

**Item 4.****Development Application: 1 Woolley Street, Glebe - D/2019/1416****File No.:** D/2019/1416**Summary****Date of Submission:** 11 December 2019**Applicant:** Fuse Architecture**Architect:** Fuse Architecture**Owner:** Weston Aluminium Pty Ltd**Cost of Works:** \$601,651**Zoning:** R1 General Residential. Residential flat buildings are a permissible use within the zone.**Proposal Summary:** The development application is for the alterations and additions to the existing three storey residential flat building that contains six x two bedroom apartments and a rear outbuilding containing five car spaces and a laundry room.

The proposal is for the removal of the external rear fire stair and the construction of new rear balconies to each apartment with associated new windows, sliding doors and cladding to the rear western elevation. Alterations also include a new security gate to the John Street entry, front fence material altered, conversion of the external laundry area for a new waste storage area and internal reconfiguration of the existing units, including the provision of a laundry area within each unit.

The application was notified for a period of 14 days between 19 December 2019 and 24 January 2020, noting that there was a 20 day Christmas/New Year exclusion period in accordance with the Act. As a result of this notification a total of 53 properties were notified and there were no submissions received.

The new balconies, windows and sliding doors to the upper floor exceeds the height development standard under the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) control by 12% and is of a height and scale greater than the external stair case and therefore is referred to the Local Planning Panel for determination.

The applicant's clause 4.6 variation statement adequately addresses the matters required by clause 4.6(3) of the Sydney LEP 2012, that is compliance with the height development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 of the Sydney LEP 2012.

The proposal is considered acceptable as it will improve the amenity for the occupants, will improve the visual presentation of the building to the streetscape, 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:**

Environmental Planning and Assessment Act 1979

Sydney Local Environmental Plan 2012

Sydney Development Control Plan 2012

State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development

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

State Environmental Planning Policy (Vegetation of Non-Rural Areas) 2017

City of Sydney Development Contributions Plan 2015

**Attachments:**

A. Recommended Conditions of Consent

B. Selected Drawings

C. Clause 4.6 Variation Request

## Recommendation

It is resolved that consent be granted to Development Application No. D/2019/1416 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) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the height development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 of the Sydney LEP 2012; and
- (B) The proposed alterations and addition to the existing residential flat building is permissible within the R1 General Residential zone and is consistent with the objectives of this zone.
- (C) The proposal is generally consistent with the relevant objectives and controls within the State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development, Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (D) The proposal respects the heritage significance of the conservation area known as Hereford and Forest Lodge Conservation Area (C33).
- (E) The proposal is considered to be consistent with the built form, design and context of the neighbouring buildings in the streetscape and locality.
- (F) Subject to compliance with the recommended conditions, the alterations and additions to the residential flat building will provide an acceptable level of amenity for the subject site and neighbouring properties.
- (G) 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 4 February 2020.
2. The site is rectangular and a corner allotment, with an area of approximately 480sqm. The legal description of the site is Lot 3 DP 322276. It has a primary street eastern frontage to Woolley Street and a secondary street northern frontage to John Street.
3. The site currently has a three storey residential flat building which contains six x two bedroom units. The building is of interwar style and has an external staircase to the western rear facade. At the rear along the western rear boundary is a large brick outbuilding that includes five garages and an external laundry area. Vehicular driveway access is from John Street.
4. Surrounding land uses are predominantly residential and community uses. Directly adjoining the site to the south is a four storey residential flat building at 173 Bridge Road and a one to two storey residential dwelling with a rear studio that is locally listed heritage item (I662) at 175 Bridge Road. Directly to the west is a two storey residential dwelling at 177 Bridge Road. To the north of the site, on the opposite side of John Street is St James Park. To the east, on the opposite side of Woolley Street is St James Church which is a locally listed heritage item (I882) at 2 Woolley Street, a two storey residential dwelling at 171 Bridge Road and the rear of a childcare centre known as 'Only About Children' at 161 Bridge Road.
5. The site is not a heritage item but is classified as a neutral item located within the Hereford and Forest Lodge Conservation Area (C33).
6. Photos of the site and surrounds are provided below:



**Figure 1:** Aerial image of subject site and surrounding area





**Figure 2:** Site as viewed from Woolley Street



**Figure 3:** Rear elevation of site as viewed from John Street





**Figure 4:** John Street entry, rear courtyard and rear outbuilding of site as viewed from John Street



**Figure 5:** St James Park adjoining the site to the north as viewed from the subject site





**Figure 6:** View of the roof of the rear outbuilding of the subject site and adjoining properties to the west, looking from rear second floor level



**Figure 7:** View of adjoining properties to the south, looking from rear first floor level





**Figure 8:** View of rear of subject site from John Street



**Figure 9:** View of subject site frontage and adjoining properties, looking north on Woolley Street





**Figure 10:** View of subject site's frontage and adjoining properties, looking south on Woolley Street



**Figure 11:** View of St James Church and Only About Children childcare opposite the subject site on Woolley Street

## Proposal

7. The application seeks consent for alterations and additions to the existing three storey residential flat building which contains six apartments consisting of:
  - (i) Removal of existing external three storey fire staircase that is located on the western rear facade of the building;
  - (ii) Construction of new rear balconies to each unit on the western rear facade of the building. A full length (2.4m high) privacy screen is proposed to the southern edge of the balconies and in between each of the balconies on each level to separate each unit's private open space;
  - (iii) Fenestration changes to the western rear facade to include new sliding doors and windows to each unit;
  - (iv) New lightweight Cemintel cladding panels to the external wall on the western rear facade;
  - (v) Replacement of the windows to the existing openings located on the western rear facade;
  - (vi) Internal reconfiguration of each unit to remove internal walls to the living room and corridor to provide a more open layout and accommodate a laundry area within each unit.
  - (vii) Partial removal of the internal wall to the kitchen area of each unit;
  - (viii) Convert the existing external laundry area located in the rear outbuilding to a new waste storage room;
  - (ix) New aluminium gate to the vehicular entry on John Street;
  - (x) Existing front balcony doors rehung for external swing; and
  - (xi) New metal palisade infill to existing front fence with masonry part being retained.
8. Photomontage and elevations of the proposed development are provided below at Figures 12 to 15. A full set of architectural plans is provided at Attachment B.

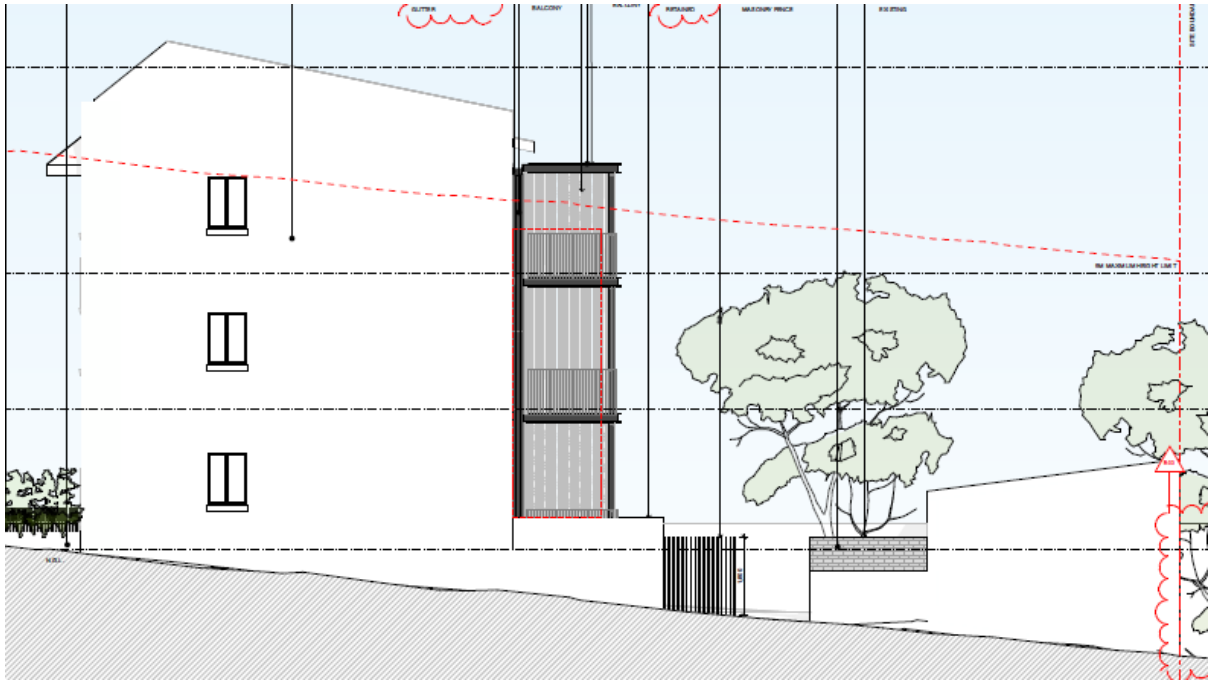




**Figure 12:** Proposed photomontage of rear elevation with new balconies



**Figure 13:** Proposed west elevation



**Figure 14:** Proposed north elevation



**Figure 15:** Proposed east elevation



## History Relevant to the Development Application

### Previous Applications

9. A pre-lodgement application (PDA/2019/192) was submitted to Council on 30 July 2019 for proposed works that were similar to this current application. Council provided the following response on 30 August 2019:
  - (i) The removal of the internal walls to the kitchen and living room allows for a more open layout with improved cross ventilation and light through this room in accordance with Clause 4B of the Apartment Design Guide and Clause 4.2.3.9 of the Sydney DCP 2012.
  - (ii) The new laundry area to each unit is accommodated within an existing storage area which will have no adverse impact.
  - (iii) The removal of the existing rear fire stair could be supported subject to compliance with the Building Code of Australia (BCA).
  - (iv) The balconies to the upper level exceed the maximum building height. Any exceedance to the maximum height control will require a clause 4.6 variation to justify the non-compliance to the development standard.
  - (v) The balconies should be set in from the side elevation by at least approximately 0.5m to reduce the bulk and scale.
  - (vi) Consideration of visual privacy impacts from the balconies to neighbouring properties.
  - (vii) Materials, finishes and colours are required to be appropriate to the streetscape
  - (viii) Replacement of the masonry base of the front fence is not supported however, the infill section may be replaced subject to an appropriate design.
  - (ix) The conversion of the external laundry area to a sixth car space is not supported as it exceeds the maximum car parking control.
10. The current development application has addressed the above concerns as follows:
  - (a) provision of a BCA report,
  - (b) submission of a clause 4.6 variation seeking to justify the height exceedance,
  - (c) a reduction in the bulk and scale of the balconies,
  - (d) the addition of a privacy screen along the southern edge of the balconies,
  - (e) deletion of the sixth car space and conversion to a waste storage room,
  - (f) retention of the masonry base of the front fence; and
  - (g) submission of a materials finishes and colours schedule.

### Current Development Application

11. The current development application was lodged on 10 December 2019.
12. On 19 February 2020, Council requested the following further information and amendments:
  - (i) Treatment of the balconies, windows and doors;
  - (ii) Details of the waste storage area, which at the time of lodgement was originally located beneath the new balcony structure on the ground floor. Further details including a section showing that the garbage bins can be opened when they are within the enclosure;
  - (iii) Revised shadow diagrams as those submitted were insufficient;
  - (iv) Revised door design for the new storage area as the roller door is not supported; and
  - (v) Materials, finishes and colours schedule.
13. On 3 March 2020, the applicant provided amended plans which are the subject of this assessment. These plans address the above concerns by providing the following:
  - (i) Additional elevations showing the treatments of the balconies, windows and doors;
  - (ii) The waste storage was relocated to the existing external laundry area in the rear outbuilding, which at the time of lodgement was original proposed to be used as a storage room. The roller door to the new waste storage room has been changed to a traditional door;
  - (iii) Revised shadow diagrams; and
  - (iv) A detailed materials, finishes and colours schedule.

### Economic/Social/Environmental Impacts

14. 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 65 - Design Quality of Residential Flat Development

15. SEPP 65 provides that in determining an application for a residential flat development of three or more floors and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality, including 9 design quality principles, being:
  - (a) Principle 1: Context and Neighbourhood Character
  - (b) Principle 2: Built Form and Scale



- (c) Principle 3: Density
  - (d) Principle 4: Sustainability
  - (e) Principle 5: Landscape
  - (f) Principle 6: Amenity
  - (g) Principle 7: Safety
  - (h) Principle 8: Housing Diversity and Social Interaction
  - (i) Principle 9: Aesthetics
16. As the application is for alterations and additions to an existing three storey residential flat building containing six apartments, as such, the requirements under this SEPP applies.
17. The development is considered generally acceptable when assessed against the SEPP, including the above stated principles and the associated Apartment Design Guide (ADG). Consequently compliance with the SEPP generally implies compliance with Council's own controls. A detailed assessment of the proposal of against the ADG is provided below.
18. Apartment Design Guide

2F Building Separation	Compliance	Comment
<p>Up to four storeys (approximately 12 metres):</p> <ul style="list-style-type: none"> <li>12m between habitable rooms / balconies</li> <li>9m between habitable and non-habitable rooms</li> <li>6m between non-habitable rooms</li> </ul>	Partial compliance	<p>The existing residential flat building is 3 storeys which requires a 12m separation between habitable rooms/balconies.</p> <p>The existing building has a separation greater than 12m from surrounding development, with the exception of the side southern wall which has a separation of 3.3m to 175 Bridge Road.</p> <p>The application proposes new external balconies to the rear resulting in a building separation of 2.3m to 175 Bridge Road.</p>

2F Building Separation	Compliance	Comment
		<p>The proposal generally retains the existing built form setbacks that pre-date the introduction of SEPP 65 and the additions are only minor which doesn't exacerbate bulk of the building. Screening is also provided to the balconies to address any privacy impacts that may result from limited separation. Therefore, the proposed building separation is acceptable.</p> <p>The rear balconies will improve the amenity of the occupants and will have a reasonable amenity impact to the neighbouring properties which is further discussed in this report.</p>

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	Yes	The site has a communal open space located at the rear which is 125sqm equating to 25% of the site. This communal open space is principally for vehicle access and clothes drying area. This is not altered by the proposed development. However, the amenity will be improved as each apartment will gain a private open space area.
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Yes	As demonstrated in the shadow diagrams, the development achieves a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of three (3) hours between 12pm and 3pm on 21 June (midwinter) which meets the provisions of this clause.



Separation between windows and balconies is required to ensure visual privacy is achieved. Minimum separation distances from buildings to the side and rear boundaries are outlined below.

3F Visual Privacy	Compliance	Comment
<p>Up to four storeys (12 metres):</p> <ul style="list-style-type: none"> <li>6m between habitable rooms / balconies</li> <li>3m between non-habitable rooms</li> </ul>	<p>Partial compliance</p>	<p>The existing residential flat building is 3 storeys which is a 6m separation between habitable rooms/balconies is recommended under this clause for visual privacy.</p> <p>The existing building has a separation greater than 6m from surrounding development except for the rear windows to the western wall which has a separation of 1.3m to the southern boundary shared with 175 Bridge Road and southern wall which has a separation of 0.5m to the southern boundary shared with 173 Bridge Road.</p> <p>The application proposes new external balconies, sliding doors and windows to the rear western wall resulting in a separation of 1.2m to the southern boundary shared with 175 Bridge Road. No changes are proposed to the existing southern wall adjoining 173 Bridge Road.</p> <p>A privacy screen is proposed along the southern edge of the balconies which is considered sufficient in providing a reasonable level of privacy between the subject site and 173 and 175 Bridge Road. There is an existing mature vegetation that is screening the view into windows and rear yard of 175 and 177 Bridge Road. Therefore, this visual privacy separation is acceptable.</p>

4A Solar and Daylight Access	Compliance	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	<p>The existing building currently does not have a private open space area for each unit. The application proposes a rear balcony of 16sqm to each unit which will improve amenity.</p> <p>As demonstrated in the shadow diagrams, all units will receive a minimum of 2 hours of direct sunlight in midwinter to the living rooms from 10am to 2pm (4 hours) and to the proposed rear balconies from 1pm to 3pm (2 hours).</p>
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	As discussed above, all units will receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and the new rear balconies.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes	The application proposes large windows and sliding doors to the rear western elevation of each unit, and removes internal walls to the living room to create a more open plan layout. These alterations will improve the ventilation to each unit and ensures that all habitable rooms are naturally ventilated.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	Each apartment has a western and eastern aspect with each room having a window or door to either of these elevations allowing for all apartments to be naturally cross ventilated.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	The overall depth of each apartment from glass line to glass line does not exceed 12m.



Measured from finished floor level to finished ceiling level, minimum ceiling heights are as follows in the table below.

4D Apartment Size and Layout	Compliance	Comment
<p>Minimum unit sizes:</p> <ul style="list-style-type: none"> <li>2 bed: 70m<sup>2</sup></li> </ul> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</p>	Partial compliance	The existing apartments are all two bedroom with one bathroom with an internal area of 69sqm. No changes are proposed to the internal area.
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	The application proposes to increase the size of the windows and doors to the rear western elevation and retain the existing windows. Each habitable room has a window to the external wall with a minimum glass area of 10% of the floor area of the room.

4E Private Open Space and Balconies	Compliance	Comment
Two bed apartments are to have a minimum balcony area of 10sqm with a minimum depth of 2m.	Yes	The existing building does not provide any balconies to the two bedroom apartments. The application proposes new rear balconies each with an area of 16sqm and depth of 2.4m for each apartment. This improves the amenity for the occupants.
Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of 15m <sup>2</sup> and a minimum depth of 3m.	Yes	The application proposes new rear balconies of an area of 16sqm and depth of 2.4m to each apartment including the ground level apartments.

4E Private Open Space and Balconies	Compliance	Comment
		<p>Whilst the proposed ground floor balconies depth does not meet the minimum 3m requirement, the proposed depth is acceptable as the existing building has no private open space and any increase to the balcony depth would reduce the vehicle manoeuvring area and also reduce the separation to neighbours.</p> <p>The new balconies will improve the amenity for the occupants and also provide a reasonable amenity impact to neighbouring properties</p>

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

19. A BASIX Certificate (A358681) has been submitted with the development application. The BASIX commitments applies to the amended plans.
20. 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 (Vegetation in Non Rural Areas) 2017**

21. This SEPP applies for any clearing of vegetation in a non-rural area. 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
22. The application proposes for no clearing to any vegetation. It is noted however, that there are trees to the rear yard of the subject site and rear of 175 Bridge Road. Any pruning to vegetation is to be in accordance with the tree management controls in the Sydney DCP 2012 and approval must be sought, if required.

#### **Sydney Local Environmental Plan 2012**

23. The site is located within the R1 General Residential zone. The existing use is defined as residential flat building, which is a permissible use with consent. The proposal is for alterations and additions to the residential flat building, and no change to the use is proposed.
24. 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>A maximum height of 9m is permitted.</p> <p>The three storey residential flat building has an existing height of 11.5m.</p> <p>The maximum height of the new balcony additions is 10.12m. This results in a variation to the building height development standard by 1.12m or 12%.</p> <p>The height variation is discussed under the heading Issues.</p>
4.4 Floor Space Ratio	Yes	<p>A maximum floor space ratio (FSR) of 0.7:1 and gross floor area (GFA) of 336sqm is permitted.</p> <p>The site has an area of 480sqm.</p> <p>The existing FSR of the site is 0.87:1 (417sqm).</p> <p>No changes to the existing FSR and GFA is proposed.</p>
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the development standard prescribed under Clause 4.3 Height of Buildings</p> <p>See discussion under the heading Issues.</p>
5.10 Heritage conservation	Yes	<p>The site is not a heritage item, however, is located within the Hereford and Forest Lodge Conservation Area (C33) and is identified as a 'neutral' building.</p> <p>See discussion under the heading Issues.</p>



Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
Division 4 Design excellence	Yes	<p>The application proposes to remove the existing external fire staircase, which is a detracting element to the building and streetscape. It is proposed to construct new balconies to the rear facade to provide these existing apartments with their own private open space, which they currently do not have. This will enhance the amenity of each of the units.</p> <p>The design and materials of the balcony additions complement the existing building and have an appropriate impact to the streetscape and conservation area.</p> <p>The additions improve amenity for residents of the site and have reasonable amenity impact to the neighbouring properties including solar and privacy impact as further discussed in this report.</p> <p>The proposed development satisfies the requirements of this provision.</p>

Part 7 Local Provisions - General	Compliance	Comment
Division 1 Car parking ancillary to other development  7.5 Residential flat buildings	Yes	<p>A maximum of five (5) car parking spaces are permitted.</p> <p>The site has an existing five (5) car parking spaces located in the rear brick outbuilding.</p> <p>No changes to the car parking arrangement is proposed.</p>
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 site is not identified as flood prone affected land.

**Sydney Development Control Plan 2012**

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

**2. Locality Statements – 2.6.7 Hereford**

The subject site is located in the Hereford locality. The proposed alterations and additions to the existing residential flat building is considered to be in keeping with the unique character of the area and design principles in that it retains the residential character and additions are moderate in size and responds to the local built context and conservation area.

<b>3. General Provisions</b>	<b>Compliance</b>	<b>Comment</b>
3.5 Urban Ecology	Yes	The proposed development does not involve the removal of any trees and will not adversely impact on the local urban ecology. See discussion under the heading SEPP (Vegetation in Non-Rural Areas) 2017
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.7 Water and Flood Management	Yes	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	See discussion under the heading Issues.
3.11 Transport and Parking	Yes	A maximum of five (5) car parking spaces are permitted.  The site has an existing five (5) car parking spaces located in the rear brick outbuilding.  No changes to the car parking arrangement is proposed however, a gate is proposed to John Street. The gate is located within the site and will provide additional security.

3. General Provisions	Compliance	Comment
		Whilst the introduction of a gate may result in some queueing to the street, the car parking to the site is only of five car spaces which is of low intensity and John Street is not a frequently used road. Therefore, the gate to John Street entry is supported.
3.12 Accessible Design	Yes	A condition is recommended to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.
3.13 Social and Environmental Responsibilities	Yes	The new rear balconies and windows will improve passive surveillance to the area and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	<p>The location and size of the new waste storage area is considered adequate to service the waste of the occupants.</p> <p>A condition is recommended for the waste management and recycling plan to comply with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p>

4. Development Types	Compliance	Comment
<b>4.2 Residential flat, commercial and mixed use developments</b>		
4.2.1 Building height	Yes	<p>The building has a maximum height of two storeys. The existing building is three storeys and the new rear balconies are of three storeys in height.</p> <p>See discussion under the heading Issues.</p>
4.2.2 Building setbacks	Yes	See discussion under the heading SEPP 65 - Design Quality of Residential Flat Development and Issues.



4. Development Types  4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.3 Amenity	Yes	See discussion under the heading SEPP 65 - Design Quality of Residential Flat Development and Issues.
4.2.6 Waste and Recycling Management	Yes	The location and size of the new waste storage area is adequate to service the waste generated by the occupants. A condition is recommended for the waste management and recycling plan to comply with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development

## Issues

### Amenity

#### Solar Access

26. As the site is orientated from east to west, the proposed shadow falls towards the subject site and 173, 175, 177, 179 and 180 Bridge Road, which is to the west, south and south west of the site.
27. However, as demonstrated in the shadow diagrams included in Attachment B 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.
28. Furthermore, the subject site achieves a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of three (3) hours between 12pm and 3pm on 21 June (midwinter). All units will receive a minimum of 2 hours of direct sunlight in midwinter to the living rooms from 10am to 2pm (4 hours) and the new rear balconies from 1pm to 3pm (2 hours). This meets the solar access requirement for the subject site in accordance with the Apartment Design Guides.

#### Privacy

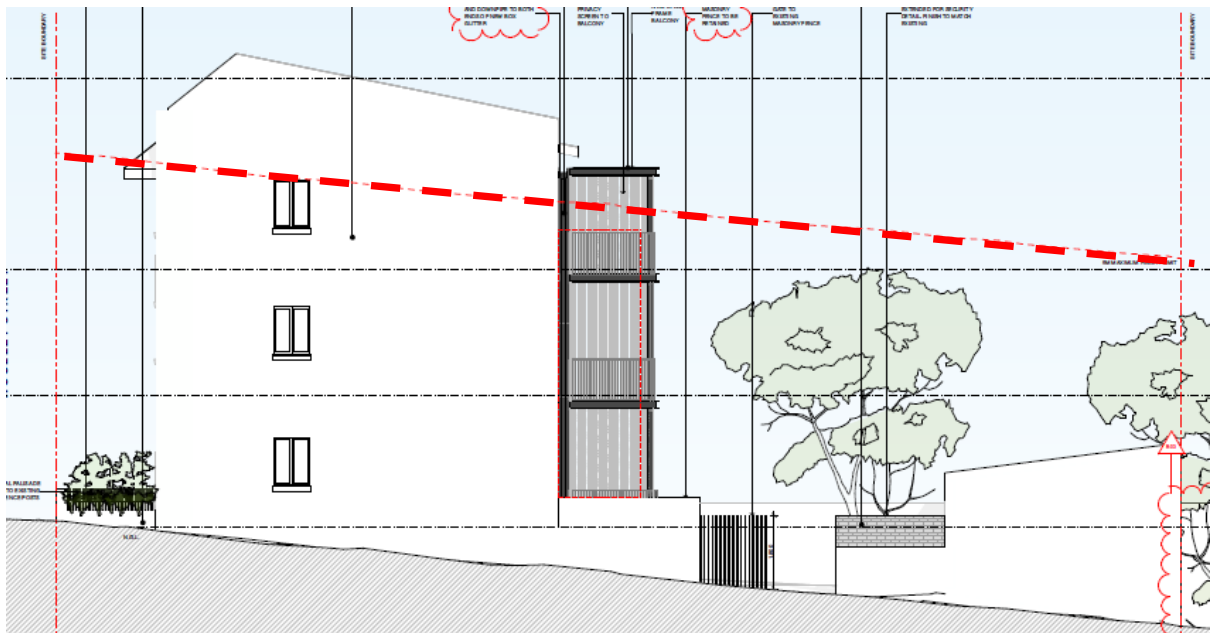
29. The application proposes new balconies and larger windows and sliding doors to the western elevation of the building.

30. As shown in figure 6 and the drawings, the proposed balconies are setback approximately 12.5 metres from the rear yard of 177 Bridge Road, and the view to the west is screened by the rear outbuilding on the subject site and the neighbouring trees. Furthermore, fixed screens of full height of 2.4m are proposed to various parts of the western edge of the balconies to restrict some views to the west and vice versa.
31. As shown in figure 7 and the drawings, the rear yard of 173 Bridge is a car parking lot and the view of the rear yards and windows of 175 Bridge Road are screened by neighbouring trees. Furthermore, a privacy screen is proposed to the full height and width of the southern edge of the balconies to inhibit the views to the south and vice versa.
32. As shown in figure 5 and the drawings, the view to the north is St James Park which is a public use.
33. As the proposed works will not have an adverse overlooking impact to the neighbouring properties, the proposal will provide a reasonable level of privacy for the subject site and neighbouring properties.

**Clause 4.6 request to vary a development standard**

34. The site is subject to a maximum height control of 9 metres under the Sydney LEP 2012.
35. The existing height of the three storey residential flat building is 11.5m
36. A height of 10.12m is proposed which results in a variation to the building height development standard by 1.12m or 12%.
37. As shown in the table below and Figure 16, the application proposes the following heights and variation to the height control

Built Form	Height control	Proposal	Existing Height	Variation of control
Rear Balconies	9m	10.12m	11.5m (ridge height of building)  8.4m (external stair case)	1.12m, 12% variation



38.

**Figure 16:** 9m height control shown in red line dashed and existing height of the external stair case shown in red outlined box.

39. 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.
40. A copy of the applicants written request is provided at Attachment C

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

41. The applicant seeks to justify the contravention of the Clause 4.3 Height development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
    - (i) The exceedance to the height control is due to the roof of the balcony to the second floor level. The upper balcony roof creates a uniform design that matches in simplicity, bulk and scale to the existing building. If it was omitted it would result in a disjointed shape and be a detracting feature.
    - (ii) The height of the existing building is 2.5m above the height limit at its highest point (consistent with adjoining buildings on Woolley Street). This will not be increased quantifiably or by perception by the proposed variations.



- (iii) An improved amenity will be provided to the two upper storey residences through the provision of the weather protection to the proposed balconies from sun and rain
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
  - (i) No significant adverse impacts such as solar access, privacy and view loss arises from the proposed works;
  - (ii) The new balconies will improve the amenity of the occupants to the building and promote the retention of residential building and use in order to meet the housing needs of the community;
  - (iii) Proposed works will improve the overall appearance of the building when viewed from the streetscape;
  - (iv) Treatment of the building is appropriate to the conservation area and building and will improve the visual amenity impact to the area;
  - (v) The proposed height is consistent with the objectives of the height development standard and R1 General Residential zone

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

42. 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) and is the development in the public interest?

43. The applicant's written request has adequately addressed Clause 4.6(3) in that compliance with the height development standard is unreasonable and unnecessary in the circumstances of this case, and that there are sufficient environmental planning grounds to justify contravening the standard. Furthermore, the development is in the public interest for the following reasons:

- (i) The exceedance of the upper floor balcony, window and sliding doors is due to the existing building being over the existing height control. The proposed works are an appropriate height, bulk and scale to the existing building;

- (ii) The surrounding development at 163 and 173 Bridge Road and 2 Woolley Street exceeds the height control. The proposed height, scale and bulk of the development is within context of the locality and achieves a height transition to surrounding development in accordance with the objectives of clause 4.3 height development standard;
- (iii) The existing apartments have no private open space. The proposed balconies result in each apartment having a private open space that is protected from the weather and will improve the amenity for the occupants;
- (iv) The proposed new works are an appropriate design to the building and improves the visual appearance of the building. As a result, the visual amenity of the building to the streetscape and conservation area is improved;
- (v) As discussed in the report, the proposed works will have no adverse impacts to the neighbouring properties in terms of solar access, view loss and privacy. Whilst the privacy screens proposed to the balconies are over the height control, these elements will ensure the provision of a reasonable level of privacy for the occupants and neighbouring properties
- (vi) The proposed alterations and additions maintains the residential use of the site which will meet the housing needs of the community in accordance with the objectives of the zone R1 General Residential.

#### Conclusion

- 44. The new balconies, windows and sliding doors to the upper floor exceeds the height development standard under the Sydney Local Environmental Plan 2012 (Sydney LEP 2012) control by 12% and is of a height and scale greater than the external stair case and therefore is referred to the Local Planning Panel for determination.
- 45. For the reasons provided above the requested variation to the height development standard 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 height development standard and R1- General Residential Zone.

#### Height, Bulk, Scale

- 46. The site has a maximum height and storey controls of two storeys in accordance with clause 4.2.1 of the Sydney DCP 2012. The site has an existing height of three storeys.
- 47. The application proposes new balconies, windows and sliding doors that are three storeys in height. These new elements are of a height, bulk and scale that is appropriate to the existing building.
- 48. Furthermore, the adjoining development at 173 Bridge Road is 4 storeys in height. Therefore, the proposed height in storeys is considered to be within context of the locality.

49. The site has its own subdivision and setback pattern as the adjoining properties to the south face Bridge Road and to the north is St James Park. The new balconies are of 2.4m depth with an area of 16sqm and are setback 1m from the building edge. The balcony size meets the minimum private open space area and depth requirements of 10sqm and 2m depth in accordance with ADG. The setbacks are considered appropriate as it results in a compliant design for private open space and is set in from the southern edge to reduce the scale and bulk impacts to neighbouring properties.
50. Given the above, the height, bulk and scale of the proposed development is considered acceptable in accordance with the ADG and Sydney DCP 2012.

### **Heritage**

51. The site is not a heritage item but it is located within the Hereford and Forest Lodge Conservation Area (C33) and is identified as a 'neutral' building.
52. The application proposes to remove the external stair case, which is considered as a detracting element to the building and to the streetscape.
53. The new balconies and treatment to the western elevation is proposed in materials, finishes and colours that are appropriate to the existing building and area. Therefore, the treatment to the western elevation is considered to improve the visual amenity of the building, streetscape and conservation area.
54. The metal palisade infill to the front fence is to the existing height of the infill section of the front fence. The existing masonry base is also retained. The front fence works are appropriate to the character of the building and streetscape and maintains passive surveillance.
55. The vehicle security gate to the John Street entry and extension to the brick fence on the John Street northern boundary results in a fence with a variable height of 1.8m to 2.2m. This height is acceptable given it is a corner allotment, the sloping nature of the topography and as John Street is the secondary street frontage. The proposed works will also provide security to the site and make the rear courtyard a more useable space. The materials used is also appropriate to the site, conservation area and streetscape.
56. Given the above, the proposal is considered to not have an adverse impact to the significance of the conservation and surrounding heritage items.

### **Other Impacts of the Development**

57. The proposed development is capable of complying with the BCA.
58. 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**

59. 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**

60. The application was discussed with the Heritage and Urban Design Specialists; Building Services Unit; Environmental Health; Public Domain; Transport and Access; Tree Management; Landscape Unit and Waste Management.
61. All comments from each section of Council has been taken into consideration and all recommended conditions have been included in the proposed conditions.
62. Council's Urban Design Specialist raised concerns regarding the privacy screens to the balconies are fire and acoustic rated in accordance with the BCA. Conditions are imposed for the whole building to comply with the BCA as recommended by Council's Building Services Unit.

### **External Referrals**

#### **Notification, Advertising and Delegation (No Submissions Received)**

63. In accordance with the Community Participation Plan 2019, the proposed development is required to be notified. As such the application was notified for a period of 14 days in addition with the 20 day freeze period in between 19 December 2019 and 24 January 2020, a total of 53 properties were notified and no submissions were received.
64. The amended plans received on 3 March 2020 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.

### **Public Interest**

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

### **S7.11 Contribution**

66. The development is not subject to a S7.11 development contribution as it is for alterations and additions to an existing residential flat building that does not alter the number of units or number of bedrooms per unit as no intensification to the number of residents is proposed. This is a type of development listed in Table 2 of the City of Sydney Development Contributions Plan 2015 and is excluded from the need to pay a contribution. A contribution is therefore not payable.

### **Relevant Legislation**

67. Environmental Planning and Assessment Act 1979.

**Conclusion**

68. The subject development application is for the alterations and additions to the existing three storey residential flat building to improve the amenity of the occupants to the six apartments.
69. The proposal generally complies with the aims and objectives of the relevant policies and planning controls.
70. The requested variation to the building height development standard is supported as the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the height development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 of the Sydney LEP 2012.
71. The proposal is considered to be consistent with the built form, design and context of the neighbouring buildings in the streetscape and locality.
72. Subject to compliance with the recommended conditions, the proposed works will provide an acceptable level of amenity for the subject site and neighbouring properties.
73. Accordingly, it is considered that the proposed development is acceptable and is recommended for approval subject to conditions of consent

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

Charise Chumroonridhi, Specialist Planner