

Conclusion

43. 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 cl 4.3 Height of Buildings development standard and the B2 Local Centre zone.

Clause 4.6 request to vary a development standard - Floor Space Ratio

44. The site is subject to a maximum floor space ratio (FSR) control of 1.5:1. The existing building has a gross floor area (GFA) of 801.22sqm, resulting in a FSR of 1.79:1 (which is a 19% variation from the control).

45. The proposed development results in a reduction in GFA reduction on the site by 17.28sqm. This reduces that overall GFA in the development to 783.94sqm. The proposed development results in a FSR of 1.75:1 (which is a 16.7% variation from the control).
46. Notwithstanding the proposal results in a reduction in floor space, the development still exceeds the 1.5:1 FSR control. As such, 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.

A copy of the applicant's written request is provided at Attachment D.

Applicants 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 proposed development is consistent with the objectives of the B2 - Local Centre zone. The proposed allocation of floor space within the building will contribute to the availability of good (and improved) quality floor space for the foreseeable future.

(ii) The proposed development is generally consistent with the objectives of the FSR control.

(iii) Strict compliance with the FSR control would require parts of the existing floor space to be removed, and effectively eliminate the ability to modify the existing building, and restrict the ability to improve the functionality of the floor space, including the existing non-compliant access arrangements.

(iv) The DA is accompanied by a detailed Statement of Heritage Impact which includes a series of recommendations that have been integrated into the design. The proposal will retain and enhance the significant fabric and qualities of the item, the conservation area and have no adverse impact on the items in the vicinity.

(b) That there are sufficient environmental planning grounds to justify contravening the standard:

(i) The proposed development marginally reduces the FSR of the existing building and reduces the extent to which the existing building breaches the FSR control.

(ii) The proposed floor space will not change the existing intensity of the use, and the site is well serviced by necessary infrastructure and services, including good public transport facilities.

(iii) The proposed works will materially improve the functionality of the existing building, without imposing any significant or unreasonable impacts on the amenity of any surrounding land.
(iv) The improved functionality of the building and the improved streetscape contribution will promote good design and the amenity of the built environment.

(v) The proposed development does not contribute to any significant or unreasonable impacts on the amenity of any surrounding land in terms of the key considerations of overshadowing, loss of privacy and loss of views.

(vi) The scale of the building when viewed from the public domain will not be antipathetic to the existing buildings in the locality or visually jarring when viewed from either the public domain or the adjoining properties.

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

48. The applicant’s written request has adequately addressed that compliance with the development standard is unreasonable of unnecessary. The proposal reduces the existing floor space by 17.28sqm. It is unreasonable to require further reduction of the existing floor space in order to comply with the FSR control, particularly when the building is of heritage significance where minimal demolition/alterations are desired.

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

49. The applicant’s written request has adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard. The additional floor space will not contribute adverse residential amenity impacts to neighbours including overshadowing and privacy. The additional floor space will support the refurbishment of an existing commercial building, whilst providing for accessible access, bicycle parking and end of trip facilities.

50. Is the development in the public interest?

51. The objectives of the floor space ratio development standard include:

   (i) To provide sufficient floor space to meet anticipated development needs for the foreseeable future;

   (ii) To regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic;

   (iii) To provide for an intensity of development that is commensurate with the capacity of existing and planning infrastructure

   (iv) 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.

52. The proposal will assist in the refurbishment of existing commercial uses which promotes the desired future character of the Glebe Point Road locality. The development minimises amenity impacts and supports the future development needs of the locality. The reduction of floor space will appropriately regulate the density of the development, and maintains the same number of tenancies as the existing development. It is acknowledged that the development makes use of internal voids, which, if infilled in the future, would have the effect of increasing the FSR and intensify the development. A FSR condition of consent is recommended in this regard to prevent any future FSR increase.
53. The objectives of the B2 Local Centre zone include:

   (i) To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area;

   (ii) To encourage employment opportunities in accessible locations;

   (iii) To maximise public transport patronage and encourage walking and cycling;

   (iv) To allow appropriate residential uses so as to support the vitality of local centres.

54. The proposal aims to refurbish an existing commercial building, maintaining a mixture of compatible land uses and will provide a positive contribution to the zone whilst supporting the viability of Glebe Point Road.

Conclusion

55. For the reasons provided above the requested variation to the floor space ratio 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 cl 4.4 Floor Space Ratio development standard and the B2 Local Centre zone.

Building height in storeys

56. The site is located within a 2 storey character area in accordance with Section 4.2.1 of the Sydney DCP 2012. The proposal will introduce a third storey element within the central portion of the building. Refer to Figure 20 and 21 below.

![Diagram of building height in storeys]

Figure 23: Existing height in storeys
57. Whilst the third storey exceeds the recommended 2 storey height in storeys control, the addition is supported in this instance as:

(a) the third storey is setback approximately 7.5m from the street frontage, behind the existing parapet and has been designed to integrate within the central roof form.

(b) the setback and form of the addition will allow minimal visibility from Glebe Point Road and Elise Walk and will not detract from the character and significance of the existing building.

(c) the building will continue to present as two storeys from Glebe Point Road and Derwent Lane, reinforcing the neighbourhood character.

(d) The ridge line is consistent with the surrounding built form and heritage conservation area.

58. Notwithstanding the storey exceedance, the proposal is generally consistent with the objective and provisions of Section 4.1.2 of the Sydney DCP 2012.

Amenity - Solar Access

59. In accordance with Section 4.2.3.1 of the Sydney DCP 2012, neighbouring properties are to receive 2 hours of direct sunlight between 9am and 3pm on 21 June onto at least 8sqm of their private open space.

60. Neighbouring development to south of the site consists of a boarding house at No. 58-60 Glebe Point Road and a single dwelling at No. 58 Derwent Lane. Refer to Figures 24 and 25 below illustrating the existing private open space areas of these sites.

61. The existing private open space area of No. 58-60 Glebe Point Road is fully in shadow between 9am and 3pm in midwinter. No. 58 Derwent Lane receives morning sun between 9am and 11am at midwinter to more than 8sqm of their private open space.

62. The applicant has submitted hourly solar access diagrams illustrating that the additional shadow cast by the proposed development between 9am and 3pm at midwinter is cast across the roofs of the site at No. 58-60 Glebe Point Road. No additional shadow is cast upon the private open spaces of the properties to the south and as such, the proposal is generally consistent with the objective of Section 4.2.3.1 of the DCP.
Figure 25: Looking south from second floor of subject site
Other Impacts of the Development

63. The proposed development is capable of complying with the BCA. It is Class 6 (retail ground floor) and Class 5 (commercial first and second floor).

64. 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

65. 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

66. The conditions of other sections of Council have been included in the proposed conditions. The application was discussed with the Heritage and Urban Design Specialists, Building Services Unit, Public Domain Unit, Tree Management Unit and Property Services; who advised that the proposal is acceptable subject to the recommended conditions.

External Referrals

Notification, Advertising and Delegation (No Submissions Received)

67. In accordance with the Community Participation Plan 2019, the proposed development is required to be notified. As such the application was notified for a period of 14 days between 12 November 2019 and 27 November 2019, a total of 35 properties were notified and no submissions were received.

Public Interest

68. The proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

S7.11 Contribution

69. The development is not subject of a S7.11 contribution under the provisions of the City of Sydney Development Contributions Plan 2015 as there will be no increase in floor space resulting from the development and no change of use.

Conclusion

70. The proposed development comprises alterations and additions to the existing building including internal reconfiguration of the retail tenancy fronting Glebe Point Road, internal reconfiguration of the commercial tenancies, and the conservation and raising of the central portion of the roof to facilitate an internal expansion of the existing commercial floor space at the upper level.

71. The applicant has submitted a request to vary the height development standard prescribed in Clause 4.3. 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 cl 4.3 Height of Buildings development standard and the B2 Local Centre zone.

72. The applicant has submitted a request to vary the floor space ratio development standard prescribed in Clause 4.4. 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 cl 4.4 Floor Space Ratio development standard and the B2 Local Centre zone.
73. The proposal is sympathetic to the heritage building, with an appropriate balcony reinstatement and an addition that is subservient to the building with minimal impacts to the conservation area.

74. The proposed development is considered to exhibit design excellence in accordance with Clause 6.21 of the Sydney LEP 2012 as it responds to the context of the site whilst improving the functionality of the existing building and enhancing the streetscape contribution and heritage significance.

75. The proposal was notified to the public for 14 days. No submissions were received.

76. The proposal is considered to be in the public interest and is supported for approval subject to recommended conditions.


GRAHAM JAHN, AM
Director City Planning, Development and Transport

Christina Robinson, Planner