

Item 3.**Development Application: 11-15 Collins Street, Beaconsfield - D/2022/1021**

File No.: D/2022/1021

Summary

Date of Submission:	4 October 2022
Applicant:	A Sutherland
Designer:	Henderson and Co.
Owner:	E Vougdis, G Vougdis, H Vougdis, B Athanassiou, C Athanassiou and J Athanassiou.
Planning Consultant:	A Sutherland
Heritage Consultant:	Heritage 21
Cost of Works:	\$2,806,858
Zoning:	<p>The site is located within the MU1 Mixed Use Zone.</p> <p>The proposal involves alterations and additions to two existing industrial buildings and changing the use of the buildings to commercial uses (office or business premises). The proposed works and proposed land uses are permissible land uses within the MU1 Mixed Use Zone.</p>
Proposal Summary:	<p>The applicant seeks consent for alterations and additions to two existing industrial buildings, currently used for creative industry purposes and to change the use of the buildings to commercial uses.</p> <p>The applicant states that there are no identified future tenants of the buildings, and as such, seeks consent for the use of the site for a commercial premises generally.</p> <p>The application was lodged with a Public Benefit Offer to provide a monetary contribution for the provision of community infrastructure in Green Square. The application is referred to the Local Planning Panel for determination as the proposal includes a Voluntary Planning Agreement (VPA).</p>

The application has been amended during the assessment, resulting in a substantial change in the presentation and materiality of the building at the corner of Collins Street and Queen Street (11 Collins Street), such that the existing cladding is replaced using corrugated iron rather than contemporary standing seam cladding. The size and number of proposed new openings for doors and windows to this building have been reduced.

Section 6.13 and Section 6.14 of SLEP 2012 provide an opportunity for a further 0.26:1 of FSR with the provision of end of journey floor space and with the provision for community infrastructure within the Green Square locality (328sqm of GFA).

In this case, 16sqm of 'end of journey' floor space is provided, effectively increasing the maximum 'base' FSR for the site from 1:1 to 1.01:1.

In accordance with Clause 6.14 of SLEP 2012, the applicant's contribution towards the provision of community infrastructure within the Green Square locality allows for an additional maximum FSR provision of 0.25:1.

Considering all the relevant FSR provisions provided by SLEP 2012, the maximum permitted FSR for the development is 1.26:1 (1,589sqm).

The amended proposal has an FSR of 1.26:1 (1,591sqm sqm of GFA) and complies with the relevant SLEP 2012 development standards.

The application is accompanied by a public benefit offer in accordance with provisions of Clause 6.14 of SLEP 2012. The offer includes a monetary contribution (\$52,928) for the provision of community infrastructure in Green Square.

The associated planning agreement (VPA/2022/17) was exhibited for 28 days between 5 May 2023 and 3 June 2023 in accordance with the requirements of the Environmental Planning and Assessment Act 1979. Four submissions were received at the completion of the VPA exhibition period.

The submissions raised issues in relation to the provision of parking, how the contributions will be used within Green Square and in relation to noise complaints associated with existing uses of the site. These issues are addressed below in this report and at Attachment E.

A deferred commencement condition is recommended to require the planning agreement to be executed prior to the consent becoming operative and subject to the

recommended conditions contained in Attachment A to the subject report.

In accordance with Council's Community Participation Plan, the development application was notified for 21 days between 27 October 2022 and 18 November 2022. A total of 103 properties were notified and 16 submissions were received. The submissions raised issues in relation to the provision of parking, the retention of affordable rental spaces for creative industries and noise complaints resulting from recent uses of the site. These issues are addressed below in this report and at Attachment E.

The amended application satisfies the relevant controls of the Sydney Local Environmental Plan 2012 and Sydney DCP 2012.

As a result of the modifications made to the proposed development and subject to conditions, the amended proposal presents an improved outcome and comprises a satisfactory response to the conditions of the site and locality. It is generally acceptable with regard to the applicable planning controls, results in a form and scale that achieves the desired future character of the area and exhibits design excellence.

Summary Recommendation: The development application is recommended for deferred commencement approval.

Development Controls:

- (i) Environmental Planning and Assessment Act 1979 (as amended) and Regulation 2021;
- (ii) State Environmental Planning Policy (Resilience and Hazards) 2021;
- (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);
- (v) City of Sydney Development Contributions Plan 2015; and
- (vi) Green Square Affordable Housing Program.

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Public Benefit Offer
- D. Draft Voluntary Planning Agreement

Recommendation

It is resolved that pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application Number D/2022/1021 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposal complies with the relevant controls of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (B) The proposal represents appropriate development for the site.
- (C) Subject to conditions, the proposal satisfies design excellence provisions.
- (D) A public benefit offer has been made and satisfies 6.14 of the Sydney LEP relating to the provision of community infrastructure within Green Square. This is subject to deferred commencement to execute the associated Voluntary Planning Agreement.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 15 in DP 669215 (11 Collins Street) and Lot 2 in DP 806972 (13-15 Collins Street). The combined development site is known as 11-15 Collins Street, Beaconsfield and is located at the south-eastern corner of Collins Street and Queen Street, Beaconsfield (Figure 1).
2. The combined development site is generally rectangular, with an area of approximately 1,260sqm. The site has primary street frontages with vehicular access to both Collins Street and Queen Street. The site is generally level, with footpaths around the site sloping towards the corner of Collins and Queen Street.
3. The site contains two distinct buildings that extend to all site boundaries. The smaller building (11 Collins Street) is a late, interwar industrial warehouse with a gabled roof, which is 2 storeys at the corner of Collins Street and Queen Street and single storey towards the rear (northern boundary). The 2 storey element is constructed from timber with corrugated iron sheet cladding (Figures 3 and 4 below), whereas the single storey element is constructed of brick masonry with a flat metal sheet roof.
4. The larger building (13-15 Collins Street) is a 2 storey 1990's era industrial warehouse, constructed of rendered masonry. The front portion of the building facing Collins Street contains a ground level showroom with an office above, whilst the remainder of the warehouse is full height (single storey).
5. Historic land uses of the site include cabinetmaking, ironworking, framing, textile manufacturing and painting.
6. The surrounding area is characterised by a mixture of land uses, primarily being residential and commercial.
7. The site is not a heritage item and is not located within a heritage conservation area. There are no heritage items within the immediate site context.
8. The site is located within the Beaconsfield locality and is not identified as being subject to flooding.
9. A site visit was carried out on 17 November 2022. Photos of the site and surrounds are provided below.



Figure 1: Aerial view of site and surrounds, showing 11 Collins Street and 13-15 Collins Street.



Figure 2: Site viewed from Collins Street, generally looking north-west.



Figure 3: No. 11 Collins Street, looking north from Collins Street.



Figure 4: No. 11 Collins Street (southern end), looking west from Queen Street.



Figure 5: No. 11 Collins Street (northern end), looking west from Queen Street.



Figures 6 and 7: No. 11 Collins Street interiors.



Figure 8: No. 13-15 Collins Street, looking north from Collins Street.

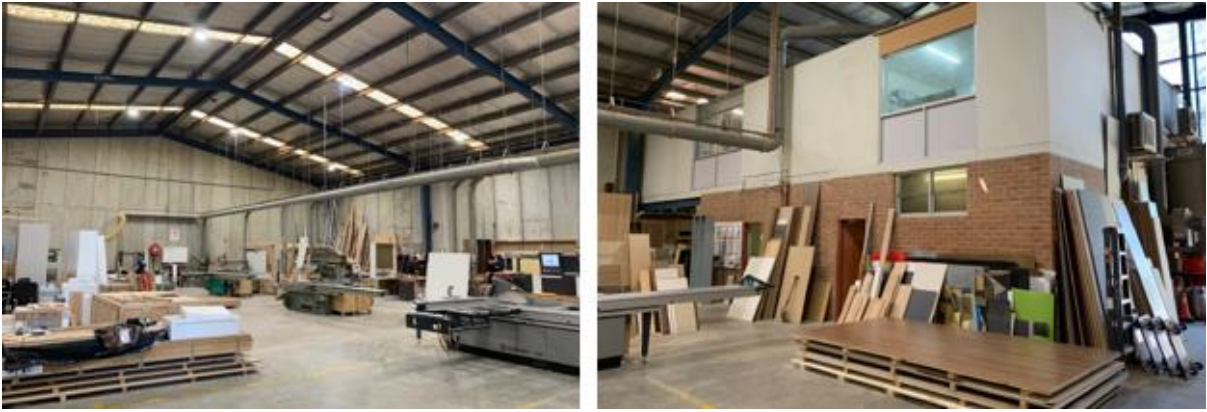


Figure 9: No. 13-15 Collins Street, interiors.



Figure 10: Residential dwellings (rear elevations) west of the site (6-6F William Street), viewed from Collins Street, looking north.



Figure 11: Commercial building located at the northern site boundary of the subject site (100 Queen Street), looking west.



Figure 12: Mixed use development located east of the site (157 Queen Street and 9A-9D Collins Street), looking east.



Figure 13: Commercial building located opposite to the subject site (116 Queen Street), looking south.



Figure 14: Commercial building located opposite to the subject site (8 William Street), looking south.

History Relevant to the Development Application

Development Applications

10. The following application is relevant to 11 Collins Street:
 - **D/2006/2285** – Development consent was granted for the demolition of existing buildings and the construction of 4 x 2 storey town house dwellings with basement car parking for 4 vehicles. The development did not proceed, and the consent has lapsed.
11. The following applications are relevant to 13-15 Collins Street:
 - **D/1989/569** – Development consent was granted for the use the premises for office/warehouse for air conditioning servicing;
 - **BA/1990/140** – Development consent was granted for the erection of a 2 storey office/warehouse building;
 - **D/1991/287** – Development consent was granted for the upgrade of the building for the use as a shopfitters; and
 - **BA/1991/816** – Development consent was granted for the upgrading of the building.

Compliance Action

12. In January and February 2023, noise complaints were received in relation to parties being held within the premises. On 23 February 2023, a site inspection was carried out by Council's compliance officer.
13. On 6 September 2023, a site inspection was carried out by Council's compliance officer, who noted that unauthorised uses of the premises had ceased, and the site had been vacated.

Amendments

14. In response to issues raised by Council's officers, amended drawings and supporting documents were provided in April 2023 and June 2023.
15. Amended drawings provided in April 2023 show the following changes:
 - (a) the Collins Street facade of 11 Collins Street amended to retain an existing timber door, and to provide a window design that is more in keeping with the existing condition;
 - (b) further information to detail the retention of existing structure, with regard for the retention of timber structure within the brick portion of the building facing Queen Street; and
 - (c) bicycle parking spaces relocated to the eastern side of the driveway entry, with additional protection as a result of a new kerb edge. A proposed car lift has been deleted.

16. Following a review of the amended plans by Council's officers, further amended drawings were provided in June 2023, including the following changes:
- (a) demolition drawings provided, identifying the amount of structural fabric to be removed from the interwar corner building;
 - (b) 12 x additional metal columns illustrated in the Concept Structural Design report are now shown;
 - (c) in relation to 11 Collins Street, existing corrugated iron cladding is shown as being replaced with new corrugated iron. The roof form now has eaves and gutters;
 - (d) windows for the interwar building at the corner of Collins and Queen Streets now match existing openings;
 - (e) a large corner window at the corner of Collins and Queen Streets deleted; and
 - (f) a previously proposed glass balustrade at the first floor level open space has been replaced with a steel railing.

Note: Council's urban designer suggested further design revisions that are included as recommended conditions of consent. See further discussion below in the referrals section..



Figure 15: Architectural render showing proposed development at the time of lodgement (south elevation and south-eastern corner).



Figure 16: Architectural render showing amended development (south elevation and south-eastern corner).



Figure 17: Architectural render showing proposed development at the time of lodgement (east elevation and view from north-eastern corner).



Figure 18: Architectural render showing amended development (east elevation and view from north-eastern corner).

17. The following supporting documents have been provided for assessment:
- (a) a Preliminary Site Investigation, which recommended further investigation be undertaken to assess soil and groundwater quality on the property, including intrusive sampling and associated analysis. Subsequently, the applicant provided a Remedial Action Plan and Interim Advice prepared by a site auditor. See discussion below - Resilience and Hazards SEPP;
 - (b) a Waste Management Plan, which recommends the number of bins to be stored within the site, with regard for the proposed future commercial uses;
 - (c) an environmental sustainability report, confirming that due to the complete site coverage of the building, rainwater re-use and internal rainwater tanks are not proposed. Instead, high efficiency water fixtures are proposed;
 - (d) a Conceptual design report has been provided, showing the extent of structural columns. The applicant's Heritage consultant has provided a letter of support, recommending:
 - (i) the existing corrugated iron cladding should be replaced, as it is in various stages of deterioration;
 - (ii) as the existing building is not a heritage item it is appropriate to allow an interpretation, rather than replica; and

- (iii) the retention of the “existing timber door” and this has been included in the updated architectural drawings.
- (e) A plan of management has been provided outlining the hours of operation for proposed roof terraces (7:00am to 10:00pm, daily) and specifying that no amplified music will be played at any time on the roof terraces.

Proposed Development

18. The application seeks consent for alterations and additions to two existing industrial buildings and for the change of use of the site to commercial premises. Three tenancies are proposed within the two buildings at the conclusion of the works. Two open terraces are proposed at level 1.

Demolition

19. 11 Collins Street: new openings are proposed to the eastern, western and southern facades to provide for doors and windows, however the internal timber structure is to be retained; and
20. 13-15 Collins Street: the Collins Street southern facade is proposed to be demolished as is an existing internal mezzanine office.

Proposed works

11 Collins Street:

- (a) two new commercial tenancies to be created at the Queen Street frontage of the site, with a pedestrian entry lobby and lift to level 1;
- (b) new openings to the Collins Street and Queen Street frontages, to provide for doors and windows; and
- (c) two roof terraces to the Collins Street and Queen Street frontages, including a southern terrace (46sqm) and an eastern terrace (131sqm).

13-15 Collins Street:

- (d) one new commercial tenancy to be created extending over two levels;
- (e) vehicular and pedestrian entry from Collins Street; and
- (a) a parking, waste and servicing area is to be created within 13-15 Collins Street with end of journey facilities.

External works:

- (b) both walls and roofs of buildings at 11 Collins Street and 13-15 Collins Street are to be re-surfaced using metal cladding. The north-eastern masonry section of 11 Collins Street is to be stripped of paint and exposed brickwork is to remain; and
- (c) new doors and windows to be installed across the southern and eastern boundaries. No new openings are proposed at the northern and western boundaries.

21. Plans and elevations of the development are provided below.

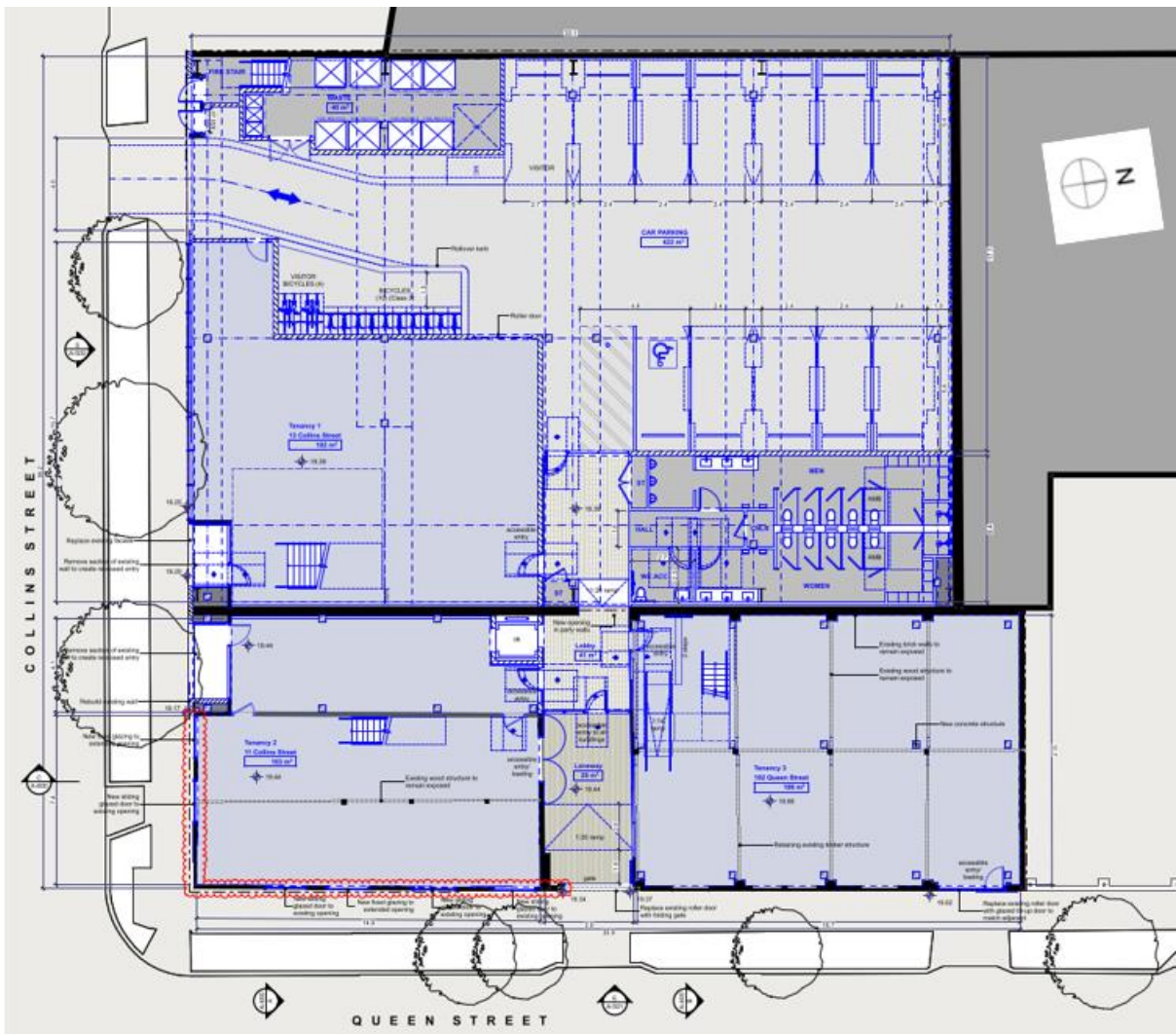


Figure 19: Ground level drawing.

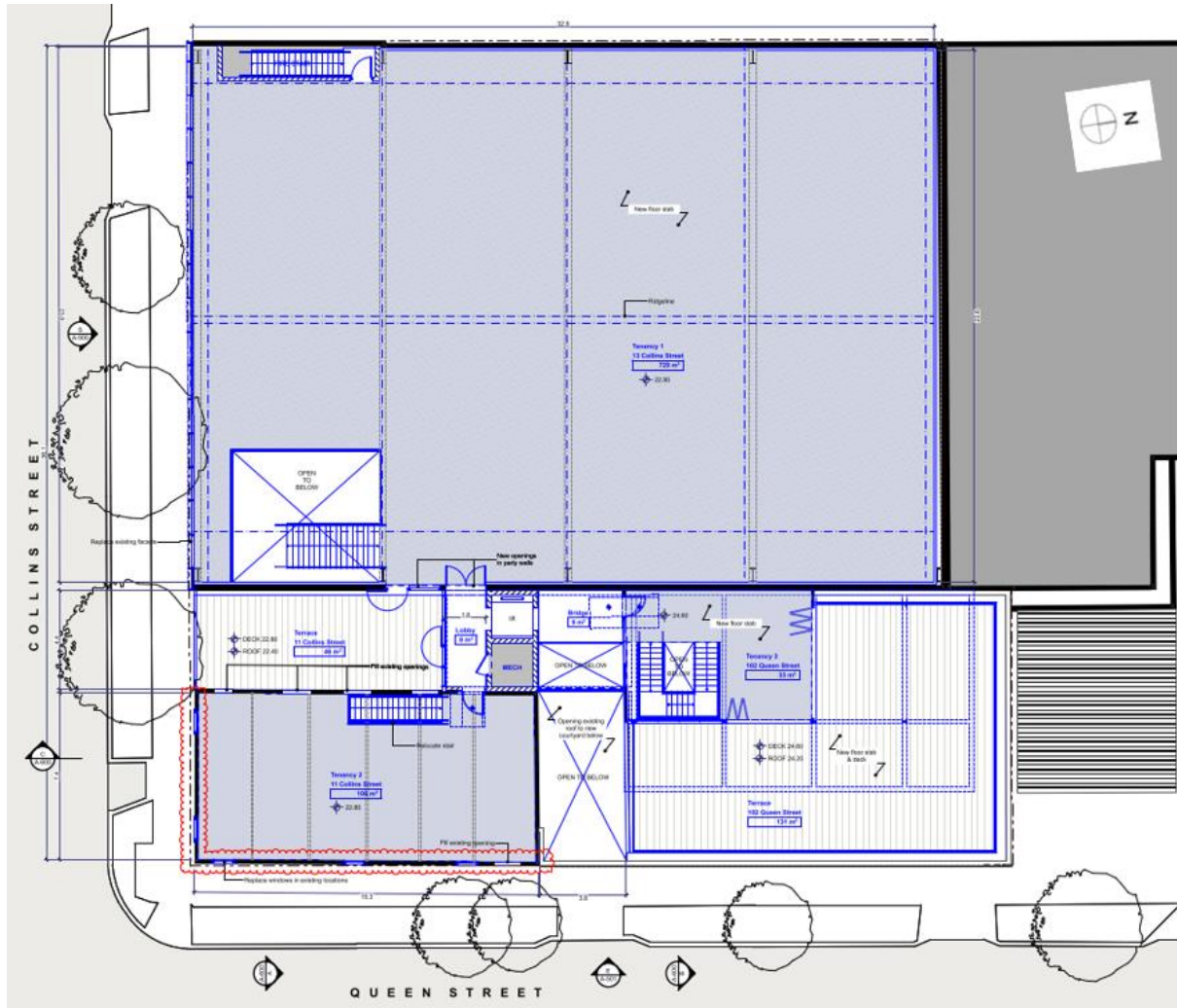


Figure 20: Level 1 drawing.

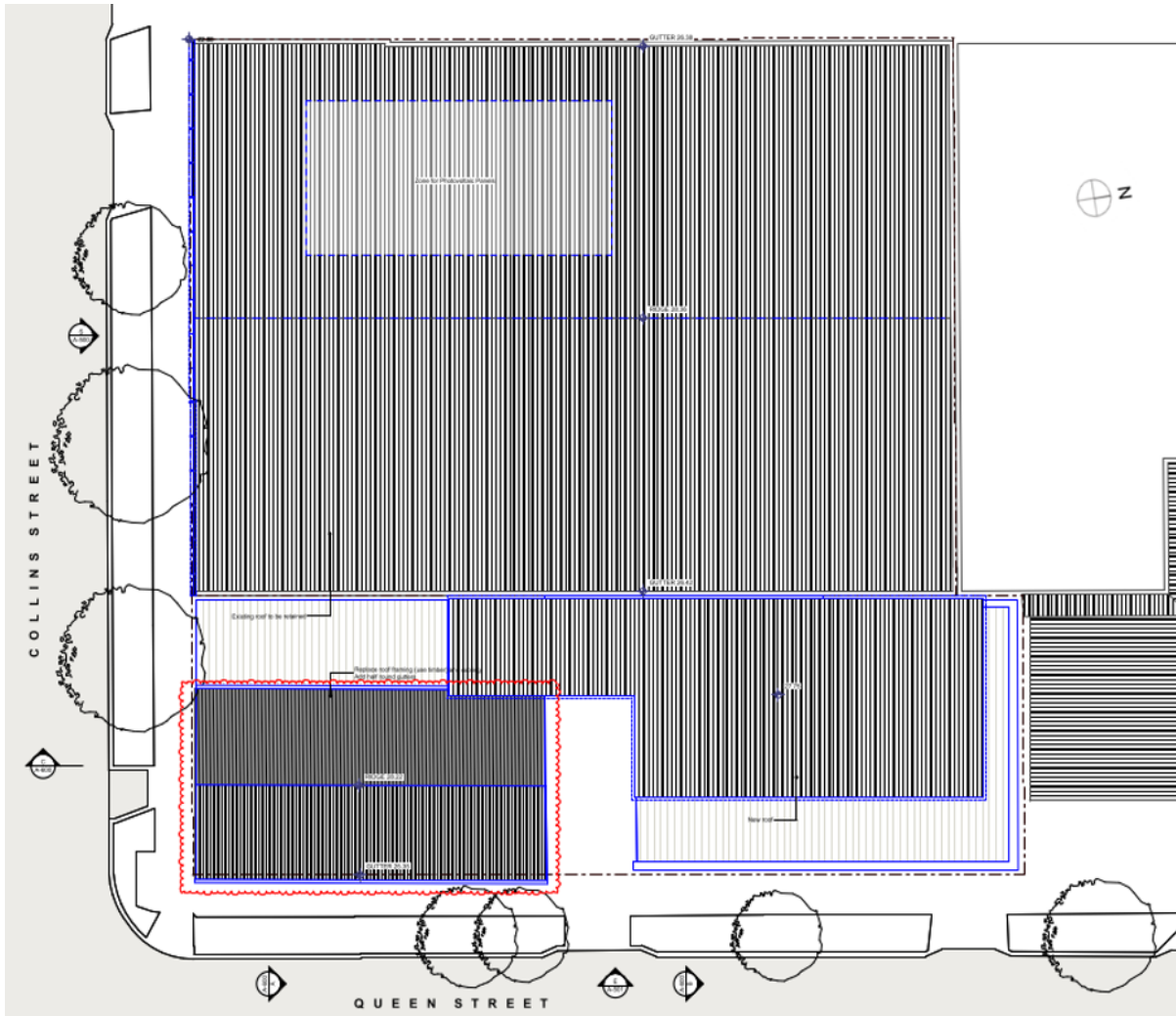


Figure 21: Roof Plan



Figure 22: South elevation drawing (Collins Street).



Figure 23: East elevation drawing (Queen Street).



Figure 24: Ground level drawing.

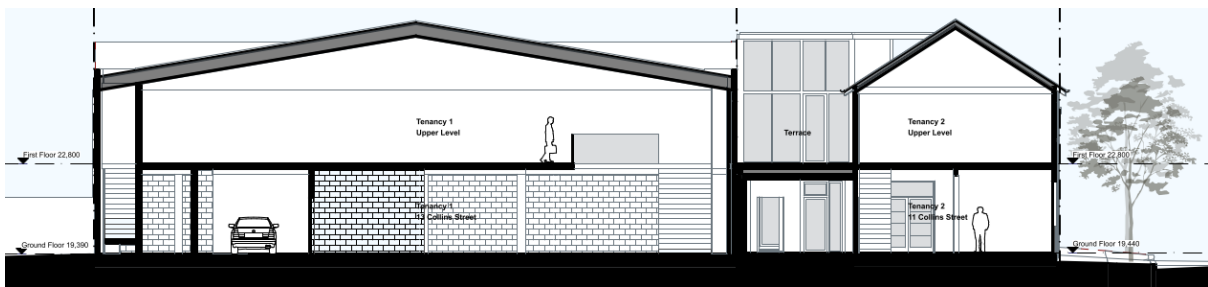


Figure 25: Section drawing (Queen Street right).

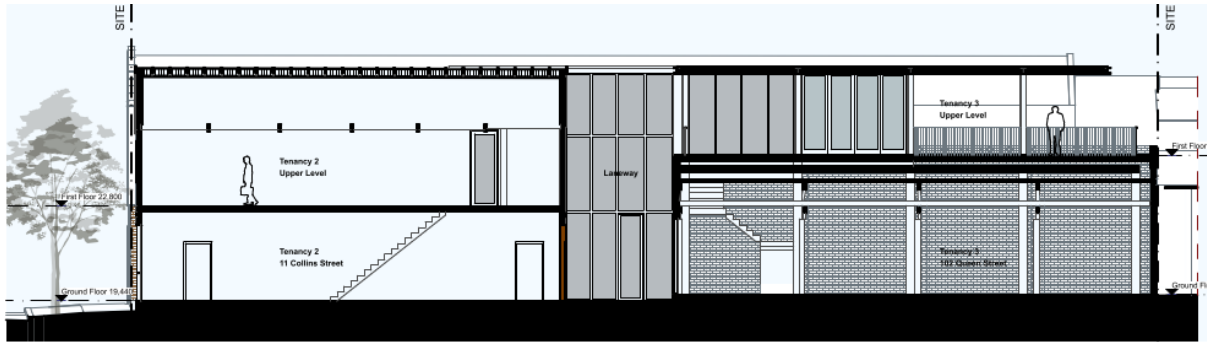


Figure 26: Section drawing (Collins Street left).

Assessment

22. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

State Environmental Planning Policies

State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4

Remediation of Land

23. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
24. Site investigations have identified the following contaminants as being potentially present on the site:
- (a) heavy metals, hydrocarbons, petrochemicals, volatile organic compounds, pesticides, phenols, cyanide, asbestos and PFAS.
25. A Remediation Action Plan (RAP) relating to the site, accompanied by a letter of interim advice has been submitted with the development application.
26. The RAP proposes a variety of works to be carried out following demolition works and prior to subsequent construction works, including a visual inspection off site soils, waste classification and off-site disposal and the capping of the site as a containment strategy. The interim advice confirms the above approach is appropriate.
27. Council's health and building specialist has reviewed the contamination documents, noting:
- (a) the NSW EPA Site Auditor has confirmed that, the remedial strategy of excavation and offsite disposal and capping and containing is feasible;
 - (b) the site can be made suitable for the development subject to conditions requiring further sampling and analysis being undertaken, in accordance with NSW EPA guidelines and subject to further review by a NSW EPA Accredited Site Auditor prior to implementation;

- (c) the RAP must be revised to incorporate the results of the additional investigations and the extent of remediation required. The revised RAP must be reviewed and approved by a NSW EPA Accredited Site Auditor before implementation; and
- (d) following completion of the remediation, a Site Audit Statement and Site Audit Report to be issued, certifying that the site is suitable for the proposed use.
28. Council's health and building specialist notes that additional investigations cannot be undertaken until the building is vacant and the concrete slabs are removed. It is recommended that no building work, other than enabling works such as shoring, slab removal and excavation, be undertaken until the revised RAP has been approved by a NSW EPA Accredited Site Auditor. The proposed cap and contain strategy will require implementation of a long term environmental management plan (EMP).

State Environmental Planning Policy (Industry and Employment) 2021 – Chapter 3 Advertising and Signage

29. Three commercial tenancies are proposed however, no business identification signs are proposed. Drawings show indicative signage that comprises oversized numbers that delineate the street address (Figure 23 above).
30. A condition is recommended that a signage strategy be provided for approval by Council's Area Planning Manager, prior to the issue of a construction certificate. See discussion section below.

Local Environmental Plans

Sydney Local Environmental Plan 2012

31. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the MU1 Mixed Use zone. The proposed development is defined as commercial premises and is permissible with consent within the zone. The proposed works and future land uses satisfy the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	A maximum building height of 12m is permitted. The proposed works maintain the height of the existing building,

Provision	Compliance	Comment
		approximately 9.1m above existing ground levels.
<p>4.4 Floor space ratio</p> <p>6.13 End of journey floor space</p> <p>6.14 Community infrastructure floor space at Green Square</p>	Yes	<p>A maximum floor space ratio of 1:1 (1,260sqm) is permitted.</p> <p>Section 6.13 of SLEP2012 provides that a building used only for the purposes of commercial premises and provides end of journey floor space, is eligible for an amount of additional floor space (end of journey floor space) equal to the floor space occupied by those facilities (16sqm).</p> <p>In this case, 16sqm of end of journey floor space is provided, effectively increasing the maximum FSR for the site from 1:1 to 1.01:1 (1,260sqm to 1,276sqm).</p> <p>Further, section 6.14 of SLEP 2012 provides an opportunity for a further 0.25:1 FSR with the provision for community infrastructure within the Green Square locality.</p> <p>As part of the application, the owner has made a formal offer to enter into a Voluntary Planning Agreement (VPA) with Council (see Appendix D).</p> <p>Council's VPA specialist has reviewed the offer and confirms that the formal offer involves payment of a monetary contribution for community infrastructure provision within the Green Square locality.</p> <p>Considering all the relevant FSR provisions provided by SLEP 2012, the maximum permitted FSR for the development is 1.26:1 (1,589sqm).</p> <p>The amended scheme has a FSR of 1.26:1 (1,591sqm of GFA), which complies with the maximum permissible FSR for the site.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 2 Additional floor space outside Central Sydney		
<p>6.13 End of journey floor space</p> <p>6.14 Community infrastructure floor space at Green Square</p>	Yes	<p>The proposed development is eligible for an additional maximum floor space ratio associated with the provision of End of journey floor space and the provision of infrastructure within the Green Square locality of 0.25:1. See discussion above.</p>
Division 4 Design excellence		
6.21 Design excellence	Yes	<p>The development is of a high standard and uses materials and detailing that are compatible with the existing development along the street. The proposal will contribute positively to the character of the area and provides a suitable bulk, massing and modulation of buildings, per clause 6.21C(2)(a) and 6.21C(d)(iii) of SLEP2012.</p> <p>The proposal has been amended to maintain the setting of a timber building that is clad using corrugated iron sheeting. Windows and openings have been amended to reflect the existing condition of the site more closely. As such, the form and external appearance of the proposed development will improve the quality and amenity of the public domain and addresses heritage issues, per clauses 6.21C(2)(b) and 6.21C(d)(iii) of SLEP2012.</p> <p>Conditions are recommended to ensure the proposed development will provide for sustainable design and construction methodology (see discussion section below), per clauses 6.21C(d)(vii) and clause 6.21C(d)(viii) of SLEP2012.</p> <p>There is provision for the storage of bicycles within end of journey facilities, per clause 6.21C(d)(ix) of SLEP2012.</p>

Provision	Compliance	Comment
		<p>A condition is recommended requiring the installation of additional landscape planters to the level 1 terraces, per clause 6.21C(d)(xiii) of SLEP2012.</p> <p>The development therefore achieves design excellence.</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.6 Office premises and business premises	Yes	<p>A maximum of 21 car parking spaces are permitted.</p> <p>The proposed development includes 12 car parking spaces and complies with the relevant development standards.</p>
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	Yes	<p>The proposal involves the change of use of greater than 60 square metres of existing floor area of a building. As such, Clause 7.13 of SLEP 2012 (contribution for purpose of affordable housing) applies.</p>
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	<p>The site is located on land with class 5 Acid Sulfate Soils. The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan.</p>
7.15 Flood planning	Yes	<p>The site is not identified as being subject to flooding.</p>
7.19 Demolition must not result in long term adverse visual impact	Yes	<p>There are no substantial excavations that would result in adverse visual impacts for the locality in the long term.</p>
7.23 Large retail development outside of Green Square Town	Yes	<p>There are 3 x proposed tenancies to be used for office of commercial purposes.</p>

Provision	Compliance	Comment
Centre and other planned centres		<p>There are no tenancies that exceed 1,000sqm (tenancy 1: 911sqm, tenancy 2: 269sqm and tenancy 3: 229sqm).</p> <p>A condition is recommended that the approved three (3) commercial tenancies must not be consolidated into larger tenancies without prior approval from Council.</p>

Development Control Plans

Sydney Development Control Plan 2012

32. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

Section 2 – Locality Statements

33. The site is located within the Beaconsfield locality. The proposed development is in keeping with the unique character and the design principles of the locality in that it contributes to the existing built form pattern for development within the visual catchment of the site; and in that it retains the current lot size and mixed use setting of the site.

Section 3 – General Provisions

Provision	Compliance	Comment
3.2. Defining the Public Domain	Yes	The amended proposal will contribute to the activity, amenity and quality of streets and the public domain. It presents as a development that is appropriate to the adjacent streets and public domain in terms of scale, finishes and architectural character. Legible and accessible entries are provided from the street.
3.5 Urban Ecology	Yes	The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology. Conditions are recommended requiring the addition of landscaped planters.

Provision	Compliance	Comment
3.6 Ecologically Sustainable Development	Yes	Subject to recommended conditions, the proposal can satisfy environmental requirements.
3.7 Water and Flood Management	Yes	The site is not identified as being on flood prone land.
3.8 Subdivision, Strata Subdivision and Consolidation	N/A	The proposal does not involve subdivision of the site.
3.9 Heritage 3.10 Significant Architectural Building Types	Yes	The site is not located within a heritage conservation area and is not a heritage item. Notwithstanding this, the development has been significantly amended to provide alterations to an existing warehouse building at the corner of Collins Street and Queen Street. See amendments section above.
3.11 Transport and Parking	Yes	<p>The amended proposal provides car parking provision for 12 car parking spaces and does not exceed SLEP2012 requirements. Bicycle parking areas have been redesigned to provide a safer provision and satisfactory end of journey facilities are provided.</p> <p>A condition is recommended requiring the preparation of a Construction Traffic Management Plan, prior to the commencement of works.</p>
3.12 Accessible Design	Yes	Multiple entry points are provided at grade and a lift is proposed to access the first floor level of the development.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.
3.15 Late Night Trading Management	Conditions applied	The site is not located within a dedicated late night trading area, as defined by SDCP2012. The applicant has not

Provision	Compliance	Comment
		<p>specified hours of operation for the proposed commercial tenancies.</p> <p>A condition is recommended that development consent (DA or Complying Development Certificate, as appropriate) is required to be obtained, prior to the commencement of any use.</p>
3.16 Signage and Advertising	Condition applied	A condition is recommended that a signage strategy be provided for approval by Council's Area Planning Manager, prior to the issue of a construction certificate. See discussion section below.

Section 4 – Development Types

4.2 Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	Yes	<p>The site is permitted a maximum building height of 2 storeys with no applicable maximum street frontage height in storeys control.</p> <p>The proposed development is 2 storeys in height.</p>
4.2.1.2 Floor to ceiling heights and floor to floor heights	No	<p>The proposed development provides floor to floor heights of approximately 3.4m for the ground floor and 5.7m for the first floor level.</p> <p>The proposal does not comply with section 4.2.1.2 of SDCP 2012 that specifies ground levels should be provided with floor to floor height of 4.5m.</p> <p>Notwithstanding this, the proposal can be supported noting it involves alterations and additions to an existing building where the proposed ceiling heights broadly reflect the existing condition.</p>

Provision	Compliance	Comment
4.2.2 Building setbacks	Yes	Proposed works extend to all site boundaries, which reflects the existing condition of the site. SDCP 2012 does not specify any additional setbacks to provide for public domain amenity.
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	The proposal involves alterations to existing buildings and will not have any significant impacts for neighbouring buildings in relation to solar access. Proposed level 1 terraces will receive adequate solar access at the winter solstice.
4.2.3.5 Landscaping	Condition applied	A condition is recommended, requiring additional planters at the edges of terraces on the first level.
4.2.3.6 Deep Soil	N/A	Existing buildings extend to all site boundaries.
4.2.3.11 Acoustic privacy	Yes	The applicant has not specified hours of operation for the proposed commercial tenancies. A Plan of Management (POM) has been provided, that sets out the operation of the first floor roof terrace. The POM specifies that the roof terrace will only be used between the hours of 7:00am and 10:00pm daily, and that no amplified music will be played at any time within the outdoor terraces.
4.2.6 Waste and recycling Management	Yes	A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.
4.2.7 Heating and cooling infrastructure	Condition applied	The applicant states that there is no proposed heating and cooling infrastructure as part of this development. Notwithstanding this, there is sufficient space at the roof levels to provide for areas of plant that are not

Provision	Compliance	Comment
		visible from the public domain. A condition is recommended, requiring the location of plant to be shown on amended drawings.

Section 5 – Specific Areas - Green Square

Provision	Compliance	Comment
5.2.3 Community infrastructure	Yes	<p>The amended development contributes to the desired character of the Beaconsfield locality will not significantly impact upon the amenity of the locality.</p> <p>The control provides that where a contribution towards infrastructure works is proposed to the satisfaction of the consent authority, consent may be granted for development up to the maximum gross floor area achievable under Clause 6.14 of Sydney LEP 2012.</p>
5.2.9 Building design	Yes	<p>The proposal is of a scale compatible with the locality.</p> <p>The proposal uses an appropriate variety of materials and textures, including face brick, metal cladding and metal work for balconies.</p>
5.2.12 Above ground parking spaces and adaptable car parking spaces	Yes	The design of above ground car parking spaces and associated vehicular circulation areas are easily adaptable to other future uses, for example retail, commercial or residential.

Discussion

Recommended design Changes

34. Council's assessing officers have reviewed the amended drawings provided in June 2023. Council's urban designer suggested that further design revisions be made, such that it satisfies the City's design excellence requirements, per section 6.21C of SLEP2012. These design revisions are included in the recommended 'Design Modification' condition (Condition 2) of the notice of determination as follows.

Materiality - masonry base (13-15 Collins Street)

35. The development works include demolishing the entire front (southern) facade of 13-15 Collins Street and re-building using a contemporary masonry and glazed shopfront. The replacement ground level facade incorporates a long masonry span that is uncharacteristic of warehouse buildings in that it fails to reflect the language of traditional warehouse building that use masonry pilasters to extend to the ground level, subdividing glazed window sections.
36. A condition is recommended, requiring a greater solid to void ratio at the ground floor level that is more reflective of traditional masonry warehouses. The condition requires the extent of proposed glazing to the Collins Street frontage to be reduced, resulting in a more characteristic warehouse typology that reads as a 'masonry base or plinth' with vertically proportioned openings (Figure 28 below).



South Elevation

Figure 27: No. 13 Collins Street: Architectural render showing proposed development at the time of lodgement (south elevation and south-eastern corner).



Figure 28: Suggested details (highlighted red and inserted by Council officer) showing increased masonry columns to the Collins Street facade.

Metal cladding colour - reduce urban heat island effect

37. The development works include replacing existing corrugated iron cladding to the corner building (11 Collins Street). The proposal also involves re-building 13-15 Collins Street using extensive areas of replacement metal cladding. Both areas of cladding are proposed to be installed using 'Basalt' colour, which is a dark grey that is not reflective and that will contribute to the urban heat island effect.
38. The application therefore fails to satisfy the provisions of section 6.21C(2)(viii) of SLEP in relation to achieving the principles of ecologically sustainable development.
39. To mitigate this issue, a condition is recommended that all sections of replacement cladding, including at the roof level of both buildings, must be installed using a mid-grey colour that is less heat absorbent, with a Solar Absorptance (SA) value of 0.60 or less.

Building and Business Identification Signage

40. The provisions of section 3.16.1 of SDCP2012 (Signage strategy) only generally apply to signage applications in a heritage conservation area or involving a heritage item or on sites that are strata titled or contain more than four business premises. However, the subject development will provide three separate commercial tenancies all with frontages to either Collins Street or Queen Street.
41. It is reasonable that all tenancies would require business identification signage at the edges of the buildings, however no signage is proposed under this application. As such, there is merit in applying the signage strategy provisions of SDCP2012, potentially avoiding the installation of incongruous signage.
42. A condition is recommended that a signage strategy be provided and approved by Council's Area Planning Manager, prior to the issue of a construction certificate. The strategy will address the most suitable locations for signage, as well as the most suitable materiality for future business identification signage.

Landscaping

43. The development site extends to all site boundaries, with no opportunity for the planting of canopy trees that would otherwise contribute to mitigating the urban heat island effect or contribute to the City's tree canopy targets.
44. A condition is recommended to provide further opportunity to enhance the green setting, in the form of landscaping to be provided to the roof decks facing Collins Street and Queen Street.

Residential amenity

45. Public submissions raise issues in relation to recent uses that have resulted in noise complaints.
46. The proposed uses are commercial in nature and of a type that would generally be expected not to result in any significant impacts for neighbouring properties. Notwithstanding this, a proposed first floor terrace area may be used after hours by future tenants and may result in noise disturbance for neighbouring properties.

47. To address this issue, the applicant has provided a Plan of Management (POM) that sets out the operation of the first floor roof terrace. The POM specifies that the roof terrace will not be used outside of the hours of 7:00am to 10:00pm daily, and that no amplified music will be played at any time within the outdoor terraces. A condition is recommended, requiring future tenants to adhere to the terms of the POM.

Creative production spaces

48. The building at the corner of Collins Street and Queen Street (11 Collins Street) currently contains a number of partitioned spaces that are rented by artists and used for creative industries.
49. The City's Strategy Advisor for Culture has commented on the proposed development, advising that the City has set a target of reclaiming / reinstating 40,000 sqms of creative production space within the Local Government Area by 2036. The City's Strategy Advisor recommends that a condition be applied, requiring the provision of artist / creative studios.
50. Whilst this suggestion has merit there are no planning controls that authorise the imposition of such of condition to achieve this objective. Therefore, this condition could not be enforced as it is likely to be held to be invalid if challenged in Court because it lacks a planning purpose.
51. This does not preclude the use of the proposed tenancies for artistic purposes, as these are permissible land uses within the MU1 Mixed Use zone. However, there is no mechanism to impose a requirement for tenancies to be offered only to artists or as creative studios.

Consultation

Internal Referrals

52. The application was discussed with Council's:
 - (a) Building Services Unit - note the proposed building work represents more than half the total volume of the building; and that the BCA compliance report details non compliances (inadequacies) in the base building, impacting on fire safety and egress.

They recommend that in line with Section 64 of the Regulations, a condition requiring all existing fire and life safety deficiencies (In relation to Part C1 and C2) inherent in the base building to be upgraded to comply with the current BCA and that the terms of the Disability (Access to Premises – Buildings) Standards 2010 be considered by the Certifying Authority prior to a Construction Certificate being issued.
 - (b) Environmental Health Unit - advise the site can be made suitable for the proposed development subject to conditions (see Resilience and Hazards SEPP discussions above).
 - (c) Voluntary Planning Agreement specialists - advise the VPA has been publicly exhibited and conditions should be applied (refer below);
 - (d) Heritage and Urban Design Unit - recommend a number of design refinements as discussed above;

- (e) Environmental Sustainability Advisor - recommends conditions for the provision of PV cells, lighting design, commitments to heating, ventilation, and air conditioning, provision for no gas connection or consumption is to be maintained and water efficient appliances.
- (f) Transport and Access Unit - support the proposal, subject to a condition requiring the preparation of a Construction Traffic Management Plan;
- (g) Waste Management Unit - support subject to a condition requiring the preparation of a Waste Management Plan;
- (h) The City's Strategy Advisor on Culture - raise concerns relating to the loss of artist / creative studios as discussed above;
- (i) Public Domain Unit - recommend conditions requiring the Public Domain Damage Bond condition be applied; and
- (j) Surveyor - recommends standard conditions of consent.

53. Where appropriate, these conditions are included in the recommendation.

External Referrals

Ausgrid

- 54. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.
- 55. A response was received raising no objections to the proposed development.

Advertising and Notification

- 56. In accordance with the City of Sydney Community Participation Plan 2019, the development was notified for a period of 21 days between 27 October 2022 and 18 November 2022. A total of 103 properties were notified and 16 submissions were received.
- 57. The submissions raised the following issues:
 - (a) **Issue:** the proposal may result in a loss of floor space that may be rented by community / cultural businesses. Affordable artist spaces are scarce for emerging artists. The heritage impact statement overlooked Criterion D - Social Significance, in that it has not recognised the social and cultural significance that the Barn and the Stables has had and continues to have.

Response: as outlined in detail above, the site is not a listed heritage item and is not located within a heritage conservation area; and there are no planning controls that require a percentage of the site to remain affordable floor space for cultural or creative industries. However, this does not preclude the use of the proposed tenancies for artistic purposes, as these are permissible land uses within the MU1 Mixed Use zone.

- (b) **Issue:** An existing wooden sliding door at the Collins Street facade should be maintained, and it is integral to the industrial aesthetic of the building. The original wooden structure of the warehouse should be maintained.

Response: the facades of 11 Collins Street have been substantially altered during assessment to maintain the character of the building. An original timber door is proposed to be reinterpreted using a timber shutter and a condition is recommended, requiring the internal timber structure be kept.

- (c) **Issue:** concerns raised in relation to disposal of recyclable timber and other material during construction works.

Response: Conditions are recommended requiring the timber frame of 11 Collins Street to be maintained. The applicant's heritage consultant advises corrugated iron cladding, which is proposed to be removed and replaced, is in poor condition.

- (d) **Issue:** current uses of the development site impact upon the neighbourhood in relation to noise. Any redevelopment of the site should not result in similar impacts.

Response: A condition is recommended, requiring the site to be operated in accordance with a plan of management (POM) that specifies the proposed hours of operation for first level terraces and that specifies no amplified music will be played within the terraces.

- (e) **Issue:** There are insufficient car parking spaces in the locality, and the original number of car parking spaces should be maintained. The proposed development should have 21 parking spaces, however only 12 are provided. The increased number of vehicles entering and exiting the site may cause safety issues for cyclists. It is difficult to access Collins Street during peak hours.

Response: The SLEP2012 controls specify a maximum number of car parking spaces (21 spaces), however do not specify a minimum number of spaces. The proposal will provide 12 car parking spaces and 14 bike parking spaces. Entry and egress are capable of being carried out in a forward direction and the operation will not have any significant impacts for street or pedestrian safety.

58. Planning agreement VPA/2022/17 was exhibited for 28 days between 5 May 2023 and 3 June 2023 in accordance with the requirements of the Environmental Planning and Assessment Act 1979. Four submissions were received at the completion of the VPA exhibition period.
59. The submissions raised issues in relation to the provision of parking, how the contributions will be used and noise complaints from existing uses of the site. These issues are addressed elsewhere in this report.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

60. The development is subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015 (\$79,213.82).

61. Credits have been applied for the most recent approved use of the site. In particular, 534sqm of light industrial area, 789 of general industrial area and 134sqm of office space.
62. A condition relating to this development contribution is recommended and requires the contribution to be paid prior to the issue of a construction certificate.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

63. The development involves a change of use of more than 60 square metres of existing floor area of a building, and pursuant to Clause 7.13(1)(b) of SLEP2012, is subject to the payment of Contribution for purpose of affordable housing.
64. A contribution is required at a rate of \$99.82 per square metre of total non-residential floor area 1,694sqm totalling \$196,499.63. A condition is recommended requiring payment prior to the issue of a construction certificate. This figure has been indexed to ensure it reflects the costs associated with providing affordable housing units over time.
65. Section 7.32 of the Act outlines that the consent authority may grant consent to a development application subject to a condition requiring dedication of part of the land for the purpose of providing affordable housing, or payment of a monetary contribution to be used for the purpose of providing affordable housing where the section of the Act applies. The Act applies with respect to a development application for consent to carry out development within an area if a State environmental planning policy identifies that there is a need for affordable housing within the area and:
 - (a) the consent authority is satisfied that the proposed development will or is likely to reduce the availability of affordable housing within the area; or
 - (b) the consent authority is satisfied that the proposed development will create a need for affordable housing within the area; or
 - (c) the proposed development is allowed only because of the initial zoning of a site, or the rezoning of a site; or
 - (d) the regulations provide for this section to apply to the application.
66. The proposal is consistent with the criteria under part Section 7.32(1)(c) of the Act. That is, the proposed development comprises works to facilitate the ongoing commercial uses of the site, which are permissible because of the initial zoning of the site.
67. An affordable housing condition may be reasonably imposed under Section 7.32(3) of the Act subject to consideration of the following:
 - (a) the condition complies with all relevant requirements made by a State environmental planning policy with respect to the imposition of conditions under this section;
 - (b) the condition is authorised to be imposed by a local environmental plan, and is in accordance with a scheme for dedications or contributions set out in or adopted by such a plan; and

- (c) the condition requires a reasonable dedication or contribution, having regard to the following:
- (i) the extent of the need in the area for affordable housing;
 - (ii) the scale of the proposed development;
 - (iii) any other dedication or contribution required to be made by the applicant under this section or section 7.11; and
 - (iv) noting the Affordable Housing Program identifies that an affordable housing contribution amounting to more than 15 per cent of the agreed cost of construction is unreasonable.

As detailed above, the affordable housing contribution amount is \$169,095.10 which equates to 6 per cent of the proposed cost of works (\$2,806,858). In this respect, the contribution amount is not considered unreasonable.

68. Having regard to the provisions of Section 7.32 of the Act, the imposition of an affordable housing contribution is reasonable. A condition of consent is recommended requiring the payment of an affordable housing contribution prior to the issue of a construction certificate.

Relevant Legislation

69. Environmental Planning and Assessment Act 1979.

Conclusion

70. The proposal, as amended, provides a suitable commercial development that contributes to the mixed use character of the Green Square and Beaconsfield localities.
71. The proposal is appropriate in its setting and is generally compliant with the relevant planning controls in the SLEP 2012 and the SDCP 2012, including the applicable building height and floor space ratio controls. Subject to conditions, the proposed development will provide high amenity for future occupants of the site and will not have any significant environmental impacts for neighbouring dwellings.
72. It is recommended that the application be approved, subject to the relevant deferred commencement condition regarding the execution of the VPA.

ANDREW THOMAS

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