

Item 4.**D/2019/189: 45 Amy Street, Erskineville - D/2019/189****File No.: D/2019/189****Summary**

Date of Submission:	4 March 2019
	Amendments lodged 3 July 2019, 26 August 2019 and 19 December 2019
Applicant:	Cracknell and Lonergan Architects Pty Ltd
Architect:	Cracknell and Lonergan Architects Pty Ltd
Owner:	David J Wimbourne
Cost of Works:	\$1,177,000
Zoning:	R1 General Residential. Boarding houses are a permissible use within the zone.
Proposal Summary:	The development application is for the demolition of the existing two storey dwelling and construction of a two storey, and attic, boarding house accommodating 7 boarding rooms (for a total of 8 occupants), two motorcycle and two bicycle parking, new front fence and landscaping works. Following the preliminary assessment of the application, including presentation to the City's Design Advisory Panel, the applicant was advised that the proposal was not supported as the three storey development was considered out of character with the streetscape and conservation area. Further, concerns were raised with the internal planning and amenity impacts for future residents, privacy and solar impacts to neighbouring properties, and impacts on trees and landscaping and waste storage/collection not being adequately addressed.
	The application was notified and advertised for a period of 28 days between 19 March 2019 and 17 April 2019. As a result of this notification a total of 222 properties were notified and there were 43 submissions received.

The application has been amended on 3 July 2019, 26 August 2019 and 19 December 2019 to respond to the matters raised by Council during the assessment.

After the submission of an amended scheme on 26 August 2019, the scope of amendments were required to be re-notified given in the extent of changes from the original proposal and varied environmental impacts. As such the application was re-notified for a period of 14 days between 27 August 2019 and 11 September 2019. As a result of this notification a total of 23 submissions were received.

The development is considered contentious as it received more than 25 unique submission and therefore is referred to the Local Planning Panel for determination.

The final amended proposal resulted in the following:

- (a) Reduced to two storey compliant form and within maximum height permitted;
- (b) Rear roof extension and two front dormers added to create an attic space that is of a compliant design;
- (c) Arborist report provided demonstrating the trees on the site and surrounding can be protected and retained;
- (d) Shadow diagrams provided demonstrating a reasonable solar access impact;
- (e) Size and location of waste storage is adequate; and
- (f) Improved internal amenity for future residents.

Given the above amendments, the amended proposal is considered acceptable as it is consistent with the built form, design and context of the neighbouring buildings and conservation area and provides a reasonable amenity impact to the occupants and neighbouring properties.

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

- Development Controls:**
- (i) Sydney Local Environmental Plan 2012
 - (ii) Sydney Development Control Plan 2012
 - (iii) State Environmental Planning Policy (Affordable Rental Housing) 2009
 - (iv) State Environmental Planning Policy (Infrastructure) 2007
 - (v) State Environmental Planning Policy No 55—Remediation of Land
 - (vi) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
 - (vii) City of Sydney Development Contributions Plan 2015
- Attachments:**
- A. Recommended Conditions of Consent
 - B. Selected Drawings
 - C. Shadow Diagrams

Recommendation

It is resolved that consent be granted to Development Application No. D/2019/189 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 proposed boarding house is a permissible within the R1 General Residential zone and is consistent with the objectives of this zone.
- (B) The proposal is generally consistent with the relevant objectives and controls within the State Environmental Planning Policy (Affordable Rental Housing) 2009, State Environmental Planning Policy (Vegetation of Non-Rural Areas) 2017, Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (C) The proposal respects the heritage significance of the conservation area known as Former Macdonaldtown Estate Conservation Area (C23).
- (D) The proposal is considered to be consistent with the built form, design and context of the neighbouring buildings in the streetscape and locality.
- (E) Subject to compliance with the recommended conditions, the new boarding house will provide an acceptable level of amenity for the subject site and neighbouring properties.
- (F) For the reasons above and as outlined in this report, the proposed development is in the public interest.

Background

The Site and Surrounding Development

1. A site visit was carried out by staff on 20 March 2019 and 9 October 2019.
2. The site is rectangular, with an area of approximately 227.2sqm. The legal description of the site is Lot 1 DP 981278. It has a primary street frontage to Amy Street of 11.13m in length, a northern side boundary of 21.31m in length, a southern side boundary of 21.34m and a western rear boundary of 10.12m. The site falls from the rear to the front boundary, and has a fall of approximately 0.75m across the site. The site is located on the western side of Amy Street, and is located in close proximity to the intersection with Devine Street.
3. Existing on site is a two storey freestanding dwelling. The existing dwelling is of brick construction with a gabled corrugated metal roof and front cantilevered balcony. There is a single storey rear section with metal roof. The existing building is setback from all boundaries and has a contemporary palisade fence to the street.
4. Surrounding land uses are predominantly residential. Directly adjoining the site to the south is a two storey dwelling at 47 Amy Street, and adjoining the site directly to the north is a single storey weatherboard cottage at 43 Amy Street. Further north along Amy Street are a pair of contemporary two storey terraces followed by a row of two storey Victorian terraces. To the east of the site, on the opposite side of Amy Street, are single storey dwellings and terraces. To the west of the site, adjoining the rear of the site, is the rear courtyard and dwelling of No. 20 Devine Street.
5. The site is not a heritage item but is classified as a neutral item located within the Former Macdonaldtown Estate Conservation Area (C23).
6. Photos of the site and surrounds are provided below:





Figure 2: Site as viewed from Amy Street



Figure 3: Adjoining properties located to the north of the site on Amy Street



Figure 4: Adjoining property at No. 47 Amy Street located to the south of the site



Figure 5: View of the dwellings on the opposite side of Amy Street, as viewed from the front of the subject site



Figure 6: View of the rear of the adjoining properties located to the north of the site



Figure 7: View of the rear courtyard open space of the existing dwelling on the site, looking north



Figure 8: View of the rear courtyard open space of the existing dwelling on the site, looking south



Figure 9: View from the first floor of the existing dwelling on site, looking west.

Proposal

7. The application seeks consent for the demolition of the existing two storey dwelling and associated structures and construction of a new two storey, and attic, boarding house accommodating 7 boarding rooms (for a total of 8 occupants) with two motorcycle and two bicycle parking spaces.

8. In detail, the following is proposed:

(a) Ground Floor:

- (i) Access to the boarding house along the southern side setback from Amy Street;
- (ii) One accessible boarding room (Room G01) for a single occupant containing an ensuite and kitchenette. Separate front entry is provided from Amy Street as well as through the common internal corridor;
- (iii) One boarding room (Room G02) for a single occupant containing an ensuite and kitchenette. Separate front entry is provided from Amy Street as well as through the common internal corridor;
- (iv) Communal living room;
- (v) Communal laundry;
- (vi) Communal open space area to the rear, including external clothes drying facilities;
- (vii) Two motorcycle parking spaces and waste bin storage area located along the northern side setback area;
- (viii) Two bicycle parking racks located within the rear courtyard area;
- (ix) Bulky waste storage room;
- (x) New timber picket front fence proposed to a height of 1.2m; and
- (xi) Landscaping works to the rear and front yard area with retention of all trees on the site and surrounding.

(b) Level 1

- (i) Four boarding rooms (Rooms 101 to 104, inclusive), all being for a single occupant and containing an ensuite and kitchenette.

(c) Attic

- (i) One boarding room (Room 201) proposed to be for a double occupancy, containing an ensuite and kitchenette.

9. Elevations of the proposed development are provided below at Figure 10. A full set of architectural plans is provided at Attachment B.



Figure 10: Proposed elevation plans

History Relevant to the Development Application

Previous Applications

- On 13 November 2018, a permit for clearing vegetation TPR/2018/311 was approved for the removal of one Celtis Sinensis (Hackberry) and one Eucalyptus Elata (River Peppermint) tree. The consent includes a condition for one replacement tree within the property.
- There is no other relevant previous application history.

Current Development Application

- The subject application was lodged on 4 March 2019. At the time of lodgement, the original application proposed a new three storey boarding house development, accommodating 7 boarding house rooms and one caretaker's room.

13. Elevations of the original proposal from 4 March 2019 are provided below at Figure 11



Figure 11: Original elevation plans lodged 4 March 2019

14. Following a detailed assessment of the application, including review and comment from the City's Design Advisory Panel - Residential Subcommittee, the applicant was advised in correspondence, dated 4 June 2019 that the proposal was not supported by Council. It was requested that the application be withdrawn, with the following concerns raised with the application:
- (i) The height, bulk and scale, which exceeded the maximum height control and was a three storey form, and the facade, was considered out of character with the streetscape and conservation;
 - (ii) Internal planning and amenity adversely impacted future residents;
 - (iii) Adverse privacy and solar impacts to neighbouring properties;
 - (iv) Impacts on trees and landscaping and waste storage/collection not being adequately addressed; and
 - (v) The proposed design was considered to not achieve design excellence.
15. The applicant advised on 11 June 2019 that they would not be withdrawing the application and are to be submitting amended plans.
16. Amended plans were submitted on 3 July 2019.

17. Elevations of the amended proposal from 3 July 2019 provided below at Figure 12.



Figure 12: Amended elevation plans lodged on 3 July 2019

18. Following an assessment of these amended plans, the City advised in correspondence dated 6 August 2019 that the application was still not supported and further amendments were required to address the following:

- (i) The height, bulk and scale was considered out of character with the streetscape and conservation. The scale is to be reduced to two storey form and be within the maximum height permitted.
- (ii) Impacts on trees is to be adequately addressed with an arborist report to be provided;
- (iii) Caretaker's boarding room is oversized and is to be reduced;
- (iv) Provide individual entries to ground floor boarding rooms for better street presence;
- (v) Revised and adequate shadow diagrams required. Demonstrate compliance with the solar access provisions of the Sydney DCP 2012;
- (vi) Rear roof top terrace will have adverse privacy impact and is to be removed; and
- (vii) Further detail to the plans and materials, finishes and colour schedule are required.

19. The applicant submitted a substantially amended scheme on 26 August 2019 and an arborist's report was submitted on 10 October 2019.

20. Following an assessment of these amended plans and arborist report, the City advised in correspondence dated 28 October 2019 that the application was still not supported and further amendments were required to address the following:
 - (i) Arborist report and shadow diagrams still considered inadequate;
 - (ii) The design of the roof, rear roof extension, front dormers and stairwell is out of character with the streetscape and conservation area and needs to be re-designed;
 - (iii) Further detail to the plans, landscape and materials, finishes and colour schedule are still required; and
 - (iv) Insufficient waste storage provided.
21. A final set of amended plans was submitted on 19 December 2019. These plans are the subject of the assessment of this report, and have included the following amendments:
 - (i) Reduced to two storey compliant form and within maximum height permitted;
 - (ii) Rear roof extension and two front dormers added to create an attic space that is of a compliant design;
 - (iii) Arborist report provided demonstrating the trees on the site and surrounding can be protected and retained;
 - (iv) Shadow diagrams provided demonstrating a reasonable solar access impact;
 - (v) Sufficient waste storage provided; and
 - (vi) Improved internal amenity for future residents.

Economic/Social/Environmental Impacts

22. 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.

State Environmental Planning Policy No 55—Remediation of Land

23. The aim of SEPP 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
24. The existing use of the site is residential dwelling. The proposed use is for a boarding house which is also a residential use. The proposal was reviewed by Council's Environmental Health Officers and no issues were raised. Council officers are satisfied that the site is suitable for the proposed use and remediation to the site is not required.

State Environmental Planning Policy (Infrastructure) 2007

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

Clause 45

26. 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) Involves the penetration of the ground that is within 2m of an underground electricity power line; and
 - (b) Works to be carried out within 5m of an exposed overhead electricity power line.
27. In accordance with the Clause, the application was referred to Energy Australia for a period of 21 days on 18 March 2019. In correspondence, dated 4 April 2019, Ausgrid advised that they no objection was raised subject to the imposition of conditions requiring any construction activities within the footpath area do not interfere with existing underground cables. Suitable conditions by Ausgrid are recommended for imposition in the draft Notice of Determination.

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

28. A BASIX Certificate has been submitted for the amended plans with the development application.
29. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal. A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.

State Environmental Planning Policy (Affordable Rental Housing) 2009

30. 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.
31. The proposal is defined as a 'boarding house' and is located within a R1 General Residential zone, and as such, Division 3 - Boarding houses of the SEPP applies.
32. Under Clause 29, compliance with any of the following standards must not be used to refuse consent (i.e. if the development complies with the following standards, this cannot be used as part of any recommended refusal).

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 1.5:1 plus 0.5:1	Yes	The Sydney LEP 2012 specifies a maximum FSR of 1.25:1. As it is a boarding house the FSR bonus of 0.5:1 can be applied under the SEPP (Affordable Rental Housing) 2009. Therefore, the maximum permissible FSR for this type of development on this site is 1.75:1. The site has an area of 227.2sqm. The proposed boarding house has an FSR of 0.93:1 (210.75sqm), which is within the maximum FSR permitted.
2(a) Building height The proposed building height must not exceed the maximum permitted under an EPI	Yes	The Sydney LEP 2012 specifies a maximum height of 9m; The development proposes a maximum height of 8.93m, which is within the maximum height permitted.
2(b) Landscaped area Front setback to be consistent with streetscape	Yes	The proposed ground and first floor level has a front setback of 2.9m, and includes the provision of a front garden bed. The front setback is considered to be consistent with neighbouring buildings along Amy Street, which have a setback of 2 to 4.87m. The primary landscaped area and communal open space are located at the rear of the building.
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 can achieve a minimum of 3 hours direct sunlight between 9.00am and 3.00pm in midwinter.

Clause 29 – Standards that cannot be used to refuse a boarding house		
Standard	Complies	Comment
2(d) Private open space (i) Min. 20m ² with min. 3m width	Yes	The application proposes a communal private open space at the rear of the development with an area of 64.4sqm, which as a minimum dimension that exceeds 3m. The proposed area of private open space complies with the minimum requirements of 20sqm area and 3m width.
2(e) Parking (i) 0.5 parking spaces provided for each boarding house room (iii) Not more than 1 parking space for the on-site manager	No, Acceptable	No car parking space is proposed. This has been assessed as being acceptable as the Sydney LEP 2012 provides no maximum parking controls. Furthermore, the site provides motorcycle and bicycle parking and is an area that is readily accessible to public transport.
2(f) Accommodation size (i) Min.12m ² for single lodger rooms (ii) Min.16m ² for double lodgers rooms (excluding any area used as a private kitchen/bathroom)	Yes	The minimum boarding room size for the proposed single rooms are 12sqm and for double rooms are 16sqm. As shown below, all rooms meet the minimum boarding room size with G01, G02, 101, 102, 103, 104 as a single occupant boarding room and 201 as a double occupancy boarding room: G01: 12.3sqm G02: 12sqm 101: 12.7sqm 102: 12.2sqm 103: 12.2sqm 104: 12.7sqm 201: 21.8sqm

33. Subject to conditions, the proposed development will generally comply with the relevant provisions of clause 29.
34. 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 rooms on the ground floor level. The location of the communal living room will receive direct natural sunlight and ventilation, and as such achieve acceptable amenity for occupants.
1(b) No boarding room is to have a gross floor area (excluding private kitchen or bathroom facilities) of more than 25m ²	Yes	None of the proposed boarding rooms exceed 25sqm.
1(c) No boarding room to be occupied by more than 2 adult lodgers	Yes	6 boarding rooms are for single occupants and 1 boarding room is for double occupants. None of the boarding rooms exceed more than two occupants.
1(d) Adequate bathroom and kitchen facilities available for use of each lodger	Yes	Each boarding room includes a bathroom and kitchenette facilities of an adequate size.
(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	Yes	The proposed boarding house will have 8 occupants and therefore, a boarding room for a house manager is not required. No manager boarding room has been provided.
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.	Yes	The site is zoned as R1 General Residential. Under the Sydney LEP 2012, boarding houses are permitted within this zone and this zone is primarily for residential purposes. Therefore it is an acceptable that the ground floor level be used for residential purposes.

Clause 30 – Standards for boarding house		
1(h) At least 1 bicycle and 1 motorcycle parking space to be provided for every 5 rooms.	Yes	<p>As there are 7 boarding rooms, 2 bicycle parks and 2 motorcycle parks are required.</p> <p>The application proposes to provide 2 bicycle and 2 motorcycle parking spaces to the ground level which meets the minimum parking requirement.</p>

Clause 30A – Character of the local area

- 35. Clause 30A states that a consent authority must not consent to 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.
- 36. The site is located within a residential area. As amended, the proposed works and use are compatible with the character of the surrounding area. The bulk, scale and modulation are similar to the adjoining properties and is therefore, considered appropriate with the streetscape. As such the application is consistent with clause 30A of the SEPP.

State Environmental Planning Policy (Vegetation in Non Rural Areas) 2017

- 37. The proposal includes the clearing of vegetation in a non-rural area and as such is subject to this SEPP. The SEPP states that the Council must not grant consent for the removal of vegetation within heritage sites or heritage conservation areas unless Council is satisfied that the activity is minor in nature and would not impact the heritage significance of the site.
- 38. The proposed development does not involve the removal of any trees. However, the proposed works are in close proximity to four trees which includes a Kentia Palm located in the front yard and a Jacaranda tree located in the rear yard of 47 Amy Street and two Weeping Fig trees in the rear yard of the subject site.
- 39. Council Tree Management Officers have recommended conditions to ensure the protection and retention of these trees. Subject to the recommended conditions, the proposal is considered to preserve the general amenity of the sites and neighbouring properties vegetation and will not adversely impact the heritage significance of the site and conservation area.
- 40. Therefore, the proposal is generally consistent with the aims and objectives of this SEPP and the proposal will not adversely impact on the local urban ecology.

Sydney Local Environmental Plan 2012

- 41. The site is located within the R1 General Residential zone. The proposed development is defined as a boarding house, which is permissible with consent in the zone.
- 42. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	Yes	Refer to ARH SEPP compliance table above.
4.4 Floor Space Ratio	Yes	Refer to ARH SEPP compliance table above.
5.10 Heritage conservation	Yes	<p>The subject site is located within a heritage conservation area.</p> <p>The demolition of existing building, which is classified as a neutral item, is supported in this instance.</p> <p>As detailed in the relevant history section of this report, the application has been amended several times throughout the assessment of the application to achieve a built form that responds to the context. In its amended form, the replacement building is of a scale and proportion that matches adjoining buildings.</p> <p>See discussion under the heading Issues.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
6.21 Design excellence	Yes	<p>The new development, subject to the recommended conditions, satisfies this provision of Clause 6.21(4).</p> <p>See discussion under the heading Issues.</p>

Part 7 Local Provisions - General	Compliance	Comment
Division 1 Car parking ancillary to other development	Yes	<p>The Sydney LEP 2012 does not designate a maximum allowable number of car spaces for boarding houses.</p> <p>Refer to ARH SEPP compliance table above.</p>

Part 7 Local Provisions - General	Compliance	Comment
7.14 Acid Sulphate Soils	Yes	The site is identified as Class 5 Acid Sulphate Soil. The development is not considered to represent a significant risk of exposing acid sulphate soils.
7.15 Flood Planning	Yes	The subject site is not within a flood prone affected land.

Sydney Development Control Plan 2012

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

2. Locality Statements – Pleasant Avenue and Macdonald Street
The subject site is located in the Pleasant Avenue and Macdonald Street locality. The proposed two storey and attic boarding house is considered to be in keeping with the unique character of the area and design principles in that it retains a low scale form and is of a proportion and design that is within character of the streetscape and locality.

3. General Provisions	Compliance	Comment
3.2 Defining the Public Domain 3.2.2 Addressing the street and public domain 3.2.3 Active frontages	Yes	<p>The new boarding house relates to the scale, front facade and finishes of neighbouring buildings within the streetscape. The proposal presents an appropriate building frontage to positively address Amy Street and the public domain.</p> <p>The proposal has activated the street providing multiple entries into the boarding house, including individual entries for the ground floor boarding house rooms.</p> <p>As proposed works are to affect the footpath and kerb, a number of public domain conditions are recommended to improve and renew the public domain in the vicinity of this site.</p>
3.5 Urban Ecology	Yes	The proposed development does not involve the removal of any trees. Refer to the relevant history section of this report on previous tree removal permits.

3. General Provisions	Compliance	Comment
		Subject to the recommended conditions regarding the retention and protection of the four trees within the site and surrounding, the proposal will not adversely impact on the local urban ecology. Refer to the SEPP (Vegetation in Non Rural Areas) 2017 discussion of this report regarding the protection of vegetation.
3.6 Ecologically Sustainable Development	Yes	A BASIX Certificate has been provided for the amended plans. The proposal satisfies BASIX and environmental requirements.
3.7 Water and Flood Management		The subject site is not within flood prone affected land. Stormwater management conditions are recommended to ensure appropriate stormwater management measures are applied to the development.
3.9 Heritage	Yes	Refer to discussion under the heading Issues.
3.11 Transport and Parking 3.11.3 Bike parking and associated facilities 3.11.4 Vehicle parking	Yes	As there are 7 boarding rooms, 2 bicycle parks and 2 motorcycle parks are required in accordance with the SEPP (Affordable Rental Housing) 2009. The application proposes to provide 2 bicycle and 2 motorcycle parking spaces of adequate size and location which meets the minimum parking requirement. A condition is recommended that these bicycle and motorcycle parking spaces comply with the Australian Standards in terms of layout, design and security. No car parking is proposed on site, which is considered acceptable in this instance given that the Sydney LEP 2012 does not prescribe any car parking requirements. Furthermore the site is in close proximity to public transport options such as bus and rail.

3. General Provisions	Compliance	Comment
3.12 Accessible Design	Yes	<p>The proposal provides one accessible boarding room located at ground floor, which can be accessed easily through the building entry. The communal living and open space is also on the ground floor and can easily be accessed from the boarding room.</p> <p>The proposal is considered to provide an accessible design in accordance with the Building Code of Australia</p>
3.13 Social and Environmental Responsibilities 3.13.1 Crime prevention through environmental design	Yes	<p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.</p>
3.14 Waste	Yes	<p>The proposed development provides a waste area that is a maximum travel distance of 10m from Amy Street. Unimpeded access to this waste room can be provided. A bulky storage room is provided with minimum area 4sqm as prescribed under this clause.</p> <p>A condition has been recommended for the proposed development to comply with the relevant provisions of the City of Sydney Code for Waste Management in New Developments 2018.</p> <p>Subject to the recommended conditions, the proposed waste storage and collection methodology is considered acceptable</p>
3.17 Contamination	Yes	Refer to discussion under SEPP 55.

4. Development Types	Compliance	Comment
Boarding Houses		
4.4.1.1 Subdivision	Yes	The application proposes no subdivision to the site.
4.4.1.2 Bedrooms	Yes	<p>The minimum boarding room size for the proposed single rooms are 12sqm and for double rooms are 16sqm. All rooms meet the minimum boarding room size.</p> <p>Each room includes an ensuite with shower at a minimum of 2.9sqm and a kitchenette at a minimum of 2sqm as prescribed under this clause.</p> <p>Therefore, the proposal is considered to provide adequate boarding rooms in accordance with this clause.</p>
4.4.1.3 Communal kitchen areas	Yes	A communal kitchen is not required as every room has a kitchenette.
4.4.1.4 Communal Living Areas and Open Space	Yes	<p>Communal Living Area</p> <p>Given there are 8 occupants, a minimal communal living area of 12.5sqm is required to be provided as per this clause. The proposal provides a communal living area to the ground floor of 21.5sqm which meets the minimum communal living area.</p> <p>The communal living area is located so that it will have minimal impact to the boarding rooms and is adjacent to the communal open space.</p> <p>Communal Open Space</p> <p>This clause prescribes that communal open space is to provide a minimum area of 20sqm and width of 3sqm. The application proposes a communal private open space of 64.4sqm of minimum dimension of 3sqm at the rear of the property.</p>

4. Development Types Boarding Houses	Compliance	Comment
		<p>The communal living room and open space is of adequate size, functional and will receive sufficient amount of sunlight as per the solar access provisions in the Sydney DCP 2012. Therefore, the amenity of the communal living room and open space is considered acceptable.</p> <p>Private Open Space</p> <p>30% of all bedrooms are to have access to private open space balconies in accordance with the Sydney DCP 2012.</p> <p>None of the boarding rooms have access to private open space balconies. Given the proposal is provided with communal living and open space areas well in excess of the minimum provisions, the boarding room occupants will have adequate access to liveable indoor and outdoor spaces. Therefore the non-compliant amount of private balconies provided is considered acceptable.</p> <p>Landscape</p> <p>The application proposes 71.56sqm, which is 31% of the site, as landscaped area.</p> <p>Council's Landscape Officer has recommended landscape conditions to ensure a high standard of landscape design is provided to the site. Subject to the recommended conditions, the amount of landscaped area provided is adequate and the proposed landscaping work is considered to be of high standard.</p>

4. Development Types	Compliance	Comment
Boarding Houses		
4.4.1.5 Bathroom, laundry and drying facilities	Yes	<p>Bathrooms are provided in each boarding room for occupants which is considered sufficient.</p> <p>The proposal sufficiently provides laundry and drying facilities with two communal washing machines and dryers and a clothesline to the communal open space.</p>
4.4.1.6 Amenity, safety and privacy	Yes	<p>Subject to the recommended conditions, the proposal is considered to provide a reasonable amenity impact to the occupants and neighbouring properties.</p> <p>Refer to the discussion under Issues regarding the solar and privacy impact to the subject site and neighbouring properties.</p>
4.4.1.7 Plan of Management	Yes	The application was accompanied by a Plan of Management that sufficiently addresses the operation and maintenance of the building in accordance with the clause. A condition is recommended to comply with the provided Plan of Management.

Issues

Amenity

Solar Impact to neighbouring properties

44. As the site is orientated from east to west, the proposed shadow mainly falls towards 47 Amy Street, Amy Street and 38 - 40 Amy Street which is to the south and south east of the site.
45. However, as demonstrated in the shadow diagrams included in Attachment C the neighbouring properties will receive a minimum 2 hours solar access to at least 50% of the minimum required area of private open space (i.e. to at least 8sqm) and to an area of 1sqm of their living room windows during 9.00am and 3.00pm on 21 June. This meets the solar access requirement under the Sydney DCP 2012. Therefore, the solar impact to neighbouring properties is considered reasonable and can be supported.

Privacy

46. The new boarding house proposes rear west facing windows to the first floor level and attic level. As shown in Figures 7 to 9 above, the windows may overlook into the rear yards of 43 and 47 Amy Street and 20 Devine Street.
47. Therefore a condition is recommended that these windows must contain fixed, opaque glazing, up to a sill height of 1.4m above the floor level. Subject to the recommended condition, the proposal provides a reasonable level of privacy impact to the occupants and neighbouring properties.

Heritage

Demolition of existing building

48. The subject application proposes demolition of a neutral building within a heritage conservation area. As such, consideration must be given to the provisions of Section 3.9.8(1) of the Sydney DCP 2012 in relation to assessment of the acceptability of the demolition.
49. The site currently contains a two storey freestanding dwelling of brick construction with a gabled corrugated metal roof and front cantilevered balcony. There is a single storey rear section with metal roof.
50. The existing building is of recent construction around 1991 and is of a traditional Victorian form to the main part of the building with the external detailing being of contemporary design.
51. The existing two storey building is identified as making a neutral contribution to the conservation area under the Sydney DCP 2012. As the existing building is considered to provide little significance to the conservation area and has been fairly recently constructed, the demolition of the existing building can be supported subject to an appropriate replacement development.

Appropriateness of the Replacement building

52. The site is located within a street that comprises single and two storey Victorian dwellings and terraces of varying setbacks and contributions to the conservation area.
53. The new building is a two storey and attic development, that presents to the street as a freestanding dwelling of Victorian form with a gabled roof, two front dormers and a rear roof extension. The proposed form, scale and design is considered to be an appropriate form for infill development in this locality, as it is compatible with the form, scale and design of neighbouring buildings within the street and conservation.
54. At this stage, there are insufficient details of the materials, finishes and colours of the proposed development, and therefore, a condition is recommended that these details are provided and approved by Council prior to the issue of any Construction Certificate. This will ensure that the highest standard of materials, finishes and colours are approved and is appropriate to the streetscape and conservation area.
55. To ensure the appropriateness in the detailing of the fenestration, a design modification condition is recommended that all windows proposed within masonry walls are to be designed with a projecting masonry sill. This will improve sill drainage, weatherproofing and the visual appearance. A condition to this effect is recommended for imposition.

56. Subject to the recommended conditions, the new development is considered appropriate to the locality and street and will not have an adverse impact to the significance of the heritage conservation area.

Design Evolution and Amendments

57. The original application was referred to Council's Design Advisory Panel (Residential Sub-Committee) for comment in April 2019.
58. The panel raised significant issues with the original application in that the height, three storey form, scale and facade treatment of the new development was considered out of character with the streetscape and conservation area particularly given the streetscape is predominantly a one to two storey form. The amenity for the occupants was considered inadequate and the development may have adverse privacy and solar impacts to neighbouring properties. Impacts on trees, landscaping and waste to the site was also not adequately addressed.
59. As detailed in the relevant history section of this report, there has been numerous sets of amended plans submitted and assessed to resolve the above matters and those raised by Council staff. Design amendments were lodged by the applicant that improved the amenity and appearance of the building. These included:
 - (a) The overall height reduced and form changed to a two storey scale with an attic space including two front dormer windows and a rear roof extension;
 - (b) Greater setbacks were provided to front, rear and side in order to align with neighbouring properties;
 - (c) Larger and functional communal living rooms and open space have been provided;
 - (d) Motorcycle parking has been relocated to the side setback area to restore the front yard with native planting and provide better front facade treatment;
 - (e) Improvements have been made to improve solar access to both neighbouring properties and the subject site;
 - (f) Impact on subject and neighbouring trees has been addressed demonstrating that these trees can be protected and retained;
 - (g) Appropriate size and location of waste storage has been provided.
60. Further details are still required of the materials, finishes and colours of the development, however, it is considered that this can be addressed by way of condition.
61. The amended design is considered to improve the overall presentation of the building so that it is compatible with the streetscape and locality and provides compliant amenity to future occupants and neighbouring properties. Furthermore, the design amendments is considered to have addressed the concerns raised by the Council's Design Advisory Panel (Residential Sub-Committee).

Design Excellence

62. Development consent must not be granted to development unless the consent authority is of the opinion that the proposed development exhibits design excellence as stipulated under Clause 6.21(3) of the Sydney LEP 2012.

63. In this instance, the proposed development is considered to address the matters for consideration under Clause 6.21(4) of the Sydney LEP 2012 as:
- (a) In its amended form, the proposed scale, bulk and design of the building is considered appropriate for the streetscape and context of the locality. The new development is compliant with the applicable height and FSR controls under the SEPP (Affordable Rental Housing) 2009 and the Sydney LEP 2012. The style and detailing of the development has been assessed as being an appropriate form of infill development in this locality and is appropriate to the streetscape and conservation area.
 - (b) The proposed land use is permissible in the zone and the boarding house use had been designed to be contextually appropriate and respond to the development and built form typology of the streetscape.
 - (c) As detailed above, the demolition of the existing neutral item is supported on heritage grounds and in its amended form, the replacement building is considered to be sympathetic to the heritage conservation area.
 - (d) The design complies with amenity standards under the SEPP (Affordable Rental Housing) 2009 and Sydney DCP 2012. The proposal offers a large internal area and rear communal open space that has access to large amounts of sunlight. Therefore, the acceptable amenity is provided to the future occupants of the boarding house development.
 - (e) The built form has been sited to minimise overshadowing of adjacent properties, and subject to the imposition of conditions in relation to privacy treatments to upper level rear facing windows, the proposal is not considered to result in adverse amenity or environmental impacts to adjacent properties.
64. Therefore, the new development, subject to the recommended conditions, is to achieve design excellence under Clause 6.21 of the Sydney LEP 2012 and is supported.

Other Impacts of the Development

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

Suitability of the site for the Development

- 67. 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

- 68. The application was discussed with the Heritage and Urban Design Specialists; Building Services Unit; Environmental Health; Public Domain; Safe City; Surveyors; Transport and Access; Tree Management; Landscape Unit and Waste Management.
- 69. All comments from each section of Council has been taken into consideration and all recommended conditions have been included in the proposed conditions.

Consultation

Notification, Advertising and Delegation

70. In accordance with Schedule 1 the Sydney DCP 2012, the original proposal was required to be notified and advertised. As such the application was notified and advertised for a period of 28 days between 19 March 2019 and 17 April 2019. As a result of this notification a total of 323 properties were notified and there were 43 submissions received.
71. As a result of the degree of amendments to the scheme submitted on 26 August 2019, these amended plans were required to be re-notified in accordance with the Schedule under the Sydney DCP 2012. As such the application was re-notified for a period of 14 days between 27 August 2019 and 11 September 2019. As a result of this notification a total of 323 properties were notified and there were 23 submissions received.
72. The most recent set of amendments received on 19 December 2019 that are the subject of the assessment of this report did not require re-notification as these amendments were not considered to result in significant additional environmental impacts in accordance with the DCP.
73. Consideration has been given to the objections received during both notification periods. Council has addressed these submissions through the assessment in this report, by way of condition or further discussed below. The submissions raised the following concerns:
 - (a) *No parking provided which will result in increased congestion.*
Response - As discussed in the report, no car parking space is proposed which is considered to be acceptable as the Sydney LEP 2012 does not have any minimum parking requirements. Furthermore, the site sufficiently provides motorcycle and bicycle parking as required by the ARH SEPP, and is an area that is readily accessible to public transportation.
 - (b) *Noise and air pollution and safety risk from increase car usage*
Response - Council's Transport and Access Unit has reviewed the proposal and raise no objections.
 - (c) *Excessive height, bulk and scale*
Response - The amended design complies with the height and height and storey controls under the Sydney LEP 2012 and Sydney DCP 2012. Furthermore, the proposed height, bulk and scale is in line with the surrounding buildings within the street and locality.
 - (d) *Inconsistent with character of streetscape and locality*
Response - The amended design is considered to have improved the overall presentation of the building so that it is compatible with the character of the streetscape and locality and provides compliant amenity to future occupants and neighbouring properties.
 - (e) *Inconsistent setbacks to property boundary*

Response - The amended design provides greater setbacks to front, rear and side to align with neighbouring properties. As amended, the proposal is considered to be consistent with the streetscape in regards to setbacks.

(f) *Inaccuracy with plans and documents and insufficient details provided*

Response - The relevant inaccuracy in the plans and documents and insufficient details have been addressed either by the amended design or by way of condition.

(g) *Caretaker room is excessive in size*

Response - The amended design has removed the caretaker's room. All boarding rooms comply with the minimum and maximum boarding room sizes under the SEPP (Affordable Rental Housing) 2009 and Sydney DCP 2012.

(h) *No disabled ramp provided*

Response - As discussed in this report, The proposal provides one accessible boarding room located at ground floor, which can be accessed easily through the building entry. The communal living and open space is also on the ground floor and can easily be accessed from the boarding room. The proposed is considered to provide an accessible design in accordance with the BCA is considered acceptable.

(i) *May impact adversely on tree to the subject site and neighbouring properties*

Response - The City's Tree Management Officer is satisfied that all trees on neighbouring sites will not be impacted by the proposed development. Appropriate tree protection conditions have been recommended for imposition.

(j) *Adverse privacy impact*

Response - As discussed in this report, subject to the recommended conditions, the proposal will provide a reasonable level of privacy to the occupants and neighbouring properties.

(k) *Adverse overshadowing impact*

Response - As discussed in this report, the proposal complies with the solar access requirement under the SEPP (Affordable Rental Housing) 2009 and Sydney DCP 2012 and therefore, will provide and retain a reasonable level of solar impact to the neighbouring properties and subject site.

(l) *Demolition of existing building not supported*

Response - As discussed in this report, the existing building provides a neutral contribution to the conservation area and is of recent construction. Therefore, demolition of the existing building can be supported.

(m) *Affordable housing results in substandard development*

Response - As discussed in this report, the proposal provides a compliant design and amenity in accordance with the SEPP (Affordable Rental Housing) 2009 and Sydney DCP 2012. The new development, subject to the recommended conditions, is to achieve design excellence under Clause 6.21 of the Sydney LEP 2012 and is supported.

(n) *Potential security and safety risk of boarding house occupants*

Response - The proposed land use as a residential boarding house is not considered to result in any greater potential security and safety risks to neighbouring properties than the use as a dwelling.

(o) *Devalue surrounding property*

Response - This is not a relevant matter of consideration under the Environmental Planning and Assessment Act 1979.

(p) *Over density*

Response - As discussed in the report, the development meets the floor space ratio and therefore is considered to meet the objectives of this control in that it provides an appropriate scale and density to the site.

(q) *Potential to use as short term accommodation*

Response - Conditions regarding boarding house being the primary use have been recommended.

(r) *Unable to adequately manage boarding house*

Response - A Plan of Management has been provided that is considered to adequately address management of the boarding house. A condition regarding ongoing compliance with the Plan of Management has been recommended for imposition.

(s) *Motorcycle parking is detracting*

Response - The amended design has relocated the motorcycle parking to the northern side setback area, which is considered to be an appropriate location as it set away from the street frontage and will not be a detracting feature to the facade to Amy Street.

(t) *Limited greenery and open space proposed*

Response - The proposal provides deep soil and landscape areas to 31% of the site which is considered adequate. Furthermore, landscape design conditions are recommended ensuring that a high standard of landscaping to the site is provided.

(u) *Fire and safety risk*

Response - Conditions regarding providing fire protection to the building in accordance with the Building Code of Australia.

(v) *Construction will cause adverse noise impact and disruption*

Response - Conditions regarding construction noise and disturbance have been recommended.

Public Interest

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

S7.11 Contribution

75. 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 population.

76. The contribution is calculated on the basis of demolition of a 3 bedroom dwelling and for the construction of a 7 room boarding house with 8 occupants.

77. The following monetary contribution (based on the current CPI quarter of September 2019) is required towards the cost of public amenities:

(a)	Open Space	\$35,098.88
(b)	Community Facilities	\$6,989.25
(c)	Traffic and Transport	\$8,913.49
(d)	Stormwater Drainage	\$3,524.69
	Total	\$54,526.30

Relevant Legislation

78. Environmental Planning and Assessment Act 1979.

Conclusion

79. The subject development application is for the demolition of the existing two storey dwelling and construction of a two storey boarding house consisting of 7 boarding rooms (8 occupants) and motorcycle and bicycle parking.
80. The application has been substantially amended during the assessment of the application to respond to concerns raised regarding height, bulk, setbacks, amenity, site planning/layout and landscape/trees. Amended plans were submitted in July and August 2019, with a final set of amended plans submitted on 19 December 2019. These plans submitted in December 2019 are the subject of this report.
81. As amended, the proposal generally complies with the aims and objectives of the relevant policies and planning controls.
82. The proposal is considered to be consistent with the built form, design and context of the neighbouring buildings in the streetscape and locality.
83. Subject to compliance with the recommended conditions, the new boarding house will provide an acceptable level of amenity for the subject site and neighbouring properties.
84. Accordingly, it is considered that the proposed development is acceptable and is recommended for approval subject to conditions of consent

ANDREW THOMAS

Acting Director City Planning, Development and Transport

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