

## Planning and Assessment

IRF19/5809

### Gateway determination report

<b>LGA</b>	Sydney
<b>PPA</b>	City of Sydney Council
<b>NAME</b>	The planning proposal seeks to amend Sydney Local Environmental Plan 2012 to increase the maximum building height and maximum floor space ratio via a site-specific provision for 72-84 Foveaux Street, Surry Hills.
<b>NUMBER</b>	PP_2019_SYDNE_005_00
<b>LEP TO BE AMENDED</b>	Sydney Local Environmental Plan 2012
<b>ADDRESS</b>	72-84 Foveaux Street, Surry Hills
<b>DESCRIPTION</b>	Lot 1 DP 625093
<b>RECEIVED</b>	8 August 2019
<b>FILE NO.</b>	IRF19/5809
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The planning proposal seeks to amend the Sydney Local Environment Plan 2012 (Sydney LEP 2012) to introduce a site-specific provision for 72-84 Foveaux Street, Surry Hills to permit the following:

- increase the maximum building height from 15 metres (m) to RL 55.60 (25m); and
- increase maximum floor space ratio (FSR) from 2.5:1 to 4:1.

The additional building height and FSR is only to be awarded if:

- the building is not used for the purpose of residential accommodation or serviced apartments; and
- the building does not include any on-site parking except for building services.

The proposed amendment will facilitate the refurbishment of the existing commercial building and would provide a total commercial floor space of approximately 3,448m<sup>2</sup>. The proposal would enable a 6-storey commercial building with a presentation and entertainment area on the lower ground floor and an end of journey facility in the basement. The proposed future tenant is SafetyCulture, a technology company who are seeking to create their global headquarters at the site and provide approximately 135 office jobs.

## 1.2 Site description

The site is located at 72-84 Foveaux Street, Surry Hills, on the fringe of the Central Business District (CBD) (**Figure 1**) is an irregular shape with a total area of approximately 862m<sup>2</sup> and is legally known as Lot 1 DP 625093. The site has three street frontages being Foveaux Street to the south, Corben Street to the east and Waterloo Street to the west (**Figure 2**).

The existing building on site is a 6-storey masonry commercial office which was constructed in 1973 and has been predominantly used for commercial purposes since that time (**Figure 3**). The building contains a lower ground floor and basement carpark accessed off Waterloo Street, ground floor retail with terraced open space and office suites on the upper levels.

The existing building has a height of 23.8m and a gross floor area of 2,568.76m<sup>2</sup> which equates to an FSR of 2.98:1 which exceeds the existing controls under the Sydney LEP 2012.

The site inclines by approximately 4m from the west to the east from Waterloo Street approaching Corben Street. Both Waterloo and Corben Streets are relatively level from north to south (**Figure 3**).



**Figure 1:** Aerial photograph of City centre looking north-west towards the CBD (Source: Ethos Urban)





**Figure 2:** Site location (shown in red) (Source: Nearmap)



**Figure 3:** View of the existing building from the corner of Waterloo and Foveaux Street (Source: City of Sydney)

### 1.3 Existing planning controls

The site is subject to the following development controls under Sydney LEP 2012:

- it is zoned B4 Mixed Use (**Figure 4**) which permits residential accommodation and commercial premises;
- it has a maximum building height of 15m (**Figure 5**); and
- it has a maximum floor space ratio of 2.5:1 (**Figure 6**).

The existing building on site has a height of approximately 23.8m (6 storeys) and has an FSR of 2.98:1 which is above the current LEP controls.

#### Heritage

The site is not listed as a heritage item but is located within the Little Riley Street Heritage Conservation Area (HCA) and in the vicinity of a number of local heritage items. The closest local heritage item being The Excelsior Hotel at 145-149 Foveaux Street, Surry Hills which is listed in Schedule 5 of the Sydney LEP 2012 (**Figure 7**). As the site is located within an HCA, Clause 5.10 of the Sydney LEP 2012 applies to the site, which will require the heritage impacts to be further considered prior to development consent being issued. The existing building is identified as a detracting building under the Sydney Development Control Plan 2012 (DCP) (**Figure 8**).

#### Car Parking

Clause 7.6 of the Sydney LEP 2012 identifies the maximum car parking rates for various uses. The site is identified as 'category E' under the Sydney LEP 2012 (**Figure 9**). Under this category the maximum number of car parking spaces for a building used as a business or office premises is one space per 125m<sup>2</sup> of gross floor area where the floor space is not greater than 2.5:1.

#### End of Journey Facilities

Up to 0.3:1 of additional floor space can be awarded under clause 6.13 of the Sydney LEP 2012 if end of journey facilities are provided and the entire building is used for commercial purposes only.





**Figure 4:** Sydney LEP 2012 Land Zoning Map (LZN\_016)



**Figure 5:** Sydney LEP 2012 Height of Buildings (HOB\_016)



Figure 6: Sydney LEP 2012 Floor Space Ratio Map (FSR\_016)



Figure 7: Sydney LEP 2012 Heritage Map (HER\_016)





**Figure 8:** Sydney DCP 2012 – Little Riley Street HCA



**Figure 9:** Sydney LEP 2012 Transport Accessibility Level Map (TAL\_016)

## 1.4 Surrounding area

The site is situated on the fringe of the Sydney CBD, approximately 350m east of Central Station. Surry Hills has a diverse range of uses, ranging from commercial, residential, cafes, restaurants and bars. Gentrification occurred during the late 20<sup>th</sup> century, creating a desirable location for residents to live and work. The streetscapes contain a contrast between 2 to 3 storey Victorian terraces and new commercial and residential buildings. Foveaux Street contains 'rag trade' style warehouses that contribute to the heritage conservation of the locality.

Employment within Surry Hills is growing, with an average annual growth rate of 1.1%. The types of employment projected to grow within Surry Hills include

Professional, Scientific and Technical Services, Education and Training, and Health Care and Social Assistance.

To the north of the site in Waterloo Street and directly adjoining the boundary of the site is a 2-storey converted former warehouse (shown as 'A' in **Figure 10**).

To the west of the site long Foveaux Street between Waterloo and Bellevue Street is a row of low scale commercial terraces including the local heritage listed 'Excelsior Hotel' (shown as 'B' in **Figure 10**).

To the east, adjoining the site are 2-storey residential terraces (shown as 'C' on **Figure 10**) and on the eastern side of Corben Street are 2-storey Victorian terraces (shown as 'D' on **Figure 10**), a 3-storey former warehouse converted to a residential apartment building (shown as 'E' on **Figure 10**) and an 8-storey commercial office building on the corner of Foveaux Street (shown as 'F' on **Figure 10**).

On the south side of Foveaux Street opposite the site are a mix of 2 to 4 storey commercial and residential buildings (shown as 'G' on **Figure 10**). On the corner of Foveaux and Waterloo Streets is a 5-storey commercial building (shown as 'H' on **Figure 10**).

#### Transport and Access

The site is located within 350m of Central Station with good connections to Central Sydney, Sydney Airport, Parramatta and the greater Sydney rail network. Numerous bus routes travel along Foveaux Street towards Central Station and the CBD with further connections to the Eastern suburbs and the Inner West. The site is also located near the future South East Light Rail stop on Elizabeth Street.

Riley Street is within 100m to the east of the site and provides north and south bicycle connections towards Central Sydney and Bourke Street. The site is also serviced by car sharing services with GoGet, which is located approximately 400m from the site.





**Figure 10:** Surrounding building heights and uses.

## 1.5 Background

The site was previously subject to a number of development applications (DA). Details of the DA's are outlined below.

### Development Application DA/2013/682

DA/2013/682 sought to increase the building height to 7-storeys to provide 33 residential units and retail uses at ground level. The DA was withdrawn on 30 May 2013 after Council raised concerns with the proposed building height.

### Development Application DA/2013/1933

On 28 July 2014, Council approved alterations to the existing building which enabled a 7-storey mixed-use building with 26 residential apartments. The alteration allowed for a maximum building height of 54.96 (AHD) to the top of the building and RL 55.63 (AHD) to the parapet and a maximum floor space ratio of 2.98:1.

This consent was subsequently modified on two occasions.

The first modification (DA/2013/1933/A) was approved with conditions by Council on 19 August 2016. The modification included a reduction in retail floor area, increase in residential floor area, unit reconfiguration, unit mix changes, internal car parking and

basement modifications, facade and landscaping changes. Consent for DA/2013/1933/A lapsed on 28 July 2019.

The second modification (DA/2013/1933/B) sought to amend the building height from 15m to 25m and increase the FSR from 2.5:1 to 4:1. The proponent was advised by Council that as the proposal significantly exceeded the development controls, the Council would not progress the DA. The application was withdrawn by the proponent on 1 March 2018.

#### Current DA and planning proposal 2019

On 19 March 2019, a concurrent DA and planning proposal to amend the building height from 15m to 25m and FSR controls from 2.5:1 to 4:1 was lodged with Council. The proponent was advised that as the proposal significantly exceeded the development controls, the Council was unable to progress the application without changes to the LEP. The DA was subsequently withdrawn by the proponent in May 2019. Council prepared the planning proposal at the request of the proponent (Stasia Holdings Pty Ltd).

The Central Sydney Planning Committee and Council resolved to approve the planning proposal for submission to the Minister for Planning and Public Spaces for Gateway determination on 20 June 2019 and 24 June 2019 respectively.

## **2. PROPOSAL**

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### **2.1 Objectives or intended outcomes**

The intended outcome of the planning proposal is to enable approximately 3,540m<sup>2</sup> of commercial floor space in a refurbished building that includes:

- the relocation of the building core to deliver more efficient floor space;
- the removal of all on-site car parking and replacement with an end of journey facility in the basement and event space on lower ground floor;
- a provision for off-street building services parking; and
- a new façade consisting of artwork integrated into a glazed atrium located on Waterloo Street frontage and extending along the southern façade on the Foveaux Street frontage.

The planning proposal seeks to achieve the following objectives:

- meet B4 Mixed Use zone objectives;
- ensure ongoing commercial use only;
- maximise the existing building structure;
- ensure additional commercial floor space does not result in any adverse density and building bulk issues;
- facilitate the delivery of employment uses in close proximity to public transport;
- restrict residential accommodation and serviced apartments from the proposed additional site-specific height and FSR;
- ensure active frontages and crime prevention through environmental design are delivered at ground level;
- ensure the new building achieves design excellence; and



- encourage the use of public transport and minimise the impact on local traffic with the removal of on-site car parking and inclusion of end of journey facilities.

### Inconsistencies with planning proposal

#### *Site-specific DCP*

The planning proposal's intended outcomes, objectives and explanation provision include DCP requirements such as active street frontages, crime prevention, ecological sustainable development and design excellence. The planning proposal should only address the LEP amendment, as such the Department has recommended that the planning proposal be amended to remove objectives that relate to the development controls in the site-specific DCP.

In addition, as the building is not proposed to exceed 25m, the proposed scheme will not trigger the design excellence requirement under clause 6.21 of Sydney LEP 2012 and therefore a competitive design process is not required.

#### *Land use objectives*

One of the objectives of the planning proposal is to meet the B4 Mixed Use zone objectives. However, the planning proposal seeks to restrict residential accommodation and serviced apartments from the additional building height and FSR. The Department considers the planning proposal objective to meet the B4 Mixed use zone objective is unclear as the objectives of the B4 Mixed Use Zone is provide a mix of compatible uses and integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

To provide clarity the Department recommends the planning proposal objectives be revised to remove 'meet the B4 Mixed Use Zone objectives' from the planning proposal.

### **2.2 Explanation of provisions**

The planning proposal seeks to amend the Sydney LEP 2012 to a introduce site-specific provision for 72-84 Foveaux Street, Surry Hills to permit the following:

- increase the maximum building height from 15m to RL 55.60 (25m); and
- increase maximum floor space ratio (FSR) from 2.5:1 to 4:1.

The additional building height and FSR is only to be awarded if:

- the building is not used for the purpose of residential accommodation or serviced apartments; and
- the building does not include any on-site parking except for building services.

The proposal will accommodate the future tenant SafetyCulture, a technology company who are currently seeking to create their global headquarters at the site. The proposal would incentivise commercial development and facilitate a 6-storey commercial building with a presentation and entertainment area on the lower ground floor and an end of journey facilities in the basement. The proposal would provide approximately 3,448m<sup>2</sup> of commercial floor space. In comparison to the existing building, the concept proposal would provide an additional 1,023m<sup>2</sup> of commercial floor space most of which is proposed be provided within the lower ground level of the building (**Table 1**). **Table 1** demonstrates the existing permissible FSR, existing

built form FSR, the concept proposal FSR and the proposed FSR under the site-specific provision.

**Table 1:** Existing permissible FSR, existing built form FSR, concept proposal FSR and proposed FSR under the site-specific provision

Existing permissible FSR under the Sydney LEP 2012	FSR – 2.5:1 which equates to a GFA of 2,155m <sup>2</sup>
Existing built form FSR	FSR – 2.98:1 which equates to a GFA of 2,568.76m <sup>2</sup>
Concept proposal FSR	FSR – 4.165:1 which equates to a GFA of 3,591m <sup>2</sup>
Proposed FSR under the site-specific provision	FSR – 4:1 which equates to a GFA of 3,448m <sup>2</sup>

### Inconsistencies with planning proposal

#### *End of Journey Facilities*

In accordance with Clause 6.13 of the Sydney LEP 2012, a building used for the purpose of commercial premises is eligible for an additional amount of floor space of up to 0.3:1 if end of journey facilities are provided. End of journey facilities are defined as:

- showers;
- change rooms;
- lockers; and
- bicycle storage areas.

The additional end of journey floor space is awarded at the DA stage, should the proponent utilise the additional floor space under clause 6.13 of the Sydney LEP 2012, the site could achieve an FSR of up to 4.3:1.

Council has confirmed that providing end of journey facilities is a requirement to be awarded the additional site-specific height and floor space. However, this has not been clearly stipulated in the planning proposal.

The proponent's concept proposal requires an FSR of approximately 4.16:1 and relies upon the bonus FSR (0.3:1) end of journey floor space.

Whilst Council has sought to make end of journey facilities a requirement of the site-specific provision, it is unclear if the additional end of journey FSR of 0.3:1 has been included in the maximum FSR or whether it can be sought in addition to the site-specific provision.

Therefore, the Department has recommended a condition of Gateway that the planning proposal be updated to:

- clearly stipulate that in order to be awarded the site-specific height and FSR, end of journey facilities must be provided; and
- clarify whether end of journey floor space under Clause 6.13 of the Sydney LEP 2012 applies to the site-specific FSR and update the urban design report accordingly.

### **2.3 Draft Site-Specific DCP**

Council has prepared a site-specific DCP which accompanies the planning proposal. The DCP includes provisions relating to the building bulk and scale, public domain,



servicing, public art and sustainability. The proposed site-specific DCP controls are reflected in the planning proposal. The draft site-specific development controls seek to:

- define the building envelope, maximum building height and maximum floor space for future development on site;
- ensure all on-site car parking is removed, except parking for building services;
- encourage and retain employment uses on the site by ensuring the proposed height and FSR control can only be sought for non-residential uses; and
- secure a 6-star NABERS Energy commitment.

Through the DA process, these development controls will be applied to the proposed development.

## **2.4 Mapping**

The planning proposal does not propose any mapping amendments to the Sydney LEP 2012.

## **3. NEED FOR THE PLANNING PROPOSAL**

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The planning proposal is not a result of any strategic study or report. The planning proposal has been initiated by the landowner and is informed by a heritage impact assessment, acoustic report, urban design report, economic analysis and traffic assessment.

A planning proposal is one mechanism to increase the development standards on the site to facilitate a refurbished building as the current development standards under Sydney LEP 2012 are not reflective of the existing building. The proposal will deliver a refurbished building that will respond to its surrounding context, retain employment uses close to public transport.

## **4. STRATEGIC ASSESSMENT**

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### **4.1 District**

#### Eastern City District Plan

The Eastern City District Plan, released in March 2018, identifies 22 planning priorities and associated actions that are important to achieving a liveable, productive and sustainable future for the district, including the alignment of infrastructure with growth.

This planning proposal is consistent with the following planning priorities in the District plan:

- Planning priority E1: Planning for a city supported by infrastructure;
- Planning priority E6: Creating and renewing great places and local centres and respecting the district's heritage;
- Planning priority E7: Growing a stronger and more competitive Harbour CBD;
- Planning priority E10: Delivering integrated land use and transport planning for a 30-minute city;
- Planning priority E13: Supporting growth of targeted industry sectors; and

- Planning priority E19: Reducing carbon emissions and managing energy water and waste efficiently.

This planning proposal is consistent with the relevant objectives in the district plan as it will:

- renew, retain and expand the commercial use of the site close to existing and planned transport infrastructure and assist in the delivery of the 30-minute city;
- improve the site by the refurbishment of a detracting building and deliver a development that will respect the district's local heritage through ensuring the bulk and scale of the development is consistent with the surrounding character;
- support employment growth for a stronger and more competitive Harbour CBD through the provision of additional and improved commercial floor space which will foster investment and employment opportunities;
- provide employment opportunities in proximity to the NSW Government's innovation corridor; and
- reduce carbon emissions by encouraging the use of public transport by removing car parking and providing end of journey facilities.

## 4.2 Local

### Sustainable Sydney 2030

Council's Sustainable Sydney 2030 Community Strategic Plan is the vision for the sustainable development of the City of Sydney to 2030 and beyond. It includes 10 strategic directions to guide the future of the City and 10 targets against which to measure progress. This planning proposal is consistent with key directions of the strategic plan as demonstrated in **Table 2**.

**Table 2:** Consistency with Sustainable Sydney 2030

<b>Consistency with Sustainable Sydney 2030</b>	
<b>Direction</b>	<b>Comment</b>
Direction 1 – A globally competitive and innovative city	The refurbishment will provide an improved building for SafetyCulture, a technology company, who are wishing to consolidate their offices which will support a globally competitive and innovative city.
Direction 2 – A leading environmental performer	The site-specific DCP will support a more ecologically sustainable development on the site. A 6-star NABERS energy rating in the site-specific DCP will seek to encourage sustainable environmental outcomes and contribute towards the Council's target of reducing emissions by 30% by 2030.
Direction 3 – Integrated transport for a connected city	The site is within walking distance of Central Station with connections to Central Sydney, Sydney Airport, Parramatta and other rail links. Bus services operate along Foveaux Street and the South East Light Rail will have stops 400m to the west along Chalmers Street.
Direction 4 – A city for walking and cycling	Removal of all on-site car parking and replacing with an end of journey facility will encourage sustainable and active transport. Inefficient open space will be removed at ground level and a greater sense of security will be provided at ground level encouraging increased pedestrian activity.
Direction 6 – A cultural and creative city	Retaining the commercial uses on this site will provide employment opportunities in Surry Hills. The renewed building will respond to the surrounding heritage conservation area.
Direction 7 – Vibrant local communities and economies	The provision of high-quality public art is included in the draft site-specific DCP promoting liveability and quality of life for the community and contribute towards the cultural vitality of the City.



Consistency with Sustainable Sydney 2030	
Direction	Comment
Direction 9 – Sustainable development, renewal and design	The proposal is to refurbish the existing commercial building, delivering positive sustainable outcomes by retaining embodied energy. Increased public and active transport and other measures in the draft site-specific DCP will ensure sustainable outcomes such as increased energy and water efficiency targets are included in the design.

#### 4.3 Section 9.1 Ministerial Directions

The proposal is consistent with the following applicable section 9.1 Ministerial Directions as identified in **Table 3**.

**Table 3:** Consistency with Ministerial Directions

Section 9.1 Direction	Consistent	Comment
<b>1. Employment and Resources</b>		
1.1 Business and Industrial Zones	Yes	<p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> <li>• encourage employment growth in suitable locations;</li> <li>• protect employment land in business and industrial zones; and</li> <li>• support the viability of identified centres.</li> </ul> <p>The planning proposal is consistent with the objectives and requirements of this Direction as it seeks to retain the existing B4 Mixed Use zone and will not reduce the total potential floor space area for employment uses.</p>
<b>2. Environment and Heritage</b>		
2.3 Heritage Conservation	Yes	<p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p> <p>The planning proposal is supported by a Heritage Impact Statement prepared by Ruth Daniell which finds the proposed building will be sympathetic to the heritage values of the surrounding area which is predominantly commercial in character and includes a number of older and mid-century warehouse buildings. Detailed assessment of the heritage impact is discussed in section 5.2 of this report.</p>
<b>3. Housing, Infrastructure and Urban Development</b>		
3.4 Integrating Land Use and Transport	Yes	<p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <ul style="list-style-type: none"> <li>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</li> <li>(b) increasing the choice of available transport and reducing dependence on cars, and</li> <li>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</li> <li>(d) supporting the efficient and viable operation of public transport services, and</li> <li>(e) providing for the efficient movement of freight.</li> </ul> <p>The planning proposal is consistent with the objectives and requirements of this Direction, as the proposal seeks to reduce trips generated by car and travel demand by removing car parking controls.</p>
<b>5. Regional Planning</b>		

Section 9.1 Direction	Consistent	Comment
5.1 Implementation of Regional Strategies	Yes	Refer to Section 4.1 of this report.
6.3 Site Specific Provisions	Require further information	<p>This Direction applies as the planning proposal will allow a particular development to be carried out through a site-specific planning control. The objective of the Direction is to discourage unnecessarily restrictive site-specific planning controls. The planning proposal states that the proposal will not contradict or hinder the application of this direction. However, no justification is provided in the planning proposal to address the consistency with the Direction.</p> <p>The planning proposal should provide a discussion on how a site-specific amendment to Division 5 of Sydney LEP 2012 is the best means of increasing the development standards to reflect the existing building and enable the refurbishment of the building.</p> <p>The Department recommends as a condition of Gateway for the proposal to be revised to address this Direction.</p>
<b>7 Metropolitan Planning</b>		
7.1 Implementation of a Plan for Growing Sydney	Yes	Refer to Section 4.1 of this report.

#### 4.4 State environmental planning policies (SEPPs)

The consistency of the Planning Proposal with the relevant State Environmental Planning Policies (SEPPs) is outlined in **Table 4**.

**Table 4:** Assessment of proposal against relevant SEPPs and deemed SEPPs

SEPP	Requirement	Proposal	Complies
SEPP 1 – Development Standards	This Policy provides flexibility in the application of planning controls	This planning proposal is consistent with this SEPP as it will provide additional floor space under a site-specific DCP.	Yes
SEPP 55 – Remediation of Land	Clause 6 of SEPP 55 requires that the planning authority to be satisfied that the land is suitable or can be rehabilitated for all permissible uses in the zone.	This planning proposal is to renew and refurbish an existing building and does not seek to amend the zoning or the land use. Therefore, the site is suitable for its intended use. Future DA's will need to consider SEPP No 55.	Yes
SEPP - Infrastructure	The SEPP provides permissibility and development assessment provisions which apply across the State for each infrastructure sector.	The proposal is close to and well serviced by rail, bus and light rail. The building is in an established area well serviced by infrastructure and no additional services are required.	Yes
SEPP – Vegetation in Non-Rural Areas 2017	The Vegetation SEPP works together with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW.	The site is in a well-established urban area and no native vegetation will be affected.	Yes

## 5. SITE-SPECIFIC ASSESSMENT

### 5.1 Social

The proposal is supported by a social and economic assessment prepared by Ethos Urban. The assessment finds that the proposed development will promote active modes of transport through the removal of car parking and inclusion of end of journey facilities.

The Department considers the redevelopment of the site will allow for positive social effects given that Surry Hills is well located to support commercial uses due to the site's proximity to major transport connections. The planning proposal will improve traffic congestion through the removal of on-site car parking and inclusion of end of journey facilities and will provide 135 jobs.

### 5.2 Environmental

#### Built form

The planning proposal seeks to increase the maximum height of buildings from 15m to RL 55.60 (25m) and increase the maximum FSR from 2.5:1 to 4:1.

The Department notes the site is currently occupied by a 6-storey commercial building, with a floor space ratio of 2.98:1 and a building height of 23.8m.

**Table 5** shows the existing built form and existing planning controls in comparison to the proposed planning controls for the site.

**Table 5:** Existing built form, existing controls and proposed controls for the site.

Existing Built Form	Existing Sydney LEP 2012	Proposed
<b>Building Height</b>		
23.8 metres (6 storeys)	15 metres (4 storeys)	25 metres (RL 55.60) (6 storeys)
<b>Floor Space Ratio</b>		
2.98:1	2.5:1	4:1

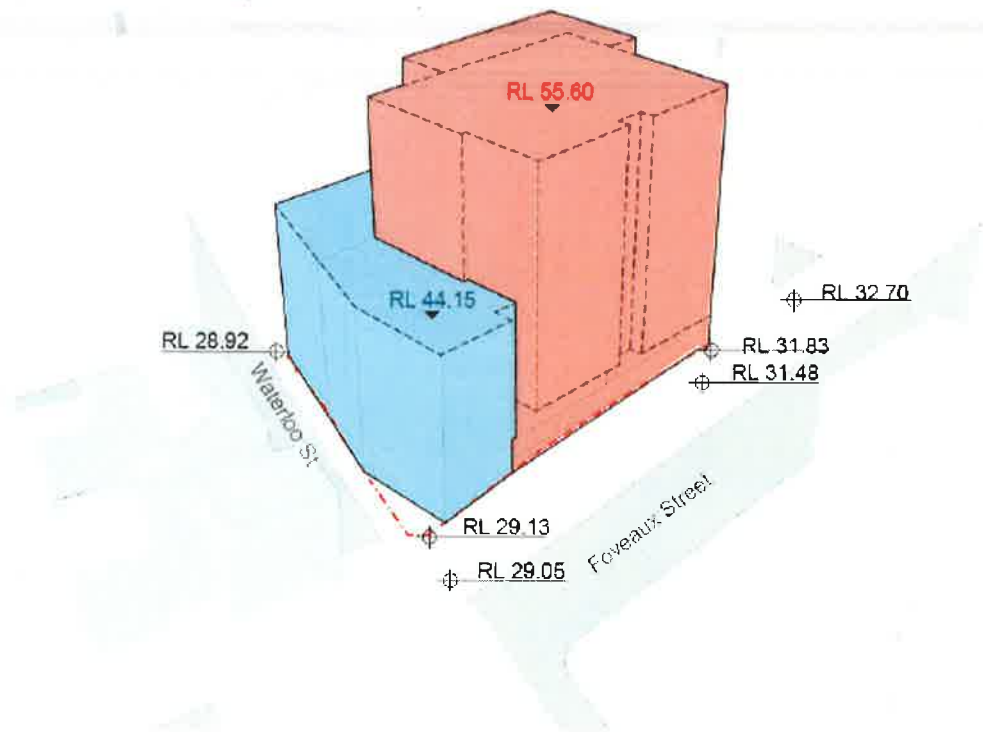
**Figure 11 and 12** illustrate what the proposal may look like once the site is redeveloped. The refurbished commercial building includes additional floor space through the removal of the basement car park, new glazed atrium on the ground floor and changes to the floor plate on the upper floors.

The development will provide an additional 1,023m<sup>2</sup> of floor space compared to the existing building most of which will be accommodated in the lower ground floor levels and as such will not result in significant building bulk or excessive density impacts.

The surrounding area includes 2 to 8 storey buildings. The Department considers the increase in height and FSR enables a development with a bulk and scale that is consistent with the surrounding area, the increase in height of 1.2m is considered to be minor and would not result in significant overshadowing impacts (see next section).

The redevelopment of the site will enable the detracting building to be refurbished, improve the character of the area and facilitate a development that would provide employment uses close to the CBD. The proposed articulation of the built form and facade responds to the existing local character and streetscape. Notwithstanding, further details regarding the detailed design will be addressed at the DA stage.





**Figure 11:** Proposed design, the blue and orange components show the proposed articulated building design (Source Ethos Urban).



**Figure 12:** The proposed envelope for the site (Source: Candalepas Associates)

## Overshadowing

A shadow analysis has been undertaken as part of the planning proposal (**Figures 13-19**). The proposal would result in an additional building height of 1.2m compared to the existing building and will result in additional overshadowing to neighbouring buildings.

Based on the shadow analysis conducted, during mid-winter there will be additional overshadowing on the terraces and north-facing apartments in Foveaux Street compared to the existing building. This increase is considered acceptable as the buildings will continue to receive the minimum two hours of direct sunlight between 9.00am and 3.00pm on 21 June as required by Section 4.1.3 and 4.2.3 of the Sydney DCP 2012. The nearest public open space is Frog Hollow Reserve which is located approximately 180m north of the site in Albion Street and will not be affected by the proposal.

The Department considers the overshadowing impacts to be acceptable.



**Figure 13:** Shadow diagram June 21<sup>st</sup> 9am



**Figure 14:** Shadow diagram June 21<sup>st</sup> 10am



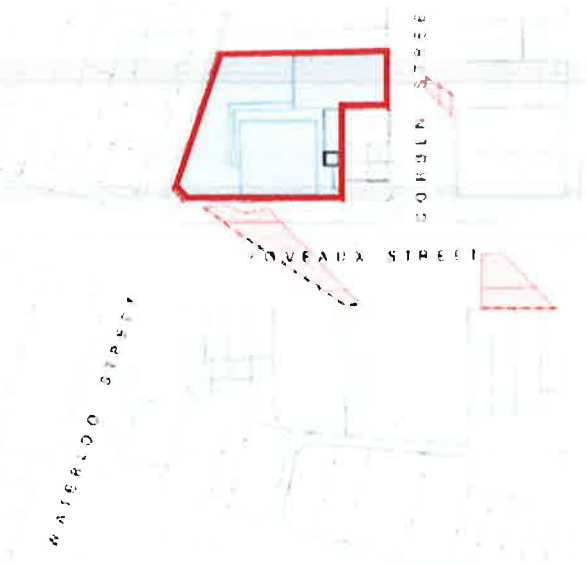
**Figure 15:** Shadow diagram June 21 11am



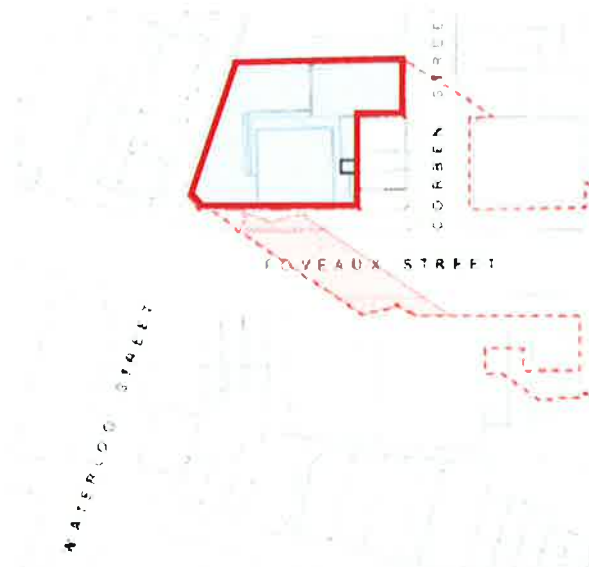
**Figure 16:** Shadow diagram June 21<sup>st</sup> 12pm



**Figure 17:** Shadow diagram June 21<sup>st</sup> 1pm



**Figure 18:** Shadow diagram June 21<sup>st</sup> 2pm



**LEGEND**

- Proposed Building
- Shadow Cast by Existing Building
- Additional Shadow Cast by Proposed Building

**Figure 19:** Shadow diagram June 21<sup>st</sup> 12pm

### End of journey floor space

The proponent's concept proposal seeks to remove all on-site car parking which is currently in the basement level and include end of journey facilities.

In accordance with Clause 6.13 of the Sydney LEP 2012, a building used for the purpose of commercial premises is eligible for an additional amount of floor space of up to 0.3:1 if end of journey facilities are provided. As discussed in **Section 2.2**, Council has requested that end of journey facilities be required in order to be afforded the site-specific additional height and FSR.

The proponent's concept proposal is based off an FSR of approximately 4.16:1 and relies upon the bonus FSR (0.3:1) to be awarded through providing end of journey facilities. However, it is unclear whether the 0.3:1 FSR can be awarded under Clause 6.13 of the Sydney LEP 2012 in addition to the site-specific provision.

As such, the Department has recommended a condition of Gateway that the planning proposal be updated to clarify whether additional FSR awarded under Clause 6.13 of the Sydney LEP 2012 applies to the site and that the urban design report be updated accordingly.



### Car, building services and bicycle parking

Clause 7.6 of the Sydney LEP 2012 identifies maximum car parking rates for various uses. The objective of the clause is to minimise vehicular traffic.

In order to be awarded the additional building height and floor space, the planning proposal seeks to remove on-site car parking with the exception of parking required for building services.

Schedule 7, section 7.8.1 of the Sydney DCP 2012 requires one building service vehicle park per 3,300 m<sup>2</sup> of GFA for commercial premises. As the planning proposal would result in a GFA of 3,448m<sup>2</sup> the development would be required to provide two building service vehicle parking. Details of the building service parking would be refined at the DA stage.

The traffic impact statement accompanying the planning proposal states that the development will include a total of 32 bicycle storage spaces, which is above the requirements in the Sydney DCP 2012 which would require approximately 21 bicycle spaces. Details of the bicycle storage spaces would be further refined at the DA stage.

The Department supports the removal of on-site car parking in order to be awarded the additional height and floor space as it would encourage sustainable transport behaviour. The removal of car parking facilities is considered to be reasonable as the subject site has good accessibility in terms of cycling, walking and public transport with frequent bus services running along Foveaux Street.

As the site is well connected to major transport infrastructure the Department supports the removal of on-site car parking and the inclusion of end of journey facilities.

As the site would be accessed via public transport, the Department has recommended that Transport for NSW be consulted during the exhibition of the planning proposal.

### Heritage

The site is not listed as a heritage item but is located within the Little Riley Street Heritage Conservation Area (HCA) C65 as defined in the Sydney LEP 2012, and is noted as a detracting building on the Sydney DCP 2012 Building Contributions Map (**Figure 8**).

The area surrounding the subject site includes a number of local heritage items, the closest is the Excelsior Hotel, heritage item no. 1549, west of the site on the corner of Bellevue and Foveaux Street.

A HIS accompanied the planning proposal, and concludes that the concept proposal:

- eliminates the corner plaza area, which has an uncharacteristic building setback in the streetscape;
- is consistent with the uses in the area and the use of buildings along Foveaux Street;
- maintains the tradition of the 'rag trade' warehouse building type along Foveaux Street;
- establishes an active commercial ground floor level to the footpath alignment on Foveaux Street and part of Waterloo Street, which improves the building's

contribution to the streetscape, and the pattern of development in the Little Riley Street HCA; and

- the concept design creates a façade that is articulated and has depth that contributes to the locality.

The HIS concludes that the proposal would not impact on any heritage items in the vicinity of the site in particular the Excelsior Hotel and will result in an acceptable impact on Little Riley Street HCA.

The Department considers the proposed planning controls will achieve a building envelope that is cognisant of nearby heritage items, the HCA, adjoining residential terraces and the 'streetwall' along Foveaux Street and good proximity to Central Station.

The planning proposal will facilitate the redevelopment of the site which will result in an improved outcome by refurbishing the detracting building to better respond to the character of the surrounding area.

The Department notes that the site is located within a HCA, as such Clause 5.10 of the Sydney LEP 2012 will apply to future DA's and will require the heritage impacts to be further considered prior to development consent being issued

The proposal will not impact on the heritage listed Excelsior Hotel at 64 Foveaux Street however due to the site being within in a HCA, the Department recommends consultation with the Heritage Department of Premier and Cabinet as a condition of Gateway.

### Street Trees

The site is in a highly urbanised area and does not contain any critical habitats or threatened species, populations or ecological communities.

The draft site-specific DCP includes controls to ensure the avenue of significant street trees directly adjacent to the subject site will not be significantly impacted by future development.

As part of a future detailed DA, Council will consider environmental impacts that may be generated by the development. This will include a complete assessment of the street trees and additional vegetation that can be incorporated into the design of the development.

### **5.3 Economic**

The planning proposal is supported by a social and economic assessment prepared by Ethos Urban which concludes:

- the proposed development is expected to generate approximately 135 office jobs. This estimate is based on an assumption of 1 office job per 14m<sup>2</sup> of leasable floorspace;
- the proposed development is expected to contribute to the revitalisation of Foveaux Street;
- the site is within the creative cluster around Surry hills and is appropriately located for office space, as Foveaux Street contains a number of office buildings; and
- the proposed development will support Surry Hills as an 'innovation corridor' and help to maintain the creative industry cluster within Surry Hills.

The Department considers the proposal will have a positive contribution on the local economy as it will provide additional employment opportunities on the Sydney CBD fringe near a cluster of existing business premises.

#### **5.4 Infrastructure**

The site is located in an area that is well serviced by public transport including trains and buses. A traffic assessment prepared by Traffix states that the proposal including the removal of the on-site car parking will not result in significant traffic and transport issues and will not have an adverse impact on the surrounding pedestrian and public networks.

The site is well serviced by a range of public utilities including electricity, telecommunications, water, sewer and stormwater. It is expected that these services would be upgraded where required by the developer and further details will be provided at the DA stage.

### **6. CONSULTATION**

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#### **6.1 Community**

Council has proposed a public exhibition period of 28 days. The Department considers this to be appropriate.

Council, as the planning proposal authority, will be responsible for public consultation. Council has advised that this will include newspaper notification, displays at Council customer service centres and on Council's webpage.

#### **6.2 Agencies**

The proposal does not specify any agencies that are to be notified of the planning proposal. As the proposal is near several local heritage items and in a HCA, it is recommended that the Heritage Department of Premier and Cabinet be consulted during exhibition of the planning proposal.

In addition, it is recommended that Transport for NSW be consulted during the exhibition of the planning proposal, as no car parking provisions are proposed and the site would be accessed via public transport.

### **7. TIME FRAME**

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Council has included a project timeline of six months. However, a time frame of 12 months is considered appropriate. This does not preclude the planning proposal from being finalised sooner.

The Gateway determination will be conditioned to update the project timeline to reflect the anticipated time frames for the plan-making process.

### **8. LOCAL PLAN-MAKING AUTHORITY**

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Council has requested delegation to make the plan. The Department recommends issuing an authorisation for Council to exercise delegation to make this plan, provided the revised planning proposal is submitted to the Department for review and approval prior to public exhibition of the planning proposal.



## 9. CONCLUSION

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It is recommended that the proposal proceed subject to conditions for the following reasons:

- it is generally consistent with the Eastern City District Plan and the relevant section 9.1 Ministerial Directions and state environmental planning policies;
- support employment growth for a stronger and more competitive Harbour CBD through the provision of additional and improved commercial floor space which will foster investment and employment opportunities;
- facilitates a development with a bulk and scale that is consistent with the surrounding area and maintains the desired future character of the Riley Street HCA;
- achieves a building envelope that is cognisant of the heritage items, conservation area and adjoining buildings;
- reduce carbon emissions and encourage sustainable transport behaviour; and
- would have minimal environmental, social and economic impacts.

## 10. RECOMMENDATION

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It is recommended that the delegate of the Minister for Planning and Public Spaces determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal is to be amended prior to community consultation as follows:
  - (a) amend the explanation of provisions to include end of journey facilities as a site-specific requirement to achieve the additional floor space ratio and maximum building height;
  - (b) clarify whether end of journey floor space under Clause 6.13 of the Sydney LEP 2012 applies to the site-specific FSR and update the urban design report accordingly;
  - (c) remove provisions related to the site-specific DCP controls from the intended outcomes and explanation of provisions;
  - (d) update the objectives of the planning proposal to remove the first objective which states the proposal will 'meet B4 Mixed use zone objectives';
  - (e) remove the drafting instructions from the explanation of provisions;
  - (f) provide justification to address the consistency with section 9.1 ministerial Direction 6.3 Site-specific Provisions; and
  - (g) update the project timeline to reflect the anticipated time frames for the plan-making process.
2. The revised planning proposal is to be provided to the Department for review and approval prior to public exhibition.
3. The planning proposal must be made publicly available for a minimum of 28 days.

4. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the *Environmental Planning and Assessment Act 1979*:
  - (a) Heritage Department of Premier and Cabinet; and
  - (b) Transport for NSW.
5. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
6. Given the nature of the planning proposal, Council should be the local plan-making authority.



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