

Item 7.**Development Application: 8-24 Kippax St, Surry Hills - D/2023/1162****File No.:** D/2023/1162**Summary**

Date of Submission:	The application was lodged on 9 January 2024. Amended architectural drawings and an amended Civil Engineering report were provided on 24 April 2024.
Applicant/Owner:	Canva Pty Ltd.
Architect:	Cox Architects
Planning Consultant:	Ethos Urban
Cost of Works:	\$56,506,656
Zoning:	The site is located within the MU1 Mixed Use Zone. The proposed development relates to the adaptive re-use of an existing building for commercial office uses, which is a permissible land use within the zone.
Proposal Summary:	<p>The proposal involves the adaptive reuse of an existing 10 storey commercial building for ongoing office uses. The proponent is Canva, an online design and visual communications company. Canva are also the site owner.</p> <p>The proposal involves:</p> <ul style="list-style-type: none">• retention of the majority of existing building structure with insertion of new structural bracing, reinforcing of existing fabric and new fenestration;• demolition and re-construction of the lift and circulation core to the eastern edge of the building;• relocation of an existing two vehicle loading dock from Kippax Street to Sophia Street, new waste holding room and replacement of an existing substation at Sophia Street;

- conversion of two existing parking levels containing 55 car spaces into end of journey facilities, providing 93 bike parking spaces, showers, lockers and plant areas;
- demolition and refurbishment of ground level facades and construction of a double height 'Town Hall' ante-space, to be used for staff presentations and events;
- provision of staff amenities including a gym, and commercial kitchen and a community cafe at the corner of Terry and Sophia Streets, operated by not-for-profit organisations, supported by the Canva Foundation;
- conversion of levels 1 to 9 to open plan office spaces with winter gardens at the north-western corner of Terry and Sophia Streets;
- installation of business identification signage, including a top of building sign at the northern elevation and two dynamic signs at the Kippax Street frontage; and
- a new rooftop addition containing plant and amenities and a communal landscaped roof terrace with acoustic screen and installation of a bio-solar green roof, consisting of solar panels installed over a green roof planting area.

The proposal has been further amended during the assessment of the application. Architectural drawings have been amended to provide floor levels that are consistent with those recommended by a flood report.

Amended architectural drawings have been provided showing a loading dock on Sophia Street and the deletion of bi-fold doors that would have extended over the property boundary at Sophia Street.

Amended technical reports have been provided to address acoustic impacts, stormwater disposal, waste servicing of the site and the provision of public art. Maintenance and servicing strategies have been provided in relation to structures extending over the boundaries and in relation to proposed signage details and specifications.

The application has provided two written statements addressing the provisions of Clause 4.6 of the Sydney Local Environmental Plan 2012 with regard for non-compliances with the height of buildings standard (Clause 4.3) and the floor space ration standard (Clause 4.4).

The applicant's written statements have adequately demonstrated that there are sufficient environmental planning grounds to justify the contravention of the height of buildings and floor space ratio development standards in the circumstances of the case.

The amended proposal is subject to recommended conditions of consent and presents an improved outcome to the originally submitted scheme. The application comprises a satisfactory response to the site conditions and to the locality and is generally acceptable with regards to the relevant planning standards and controls.

The application was notified for a period of 28 days between 15 January 2024 and 13 February 2024. One submission was received, raising concerns in relation to the location of future PV solar panels on a neighbouring rooftop.

Amended and supporting documents show minor changes to the Sophia Street frontage and the insertion of a loading dock. Technical reports were provided to address site flooding and justify elements of the proposal (see amendments section below). Changes made to the proposal decrease the scope of works and address site conditions and were not required to be re-notified.

A planning proposal is expected to be lodged around the time the subject development application is reported to the Central Sydney Planning Committee and will be reported to the CSPC in subsequent meeting cycles.

The intention of the planning proposal will be to amend the Sydney Local Environmental Plan 2012 for the addition of two additional storeys or office space and meeting rooms and an external terrace.

The proposed development has an estimated cost of works of more than \$50 million and is therefore required to be determined by the Central Sydney Planning Committee (CSPC).

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

- Development Controls:**
- (i) Environmental Planning and Assessment Act 1979 and associated Regulation 2021;
 - (ii) State Environmental Planning Policy (Resilience and Hazards) 2021 (SEPP Resilience and Hazards 2021);
 - (iii) State Environmental Planning Policy (Transport and Infrastructure) 2021 (SEPP Transport and Infrastructure 2021);
 - (iv) State Environmental Planning Policy (Sustainable Buildings) 2022 (SEPP Sustainable Buildings 2022);
 - (v) Sydney Local Environmental Plan 2012;
 - (vi) Sydney Development Control Plan 2012;
 - (vii) Sydney Landscape Code Volume 2: All Developments Except for Single Dwellings 2012;
 - (viii) City of Sydney Interim Floodplain Management Policy 2023;
 - (ix) City of Sydney Guidelines for Waste Management in New Developments'
 - (x) City of Sydney Public Art Policy 2011 and City of Sydney Public Art Strategy 2011; and
 - (xi) City of Sydney Community Engagement Strategy and Participation Plan 2023.

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

Recommendation

It is resolved that:

- (A) the variation requested to the height of buildings development standard, in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld;
- (B) the variation requested to the floor space ratio standard, in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (C) consent be granted to Development Application Number D/2023/1162 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979 in that, subject to the imposition of conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Central Sydney Planning Committee.
- (B) 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 of buildings development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 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 MU1 Mixed Use zone and with the objectives of both the height of buildings and the floor space ratio development standards.
- (C) The proposal, subject to recommended conditions, generally satisfies the objectives and provisions of the Sydney Local Environmental Plan 2012, including the Design Excellence Provisions, and the provisions of the Sydney Development Control Plan 2012.
- (D) The proposed development has a height, scale and form suitable for the site and its context and is appropriate in the streetscape context of the Surry Hills Central locality.

- (E) The amended development application has addressed matters raised by the City's planners. Subject to the recommended condition of consent, the proposed development achieves good amenity for the existing and future occupants of the subject and adjoining sites.

- (F) For the reasons above and as detailed in the following assessment report to the Central Sydney Planning Committee, the proposed development is in the public interest.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 3 in DP 547558 and is known as 8-24 Kippax Street, Surry Hills. The site is irregular in shape with splayed corners in stratum at the corner of Terry Street and Sophia Street and at the corner of Terry Street and Kippax Street (Figures 1-4 below).
2. The site has an area of approximately 1,032sqm. The site has a primary street frontage of 37.9m to Kippax Street and secondary street frontages of 21.3m to Terry Street and 45.6m to Sophia Street.
3. Levels fall steeply along Terry Street from Kippax Street towards Foveaux Street (south to north), resulting in an additional building storey at the Sophia Street frontage. Levels fall gently from east to west along Kippax and Sophia Streets.
4. Vehicle access is currently provided to the site at both Kippax and Sophia Streets. Kippax Street is a two way street with a 40km/hr speed limit. Sophia Street is a one-way street in an easterly direction. Terry Street is a one-way street in a southerly direction, connecting Foveaux and Kippax Streets. Despite their names, Sophia Street and Terry Street are both service lanes in nature.
5. The site contains a utilitarian mixed-use building constructed around 1973. The building contains 10 levels of offices and commercial spaces above ground level retail uses with street addresses at the Kippax Street frontage of the site. A single storey basement contains parking and plant areas. A non-trafficable roof contains plant rooms at the central part of the building (Figure 6).
6. The character of the surrounding area is mixed, informed by commercial and residential uses:
 - (a) on the opposite side of Sophia Street, to the north of the site (1-15 Foveaux Street), is located a three storey commercial building that is listed as a local heritage item;
 - (b) to the east of the site, sharing a common boundary is located a five storey mixed use, former warehouse building, containing residential apartments above shops (26-44 Kippax Street);
 - (c) located further to the east along Kippax Streets is a nine storey commercial building (46-56 Kippax Street);
 - (d) on the opposite side of Kippax Street, to the south of the site, is located a car park and associated News Limited building (2 Holt Street and carpark 1-21 Holt Street);
 - (e) to the south-west of the site, at the corner of Elizabeth Street and Kippax Street are located two interconnected mixed use buildings that are heritage listed, known as "Hibernian House" (328-344 Kippax Street)). The buildings contain mixed uses including commercial units, small scale offices, artist studios and workshop spaces; and
 - (f) to the west of the site, on the opposite side of Terry Street is located a licensed premises (pub) known as Aurora Rooftop Hotel (320-324 Elizabeth Street).

7. The site is not listed as a heritage item and is not located within a heritage conservation area. There are two heritage items of local significance located to the north and south-west of the site, as outlined in the above paragraphs.
8. The site is located within the Surry Hills Central locality and is identified as being subject to flooding.
9. A site visit was carried out on 23 January 2024. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of site and surrounds.



Figure 2: Site viewed from Kippax Street, looking north-east.



Figure 3: Site (identified by red dashed arrows) viewed from Sophia Street, generally looking west.



Figure 4: site viewed looking east along Sophia Street and south along Terry Street.

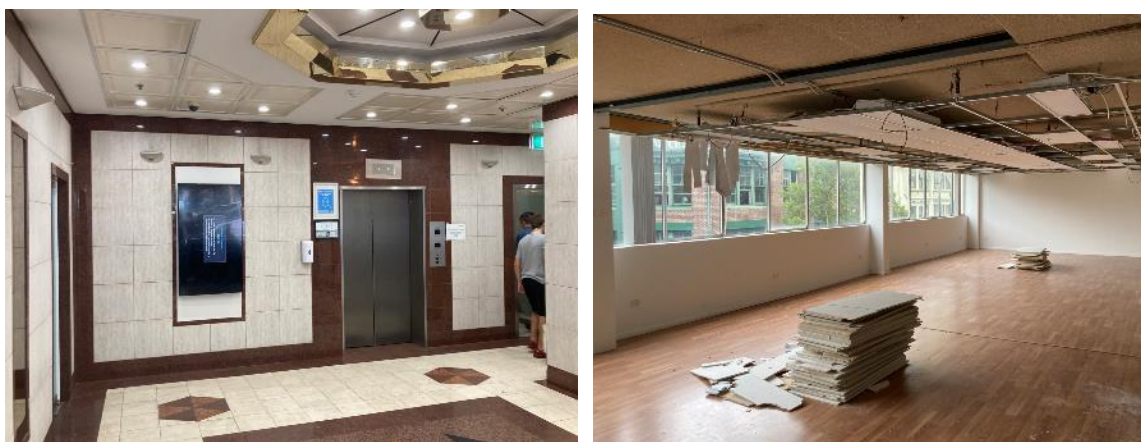


Figure 5: lobby at Kippax Street and internal view of typical office space with ceiling partially exposed.



Figure 6: Plant rooms at the roof level of the site.

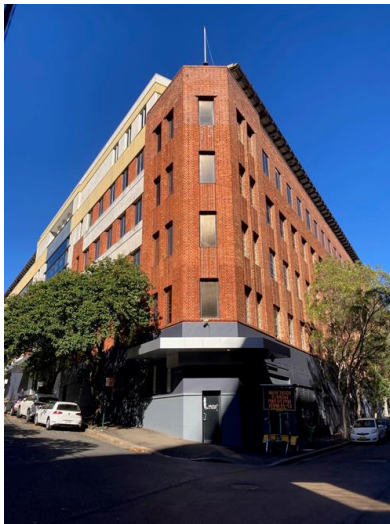


Figure 7: News Limited site (2 Holt Street) and associated carpark (1-21 Holt Street), opposite the site to the south.



Figure 8: Mixed use building at the eastern property boundary (26-44 Kippax Street).



Figure 9: Aurora Hotel, west of the site (320-324 Elizabeth Street).



Figure 10: Mixed use heritage listed buildings, south-west of the site (328-344 Kippax Street).

History Relevant to the Development Application

Planning proposal (subject site)

10. A planning proposal for the site is expected to be formally lodged for additional floor area imminently. The planning proposal is expected to be reported to the Central Sydney Planning Committee around mid-year (2024) and is not a matter for consideration as part of the current development application.
11. The planning proposal has the intention of amending the Sydney Local Environmental Plan 2012 to facilitate a rooftop addition to the existing building comprising two additional storeys or office space and meeting rooms and an external terrace.
12. To achieve the intended outcomes, this planning proposal intends to amend the Sydney Local Environmental Plan 2012 by inserting new site-specific provisions under Division 5 (Site specific provisions). These are intended to:
 - (a) allow a maximum building height of RL 67.06 metres;
 - (b) permit maximum floor space ratio of 9.85:1,
 - (c) ensure development consent may only be provided subject to the following:
 - (i) the building will not be used for residential accommodation or serviced apartments;

- (ii) activate street frontages;
 - (iii) the provision of end of journey facilities; and
 - (iv) does not include any car parking spaces except for a minimum of two loading spaces for servicing of the building; and
- (d) the planning proposal intends to waive the requirements for a competitive design process under clause 6.21D of the LEP.

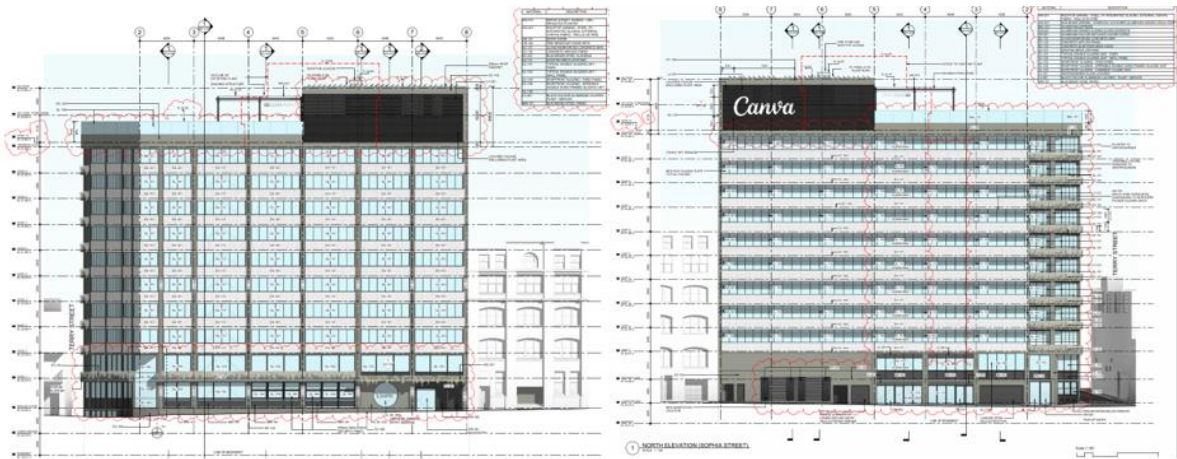


Figure 11: North and south elevations (subject DA application).

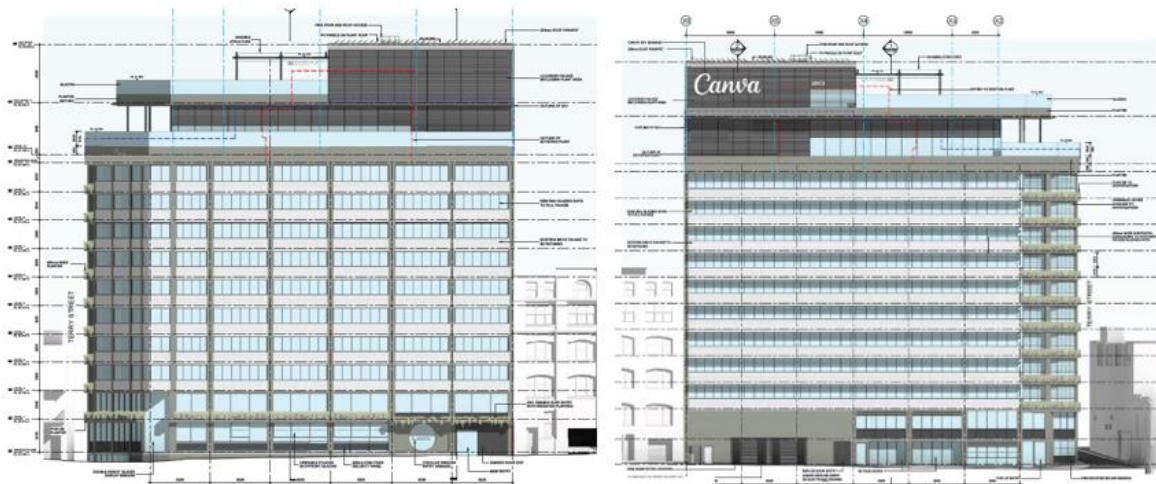


Figure 12: North and south elevations (intended planning proposal).



Figure 13: Comparison of north-western massing plans (subject DA application and intended planning proposal).

Historical development consent - subject site

13. Architectural drawings on Council's electronic records system describe the existing building as 'Manufacturer's House'. The drawings are dated 1970 and the construction of the subject building was completed around 1973. Ground level drawings at Kippax Street show indicative commercial uses including shops and a restaurant. Ground level drawings at Sophia Street show the provision of parking and service areas. Open floor plates were provided above for unspecified commercial uses.
14. There are numerous historic development consents relating to the site (development applications and complying development certificates), ranging from office uses, educational establishments and an art school.
15. D/2019/78: The proponent (Canva) occupies an office building located approximately 200m to the east of the site at 110-120 Kippax Street. The presentation of the building is similar to that proposed under the subject application in that there is a landscaped roof terrace used by its occupants, with an acoustic screen at the edges of the building. Public art in the form of a large mural has been installed to the eastern wall of the building, similar to that proposed under the subject application.



Figure 14: Canva premises at 110-120 Kippax Street to the east of the site, including public art.

Terry Street - Construction of a Shared Zone connecting Foveaux Street and Kippax Street

16. At the time of reporting, the City of Sydney has commenced construction works to provide a shared zone along Terry Street, connecting Foveaux Street and Kippax Street.
17. Works involve the installation of flush kerbs, delineation of the shared zone using yellow stencil paint and stencilled markings denoting bicycle thoroughfare. Low height landscaped plantings are proposed to be installed in blister garden bends at the corner of Kippax Street and Terry Street and at the corner of Foveaux Street and Terry Street.
18. The proposed works are outside of the site and do not significantly affect the subject application.

Compliance Action

19. The site is not subject to any ongoing compliance actions.

Amendments

20. On 18 March 2024, Council's assessing officers issued a letter requesting amended drawings and supporting documents. On 8 April 2024, the applicant provided documents in response as follows:
 - (a) the proposed 'Town Hall' ante-space has been redesigned to significantly reduce the width of doors opening on to Sophia Street from full width doors to two sliding doors (Figure 15 below). Council's officers objected to the use of Sophia Street as a 'break out' space for future office workers and a condition is recommended to this effect. See discussion section below;

- (b) bi-fold doors opening over Sophia Street have been deleted and replaced by regular windows, as they were at risk of being damaged by passing trucks. A design modification condition is recommended, requiring similar vertically opening bi-fold doors extending over the Kippax Street footpath to also be re-designed;
- (c) an intended 'pop-up' retail space at the Sophia Street frontage has been replaced by a two-vehicle loading dock. Council's officers objected to the use of the Sophia Street roadway as the only loading area for the site;
- (d) additional information was provided justifying proposed LED film signage at the Kippax Street frontage and justifying top of building signage. A top of building sign facing Terry Street has been deleted; and
- (e) amended technical reports were provided, including an amended acoustic report, ESD report, public art strategy, facade maintenance strategy, civil drawings, operational waste management plan and site survey information.

21. On 24 April 2024, amended architectural drawings were provided and an amended flood report was provided. The updated documents demonstrate that where finished floor levels do not satisfy recommended flood levels, that internal flood gates will be activated in the event of a flood (Figure 15 below). The flood gates will activate to recommended flood levels, with the intention of protecting the basement areas of the building.

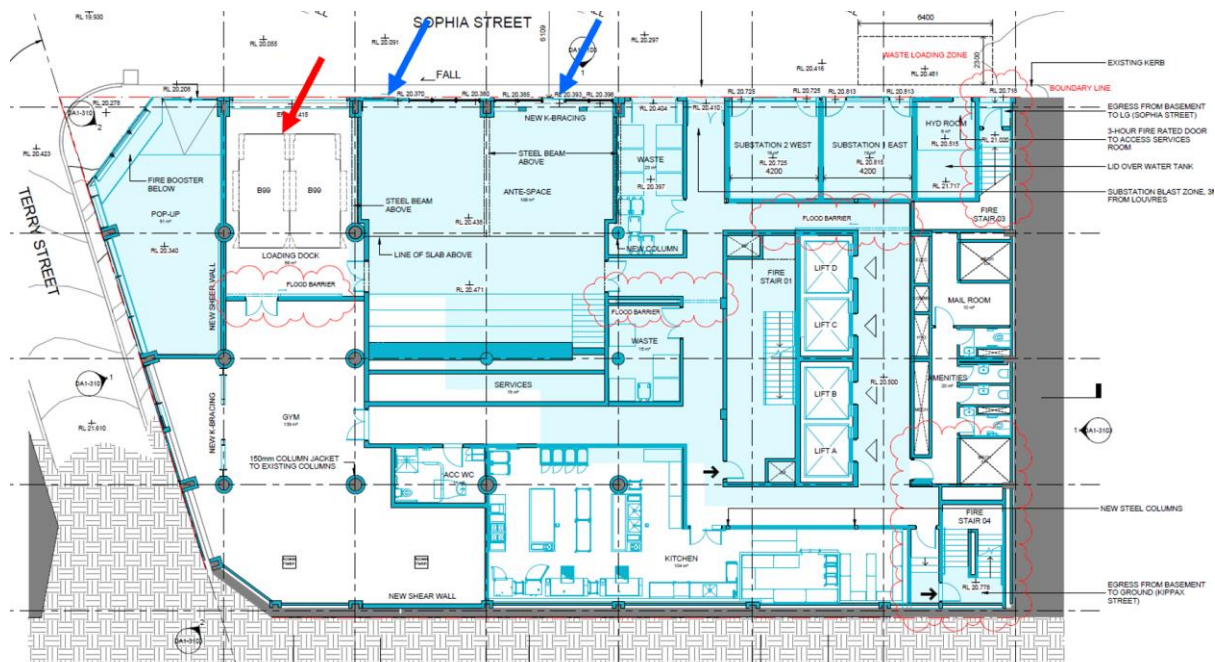


Figure 15: Amendments made to the scheme, including repurposing of a pop-up retail space as a two vehicle loading dock (red arrow), and reduction of door widths at Sophia Street (blue arrows). Proposed flood gates and internal level changes to address flooding are clouded red.

Proposed Development

22. The amended application seeks consent for the adaptive reuse of an existing part 10, part 11 storey 1970s era commercial building. The building, which is currently vacant, is proposed to be used for ongoing commercial office uses by an online international design company Canva.
23. Existing basement level car parking (55 spaces) is proposed to be removed and replaced by plant areas, end of trip facilities and a retail space located on the corner of Sophia Street and Terry Street. The retail space is proposed to be operated by not-for-profit organisations with funding from the Canva Foundation (subject to a future development application).
24. The existing centrally located lift and stair core is proposed to be relocated to the eastern end of the building. A 'Town Hall' ante-space is proposed to be constructed at the Sophia Street frontage to the site, to be used for Canva events.
25. Proposed works at the rooftop level include the construction of plant and equipment and a landscaped roof terrace for use by office tenants. Business identification signage is proposed to building frontages.
26. Detailed works involve:
 - (a) Ground levels (Kippax Street and Sophia Street) and basement levels:
 - (i) demolition of an existing loading dock at Kippax Street and replacement with a 2 car space loading dock at the Sophia Street frontage;
 - (ii) demolition of an existing driveway and basement entry ramp and removal of car parking spaces from basement levels;
 - (iii) reconfiguration of basement and lower ground to provide end of trip facilities and bicycle parking;
 - (iv) relocation and upgrade to an existing transformer chamber substation on Sophia Street;
 - (v) conversion of ground and lower ground floors to facilitate employees' communal space with reception lounge, cafe, gym, studio space, commercial kitchen and 'Town Hall'; and
 - (vi) provision of a community cafe at the corner of Terry and Sophia Streets.
 - (b) Upper levels:
 - (i) construction of wintergardens at the north-western corner of the floor plates on Levels 1 to 9; and
 - (ii) conversion of levels 1 to 9 to open plan office spaces.
 - (c) Structural and fenestration works:
 - (i) installation of internal structural bracing to balance the new core location, reinforcement of existing columns and reinforcement of existing facade brick walls; and

- (ii) new glazing and fenestration.
- (d) Roof level:
 - (i) new plant area and amenities
 - (ii) landscaped terrace for use as communal area with acoustic screen; and
 - (iii) installation of a bio-solar green roof, consisting of PV solar cells installed above a green roof; and
 - (iv) installation of a shade canopy covered in PV solar cells over the roof terrace.
- (e) Public Art is proposed to be installed in one of two locations:
 - (i) on the eastern elevation of the building, such that it would be visible from Kippax Street further to the east of the site; and
 - (ii) beneath the proposed awning at Kippax Street.

27. Plans and elevations of the proposed development are provided below.

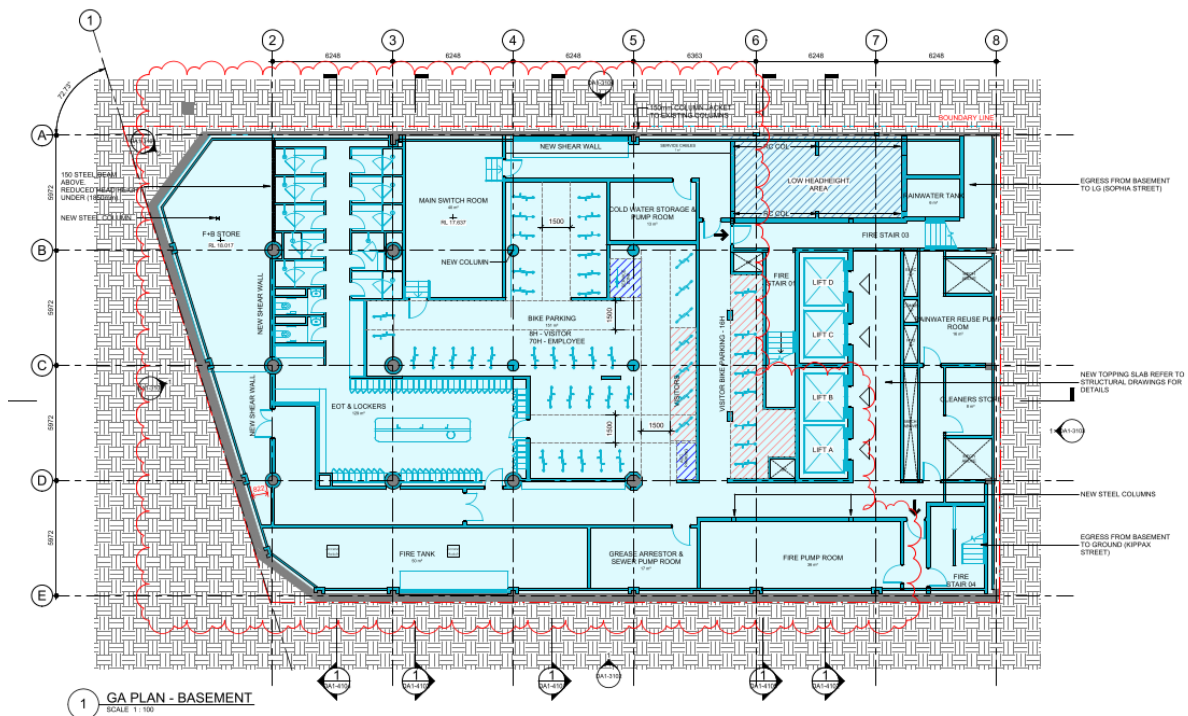


Figure 26: Basement level.

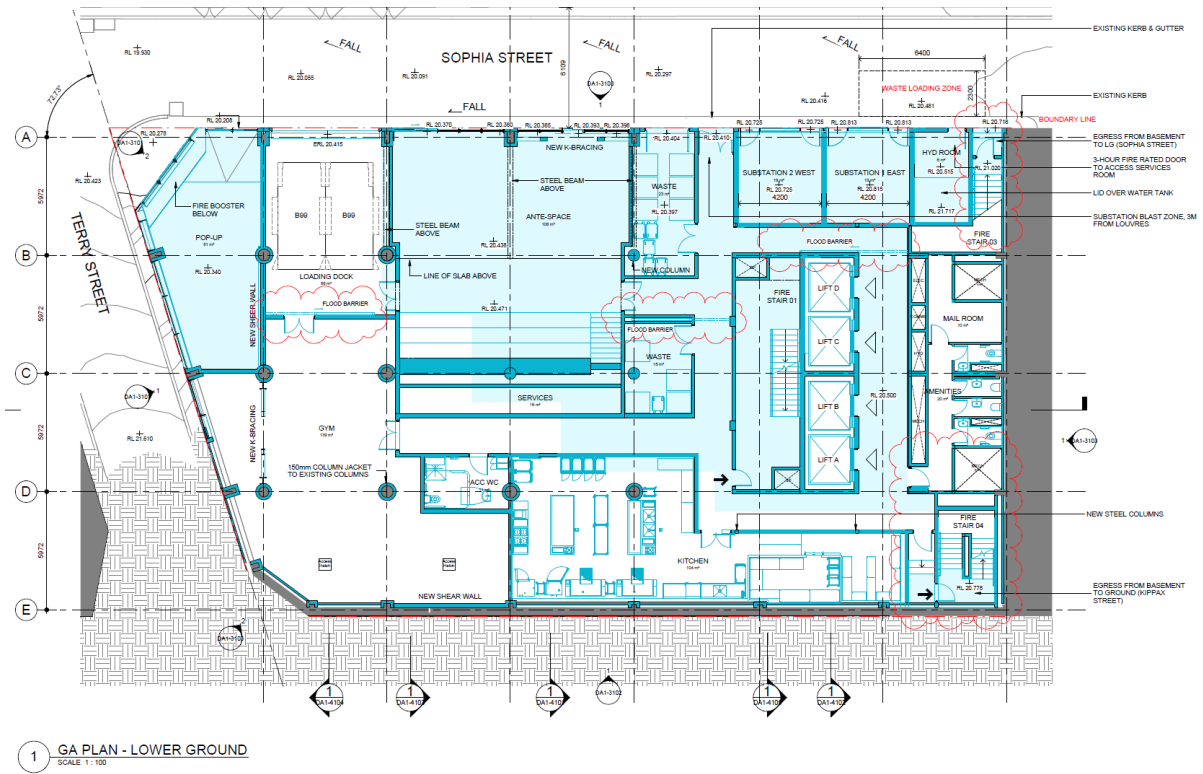


Figure 37: Lower ground level (Sophia Street).

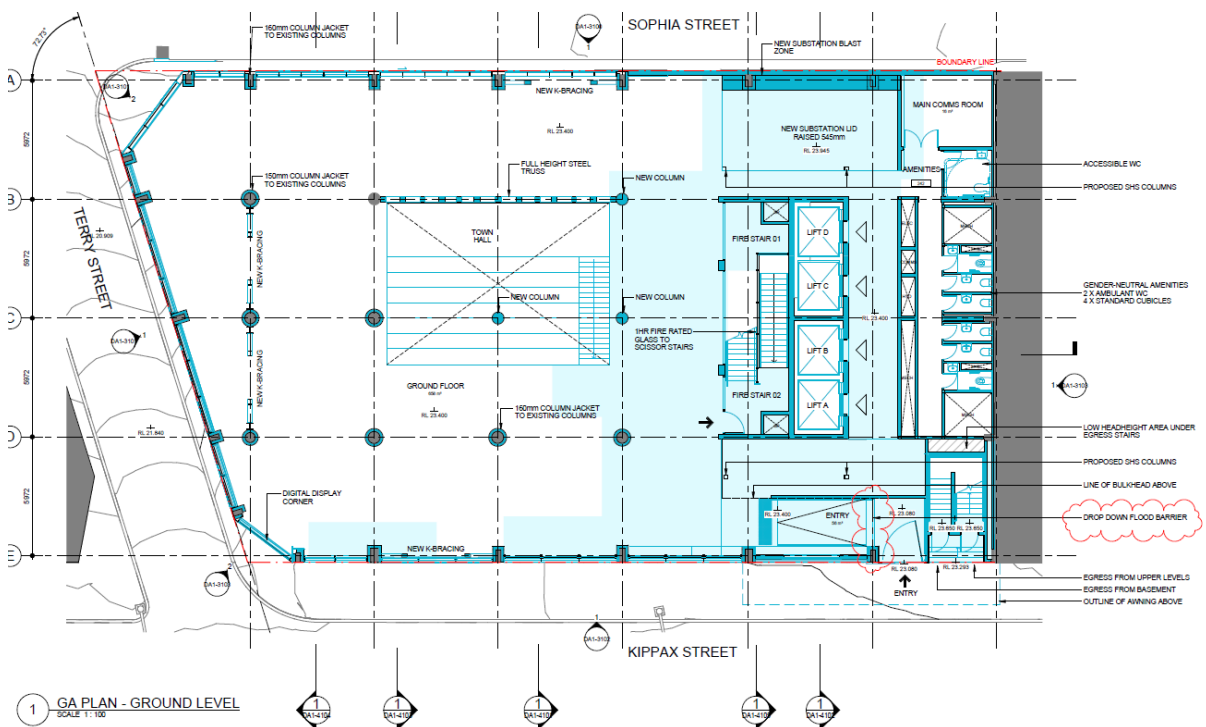


Figure 48: Ground level (Kippax Street).

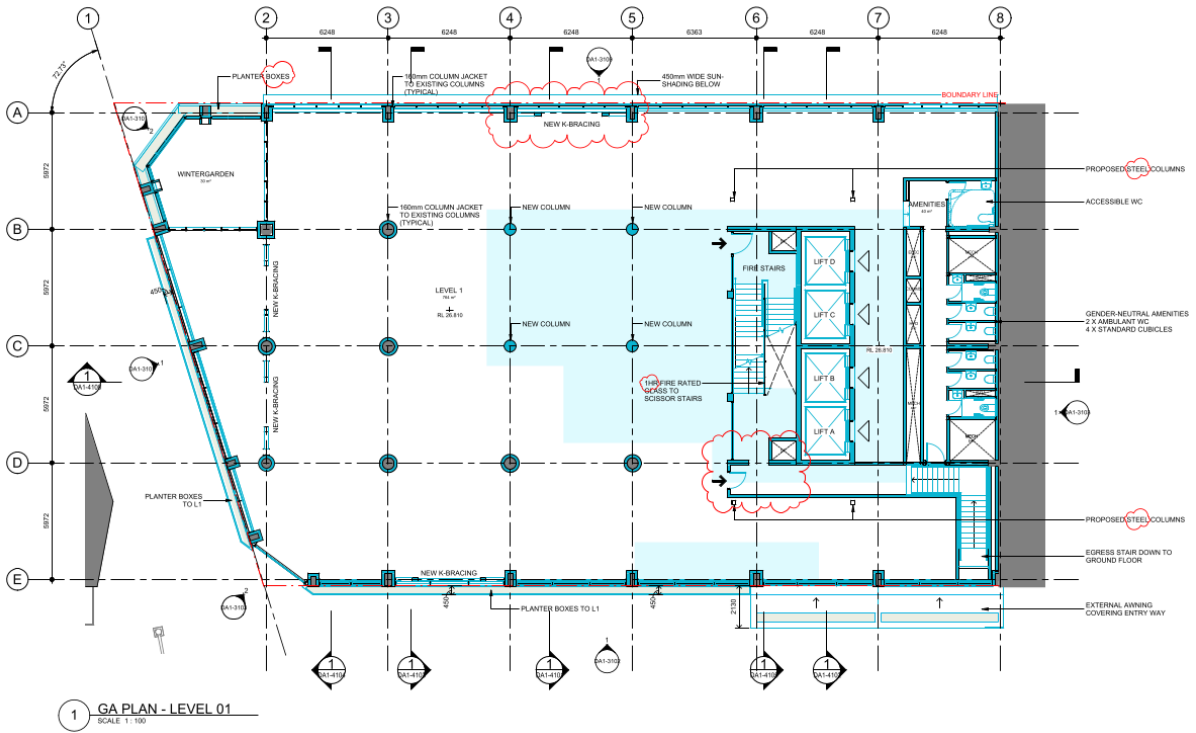


Figure 59: Levels 1 - 9.

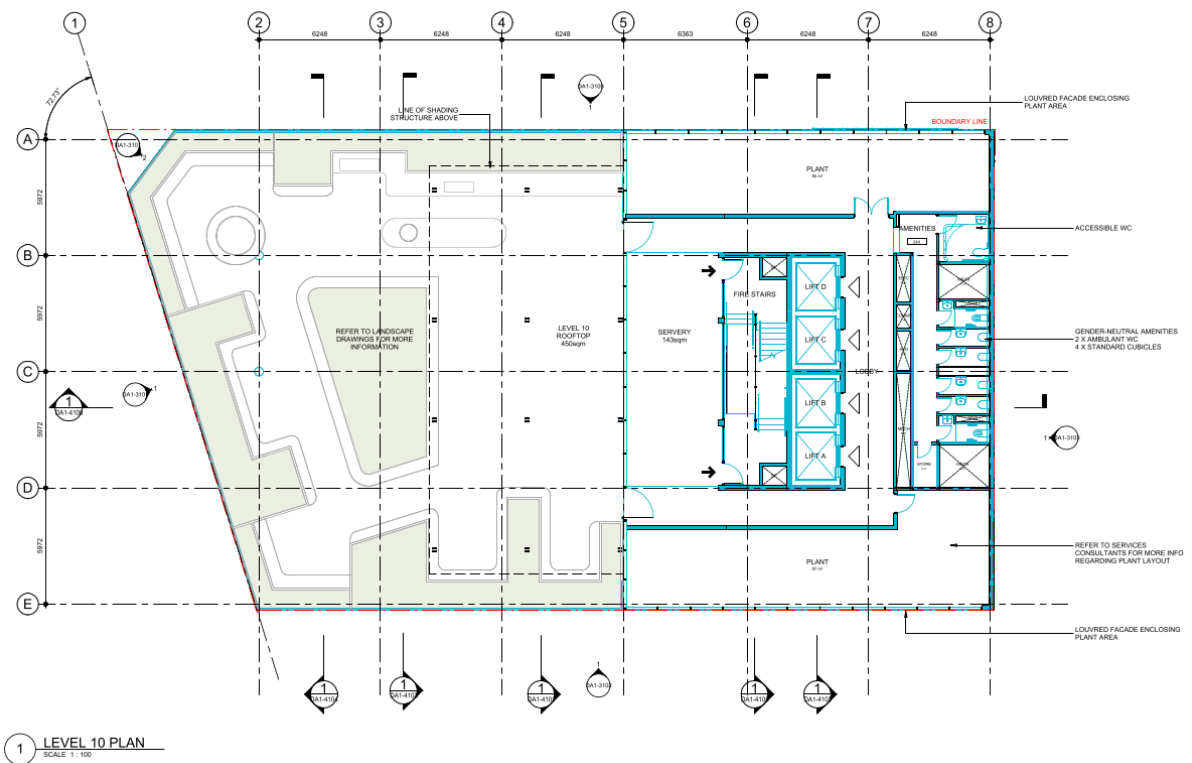


Figure 20: Landscaped terrace.

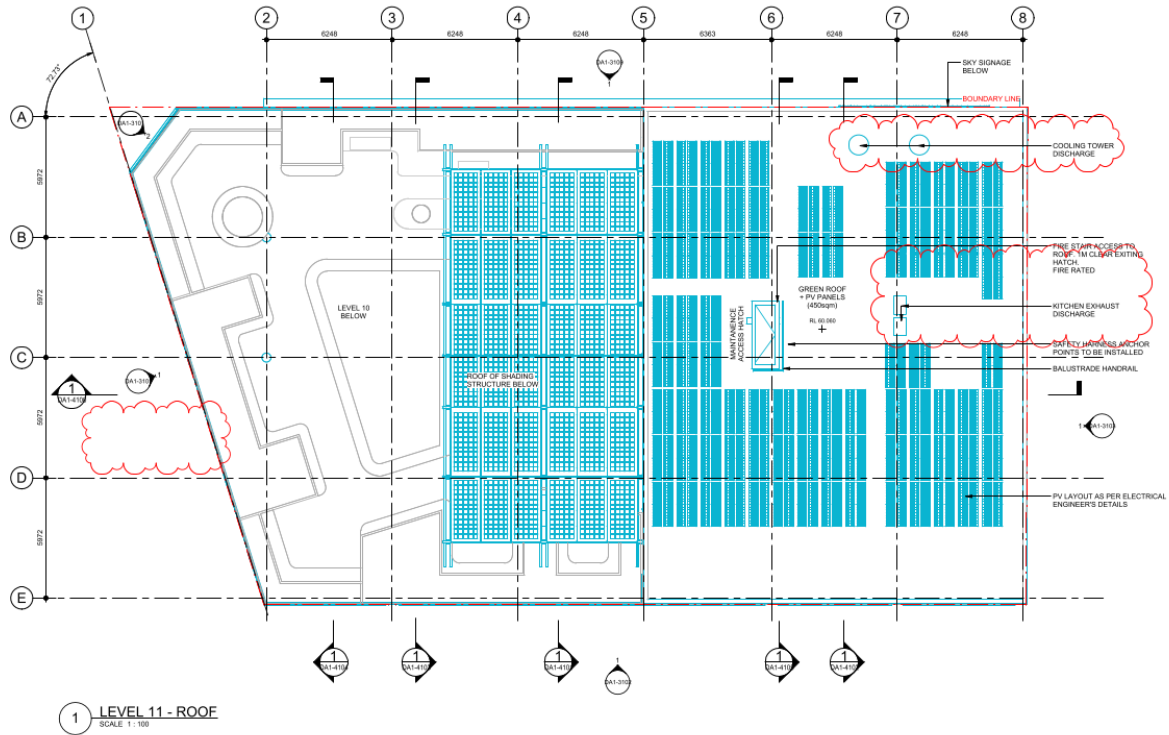


Figure 21: Roof level showing bio-solar roof and PV solar panels.

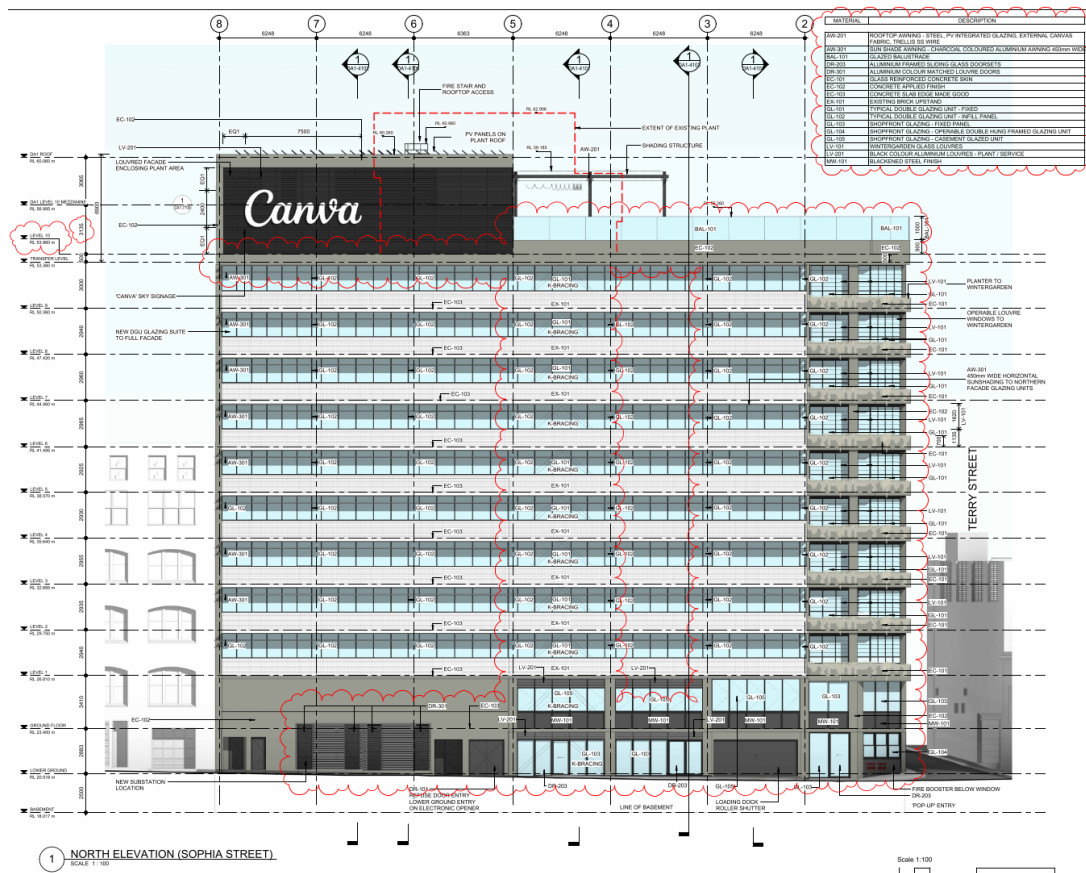


Figure 22: North elevation (Sophia Street).

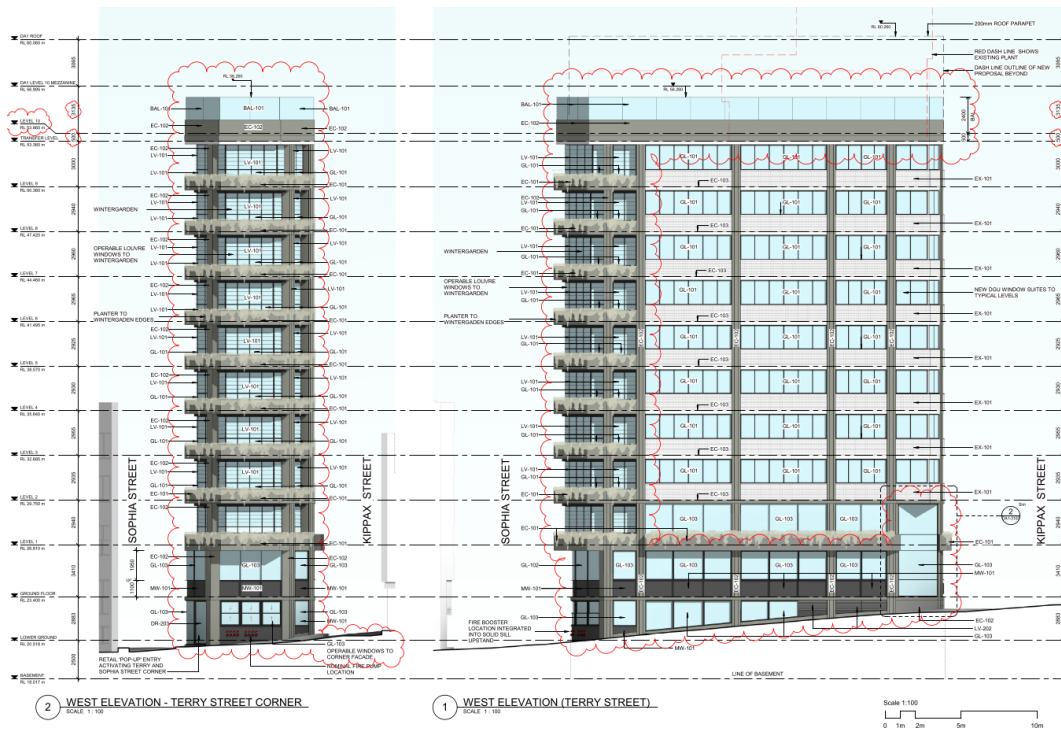


Figure 23: West elevation (Terry Street).

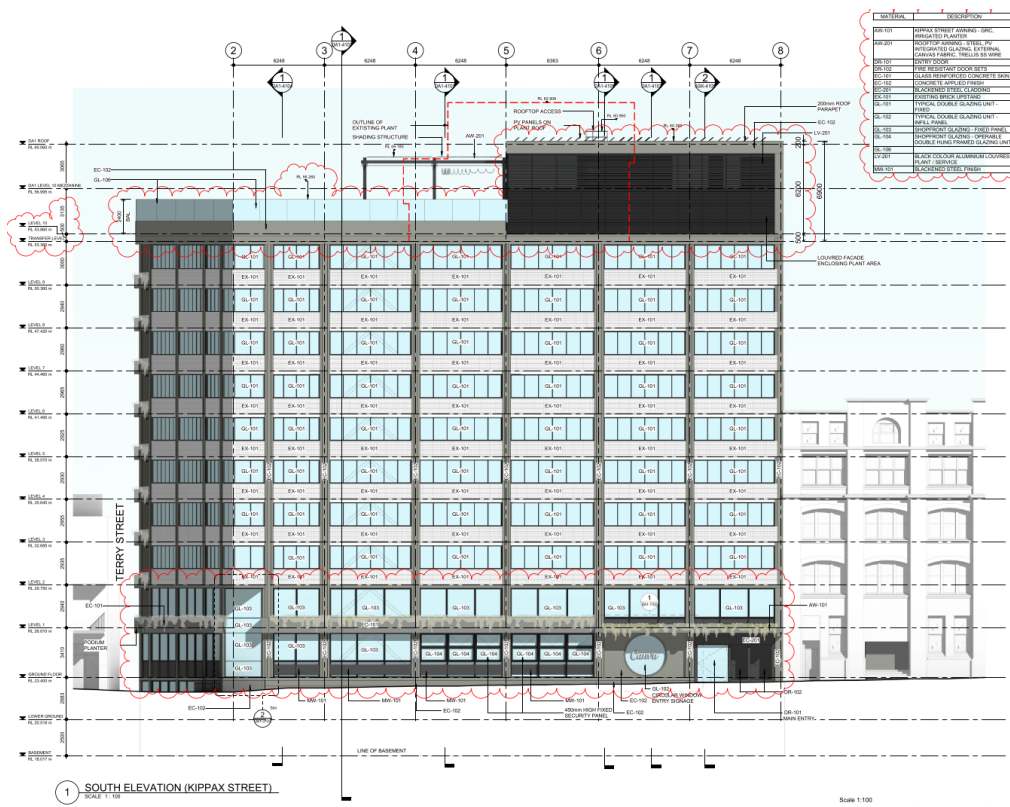


Figure 24: South elevation (Kippax Street).

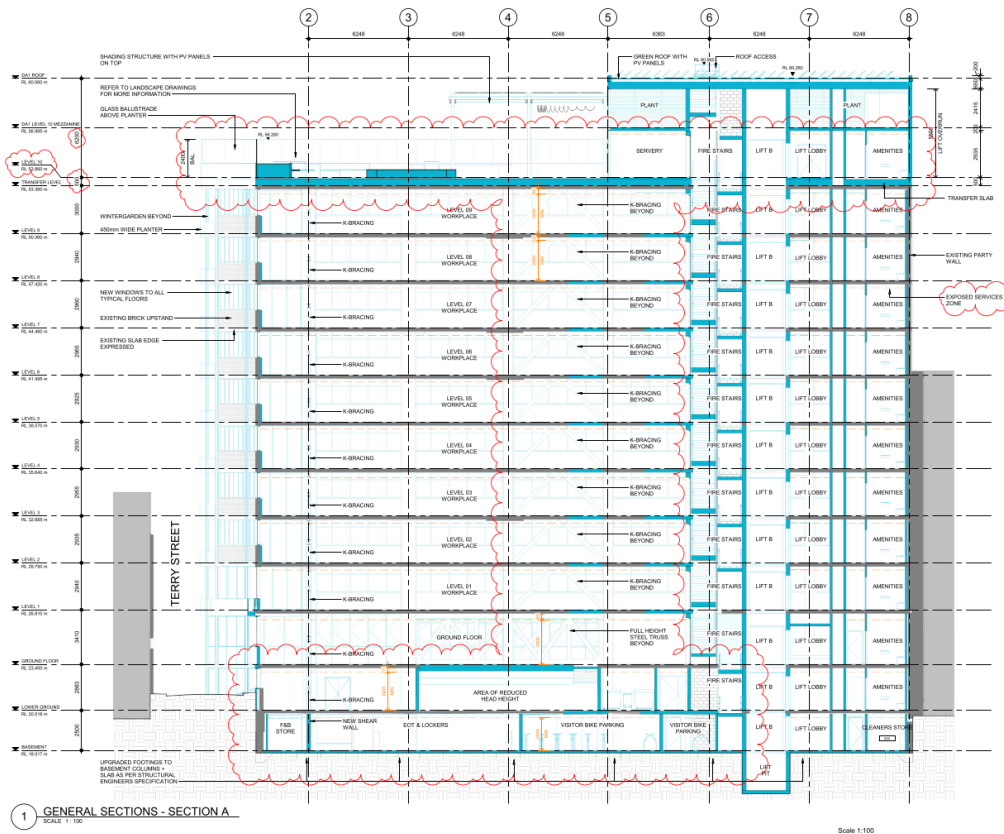


Figure 25: Long section.

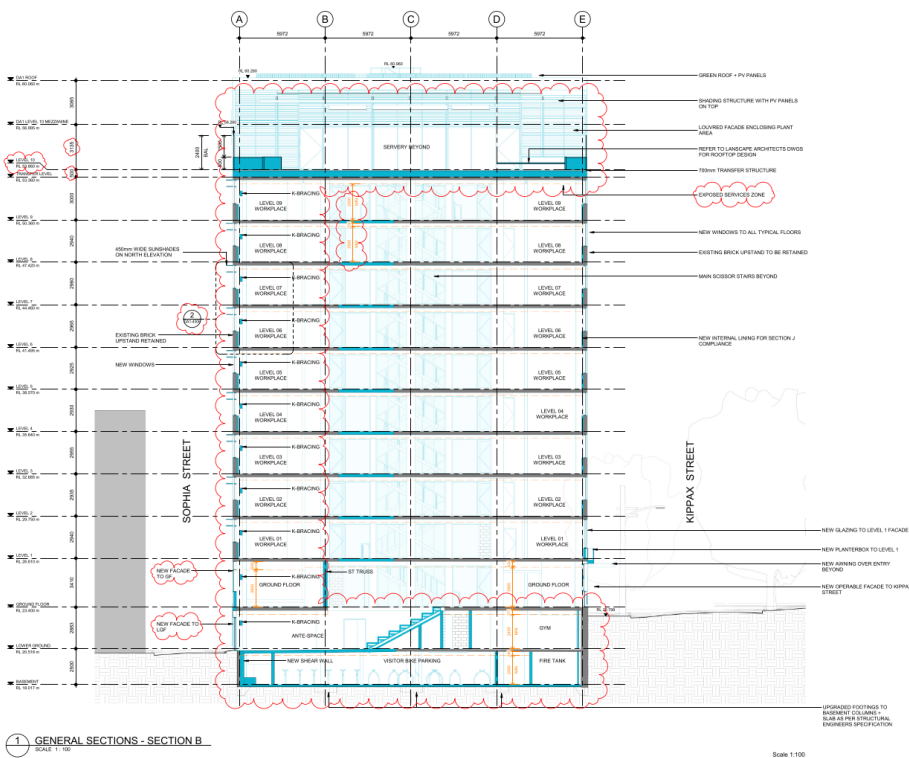


Figure 26: Short section.



VIEW FROM CORNER OF KIPPAX AND TERRY STREETS

Figure 27: Photomontage, looking north-east from Kippax Street.



AERIAL VIEW OF ROOFTOP AND NORTH-WEST WINTERGARDEN

Figure 28: Photomontage, looking south-east, generally from Terry Street.

Assessment

28. 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

32. 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.
33. A Preliminary Site Investigation report was lodged with the application, which indicates there is no history of potential contamination activities on the site. Ten sample locations were drilled across the basement area and whilst some contamination and potential asbestos materials fragments were found to be present in the fill materials, the concentrations were below levels considered to be dangerous to human health.
34. The Council's Health Unit has reviewed contamination documents and is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

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

Advertising and Signage

35. Three external building signs are proposed (see Figures 29 - 34 below). Signs include:
- (a) SIGN 1: an internally illuminated top of building sign facing the northern (Sophia Street) boundary, constructed at a height of approximately 36m above street level (2.4m x 7.5m);
 - (b) SIGN 2: a rectangular sign using transparent LED adhesive film applied to glazing, proposed to be located at the corner of Kippax and Sophia Streets (6.1m x 3.3m). The sign is proposed to display dynamic content; and
 - (c) SIGN 3: a circular sign using transparent LED adhesive film applied to glazing, proposed to be located at the Kippax Street frontage (diameter: 2.2m). The sign is proposed to display dynamic content.



Figure 29: SIGN 1: proposed illuminated top of building 'Canva' sign, facing north towards the Sophia Street boundary (day and night).



Figure 30: SIGN 1: North elevation plan for top of building sign.



Figure 31: SIGN 2: Rectangular sign using transparent LED adhesive film applied to glazing at the corner of Kippax and Sophia Streets.

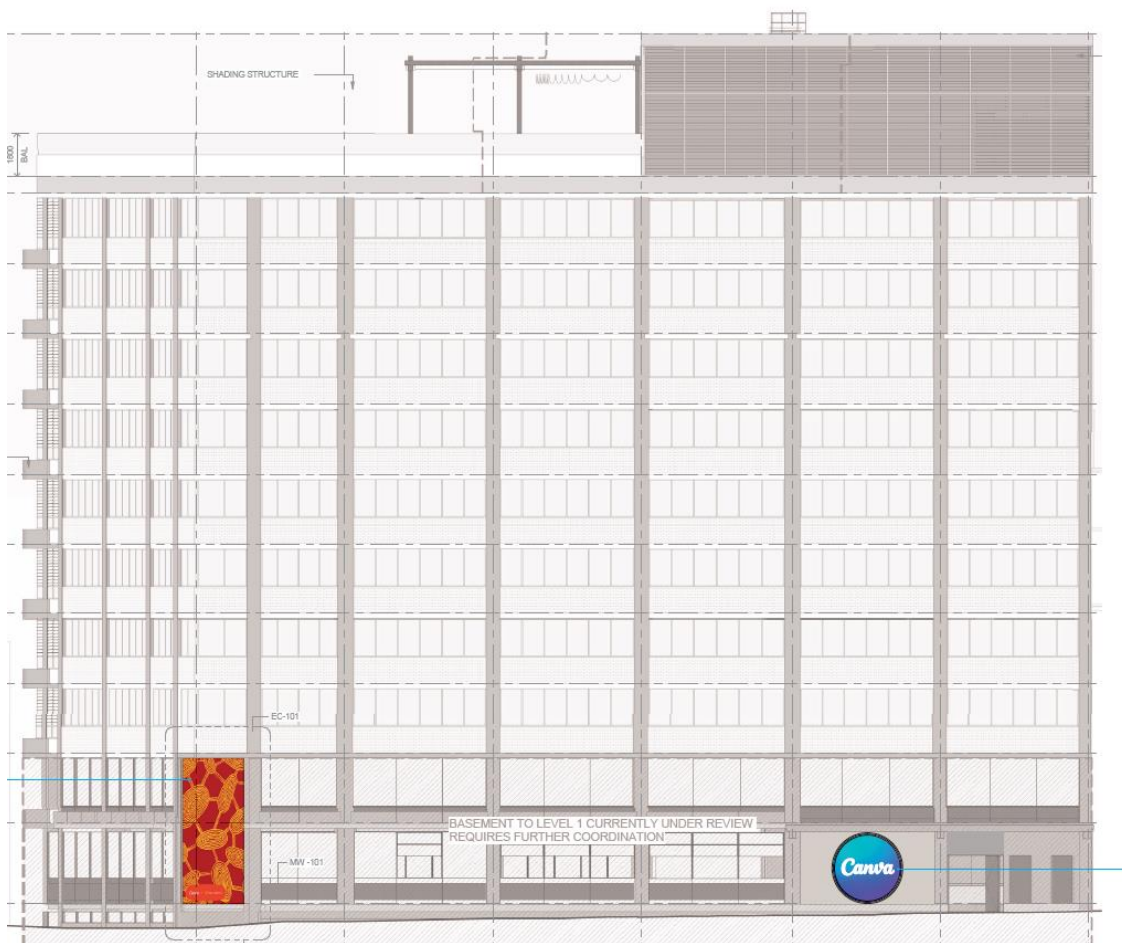


Figure 32: SIGNS 2 and 3: Rectangular and circular signs using transparent LED adhesive film applied to glazing, Kippax Street frontage.



Figure 33: Example content to be displayed within corner signage, LED adhesive film applied to glazing.

- 36. Consideration has been given to the aim of the SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage, which is to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.
- 37. The proposed signage has been considered against the objectives of the policy and an assessment against the provisions within the assessment criteria set out in Schedule 1 is provided in the table below.

Provision	Compliance	Comment
1. Character of the area	Yes	<p>The proposed top of building sign is consistent with the character of tall buildings in the Surry Hills area including at Foveaux Street, where similar signage has been installed (see discussion section below).</p> <p>LED glazing film is proposed to be installed to windows, noting this is new technology that will inform the future character of the area, subject to recommended conditions of consent in relation to content. See discussion section below.</p>
2. Special areas	N/A	The site is not located within a special area and not located within a heritage conservation area.

Provision	Compliance	Comment
3. Views and vistas	Yes	Proposed signage does not obscure or compromise any important views across the site. Proposed signage does not dominate the skyline and has no impact on the viewing rights of other advertisers.
4. Streetscape, setting or landscape	Yes	The proposed signage is of an appropriate scale, proportion and form and provides a positive contribution to the streetscape and setting of the area. See discussion section below.
5. Site and building	Yes	The scale, proportion and positioning of the proposed signage is acceptable, and the materiality is compatible with the finishes and colours of the building.
6. Associated devices and logos	Yes	Proposed transparent LED film and electrical supply are integrated to structure on which it is to be displayed.
7. Illumination	Yes	Conditions of consent are recommended to ensure that the illumination does not result in unacceptable glare, affect safety or detract from the amenity of any residential accommodation.
8. Safety	Yes	Terry Street is one way from Foveaux Street towards Kippax Street. Kippax Street is a two way street with a 40km speed limit. Conditions are recommended in relation to dynamic signage content, to ensure proposed signage will not reduce the safety for pedestrians, cyclists or vehicles on public roads or areas.

38. The proposed signage is consistent with the objectives of SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage as set out in Clause 3.1 and satisfies the assessment criteria specified in Schedule 5.

State Environmental Planning Policy (Sustainable Buildings) 2022

39. The proposal involves the adaptive reuse of an existing commercial building where the capital investment value is more than \$10 million. As such, the provisions of the SEPP have been considered.
40. In response to section 3.2 of the SEPP, the development has been designed to address the sustainability provisions of the SEPP:
- (a) the proposal involves the adaptive re-use of the building, minimising the generation of waste associated with demolition and construction;
 - (b) a bio-solar green roof and extensive PV solar panels are proposed at the roof of the building, resulting in a reduction in the peak demand for electricity and generating renewable energy. The bio-solar roof involves installing a green roof under PV solar panels, helping to maintain the solar panels at an ideal operating temperature;
 - (c) the building has an open plan layout and external sun shading devices, reducing the reliance on artificial lighting and mechanical heating and cooling through passive design. The adaptive re-use of the building provides a favourable window to wall ratio; and
 - (d) the proposal involves installing a 6 kL rainwater tank, connected to landscape irrigation, thereby minimising the consumption of potable water.
41. A net zero statement has been submitted, which notes the development will be fossil fuel free in operation. Renewable energy will be procured for the building in operation part of which will be via a 50 kWp solar PV array has been proposed at the roof level of the development. The development emphasises a smart building design, noting electrification metering, outlets, appliances, services and controls.
42. Council's ESD specialist has reviewed a submitted Design for Environmental Performance form provided by the applicant and has recommended conditions of consent. In accordance with section 3.2 of the SEPP, the embodied emissions attributable to the development have been quantified.
43. Recommended conditions of consent include:
- (a) a standard condition relating to the building's design for environmental performance; and
 - (b) further standard conditions relating to energy performance, noting the proponents have a choice between NABERS and Green Star. The applicant will be required to identify their chosen path and report against it and should they go down the NABERS pathway, they will need to report 2 years post occupancy.
44. The proposal is consistent with the aims of this Policy and complies with relevant standards for non-residential development.

State Environmental Planning Policy (Transport and Infrastructure) 2021

45. The provisions of Division 5, Subdivision 2 (Development likely to affect an electricity transmission or distribution network) have been considered in the assessment of the development application.
46. The application is subject to Clause 2.48 of the SEPP as the development will be carried out immediately adjacent to an electricity substation.
47. The application was referred to Ausgrid for a period of 21 days. Ausgrid has provided a response, advising that the proponent will need to establish a new substation before the existing substation within the site is decommissioned.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 10 Sydney Harbour Catchment

48. The site is within the Sydney Harbour Catchment and eventually drains into Sydney 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 SEPP are not applicable to the proposed development.

Local Environmental Plans**Sydney Local Environmental Plan 2012**

49. 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	<p>The site is located in the MU1 Mixed Use zone. The proposed commercial land uses are permissible with consent within the zone.</p> <p>The proposal generally meets the key relevant objectives of the zone in that it will generate employment opportunities, provide diverse and active street frontages to attract pedestrian traffic and to contribute to a vibrant, diverse and functional streetscape, and activate the ground floor of the subject building.</p>

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	No	<p>A maximum building height of 22m is permitted.</p> <p>The existing building has a height of approximately 41.6m and exceeds the 22m development standard by 19.6m.</p> <p>The new structure proposes a height of approximately 39.9m as measured from the existing ground level at the Sophia Street boundary.</p> <p>The existing building and the proposed development does not comply with the maximum height of buildings development standard.</p> <p>A request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.</p>
4.4 Floor space ratio	No	<p>The site is subject to a maximum Floor Space Ratio development standard of 3.5:1 (3,610.6sqm of gross floor area).</p> <p>In addition, per clause 6.13 of SLEP2012 (End of journey floor space), the building provides end of journey facilities that include showers, change rooms, lockers and bicycle storage areas, with an area of approximately 293.1sqm (0.29:1 FSR).</p> <p>The combined controls result in a maximum floor space ratio for the development of 3.79:1 (3,903.7sqm).</p> <p>The proposed development has a floor space ratio of 9.6:1 (9,899.5sqm) and exceeds the FSR standard by 154% (5,995.8sqm). Notwithstanding this, the existing building already exceeds the standard by approximately 140% (5,470sqm).</p> <p>A request to vary the floor space ratio development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.</p>

Provision	Compliance	Comment
4.6 Exceptions to development standards	Yes	<p>Two (2) Clause 4.6 variation requests have been submitted relating to the height of building and FSR development standards. See further details in the 'Discussion' section below.</p> <p>A proposed planning proposal has the intention of modifying the site controls such that they are more in keeping with the existing and proposed site condition and building height.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 2 Additional floor space outside Central Sydney		
6.13 End of journey floor space	Yes	As above, the building (containing commercial premises) provides end of journey facilities that include showers, change rooms, lockers and bicycle storage areas, with an area of approximately 293.1sqm (0.29:1 FSR).
Division 4 Design excellence		
6.21 Design excellence	Yes	<p>The proposed development is of a high standard and uses materials and detailing that are compatible with the existing development along the street. The proposal involves the adaptive reuse of an existing building and will contribute positively to the character of the area.</p> <p>The proposal to increase the scale of the building at the eastern edge will not have any significant impacts for neighbouring buildings in relation to view corridors across the site and will not have any significant impacts in relation to the setting of adjoining heritage items.</p> <p>The development achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants.</p>

Provision	Compliance	Comment
		The development provides an appropriate interface at the ground level between the building and the public domain and integrates architectural and landscape design at the roof level and at the facades of the building.

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 78 car parking spaces are permitted where the development provides nil car spaces for private uses.</p> <p>The proposed development includes two (2) car parking spaces for service vehicles and exceeds the planning control specified at Schedule 7.8.1 of the DCP (1 space).</p>
Division 4 Miscellaneous		
7.15 Flood planning	Yes	<p>The site is identified as being subject to flooding at the Kippax Street, Terry Street and Sophia Street boundaries.</p> <p>The application proposes development below the flood planning level. A flood report accompanies the application.</p> <p>The applicant has demonstrated by way of amended drawings that the development is able to comply with the City's Interim Floodplain Management Policy and satisfies the provisions of the standard.</p> <p>Flood gates are proposed within the building, that when activated will prevent flood waters from entering the basement of the building. See amendments section above.</p>

Provision	Compliance	Comment
7.26 Public art	Yes	<p>An amended preliminary public art plan has been provided for assessment, which satisfies the requirements of the City's Interim Guidelines for Public Art in Private Development.</p> <p>Public art is proposed in locations that will not have a significant adverse impact on any heritage items and will not have any significant adverse impacts on the amenity of the public domain.</p> <p>These include at the eastern facade of the building, which is visible from vantage points to the east and south-east of the site and on the underside of a proposed weather protection awning on Kippax Street.</p>
7.33 Sustainability requirements for certain large commercial development	Yes	<p>The development has an estimated cost of works greater than \$10m and comprises large commercial development.</p> <p>The development comprises the adaptive reuse of an existing building and has been designed to optimise energy efficiency and the use of renewable energy generated on-site.</p> <p>The proposal satisfies the requirements of the sustainability requirements for large commercial development. Refer to SEPP (Sustainable Buildings) discussion section above and SDCP2012 section below.</p>

Development Control Plans

Sydney Development Control Plan 2012

50. 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

51. The site is located within the Surry Hills Central locality. The proposed development is in keeping with the unique character and the design principles of the locality in that it will not have any significant impacts for heritage items, reinforces the retail character of Kippax Streets and facilitates the ongoing operation of a commercial precinct.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	Yes	The proposal will not have any significant impacts for a shared zone that is proposed to be installed on Terry Street.
3.2. Defining the Public Domain	Yes	The development contributes positively to the activity, safety and amenity of Kippax and Sophia Streets. Legible and accessible entries are provided to the site from the public domain. Whilst an awning is not required by the controls, one is proposed at Kippax Street. See discussion section below.
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.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies the provisions of the State Environmental Planning Policy (Sustainable Buildings) 2022. Standard conditions are recommended to ensure the development meets the energy performance standards for office premises. See discussion above.
3.7 Water and Flood Management	Yes	See discussion under section 7.15 above.
3.9 Heritage	Yes	Proposed alterations and additions to the building will not have any significant impacts for neighbouring heritage items.
3.11 Transport and Parking	Yes	A two vehicle loading dock is proposed at the Sophia Street frontage for service vehicles. End of journey bike parking facilities are provided for occupants and visitors.
3.12 Accessible Design	Yes	Drawings demonstrate accessible access is provided to the premises.

Provision	Compliance	Comment
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	<p>Waste collection from Sophia Street is supported, noting bins will be held in a storage room adjoining the boundary and not stored on the footpath for collection.</p> <p>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.</p>
3.15 Late Night Trading Management	Yes	A condition is recommended in relation to the operating hours for the proposed roof terrace and internal areas. See discussion section below.
3.16 Signage and Advertising	Yes	Three business identification signs are proposed. 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	No	<p>The site is permitted a maximum building height of 6 storeys.</p> <p>The existing building has a height of 10 storeys, with additional works proposed at the roof level. See discussion section below.</p>
4.2.1.2 Floor to ceiling heights and floor to floor heights	No	The existing building was constructed in 1973 and has floor to ceiling heights that do not achieve the minimum controls specified.

Provision	Compliance	Comment
		Notwithstanding this, the proposal involves adaptive reuse of the existing building. Drawings have been provided showing exposed ceilings with integrated services providing maximum internal volumes within office spaces.
4.2.2 Building setbacks	Yes	The proposal maintains existing nil setbacks to site boundaries.
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	Solar diagrams demonstrate the proposal will not have any significant impacts for neighbouring buildings in relation to solar access and overshadowing.
4.2.3.3 Internal common areas	Yes	Internal common areas and lift lobbies have access to daylight and an outlook. Lifts are provided with generous circulation areas.
4.2.3.4 Design features to manage solar access	Yes	External sun shading devices are provided at the north-western corner of the site. The development does not propose to rely on high performance tinting or glazing to mitigate solar impacts.
4.2.3.5 Landscaping	Yes	A condition is recommended requiring the preparation of a landscape plan.
4.2.3.11 Acoustic privacy	Yes	An amended acoustic report has been provided for assessment. See discussion below.
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	Yes	Heating and cooling infrastructure is consolidated in a centralised location.

Provision	Compliance	Comment
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Yes	Subject to conditions, the development will not adversely impact the amenity of neighbouring residential properties.

Discussion

Clause 4.6 Request to vary the Height of Buildings development standard

- 52. The site is subject to a maximum height of buildings development standard of 22m. The existing building has a height of approximately 41.6m and exceeds the 22m development standard by 19.6m (89%).
- 53. The proposed development includes the removal of the centrally located roof plant and the construction of new structure at the roof level containing plant and amenities. The new structure proposes a new maximum height of building of 39.9m, as measured at the Sophia Street boundary.
- 54. The proposal exceeds the 22m height of buildings development standard by a maximum of 17.9m (81%), which is a reduction in building height of approximately 1.7m as compared to the existing condition of the site.

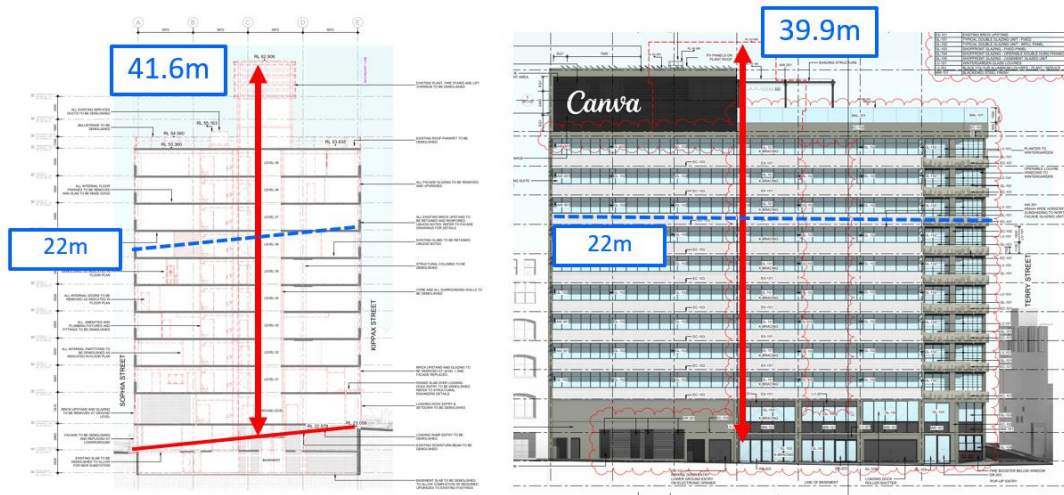


Figure 34: Existing height of building, measured between Kippax and Sophia Streets (left). The building has a proposed maximum building height of 39.9m, measured from existing ground levels at the Sophia Street frontage (right).

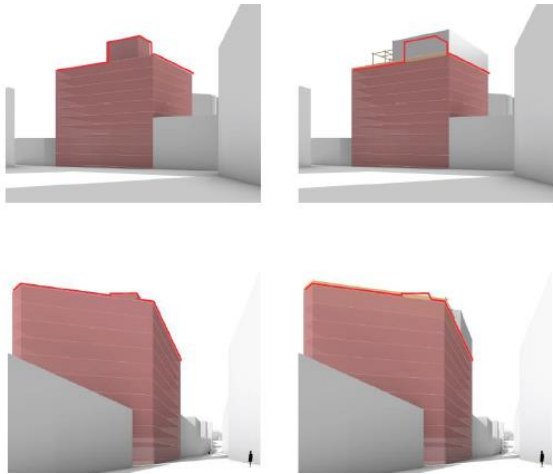


Figure 35: Massing plans comparing the existing condition of the site (left) and proposed works (right), as viewed from the opposite side of Kippax Street looking north-west (New Limited car park) and from Elizabeth Street, looking east.

55. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the height of buildings development standard by demonstrating:
- (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.
56. The applicant seeks to justify the contravention of the height of buildings 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 proposal is consistent with the objectives of the height of buildings standard on the basis:
 - (i) the existing maximum building height in this application will not be exceeded;
 - (ii) strict application of the height of buildings development standard would be contrary to Objective (a) of Clause 4.3, which is to ensure the height of development is appropriate to the condition of the site and its context, noting there is a variety of heights for buildings in the immediate area. The 10 storey proposed development, does not generate a development which is inappropriate and inconsistent, in terms of height, to the immediate area and context;
 - (iii) strict application of the height of buildings development standard would be contrary to Objective (b) of Clause 4.3, which is to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas. This is on the basis that there is an appropriate height transition and relationship between the building and heritage listed buildings located north and southwest of the site; and

- (iv) strict application of the height of buildings development standard would be contrary to Objective (c) of Clause 4.3, which is to promote the sharing views outside Central Sydney, noting the upper portions of the proposed development (which exceed the development standard) do not significantly impact existing public or private views.
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard including that:
 - (i) the adaptive reuse of the existing building and increase in height above the development standard have significantly fewer environmental impacts as compared to its demolition and reconstruction;
 - (ii) the increased building height incorporates installing chilled beams that reduce the depth of ductwork required to reticulate across the floor plates and require higher thermal performance of the facade compared to alternative options, this being a driver for improved facade shading, insulation, and performance of the glazing selection;
 - (iii) kitchen exhaust and other services at the roof level facilitate a large kitchen and community meeting space that will be used for charity food preparation;
 - (iv) the parts of the building that exceed the standard will not radically transform the built form or surrounding character as viewed from key vantage points (Figure 35 above); and
 - (v) shadow diagrams demonstrate that there will be no significant adverse overshadowing impacts for neighbouring buildings.
57. Development consent must not be granted unless the consent authority is satisfied:
- (a) that 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
 - (b) that there are sufficient environmental planning grounds to justify contravening the standard.

58. With regard for the issues raised at Clause 4.6(3)(a) of SLEP2012, the applicant's written request has adequately addressed those matters required to be demonstrated being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. This is on the basis that:
- (a) the proposal satisfies the relevant objectives of Clause 4.3 of SLEP2012 (Height of Buildings) as follows:
 - (i) objective (a), which is to ensure the height of development is appropriate to the condition of the site and its context: the height of the development is an appropriate fit within the context within the streetscape. The height of the building is not proposed to be substantially increased at its western end. At the eastern edge of the building, the perceived height of the building is proposed to be increased by one storey, however the applicant has demonstrated by way of their written statement that there will be no significant scale and bulk impacts.

Exposed blank walls to commercial buildings are characteristic of the Surry Hills Central locality. It is noted this is a location identified as a potential location of public art (mural);
 - (ii) objective (b), which is to ensure an appropriate height transition between new development and heritage items and buildings. The site is not located within a heritage conservation area or within a special character area, the closest being the Railway Square/Central precinct to the west of the site.

Notwithstanding this, the proposal has acceptable impacts on the setting of two heritage items located to the north and south of the site.
 - (iii) objective (c), which is to promote the sharing of views outside Central Sydney. The additional building height does not result in significant impacts on any existing views across the site from neighbouring properties.
 - (iv) Objectives (d) and (e) are not relevant to the application, in that they aim to ensure appropriate height transitions from Central Sydney and Green Square.
 - (b) the proposal, notwithstanding exceeding the standard, satisfies the relevant objectives of the MU1 Mixed Use Zone as follows:
 - (i) the proposal facilitates a diversity of business, retail and office land uses that will generate employment opportunities;
 - (ii) a diverse and active street frontage will be provided to both Kippax and Sophia Streets, attracting pedestrian traffic and contributing to a vibrant, diverse and functional streetscape and public spaces;
 - (iii) the proposal will not result in any perceived conflict between land uses within the land use zone and land uses within adjoining zones;
 - (iv) the development encourages business, retail, community and other non-residential land uses on the ground level of the building; and

- (v) the development integrates suitable business, office and retail land uses in an accessible location that maximises public transport patronage and encourages walking and cycling.

59. The written statement provided by the applicant has sufficiently justified that strict numeric compliance with the height of buildings development standard specified by clause 4.3 of SLEP2012 is unreasonable and unnecessary pursuant to Clause 4.6(3)(a).
60. With regard for the issues raised at Clause 4.6(3)(b) of SLEP2012, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify the contravention of the floor space ratio development standard in the circumstances of the case. The applicant's demonstration is agreed and is articulated above.

For the reasons provided above the requested variation to the height of buildings 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 the height of buildings development standard and the MU1 Mixed Use Zone.

Clause 4.6 Request to vary the Floor Space Ratio development standard

61. The site is subject to a maximum Floor Space Ratio development standard of 3.5:1 (3,610.6sqm of gross floor area).
62. In addition, per clause 6.13 of SLEP2012 (End of journey floor space), the building (containing commercial premises) provides end of journey facilities that include showers, change rooms, lockers and bicycle storage areas, with an area of approximately 293.1sqm (0.29:1 FSR).
63. With regard for the provisions of clause 6.13 of SLEP2012, the end of journey floor space does not exceed the amount of floor space that can be achieved by applying a floor space ratio of 0.3:1 to the building (309.5sqm). As such, the combined controls result in a maximum floor space ratio for the development of 3.79:1 (3,903.7sqm).
64. The proposed development has a floor space ratio of 9.6:1 (9,899.5sqm) and exceeds the FSR standard by 154% (5,995.8sqm). Notwithstanding this, the existing building already exceeds the standard by approximately 140% (5,470sqm).
65. The proposal results in an increase of gross floor area of approximately 523sqm, consisting largely of the conversion of existing basement car parking areas into habitable areas and bike parking and an increase at the roof level of the building.
66. 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.

67. 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 works involve refurbishing an existing building that already sits above the mapped FSR limit. The increase in GFA relates to the provision of end of trip facilities proposed within the Basement Level, replacing the carparking which was previously not considered as GFA;
 - (ii) proposed additional GFA at the roof level relates to the provision of amenities and a server space. The built form associated with the rooftop addition is comparable with the bulk of the overrun currently located on the roof of the existing building;
 - (iii) the proposal is consistent with the objectives of the floor space ratio standard on the basis:
 - (i) strict application of the FSR development standard would be contrary to Objective (a) of Clause 4.4, which is to provide sufficient floor space to meet anticipated development needs of a commercial operator. Strict compliance with the development standard would result in the reduction of 5,962.07sqm of commercial floor space (not including end of trip uses) in a prime location within walking distance of Central Station;
 - (ii) strict application of the FSR development standard would be contrary to Objective (b) of Clause 4.4, which is to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic. A Traffic Report accompanies the application, confirming the proposal will not result in any unsatisfactory traffic or parking implications for the site and surrounds;
 - (iii) strict application of the FSR development standard would be contrary to Objective (c) of Clause 4.4, which is to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure. The proposal's exceedance in GFA will maximise high-quality commercial office space within close proximity to public transport. The proposal, occupants/owners and business typology all align with the NSW Government's Tech Central ambitions, incentivising and curating tech based industries in the precinct;
 - (iv) strict application of the FSR development standard would be contrary to Objective (d) of Clause 4.4, which is 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. The exceedance in GFA mostly contained within the building envelope. The proposed works have been undertaken to complement an existing building which sits within the Kippax Streetscape.
 - (b) That there are sufficient environmental planning grounds to justify contravention of the standard:
 - (i) the works are primarily contained within the building envelope;

- (ii) the proposal replaces existing car parking spaces with usable floor space that will enhance the character of the locality; and
 - (iii) the roof top provides high environmental amenity for future occupants of the building.
68. With regard for the issues raised at Clause 4.6(3)(a) of SLEP2012, the applicant's written request has adequately addressed those matters required to be demonstrated being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. This is on the basis that:
- (a) the proposal satisfies the relevant objectives of Clause 4.4 of SLEP2012 (Floor Space Ratio) as follows:
 - (i) objective (a), which is to provide sufficient floor space to meet anticipated development needs for the foreseeable future, the proposal utilises an existing commercial building, adaptively re-using the shell of the building and upgrading the building to provide for the anticipated needs of office users for the foreseeable future;
 - (ii) objective (b), which is to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic, the proposal provides increased density within the basement and roof levels, in locations that will not significantly increase the population of the building, noting increased bike parking will be provided and that the site is located within close proximity to multiple transport hubs, including heavy and light rail and bus routes that intersect the locality;
 - (iii) objective (c), which is to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure, the site is located within close proximity to multiple transport hubs, including heavy and light rail and bus routes that intersect the locality. Development contributions are required by way of condition that will go towards the provision of infrastructure within the locality;
 - (iv) Objective (d), which is 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, the proposed works result in an adaptively re-used and refurbished building that will be consistent with the existing and desired character of the Surry Hills Central locality.
 - (b) the proposal, notwithstanding exceeding the standard, satisfies the relevant objectives of the MU1 Mixed Use Zone as follows:
 - (i) the development will provide for a diversity of retail and office land uses that will generate employment opportunities;
 - (ii) the new development will provide an active street frontage to attract pedestrian traffic and contribute to vibrant, diverse and functional streets and public spaces;
 - (iii) the proposed uses of the site will be subject to recommended conditions relating to ongoing land use, such that conflict between adjoining land uses within the zone will be minimised;

- (iv) the development will provide business, retail and offerings for community groups, per the Canva Foundation uses at the ground floor of the buildings;
 - (v) the development provides suitable land uses in accessible locations that maximise public transport patronage and encourage walking and cycling.
69. The written statement provided by the applicant has sufficiently justified that strict numeric compliance with the floor space ratio development standard specified by clause 4.4 of SLEP2012 is unreasonable and unnecessary pursuant to Clause 4.6(3)(a).
70. With regard for the issues raised at Clause 4.6(3)(b) of SLEP2012, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify the contravention of the floor space ratio development standard in the circumstances of the case. This is on the basis that:
- (a) additional gross floor area is proposed within the existing basement and at the roof level. Both locations provide for increased environmental benefits for building occupants, including end of journey facilities and amenities associated with communal landscaped areas and locations for proposed PV solar cells;
 - (b) the applicant has demonstrated that proposed additional gross floor area at the roof level will not radically change the perception of scale and bulk as viewed from locations opposite and surrounding the site and will not have any significant impacts for the occupants of neighbouring buildings in relation to overshadowing; and
 - (c) the applicant has demonstrated that proposed gross floor area at the roof level of the building will not have any significant impacts for neighbouring buildings in relation to visual and acoustic privacy, subject to recommended conditions of consent.
71. The written statement provided by the applicant has sufficiently justified that there are sufficient environmental planning grounds to justify the contravention of the floor space ratio development standard specified by clause 4.4 of SLEP2012 is unreasonable and unnecessary pursuant to Clause 4.6(3)(b).
72. 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. The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify the contravention of the height of buildings development standard in the circumstances of the case.

Management plan - Use of 'Town Hall' ante-space

73. Amended ground level drawings demonstrate doors for the 'Town Hall' ante-space at the Sophia Street frontage have been substantially reduced in width. Originally, full width doors provided for the footway of Sophia Street to function as a 'break out space' for occupants of the building (Figures 36 and 37 below).
74. The use of Sophia Street itself as a break out space was not supported by Council's planners on the grounds of poor pedestrian safety, amongst other things. Vehicles turning left from Terry Street into Sophia Street have a limited line of site and would not generally expect pedestrians to be on the roadway within a service lane.

75. Notwithstanding the redesign of the doors, a condition is recommended that the roadway of Sophia Street is not suitable for events associated with the site. A condition is also recommended requiring the preparation of a plan of management relating to the use of the Town Hall ante-space.
76. The management plan is required to address recommendations made by the amended acoustic report, including that doors and windows to Sophia Street must be kept closed at specified times to achieve required noise criteria. The intentions of requiring a management plan are to maximise pedestrian safety and to ensure the function of the Town Hall area will not have any significant impacts for the residential amenity of neighbouring buildings.

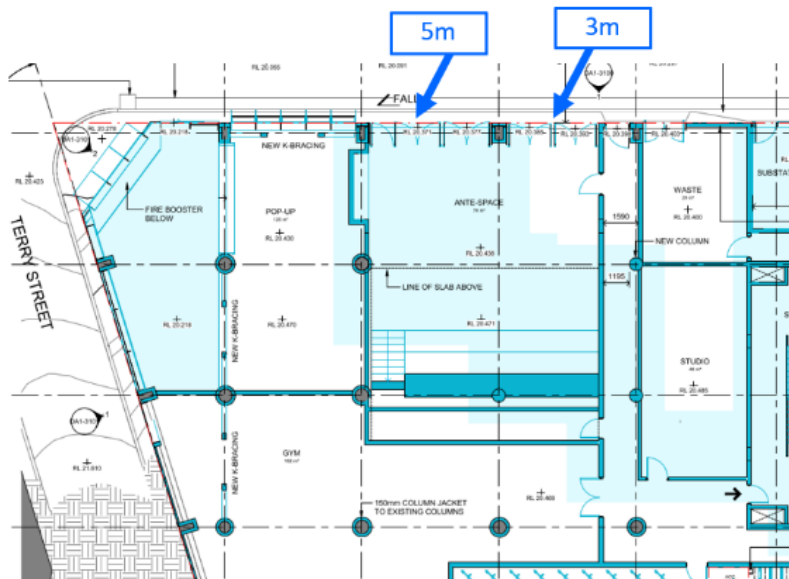


Figure 36: original plans lodged with the application show the Town Hall ante-space was to be provided with full width doors opening onto Sophia Street with a combined width of 8m.

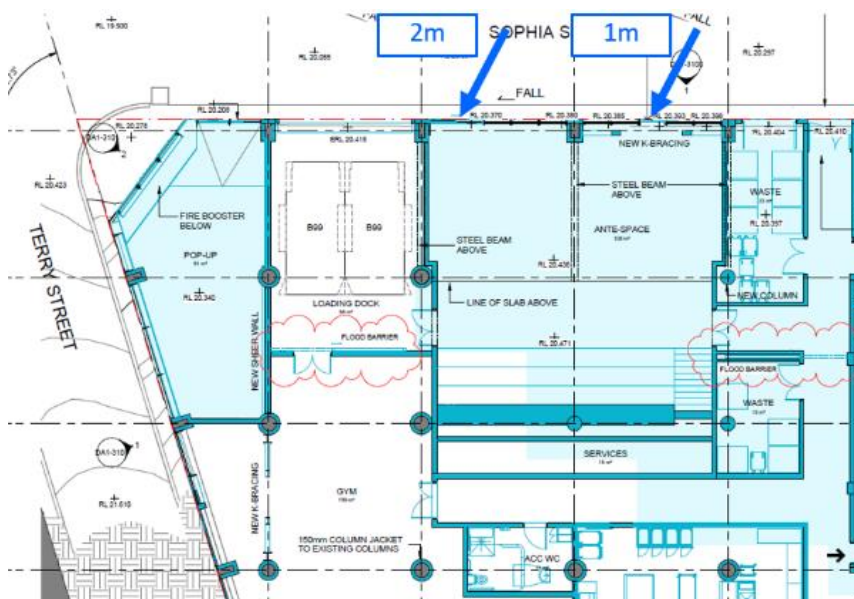


Figure 37: amended drawings show doors opening onto Sophia Street have been reduced to narrower apertures with a combined width of 3m.

Management plan: Use of Roof Terrace

77. The statement of environmental effects outlines that the roof terrace of the building is proposed to be used between the hours of 7:00am and 12:00 midnight by 260 staff and guests. Despite this, the amended acoustic report has been prepared with a higher number of 320 people.
78. An indicative landscape plan has been provided (Figure 38 below), showing a 'useful' area of approximately 350sqm excluding garden planters surrounding the edges of the terrace, which is area capable of holding 260 guests (approximately 1.4sqm per person).
79. The amended acoustic report recommends measures to ensure sound impacts are mitigated for sensitive noise receivers and has been prepared based on the following assumptions:
 - (a) a maximum of 320 patrons within the roof terrace, with half speaking at any one time (noting only 260 are proposed);
 - (b) provision of a 2.3m high glass balustrade installed as a noise barrier to the edges of the building (shown on drawings to a height of 2.4m); and
 - (c) amplified music being played, however limited to specified criteria.
80. Council's health and building specialist have reviewed the proposal and raise no issues, subject to conditions requiring the installation of noise limiters within the space.
81. A condition is recommended requiring the preparation of a plan of management relating to the use of the roof terrace. The management plan is required to address recommendations made by the amended acoustic report and to provide for a maximum number of 260 guests at any one time. The plan of management is required to address security management and to recommend a complaints management process.



Figure 38: indicative landscape plan lodged with application.

Business identification signage

82. The development proposes three business identification signs as follows:

- (a) SIGN 1: an internally illuminated top of building sign facing the northern (Sophia Street) boundary, constructed at a height of approximately 36m above street level (2.4m x 7.5m);
- (b) SIGN 2: a rectangular sign using transparent LED adhesive film applied to the glazing, proposed to be located at the corner of Kippax and Sophia Streets (6.1m x 3.3m); and
- (c) SIGN 3: a circular sign, at the Kippax Street frontage, also proposed to be applied using transparent LED glazing film (diameter: 2.2m).

83. The applicant has responded to a request by Council's assessing officers for further justification of the proposed signage as follows.

Sign 1: Top of building sign

84. Section 3.16.5.2 of SDCP2012 specifies that outside of the SP5 Metropolitan Centre zone and the E2 Commercial Centre zone, top of building signs building identification sign should not be installed higher than 15m above the existing ground level or the top of any existing parapet (whichever is lower). The proposal involves installing a top of building sign to a height of approximately 36m (Figure 39 below).



Figure 39: proposed illuminated top of building 'Canva' sign, facing north towards the Sophia Street boundary (day and night).



Figure 40: North elevation plan extract for top of building sign.

85. The proposed sign is supported on the basis it is to be installed on a new element located at the top of an existing building. The sign will not be readily visible from surrounding side streets and will not comprise an element of visual clutter. The sign will be visible only from some distance from the site, including from the Central Station precinct.
86. The sign is similar in relation to building height to an existing sign within close proximity to the site at 72-84 Foveaux Street (Figure 41 below) and similar to existing signs on taller buildings outside of the Central Sydney area, associated with student housing within the Eveleigh and Sydney University Precincts (Figure 42).

87. The sign is consistent with key provisions of the State Environmental Planning Policy (Industry and Employment) 2021, in that the sign will not impact on the viewing rights of other advertisers or compromise the safety of pedestrians, cyclists or vehicles on public roads in the area.
88. The sign is consistent with top of building sign controls in that it relates to the single building tenant and building's owner. The sign achieves a high degree of integration and compatibility with the architectural design, materials, finishes and colours of the building and has a maximum vertical height equivalent to one floor of the building. The sign comprises individual raised letters, affixed directly to the building and does not comprise a light box.
89. The provisions require that consent for top of building signs is to be limited to 5 years. However, this requirement is considered unnecessary in the circumstances given Canva is the property owner. Instead, a condition is recommended that the top of building sign must be removed in the event that Canva vacate the building.

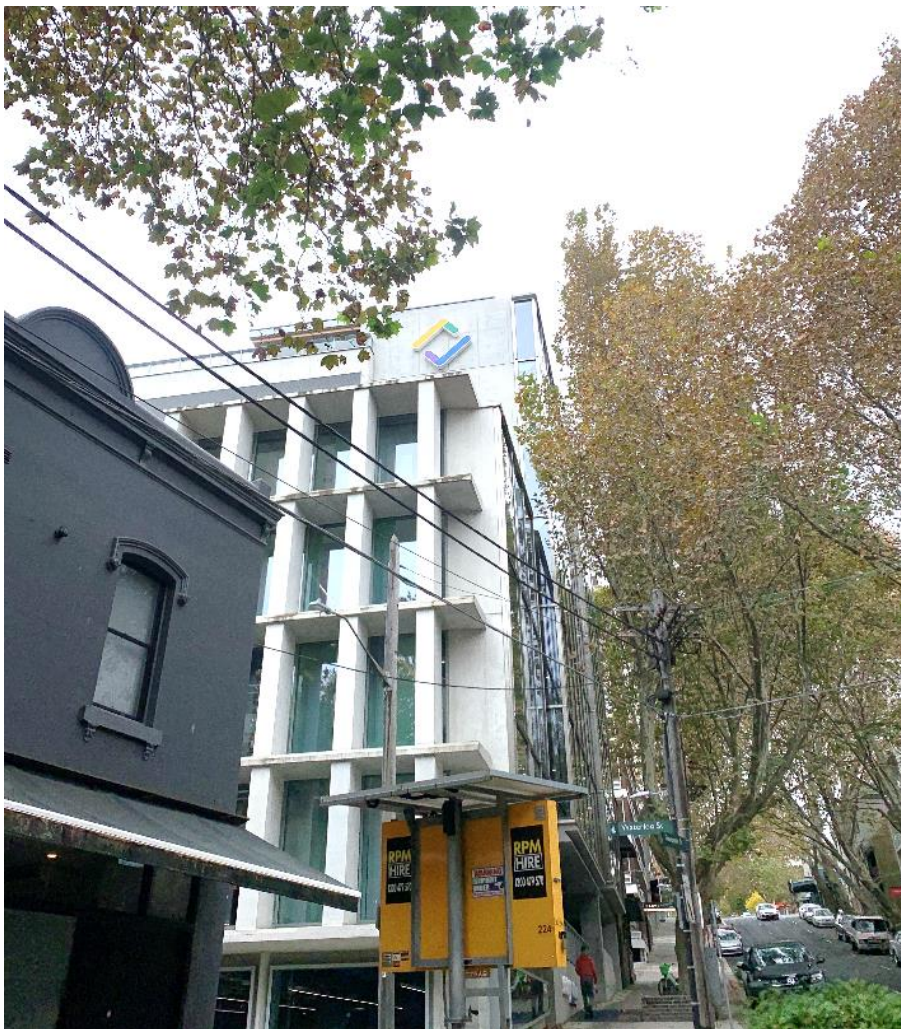


Figure 41: Top of building sign at 72-84 Foveaux Street.



Figure 42: Top of building signs outside of the Central Sydney area, associated with student housing within the Eveleigh and Sydney University Precincts (Source: Amendments Design Report, provided for assessment).

Signs 2 and 3: Glazing wall signs

90. SIGN 2 comprises a rectangular sign, which is proposed to be located at the corner of Kippax and Sophia Streets (Figures 43 - 45 below).
91. The sign is proposed to be installed within a new double height opening, using transparent LED glazing film fixed to glazing. Examples of similar signs provided by the applicant show frames surrounding signs, with no visible cabling.
92. When non-illuminated the windows will remain translucent, allowing light into the building and allowing for passive surveillance over the street. When illuminated, images are proposed to rotate every 5-10 seconds. When video is projected, images are proposed to be slow-moving.



Figure 43: Rectangular transparent LED glazing film sign at the corner of Kippax and Sophia Streets (left) and circular transparent LED glazing film sign at the eastern end of the Kippax Street frontage (right).

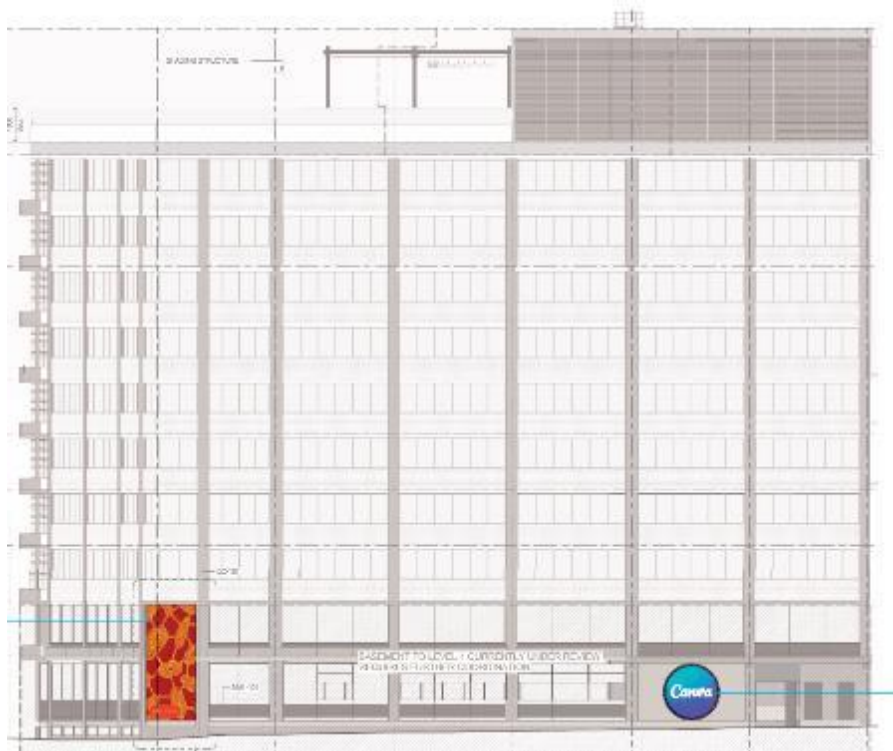


Figure 44: Rectangular transparent LED glazing film sign at the corner of Kippax and Sophia Streets (left) and circular transparent LED glazing film sign at the Kippax Street frontage (right).

93. The proponent has described the signs as utilising new technology and states that signage content will be limited to promoting Canva's brand collaborations, community outreach initiatives, event information and artworks by local artists.
94. The signs can be supported in this instance, noting the collaborative and artistic content that is proposed to be exhibited. Notwithstanding this, conditions are recommended requiring there to be no third party advertising.
95. Subject to the recommended condition, the signs will be consistent with design excellence provisions relating to signage, per section 3.16.6.2 of SDCP2012. The signs will enhance the commercial character of the area and will be integrated to the redefined architectural elements of the building at a prominent corner location.
96. The signs will contribute positively to the existing and desired character of the area in that they will contribute to the commercial activity of the public domain at Kippax Street. The signs will create interest and activity in the public domain through architectural detailing and by the innovative use of materials.
97. The design quality of the sign demonstrates creativity and innovation, through the use of new technology and contributes to artistic and cultural elements that are promoted by Canva.
98. The applicant has demonstrated by supporting documents that the signs will not result in cumulative visual clutter in the area and that they will satisfy the relevant provisions of the SEPP in relation to road safety. The sign does not establish a precedent for third party advertising within buildings of a similar scale to that proposed, noting the proposed contents to be displayed.

99. SIGN 3: is a circular sign with a diameter of 2.2m, proposed to be located at the Kippax Street frontage adjacent to the building entry. The sign is proposed to be constructed using transparent LED glazing film and is assessed as being suitable for the same reasons outlined above in relation to SIGN 2.



Figure 45: Examples provided during assessment of content proposed to be displayed within corner glazing signage (LED glazing film).

External planter beds and weather protection awning

100. Works are proposed to provide for the greening of the outside of the building by way of external landscaped plantings. External planter boxes are proposed to be constructed at level 1 of the development, extending around the southern and western ends of the building (Figure 46 - 48 below).
101. The proposal also involves constructing a new concrete weather protection awning over the pedestrian entry to the site from Kippax Street. A planter box is intended to be installed on the top of the concrete awning.
102. The language of the external planter boxes is proposed to be extended to the upper levels of the north-western corner of the building, at the corner of Terry and Sophia Streets, with landscaped winter garden planters extending to the upper levels of the building.
103. The level 1 planter boxes are proposed to extend over the property boundaries of Terry and Kippax Streets by approximately 450mm and are elevated above the footpath level by a minimum of 3.7m.
104. Council's public domain and urban design specialists have expressed reservations in relation to the proposal to install external landscaped elements to the building, noting there are risks associated with the ongoing maintenance of the structures above the public domain.

105. The applicant has provided supporting documents during assessment, demonstrating that concrete awnings are commonplace in the locality and consistent with the era of design of the original building. The applicant highlights that currently Kippax Street has a mixture of metal box awnings, glass and concrete canopies. The concrete canopies are generally associated with concrete frame brick infill commercial buildings from the 1970's period.
106. The applicant notes that the original drawings for the building show the provision of a concrete awning at the Kippax Street frontage and that there is potentially a concrete awning in place, covered by a sheet metal covering.
107. The proposed structures have been assessed on their merits and are supported. The proposed awning has a depth of approximately 2.13m as measured from the Kippax Street boundary and will not have any significant impacts for an existing street tree.
108. Proposed external planter boxes result in effective greening of the outside of the building, and subject to recommended conditions of consent regarding maintenance will not have any significant impacts for users of the public domain.
109. The applicant has provided supporting documents including detailed section drawings showing a soil depth of 700mm for external planters and integrated irrigation and drainage systems. The planter boxes are elevated to an extent that they will not interfere with the operation of the footpaths.
110. The applicant has advised that a Facade Maintenance Access Strategy will be developed to inform the maintenance of external elements. The applicant states that:
 - (a) external maintenance will be carried out using rope access by abseilers from anchor points located on Level 10 and the roof; and
 - (b) there will not be any requirement to close footpaths during regular maintenance or require a local exclusion zone.
111. The planters are consistent with the objectives and provisions of Schedule 4 of SDCP2012 (Projections over or into public roads), which specify that projections beyond private property boundaries over or into the public road / footpath are to contribute to the amenity and character of the street, not cause obstruction or a loss of safety for users of the street and meet the relevant requirements of the Roads Act 1993.
112. The planters have soil depths of 700mm and widths of 450mm, meeting recommended soil depths in the City's Landscape Design Code. A condition is recommended requiring the preparation of a Facade Maintenance Strategy, prior to the issue of a construction certificate.
113. A condition is recommended that a Positive Covenant must be registered on the title of the subject lot, requiring the lot owner to maintain all projecting planters in perpetuity. The Positive Covenant must indemnify Council against any claims and damages, will indemnify Council and provide for the maintenance, upkeep, and repair of the planter boxes.



Figure 46: Extract from photomontage, showing projecting planter boxes and planted awning at the Kippax Street and Terry Street frontages.

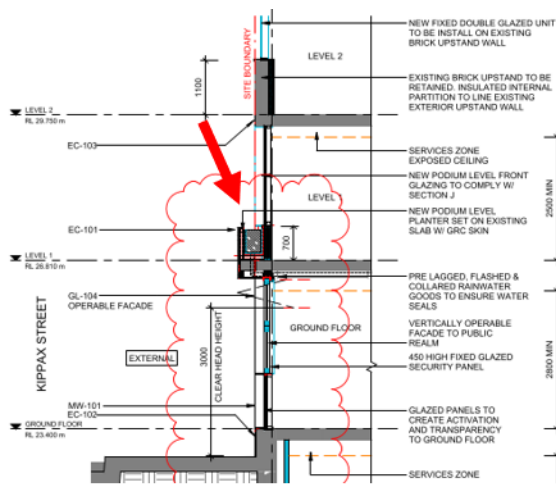


Figure 47: Section drawings showing projecting planter boxes (Kippax Street and Terry Street).

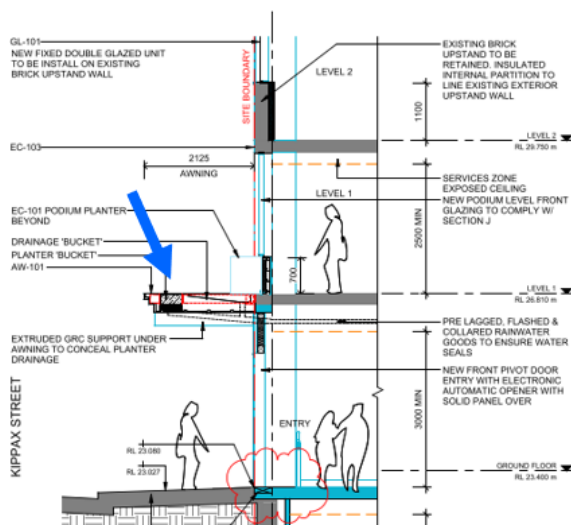


Figure 48: Section drawings showing projecting awning over Kippax Street. .

Hours of operation

114. The Statement of Environmental Effects indicates that the hours of operation for the proposed roof top terrace are to be between 7:00am and 12:00 midnight, daily. An amended acoustic report was provided, which assesses the potential for the operation of the roof terrace to impact upon sensitive noise receivers surrounding the site.
115. The amended acoustic report recommends that the operation of the roof terrace should not involve amplified music over 85 dB(A) LAeq when measured as a sound pressure level within the space. The report recommends the installation of a 2.3m high glass balustrade along the perimeter of the rooftop area to mitigate noise, which is shown on drawings lodged for assessment.
116. The report identifies that a retail premises and proposed 'Town Hall' ante-space at the corner of Terry and Sophia Streets can operate until 12:00 midnight, without having any significant impacts for neighbouring buildings if all external windows are kept closed. Notwithstanding this, the SEE states that the hours of operation for the retail premises will be subject to the assessment of a future development or complying certificate application. The SEE does not state proposed hours of operation for the Town Hall element.
117. Council's Health and Building Specialists recommend conditions of consent in relation to mitigating noise impacts and have not otherwise raised any objections to the proposal.
118. The proposed development has been considered with regard for the Late Night Trading Management provisions of section 3.15 of SDCP2012 .
119. The proposed land use is considered to be a 'Category C' premises, per section 3.15 of SDCP2012, in that the SEE does not state the business premises will sell, supply or allow the consumption of liquor on or off the premises. Notwithstanding this, the premises may be able to serve alcohol under temporary licenses provided by caterers or other third party providers.
120. The site is located outside of a designated late night trading area, however, is bordered to the north and west by the Local Centre Area (red area), per the late night trading area SDCP2012 map (Figure 49 below).



Figure 49: The site in relation to the Local Centre Area, per the late night trading area SDCP2012 map.

121. Table 3.7 of SDCP2012 specifies 'base' hours of operation for Category C premises of between 7:00am and 12:00 midnight for indoor and outdoor areas.
122. The proposal to operate the premises between 7:00am and 12:00 midnight for indoor and outdoor areas is supported, with consideration the outdoor area is located away from residential noise receivers at the eastern boundary of the site, and noting the Aurora Hotel, at the western boundary has operated a roof terrace until 1:00am since 2006.
123. Notwithstanding this, it is recommended a condition be applied that 'base' hours of operation be applied until 10:00pm daily, with 'extended' hours of operation until 12:00midnight for an initial 1 year trial period.
124. The 1 year trial period will enable the operation of the premises to be monitored in relation to its ongoing management performance and its impacts on neighbourhood amenity. At the end of the trial period, Council may review the conditions and respond to such things as changes in the character of the neighbourhood and changes in management.

Consultation

Internal Referrals

125. The application was discussed with Council's:
 - (a) public domain and flood specialists
 - (b) transport
 - (c) waste management
 - (d) tree management
 - (e) urban designer
 - (f) environmental sustainability
 - (g) environmental health
 - (h) public art
 - (i) specialist surveyor
 - (j) landscaping
 - (k) model team; and
 - (l) construction and building
126. The above advised that the proposal is acceptable subject to conditions included in the Notice of Determination. Where appropriate, comments provided are addressed in the discussion section above.

Surveyor

- 127. Council's surveyor advises that the City's records indicate that a deposited plan (DP 553194) was registered at NSW Land Registry Services in 1972. The deposited plan describes the intention of the site owner to dedicate the splayed areas at the western edge of the site as public road (limited in stratum). The splayed edges are at the corner of Terry Street, Kippax Street and Sophia Street (Figure 50 below).
- 128. Council's surveyor advises that it is unclear whether the splayed corners in stratum were formally dedicated to Council (by gazettal or other means) at the completion of construction of the building.
- 129. To address this issue, a condition is recommended that a 'plan of redefinition,' redefining the boundaries of the subject site shall be carried out, with the work to be done prior to the issue of a construction certificate. The final 'plan of redefinition' will be required to be registered at NSW Land Registry Services prior to the issue of an occupation certificate, formalising the dedication of the areas. This issue has been discussed with the proponent during assessment.

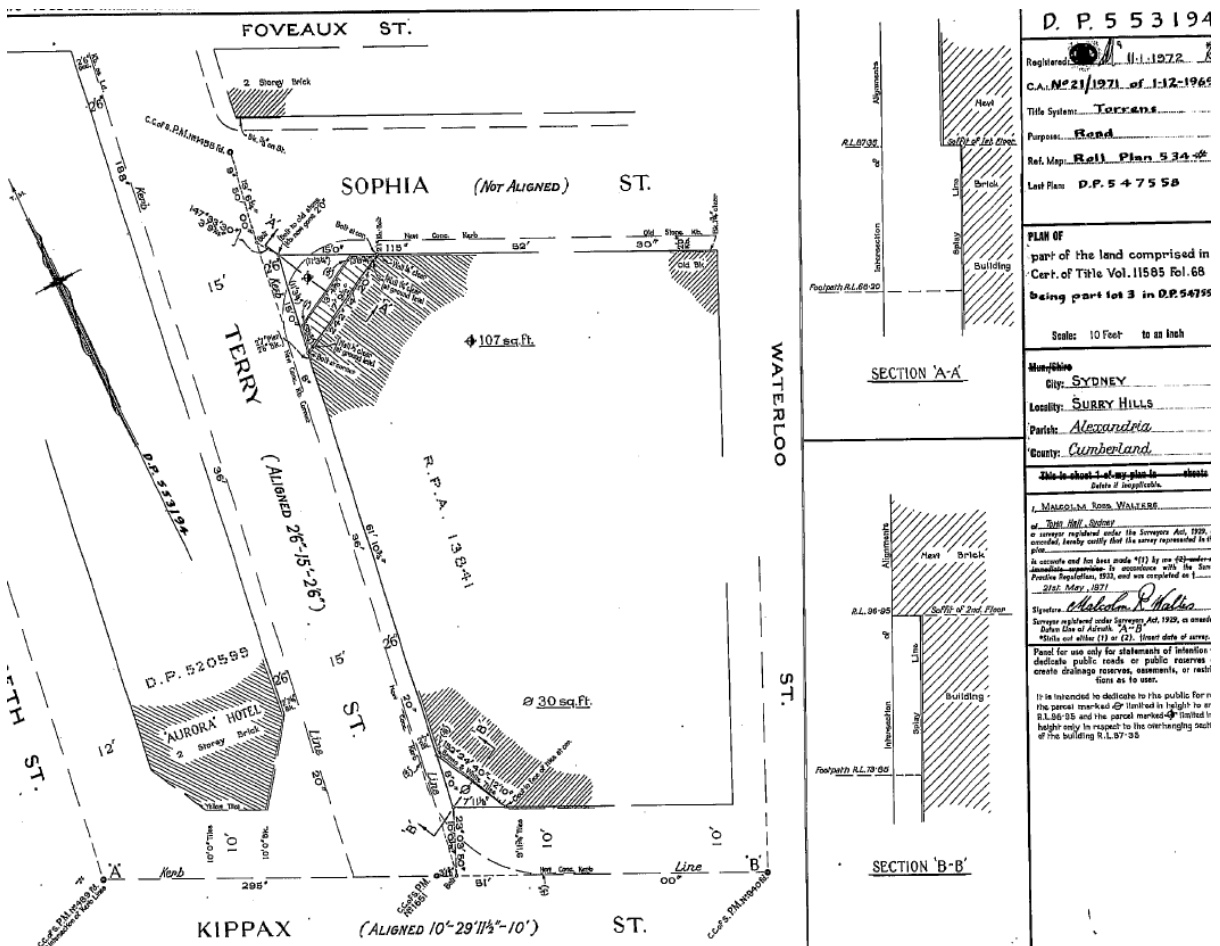


Figure 50: Extract from deposited plan, registered at NSW Land Registry Services in 1972, with the intention of dedicating the splay corners (limited in stratum).

External Referrals

Ausgrid

130. The application was referred to Ausgrid for comment, pursuant to Subdivision 2, Clause s2.48 of the Transport and Infrastructure SEPP 2021 (Development likely to affect an electricity transmission or distribution network).
131. A response was received raising no objections to the proposed development, subject to the inclusion of recommended conditions of consent.

Advertising and Notification

132. In accordance with the City of Sydney Community Participation Plan 2023, the proposed development was notified for a period of 28 days between 15 January 2024 and 13 February 2024. A total of 391 properties were notified and one submission was received.
133. Amended and supporting documents were provided during assessment, showing minor changes to the Sophia Street frontage and the insertion of a loading dock. These were not related to issues raised in the public submission.
134. Technical reports were provided to address site flooding and justify elements of the proposal (see amendments section above). Changes made to the proposal decrease the scope of works and address site conditions and were not required to be re-notified.
135. The submission raised the following issues:
 - (a) **Issue:** Additional building bulk will cast increased shadows over the roof of an existing residential building at the eastern boundary in a location intended for future PV panels.

Response: The provisions of section 3.6.3(2) of SDCP2012 (Photovoltaic solar panels) specify that where possible, proposals for alterations and additions to building are to maintain solar access to existing photovoltaic solar panels. However, the controls do not require any assessment of potential future solar panels.

Notwithstanding this, shadow diagrams lodged with the application demonstrate that at the completion of the proposed works, the north-facing roof of the neighbouring residential property at 26-44 Kippax Street (the location of the submission) will receive solar access to the majority of its surface between 9:00am and 1:00pm at the winter solstice.

Between 1:00pm and 3:00pm, solar access will be reduced (Figure 51, shaded yellow), however greater than 50% of the roof area will retain solar access at 2:00pm at the winter solstice.



Figure 51: shadow impacts for the roof area of 26-44 Kippax Street (red arrow, yellow shading), at the winter solstice.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

136. The development is subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015 given there is a net increase in the GFA for the building.
137. Credits have been applied for the approved historic use of the site, which is identical to the proposed use of the site (commercial offices).
138. A condition relating to this development contribution has been included in the recommended conditions of consent. The condition 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

139. The site is located within the Residual Lands affordable housing contribution area. As the proposed development includes additional floor space, a contribution is required at a rate of \$11,176.22 per square metre of total residential floor area 2,019sqm totalling \$225,647. A condition of consent is recommended requiring payment prior to the issue of a construction certificate.
140. 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.

Housing and Productivity Contribution

141. The development is subject to a Housing and Productivity Contribution under the provisions of the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.
142. A condition relating to this development contribution has been included in the recommended conditions of consent. The condition requires the contribution to be paid prior to the issue of a construction certificate.

Relevant Legislation

143. Environmental Planning and Assessment Act 1979.
144. Heritage Act 1977.

Conclusion

145. The application is for the adaptive reuse of an existing 10 storey commercial building for ongoing office uses, including a roof level terrace area and business identification signage. These works have been assessed in accordance with the relevant planning controls.
146. Written statements provided by the applicant have sufficiently justified that there are sufficient environmental planning grounds to justify the contravention of the height of building and floor space ratio development standards specified by clauses 4.3 and 4.4 of the Sydney Local Environmental Plan 2012 and that strict compliance is unreasonable and unnecessary in the circumstances of the application.
147. The proposed development complies with remaining key development standards applicable to the site, including the design excellence provisions.
148. The application has undergone extensive consultation with the City's planning staff and has been amended during the assessment to resolve a number of matters including flood levels, site servicing, acoustic impacts, waste collection and environmental sustainability.
149. The proposal will provide for commercial office uses in an adaptively reused building, on a site that is highly accessible to existing and planned employment, services, public transport infrastructure and community facilities.
150. The proposal achieves the principles of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future users of the site.
151. As a result of public notification, one submission was received. Issues raised in the submission have been addressed as discussed within this report.
152. All matters raised by internal and external referrals have been adequately addressed, as discussed within this report.
153. The proposal is in the public interest and is recommended for approval by the Central Sydney Planning Committee.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Adrian McKeown, Senior Planner.