

Item 7.**Development Application - 82 City Road, Chippendale****File No.:** D/2018/842**Summary****Date of Submission:** 24 July 2018**Applicant:** Merbell Pty Ltd**Designer:** Cubitor Design And Drafting**Owner:** Merbell Pty Ltd**Cost of Works:** \$533,421**Zoning:** R1 - General Residential. Boarding houses are permissible with consent in the zone**Proposal Summary:** The application seeks consent for alterations and additions to the existing 10 room boarding house at No.82 City Road, Chippendale. The works consist of tree removal, excavation, partial demolition of the rear of the building, internal alterations, rear ground and first floor extensions, rear facing dormer window and a new rear lane structure. The proposal will result in 1 additional room resulting in the boarding house being an 11 room facility. The application is being assessed concurrently with an identical proposal for the neighbouring property at 84 City Road (D/2018/841), which is under the same ownership as the subject site.

The application is reported to the Local Planning Panel as the development is accompanied by a Clause 4.6 request which seeks a waiver of the requirement for motorbike parking under Clause 301(h) of State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP AH). The development is required to provide 2 parking spaces. No spaces are proposed to be provided. A written request has been provided seeking a 100% variation from this development standard in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012 (SLEP). The request to vary the development standard is not supported in this instance for the reasons outlined in this report.

**Proposal Summary
(continued):**

The proposal exceeds the 9 metre building height development standard pursuant to Clause 4.3 of the SLEP by 0.55m or 6%. A written request has been provided seeking a variation to the height development standard in accordance with Clause 4.6 of the SLEP. The request to vary the development standard can be supported, however the application is recommended for refusal for reasons outlined elsewhere in this report

The application was notified for a period of 14 days between 4 September 2018 and 19 September 2018. A total of 6 submissions were received. The issues raised relate to the bulk and scale of the proposal, compliance with Council's controls and the appropriate management of the site.

The proposal fails to comply with the requirements of the SEPP AH, SLEP and Sydney Development Control Plan 2012 (SDCP) in terms of amenity, accommodation size, solar access and character of the local area. The proposal will present significant bulk which is not in keeping with the character of the conservation area, and results in overbearing of the adjoining properties. The development will have unacceptable amenity impacts for both the future occupants and adjoining properties by way of undersized rooms and communal facilities, loss of visual privacy, and inadequate solar access.

The development is of a scale which is out of character for the area and does not comply with the rear building line requirements under the SDCP.

The development has failed to exhibit design excellence, is not in keeping with the desired future character of the area and is not considered to be in the public interest.

Summary Recommendation: This proposal is recommended for refusal.

Development Controls:

- (i) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)
- (ii) State Environmental Planning Policy (Affordable Rental Housing) 2009
- (iii) State Environmental Planning Policy (Infrastructure) 2007
- (iv) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (v) Sydney Local Environmental Plan 2012
- (vi) Sydney Development Control Plan 2012

- (vii) City of Sydney Development Contributions Plan 2015

- Attachments:**
- A. Selected Drawings
 - B. Clause 4.6 Variation Request - Height of Building
 - C. Clause 4.6 Variation Request - Motorbike Parking

Recommendation

It is resolved that consent be refused for Development Application No. D/2018/842 for the following reasons:

- (A) The proposal does not comply with the following provisions of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* which will have an unacceptable impact on the amenity of the future occupants:
 - (i) Clause 29 2(c) - Solar Access
 - (ii) Clause 29 2(d) - Private Open Space
 - (iii) Clause 29 2(f) - Accommodation Size
 - (iv) Clause 30 1(h) - Motorcycle Parking
 - (v) Clause 30A - Character of the Local Area
- (B) The proposal does not comply with Clause 4.6 of the *Sydney Local Environmental Plan 2012* in relation to the written request for a waiver of the requirements under Clause 30 1(h) of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* as it is considered to not be in the public interest.
- (C) The proposal results in unsympathetic alterations and additions to a contributory building within a conservation area which fail to respect the characteristic built form of a row of contributory terraces, resulting in detrimental impacts on the Chippendale heritage conservation area (C9). The proposed development is therefore contrary to the requirements of Clauses 5.10 of *Sydney Local Environmental Plan 2012*, and Sections 3.9.6, 3.9.7 and 3.9.13 of *Sydney Development Control Plan 2012*.
- (D) As a result of the unsympathetic additions, the proposal alters the profile and form of the original building and extends beyond the predominant rear alignment of contributory buildings within the street block. The proposal fails to respond to the scale and character of the existing building or adjoining development and is therefore inconsistent with Section 4.2.2 of *Sydney Development Control Plan 2012*.
- (E) The proposed development fails to demonstrate design excellence in accordance with Clause 6.21 of *Sydney Local Environmental Plan 2012* as it results in unacceptable bulk and scale, detrimental impacts on the character of the conservation area, detrimental impacts on the amenity of neighbouring properties and on the streetscape on Maze Lane.

- (F) The application has failed to demonstrate that the proposal will not have detrimental impacts on the amenity of neighbouring properties by way of unacceptable visual privacy and overshadowing impacts, and as such is inconsistent with the requirements of Section 4.2.3 of *Sydney Development Control Plan 2012*.
- (G) The application has failed to demonstrate the proposed excavation will not have detrimental impacts on the subject and adjoining properties contained with the heritage conservation area in accordance with Section 3.9.13 of the *Sydney Development Control Plan 2012*.
- (H) The proposed boarding house will have unacceptable amenity impacts to the future occupants due to the proposal's noncompliance with the following sections the *Sydney Development Control Plan 2012*:
 - (i) Section 4.4.1.2 - Bedrooms
 - (ii) Section 4.4.1.4 - Communal Living Areas and Open Space
 - (iii) Section 4.4.1.5 - Bathroom. Laundry and drying facilities
 - (iv) Section 4.4.1.6 - Amenity, safety and privacy
- (I) The submitted Waste Management Plan does not adequately address the requirements of Section 3.14 of the *Sydney Development Control Plan 2012*.
- (J) The proposal does not comply with the provisions of tree management under Section 3.5.3 of the *Sydney Development Control Plan 2012* due to the loss of tree canopy and insufficient information to support the proposed removal of 3 trees.
- (K) The proposed development is not in keeping with the future desired character of the area and is not considered to be in the public interest.

Background

The Site and Surrounding Development

1. The site at No.82 City Road is legally known as Lot 15 of DP 260527 and has an area of 213.4sqm. The site has a street frontage to City Road of 6.1m and a secondary frontage of 6.2m to Maze Lane.
2. A two storey plus attic Victorian terrace building currently exists on the site and is currently being used as a boarding house. The main portion of the building is rendered masonry with a gabled roof and rendered chimneys. The building includes a first floor timber verandah which has been enclosed with aluminium windows. The building also includes a part two storey part one storey skillion wing to the rear.
3. The building is the northern most building of a mostly intact pair with No.84 City Road (subject to a separate application - D/2018/841) and is contained within a larger group of 4 terraces (No.80-86 City Road), all of which remain largely intact.
4. There is a fall of approximately 2m from City Road to Maze Lane and the site contains 2 large trees within the front setback which are proposed to be removed.
5. The site is not a heritage item but is identified as being a contributory building within the Chippendale Conservation Area (C9). This site is not identified as being subject to flooding.
6. Surrounding land uses are a mix of single dwellings, boarding houses and multi-dwelling housing. The built form is typically comprised of two and three storey terraces with one and two storey skillion wing additions to the rear. The majority of the buildings in the immediate vicinity are original buildings with minimal new constructions towards the north of the site.
7. Maze Lane has an evolving character dominated by garages and outbuildings servicing the terraces. There are minimal laneway buildings on Maze Lane and all but one are located on the opposite (eastern) side of the lane. A number of recent approvals for the eastern side of the lane have seen first floor studios and secondary dwellings with gabled roofs constructed fronting the lane. The subject side of Maze Lane is predominately free from rear lane buildings retaining the pattern and repetition of rear wing forms.
8. On the western side of City Road, opposite the subject site is Victoria Park.
9. A site visit was carried out on 7 September 2018. Photos of the site and surrounds are provided below.



Figure 1: Aerial image of subject site and surrounding area

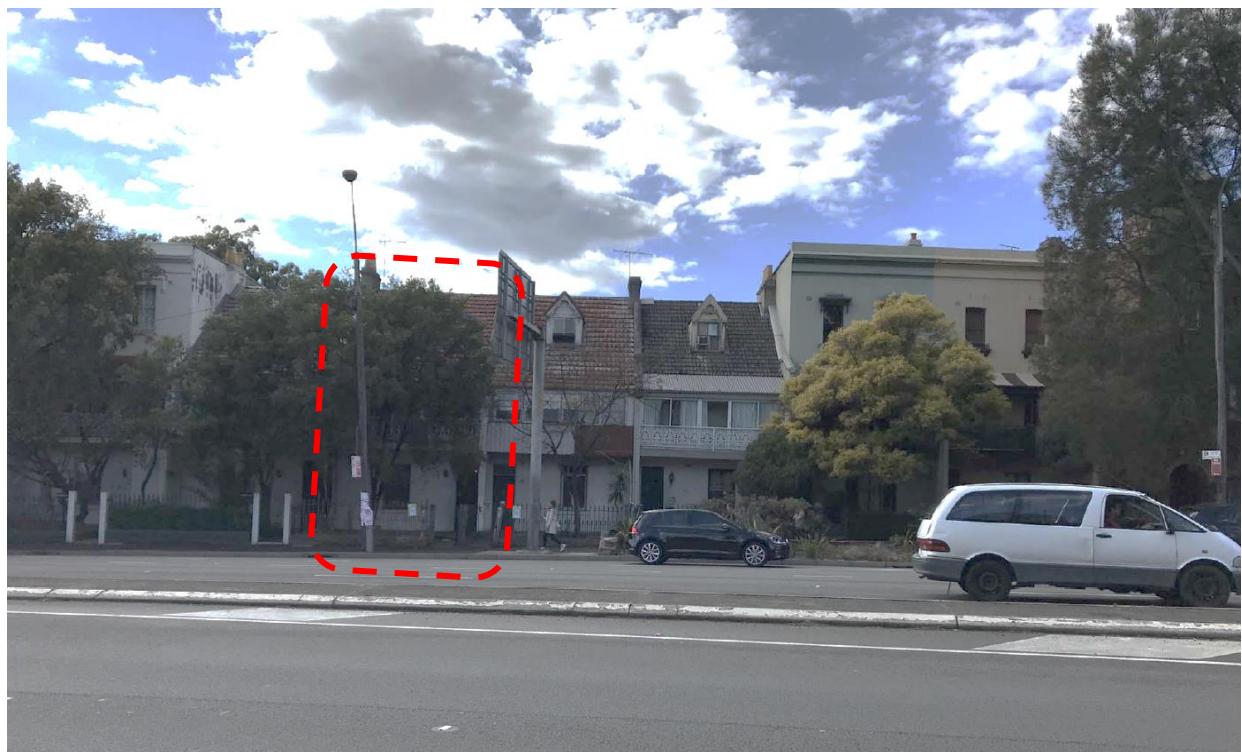


Figure 2: Site viewed from City Road



Figure 3: No.82 City Road as viewed from City Road. Note the two existing trees within the front setback proposed for removal.



Figure 4: The rear of No.82 City Road



Figure 5: The rear of No.82 City Road



Figure 6: The existing rear communal open space of No.82 City Road



Figure 7: The rear of No.82 and 84 City Road viewed from Maze Lane. No.84 City Road is subject to a separate application (D/2018/841) is to the left of the photo.



Figure 8: Looking south along Maze Lane



Figure 9: Looking north along Maze Lane

Proposal

10. The application seeks consent for alterations and additions to the existing boarding house. The development proposed will comprise of:
 - (a) Demolition of the rear of the existing building and derelict outbuildings.
 - (b) Partial excavation at the rear of the site to a maximum depth of 1.1m.
 - (c) Alterations and additions to provide:

Ground floor:

- (i) 3 rooms including 1 accessible room;

First floor:

- (i) 5 rooms;
- (ii) 1 shared toilet and shower; and

Second floor:

- (i) 2 rooms with front and rear dormer windows.

Rear lane structure comprising of:

- (i) separate ground floor communal living area and laundry; and
 - (ii) first floor double boarding room.
- (d) The proposal will result in one additional room, totalling 11 boarding rooms for the site.
- (e) The rooms to the rear of the terrace and contained in the rear lane structure are serviced by external corridors on the northern elevation.
- (f) Parking for two bicycles within the front setback.
- (g) Facade upgrades to the City Road frontage including repair and maintenance of the building and landscaping works.
- (h) Removal of two bottlebrush trees within the front setback and one fruit tree within the rear of the site. Replacement planting with one tree at the front of the site.
11. It is noted that the proposal is a mirror image of the proposal for alterations at No.84 City Road (D/2018/841) which is being assessed concurrently.
12. Plans of the proposed development are provided below.

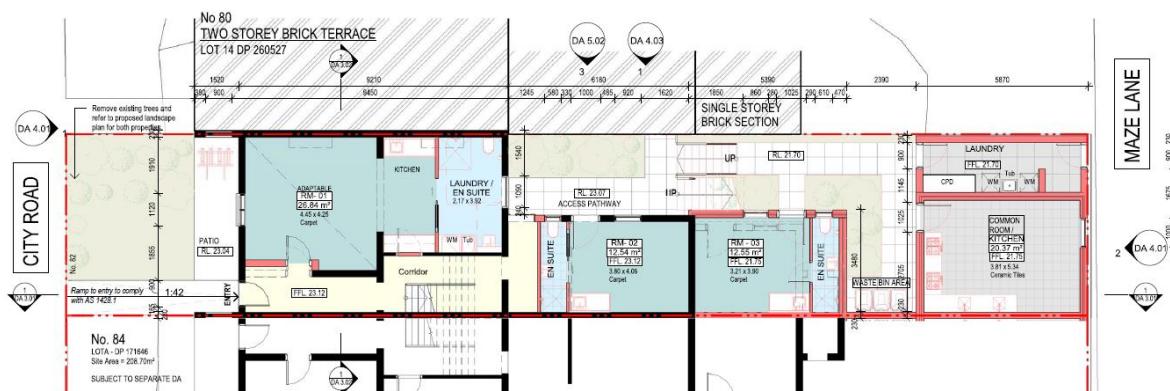


Figure 10: Proposed ground floor



Figure 11: Proposed first floor

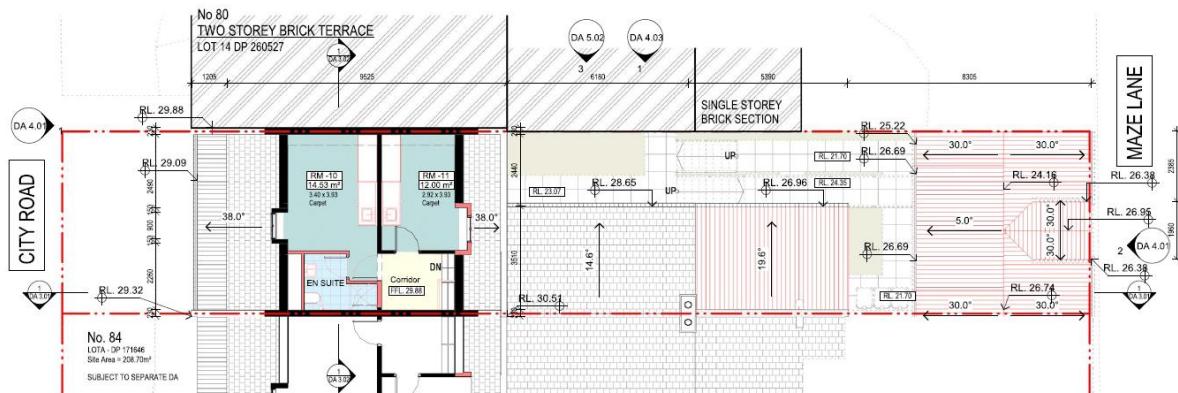


Figure 12: Proposed second (attic) floor

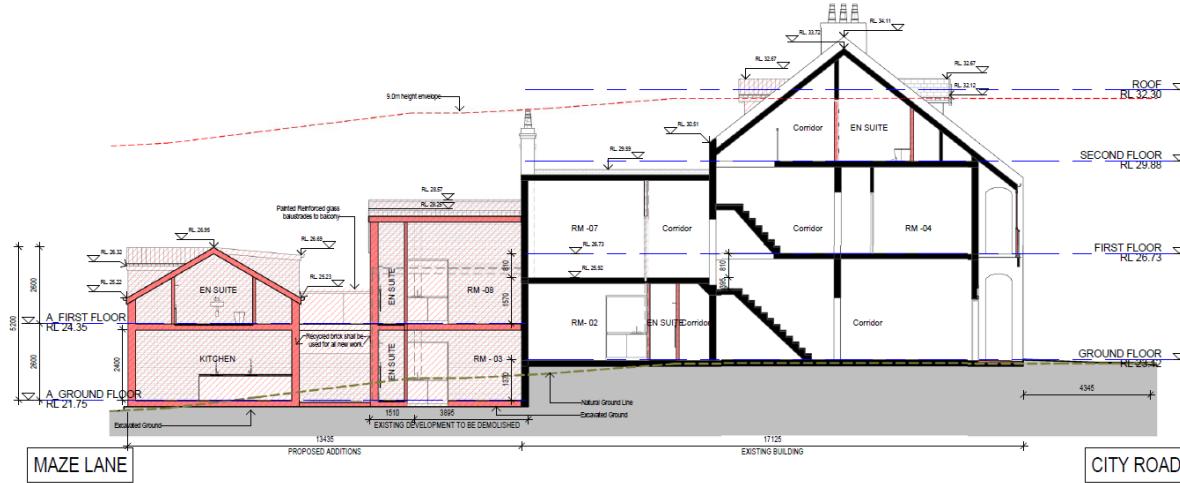


Figure 13: Section

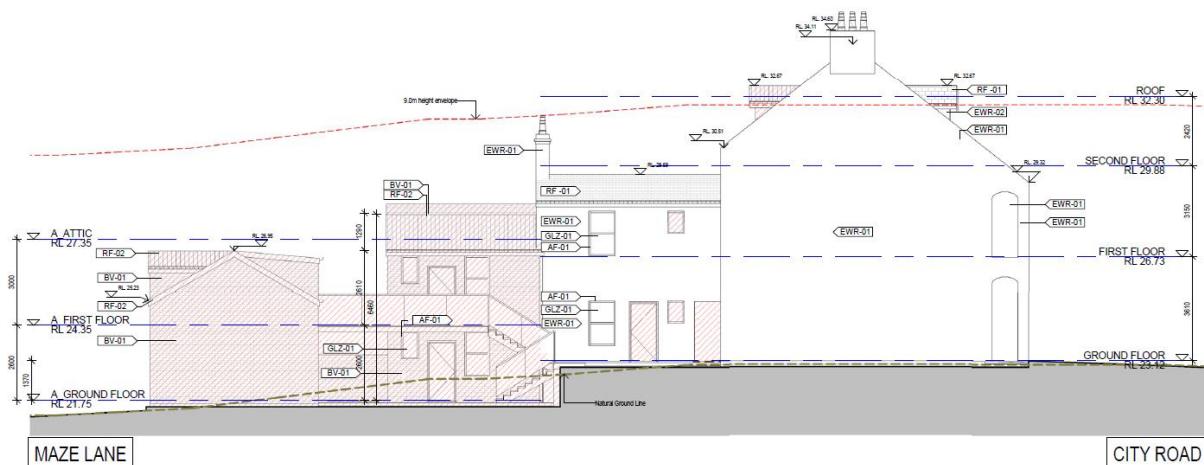


Figure 14: North elevation

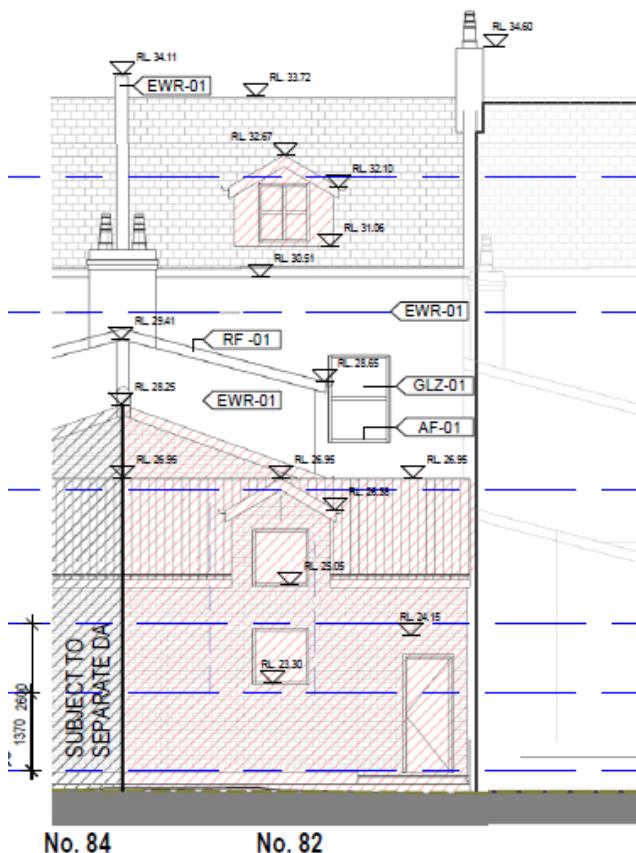


Figure 15: Proposed Maze Lane elevation

History Relevant to the Development Application

13. Council's records indicate that the site has been used as a licensed boarding house since 1982 (Council's Licensed Boarding House Inspection Card 1982-1990).
14. D/2017/1742 for alterations and additions to the existing boarding houses at No.82-84 City Road was withdrawn by the applicant.
15. The subject application was reviewed in informal preliminary discussions with the applicant. Concerns were raised regarding the built form, poor amenity outcomes and operation of the sites. The application remains largely unchanged from the plans initially reviewed.
16. Throughout the application process, the applicant has been discussing the lodgement of a separate application for the site to address the concerns raised in this assessment, but has not amended the current application.

Economic/Social/Environmental Impacts

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

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

18. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.
19. The Sydney Harbour Catchment Planning Principles must be considered in the carrying out of development within the catchment. The key relevant principles include:
 - (a) protect and improve hydrological, ecological and geomorphologic processes;
 - (b) consider cumulative impacts of development within the catchment;
 - (c) improve water quality of urban runoff and reduce quantity and frequency of urban run-off; and
 - (d) protect and rehabilitate riparian corridors and remnant vegetation.
20. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development.
21. The development is consistent with the controls contained with the deemed SEPP.

State Environmental Planning Policy (Infrastructure) 2007

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

Clause 45

23. The application is subject to Clause 45 (Subdivision 2 Development likely to affect an electricity transmission or distribution network) of the SEPP as the development:
 - (a) Is to be carried out within 5m of an exposed overhead electricity power line.

In accordance with the Clause, the application was referred to AusGrid for a period of 21 days. No objection was raised to the proposal.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

24. The BASIX Certificate has been submitted with the development application (Certificate No. A319485).
25. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal.

State Environmental Planning Policy (Affordable Rental Housing) 2009

26. The SEPP aims to provide a consistent planning regime for the provision of affordable rental housing and to facilitate the delivery of new affordable rental housing by providing incentives by way of identifying non-discretionary development standards.
27. Under Clause 29, compliance with any of the following standards must not be used to refuse consent.

Clause 29 – Standards that cannot be used to refuse a boarding house		
Standard	Complies	Comment
1(c)(i) – Density and scale expressed as FSR cannot be refused with FSR of 1.25:1 plus 0.5:1	Yes	The development proposes a floor space ratio of 1.29:1. It is noted that the above calculation includes areas such as internal corridors which were incorrectly excluded by the applicant's calculation.
2(a) Building height The proposed building height must not exceed the maximum permitted under an EPI	No	The application includes a variation to the maximum permitted height limit of 9m by 6% or 550mm on each property. See Clause 4.6 discussion later in this report.
2(b) Landscaped area Front setback to be consistent with streetscape	Yes	The building has a consistent front setback with neighbouring terraces, and a large landscaped area and private open space exists at the rear of each site.
2(c) Solar access Min. 1 communal living area to receive min. 3 hours direct sunlight between 9:00am and 3:00pm in midwinter.	No	The communal living area includes one east facing window to Maize Lane which has limited access to direct sunlight. It is noted that this window is small (1m x 1m) and not considered to provide adequate light and ventilation. This will result in unacceptable impacts to the amenity of this space for the future occupants.
2(d) Private open space (i) Min. 20sqm with min. 3m width	No	No formal area of private open space has been provided with an interrupted area 20sqm of open space provided within the side and rear setback of the property with a minimum dimension of 2.2m. This is considered to be of poor quality with circulation paths, stairs and waste storage all located within the space. The solar access to this space is also poor.

Clause 29 – Standards that cannot be used to refuse a boarding house		
2(e) Parking (i) 0.2 parking spaces provided for each boarding house room for sites in an accessible area. (iii) Not more than one parking space for the on-site manager.	Acceptable	No car parking is proposed.
2(f) Accommodation size (i) Min.12sqm for single lodger rooms (ii) Min.16sqm for double lodgers rooms (excluding any area used as a private kitchen/ bathroom)	No	See Figure 16 below for full room size breakdowns. See discussion under the heading Issues.

Room	Existing room size	Total area	Area exc kitchen and bath	Living area (12sqm)	Wardrobe (1sqm)	Kitchen (2sqm)	Ensuite inc. shower (2.9sqm)	Laundry (1.1sqm)
1	19.6sqm	36.4sqm	24.6sqm	19.4sqm	1sqm	1sqm	7.7sqm	0.7sqm
2	15.4sqm	15.7sqm	11.4sqm	11.4sqm	0sqm	0.8sqm	2.7sqm	n/a
3	12.1sqm	15.8sqm	11.5sqm	11.5sqm	0sqm	0.8sqm	2.7sqm	n/a
4	9.2sqm	14.3sqm	13.3sqm	13.3sqm	0sqm	1sqm	n/a	n/a
5	18.5sqm	18.6sqm	15.3sqm	15.3sqm	0sqm	0.7sqm	2.2sqm	n/a
6	13.9sqm	15.7sqm	12.3sqm	12.3sqm	0sqm	0.7sqm	2.4sqm	n/a
7	15.3sqm	12.2sqm	10.8sqm	10.8sqm	0sqm	1.3sqm	n/a	n/a
8	11.9sqm	15.6sqm	11.6sqm	11.6sqm	0sqm	0.9sqm	2.9sqm	n/a
9	n/a	25sqm	21.2sqm	21.2sqm	0sqm	1sqm	2.3sqm	n/a
10	18.8sqm	16.8sqm	10.8sqm	10.8sqm	0sqm	1.9sqm	3.6sqm	n/a
11	10.5sqm	9.8sqm	7.9sqm	7.9sqm	0sqm	2sqm	n/a	n/a

Figure 16: Breakdown of individual room sizes for No.82 City Road. Note that dimensions emphasised do not comply with the minimum requirements detailed in brackets.

28. Clause 30 states that a consent authority must not grant development consent to which Division 3 applies unless it is satisfied of each of the following:

Clause 30 – Standards for boarding house		
1(a) At least one communal living room is to be provided	Yes	The building contains a communal living room on the ground floor at the rear of the site.
1(b) No boarding room is to have a gross floor area (excluding private kitchen or bathroom facilities) of more than 25m ²	Yes	All boarding rooms are less than 25sqm.
1(c) No boarding room to be occupied by more than 2 adult lodgers	Yes	Each of the boarding rooms will be occupied by a maximum of two adult lodgers with the majority being single rooms.
1(d) Adequate bathroom and kitchen facilities available for use of each lodger	Yes	The site includes a kitchen in each boarding room and all but 3 have separate ensuites. 1 shared toilet and shower is provided for these rooms as required.
(1e) A boarding room or on-site dwelling to be provided for a boarding house manager if boarding house has a capacity of 20 or more lodgers	N/A	The boarding house will have fewer than 20 lodgers (max 13).
1(g) If the boarding house is zoned primarily for commercial purposes, no part of the ground floor that fronts a street will be used for residential purposes except where permitted under an EPI.	N/A	The land is zoned for residential development.
1(h) At least 1 bicycle and 1 motorcycle parking space to be provided for every 5 rooms.	No	No parking is provided with a minimum of 2 spaces required. Parking for 2 bicycles is provided within the front setback. See discussion under the heading Issues.

Clause 30A – Character of the local area

29. Clause 30A states that a consent authority must not grant development consent for a boarding house unless it has taken into consideration whether the design of the development is compatible with the character of the local area.
30. The proposal involves significant alterations to the rear of the existing building. As detailed above, the site is located within an area with a clear built form character being traditional terrace style dwelling/buildings with rear wing additions and small outbuildings. The proposal includes a large rear addition exceeding the predominant rear building line at ground and first floor levels. The proposed rear lane building results in an inappropriate form with the bulk and scale of the proposal resulting in unacceptable amenity impacts to adjoining properties. Overall, the proposal is not compatible with the character of the surrounding area as viewed from Maze Lane. The application is not consistent with Clause 30A of the SEPP and is not supported.

Sydney LEP 2012

31. The site is located within the R1 General Residential zone. The proposed works include alterations and additions to an existing boarding house and are permissible.
32. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Development Control	Compliance	Comment
4.3 Height of Buildings	No	A maximum height of 9m is permitted. A height of 9.55m is proposed which is a 6% exceedance. See discussion under the heading Issues.
4.4 Floor Space Ratio	Yes	A maximum FSR of 1.75:1 is permitted inclusive of the 0.5:1 FSR awarded by the SEPP AH. A FSR of 1.29:1 is proposed. As discussed above in the SEPP AH assessment, the above calculation includes areas that were incorrectly excluded by the applicant's calculation including internal corridors.

Development Control	Compliance	Comment
4.6 Exceptions to development standards	Partial compliance	<p>The proposal seeks to vary the development standard prescribed under Clause 4.3 in relation to building height by 6% or 550mm.</p> <p>The proposal also seeks a waiver of the requirement for motorcycle parking under Clause 30 1(h) of SEPP AH, resulting in a 100% variation from the development standard</p> <p>See discussion under the heading Issues.</p>
5.10 Heritage conservation	No	<p>The subject site is identified as being a contributory building within the conservation area.</p> <p>See discussion under the heading Issues.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
Division 4 Design excellence	No	<p>The application does not exhibit design excellence.</p> <p>This is discussed in more detail under the heading Issues.</p>

Part 7 Local Provisions - General	Compliance	Comment
7.14 Acid Sulphate Soils	Yes	The site is identified as containing class 5 Acid Sulfate Soils. As the works do not involve excavation with 500m of Class 1-4 soils, no further action is required.

Sydney DCP 2012

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

2. Locality Statements – 2.3.1 - Chippendale

The subject site is located in the Chippendale locality. The proposed alterations and additions are not considered to be in keeping with the unique character of the area and design principles as they do not respond to the heritage conservation area. The proposal does not respond to the height, massing and proportions of contributory buildings within the conservation area including the subject site.

3. General Provisions	Compliance	Comment
3.5.3 Tree management	No	<p>The proposal involves the removal of two large bottlebrush trees within the front setback and one small fruit tree in the rear with proposed replacement planting of 1 x <i>Elaeocarpus eumundi</i> "Quondong".</p> <p>Council's Tree Management Unit has reviewed the application and does not support the removal of the two bottlebrush trees. The trees are not in poor health and the replacement planting as proposed is not adequate. This is due in part to the fact that when mature, the tree will not provide the same amount of canopy cover as the tree which is proposed to be removed.</p> <p>The loss of two well established trees and replacement with one tree of a lesser canopy is not supported. It is also noted that the request to remove the trees has not been accompanied by an Arborist Report and as such there is inadequate information to justify the removal of the trees.</p> <p>If the application was recommended for approval the removal of the fruit tree at the rear of the site would be acceptable.</p>
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.9 Heritage	No	<p>The existing building is identified as being a contributory building within the conservation area.</p> <p>See discussion under the heading Issues for other heritage matters.</p>

3. General Provisions	Compliance	Comment
3.11 Transport and Parking	Yes	<p>The subject proposal does not involve the provision of any car or motorcycle parking.</p> <p>Bicycle parking has been provided in accordance with the provisions of SEPP AH.</p>
3.12 Accessible Design	Yes	<p>The proposal includes one fully contained accessible room on the ground floor.</p>
3.14 Waste	No	<p>The submitted Waste Management Plans does not adequately address the requirements of the City of Sydney Code for Waste Minimisation in New Development 2005. The proposal includes space for only three bins where five is required, as well as proposing to take the bins through communal areas for collection contrary to the guidelines.</p>

4. Development Types	Compliance	Comment
4.2 Residential Flat, Commercial and Mixed Use Developments		
4.2.1 Building height	Yes	<p>The site has a maximum height of two storeys.</p> <p>The proposal seeks no change to the existing two storeys plus attic building and the new extension complies with these provisions.</p>
4.2.2 Building setbacks	No	See discussion under the heading Issues.
4.2.3 Amenity	No	See discussion under the heading Issues.

4. Development Types	Compliance	Comment
4.2 Residential Flat, Commercial and Mixed Use Developments		

4.2.5 Types of development

4.2.5.3 Development on busy roads

The subject site is located on City Road which is identified as being a road with over 40,000 vehicles per day.

While no acoustic report has been provided, the development does not provide any additional openings to the front of the site, and proposes acoustically treated glazing behind the balconies on City Road for Rooms 4 and 5.

4. Development Types	Compliance	Comment
4.4.1 Boarding Houses		
4.4.1.1 Subdivision	Yes	Subdivision is not proposed.
4.4.1.2 Bedrooms	No	<p>The DCP requires bedroom sizes to be a minimum of 12sqm for single occupants and 16sqm for double occupants.</p> <p>As shown in Figure 16, rooms 2, 3, 7, 8, 10 and 11 (or 54%) do not meet the minimum size requirements for a single occupancy room. It is noted that for all but 3 of the rooms, there is an increase in the overall size of the rooms, inclusive of facilities as compared to the existing situation. While this is noted and encouraged, the amenity for the future occupants remains unacceptable.</p> <p>Only the accessible room (Room 1) has been provided with a wardrobe.</p>
4.4.1.3 Communal kitchen areas	Yes	A communal kitchen is provided at ground floor level of the site in the rear building.

4. Development Types	Compliance	Comment
4.4.1 Boarding Houses		
4.4.1.4 Communal Living Areas and Open Space	No	<p>The communal living room has poor amenity and does not comply with the minimum area of 20sqm, with 17sqm provided. This calculation has excluded the communal kitchen area shown within the communal living area.</p> <p>The communal open space provided has poor amenity and does not meet the minimum dimension requirements of 3m with a minimum 2.2m proposed and is poorly located.</p> <p>The application acknowledges that the site has inadequate communal open space (as detailed above) and seeks to waive this requirement. The applicant has submitted that the site's proximity to Victoria Park will provide the future occupants with adequate open space.</p> <p>This is not considered to be an acceptable solution and the proposed non-compliance is not supported.</p>
4.4.1.5 Bathroom, laundry and drying facilities	No	No dryer or external drying facilities have been provided. Adequate shared bathroom facilities are proposed for the three rooms without individual facilities.

4. Development Types 4.4.1 Boarding Houses	Compliance	Comment
4.4.1.6 Amenity, safety and privacy	No	<p><i>Visual privacy</i></p> <p>Rooms 2, 3, 6, 7 and 8 have poor privacy with the only windows for these rooms orientated directly into the external common access ways.</p> <p><i>Acoustic privacy</i></p> <p>A Plan of Management has been submitted which restricts the use of the outdoor areas to 10.00pm daily to ensure neighbourhood amenity is maintained. Indoor noise is also restricted.</p> <p>However, the external corridors are considered likely to result in unacceptable acoustic and visual privacy impacts to occupants of the site and the adjoining dwellings.</p> <p><i>Safety</i></p> <p>The location of the communal living room at the rear of the site with minimal windows, does not provide passive surveillance over the surrounding area.</p>
4.4.1.7 Plan of Management	Yes	<p>A Plan of Management has been submitted with the application and addresses the operation and maintenance of the development.</p>

Issues

Clause 4.6 request to vary a development standard - height

34. The site is subject to a maximum height control of 9m. The proposed development involves the addition of a new rear facing dormer window at a height of 9.55m. It is noted that the existing building has a maximum height of 11m to the ridge line.
35. 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.

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

36. The applicant seeks to justify the contravention of the height development standard to permit development at a height of 9.55m on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) The proposal will allow for improved amenity by way of permitting the continued use of the attic space but with greater access to light and ventilation for the future occupants.
 - (ii) The works will occur below the existing maximum building height of the site with the proposed dormer window sitting below the exiting ridge height of the building.
 - (iii) The proposal will have no impact on the siting of the building within the conservation area.
 - (iv) The proposal will have no impact on existing views.
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The bulk and scale of the proposal generally aligns with the scale of the existing development and future character envisaged within the locality.
 - (ii) The overall height of the building remains unchanged. The additional height to the rear of the building does not significantly add to the overall bulk and scale of the overall form.
 - (iii) There will be no adverse amenity impacts to the surrounding properties.
 - (iv) No intrusion to privacy, blocking of solar access and overshadowing of adjacent properties is expected as a result of the minor non-compliance.
 - (v) The proposal will not impact on the local character of the area.

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

37. Development consent must not be granted unless the consent authority is satisfied that:
- (a) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and

- (b) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

38. The written request states that the development is consistent with the objectives of the height development standard as the area of non-compliance is located below the existing ridgeline and is appropriate to the condition of the site and its context.
39. In accordance with the justifications set out in *Wehbe v Pittwater Council (2007) 156 LGERA 446*, the written request has demonstrated that the objectives of the height development standard are achieved notwithstanding the non-compliance with the standard. Accordingly, it is considered that the applicant has adequately demonstrated that strict compliance with the height development standard is considered unreasonable and unnecessary in the circumstances of the subject application.

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

40. The written request has demonstrated that the non-compliance associated with the dormer window will result in an outcome that generates no visual impact to the streetscape, is under the height of the existing ridgelines, and will not result in adverse privacy or overshadowing impacts. Accordingly, it has been demonstrated that there are sufficient environmental planning grounds to justify contravening the standard.

Is the development in the public interest?

41. The objectives of the height of buildings development standard include:
- (i) *to ensure the height of the development is appropriate to the condition of the site and its context;*
 - (ii) *to ensure appropriate height transitions between new development and heritage items; and*
 - (iii) *to promote the sharing of views.*
42. The existing building has a ridge height of 10.99m. The application includes the addition of a rear facing dormer window, which has a maximum height of 9.55m. The design and form of the dormer is subservient to the host building and is consistent in height, scale and form to the neighbouring buildings which feature rear dormers. The proposal will not impact on views.
43. The objectives of the R1 General Residential zone relevant to the proposal include:
- (i) *to provide for the housing needs of the community;*
 - (ii) *to provide for a variety of housing types and densities; and*
 - (iii) *to maintain the existing land use pattern of predominantly residential uses.*

44. The proposed dormer window would improve the amenity and functionality of the existing boarding house room, while maintaining the amenity of the neighbouring properties. The dormer window is consistent with various other contemporary dormer additions in the immediate vicinity. It is, however, noted that while the amenity of room 11 would be improved by the dormer window, the room remains undersized as such the amenity of the room remains unacceptable as detailed elsewhere in this report.

Conclusion

45. 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 Clause 4.6 of the Sydney LEP 2012 and the proposed development is consistent with the objectives of the height standard and the R1 General Residential zone. However, for reasons, other than the height breach, the application is recommended for refusal.

Clause 4.6 request to vary a development standard – Clause 30(1)(H) – SEPP AH - Motorcycle parking

46. The development is required to provide a total of 2.2 motorcycle parking spaces (rounded to 2 spaces) under SEPP AH. The proposal does not provide any motorcycle parking and so a waiver for 100% departure from the development standard is sought.
47. The application has provided a written request 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.

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

48. The applicant seeks to justify the contravention of the motorcycle parking 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 provision of no motorcycle parking would result in a better environmental outcome in terms of streetscape impacts.
 - (ii) Provision of such parking would be contrary to the zone objectives and would result in the development not being compatible with the character of the area.
 - (iii) In this case, no motorcycle parking would better achieve the zone objectives and would be consistent with the underlying objectives of the development standard.
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard:

- (i) Motorbike parking could be provided within the front setback however this would raise pedestrian safety issues and would result in the loss of bicycle parking.
- (ii) The site is within an accessible area, being
 - i. less than 800 metres walking distance of a train station; and
 - ii. less than 400 metres walking distance of several bus routes serving destinations.
- (iii) There are cycle routes marked throughout the area.
- (iv) The site is well serviced by Go Get car share pods.
- (v) The site is less than 400m walk from a major regional shopping centre.
- (vi) Compliance with the development standard will hinder the attainment of Section 1.3 of the EP&A Act 1979 - the objectives of the Act.

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

49. Development consent must not be granted unless the consent authority is satisfied that:
- (a) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
 - (b) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

50. The written request submitted states that the development is consistent with the objectives of the motorcycle parking development standard as the non-compliance is appropriate to the condition of the site and its context. It is noted that there are no specific objectives for the motorcycle parking development standard contained within Clause 30(h) of the SEPP AH, and as such the request addresses the aims of the SEPP AH.
51. In accordance with the justifications set out in *Wehbe v Pittwater Council (2007) 156 LGERA 446*, the written request has stated that the aims of the SEPP AH are achieved notwithstanding the non-compliance with the standard contained within Clause 30. Therefore the request is considered to adequately demonstrate that compliance with the development standard is unnecessary or unreasonable.

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

52. The written request has presented an argument that there are sufficient environmental planning grounds for contravention of the development standard, namely, that the variation from the development standard will result in an improved environmental outcome as the site is adequately serviced by other transportation means. The written request states that compliance with the development standard would result in the development's inability to comply with the aims of the EP&A Act 1979. The written submission also states that the provision of motorcycle parking at the front of the site would pose a safety risk.
53. The written request is not considered to have adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the standard. The site has rear lane access, and it is only through the chosen design of the development that compliance with the development standard is not achieved. It is not accepted that the only possible location for the provision of motorcycle parking is within the front setback. It is considered that a more skilful and considered approach to the development of the site could readily achieve compliance with the development standard. This would provide a valuable amenity for residents of the site improving their transport options.
54. It is also not accepted that compliance with the development standard would result in non-compliance with the aims of the Act, or with the development being inconsistent with the objectives of the R1 residential zone.
55. Council officers do not agree with the merits of the written request, and does not consider that there are sufficient environmental planning grounds to justify a 100% variation from the development standard. The site is sufficiently unencumbered so as to be able to provide some if not all of the required motorcycle parking accessed from the rear lane. Fundamentally, it is due to the built form and overall scale of the proposal that the motorcycle parking has not been provided. The development as a whole will result in a poor amenity outcomes for the future occupants as discussed elsewhere in this report with the proposed lack of motorcycle parking adding to the cumulative effect of the proposal on future and surrounding residents.

Is the development in the public interest?

56. The objectives of Clause 30 of SEPP AH include:
 - (a) *to provide a consistent planning regime for the provision of affordable rental housing;*
 - (b) *to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards;*
 - (c) *to facilitate the retention and mitigate the loss of existing affordable rental housing;*
 - (d) *to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing;*
 - (e) *to facilitate an expanded role for not-for-profit-providers of affordable rental housing;*

- (f) *to support local business centres by providing affordable rental housing for workers close to places of work; and*
- (g) *to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.*

57. The objectives of the R1 General Residential zone relevant to the proposal include:

- (a) *to provide for the housing needs of the community;*
- (b) *to provide for a variety of housing types and densities; and*
- (c) *to maintain the existing land use pattern of predominantly residential uses.*

58. The proposed development is not contrary to the objectives of the development standard or the relevant zone.

59. The non-compliance with the development standard is however, not considered to be in the public interest due to the lack of environmental planning grounds for its variation as detailed above.

Conclusion

60. For the reasons provided above the requested variation to the motorcycle parking development standard is not supported, the applicant's written request has not adequately addressed the matters required to be addressed by cl 4.6(3) of the Sydney Local Environmental Plan 2012. The proposed development is not in the public interest as it has not provided sufficient environmental planning grounds to vary the development standard.

Design Excellence

61. Clause 6.21 of the Sydney LEP 2012 requires that Council be satisfied that a development demonstrates design excellence. Clause 6.21(4) provides a list of matters to which Council must have regard to. These matters include:

- (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved;*
- (b) *whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain;*
- (c) *whether the proposed development detrimentally impacts on view corridors;*
- (d) *how the proposed development addresses the following matters:*
 - (i) *the suitability of the land for development;*
 - (ii) *the existing and proposed uses and use mix;*
 - (iii) *any heritage issues and streetscape constraints;*

- (iv) *the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form;*
 - (v) *the bulk, massing and modulation of buildings;*
 - (vi) *street frontage heights;*
 - (vii) *environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity;*
 - (viii) *the achievement of the principles of ecologically sustainable development;*
 - (ix) *pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network;*
 - (x) *the impact on, and any proposed improvements to, the public domain;*
 - (xi) *the impact on any special character area;*
 - (xii) *achieving appropriate interfaces at ground level between the building and the public domain; and*
 - (xiii) *excellence and integration of landscape design.*
62. The proposed development is not considered to exhibit design excellence. Specifically, the proposal does not demonstrate a high quality of architectural design, will create inappropriate bulk and massing relative to the streetscape and the site, and is therefore unsympathetic to the heritage conservation area and the contributory nature of the buildings.
63. In addition, the proposal will have significant environmental impacts including a loss of solar access and visual and acoustic privacy to both the future occupants of the site and adjoining properties. These areas are discussed in greater detail elsewhere in this report.
64. It is acknowledged that the site is in a very poor state of repair. While Council would like to see the site developed to improve the current situation, the proposed development in its current form has fundamental issues relating to amenity, bulk and scale and built form outcomes which will ultimately result in a worse outcome for the occupants of the subject site and the surrounding residents.
65. Fundamentally, the proposal is considered to be of an inappropriate scale for the site and will result in an overdevelopment of the property. The proposal is not considered to exhibit design excellence and do not comply with the requirements of Clause 6.21(4) of the Sydney LEP 2012 and is recommended for refusal.

Building setbacks

66. Section 4.2.2 of the Sydney DCP provides the requirements for building setbacks within the municipality. The relevant objective of Section 4.2.2 states:
- (a) *Ensure development:*

- (i) *is generally consistent with existing, adjacent patterns of building setbacks on the street; and*
 - (ii) *maintains the setting of heritage items and is consistent with building setbacks in heritage conservation areas.*
67. In addition to the above, Section 4.2.2.1 states that where no setback is identified on the Building setback and alignment map, the development must be consistent with the setback and alignment of adjoining buildings.
68. The existing and proposed rear building setbacks are detailed below in Figure 17. There are clear ground and first floor building lines within the vicinity, both of which the existing building contributes to. In addition, as detailed above, the site is located within a smaller group of 4 dwellings which have a very consistent building line.
69. The more recent developments to the north and the renovations to properties to the south have conformed to the predominant rear building lines.
70. The proposed development includes a rear ground extension of 1.5m and first floor extension of 5.3m beyond the existing building line. As demonstrated in Figure 17 below, this will result in a variation to the established rear setback, most significantly at first floor level which will result in a departure from the requirements of Section 4.2.2 and will significantly alter the consistent building alignment on the western side of Maze Lane.



Figure 17: Existing and proposed rear setbacks (Source: Nearmap 2018)



Figure 18: Rear perspective of the subject site as viewed from Maze Lane in conjunction with the proposal at No.84 City Road (D/2018/841)

71. The proposal will have a significant visual impact due to the increased bulk as viewed from the adjoining properties and Maze Lane. The proposed first floor extension will have the greatest visual impact as this will be highly visible from Maze Lane.
72. The proposed rear extension, combined with the small separation of 2.3m between the rear of the main building and the rear lane structure, will result in unacceptable bulk to the adjoining properties. It is noted that the separation between the structures includes external corridors and access ways which will further reduce the visual separation between the structures.
73. The proposed alterations and additions to the existing boarding house are not consistent with the objectives of Section 4.2.2 of the Sydney DCP 2012 and cannot be supported. This forms part of the reasons for refusal.

Heritage

74. The site is identified as being a contributory building within the heritage conservation area. The existing building retains the original built form including a subservient rear wing. The property is located within a highly intact group of 4 properties all of which have a consistent built form.
75. The proposed rear extension will result in a significant alteration to the original built form of the building. Given the intact nature of the row, the built form is a key feature in the conservation area. The additions will detract from the appreciation of the character of the row as viewed from the public domain (Maze Lane).
76. The proposal also includes the use of unsympathetic materials and alterations including the first floor rear extension, elevated deck and rear lane building. The proposed retention of the balcony infill on top of the existing balustrade is inappropriate. The balustrade should remain unaltered with any new windows to be located behind the balustrade. The use of aluminium windows is also inappropriate.
77. The site proposes excavation of up to 1.1m at the rear of the site with no Geotechnical or Structural Report provided with the application. It is therefore impossible to confirm that no structural damage to the subject and adjoining sites will occur with the excavation.
78. The proposal will result in unsympathetic additions which will have unacceptable impacts to the existing built form pattern. The proposal is considered not to be compliant with the relevant aims, objectives and controls of the SLEP and SDCP.

Amenity

79. As discussed in detail above, the proposal has a number of non-compliances with the SEPP AH and the SDCP 2012 with specific concern regarding lack of amenity. Figure 16 details the high number of non-compliances regarding the minimum room sizes required under the SEPP AH and SDCP 2012. This will have a direct impact on the usability of the rooms and will result in unacceptably poor amenity for the future occupants with insufficient space for storage, kitchen and bathroom facilities in the development.
80. In addition to the insufficient room sizes, the proposal also seeks consent for undersized areas of communal open space and communal living areas, and seeks to justify the insufficient open space in the Statement of Environmental Effects due to the proximity of Victoria Park across City Road.

81. It is not acceptable that occupants are provided with individual rooms of low amenity combined with insufficient communal areas. The communal living areas are afforded poor amenity through the lack of sunlight and ventilation. The only window to this room is small, inoperable windows on Maze Lane. It is unlikely that the size of this window will be sufficient to light or ventilate the room.
82. In addition to being undersized, Rooms 10 and 11, located within the attic, have inadequate floor to ceiling heights further reducing the usable size of the rooms. Rooms 2, 3, 7 and 8 have a lack of privacy with the only windows for these rooms located directly onto the communal areas in either walkways or the communal open space. Furthermore, the proposed external walkways will result in a loss of visual and acoustic privacy for surrounding properties. Any screening to mitigate these concerns would further exacerbate the unacceptable bulk of the development.
83. Overall, the proposal will result in unacceptable amenity impacts for the future occupants of the boarding house and adjoining properties. This forms part of the reasons for refusal.

Solar access

84. The submitted solar access diagrams do not clearly detail the existing overshadowing to the subject and adjoining sites making an assessment of the impacts associated with the proposed development difficult. Existing and proposed fence shadows have also not been included.
85. Based on the information submitted, the adjoining properties immediately to the south of the development site and the subject site are unlikely to achieve the minimum 2 hours of direct sunlight between the hours of 9am and 3pm as required under Section 4.2.3 of the Sydney DCP 2012. The diagrams also indicate that the private open space provided for the boarding houses is unlikely to achieve adequate solar access. The lack of solar access to the subject and adjoining properties is unacceptable and forms part of the reasons for refusal.

Rear lane built form

86. Section 4.1.6 of SDCP 2012 contains provisions relating to secondary dwellings at the rear of a primary dwelling or on rear lanes. While this section does not strictly apply to the proposed development as the works do not relate to a self-contained secondary dwelling, the provisions of this clause can be used as a guide for appropriate built forms on laneways.
87. The rear laneway development proposed has a total height of 5.2m as measured from the lane in keeping with the maximum permissible height of 5.4m. The roof pitch is at 40 degrees however the laneway dormer windows are not set in from the boundary by 300mm as required. This is required in order to ensure the building presents as a single storey form as viewed from the lane. This is a minor non-compliance and could be addressed by way of amended plans, however, the application is recommended for refusal for reasons outlined elsewhere in this report.

Other Impacts of the Development

88. The proposed development is capable of complying with the BCA.
89. It is considered that the proposal will have significant detrimental effects relating to environmental, social or economic impacts on the locality, and is not supported.

Suitability of the site for the Development

90. The proposal is of a nature in keeping with the overall function of the site. The premises are in a residential surrounding and amongst similar uses to that proposed.

Internal Referrals

91. The application was discussed with the Heritage and Urban Design Specialists; Building Services Unit; Environmental Health; Safe City, Tree Management and Waste Management.
92. Council's Urban Design and Heritage specialists raised concerns regarding the built form and the poor amenity impacts which have been discussed in greater detail above.
93. Council's Waste Management Unit has provided comment that the application could be supported subject to appropriate conditions requiring compliance with the relevant waste policy. As detailed above, the application does not provide adequate access nor has adequate space for bins been provided. It is not considered that these issues could be appropriately resolved by way of condition as compliance with the relevant policy would require substantive redesign.
94. As detailed above, Council's Tree Management Unit does not support the removal of two of the three trees proposed for removal. This is due the poor replacement planting proposed and the lack of supporting documentation by way of an Arborists Report provided.
95. All other units including Safe City, Building Services and Environmental Health have advised that the proposal could be acceptable subject to the recommended conditions relating to the operation and construction of the proposal.

External Referrals**Notification, Advertising and Delegation**

96. In accordance with Schedule 1 the Sydney DCP 2012, the proposed development is required to be notified. As such the application was notified for a period of 14 days between 4 September 2018 and 19 September 2018. As a result of this notification there were six submissions received. It is noted that four of the submissions were also lodged for D/2018/841 for 84 City Road, Chippendale with is under concurrent assessment. Issues raised in submissions are summarised below.

- The proposal will result in a loss of visual privacy.

Response: As discussed above, the proposal is considered likely to result in an unacceptable loss of visual privacy to adjoining properties. This forms part of the reasons for refusal.

- The proposal will alter the character of the lane given the proposed access to the communal kitchen and laundry directly from the lane resulting in noise and excessive use of the service lane.
- The two storey form to the lane inappropriate resulting in unacceptable height and overshadowing.

Response: As assessed in greater detail above, there are a number of concerns with the laneway structure including poor amenity for the future occupants and overshadowing.

The use of the lane as a secondary access to the site from the rear is appropriate and is in keeping with the service nature of the lane. The main entrance of the boarding house is to the front of the site with a small rear lane access for waste, services, etc is considered to be acceptable. Notwithstanding this, the application is recommended for refusal.

- Inappropriate behaviour of the occupants.

Response: The behaviour of residents of the boarding house would be regulated by the enforcement of the Plan of Management.

- BCA report is draft and appears to reference a different proposal.

Response: If the development were recommended for approval, the proposal is likely to be able to comply with the relevant matters of the BCA.

- The proposal will increase demand for car parking in the local area.

Response: The SLEP 2012 sets a maximum, not a minimum car parking rate for development and so there is no requirement for the development to provide car parking. It is noted that motorcycle parking is a requirement under the SEPP AH, and the development does not provide any motorcycle parking. The request to waive this requirement has not been supported and forms part of the reasons for refusal.

- The Plan of Management is inadequate with no way for surrounding residents to raise concerns with the operation of the site and it is unclear how the 10pm outdoor curfew will be enforced.

Response: A complaints register forms part of the Plan of Management and has been reviewed and supported by Council's Safe City unit. If the application was recommended for approval, an updated PoM could be provided by way of a condition of consent to include the contact number of the manager.

- Proposal has poor amenity for the occupants of the boarding houses.

Response: This forms part of the reasons for refusal and is assessed in greater detail above.

- Tree removal will directly impact the amenity of the surrounding properties and the community as a whole.

Response: The removal of mature trees within the property is not supported as the replacement planting proposed is inadequate. This forms part of the reasons for refusal.

- The proposal is too large for the site.

Response: The application is recommended for refusal in part due to the unacceptable amenity impacts resulting from the scale of development proposed.

- Exceeds height standard and parking standards with the submitted Clause 4.6 submissions inadequate.

Response: These matters as assessed in detail above but do not form part of the reasons for refusal.
- Does not provide adequate private open space for future occupants.

Response: This forms part of the reasons for refusal.
- Does not comply with solar access requirements.

Response: This forms part of the reasons for refusal.
- The proposed FSR appears to be calculated incorrectly.

Response: Council officers have conducted their own calculation of FSR and has confirmed that the proposal complies with the maximum permissible FSR for the site.
- The location of the communal areas away from the rooms is impractical and will result in noise to the rear lane.

Response: The location of the communal living areas is not a concern of Council however the poor amenity afforded to these spaces due to their location form part of the reasons for refusal.
- Overdevelopment of the site.

Response: The application is recommended for refusal in part due to the unacceptable amenity impacts resulting from the scale of development proposed.

Public Interest

97. For the reasons discussed above, the application is not in the public interest and is not supported.

S7.11 Contribution

98. If the application was recommended for approval, the development would be subject to the following S7.11 contributions. The following calculation has been based on the proposed 11 room boarding house with a credit of 10 existing boarding rooms applied.

Contribution	Total
Open space	\$8,036.41
Community facilities	\$1,600.29
Traffic and transport	\$2,0440.88
Stormwater and drainage	\$807.03
	\$12,484.61

Relevant Legislation

99. The Environmental Planning and Assessment Act 1979.

Conclusion

- 100. The application seeks consent for alterations and additions to the existing 10 room boarding house at No.82 City Road, Chippendale. The works consist of tree removal, excavation, demolition of part of the rear wing, internal alterations, rear ground and first floor extensions, rear facing dormer window and rear lane structure. The proposal will result in one additional room resulting in a total of 11 boarding rooms.
- 101. The application is reported to the Local Planning Panel as the development seeks a variation to a development standard by more than 10%. The proposal seek a waiver of the requirement for motorbike parking under Clause 30(1)(h) of State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP AH). The development requires two parking spaces with none proposed. A written request has been provided seeking a 100% waiver of this requirement in accordance with Clause 4.6 of the SLEP. The request to vary the development standard is not supported.
- 102. The proposal exceeds the 9m building height development standard pursuant to Clause 4.3 of the SLEP by 0.55m or 6%. A written request has been provided seeking a variation to the height development standard in accordance with Clause 4.6 of the SLEP. The request to vary the development standard could be supported, however the proposal is recommended for refusal.
- 103. The proposal fails to comply with the requirements of the SEPP AH, SLEP and SDCP in terms of amenity, accommodation size, solar access and character of the local area. The proposal will present significant bulk at the rear of the site which is not in keeping with the character of the conservation area, as viewed from the adjoining properties and Maze Lane. The development will have unacceptable amenity impacts for both the future occupants and adjoining properties by way of undersized rooms and communal facilities, loss of visual privacy, and inadequate solar access.

104. Council acknowledges that given the current state of the property, development of the site is required and encouraged. However, the subject proposal is fundamentally flawed in a number of areas which cannot be supported in its current form.
105. The development is of a scale which is out of character for the area and does not comply with the rear building line requirements under the SDCP.
106. The development has failed to exhibit design excellence, is not in keeping with the desired future character of the area and is not considered to be in the public interest.
107. The application is recommended for refusal.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Jemima Royall, Specialist Planner