

Item 5.**Development Application: 82 City Road, Chippendale - D/2019/822****File No.:** D/2019/822**Summary****Date of Submission:** 1 August 2019**Applicant:** Merbell Pty Ltd
c/: LK Planning**Designer:** Cubitor Design And Drafting**Owner:** Merbell Pty Ltd**Cost of Works:** \$481,651**Zoning:** R1 General Residential. The proposed use as a boarding house is permissible 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 excavation, partial demolition of the rear of the building, internal alterations, rear ground floor extension, rear facing dormer window and a new rear lane structure. The proposal will result in no additional rooms and will accommodate a maximum of 11 people. The application is being assessed concurrently with an identical proposal for the neighbouring property at No.84 City Road (D/2019/823), 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 motorcycle parking under Clause 30(1)(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 supported in this instance for the reasons outlined in this report.

The proposal exceeds the 9 metre building height development standard pursuant to Clause 4.3 of the SLEP by 1.14m or 12%. 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 is supported in this instance for reasons outlined in this report.

The application was notified for a period of 14 days between 8 August 2019 and 23 August 2019. A total of 5 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 generally complies 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 development is considered to exhibit design excellence, is in keeping with the desired future character of the area and is considered to be in the public interest.

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

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. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 - Height of Building
- D. Clause 4.6 - Motorcycle Parking
- E. Plan of Management

Recommendation

It is resolved that:

- (A) the written variation request to Clause 30(1)(h) - Motorcycle Parking of the State Environmental Planning Policy - Affordable Rental Housing in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be supported in this instance;
- (B) the written variation request to Clause 4.3 - Height of Buildings in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be supported in this instance; and
- (C) consent be granted to Development Application No. D/2019/822 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the Motorcycle Parking development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 30(1)(h) of the SEPP - Affordable Rental Housing 2009; and
- (B) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the height of buildings development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 4.3 of the Sydney LEP 2012; and
- (C) the proposal is in the public interest because it is consistent with the objectives of the R1 - General Residential zone and the motorcycle parking and height of buildings development standards.
- (D) the proposal is considered appropriate within its setting and is generally compliant with the relevant planning controls contained in the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (E) the proposed use is compatible with the predominant residential nature of the area and it is considered that the use will not result in unreasonable impacts to nearby residential properties, subject to the attached conditions.

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 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/2019/823) 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 retained.
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/student accommodation and multi-dwelling housing. The built form is typically comprised of 2 and 3 storey terraces with 1 and 2 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 a number of laneway buildings on Maze Lane predominately 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.
8. On the western side of City Road, opposite the subject site is Victoria Park.

9. A site visit was carried out on 21 August 2019. 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: The front façade of the building as viewed from City Road



Figure 4: Looking east from the attic of No.82 City Road



Figure 5: The rear of the existing building



Figure 6: Looking at the subject site from the rear lane with the adjoining property at No.84 City Road (D/2019/823)



Figure 7: Looking south along Maze Lane with location of site identified by a red arrow



Figure 8: Looking north along Maze Lane with location of site identified by a red arrow

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 1.3m
- (c) Alterations and additions to provide:

Ground floor:

- (i) 3 rooms including 1 accessible room

First floor:

- (ii) 4 rooms
- (iii) 1 shared toilet and shower

- (d) Second (attic) floor:

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

- (e) Rear lane structure comprising of:

- (i) Separate ground floor communal living area, kitchen and laundry; and
- (ii) First floor double boarding room

- (f) The proposal will result in a total of 10 rooms on the site accommodating a maximum of 11 people
 - (g) Parking for 4 bicycles within the front setback
 - (h) Facade upgrades to the City Road frontage including repair and maintenance of the building and landscaping works
11. It is noted that the proposal is a mirror image of the proposal for alterations at No.84 City Road (D/2019/823) which is being assessed concurrently and the subject of a separate report to the Local Planning Panel.
12. Plans of the proposed development are provided below

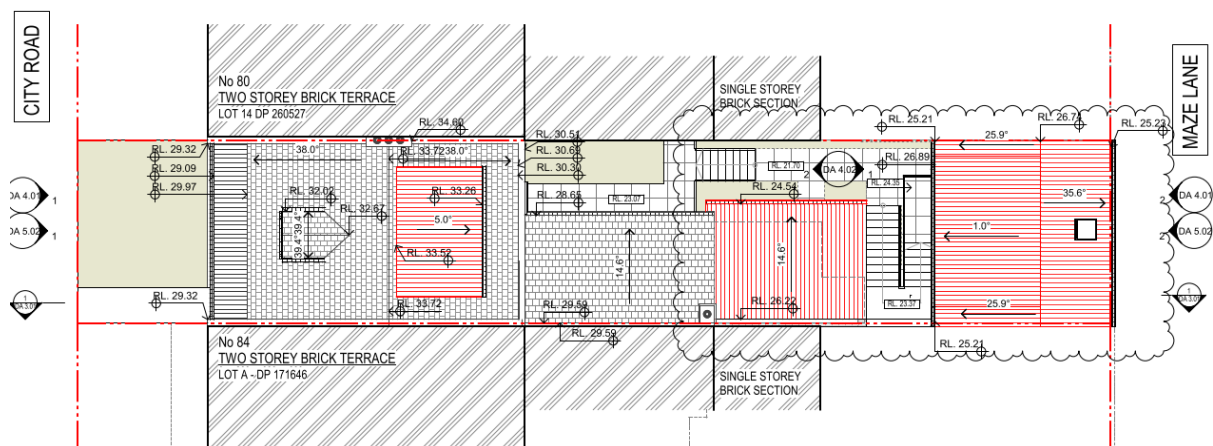


Figure 9: Proposed roof plan

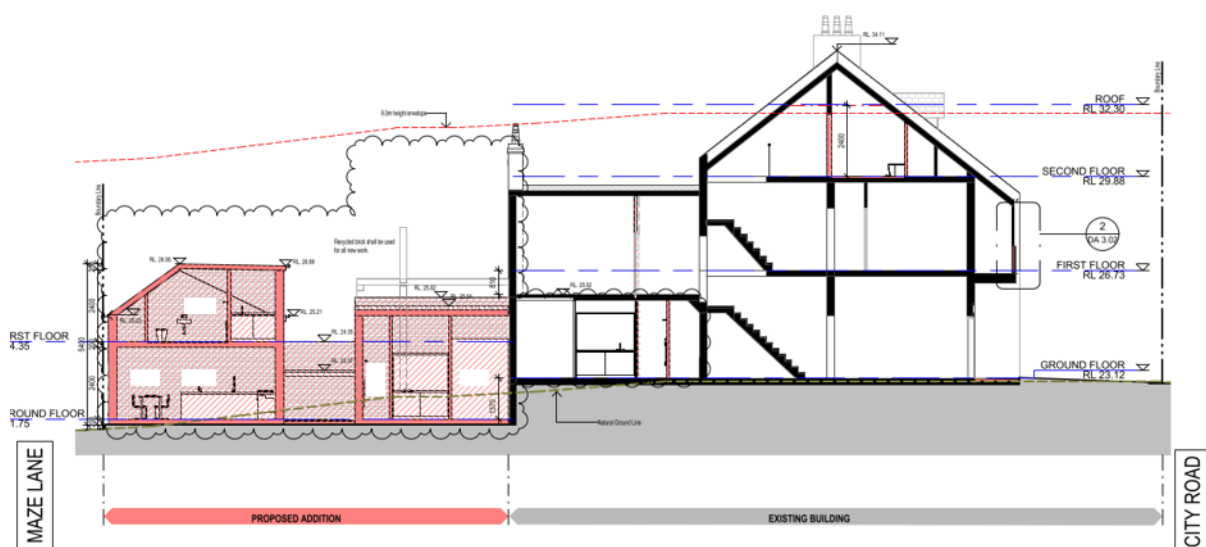


Figure 10: Section

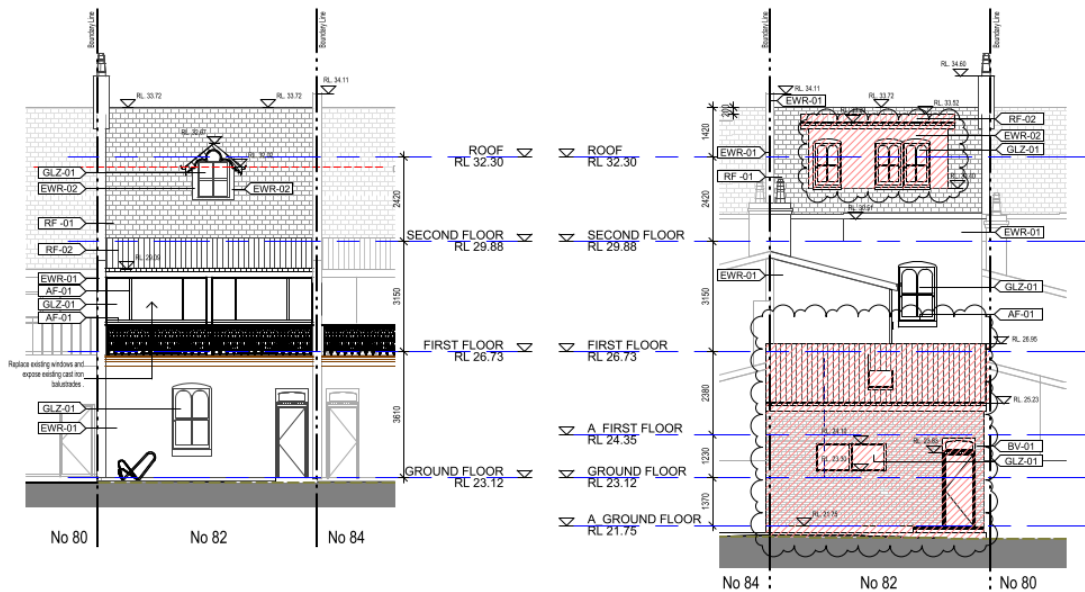


Figure 11: Front (west) and rear (east) elevations

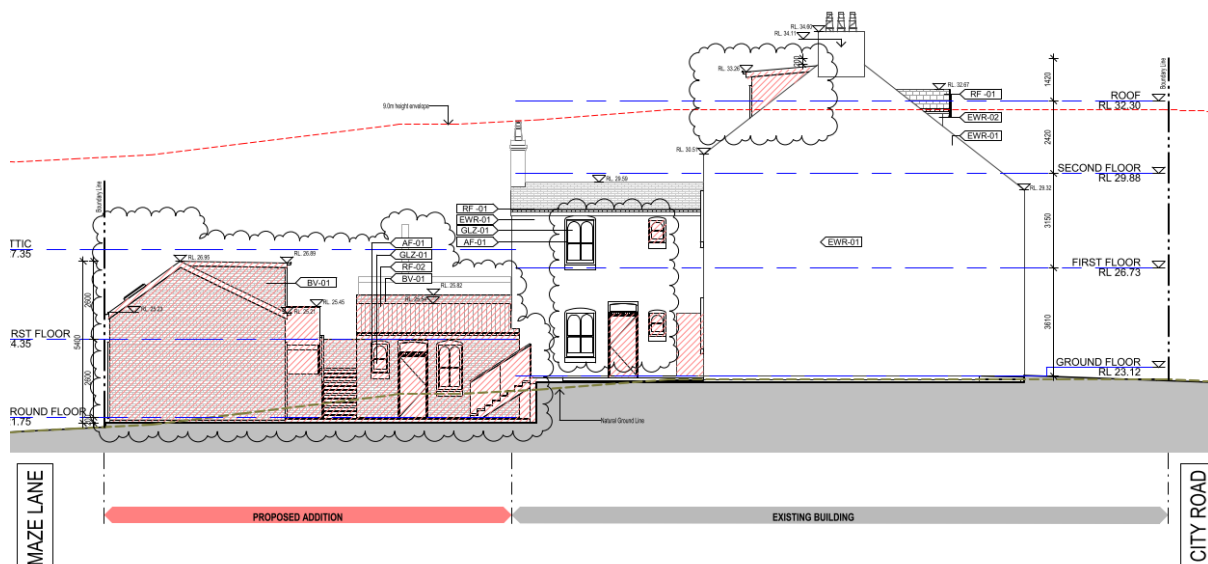


Figure 12: North elevation

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. D/2018/842 for alterations and additions to the existing boarding house at No.82 City road was refused by the Local Planning Panel on 30 January 2019. The reasons for refusal were due to the proposal's non-compliance with the *State Environmental Planning Policy (Affordable Rental Housing) 2009*, unsympathetic addition in the conservation area, non-compliance with the Sydney DCP 2012 in terms of amenity impacts and failure to demonstrate design excellence.

Economic/Social/Environmental Impacts

16. 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)

17. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.
18. 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;
 - (d) protect and rehabilitate riparian corridors and remnant vegetation.
19. 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.
20. The development is consistent with the controls contained within the deemed SEPP.

State Environmental Planning Policy (Infrastructure) 2007

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

Clause 45

22. 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
23. In accordance with the Clause, the application was referred to AusGrid for a period of 21 days. The application was supported subject to conditions which have been included in the Recommended Conditions of Consent.

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

24. The BASIX Certificate has been submitted with the development application (Certificate No. A319485_02).
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 1.16:1.
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 12% or 1.14m due to the proposed dormer window. 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.	Yes	The communal living area located at the rear of the site will receive solar access between 9am and 12pm.

Clause 29 – Standards that cannot be used to refuse a boarding house		
<p>2(d) Private open space</p> <p>(i) Min. 20sqm with min. 3m width</p>	No	<p>An area of 35.2sqm of open space has been provided within the side and rear setback of the property with a minimum dimension of 2.2m.</p> <p>Notwithstanding, the applicant has identified the site's proximity to Victoria Park will provide the residents of the site with sufficient outdoor space.</p>
<p>2(e) Parking</p> <p>(i) 0.2 parking spaces provided for each boarding house room for sites in an accessible area.</p> <p>(iii) Not more than 1 parking space for the on-site manager.</p>	Acceptable	No car parking is proposed.
<p>2(f) Accommodation size</p> <p>(i) Min.12sqm for single lodger rooms</p> <p>(ii) Min.16sqm for double lodgers rooms</p> <p>(excluding any area used as a private kitchen/ bathroom)</p>	No	<p>As shown in Figure 13, rooms 2, 6, 7, 9 and 10 do not meet the minimum size requirements for a single occupancy room as they are existing rooms within the terrace. 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. Given the constraints of the existing building, the proposed variation to this requirement is acceptable.</p> <p>All rooms have been provided with a wardrobe.</p>

Room	Existing room size	Total area	Living area (12sqm)	Wardrobe (1sqm)	Kitchen (2sqm)	Ensuite inc. shower (2.9sqm)	Laundry (1.1sqm)
1	19.6sqm	38sqm	20sqm	1.3sqm	2.6sqm	7.3sqm	1.6sqm
2	15.4sqm	16.5sqm	11.3sqm	1.3sqm	2sqm	3.1sqm	n/a
3	12.1sqm	18.7sqm	14.7sqm	1.3sqm	2sqm	3.5sqm	n/a
4	9.2sqm	13.9sqm	12.7sqm	1.3sqm	2sqm	n/a	n/a
5	18.5sqm	18.3sqm	13.5sqm	0.5sqm	1.2sqm	3.2sqm	n/a
6	13.9sqm	15.6sqm	10.5sqm	0.7sqm	2sqm	2.9sqm	n/a
7	15.3sqm	12.0sqm	11.1sqm	0.4sqm	2sqm	n/a	n/a
8	n/a	24.1sqm	20sqm	5.6sqm	1.6sqm	2.9sqm	n/a
9	18.8sqm	14.7sqm	10.2sqm	0.7sqm	1.5sqm	3.6sqm	n/a
10	10.5sqm	8.1sqm	7.3sqm	0.7sqm	1.5sqm	n/a	n/a

Figure 13: 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.

Clause 30 – Standards for boarding house		
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. One shared toilet and shower is provided for these rooms as required.
1(e) 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 11).
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	<p>No motorcycle parking is provided. A minimum of 2 spaces is required.</p> <p>Parking for 4 bicycles is provided within the front setback.</p> <p>See discussion under the heading Issues.</p>

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 rear ground floor addition in line with the predominant rear building line. The proposed rear addition results in acceptable bulk and scale with limited amenity impacts to adjoining properties. Overall, the proposal is compatible with the character of the surrounding area as viewed from Maze Lane and is consistent with Clause 30A of the SEPP.

Sydney Local Environmental Plan 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	<p>A maximum height of 9m is permitted.</p> <p>A height of 10.14m is proposed which is a 12% exceedance. The application has been accompanied by a Clause 4.6 Variation Request. See discussion under the heading Issues.</p>
4.4 Floor Space Ratio	Yes	<p>A maximum FSR of 1.75:1 is permitted inclusive of the 0.5:1 FSR allowed by the SEPP AH.</p> <p>A FSR of 1.16:1 is proposed.</p>
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the development standard prescribed under Clause 4.3 in relation to building height by 12% or 1.14m.</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	Yes	<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	Yes	<p>The proposed development is of a high standard, utilising materials and detailing which are compatible with existing development along the City Road and Maze Lane and is in keeping with the desired character for future development in this area.</p> <p>The proposed development is considered to meet the design excellence criteria and as such satisfies Clause 6.21 of the Sydney LEP 2012.</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 within 500m of Class 1-4 soils, no further action is required.

Sydney Development Control Plan 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 considered to be in keeping with the unique character of the area and design principles as the proposal responds 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	Yes	<p>The proposal involves the retention of 2 large weeping bottlebrushes at the front of the site.</p> <p>Council's Tree Management Unit has reviewed the application and supports the retention and pruning of the trees, subject to conditions. It is noted that the submitted plans incorrectly notate the trees for removal - this is to be corrected by conditions.</p>
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.9 Heritage	Yes	<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>
3.11 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	The proposal includes 1 fully contained accessible room on the ground floor.
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, in that the proposal does not provide for a bulky waste area. However, given the site constraints, the variation of this requirement is considered acceptable.</p>

4. Development Types 4.2 Residential Flat, Commercial and Mixed Use Developments	Compliance	Comment
4.2.1 Building height	Yes	<p>The site has a maximum height of 2 storeys. The definition of storey does not include an attic.</p> <p>The proposal seeks no change to the existing 2 storeys plus attic building and the new extension complies with these provisions.</p>
4.2.2 Building setbacks	Yes	See discussion under the heading Issues.
4.2.3 Amenity	Yes	<p>The site accommodates 21sqm or 10% of deep soil within the front setback of the site complying with Section 4.2.3.6.</p> <p>Each room is naturally ventilated and are of a depth so as to enable adequate ventilation.</p> <p>The subject application has been accompanied by an Acoustic Report which has been assessed and deemed acceptable. All recommendations within the report are to be implemented.</p> <p>Solar access is discussed in detail under the heading Issues.</p>
4.2.5 Types of development 4.2.5.3 Development on busy roads	Yes	<p>The subject site is located on City Road which is identified as being a road with over 40,000 vehicles per day.</p> <p>An acoustic report has been provided and reviewed. In addition, 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 on the first floor.</p>

4. Development Types 4.4.1 Boarding Houses	Compliance	Comment
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 13, rooms 2, 6, 7, 9 and 10 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. Given the constraints of the existing building being a terrace house, the proposed variation to this requirement is acceptable.</p> <p>All rooms have 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.
4.4.1.4 Communal Living Areas and Open Space	No	<p>The communal living room does not comply with the minimum area of 20sqm, with 12sqm provided. The communal living and kitchen are located in the same room with a combined area of 20.7sqm. The variation to the room size is considered acceptable given the open plan nature of the space and the compatible uses within the room.</p> <p>An area of 35.2sqm of open space has been provided within the property. The site's proximity to Victoria Park will provide the future occupants with adequate open space.</p>

4. Development Types 4.4.1 Boarding Houses	Compliance	Comment
4.4.1.5 Bathroom, laundry and drying facilities	Partial compliance	<p>A dryer has been provided within the shared laundry. Adequate shared bathroom facilities are proposed for the 3 rooms without individual facilities.</p> <p>The proposal does not include an area for external drying facilities however there is adequate space within the communal area to accommodate a clothesline.</p>
4.4.1.6 Amenity, safety and privacy	Yes	<p><i>Visual privacy</i></p> <p>Rooms 2, 3, 6, 7 and 9 windows are orientated into the external common access ways. Given the low use of these walkways this is acceptable.</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>This is considered to be acceptable.</p> <p><i>Safety</i></p> <p>The location of the communal living room at the rear of the site with a window provides 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 10.14m. The existing building has a 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.
36. A copy of the applicant's written request is provided at Attachment D.

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

37. The applicant seeks to justify the contravention of the height development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the proposal complies with the objectives of the development standard and the zone:

Compliance with objectives of Clause 4.3

- (i) *Objective (a) - to ensure the height of development is appropriate to the condition of the site and its context*

The height breach in this case is caused by a replacement dormer window at the rear of a terrace building that forms part of a contributory group of buildings. A dormer window is anticipated on terraces with high vaulted ceilings and/or attics and in this case has been designed to meet the criteria in the Council's DCP, having a set down from the principal ridge of the roof of 200mm and set in from the edges of the building by 975mm so that it extends 4 metres across the roof plane.

The dormer responds to the condition of the site to allow for an improvement to the amenity of the attic level rooms and stairwell by introducing additional light, ventilation and internal ceiling heights to the existing boarding rooms in the attic. The dormer responds to the surrounding context of contributory buildings by its complementary design to other dormer extensions in the conservation area. The extension remains below the maximum height of the existing building, noting the ridge is 200mm above the dormer and the parapet walls on either side are another 390mm above the ridge. As such, the proposal does not alter the actual maximum height of the building.

In this regard, the proposed dormer achieves this objective.

- (ii) *Objective (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas*

The Heritage Impact Statement accompanying the application concludes that:

The proposal will have a limited and acceptable impact on the significance of the place, the surrounding conservation area and the heritage items in the vicinity and largely complies with the relevant heritage controls in the SDCP.

There are also no view impacts or adverse shadow impacts caused by the proposed dormer.

The existing built form transitions down from the front of the site to the rear laneway. The proposed dormer retains this transition despite the height breach and is read as a subservient feature in the roofscape.

In this regard, the proposed dormer achieves this objective.

- (iii) *Objective (c) to promote the sharing of views*

There are no views across the site and the dormer is located entirely within the foreground of the existing pitched roof.

In this regard, the proposed dormer achieves this objective.

- (iv) *Objective (d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas*

The maximum height of the building remains unchanged by the proposal and the minor additional volume it occupies does not affect the general transition of building height from Central Sydney to the adjoining area.

In this regard, the proposed dormer achieves this objective.

Compliance with objectives of the R1 - General Residential zone

- (i) *provides for the housing needs of the community* in that it retains and improves an existing boarding house and therefore meets the housing need of affordable rental accommodation in areas of high amenity;
- (ii) *provides for a variety of housing types and densities* by including a range of room sizes within the boarding house, in a setting amongst other boarding houses, share houses, single dwellings and apartments;
- (iii) whilst it does not provide for *other land uses that provide facilities or services to meet the day to day needs of residents*, it is focussed on housing choice and therefore does not contravene this objective; and

- (iv) *maintains the existing land use pattern of predominantly residential uses* by retaining the boarding house use that has existed on the site for over 100 years.

Varying the height control in this instance has no negative public interest implications, does not undermine the integrity of the Council controls and does not set an undesirable precedent.

- (a) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The feature of the proposal that breaches the height development standard is limited to the dormer window addition. These traditional extensions to terrace buildings are typically, as is evident in this case, without material impact upon the surrounding properties in terms of solar access, overlooking, views or bulk/scale generally.
 - (ii) Despite the lack of impact on their surroundings, the dormers significantly increase the amenity afforded to the building through increased ceiling heights, solar access and ventilation. The bulk of the structure is consistent with the desired character of the area, noting its form aligns with the DCP controls that require it to be set behind and below the main roof form and in from the edges.

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

38. 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)?

- 39. 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.
- 40. 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)?

41. 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?

42. 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.*

43. The existing building has a ridge height of 11m. The application includes the addition of a rear facing dormer window, which has a maximum height of 10.14m. 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.

44. 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*
- (iii) To maintain the existing land use pattern of predominantly residential uses*

45. 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. The addition of the dormer will significantly improve the amenity of room 11.

Conclusion

46. For the reasons provided above the requested variation to the height of buildings development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Clause 4.3 Height of Buildings and the R1 - General Residential zone.

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

47. 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.

48. 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.
49. A copy of the applicant's written request is provided at Attachment E.

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

50. 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 as the proposal complies with the objectives of the development standard and the zone:

Compliance with objectives of Clause 30(1)(h)

- (i) Whilst there is no stated objective to the development standard itself, the aims of the SEPP (ARH) are achieved by the proposal despite the lack of motorcycle parking given that the renovation of the existing boarding house provides for the introduction of greater amenity and communal facilities for the benefit of the occupants. This goes directly to Aims (c), (e), (f) and (g):
 - (c) to facilitate the retention and mitigate the loss of existing 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,*
 - (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.*
- (ii) In accordance with advice provided by Council motorcycle parking, if proposed, must enter the site from the rear lane (and the proposition must be accepted), then to achieve both compliance with this standard and the provision of new communal facilities would require either a reduction in the size of the communal facilities or a relocation of the communal facilities into the main building to allow sufficient space for motorcycle parking.

- (iii) The existing boarding house has 10 rooms that are in a dilapidated and unrenovated state. The proposal is to retain the existing number of rooms whilst introducing a higher level of amenity. Part of that amenity is the provision of a communal kitchen/living/dining area and laundry at the rear of the site. It is accepted that the rear of the site is the only area from which on-site motorcycle parking may be provided as it would be highly objectionable to create a motorcycle parking area in the front landscaped courtyard of a contributory building within a heritage conservation zone. It would also pose safety risks to riders and pedestrians.
- (iv) If the communal facilities were reduced in size they would not comply with the relevant controls for minimum communal room sizes. If they were internalised within the main building, the net result would be the loss of 2 boarding rooms. Strict compliance with the development standard would therefore have the effect of either:
 - 1. Retaining the number of rooms (10) and providing motorcycle parking in the rear yard with no new communal facilities; or
 - 2. Reducing the number of rooms to 8 to provide communal facilities within the main building, providing motorcycle parking in the rear yard.
- (v) The first option inappropriately places a higher threshold of importance on providing motorcycle parking for up to 2 lodgers than providing new communal facilities for the occupants of all 10 rooms. The second option disincentivises increasing the amenity to the existing rooms as the 10 rooms, which have existing for over 100 years, would reduce to 8 rooms, contravening the Aims of the SEPP (ARH).
- (vi) Both of these scenarios would result in an undesirable planning outcome. Imposing strict compliance with the development standard, despite there being no net increase in the number of existing rooms from this renovation, would be unnecessary (as the Aim of the SEPP is achieved anyway) and unreasonable (as it would serve the purpose of discouraging or diminishing the quality of the renovation of the building).

Compliance with objectives of the R1 - General Residential zone

- (i) *provides for the housing needs of the community* in that it retains and improves an existing boarding house and therefore meets the housing need of affordable rental accommodation in areas of high amenity;
- (ii) *provides for a variety of housing types and densities* by including a range of room sizes within the boarding house, in a setting amongst other boarding houses, share houses, single dwellings and apartments;
- (iii) whilst it does not provide for *other land uses that provide facilities or services to meet the day to day needs of residents*, it is focussed on housing choice and therefore does not contravene this objective; and

- (iv) *maintains the existing land use pattern of predominantly residential uses* by retaining the boarding house use that has existed on the site for over 100 years.

Varying the motorcycle control in this instance has no negative public interest implications, does not undermine the integrity of the SEPP (ARH) and does not set an undesirable precedent. There are various examples noted in Council's Register of Development Standard Variations where 100% variations have been granted to the motorcycle parking control, many of which have similar characteristics to the subject site with heritage overlay and rear lane access.

- (a) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) There are sufficient environmental planning grounds to support the variation as the absence of motorcycle parking allows for a refined design of the laneway structure at the rear of the site and an increased provision of communal living/kitchen/dining and laundry facilities in the least impactful location on the site. The provision of 2 motorcycle spaces would significantly diminish or eliminate the ability to accommodate these improvements onto the site without reducing the overall capacity of the boarding house below the rates that have existed for over 100 years.
 - (ii) The upgraded boarding house will contribute to the viability of local centres by retaining affordable housing within a location that is well serviced by public and active transport infrastructure, and within close proximity to employment opportunities and educational facilities and therefore the use of a motorcycle is not necessarily required.
 - (iii) To offset the motorcycle parking deficit, the proposal seeks an alternative solution to provide commuter parking opportunities on the site, by providing double the bicycle parking spaces than is required by the controls within the front setback zone. The 4 bicycle spaces mean that 40% of the rooms have access to a dedicated and secure parking space for their bicycle. This promotes the use of active transport, aligning with City of Sydney's Liveable Green Network, in a way that does not compromise the visual aesthetic of this contributory building. In this respect, the proposal is considered to achieve a better planning outcome than compliance with the development standard.

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

51. 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)?

52. 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
53. 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)?

54. The written request has demonstrated that the non-compliance associated with the motorcycle parking will result in an outcome that will result in a better urban design outcome and will have minimal amenity impacts to the future occupants of the subject site. Accordingly, it has been demonstrated that there are sufficient environmental planning grounds to justify contravening the standard.

Is the development in the public interest?

55. 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,
 - (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.
56. 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
 - (c) To maintain the existing land use pattern of predominantly residential uses
57. The proposed development is not contrary to the objectives of the development standard or the relevant zone.
58. Under the previous development application, D/2018/842, the non-compliance with Clause 30(1)(h) was identified as a reason for refusal based on the cumulative non-compliances of the previous scheme. The current application has been reduced in scale and no longer intensifies the use on the site.
59. The required motorcycle parking would only be possible within the rear setback of the property access from Maze Lane. Provision for the parking would result in a loss of the communal facilities, overall reducing the proposed improved amenity provided for the future occupants of the site.
60. The non-compliance with the development standard is considered to be in the public interest due to the environmental planning grounds for its variation as detailed above.

Conclusion

61. For the reasons provided above the requested variation to the motorcycle parking development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Clause 30(1)(h) Motorcycle Parking of the SEPP AH and the R1 - General Residential zone.

Heritage

62. The site is a contributory building located within a Conservation Area and is therefore subject to the heritage provisions of this DCP. The proposed additions are located at the rear of the site and are subservient to the original dwelling.
63. The proposal involves works to the front façade of the building including restoration of the first floor balustrade, repainting of the façade and restoration of the windows. The balcony is currently enclosed with aluminium framed windows attached to the top of the existing balustrade. It is proposed to maintain the enclosure but have the new windows be set behind the restored balustrade as opposed to on top as existing. Council's heritage provisions encourage the removal of detracting features of contributory buildings, balcony enclosures are considered to be detracting elements. The proposals continued enclosure of the balcony is considered to be acceptable in this instance as the proposal will result in an improved heritage outcome subject to the use of 'sashless' windows with the vertical mullions minimised. This requirement has been imposed as a recommended condition of consent. The site's location on City Road, a high volume traffic street will ensure the balcony area is usable and will improve the amenity of these front facing rooms for the future occupants.
64. The proposed materials and finishes are supported and in keeping with the period of the building. The proposal involves the retention of significant heritage fabric including the original fireplaces and chimneys.

65. The development proposes a 1.3m excavation at the rear of the site to accommodate the rear ground floor extension and to level the site. The application has been accompanied by a Geotechnical Report and the excavation is supported. Conditions of consent have been recommended to require dilapidation reports be completed prior to construction commencing.
66. The proposal will result in sympathetic additions to the existing building. Overall, the proposal is considered to be compliant with the relevant aims, objectives and controls of the SLEP and SDCP.

Building setbacks

67. Section 4.2.2 of the SDCP 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.*
68. 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.
69. The existing and proposed rear building setbacks are detailed below in Figure 14. 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.
70. The more recent developments to the north and the renovations to properties to the south have conformed to the predominant rear building lines.
71. The proposed development includes a rear ground extension of 5.4m, 1.5m beyond the existing building line. As demonstrated in Figure 14 below, this will result in a variation to the established rear setback.
72. The proposed ground floor addition will not be visible from the public domain and will not result in any additional overshadowing to adjoining properties. The proposed FSR does not rely upon the additional FSR allowable in SEPP AH and is well within that allowed by the LEP. The proposed variation is considered acceptable in this instance.



Figure 14: Existing and proposed rear setbacks (Source: Nearmap 2018)

Solar Access

73. Section 4.2.3 of the Sydney DCP 2012 requires that adjoining areas of private open space receive a minimum of 2 hours of direct sunlight between the hours of 9am and 3pm. Traditional shadow diagrams as well as sun's eye views and elevational shadow diagrams have been provided as part of the application.
74. The submitted solar access diagrams show that the proposal will result in additional overshadowing to No.84 City Road and the adjoining site will not achieve the minimum solar access requirements. No.84 City Road is subject to a similar development application being assessed concurrently. The solar access to No.84 is assessed in D/2019/823.
75. The proposal will result in a minor increase in the overshadowing to No.86 City Road at 1pm due to the pitch of the rear lane building however will retain 2 hours of solar access between 10am and 1pm.

Rear lane built form

76. 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.
77. The rear laneway development proposed has a total height of 5.4m as measured from the lane in keeping with the maximum permissible height of 5.4m. The roof pitch is at 40 degrees with an internally facing dormer which is set in from the side boundaries and down from the ridge line. The proposal will read as a single storey laneway structure as per the objectives of the DCP provision. The proposed laneway structure is compliant with the Sydney DCP 2012.

Other Impacts of the Development

78. The proposed development is capable of complying with the BCA.
79. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

Suitability of the site for the Development

80. 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

81. The application was discussed with the Heritage and Urban Design Specialists; Building Services Unit; Environmental Health; Safe City; Tree Management and Waste Management; who advised that the proposal is acceptable subject to the recommended conditions as discussed above.
82. Where relevant, the conditions of other sections of Council have been included in the proposed conditions.

External Referrals**Notification, Advertising and Delegation**

83. 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 8 August 2019 and 23 August 2019. As a result of this notification a total of 26 properties were notified and there were 5 submissions were received.
- Maze Lane building
 - (i) Will change the character of the lane by being 2 stories.
 - (ii) Will increase noise to adjoining residents.
 - (iii) Should not be used for communal areas.

- (iv) Grossly exceeds the 9m height limit resulting in a loss of privacy to adjoining properties.
- (v) Will be used as the main entrance/exit due to proximity of nearby pubs, etc.
- (vi) Putting the kitchen at the rear of the site is not practical for the future residents.
- (vii) Does not activate the lane enough.
- (viii) Should be deleted.

Response: The rear lane building complies with the Sydney DCP provision for laneway structures and has a maximum height of 5.4m. The use of the rear building as a communal area is the only location on the site available for these uses. The applicant has stated that access to and from the rear lane building will be the secondary access however there is no way to prevent occupants of the site using a public lane. Overall, the laneway building will provide amenity for the future occupants of the site and is in keeping with the provisions of the SDCP 2012.

- Motorcycle and bicycle parking in the front setback will cause the loss of the existing trees which assist with reducing the impacts of City Road.

Response: The proposal does not provide any motorcycle parking. Bicycle parking in the front setback is a practical solution and will be located on the existing front path so as to not damage the landscaping. The location of the existing trees in the north-western corner, away from the existing path and bike parking will provide protection for the trees. It is noted that the bike parking is located on the existing front verandah with no additional paving proposed.

- The additional will exacerbate existing stormwater runoff issues in the area due to the increase in the built up area.

Response: The development will have to comply with the City of Sydney and Sydney Water's requirements regarding connection to the stormwater and sewerage systems.

- Management concerns relating to the operation of the site including consumption of alcohol, uncleanliness of the premises, no on-site manager or contact details provided,

Response: The submitted Plan of Management has been reviewed and is considered to be acceptable.

- Removal of the waste bins via the communal laundry is unhealthy.

Response: There is unfortunately no alternative within the existing site however their removal though the laundry will not have impacts to public health as this is not an area for food preparation or sleeping.

- The proposal will overshadowing the adjoining dwellings fronting Rose Street which has not been detailed in the submitted information.

Response: The submitted shadow diagram show that the proposal will not result in any additional overshadowing to the private properties fronting Rose Street.

- No parking provided will increase demand for existing on-street parking.

Response: The City of Sydney does not require private car parking to be provided for any development within the municipality.

- No private open space for the future residents.

Response: As discussed above there is communal space at the front of the building and landscaped area that lead to the rooms. This is considered acceptable in this instance.

- The new dormer window will result in a loss of privacy.

Response: The new dormer window at the attic level is located 21m behind the subject site's rear property boundary and is a replacement of the existing dormer window. A site inspection carried out by the City of Sydney Officers shows that no additional overlooking will be created by the proposal.

- The site should not exceed 10 occupants.

Response: The proposal is for a maximum of 11 occupants within 10 rooms. The occupancy of the site is considered to be acceptable given the size of the rooms and will only result in 1 additional person as compared to the existing situation.

- Proposed CCTV cameras will not deter anti-social behaviour.
- CCTV cameras will impact the privacy of other residents using the lane

Response: Council consent is not required for CCTV cameras however the applicant has proposed this feature to address previously raised concerns regarding anti-social behaviour. The lane is a public space and the applicant will have to comply with the relevant privacy provisions under NSW and Australian Law.

- Demolition of the existing rear, single storey toilet is a loss of contributory heritage fabric as well as loss of heritage fabric (fireplaces, chimneys, etc)

Response: The existing single storey toilet at the rear of the site is not structurally sound nor is it an original feature of the building. Its demolition is supported. The proposal will restore and retain a number of heritage features including the chimneys and fireplaces as shown on the plans.

- The additional storey is not supported under the DCP.

Response: The proposal does not include an additional storey.

- Will obstruct views/outlooks for adjoining properties.

Response: The proposal will not exceed the height of the adjoining properties, retaining city view sightlines. Sightlines to adjoining properties may be lost due to the proposal however these outlooks are not protected and are a feature of living in a changing urban environment.

- Failure to restore the front balcony is unacceptable.

Response: The enclosing glazing is acceptable given the busy road that the site fronts. The heritage impacts of this aspect of the proposal is discussed in greater details above.

- Fails to provide adequate communal shower and toilets to rooms without ensuites.

Response: As detailed above, the communal facilities regarding toilets, etc are compliant with 3 residents sharing 1 toilet/shower.

Public Interest

84. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

S7.11 Contribution

85. The development is subject of a S7.11 contribution under the provisions of the City of Sydney Development Contributions Plan 2015. This contribution is calculated on the basis of the development's net increase in resident, worker and/or visitor populations.
86. Credits have been applied for the most recent use of the site as a 10 room boarding house. As the proposal will not result in a net increase in boarding rooms, no contribution is payable.

Relevant Legislation

87. The Environmental Planning and Assessment Act 1979.

Conclusion

88. 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 excavation, partial demolition of the rear of the building, internal alterations, rear ground floor extension, rear facing dormer window and a new rear lane structure. The proposal will result in no additional rooms and will accommodate a maximum of 11 people. The application is being assessed concurrently with an identical proposal for the neighbouring property at 84 City Road (D/2019/823), which is under the same ownership as the subject site.

89. 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 motorcycle parking under Clause 30(1)(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 supported in this instance for the reasons outlined in this report.
90. The proposal exceeds the 9 metre building height development standard pursuant to Clause 4.3 of the SLEP by 1.14m or 12%. 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 is supported in this instance for reasons outlined in this report.
91. The application was notified for a period of 14 days between 8 August 2019 and 23 August 2019. A total of 5 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.
92. The proposal generally complies 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.
93. The development is considered to exhibit design excellence, is in keeping with the desired future character of the area and is considered to be in the public interest.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Jemima Royall, Specialist Planner