

Item 6.**Development Application: 13 Brodrick Street, Camperdown- D/2019/663**

File No.: D/2019/663

Summary

Date of Submission:	25 June 2019 Amendments lodged 15 November 2019 and 24 December 2019
Applicant:	Peter Likoudis
Architect/Designer:	Vourtzoumis Architects
Owner:	Peter Likoudis
Cost of Works:	\$1,300,000
Zoning:	B4 Mixed Use. Boarding houses are a permissible use within the zone.
Proposal Summary:	<p>The proposal is for the demolition of the existing two storey commercial building and construction of a four storey boarding house accommodating 10 boarding rooms (for a total of 20 occupants), four bicycle parking spaces, a communal area on the ground floor and associated landscaping works.</p> <p>The application was notified and advertised for a period of 21 days between 5 July 2019 and 27 July 2019. As a result of this notification a total of 458 properties were notified and there were 5 submissions received.</p> <p>Following the preliminary assessment of the application, including presentation to the City's Design Advisory Panel - Residential Subcommittee, the applicant was requested to amend the proposal. The key areas of concern related to the facade treatment and architectural details, setbacks, internal planning and amenity impacts for future residents, privacy and solar impacts to neighbouring properties, landscaping and waste storage/collection and that no clause 4.6 written request had been submitted seeking variation from the motor cycle parking requirements of the SEPP AH.</p>

Amended plans were submitted on 15 November 2019 and again on 24 December 2019 to respond to the matters raised by Council officers during the assessment.

The proposed development results in 6.6% departure from Clause 4.3 Height of Building standard of Sydney LEP 2012 and a departure from Clause 30(1)(h) motorcycle parking provision under State Environmental Planning Policy (Affordable Rental Housing) 2009.

The development is referred to the Local Planning Panel for determination due to the departure from Clause 30(1)(h) motorcycle parking provision under State Environmental Planning Policy (Affordable Rental Housing) 2009.

The following amendments have been made to the proposal during the assessment of the application:

- (a) Deletion of the recessed front facade and alignment to the street.
- (b) Deletion of balconies to boarding house rooms located on the rear elevation to mitigate overlooking issues to the neighbouring properties.
- (c) Internal reconfiguration of the ground floor to improve functionality and improve amenity between the ground floor studio and common areas.
- (d) The front and eastern facades are redesigned to provide a design that is consistent with the context of the neighbouring buildings and to provide interest within the public domain.
- (e) The upper level setback has been increased by 400mm and a 500mm wide planters have been introduced to the front to mitigate potential visual bulk due to provision of privacy screens in the future.
- (f) A new utility terrace has been provided to level 3.

The applicant has now provided a Clause 4.6 written request seeking exemption from the required motor cycle parking provision of the State Environmental Planning Policy (Affordable Rental Housing) 2009.

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

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

Development Controls: Environmental Planning and Assessment Act 1979
State Environmental Planning Policy (Affordable Rental Housing) 2009
State Environmental Planning Policy (Infrastructure) 2007
State Environmental Planning Policy No 55—Remediation of Land
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
State Environmental Planning Policy (Vegetation in Non Rural Areas) 2017
Sydney Local Environmental Plan 2012
Sydney Development Control Plan 2012
City of Sydney Development Contributions Plan 2015

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Solar Access Diagrams
- D. Clause 4.6 Variation Request - Height of Buildings
- E. Clause 4.6 Variation Request - Motorcycle Parking

Recommendation

It is resolved that:

- (A) the Local Planning Panel support the variation sought to the height of buildings development standard under Clause 4.3 of the Sydney Local Environmental Plan 2012 in accordance with the provisions of Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 in the circumstances of this application;
- (B) the Local Planning Panel support the variation sought to the minimum motorbike parking spaces required under Clause 30(1)(h) of State Environmental Planning Policy (Affordable Rental Housing) 2009 in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 in the circumstances of this application; and
- (C) consent be granted to Development Application No. D/2019/663 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposal involves construction of a new boarding house, which is permissible with consent within the B4 Mixed Use zone;
- (B) The proposal is consistent with the aims and objectives of Division 3 of the State Environmental Planning Policy (Affordable Rental Housing) 2009;
- (C) The proposal complies with the relevant provisions of the Sydney Local Environmental Plan 2012 with regard to the aims of the Plan and in relation to the objectives of the B4 Mixed Use zone;
- (D) The applicant's written request for variation to Clause 4.3 height of building standard has adequately addressed the matters required to be addressed by Clause 4.6 of the Sydney Local Environmental Plan 2012, and the proposed development would be in the public interest because it is consistent with the objectives of the height of building development standard and the B4 Mixed use zone. Applicant's written request has demonstrated that strict compliance with the Clause 4.3 height of building standard is unreasonable and unnecessary in the circumstances of the application and there are sufficient environmental grounds to justify contravening the height of the building development standards;

- (E) The applicant's written request seeking exemption from provision of motorcycle parking spaces under SEPP (Affordable Rental Housing) has adequately addressed the matters required to be addressed by Clause 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 (Affordable Rental Housing) and the B4 Mixed use zone. The written request has demonstrated that strict compliance with Clause 30(1)(h) motorcycle parking of the SEPP (Affordable Rental Housing) is unreasonable and unnecessary in the circumstances of the application and there are sufficient environmental grounds to justify contravening the development standards requiring provision of motorcycle parking spaces under SEPP (Affordable Rental Housing);
- (F) Having considered the matters in Clause 6.21(4) of the Sydney Local Environmental Plan 2012, the amended proposal is considered to display design excellence and as such complies with Clause 6.21(3) of the Sydney Local Environmental Plan 2012.
- (G) The amended proposal is considered to be acceptable with regard to the relevant provisions of the Sydney Development Control Plan 2012 in relation to boarding houses; and
- (H) Suitable conditions of consent have been applied and the development is considered to be in the public interest.

Background

The Site and Surrounding Development

1. A site visit was carried out by staff on 12 February 2020.
2. The site is rectangular, with area of approximately 205.8sqm. The subject site has a street frontage to Brodrick Street. The site is located one block to the south of Parramatta Road.
3. The site faces north with a Brodrick Street frontage of 8.35m and a depth of 24.36m. The site is legally known as Lot 55 in DP 88551. The site falls from the east to west side by approximately 0.48m.
4. The site currently accommodates a two storey commercial building with vehicle access to Brodrick Street. The current building covers approximately 87% of the site with a gross floor area of approximately 360sqm.
5. Surrounding land uses are residential and commercial. The Rydges Hotel is located on the corner of Brodrick Street and Missenden Road. Adjoining the site to the west (1-11A Brodrick Street) is a four storey residential flat building. Adjoining the site to the east is a 4 storey residential flat building (known as 12 Marsden Street). To the rear of the site at 10 Marsden Street is a 2 storey single dwelling with first floor rear facing terrace.
6. To the north of the site, on the opposite the site on Brodrick Street, is a four storey residential flat building (69-71 Parramatta Road) and vehicle access to Rhodes House, which is a six storey residential building fronting Parramatta Road, Missenden Road and Brodrick Street).
7. The site is not a heritage item and is not located within a Conservation Area.

8. Photos of the site and surrounds are provided below:



Figure 1: Aerial image of subject site and surrounding area



Figure 2: Site as viewed along Brodrick Street.



Figure 3: Subject site as viewed from 15 Brodrick Street (development now completed).



Figure 4: Looking west along Brodrick Street



Figure 5: Looking east along Brodrick Street

Proposal

9. The proposal is for the demolition of the existing two storey commercial building and construction of a new four storey boarding house accommodating 10 boarding rooms (for a total of 20 occupants), four bicycle parking racks, a communal area on the ground floor and associated landscaping works.
10. In detail, the following is proposed:
 - (a) **Ground Floor**
 - (i) Pedestrian access to the boarding house from Brodrick Street;
 - (ii) Communal living room;
 - (iii) One accessible boarding room (Studio G01) for two occupants containing an ensuite, laundry, kitchenette and a private yard to the rear. Entry to this room is provided through the lobby area;

- (iv) Communal open space area to the rear;
- (v) Four vertical bicycle parking racks located at the end of the lobby area;
- (vi) A stairwell access to upper levels;
- (vii) Waste bin storage and bulky storage area located close to the entry door, at the western corner of the site; and
- (viii) Landscaping works to the rear yard area with removal of two trees (Lilly Pilly and Golden Cane Palm).

(b) Level 1

- (i) Two boarding rooms containing a balcony (over 3sqm area) to Brodrick Street, kitchenette, laundry and ensuite. Each room accommodates two occupants;
- (ii) Two boarding rooms to the rear containing a kitchenette, laundry and ensuite. Each room accommodates two occupants; and
- (iii) A stairwell access to upper levels.

(c) Level 2

- (i) Managers room containing two terraces (over 17sqm total area) to Brodrick Street, kitchen and ensuite. The Manager's room accommodates two occupants;
- (ii) A communal laundry and store;
- (iii) Two boarding rooms to the rear containing a kitchenette, laundry and ensuite. Each room accommodates two occupants; and
- (iv) A stairwell access to upper levels.

(d) Level 3

- (i) Two boarding rooms containing a terrace (around 7sqm area) to Brodrick Street, kitchen, laundry and ensuite. Each room accommodates two occupants;
- (ii) A utility terrace consisting clothes line, location for AC units and a 600mm wide planter box to the rear; and
- (iii) A stairwell access.

11. Proposed plans and elevations are provided below at figures 6 to 12.

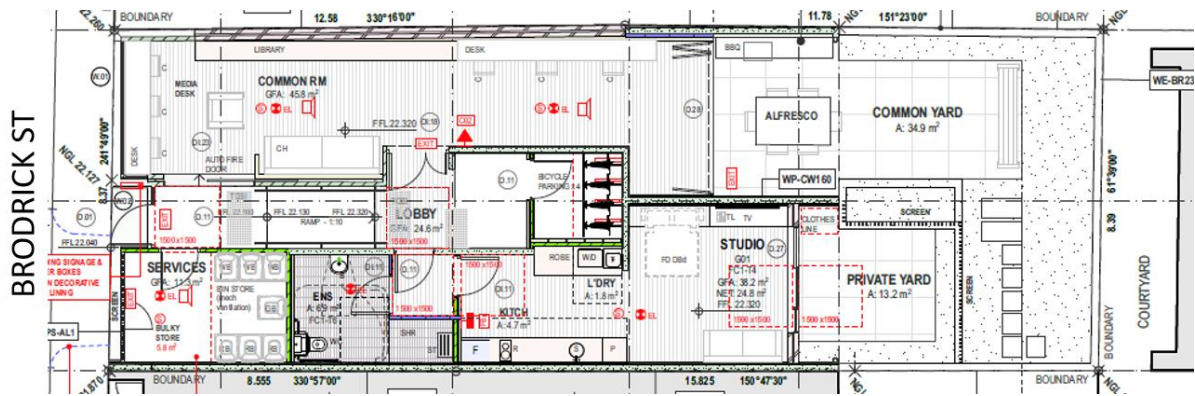


Figure 6: Proposed ground floor

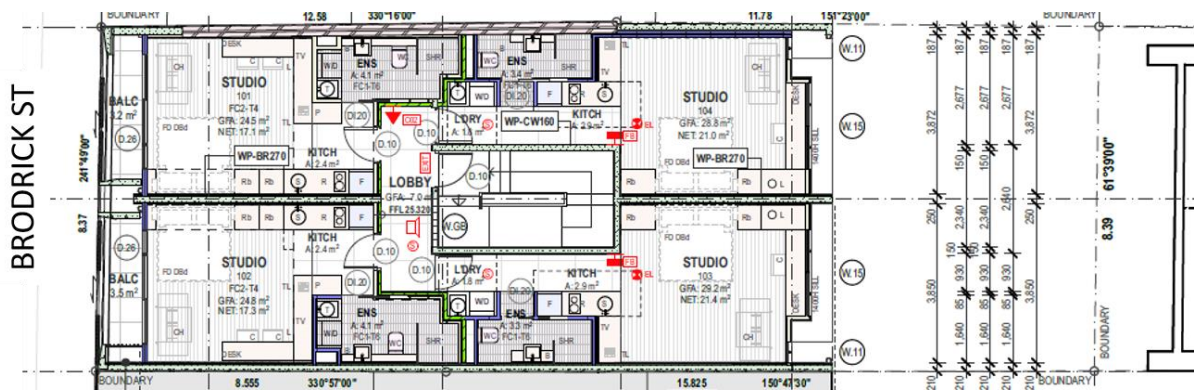


Figure 7: Proposed first floor

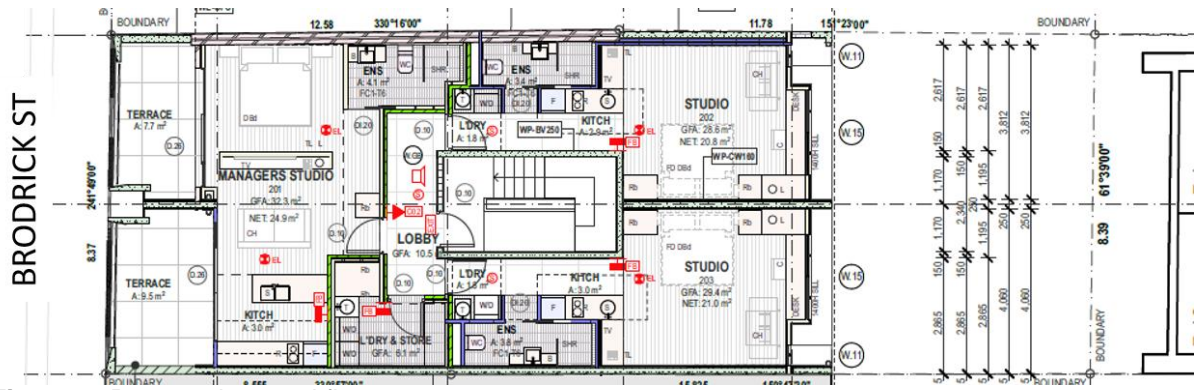


Figure 8: Proposed second floor

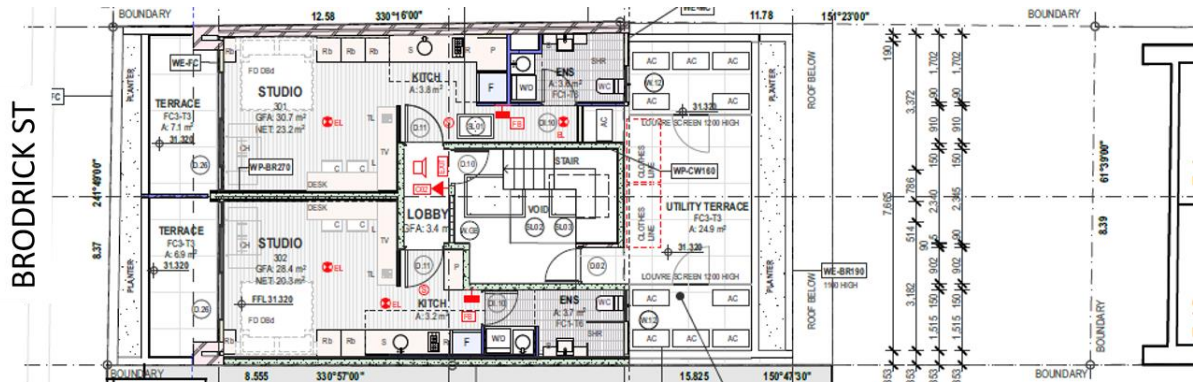


Figure 9: Proposed third floor

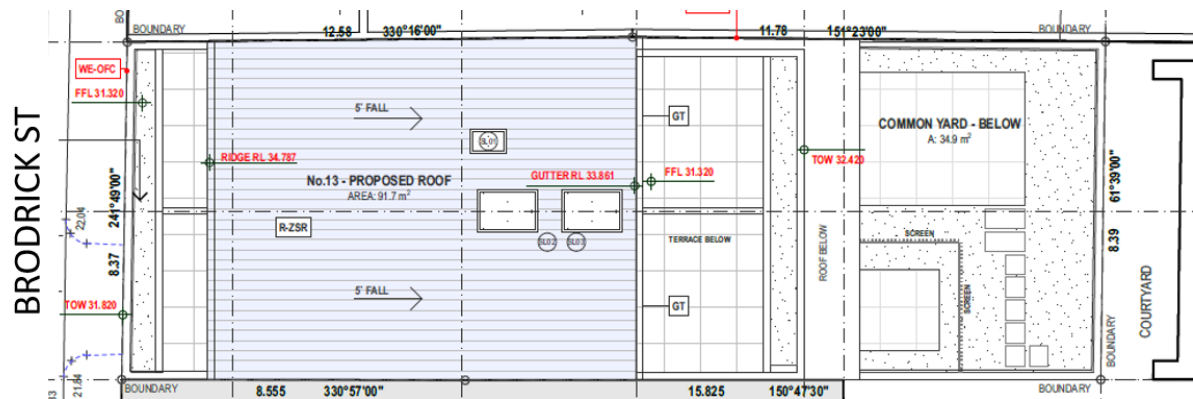


Figure 10: Roof plan

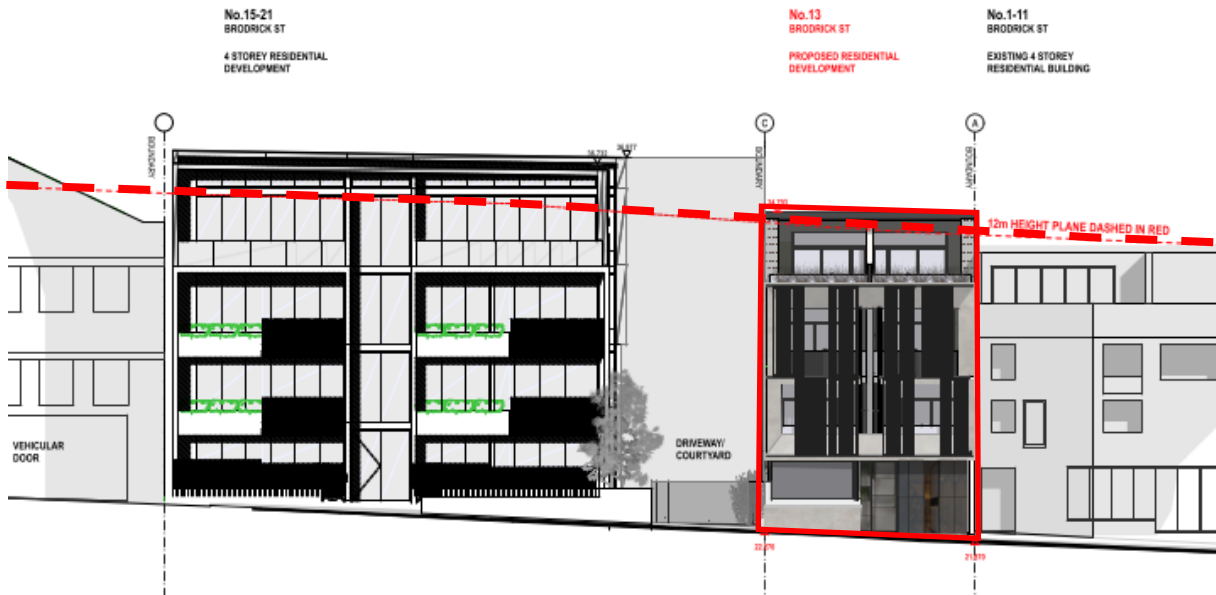


Figure 11: Brodrick Street elevation. Subject site is identified by a red line

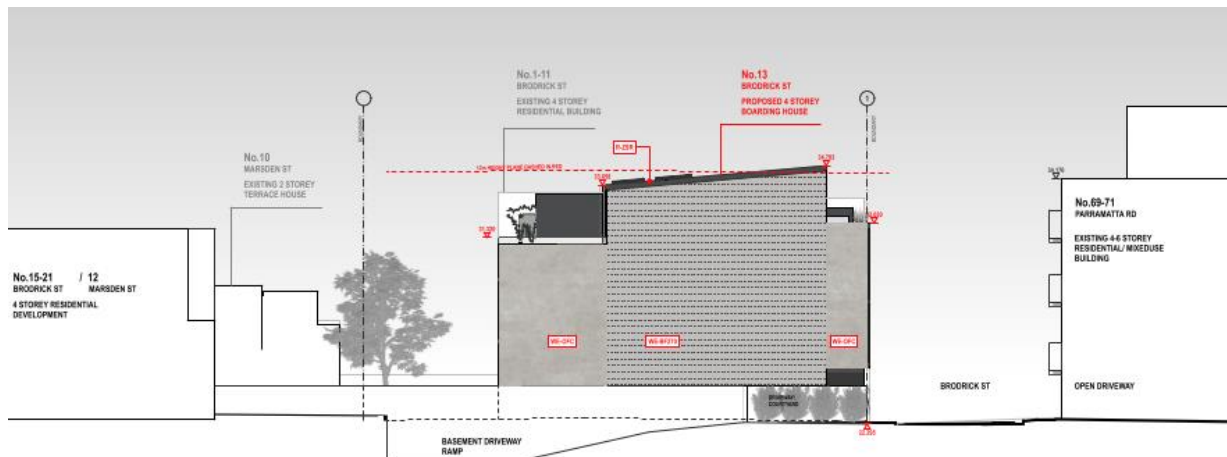


Figure 12: East side elevation

History Relevant to the Development Application

Previous relevant applications

12. Development Application D/2016/371 was refused by Council on 24 October 2016 for demolition of existing commercial building and construction of a new four storey residential flat building consisting 6 x 1 bedroom residential units.
13. The application was refused due to the proposal's exceedance of the height and FSR development standards resulting in unacceptable bulk as well as being an inappropriate scale and intensity for the site. The proposal also failed to demonstrate design excellence, compliance with the Apartment Design Guide or Section 4.2.3 of the Sydney DCP 2012. The application also failed to demonstrate compliance with SEPP 55 in regards to potential contamination of the site. Fundamentally, the proposal was considered to be over development of the site and not in the public interested.
14. Elevations of the proposed works under D/2016/371 are provided below:

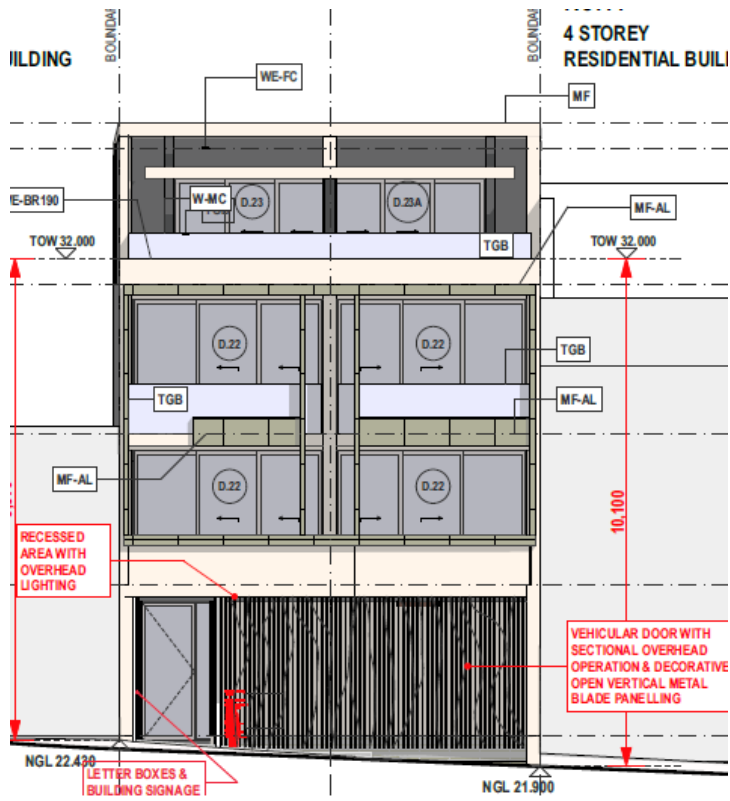


Figure 13: North elevation of refused development application D/2016/371

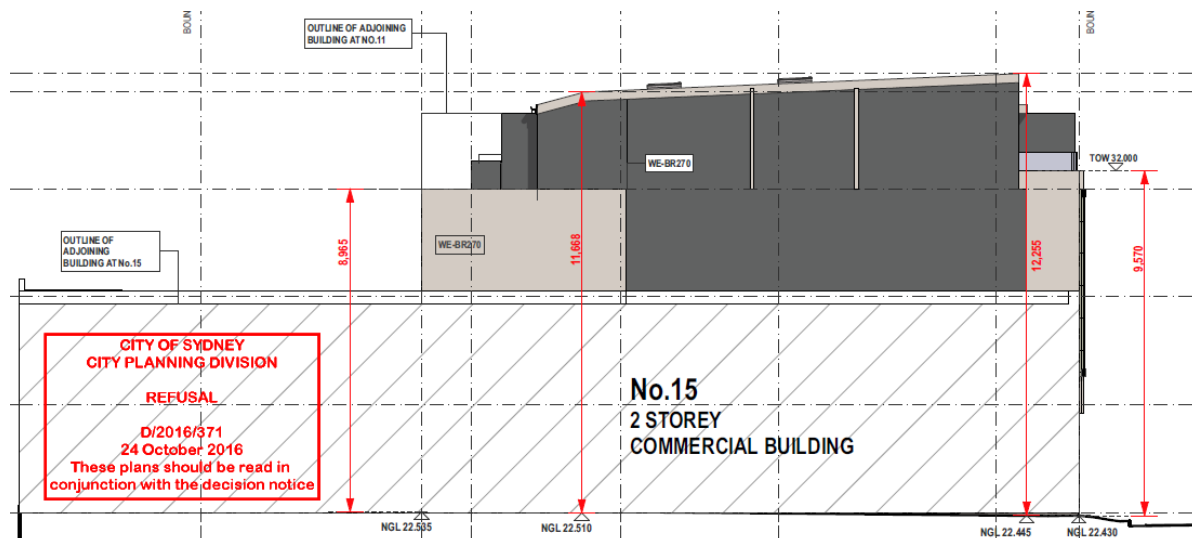


Figure 14: East elevation of refused development application D/2016/371

Subject application

15. The subject application was lodged on 25 June 2019.
16. Following the preliminary assessment of the application, including presentation to the City's Design Advisory Panel - Residential Subcommittee, the applicant was advised in correspondence, dated 11 October 2019, that substantial amendments were required to the proposal. The following concerns were raised with the application:
 - (a) front setbacks and the public domain interface of the development, as well as the defensive architectural treatment proposed
 - (b) height of the proposal should respond to the datum lines exhibited at No.1-11 Brodrick Street
 - (c) setbacks
 - (d) architectural expression and materiality
 - (e) internal amenity of the boarding rooms and communal spaces in relation to solar access, ventilation to rooms, overlooking and privacy and overall non-compliance with SEPP (Affordable Rental Housing)
 - (f) inadequate and unviable landscaping of the site
 - (g) insufficient details regarding waste management of the site
 - (h) adverse amenity impacts to neighbouring properties were considered unacceptable in terms of solar access, visual privacy and visual bulk
 - (i) no Clause 4.6 written request was provided seeking exemption from the required motor cycle parking as well as landscaping and waste storage/collection were not adequately addressed.
17. In response, an amended scheme was submitted on 15 November 2019.
18. Following a review of these amended plans, including a meeting with the applicant, a further set of amended plans was submitted on 24 December 2019.
19. The key amendments that have been made to the proposal are as follows:
 - (a) The front facade of the common room has been brought forward as such the shadows caused by the overhang above is reduced.
 - (b) Balconies to the rear façade are deleted to mitigate overlooking issues to the neighbouring properties.
 - (c) Ground floor is reconfigured to provide improved amenity to the ground floor studio and common areas.
 - (d) The front and eastern facades are redesigned to provide a design that is consistent with the context of the neighbouring buildings and to provide interest within the public domain.

- (e) The upper level setback has been increased by 400mm as well as 500mm wide planters have been introduced to the front to mitigate potential visual bulk due to future privacy screens.
 - (f) A new utility terrace has been provided to level 3.
20. An amended BASIX Certificate (1007314M_02) was received on 19 February 2020.
21. The plans submitted on 24 December 2019 are the subject of assessment of this report.

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. A stage 1 preliminary site investigation report was submitted with the development application stating that there are no reasonable ground for site contamination on the subject site.
25. The previous development application for the site (D/2017/361) was refused in part due to the potential contamination from the neighbouring industrial property 15 Brodrick Street and insufficient information being submitted. Since the previous determination, the properties at 15 Brodrick Street Camperdown and 12 Marsden Street have been remediated and re-developed from commercial to residential.
26. Based on the remediation of the adjoining properties, the conclusions within the stage 1 report are accepted by the City's Environmental Health Unit, subject to the imposition of conditions including requiring notification of Council if any new evidence of contamination should it arise through the development of the site.

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

27. 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.
28. The proposed development seeks approval for the removal of two trees (Lilly Pilly and Golden Cane Palm) from the rear yard. The original proposal sought to replace these trees with 1 tree (75L) and 3 shrubs (25L). The amended proposal now seeks to replace these trees with 1 tree (75L) and 6 shrubs (25L).
29. Council's Tree Management Officers have advised that both trees sought for removal are of low value and their removal can be supported, subject to the provision of replacement trees.

30. It is noted that Council's Tree Management Officers have requested replacement planting of 4 large trees (8m high at maturity) to be located in the rear yard of the site. Given the surrounding development and the lack of space available for these trees, it is recommended that 2 replacement trees is more appropriate.
31. 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.

State Environmental Planning Policy (Infrastructure) 2007

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

Clause 45

33. 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:
 - Will be carried out within 5m of an exposed overhead electricity power line
34. In accordance with the Clause, the application was referred to AusGrid for a period of 21 days and no objection was raised.

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

35. An amended BASIX Certificate (1007314M_02) has been submitted with the development application.
36. 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

37. 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.
38. The proposal is defined as a 'boarding house' and is located within the B4 Mixed Use zone. As such, Division 3 - Boarding houses of the SEPP applies.
39. 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
<p>1(c)(i) – Density and scale expressed as FSR</p> <p>cannot be refused with FSR of 1.5:1 plus 0.5:1</p>	Yes	<p>The Sydney LEP 2012 specifies a maximum FSR of 1.5:1. As the proposal is for a boarding house use, a further FSR 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 2:1.</p> <p>The site has an area of 205.8sqm.</p> <p>The proposed boarding house has a FSR of 1.97:1 (405sqm), which is within the maximum FSR permitted.</p>
<p>2(a) Building height</p> <p>The proposed building height must not exceed the maximum permitted under an EPI</p>	No	<p>The Sydney LEP 2012 specifies a maximum height of 12m.</p> <p>The development proposes a maximum height of 12.79m, exceeding the 12m maximum height permitted on this site.</p> <p>Refer to further discussion in the issues section of this report.</p>
<p>2(b) Landscaped area</p> <p>Front setback to be consistent with streetscape</p>	Yes	<p>The proposal incorporates a setback of around 250mm to the north eastern side of the property, which does not incorporate landscaping. However this is in keeping with the established streetscape along Brodrick Street and is therefore acceptable.</p>
<p>2(c) Solar access</p> <p>Min. 1 communal living area to receive min. 3 hours direct sunlight between 9:00am and 3:00pm in midwinter.</p>	No, assessed as acceptable	<p>The proposed ground floor level communal living area achieves two hours of solar access between 11.30am and 1.30pm in midwinter.</p> <p>Refer to Issues section below for a detailed discussion.</p>
<p>2(d) Private open space</p> <p>(i) Min. 20sqm with min. 3m width</p>	Yes	<p>The application proposes an area of communal private open space at the rear of the development, which has an area of 40sqm and that has a minimum dimension that exceeds 3m.</p>

Clause 29 – Standards that cannot be used to refuse a boarding house		
Standard	Complies	Comment
(ii) min. 8sqm with a min. 2.5m width for the boarding house manager		The development does include a boarding house manager's room on Level 2 of the development. This room includes two private terraces, with an area of 7.7sqm and 9.5sqm, respectively. This larger terrace has a minimum dimension exceeding 2.5m.
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, but assessed as 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 bicycle parking and the subject site is in an area that is readily accessible to public transport.
2(f) Accommodation size (i) Min.12sqm for single lodger rooms (ii) Min.16sqm for double lodgers rooms (excluding any area used as a private kitchen/ bathroom)	Yes	All the proposed boarding rooms are intended for a double occupancy. All boarding rooms exceed 16sqm.
29(3) Kitchens and Bathrooms A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.	Yes	Each room is equipped with a private kitchen and ensuite. The occupants will utilise shared laundry facilities.

40. Clause 30 of this SEPP 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.
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 will have a gross floor area that exceeds 25sqm (excluding the kitchen and bathroom).
1(c) No boarding room to be occupied by more than 2 adult lodgers	Yes	The proposal includes a total of 10 boarding rooms, including the boarding house manager's room. All rooms have been designed to be for double occupancy. 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 a capacity of 18 lodgers and therefore, a boarding room for a house manager is not required. Notwithstanding this, a boarding room is provided for the boarding house manager.
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 B4 Mixed use. Under the Sydney LEP 2012, boarding houses are permitted within this zone and this zone permits both the residential and commercial uses. Additionally the subject site adjoins residential developments to the east, west, north and south. As such it is 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.	No, assessed as acceptable	<p>As there are 10 boarding rooms, 2 bicycle parking spaces and 2 motorcycle parking spaces are required to be provided.</p> <p>The application proposes to provide 4 bicycle parking spaces. There are no motorcycle parking spaces provided in the development.</p> <p>The applicant has submitted a clause 4.6 written request with their application seeking an exemption from this provision. Refer to further discussion in the issues section of this report.</p>

Clause 30A – Character of the local area

41. Clause 30A of the SEPP states that a consent authority must not grant consent to a boarding house development unless it has taken into consideration whether the design of the development is compatible with the character of the local area.
42. The site is located within a mixed use area which is undergoing a change in its characteristics. There are a number of recent approvals for residential flat buildings replacing the previous dominant character of warehouses interspersed with dwellings. The built form in the immediate context of the site is of little to no street setbacks, passive surveillance of the street via windows and balconies to Brodrick Street and flat roof forms.
43. As amended, the proposed design and material 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.

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

44. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.
45. The Sydney Harbour Catchment Planning Principles must be considered in the carrying out of development within the catchment. The key relevant principles include:
 - Protect and improve hydrological, ecological and geomorphologic processes.
 - Consider cumulative impacts of development within the catchment.
 - Improve water quality of urban runoff and reduce quantity and frequency of urban run-off.
 - Protect and rehabilitate riparian corridors and remnant vegetation.

46. 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. The development is consistent with the controls contained with the deemed SEPP.

Sydney Local Environmental Plan 2012

47. The site is located within the B4 Mixed Use zone. The proposed development is defined as 'boarding house', which is permissible with consent in the zone.
48. 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	No	<p>The site has a 12m building height development standard.</p> <p>Due to the topography of the site, the proposed development has a variable height between 12.5m and 12.79m.</p> <p>As the proposed development does result in a breach to the 12m height development standard, the applicant has submitted a clause 4.6 written request seeking to justify the departure from this development standard.</p> <p>Refer to further discussion in the issues section of this report.</p>
4.4 Floor Space Ratio	Yes	Refer to ARH SEPP compliance table above.
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the development standard prescribed under Clause 4.3 - Height of Building, of the Sydney LEP 2012.</p> <p>Refer to further discussion in the issues section of this report.</p>

Development Control	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The subject site is in proximity to a row of heritage items (I48) fronting Church Street to the west.</p> <p>The proposed works will not result in any overshadowing to the heritage items nor will it obstruct sightlines to or from the heritage items.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
6.21 Design excellence	Yes	<p>The proposed built form and scale is consistent with the surrounding context and nearby developments. The front facade provides for passive surveillance and activation of the street while maintaining privacy for the future occupants of the site.</p> <p>Visual impacts have been mitigated by the removal of rear balconies and the provision of 1m wide planters to the level 3 utility terrace.</p> <p>However, the design of the rear private open space to G01 is not considered adequate to prevent overlooking issues created due to the use of communal open space. The solid planter forming the eastern edge of the private outdoor space of Studio G01 is conditioned to be raised to a height of 1m to provide increased visual privacy from the adjoining common open area. The south elevation and sections are to be resubmitted.</p> <p>The proposed external finishes are of a high standard and will provide visual interest to the building which is in keeping with its surrounds.</p> <p>Overall and subject to conditions as discussed the proposal is considered to achieve design excellence.</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 discussion in ARH SEPP compliance table above.</p>
7.14 Acid Sulphate Soils	Yes	<p>The site is identified as Class 5 Acid Sulphate Soil and is located within 500m of Class 3 soils to the north.</p> <p>The proposed development site will not lower the water table by 1m or more as the proposal does not involve any significant excavation.</p> <p>The development is not considered to represent a significant risk of exposing acid sulphate soils.</p>
7.15 Flood Planning	N/A	The subject site is not subject to flooding.
7.17 Development in areas subject to aircraft noise	Yes	<p>The subject site is located with the ANEF 15 contour zone.</p> <p>Clause 7.17 applies to development located within contours 20 or above. As such, the proposed development does not need to satisfy the requirements of Clause 7.17.</p>
7.19 Demolition must not result in long term adverse visual impact	Yes	Demolition of the building is permitted in conjunction with the proposed redevelopment of the site and will not result in any long term adverse visual impacts with regards to the streetscape.

Sydney Development Control Plan 2012

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

2.3.4 Locality Statements –Camperdown Locality

The subject site is located in the Camperdown Locality. The proposed four storey boarding house is considered to be in keeping with the unique character of the area and design principles in that it seeks to achieve a high density mixed use neighbourhood by way of provision of affordable housing in the locality.

3. General Provisions	Compliance	Comment
<p>3.2 Defining the Public Domain</p> <p>3.2.2 Addressing the street and public domain</p>	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 which is consistent with the character of Brodrick Street.</p> <p>The proposed development achieves a legible and accessible entry from the street and has been amended to positively address the street.</p> <p>The eastern (side) elevation, which previously presented as a blank wall, has now been amended to be more visually interesting by way of using a combination of pre-cast concrete façade and face brick wall.</p> <p>As proposed works are to affect the footpath, existing cross over and stone 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 seeks approval for removal of two trees from the rear yard. As detailed elsewhere in this report, the removal of these trees is supported subject to the replacement of planting on the site. Refer to discussion under SEPP (Vegetation in Non Rural Areas) 2017
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.

3. General Provisions	Compliance	Comment
3.7 Water and Flood Management	Yes	<p>The site is not affected by flooding. The proposed floor level of the habitable ground floor rooms is RL 22.32, which is approximately 400mm above the adjacent gutter invert. This is acceptable in terms of preventing water ingress.</p> <p>The proposal was discussed with Council's Public Domain unit. The proposal was considered acceptable.</p>
<p>3.11 Transport and Parking</p> <p>3.11.3 Bike parking and associated facilities</p> <p>3.11.4 Vehicle parking</p>	Yes	<p>In accordance with the SEPP (Affordable Rental Housing) requirements, as the development accommodates 10 boarding rooms, the proposal is required to provide 2 bicycle parking spaces and 2 motorcycle parking space.</p> <p>The application proposes to provide 4 bicycle parking spaces, which is acceptable and consistent with the SEPP.</p> <p>No motorcycle parking spaces are provided. The applicant has provided a clause 4.6 written request seeking an exemption from this provision. Refer to further discussion in the issues section of this report.</p>
3.12 Accessible Design	Yes	<p>The proposal provides one accessible boarding room located at ground floor. This room can be accessed easily through the building entry. The communal living area and common open space is located on the ground floor and is accessible from the accessible boarding room.</p> <p>The proposal is considered to provide an accessible design in accordance with the Building Code of Australia.</p>
<p>3.13 Social and Environmental Responsibilities</p> <p>3.13.1 Crime prevention through environmental design</p>	Yes	<p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.</p>

3. General Provisions	Compliance	Comment
3.14 Waste	Yes	<p>The proposed development provides a waste and bulky goods storage area adjacent to the entry from Brodrick Street.</p> <p>A condition has been recommended requiring the house manager to be responsible for transporting the waste items and 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 proposal is considered acceptable.</p>
3.17 Contamination	Yes	Refer to discussion under SEPP 55.

4. Development Types Boarding Houses	Compliance	Comment
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 all the double rooms are 17sqm. All rooms meet the minimum boarding room size.</p> <p>Each room includes an ensuite with shower at a minimum of 3.3sqm.</p> <p>All rooms have kitchen area over 2sqm, except for rooms 102,103, 202 and 203. These rooms achieve kitchen area of 1.2sqm. However, as indicated on the plans, despite the numerical non-compliance, the proposal provides a functional kitchen area and contains a fridge, cooking stove and sink. This is considered to achieve the design intent and is acceptable.</p>

4. Development Types Boarding Houses	Compliance	Comment
		<p>All rooms, excluding the manager's room, are provided with laundry facilities within the bathroom with an area of 0.9sqm. This is below the 1.1sqm required under section 4.4.1.2, however, their location within the oversized bathroom is considered acceptable.</p> <p>The building also contains a shared laundry on the first floor for communal use.</p> <p>Therefore, the proposal is considered to provide adequate amenity for the 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	Partially Acceptable	See discussion under the heading Issues.
4.4.1.5 Bathroom, laundry and drying facilities	Yes	<p>Bathrooms are provided in each boarding room for occupants.</p> <p>The proposal sufficiently provides laundry and drying facilities with laundry facility in each room (except for the manager's room) and a communal laundry consisting two washers and dryers on level 2. The proposal also consists of a clothesline to the utility terrace.</p>
4.4.1.6 Amenity, safety and privacy	Yes	<p><i>Accessibility & Safety:</i></p> <ul style="list-style-type: none"> - The communal spaces are all in safe and accessible locations either on the ground floor or accessible via the shared lift. - All bedrooms are located away from significant noise sources (i.e. communal areas)

4. Development Types Boarding Houses	Compliance	Comment
		<ul style="list-style-type: none"> - 5 out of the 10 rooms have a northerly aspect - One room is adaptable for residents with a disability. <p><i>Visual Privacy:</i></p> <ul style="list-style-type: none"> - the primary entrance to the building is from Brodrick Street with no side access - Communal and bedroom windows are located away from the main living areas and bedrooms of adjoining properties - Screening such as 1m wide planter boxes are provided to the rear utility terrace, which would provide adequate privacy to the rear dwelling. - The main entry point is at the front of the site, away from side boundary areas near adjoining properties. <p><i>Acoustic Privacy:</i></p> <ul style="list-style-type: none"> - The applicant provided an acoustic report, which was reviewed by Council's Health Officer and was considered acceptable subject to recommended conditions. <p>Overall, the proposal is considered to provide reasonable amenity, solar and privacy to the occupants of the subject site and the neighbouring properties.</p>
4.4.1.7 Plan of Management	Yes	<p>The application was accompanied by a Plan of Management. The Plan of Management was reviewed by Council's Environmental Health Unit and determined that the plan 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.</p>

Issues

Solar Access

50. Given the orientation of the site, the proposal will result in additional overshadowing to the adjoining properties at 2-8 Marsden Street, 10 Marsden Street, 11 Brodrick Street and 15-21 Brodrick Street. The majority of the overshadowing will fall on roofs or driveways, however overshadowing to private open space will occur to 2-8 Marsden Street, 10 Marsden Street and 15-21 Brodrick Street.

2-8 Marsden Street

51. The proposed development will result in a loss of solar access at 12pm to the northern ground floor courtyard of 2-8 Marsden Street (known as 8 Marsden Street).
52. The open space for this property falls within existing shadows for much of the day with solar access at 12pm the only time solar access falls on the ground during mid-winter. The area that will be overshadowed as a result of the proposal at this time is approximately 0.9sqm.
53. No.8 Marsden Street is located directly to the south of the subject site and retention of this area would require the reduction in the length of the second floor substantially.
54. As discussed above, the proposal is generally compliant with relevant controls. The additional height will not result in unreasonable overshadowing impact at 8 Marsden Street. Given the small area of solar access retained by the terrace, it is not considered appropriate to significantly modify the design to retain this area.

10 Marsden Street

55. The proposed development will result in additional overshadowing to 10 Marsden Street to the rear of the subject site. The overshadowing will fall between 2pm and 3pm on the winter solstice on the first floor terrace.
56. Elevation shadow diagrams have been provided which show that the additional overshadowing will continue to allow light into the living room/kitchen windows to this terrace. The 2pm shadows will fall on the floor of this terrace, however solar access will be retained in a standing position for this terrace. The additional overshadowing at 3pm will fall within the roof structure of the terrace.
57. Due to the built form and proposed setbacks of the proposal, 10 Marsden Street will gain additional solar access at 12pm to the eastern side of the terrace. On balance, the proposed overshadowing to 10 Marsden Street is considered acceptable. The height variation will not have unreasonable impact on the overshadowing at 10 Marsden Street.

15-21 Brodrick Street

58. Additional shadows will also cast on the northern façade of 15-21 Brodrick Street between 2pm and 3pm on the winter solstice. These shadows will fall primarily on the communal open space and the ground and first floor living room terraces of Units B0.01, B0.02 and B1.02.
59. Solar access will be retained for the north facing windows of the units until 3pm. From 3pm onwards the ground floor units will not retain any solar access.

- 60. The non-compliant part of the building will overshadow less than 0.5sqm area of the balcony of unit B0.02 within the neighbouring property, which would still receive solar access to 50% of its windows.

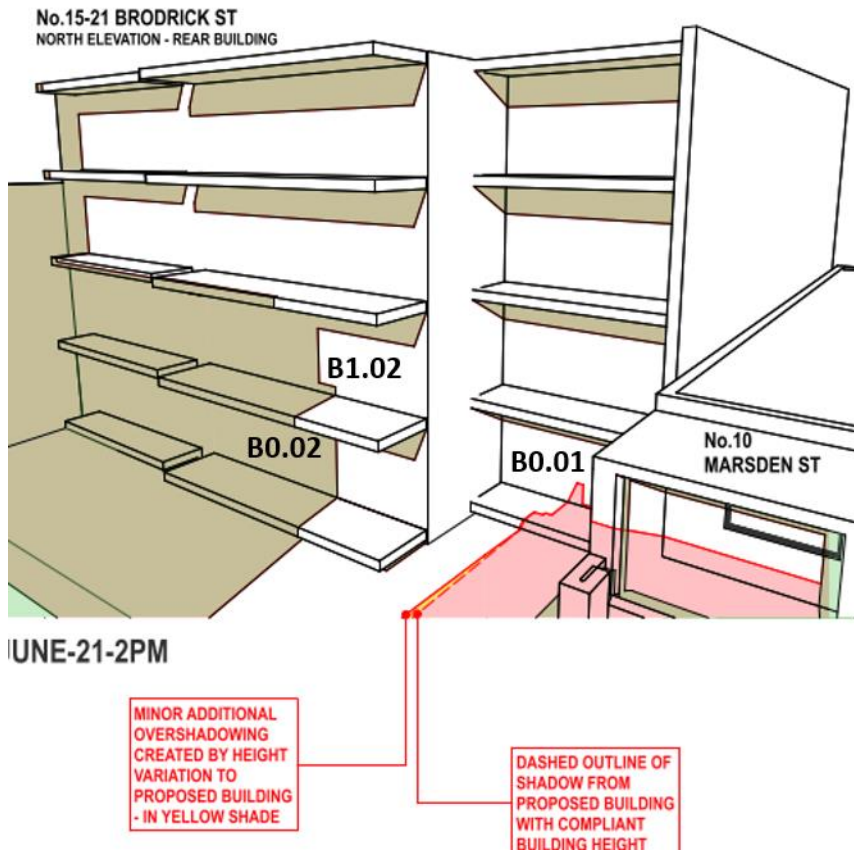


Figure 15: Proposed overshadowing to 15-21 Marsden Street at 2pm

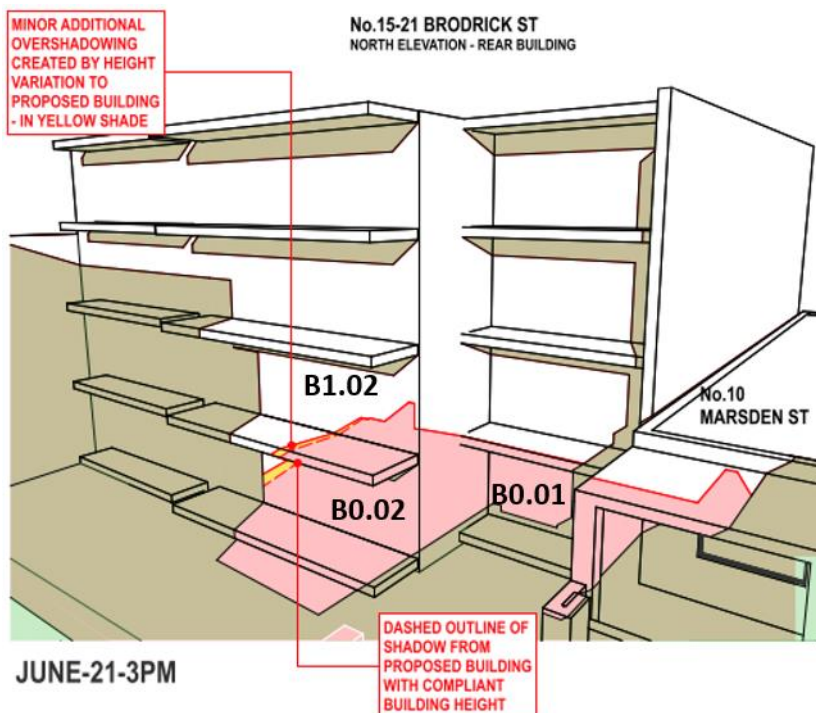


Figure 16: Proposed overshadowing to 15-21 Marsden Street at 3pm

Subject site

61. The proposal includes an internal area of over 45sqm as communal living area on the ground floor. This area will receive over 1 hour of solar access to over 80% of its windows between 12pm and 1pm during midwinter.
62. However, between 11.30am and 12pm and 1pm and 1:30pm only 45% to 40% of the windows receive solar access, respectively. The site is constrained in context and orientation that limit solar access on 21 June to the front portion of the site and this minor non-compliance is considered acceptable.
63. The proposal provides over 40sqm of open space at the rear of the site. However, due to the site orientation, the rear yard does not receive solar access on 21 June.
64. Overall, the proposed solar access impacts of the proposal are considered to be acceptable given the orientation of the site and general compliance of the proposal.

Clause 4.6 Request to vary a development standard**Clause 4.3 Height of Buildings**

65. The site is subject to a maximum building height control of 12m. The proposed development has a height of between 12.57m and 12.79m, which is a maximum variance of 6.6%, which occurs on the western side of the building.
66. The proposed building has a skillion roof which falls from the front to the rear. The topography of the site falls 0.53m from the east to west boundary. The rear roof line is within the permissible height plane.
67. Figures 17 - 19 illustrate proposed variance of site levels.



Figure 17: Brodrick Street elevation, indicating proposed contravention by a red dotted line

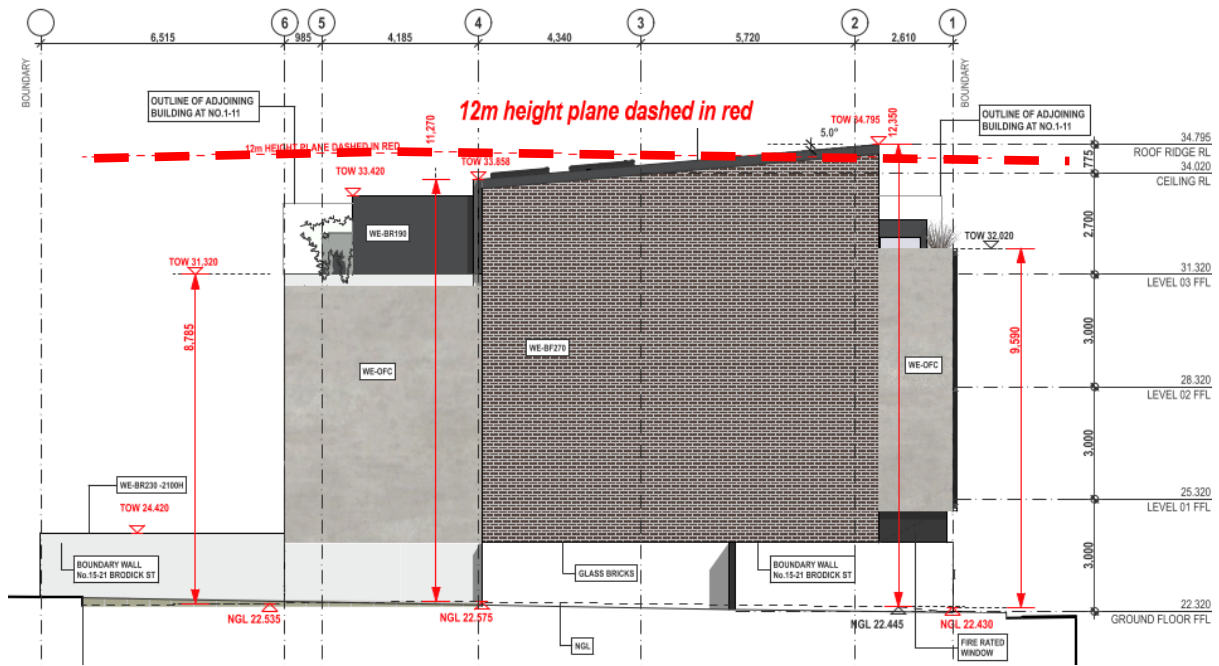


Figure 18: Proposed east side elevation of the building, indicating proposed contravention by a red dotted line

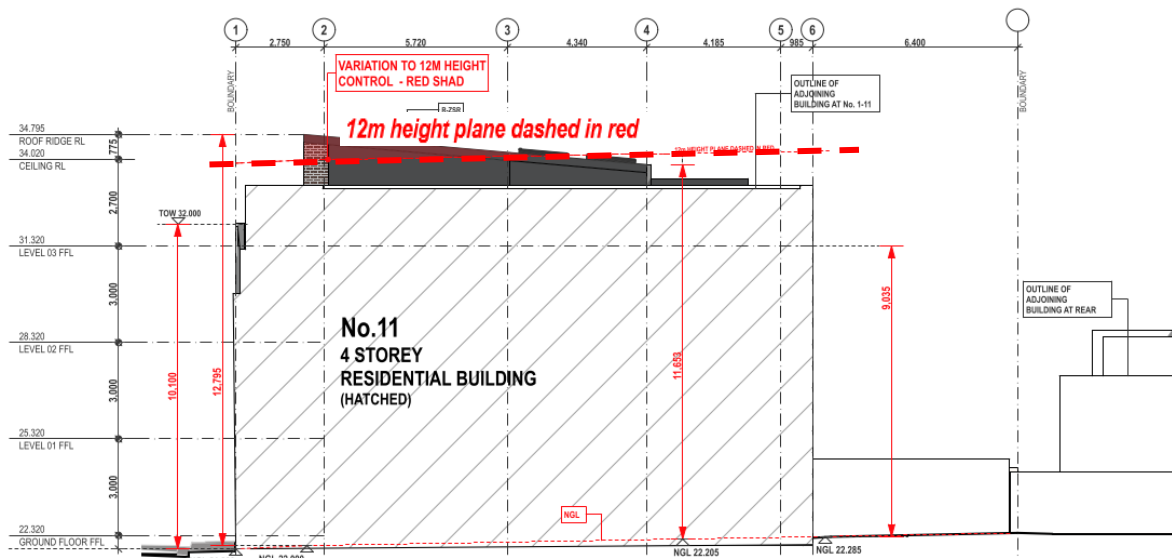


Figure 19: Proposed west side elevation of the building, indicating proposed contravention by a red dotted line

68. 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.

69. A copy of the applicant's written request is provided at Attachment D.

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

70. The applicant seeks to justify the contravention of the Height of Building development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case for the following reasons:
 - (i) The variation to the building height sought is in accordance with the objectives of clause 4.3 – Height of Building of SLEP2012, as the proposed works provide a contextually appropriate height transition (refer to figure 11).
 - (ii) Taking into consideration the condition of the site, being the natural variance in ground level (of 530mm from east to west), strict adherence to the numerical 12m height control would not allow objectives a - *to ensure the height of development is appropriate to the condition of the site and its context* and b - *to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas* of the Height of Building standard to be met the best possible way.
 - (iii) The proposed height therefore demonstrates that there is a disconnect or an inconsistent relationship between the Height standard and the objectives.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The proposed bulk, mass and density of the development is contextually appropriate and rationalises the height and FSR standards. The proposed height better reflects the FSR standard. In this context, the height standard of 12m is a disconnect with the FSR standard, considering adjoining developments are for residential uses and additional height is required to achieve the same FSR in a residential building as a commercial building. The proposed height of 12.97 provides a better relationship with the height standard and enables the realisation of the desired FSR.
 - (ii) The resulting development is reflective of the desired future character for the site and locality and the design of the development is considered to be a superior urban outcome that will compliment adjoining development.
 - (iii) The proposed architecturally designed development will provide an improved streetscape presentation and building form that includes good quality finishes and materials and will activate the locality.
 - (iv) The proposal does not result in an undue or adverse environmental planning impact in terms of shadow, holistic amenity, privacy, traffic, view loss or streetscape presentation.
 - (v) The proposed development is compatible with the desired future character of the area and is not considered to detract from the streetscape. The proposal is exemplary of the desired future character of the area, as established through the land use zone under the Sydney LEP 2012 and surrounding recently approved development.

- (vi) The proposal retains compliance with the objectives of the Height standard.
- (vii) The proposal retains compliance with the zone objectives.

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

71. 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)?

72. The written request states that the development is consistent with the objectives of the height development standard as the area of non-compliance is due to the slope of the land and is appropriate to the condition of the site and its context.
73. 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 unreasonable and unnecessary for the proposal.

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

74. The written request indicates that the proposed variation is contextually appropriate and is reflective desired future character. Additionally, it does not result in an undue or adverse environmental planning impact in terms of shadow, amenity, privacy, traffic, view loss or streetscape presentation. Accordingly, it has been demonstrated that there are sufficient environmental planning grounds to justify contravening the standard.

Is the development in the public interest?

75. The objectives of the Height of Building development standard relevant to the proposal include:
- (a) *To ensure the height of the development is appropriate to the condition of the site and its context;*
 - (b) *To ensure appropriate height transitions between new development and heritage items; and*
 - (c) *To promote the sharing of views.*

76. The proposal is consistent with the relevant objectives of the Height of Buildings development standard, as follows:
- The proposal results in a four storey mixed use development with a maximum height of 12.97m, the proposal provides a contextually appropriate height transition.
 - Taking into consideration the condition of the site, being the natural variance in ground level, strict adherence to the numerical 12m would not allow objectives (a) and (b) to be met in the best possible way.
 - It is considered adequate to vary the Height to achieve the desired transition. The application complies with the FSR standards. Therefore, it is of a scale and height that would be reasonably contemplated for the site.
77. Objectives of B4 - Mixed Use zone
- (a) *To provide a mixture of compatible land uses.*
 - (b) *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
 - (c) *To ensure uses support the viability of centres.*
78. The proposed development is consistent with the relevant objectives of the B4 -Mixed use Zone as follows:
- (a) The proposal seeks to provide affordable housing in a locality which offers various residential and commercial uses.
 - (b) In order to maximise public transport the proposal seeks to provide bicycle parking and no car parking is provided.
79. The site has a variance in ground level of 530mm from the north eastern corner of the site towards the north western corner. The variance in the natural ground level has created a step in the building height between 11 Brodrick St (western side) to 15 Brodrick St (eastern side). See Figure 17 above.
80. The approved development (D/2017/280), directly adjacent to the site to east at 12 Marsden Street was granted consent for the building height of over 13.5m, with maximum RL36.732 at the top of the western end of the front building.
81. The maximum variation to the height is on the western end of the subject building, which is 0.79m. The proposal receives around 1.6m level difference between the top of building to west and top of the building at 1-11 Brodrick Street.
82. As indicated in figure 11, the maximum extent of the breach allows for the achievement of an acceptable transition in height between 11 to 15 Brodrick Street and as such is considered to achieve objective of clause 4.3(1)(a) of the height of building development standard despite the variation.
83. The underlying objective of the Height standard is to provide transition between adjoining buildings (existing and future) in order to achieve the desired character and to minimise adverse environmental impacts.

84. As discussed above, the proposed building height is considered to achieve appropriate transition between existing buildings and is appropriate to the conditions of the site and its context.
85. The proposed built form is considered compatible with existing streetscape and complements the character of the street, which consists of 4-6 storey residential buildings and 1-8 storey commercial buildings (including the Rydges hotel).
86. Additionally, the proposal will not result in unreasonable amenity impacts to the occupants of the subject site or to the neighbouring properties. As discussed above under issues section, the proposed non-compliance does not result in unreasonable adverse overshadowing impacts to the neighbouring properties. As indicated in figures 15 and 16, overshadowing impact to 15-21 Brodrick Street is largely caused by the compliant elements of the proposed building and overshadowing caused by the elements of the building that breaches the height control is negligible.
87. On the basis, the proposal is reflective and consistent with the desired future character of the area and the proposed numerical variation will not compromise the attainment of the objectives of the height of building standard or B4 Mixed Use zone standard.

Conclusion

88. For the reasons provided above the requested variation to the height to building standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the height of building development standard and the B4 Mixed use zone.

Clause 4.6 for seeking exemption from provision of motorcycle parking

89. The development is required to provide a total of 2 motorcycle parking spaces under SEPP AH. The proposal does not provide any motorcycle parking and is seeking a 100% departure from the development standard.
90. 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.
91. A copy of the applicant's written request is provided at Attachment E.

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

92. 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) the proposed variation is consistent with the objectives of this clause. This variation allows flexibility in the application of the motorcycle parking development standard for the following reasons:
- Under provision of motorcycle parking in this instance provides an appropriate degree of flexibility for this particular development given that there are ample opportunities for parking motorcycles in the local streets should such a need arise,
 - 4 bicycle parking spaces are proposed to be provided (exceeding Councils requirements by 2 spaces) and will adequately compensate for the inability to provide motorcycle parking on the site,
 - Under provision of motorcycle parking in this instance achieves a better outcome for and from development by providing improved street frontages on a small site which would otherwise be required to be partially dedicated to driveways and ramps which would have adverse streetscape impacts.

Compliance with objectives of the B4 Mixed Use zone

- (ii) The proposal optimises the use of scarce urban land by using the site area to meet anticipated accommodation needs for future residents.
- (iii) Variation in the development standards for boarding houses (clause 30 AHSEPP) enables an optimal boarding house mix outcome for the Camperdown area. Indeed, the proposal would support the needs of local residents in providing affordable housing close to the city and neighbourhood shops and the Camperdown -Ultimo Health & Education precinct.
- (iv) The proposal for a boarding house is entirely consistent with the existing character of the area. The built form and scale are congruent with neighbouring residential flat buildings.
- (v) The proposed boarding house can be entirely serviced by the capacity of existing infrastructure.

- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The absence of motorcycle parking spaces within the development is designed to maximise internal amenity for future residents and to minimise any adverse impact upon the public domain and existing surrounding residents.
 - (ii) There are no demonstrable adverse environmental impacts arising from an absence of motorcycle parking spaces.
 - (iii) The proposed development is consistent with the zone and development control objectives by providing a boarding house in a location identified by the planning provisions for this form of development. The proposal demonstrates that the standards for boarding houses (Clause 30, AHSEPP) does not hinder the achievement of the aims of the Sydney LEP in controlling land use, bulk, scale and intensity of development.
 - (iv) Strict compliance with the 'Standards for Boarding Houses' (AHSEPP Division 3) would require the deletion of a proposed boarding room and part of another room which would otherwise satisfy the opportunity for providing affordable housing in a medium density location and would in my opinion, result in the orderly and economic use of the land.

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

93. 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)?

94. 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
95. The written request has stated that the aims of the SEPP (Affordable Rental Housing) 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)?

96. 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?

97. 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.

98. The objectives of the B4 Mixed Use zone relevant to the proposal include:

- (a) To provide a mixture of compatible land uses.
- (b) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- (c) To ensure uses support the viability of centres.

99. The proposed development is consistent to the objectives of the development standard or the relevant zone.

100. The proposal has provided double the required bicycle parking spaces required which will serve the future occupants of the site. The site is also well located in terms of public transport and walkability to services.

101. 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

102. 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 B4 Mixed Use zone.

Other Impacts of the Development

103. The proposed development is capable of complying with the BCA.
104. 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

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

Internal Referrals

106. The conditions of other sections of Council have been included in the proposed conditions.

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; Waste Management; who advised that the proposal is acceptable subject to the recommended conditions.

External Referrals

Notification, Advertising and Delegation

107. In accordance with Schedule 1 the Sydney DCP 2012, the proposed development is required to be notified and advertised. The application was notified and advertised for a period of 21 days between 5 July 2019 and 27 July 2019. 458 properties were notified and there were 5 submissions received. The issues raised are summarised below:

- The proposed planter on Level 3 is not sufficient with the planting often neglected leaving adjoining residents exposed.

Response: As discussed above, the planter box is recommended to be increased in width to ensure adequate privacy be maintained.

- Loss of solar access

Response: As per the detailed assessment above, the proposed overshadowing from the development is considered to be acceptable.

- History of the site having adverse impact to surrounding residents and concern that this will continue.

Response: The use of the site will be subject to a number of stringent conditions including operating in accordance with the Plan of Management. If, once open, the site is operating contrary to these conditions, Council is able to take action. The previous operation of the site is not a matter for consideration under this application.

- The proposal does not include parking which will exacerbate the existing on-street parking problems in the surrounding area

Response: Car parking is not required under the Sydney LEP 2012 with the subject site well located in terms of public transport access.

- The area is already too built up and cannot sustain any more as the area is already congested, overcrowded and can be unsafe in the evenings.

Response: The proposal is generally consistent with the planning provisions for this site and the desired future character of the area.

- Communal outdoor area should be non-smoking due to proximity to adjoining living areas.

Response: Council cannot enforce no smoking areas within private property.

- Reduced hours of construction to ensure the liveability of the area.

Response: The hours of construction are regulated by the National Construction Code and cannot be varied as part of this application.

Public Interest

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

S7.11 Contribution

109. 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.

110. Credits have been applied for the most recent past use of the site as an office. The applicant has provided a GFA for the office and a credit of 360sqm of floor space has been applied.

111. The following monetary contribution is required towards the cost of public amenities:

(a) Open Space	\$ 64,140.09
(b) Community Facilities	\$ 13,554.03
(c) Traffic and Transport	-\$ 1,894.16
(d) Stormwater Drainage	-\$ 749.02
Total	\$ 75,050.95

Relevant Legislation

112. Environmental Planning and Assessment Act 1979.

Conclusion

113. The proposal is for the demolition of the existing two storey commercial building and construction of a four storey boarding house accommodating 10 boarding rooms (for a total of 20 occupants), four bicycle parking, a communal area on the ground floor and associated landscaping works.

114. 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.

115. The proposal exceeds the 12 metre building height development standard pursuant to Clause 4.3 of the SLEP by 0.97m or 8%. 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.

116. The application was notified and advertised for a period of 21 days between 5 July 2019 and 27 July 2019. As a result of this notification a total of 458 properties were notified and there were 5 submissions received.
117. The proposal generally complies with the requirements of the SEPP AH, SLEP 2012 and SDCP 2012 in terms of amenity, accommodation size, solar access and character of the local area.
118. 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

Bhavisha Sheth, Specialist Planner