

Item 5.**Development Application: 7 Layton Street, Camperdown**

File No.: D/2020/350

Summary

Date of Submission:	<p>The application was lodged on 20 April 2020.</p> <p>Amended drawings were submitted on 28 July 2020. The amended drawings were re-notified to neighbouring properties.</p> <p>Additional information was submitted on 16 September 2020.</p>
Applicant:	Russel Prescott
Architect/Designer:	Prescott Architects
Owner:	Glen Cremer and Kerry Anne Porter
Cost of Works:	\$2,389,255
Zoning:	The site is located within the B4 - Mixed use zone. The proposed uses are a boarding house and commercial premises, which are permissible with consent in the zone.
Proposal Summary:	<p>The application seeks consent for the demolition of existing structures and construction of a 6-storey boarding house development comprised of 18 rooms and a commercial tenancy on the ground floor fronting Layton Street.</p> <p>The proposal is referred to the Local Planning Panel for determination as the development is reliant on a Clause 4.6 variation request to vary the motorcycle parking space development standard of the Affordable Rental Housing SEPP 2009 (ARHSEPP).</p>

The development provides no motorcycle parking and is required to provide 4 motorcycle parking spaces in accordance with the ARHSEPP. The applicant has lodged a written statement addressing the provisions of Clause 4.6 of the Sydney Local Environmental Plan 2012 with regard to non-provision of motorbike parking. The statement demonstrates that compliance with the standard is unreasonable and unnecessary, and there are sufficient environmental planning grounds to justify contravening the standard. The proposal is consistent with the objectives of the land use zone and the ARHSEPP, and the proposed departure to the motorcycle parking requirement is supported in this instance.

The application was notified and advertised for a period of 21 days between 24 April 2020 and 16 May 2020. A total of 19 submissions were received during the notification period. Issues raised in these submissions relate to the proposed use, height, bulk and scale, amenity impacts, heritage impacts, parking, and construction. Issues raised have been addressed within this report.

Following a preliminary assessment of the application, including consideration by the Design Advisory Panel - Residential Subcommittee, the applicant was requested to amend the application to address issues relating to height, bulk and scale, façade design, external and internal amenity impacts and waste storage.

The proposal was amended in July and August 2020 to address the matters raised above.

The amended proposal was re-notified following receipt of amended plans for a period of 14 days between the dates of 12 August to 27 August 2020. A further 14 submissions were received during the re-notification period. Issues raised in these submissions relate to the proposed use, height, bulk and scale and amenity impacts.

The proposal has a maximum height of 18.32m and exceeds the 18m height of buildings development standard by 320mm (a variation of 1.8%). The proposed height exceedance relates to the lift overrun and a part of the rear roof. The majority of the building form remains under the 18m height limit.

A request to vary the Clause 4.3 Height of Buildings development standard has been submitted in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012. The statement demonstrates that compliance with the standard is unreasonable and unnecessary, and there are sufficient environmental planning grounds to justify contravening the standard. The proposal is consistent with the objectives of the land use zone and height of buildings development standards and the proposed departure to the building height is supported in this instance.

In its amended form and subject to recommended conditions, the development application is generally consistent with the relevant planning controls and is recommended for approval.

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

Development Controls:

- (i) Environmental Planning and Assessment Act 1979
- (ii) State Environmental Planning Policy (Affordable Rental Housing) 2009
- (iii) State Environmental Planning Policy (Infrastructure) 2007
- (iv) State Environmental Planning Policy No 55 - Remediation of Land
- (v) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (vi) State Environmental Planning Policy (Vegetation in Non-Rural Areas_ 2017
- (vii) Sydney Local Environmental Plan 2012
- (viii) Sydney Development Control Plan 2012
- (ix) City of Sydney Development Contributions Plan 2015

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request - Height of Building
- D. 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 Clause 4.6 'Exception 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 the State Environmental Planning Policy (Affordable Rental Housing) 2009 in accordance with Clause 4.6 'Exception 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/2020/350 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 development complies with the objectives of the B4 mixed use zone pursuant to the Sydney Local Environmental Plan 2012.
- (B) 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 of Buildings development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 of the Sydney LEP 2012; and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the B4 Mixed Use zone and the Height of Buildings development standard.
- (C) 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 motorcycle parking development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 30(1)(h) of the SEPP (Affordable Rental Housing); and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the B4 Mixed Use zone and the SEPP (Affordable Rental Housing) development standards.
- (D) The proposal is consistent with the aims and objectives of Division 3 of the State Environmental Planning Policy (Affordable Rental Housing) 2009.

- (E) The development complies with the permitted Floor Space Ratio pursuant to Clause 4.4 of the Sydney Local Environmental Plan 2012.
- (F) The development, subject to conditions, generally demonstrates design excellence, appropriately responding to the context of the site, and is consistent with the desired future character of the area as per Clause 6.21 of the Sydney Local Environmental Plan 2012.
- (G) The development is consistent with the objectives of the Sydney Development Control Plan 2012.
- (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 29 April 2020.
2. The subject site is 7 Layton Street, Camperdown and is legally described as Lot 6 DP 456703. The site is generally rectangular in shape, with an area of approximately 231.7sqm and has a street frontage to Layton Street of 7.9metres. The site is located close to the intersection of Layton Street and Pyrmont Bridge Road.
3. The site currently contains a two-storey boarding house comprising 10 bedrooms with outdoor terrace areas at the ground and first floor to the rear. An easement runs along the southern boundary, which benefits the adjoining property at No. 9-11 Layton Street. The terms of the easement state that no building edifice, erection or building of any class character or description can be built within the affected land. The benefitted property "shall have uninterrupted access transmission and enjoyment of light".
4. The surrounding land uses are mixed use, being predominately residential and commercial. Key surrounding developments include:

North: Adjoining at 5 Layton Street is a two-storey building comprised of commercial space on the ground floor with residential above. At 3 Layton Street is a smash repair workshop. Further north across Mason Street at 47-61 Pyrmont Bridge Road (also known as 1 Layton Street) is a five-storey residential flat building. On the northern side of Pyrmont Bridge Road is a 16-storey residential flat building.

South: Adjoining at 9-11 Layton Street is a two-storey commercial building, a local heritage item (Item No. I58). Further south across Isabella Street is a four-storey serviced apartment and a two- storey commercial building, which has recently been approved by the Local Planning Panel for redevelopment as a six-storey residential flat building (under Development Application D/2019/1410).

West: To the west is a six-storey converted warehouse building currently used as offices at 6-10 Mallett Street, a local heritage item (Item No. I2242).

Southwest: To the southwest are a row of 4 x one-storey terrace dwellings at 2-8 Isabella Street.

East: Across Layton Street at 12-14 Layton Street is a five-storey mixed use building with commercial uses at ground floor and residential apartments above. Further east is a mix of two and five-storey residential flat buildings along Purkis Street and Lambert Street. A 10-storey residential flat building is located further beyond, bounded by Lambert Street, Lyons Road, and Pyrmont Bridge Road.

5. The site is not a heritage item and is not located within a heritage conservation area.
6. Photos of the site and surrounds are provided below:

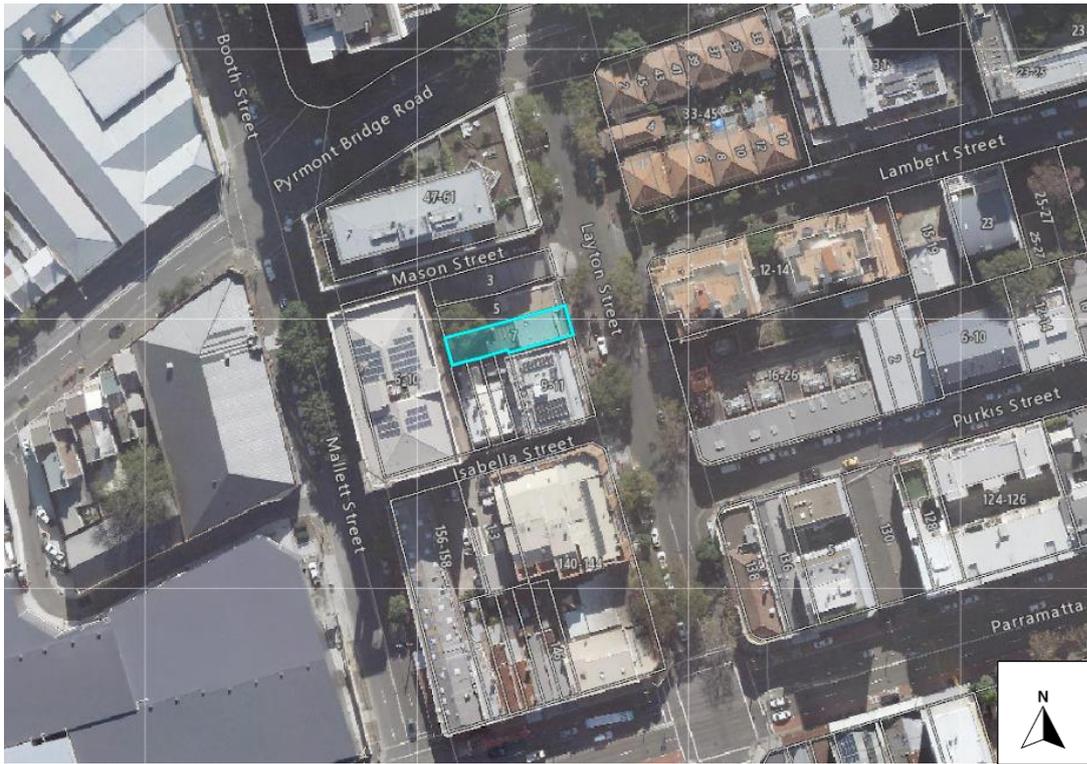


Figure 1: Aerial image of subject site and surrounding area



Figure 2: Site viewed from Layton Street



Figure 3: Site and adjoining properties as viewed from Layton Street



Figure 4: Looking south along Layton Street



Figure 5: Development looking north along Layton Street



Figure 6: The adjoining building at 9-11 Layton Street, which is a local heritage item, as viewed from Layton Street



Figure 7: Development located on the opposite side (east) of Layton Street



Figure 8: Terrace dwellings located southwest nos. 2-8 Isabella Street. Source: Google Streetview



Figure 9: Rear view of subject site looking west



Figure 10: Existing side breezeway / easement on the southern boundary of the subject site, looking east



Figure 11: Existing rear ground floor looking east



Figure 12: Viewed south towards Isabella Street



Figure 13: Viewed west towards Mallett Street



Figure 14: Viewed north towards Mason Street



Figure 15: Looking down towards rear of the site

Proposal

7. The application seeks consent for the construction of a six-storey boarding house consisting of a commercial tenancy on the ground floor and 18 boarding rooms.
8. In detail, the proposed development accommodates the following on each level:
 - (a) **Ground Floor:**
 - (i) 1 x 20.78sqm commercial tenancy plus one accessible bathroom, storage space, and commercial waste bin room;
 - (ii) Residential waste bin room;
 - (iii) Entry lobby to boarding house;
 - (iv) Servicing rooms, one internal lift and one internal stairwell;
 - (v) Storage space for 12x bicycles
 - (vi) 1 x manager's double room;
 - (vii) 20.18sqm of open space dedicated as a manager's courtyard; and

(viii) 21.21sqm of open space dedicated as communal open space for the residents.

(b) Levels 1-4

(i) 16x double bedrooms (four per floor), each containing a private bathroom, washer/dryer, a private balcony and air conditioning unit.

(c) Level 5

(i) 1 x double bedroom containing a private bathroom, washer/dryer, a private balcony and air conditioning unit;

(ii) 45.07sqm of communal internal space comprised of kitchen facilities and living / dining space; and

(iii) 20sqm of communal open space on the terrace.

9. Plans of the proposed development are provided below.

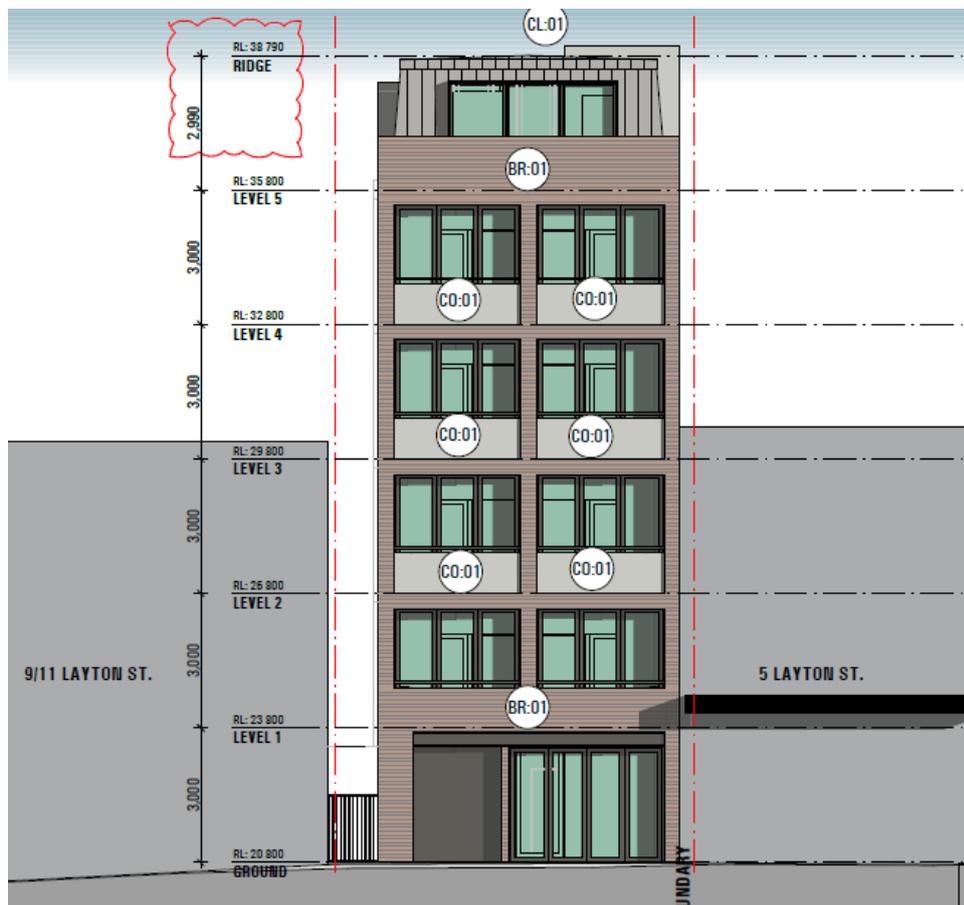


Figure 16: Proposed Layton Street (east) elevation

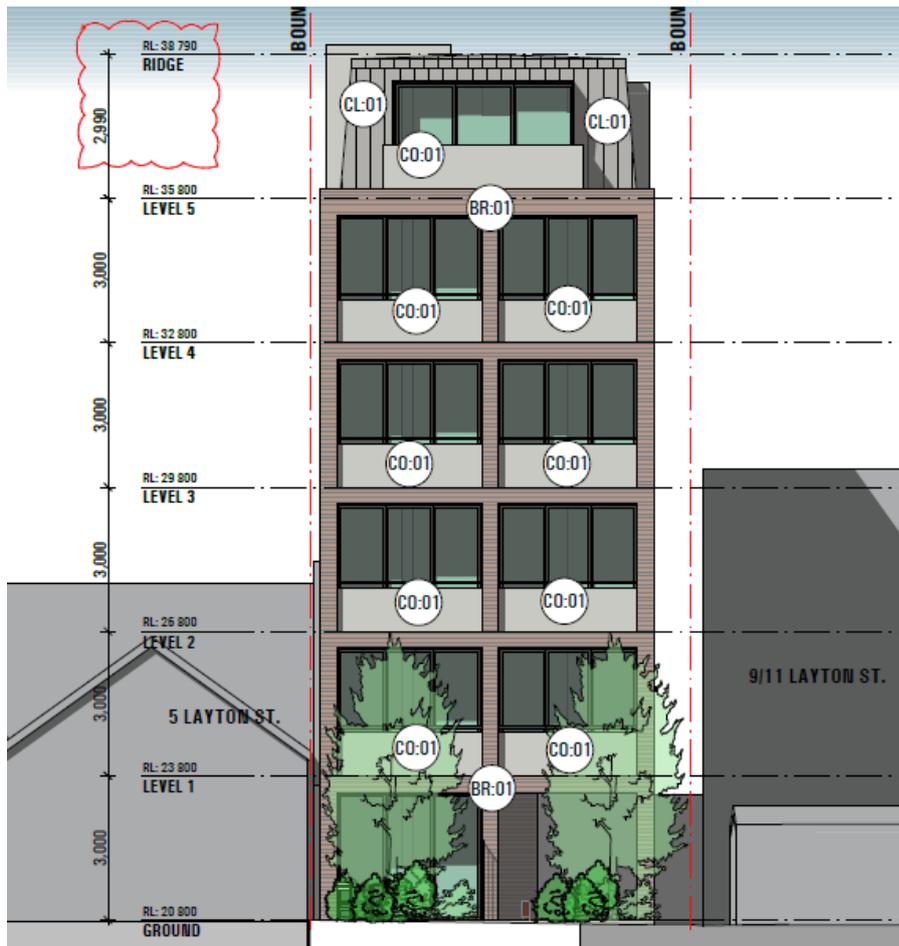


Figure 17: Proposed rear (west) elevation



Figure 18: Proposed section plan

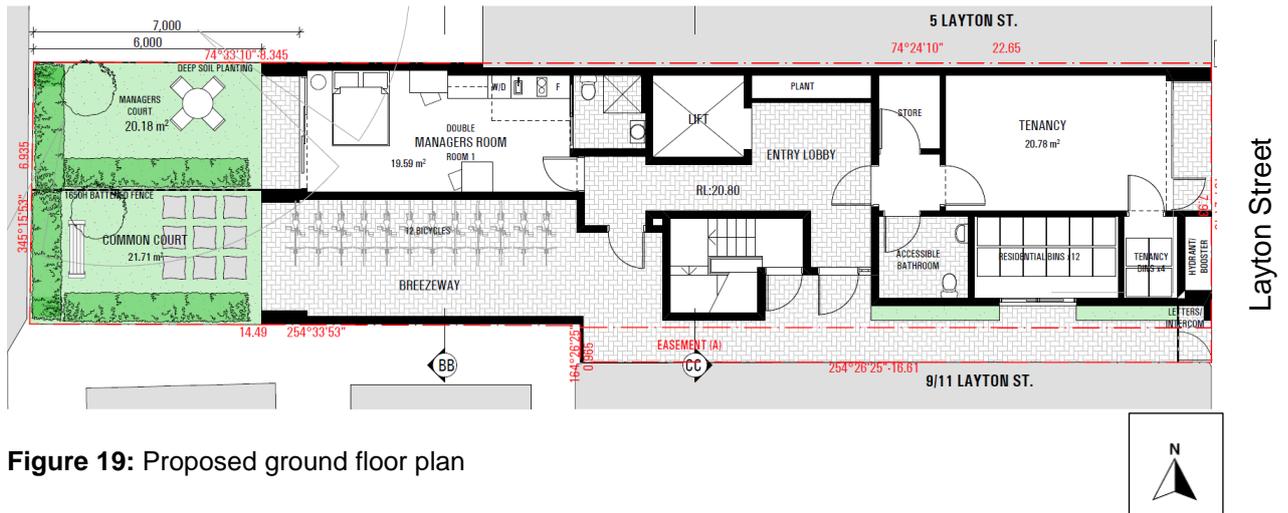


Figure 19: Proposed ground floor plan

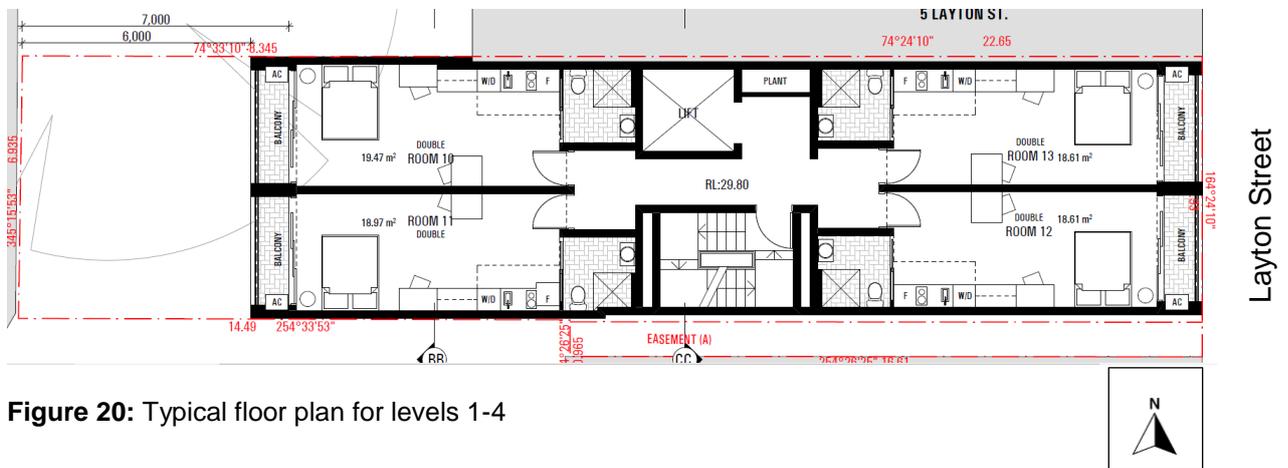


Figure 20: Typical floor plan for levels 1-4

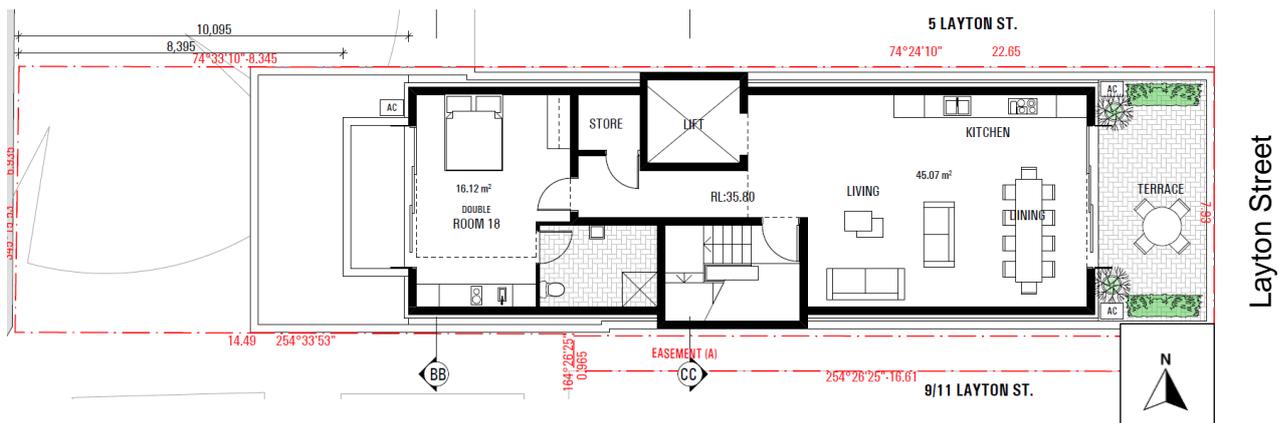


Figure 21: Proposed floor plan for level 5



Figure 22: Photomontage

History Relevant to the Development Application

10. On 20 April 2020, the subject application was lodged with Council.
11. The original design comprised 25 boarding rooms with a café on the ground level. The building envelope spanned the entirety of the site with the use of internal voids and deep shaded courtyards. Figures 23 below, illustrates the proposed development section as originally lodged.



Figure 23: Originally proposed section plan

On 9 June 2020, the application was considered by the Design Advisory Panel Residential Sub-Committee.

12. In correspondence, dated 30 June 2020, Council staff requested design amendments to address the following:
 - (a) building height;
 - (b) design and articulation of the front façade;
 - (c) internal amenity impacts;
 - (d) overshadowing to neighbouring properties;
 - (e) design of the ground floor open space;
 - (f) tree impact; and
 - (g) design of the bicycle and waste storage.
13. Additional information was also requested including the following:
 - (a) a Clause 4.6 written request for the proposed variation to the motorcycle parking requirement of the ARHSEPP;
 - (b) detailed solar access diagrams;
 - (c) amended acoustic report;
 - (d) stormwater drainage design;
 - (e) amended Plan of Management; and
 - (f) materials and finishes.
14. On 28 July 2020, the applicant provided an amended proposal generally responding to Council concerns. The following amendments were made to the scheme:
 - (a) The building envelope was reduced to allow for a 6m setback from the western (rear) boundary of the site, resulting in useable common open space area with deep soil landscaping, whilst addressing potential impacts on an existing tree and reducing overshadowing.
 - (b) Voids were removed to reduce privacy implications.
 - (c) The sixth level was amended to present as a mansard roof form set back from the street level to reduce the visibility from the public domain.
 - (d) The public domain interface of the ground floor commercial unit and residential entry was amended.
 - (e) The architectural expression of the façade was amended to provide a more solid to void ratio with use of brick masonry and concrete balconies.
15. On 7 August 2020, the applicant provided a Clause 4.6 written request to vary the development standard for motorcycle parking and the stormwater drainage diagrams.

16. On 16 August 2020, the applicant provided detailed solar access information.
17. On 2 October 2020, the applicant provided an amended BASIX certificate and an amended Clause 4.6 written request to vary the building height development standard to reflect the amended development.

Economic/Social/Environmental Impacts

18. 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

19. 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.
20. The existing use of the land is residential (being a boarding house), and the classification of the site is not changing.
21. The proposal was reviewed by Council's Environmental Health Unit, who have conducted a search of previous historical uses of the site and surrounding land uses. These investigations concluded that there were no potential contaminated uses as listed in Table 2 SEPP 55 in operation. The smash repairs located two sites to the north is not considered to impact on the subject site. No further detailed contamination investigation was required to be undertaken as part of the assessment of the application. Appropriate standard conditions are recommended for imposition with regard to classification of waste, imported fill and the notification of any discovery of contamination during works on site. Subject to the imposition of these conditions, the site is considered to be suitable for its intended use.

State Environmental Planning Policy (Infrastructure) 2007

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

Clause 45

23. The application is subject to Clause 45 (Subdivision 2 Development likely to affect an electricity transmission or distribution network) of the SEPP as the development will be carried out within 5m of an exposed overhead electricity power line.
24. In accordance with the Clause, the application was referred to Energy Australia for a period of 21 days. In correspondence dated 13 May 2020, Ausgrid recommended conditions to be included in the consent. These conditions are recommended and are included under Schedule.

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

25. An amended BASIX Certificate has been submitted with the amended scheme for this development application.
26. 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

27. The provisions of the SEPP state that a person must not clear vegetation in any non-rural area of the State without the authority conferred by a permit granted by council.
28. No vegetation is to be cleared, as a result of the proposal. Appropriate conditions are recommended to allow for full retention and protection of an existing tree located in the rear yard of 5 Layton Street, adjacent to the site, as well as the existing street trees along Layton Street.

State Environmental Planning Policy (Affordable Rental Housing) 2009

29. The aim of State Environmental Planning Policy (SEPP) (Affordable Rental Housing) is to provide a consistent planning regime for the provision and maintenance of affordable rental housing and to facilitate the delivery of new affordable rental housing.

Division 3: Boarding Houses

30. Under Clause 29, compliance with any of the following standards must not be used to refuse consent for a boarding house. An assessment of the proposed boarding house against each standard is provided in the table below.

Clause 29 – Standards that cannot be used to refuse a boarding house

Provision	Compliance	Comment
1 Density and scale expressed as floor space ratio An FSR of up to 2.5:1 plus 0.5:1 is permitted.	Yes	The proposal is permitted a FSR of 3:1. The proposal has a gross floor area of 659.39sqm, which results in a floor space ratio of 2.8:1.
2(a) Building height The proposed building height must not exceed the maximum building height of 18m permitted under the Sydney LEP 2012.	No	The majority of the building and roof form is compliant with the maximum height of 18m. However, the lift overrun results in a maximum height of 18.32m (which is a 1.8% or 320mm variation). A request to vary the development standard in accordance with Clause 4.6 has been submitted to Council and is supported. Refer to the Issues Section.
2(b) Landscaped area The front setback is to be compatible with the streetscape.	Yes	The proposal has a zero setback to Layton Street, which is consistent with surrounding development and compatible with the streetscape.

Provision	Compliance	Comment
<p>2(c) Solar access</p> <p>If more than one communal living area is provided, at least one of the rooms is to receive a minimum of 3 hours direct sunlight between 9:00am and 3:00pm in mid-winter.</p>	Yes	<p>A communal living area and rooftop terrace is located on level 5. The applicant has provided solar access diagrams demonstrating that sunlight will be received for a 3 hour period between the hours of 9am and 12noon in midwinter.</p>
<p>2(d) Private open space</p> <p>(i) One area of at least 20sqm with a minimum dimension of 3m is provided for lodgers.</p> <p>(ii) If accommodation is provided for an onsite manager, one area of at least 8sqm with a minimum dimension of 2.5m, adjacent to the accommodation.</p>	Yes	<p>The development provides for 21.71sqm of private open space (ground floor) for lodgers and 20.18sqm of private open space for the manager, located at the ground floor at the rear. The development also provides 20 sqm of private open space for lodgers on level 5 (roof terrace).</p> <p>It is recommended that the ground floor level common courtyard be extended northward to form an 'L' shape along the rear boundary. This will result in a reduction in the amount of private open space allocated to the manager, however, will still exceed the required 8sqm, and will provide more space and improved amenity for the lodgers. A condition is recommended.</p>
<p>2(e) Parking</p> <p>(i) 0.2 parking spaces provided for each boarding house room for sites in an accessible area.</p> <p>(ii) 0.4 parking spaces provided for each boarding house room for sites not in an accessible area.</p> <p>(iii) Not more than 1 parking space for the on-site manager.</p>	No, acceptable	<p>No onsite vehicular parking is provided for residents.</p> <p>The site is in an accessible location and the proposal has included the provision of bicycle parking at the ground floor level.</p>

Provision	Compliance	Comment
<p>2(f) Accommodation size</p> <p>(i) Rooms intended to be used by a single lodger are to have a minimum GFA of 12sqm.</p> <p>(ii) Rooms intended to be used more than one person are to have a minimum GFA of 16sqm.</p> <p>(excluding any area used as a private kitchen/ bathroom)</p>	Yes	All rooms are proposed as double rooms and are 16sqm (excluding any area used for bathroom / washing facilities) or greater. The rooms sizes range from 16 - 19.6sqm.

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

Clauses 30 – Standards for boarding house

Provision	Compliance	Comment
1(a) At least one communal living room is to be provided.	Yes	The building contains a communal living area of 45sqm on level 5.
1(b) No boarding room is to have a gross floor area (excluding private kitchen or bathroom facilities) of more than 25m ²	Yes	All boarding rooms are less than 25sqm.
1(c) No boarding room to be occupied by more than 2 adult lodgers	Yes	All boarding rooms have been designed for double occupancy. The submitted Plan of Management restricts the number of lodgers to no more than 2 adult lodgers per room.
1(d) Adequate bathroom and kitchen facilities available for use of each lodger	Yes	The boarding house provides adequate bathroom and kitchen facilities for each lodger in accordance with the ARHSEPP and Section 4.4.1 of the Sydney DCP 2012.

Provision	Compliance	Comment
(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	One room at ground level is provided for a 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 located within the B4 Mixed Use zone. The proposal incorporates a commercial use on the ground floor with a frontage to Layton Street to activate the street.
1(h) At least 1 bicycle to be provided for every 5 rooms.	Yes	The proposed development is required to provide a minimum of 4 bicycle parking spaces. The development provides 12 bicycle parking spaces.
1(h) At least 1 motorcycle parking space to be provided for every 5 rooms.	No, acceptable	The proposal is required to provide a minimum of 4 motorcycle parking spaces. The development provides no motorcycle parking. A Clause 4.6 written request seeking to vary the motorcycle parking development standard has been submitted and is supported in this instance. See discussion under the heading Issues.

Clause 30A – Character of the local area

32. Clause 30A states that a consent authority must not consent to development for a boarding house unless it has taken into consideration whether the design of the development is compatible with the character of the local area.
33. The site is located within a mixed-use area. As amended, the proposed boarding house is compatible with the character of the surrounding area and is consistent with clause 30A. The bulk and scale are similar to the adjoining property to the west, and surrounding developments to the north and south. The architectural detailing is compatible with the character of the locality. Refer to further discussion in the Issues section.

Part 3 - Retention of existing affordable housing

34. Part 3 of the SEPP applies to buildings that were low-rental residential buildings as at 28 January 2000. The owner has provided documentation demonstrating that on 28 January 2000 the site was used as a medical centre. As such, Part 3 does not apply. On 22 November 2000, consent was granted for the use of a backpacker's hostel. The backpacker's hostel was registered with Council in 2004. It is noted that the existing site is currently being used as a boarding house without consent or registration.

Clause 52 - No subdivision of boarding houses

35. Clause 52 states that a consent authority must not grant consent to the strata subdivision or community title subdivision of a boarding house.
36. The application does not propose a strata subdivision. A suitable condition is recommended preventing the strata subdivision or community title subdivision of the boarding house development.

Sydney Local Environmental Plan 2012

37. The site is located within the B4 Mixed Use zone. The proposed uses are defined as a boarding house and commercial premises, both of which are permissible with consent in the zone.
38. 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	A maximum height of 18m is permitted. A height of 18.32m is proposed.
4.4 Floor Space Ratio	Yes	Refer to ARHSEPP compliance table above.
4.6 Exceptions to development standards	Yes	The proposal seeks to vary the development standard prescribed under Clause 4.3. See discussion under the heading Issues.
5.10 Heritage conservation	Yes	The subject site is not a heritage item and is not located within a heritage conservation area.

Development Control	Compliance	Comment
		<p>The site adjoins a heritage listed two storey brick Federation warehouse at 9-11 Layton Street and a heritage listed 6-storey converted warehouse building at 6-10 Mallett Street.</p> <p>The compatibility of proposed new form, scale and materiality in the vicinity of heritage items is discussed in the Issues section.</p> <p>It is important that with the proposed demolition, excavation and construction that the heritage item is not damaged or undermined structurally. A condition is recommended in this regard to ensure that the heritage listed buildings are suitable protected during the construction process. Details of such protection measures must be submitted to and approved by Council prior to the issue of any Construction Certificate.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
6.21 Design excellence	Yes	<p>The proposed built form and scale and height is generally consistent with the surrounding context and nearby developments.</p> <p>Refer to further discussion in the Issues section below.</p>

Part 7 Local Provisions - General	Compliance	Comment
Division 1 Car parking ancillary to other development	Yes	<p>The parking provisions of SLEP 2012 do not provide a maximum parking rate for a boarding house. Furthermore, the SLEP 2012 encourages the provisions of minimal or no parking in new developments. The proposal is consistent with the intent of the LEP in this regard.</p>

Part 7 Local Provisions - General	Compliance	Comment
7.14 Acid Sulphate Soils	Yes	<p>The site is identified as Class 5 acid sulphate soil and is not located within 500m of Class 3 soils.</p> <p>The proposed development will not lower the water table by 1m or more as the proposal does not involve significant excavation.</p> <p>The development is not considered to represent a significant risk of exposing acid sulphate soils.</p>
7.15 Flood planning	Yes	The subject site is not identified as being subject to flooding.
7.17 Development in areas subject to airport noise	Yes	The site is located within ANEF Contour 15 and therefore is not subject to the provisions of this Clause.
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. As such, the proposed demolition will not result in any long term adverse visual impacts with regards to the streetscape.

Sydney Development Control Plan 2012

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

2. Locality Statements – Camperdown

The subject site is located in the Camperdown locality. The proposal 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
3.2 Defining the Public Domain	Yes	<p>The proposed development will enhance the public domain by providing an active frontage to Layton Street in the form of a commercial space.</p> <p>A condition is recommended requiring public domain lighting to be upgraded as part of the development.</p>
3.5 Urban Ecology	Yes	<p>The proposed development does not involve the removal of any trees and will not adversely impact on the local urban ecology.</p> <p>There is one site tree located within the rear yard of 5 Layton Street. The development has been amended to set the building envelope away from the structural root zone of the tree. Appropriate conditions of consent have been recommended to allow for retention and protection of the tree.</p> <p>Two street trees are located along Layton Street, including one adjacent to 3 Layton Street and one adjacent to 9-11 Layton Street. These trees will require appropriate protection during construction activity and conditions are recommended.</p>
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.7 Water and Flood Management	Yes	The site is not identified as being on flood prone land.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	Strata subdivision is not proposed.
3.9 Heritage	Yes	<p>The site is not a heritage item and is not located within a heritage conservation area.</p> <p>However, the development proposes the demolition of the existing building which is likely to be older than 50 years and as such is subject to this section.</p>

3. General Provisions	Compliance	Comment
		<p>The existing building has no heritage significance or contributing status. The site has been heavily altered including the enclosure of the front balcony and replacement the original ground floor front windows and verandah flooring. The terrace was built as part of a pair with 5 Layton Street, which is no longer apparent from the street as during the inter-war period 5 Layton Street had a front two storey addition, incorporating a shop front at ground level.</p> <p>The party wall with 5 Layton Street is proposed for retention. And the development does not rely on the party wall for support of the development.</p> <p>In view of the low level of integrity of the pair of terraces, demolition is supported. A condition is recommended that traditional building materials, such as timber joinery, should where possible be, salvaged during demolition works and made available to appropriate dealers rather than be scrapped.</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 18 boarding rooms, the proposal is required to provide 4 bicycle parking spaces 4 motorcycle parking spaces.</p> <p>The application proposes 12 bicycle parking spaces which exceeds the SEPP requirements.</p> <p>No motorcycle parking spaces are provided. The applicant has provided a Clause 4.6 written request seeking to vary the development standard. Refer to further discussion in the Issues section of this report.</p>
3.12 Accessible Design	Yes	Part 3.12 states that 15% of rooms must be adaptable. This would require 2 boarding rooms to be adaptable.

3. General Provisions	Compliance	Comment
		<p>The development does not nominate 2 rooms for adaptable housing. Given that there is a lift within the development, it is considered that the development is capable of complying with this provision. A condition is recommended requiring specific details of the adaptable units to be submitted to Council prior to construction commencement</p> <p>A condition is recommended to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.</p> <p>Specific details of the residential entrance gate have not been provided. The height of the gate is recommended to be 1800mm for improved security. Details of the gate are recommended to be provided at 1:50 by condition.</p>
3.14 Waste	Yes	<p>The proposed development provides separated waste storage rooms at ground level for the residential and commercial components.</p> <p>A condition is recommended for the proposed development to comply with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p>
3.15 Late Night Trading Management	Yes	<p>The application does not propose hours of operation for the commercial tenancy, A condition is recommended that the hours of operation be restricted to 7.00am - 10.00pm, which is consistent with the permitted hours of operation under a Complying Development Certificate for any use.</p>

3. General Provisions	Compliance	Comment
3.16 Signage and Advertising	Yes	No signage is proposed as part of the application. A condition is recommended requiring any future signage (other than exempt and complying signs) to be submitted as a development application for assessment.
3.17 Contamination	Yes	The applicant has submitted sufficient information to allow Council to meet its obligations in relation to determining whether the development should be permitted in relation to site contamination. See SEPP 55 discussion above.

4. Development Types 4.2 Residential flat, commercial and mixed-use developments	Compliance	Comment
4.2.1 Building height	No	The site is subject to a 5-storey height control. The proposed building is 6-storeys in height. See discussion under the heading Issues.
4.2.1.2 Floor to ceiling heights and floor to floor heights	Acceptable	It is acknowledged that Section 4.2.1.1 of the Sydney DCP 2012 states that buildings with a commercial use on the ground floor are to have a minimum floor to floor height of 4.5m. Notwithstanding non-compliance with this section, the floor to floor heights are supported in this instance. It should be acknowledged that the boarding house levels are only required to have 2.4 floor to ceiling heights. Requesting these floors to be lowered to allow a higher floor to ceiling height on the ground floor would result in a poor amenity outcome for future occupants. Retaining the boarding house floor to ceiling heights and increasing the ground floor would result in height breach that may be unreasonable and unnecessary. Overall, the scale of the development is consistent with the height envisaged by current controls for the future of this precinct.

4. Development Types 4.2 Residential flat, commercial and mixed-use developments	Compliance	Comment
4.2.2 Building setbacks	Yes	<p>The development has a nil front setback consistent with the existing building and neighbouring developments</p> <p>The development will have a rear setback of 6m. The surrounding development does not have a consistent rear building line, with some rear development resulting in 100% site coverage. Given the context, the rear setback is considered acceptable.</p> <p>The development provides a 1.1m setback to the southern boundary which is in accordance with the terms of the easement. The nil setback to the northern boundary is consistent with existing development patterns.</p> <p>Refer to further discussion in the Issues section.</p>
4.2.3.1 Solar access	Yes	See discussion under the heading Issues.
4.2.3.5 Landscaping	Yes	The development provides opportunity for landscaping at the ground floor rear courtyard. A condition is recommended requiring a landscape plan prior to construction commencement.
4.2.3.6 Deep soil planting	Yes	The proposal provides 41sqm of deep soil, which results in 17% of the site area. This exceeds the d 15% of the site area deep soil requirement of the DCP..
4.2.3.9 Ventilation	Yes	Each boarding room and the common areas is provided with operable doors/windows in order to provide natural ventilation.

4. Development Types 4.2 Residential flat, commercial and mixed-use developments	Compliance	Comment
4.2.6 Waste and Recycling Management	Yes	A waste management plan has been submitted with the application and is acceptable, adequate waste storage areas are provided at ground level to accommodate residential and commercial waste.
4.2.7 Heating and Cooling Infrastructure	Yes	Each boarding room has an air conditioning unit located on the balconies. Plant rooms are provided on each floor.
4.2.8 Letterboxes	Yes	Letter boxes are provided adjacent to the Layton Street frontage.
4.2.9 Non-residential development in the B4 Mixed Uses Zone		<p>The proposed residential development is surrounded by existing residential and commercial buildings.</p> <p>An acoustic report was submitted with the development application. The acoustic report has assessed internal noise and traffic noise intrusion and recommended several control measures to be built into the fabric of the building. Compliance with the recommendations of the acoustic report are recommended as a condition.</p> <p>The boarding house proposes an external roof top terrace area. It is recommended that the use of this area be restricted to between 7:00am to 10:00pm seven days a week in order to minimise any noise disturbance to nearby residents.</p> <p>The acoustic report demonstrates that the air conditioning condenser units (located on the balconies of each room) are capable of complying with relevant Australian standards relating to noise emissions. Standard conditions are recommended in this regard.</p>

4. Development Types 4.4.1 Boarding houses and student accommodation	Compliance	Comment
4.4.1.1 Subdivision	Yes	The application does not propose to subdivide the site.
4.4.1.2 Bedrooms	Yes	<p>All rooms meet the minimum boarding room size. Rooms range between 16.12sqm and 19.6sqm.</p> <p>Each room has access to natural light with ceiling heights of 2.7m</p> <p>Each room includes an ensuite with a shower at a minimum of 4sqm.</p> <p>All rooms are provided with laundry facilities with an area of 2sqm.</p> <p>The proposal is considered to provide adequate amenity for the boarding room in accordance with this section.</p>
4.4.1.3 Communal kitchen areas	Yes	A communal kitchen is provided on level 5 with an area of approximately 7sqm, exceeding the control of 6.5 sqm. This is in addition to each room having its own private kitchen facilities.
4.4.1.4 Communal living areas and open space	Yes	<p><i>Indoor communal living areas</i></p> <p>45sqm of communal living space is provided on level 5. The space is located near commonly used spaces such as the kitchen and will have minimal impact on the majority of rooms within the development, with only a single room being located on this floor. The communal living area is east facing and will receive solar access in the morning between 9am and 12noon.</p>

4. Development Types 4.4.1 Boarding houses and student accommodation	Compliance	Comment
		<p><i>Common open space</i></p> <p>21sqm of common open space is provided on the ground floor. This space is west facing and likely to be heavily shaded due to surrounding existing building forms to the west. 20qm of rooftop terrace space is to be provided for communal use. It is east facing and will receive morning sunlight between 9am and 12noon. The provision of communal open space exceeds the recommended minimum requirement of 20sqm.</p> <p><i>Private open space</i></p> <p>Each boarding room is provided with an area of private open space in the form of a balcony. This exceeds the DCP provisions that a minimum of 30% of all rooms be provided with private open space.</p>
4.4.1.5 Bathroom, laundry and drying facilities	Yes	Bathrooms and laundry facilities are provided in each boarding room for occupants.
4.4.1.6 Amenity, safety and privacy - internal to site	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 (ie. communal areas). <p><i>Visual Privacy:</i></p> <ul style="list-style-type: none"> - communal and bedroom windows are located away from the main living areas and bedrooms of adjoining properties.

4. Development Types 4.4.1 Boarding houses and student accommodation	Compliance	Comment
		<p>- rear balconies are set back from the side and rear boundaries so viewing is oblique rather than direct. The building is proposed as full masonry on the side elevations with concrete balustrades up to 1m high. The depth of the balconies are approximately 1m, which limits their function in terms of overlooking and noise.</p> <p><i>Acoustic Privacy:</i></p> <p>- the applicant has provided an acoustic report, which was reviewed by Council's Health Officer and is considered acceptable subject to recommended conditions.</p>
4.4.1.7 Plan of Management	Yes	<p>The application has submitted an amended Plan of Management. The amended 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

Height, Scale and Bulk - Character of the Locality and Design Excellence

40. The proposed boarding house satisfies the character test of Clause 30A of the ARHSEPP2009, which requires the design of the development to be compatible with the character of the local area. Clause 6.21 of the Sydney LEP 2012 requires that new development must exhibit design excellence. Considerations for design excellence are outlined at Clause 6.21(4) and include suitability of the site, heritage and streetscape considerations, bulk and massing, environmental impacts and the like.

41. In establishing that the development is compatible with the immediate locality and that it is considered to exhibit design excellence, the following has been concluded:
- (a) The immediate area has a number of 5-6 storey building forms, including 6-10 Mallett Street to the west, 47-61 Pyrmont Bridge Road to the north, and 12-14 Layton Street to the east. As illustrated in Figure 25 and 26 below, the scale of the building will sit within the context of surrounding five and six storey buildings. In addition, developments along Paramatta Road located 150m south, include recently constructed and recently approved 6 storey building forms.
 - (b) Given the context of the immediate area, the height of the development is suitable. It is acknowledged that the site has a 5-storey height in storeys control under the Sydney DCP 2012, and the proposal is 6-storeys. The sixth storey has been amended during the application process as follows:
 - (i) to present as a mansard roof form set back from the Layton Street frontage by 3.1m so that the amended sixth storey will not be readily visible from the public domain, as demonstrated in Figure 27 below; and
 - (ii) the height is able to accommodate 3m floor to floor heights and still achieve 6 storeys within the prescribed height control, with the extent of variation being minor and generally limited to the lift overrun.
 - (c) The proposal has been significantly amended to reduce bulk at the rear resulting in improved amenity for both surrounding properties and future occupants. The increased rear setback (of approximately 6m) provides for greater separation between the proposed building form and adjoining development. This aids in reducing the perceived bulk, improving privacy amenity and lessening the overshadowing impact. The greater setback allows for the retention of a tree on the neighbouring site which contributes to canopy coverage for the locality. The rear setback also allows for communal open space in the rear for improved amenity of future residents.
 - (d) The height bulk and scale of the proposed development is compatible with the surrounding locality:
 - (i) The site is in the vicinity of heritage items at 6-10 Mallett Street and 9-11 Layton Street. The development will provide a step-down transition from the adjoining property at 6-10 Mallett Street which will remain higher than the proposed development with a height of six storeys.
 - (ii) It is noted that the subject site and adjoining sites to north are currently of lower scale and have yet to be developed. The redevelopment of these sites will be subject to the same built form controls and 18m height control. On this basis, these lower scale buildings are not considered to be reflective of the desired future character of this streetscape. The transition to 9-11 Layton Street will not have an adverse impact on the significance of the site.
 - (iii) It is acknowledged that there are currently single storey terraces to the south at 2-8 Isabella Street. These terraces are not heritage items and are not located within a heritage conservation area. It is noted that these sites also have identical built form controls to the subject site with an 18m height limit. It is envisaged that these sites would be redeveloped and are unlikely to stay as single dwelling terraces in the long term.

- (e) The development, as amended, is well designed to overcome environmental impacts, including achieving compliance with the ARHSEPP and Section 4.4 of the Sydney DCP 2012. The development will achieve reasonable solar access and visual privacy to future occupants and neighbouring properties. Refer to further discussion below on solar access and overshadowing.
- (f) The submitted materials and finishes schedule illustrates use of face brick cladding, off form concrete balustrades and colourbond roofing. Whilst the materials provided are generally acceptable and compatible with the area, the detailing is general and incomplete. A condition is recommended in this regard to be submitted to Council prior to Construction Certificate.
42. In view of the above, the proposed development, in its amended form, demonstrates design excellence in accordance with Clause 6.21 of the Sydney LEP 2012 and is considered to satisfy the character test of Clause 30A of the ARHSEPP2009.

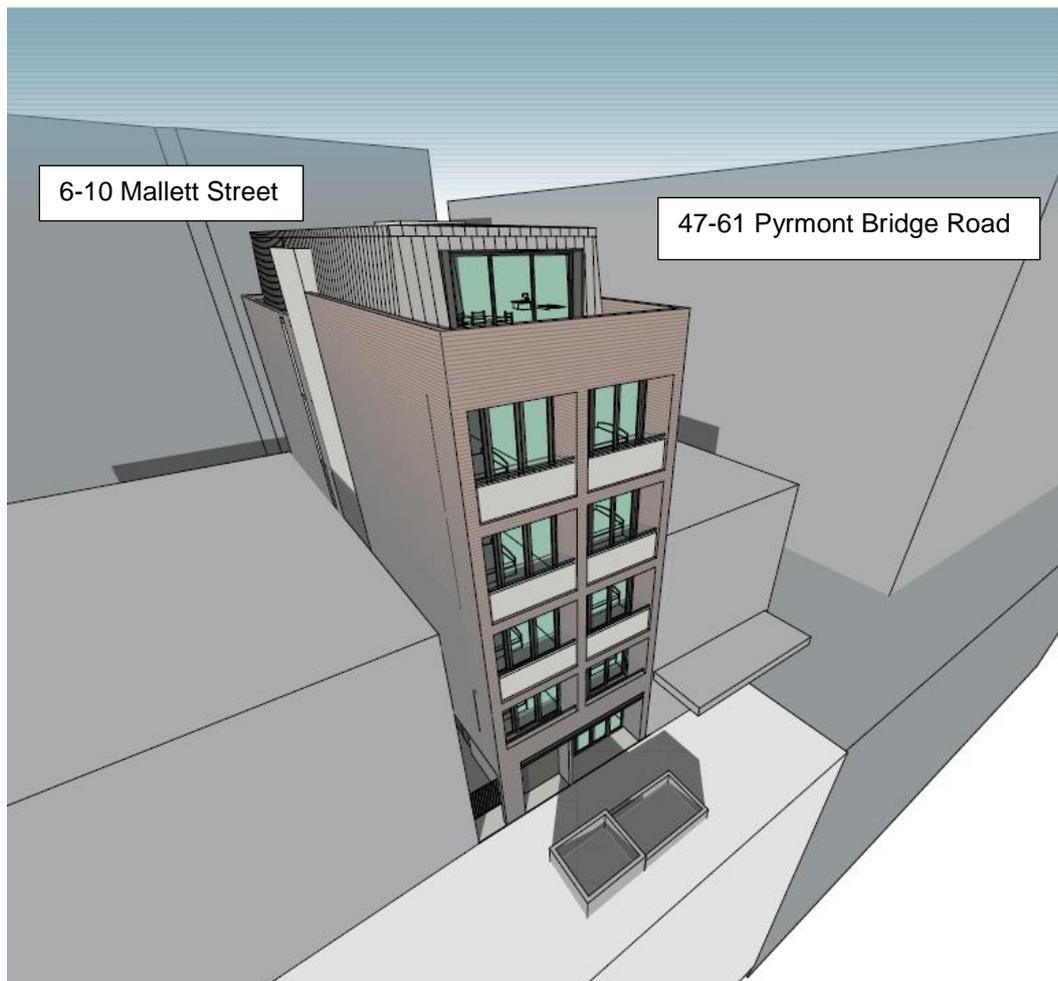


Figure 24: Massing plan illustrating that the proposed building form will fall within the context of development located to the west and north



Figure 25: 5-6 storey built form in the immediate area



Figure 26: Sight line from Layton Street. The sixth level is setback from the street frontage and will not be visible from the public domain.

Solar Access

- 43. Given the orientation of the site, the proposal will result in additional overshadowing to the adjoining properties at 9-11 Layton Street and the existing terraces houses at 2-8 Isabella Street.

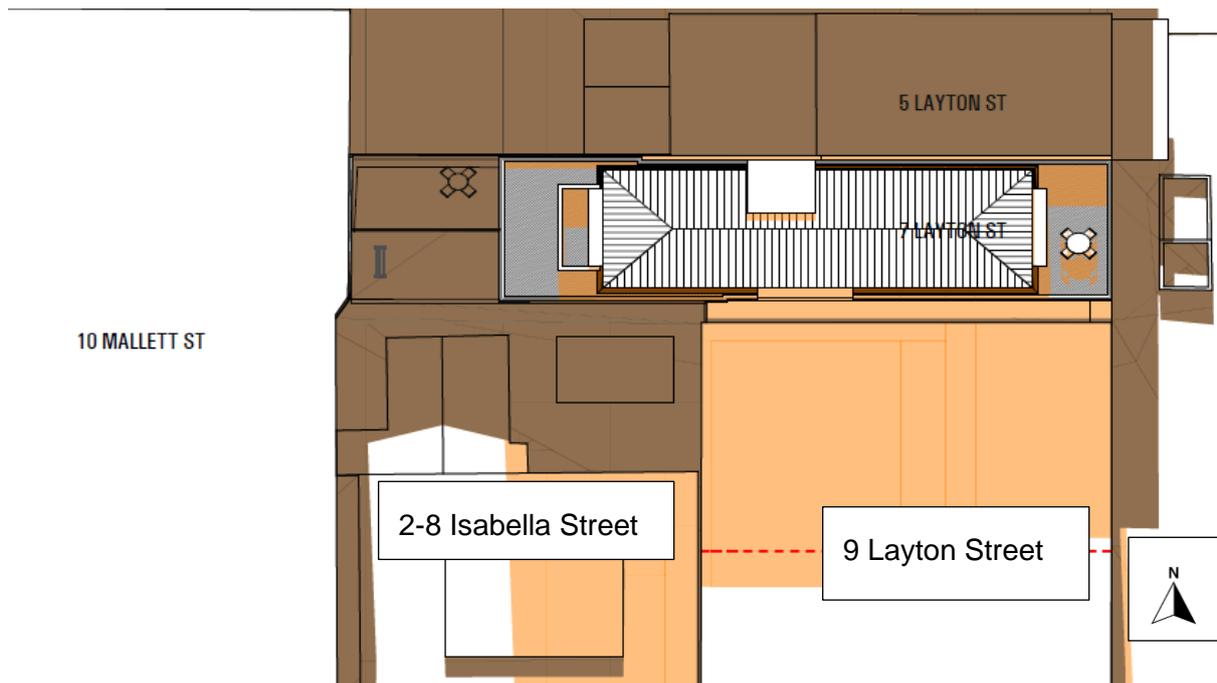


Figure 27: Site plan illustrating the properties where additional overshadowing occurs

44. Section 4.2.3.1 of the Sydney DCP 2012 states that neighbouring developments must achieve a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June onto at least 1sqm of living room windows and 8sqm of private open space area.

2-8 Isabella Street

45. 2-8 Isabella Street contains four single storey dwelling houses. Each dwelling house has a small amount of private open space (approximately 4sqm of useable space) located in the rear yard along the northern boundary, as illustrated in Figure 29 below. The current configuration for the dwellings at nos. 4 and 6 Isabella Street have their primary living areas located to the front of the dwelling, with the kitchen and bathroom spaces located at the rear.



Figure 28: Aerial view of nos. 2-8 Isabella Street

46. Detailed solar analysis, including diagrams and views from the sun, have been provided by the applicant. The solar analysis demonstrates the following:
- (a) At 9am, the private open spaces and roof spaces to all 4 dwellings are already in full shadow on 21 June resulting from the existing two-storey built form on the subject site. The proposed 6-storey form will result in overlapping shadows. This means that new shadows from the proposal will fall where existing overshadowing occurs from existing built form.
 - (b) Between 10am and 2pm, the private open spaces of the existing site remain in full shadow, with new shadows resulting in overlapping shadows. Additional shadow will fall upon the roofs / awnings of all 4 dwellings. Based on the current layout of the dwellings, it can be assumed that the additional shadows will not directly impact windows to the primary living room as the windows face to the south in the opposite direction from where the shading is generated.
 - (c) At 3pm, the existing private open spaces and roof spaces to all four dwellings return to full shadow on 21 June. The proposed 6-storey form will result in overlapping shadows. This means that new shadows from the proposal will fall where existing overshadowing occurs from existing built form.

47. As demonstrated above the majority of additional shadows cast by the proposal will fall upon roofs or awnings of the dwelling. Due to the surrounding built form, the existing private open spaces are already significantly overshadowed. The proposal has been amended from the original scheme to set the proposed development back from the rear boundary which will improve solar access at 12 midday on the winter solstice. The height of the proposal has been reduced to generally comply with the height standard. Any additional shadow cast by the lift overrun is very minor and limited to across roofs. The proposed solar access impacts of the proposal are considered to be acceptable in this instance.

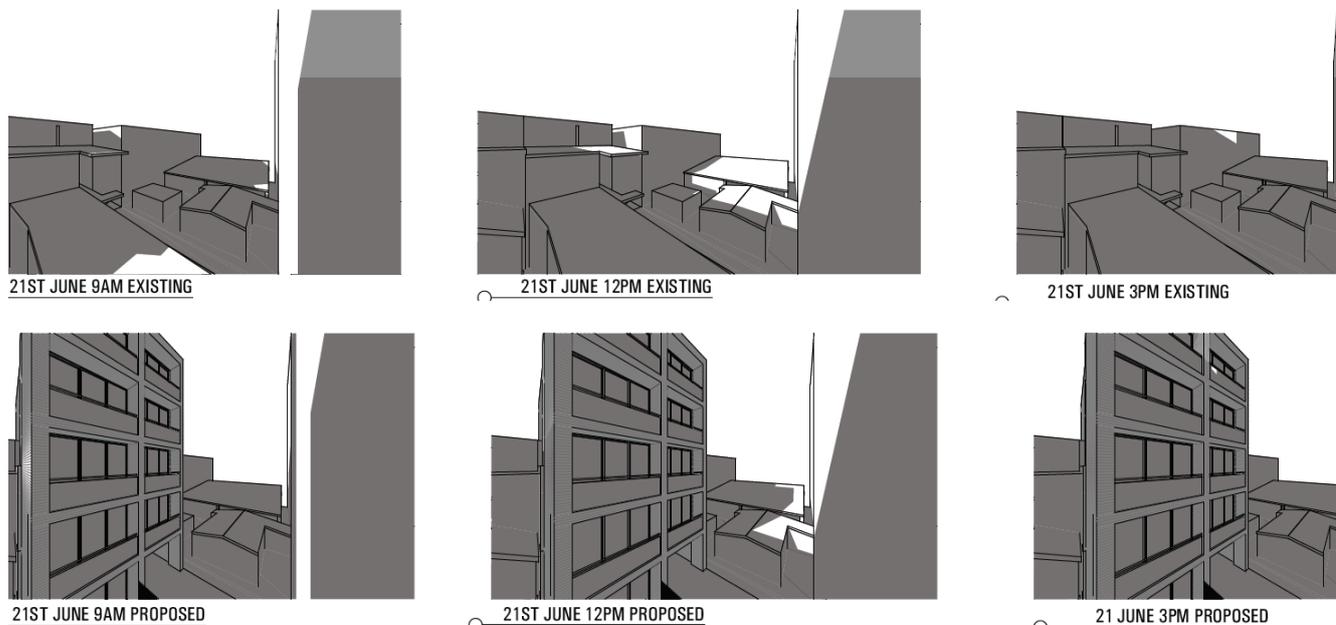


Figure 29: Solar analysis demonstrating existing overshadowing (top) vs. proposed (bottom)

9-11 Layton Street

48. 9-11 Layton Street contains a two-storey building currently used as offices. The building has 100% site coverage.
49. The proposed development will result in additional overshadowing falling upon the roof space of 9-11 Layton Street between 9am and 3pm on 21 June.
50. Council's controls do not relate to solar access for office uses and as such the additional overshadowing is considered acceptable.

Clause 4.6 request to vary a development standard - Height of Buildings

51. The site is subject to a maximum height control of 18m.
52. The proposed development will result in a maximum building height of 18.32m, exceeding the Height of Buildings development standard by 0.32m and resulting in a 1.8% variation from the development standard. The elements which exceed 18m are limited to the lift overrun and the part of the roof form as shown in Figure 30.



Figure 30: Illustrating the 18m height plane (in red)

53. 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:
- that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
 - that there are sufficient environmental planning grounds to justify contravening the standard;
 - the proposed development will be consistent with the objectives of the zone; and
 - the proposed development will be consistent with the objectives of the standard.
54. A copy of the applicant's written request is provided at Attachment C.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

55. The applicant seeks to justify the contravention of the Height of Buildings development standard on the following basis:
- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - The exceedance to the prescribed 18m building height is considered minor being up to 0.32m or a 1.8% variation to the height limit. The majority of the sixth storey complies with the height limit. The non-complying elements relate to the lift overrun and a small part at the rear of the level 5 roof.

- (ii) The proposal provides a slender contemporary building with a five-storey street wall and upper sixth storey setback 3m from the façade so as not to be readily visible from the street. The non-complying height would largely be hidden from vantage points within the surrounding streetscape.
 - (iii) Compliance with the 18m height requirement would not improve the amenity to adjoining properties or improve the design of the building.
 - (iv) A reduction to a compliant building height of 18m would not be discernible from the streetscape.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) The proposed building height is consistent with the building heights of recent development in the immediate surrounds. In particular, the design provides a similar street height as 1 Layton Street (also known as 47-61 Pymont Bridge Road), which provides a 5 storey street wall and a set back sixth storey.
 - (ii) The rear adjoining local heritage item at 6-10 Mallet Street is a 6 storey building with the same 18m, 5 storey building height controls. The maximum height of the proposal is lower than the roof ridge height of the heritage item.
 - (iii) The additional building height will not result in privacy impacts to adjoining properties.
 - (iv) Solar impacts of the proposal on the adjoining site are consistent with a compliant scheme, noting the immediately adjoining residential sites at 2-8 Isabella Street are located to the south of the site and would be overshadowed by any redevelopment of the site to five storey height.
- (c) The proposed development will be consistent with the objectives of the zone:
- (i) The proposal seeks to provide additional affordable rental housing to meet the needs of the local community. The proposed boarding house development and ground floor retail/café tenancy are complementary to the Camperdown local centre and B4 Mixed Use zone.
 - (ii) The proposed development will provide a mixture of compatible residential and retail land uses within an accessible location. Bicycle parking is proposed in favour of motorcycle and car parking, which will maximise public transport patronage and encourage walking and cycling.
 - (iii) The proposed development will revitalise the currently underutilised site with a new ground floor café tenancy and new residential accommodation in the form of boarding rooms. The proposed development will support the viability of the centre.

- (d) The proposed development will be consistent with the objectives of the standard:
- (i) The proposed design is consistent with the prevailing and emerging character of developments of a similar scale within the locality. The proposed building height is consistent with the building heights of recent development in the immediate surrounds.
 - (ii) The proposed maximum building height of 18.32m sits lower than 6-10 Mallet Street, providing a step down in building heights from the heritage item and is generally in keeping with the envisaged building height for the site. When viewing 6-10 Mallet Street and the proposed building at the street level, the additional building height would not be discernible compared with a complying building height.
 - (iii) It is acknowledged there is a disparity in building heights between the existing heritage item at 9-11 Layton Street and the proposal. However, the contrast is similar to that currently provided by the heritage item at 6-10 Mallet Street and newer buildings within the locality. The proposed building form and height is a minor variation from the maximum building height standard but is visually still in keeping with the locality.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

56. 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)?

57. The applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case as the development satisfied the objectives of the building control notwithstanding the non-compliance.

58. The area of non-compliance is limited to the light overrun and a small portion of the rear roof. The lift overrun will not be overly visible from the public domain and will not add unreasonable bulk and scale to the building envelope.

59. The height is appropriate for the sites context, resulting in an acceptable built form within the locality.

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

60. The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravention of the standard.

61. It is agreed that the area of non-compliance is relatively minor as it is confined to elements which will have minimal views from the streetscape and will not adversely impact its surrounds. The additional height will not create unacceptable impacts on the amenity of surrounding properties. New shadows will generally be cast upon the roof spaces of buildings to the south with minimal impact.

Is the development in the public interest?

62. The objectives of the Height of Building development standard relevant to the proposal include:
- (a) to ensure the height of 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 building in heritage conservation areas or special character areas; and
 - (c) to promote the sharing of views.
63. The building height is considered appropriate for the context of the site and the height exceedance will not impact on any significant views or result in any adverse amenity impacts to surrounding development. The height exceedance will not adversely impact the heritage significance of the adjoining heritage item at 9-11 Layton Street.
64. 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 locates so as to maximise public transport patronage and encourage walking and cycling; and
 - (c) to ensure uses support the viability of centres.
65. The mixed-use development proposes new affordable housing in a highly accessible area close to public transport, employment opportunities and services, while integrating a compatible new commercial space.
66. The proposal is in the public interest as it is consistent with the objectives of the height development standard and the objectives of the B4 mixed use zone.

Conclusion

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

Clause 4.6 request to vary a development standard - Motorcycle Parking

68. The site is subject to a minimum motorcycle parking control of 4 spaces in accordance with Clause 30(1)(h), the 'minimum motorcycle parking' of the State Environmental Planning Policy (Affordable Rental Housing) 2009. The proposed development provides no motorcycle parking spaces.

69. 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;
 - (b) that there are sufficient environmental planning grounds to justify contravening the standard;
 - (c) the proposed development will be consistent with the objectives of the zone; and
 - (d) the proposed development will be consistent with the objectives of the standard.
70. A copy of the applicant's written request is provided at Attachment D.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

71. The applicant seeks to justify the contravention of the motorcycle parking development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) Strict enforcement of the motorcycle parking development standard on this instance would hinder the desired redevelopment outcome and would not be in line with the objectives of the zone.
 - (ii) Compliance with the development standard is unreasonable as it would require the provision of vehicular access from Layton Street, which would dominate the site's frontage, would require removal of the existing street planter boxes, and require deletion of the proposed active street frontage.
 - (iii) An objective of the B4 Mixed Use zone is to integrate suitable business, office, residential and retail uses in accessible locations so as to maximise public transport patronage and encourage walking and cycling. The site is within an accessible location being 120m from the nearest bus stops on Paramatta Road and Pyrmont Bridge Road providing direct access to the Sydney CBD. Motorcycle parking is not considered necessary to promote sustainable forms of transport.
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The proposal supported the objectives of Part 7 local provisions of Sydney Local Environmental Plan 2012 which seeks to minimise the amount of vehicular traffic generated by proposed developments by imposing maximum car parking space requirements. Despite motorcycle parking not forming part of the requirements within the SLEP 2012, the objective to minimise vehicular traffic is relevant.
 - (ii) Sydney Development Control Plan 2012 provides that where buildings provide on-site parking, 1 motorcycle parking space be provided for every 12 car parking spaces. The proposal does not provide any vehicular car parking and therefore is not required to provide motorcycle parking under the DCP.

- (c) The proposed development will be consistent with the objectives of the zone:
- (i) The proposal seeks to provide additional affordable rental housing to meet the housing needs of the local community. The proposed boarding house development and ground floor retail/café tenancy are complementary to the Camperdown local centre and B4 Mixed Use zone.
 - (ii) The proposed development will provide a mixture of compatible residential and retail land uses within an accessible location. Bicycle parking is proposed in favour of motorcycle and car parking, which will maximise public transport patronage and encourage walking and cycling.
 - (iii) The proposed development will revitalise the currently underutilised site with a new ground floor café tenancy and new residential accommodation in the form of boarding rooms. The proposed development will support the viability of the centre.
- (d) The proposed development will be consistent with the objectives of the standard:
- (i) The proposal provides new affordable rental housing which complies with the floor space ratio bonuses and all relevant non-discretionary development standards with the exception of car parking provision and maximum height control. Bicycle parking is proposed in favour of motorcycle and car parking, which will maximise public transport patronage and encourage walking and cycling.
 - (ii) The proposal seeks to replace the existing boarding house which is largely rundown and unused with a new modern boarding house development with increased affordable rental housing and modern facilities.
 - (iii) The proposed development will assist in renewing the existing affordable housing stock and gentrification of the area in line with the scale of development expected for the area.
 - (iv) The proposed boarding house will allow for additional housing options for the disadvantaged.

Consideration of Applicant's Written Request - Clause 4.6(4) (a) (i) and (ii)

72. 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)?

73. The applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case as the development satisfies the aims of the SEPP notwithstanding the non-compliance. The development is consistent with the aims of the SEPP, in particular, facilitates the effective delivery of new affordable rental housing by providing flexibility in application of development standards and supporting local centres by providing affordable rental housing.

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

74. The applicant has adequately demonstrated that there are sufficient environmental planning grounds to justify the contravention of the standard.
75. Although non-compliant with the ARSEPP, the proposal is consistent with the with the objectives and provisions of the LEP and DCP in terms of transport and access and is located within a highly accessible area. The site is constrained and does not provide a desired location for motorcycle parking spaces given the location of the commercial space on Layton Street and no rear access. The provision of zero motorcycle parking spaces results in a more desirable streetscape outcome.

Is the development in the public interest?

76. The objectives of Clause 30 of SEPPAH2009 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 incentive for the development of new affordable rental housing;
 - (e) to facilitate an expanded role for not-for-profit providers of affordable rental housing;
 - (f) to support local business centres by providing affordable rental housing for workers close to places of work; and
 - (g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.
77. The proposal is consistent with the relevant aims of the SEPP in that it achieves the delivery of new affordable housing in a form that is suitable to the subject site and provides for a new housing type encouraged by the SEPP (a boarding house) that is located close to places of works, such as within the B4 mixed use zone.

78. Whilst the aims of the SEPP are to provide consistent application of development standards across NSW, it does not consider the City's transport policies and its access to public transport and services relative to other areas of the state. In this regard, Clause 7.1 of Sydney LEP 2012 specifically seeks to minimise the amount of vehicle traffic generated by development.
79. 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 locates so as to maximise public transport patronage and encourage walking and cycling; and
 - (c) to ensure uses support the viability of centres.
80. The proposed development is consistent with the objectives of the land use zone. The site is within close proximity to public transport, jobs and services, which encourages waling, cycling and the use of transit. In not providing motorcycle parking, the development will encourage active transport and public transport, as will the provision of bicycle parking. The proposal had provided more than the required amount of bicycle parking spaces.
81. The development provides for new affordable housing for workers within the local area and the use will support the surrounding wider centres.
82. The proposal is in the public interest as it is consistent with the aims of the SEPP and the objectives of the B4 mixed use zone.

Conclusion

83. For the reasons provided above the requested variation to the motorcycle parking 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 ARHSEPP2009 and the B4 Mixed Use Zone.

Easement

84. There is a row of windows along the northern elevation of no. 9-11 Layton Street. These windows are protected by an easement along the southern boundary of the subject site (refer to Figure 31 below). The terms of the easement states that no building edifice, erection or building of any class character or description can be built within the affected land. The benefitted property "shall have uninterrupted access transmission and enjoyment of light".
85. The proposed development will retain the 1.1m side setback along the southern boundary and will not cover or block off any existing windows. No building structures are located within the easement except for the entrance gate to the boarding house. The development will retain the intended "enjoyment of light" to the side windows of the heritage item. As such, the terms of the easement are adhered to.

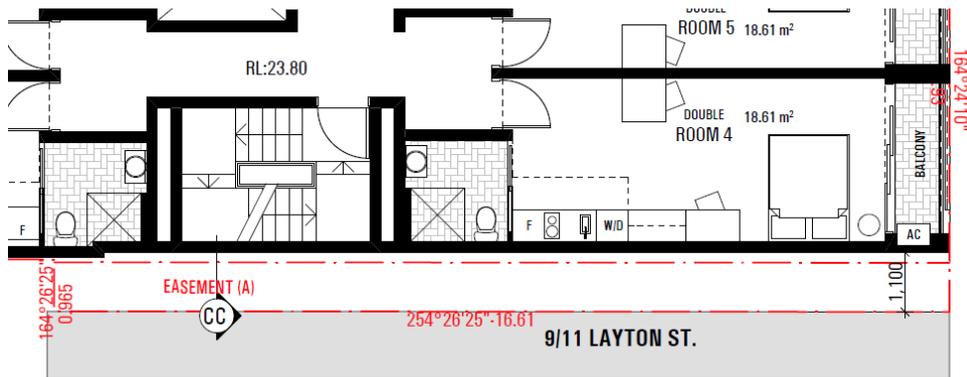


Figure 31: Area of easement

Other Impacts of the Development

86. The proposed development is capable of complying with the BCA.
87. 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

88. 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

89. The conditions of other sections of Council have been included in the proposed conditions.
 - (a) Urban Designer
 - (b) Environmental Health Officers
 - (c) Heritage Specialist
 - (d) Public Domain Unit
 - (e) Transport Planner
 - (f) Building Services
 - (g) Specialist Surveyor
 - (h) Waste Management Officers
 - (i) Landscape Officer
 - (j) Tree Management Officer

(k) Safe City Unit

90. The above advise that subject to recommended conditions, the proposal, as amended, is acceptable. Any particular issues raised have been addressed throughout the report.

Notification, Advertising and Delegation

91. In accordance the Community Participation Plan 2019 the proposed development is required to be notified and advertised. As such the application was notified and advertised for a period of 21 days between 24 April 2020 and 16 May 2020. As a result of this notification a total of 232 properties were notified and there were 19 submissions received.
92. Following receipt of amended plans, the application was re-notified for a period of 14 days between 12 August to 27 August 2020. As a result of the notification a total of 14 submissions were received.
93. The issues raised are summarised below:

Use

- (a) The existing building is currently used as short-term accommodation. However, any changes may lead to a different type of clientele that may have a negative impact on the area. Procedures would need to be implemented to ensure the amenity of the neighbourhood.
- (b) This type of housing is not appropriate as the area has high-density housing commission that exposes the area to intruders resulting in crime, rubbish deposits, graffiti, and theft, including mail and parcels.
- (c) This type of development for temporary and transient people is not appropriate in this area.
- (d) Concentrating high density affordable housing in one area does not seem fair on local residents who already bear the burden of drug addicts, beggars, criminals, homelessness and the mentally unstable.
- (e) There will be a high turnover of residents raising safety and privacy concerns.
- (f) There are already several cafes in the area and the area does not need another.

Response

- (i) Boarding houses are a type of residential development that is permissible within the B4 Mixed Use zone. The proposed density is acceptable with consideration that the development does not exceed the permissible floor space ratio permitted under the SLEP 2012 and the ARHSEPP.
- (ii) The premises must be operated in accordance with an approved Plan of Management, prepared to address any issues around the management and occupation of the building and the residential amenity of neighbouring properties.

- (iii) Commercial uses are permitted within the B4 Mixed use zone. The specific use and fitout has not been proposed with the application and will be subject to a new Development Application or Complying Development Certificate as appropriate. Conditions are recommended in this regard.

Height Bulk and Scale

- (a) The height of the development is not suitable for the site as the height is inconsistent with the other mostly 2 storey buildings and does not provide an appropriate transition and provides a very abrupt change in building height.
- (b) The height does not comply with the Sydney LEP 2012. An increased setback at the upper level could easily be achieved with a compliant height.
- (c) The 6-storey building is inconsistent with Section 4.2.1 of the Sydney DCP 2012.
- (d) The development is not considered to satisfy Clause 30A of ARHSEPP - character of the local area.
- (e) The height will extend vertically along the full length of the shared boundaries to the terrace houses fronting Isabella Street.
- (f) The ground floor does not provide the required 4.5m floor to ceiling.
- (g) A number of elements excluded from FSR calculation including internal void areas, garbage and bicycle storage, large area surrounding the internal stairs and hallways.

Response

- (i) The applicant has submitted a written request to vary the LEP height of buildings development standard. The variance is supported for reasons discussed in the Issues section.
- (ii) The height bulk and scale, including the sixth storey, has been considered acceptable and commensurate to development in the locality. This matter has been discussed in the Issues section.
- (iii) The application has been amended to include all relevant areas in the gross floor area calculation in accordance with the definition in the Sydney LEP 2012. The proposal complies with the permitted FSR.

Heritage Impact

- (a) The DA is not accompanied by a heritage assessment and as such council cannot be satisfied that the proposed development will not have a detrimental impact on the heritage item.
- (b) The proposal will have an adverse impact on 9-11 Layton Street and 5 Layton and the Layton Street streetscape. The development should reflect a two-storey form similar to adjacent properties.
- (c) The primary elevation does not sufficiently relate to the primary façade of the adjacent heritage item.

- (d) The extensive use of glass in the primary façade would negatively impact on the adjacent heritage item.
- (e) The development should reflect a two-storey form similar to adjacent buildings.

Response:

- (i) The development has been reviewed by Council's Heritage Specialist who did not raise concern regarding the height of the development in relation to adjoining heritage items.
- (ii) Council controls allow for a higher density and the development is generally consistent with the desired future character of the area.
- (iii) The design of the development has been amended during the assessment for a higher solid to void ratio with materials and detailing.

Overshadowing impact

- (a) Windows facing Mason Street within the apartment building at 1 Layton Street will be completely blocked off from the development and the apartments will plunge into darkness.
- (b) The dwellings facing Isabella Street already have minimal natural light and the development will further reduce sunlight.
- (c) The development will overshadow office windows to 9-11 Layton Street and 6-10 Mallett Street.

Response:

- (i) The potential impacts of overshadowing to adjoining properties have been discussed in detail in the Issues section. The proposal will not result in unacceptable overshadowing impacts.
- (ii) Additional shadows will fall to the south of the site at mid-winter and will not impact the 5-storey apartment building at 1 Layton Street (located to the north).
- (iii) Council controls do not protect direct solar access to office windows. The proposal does not prevent light to these windows.
- (iv) Adequate information has been submitted to assess overshadowing impacts.

Privacy Impacts

- (a) The occupants of the boarding house would have a birds eye view into the apartments facing Mason Street severely compromising privacy.
- (b) The boarding rooms facing towards the rear will be able to see into the rear courtyard and through skylights of the dwellings that face Isabella Street.

Response:

- (i) The development is not considered to cause significant privacy impacts to residential dwellings and has been addressed elsewhere in the report.
- (ii) Views to the south and south west towards Isabella Street will be oblique rather than direct due to solid balustrading to the rear and side. Views will generally fall upon roof spaces which are considered to have minimal privacy implications.
- (iii) There is a significant separation distance (approximately 15m) from the development site and apartments across Mason Street at 1 Layton Street resulting in minimal privacy implications.

Ventilation Impact

- (a) Windows facing Mason Street within the apartment building at 1 Layton Street will be completely blocked off for no ventilation.

Response:

- (i) The development is approximately 15m away from 1 Layton Street and will not block the windows facing Mason Street. The proposed development will not impact the ventilation of apartments facing Mason Street.

Loss of views

- (a) The development will result in a loss of views and outlook to the apartments facing Mason Street and the office uses at 6-10 Mallett Street.

Response:

- (i) The development will not obstruct any significant views such as landmarks or city views.

Noise impact

- (a) Noise impacts from balconies
- (b) Noise from pool area

Response:

- (i) The acoustic report submitted (as amended) with the application has been assessed by the City's Environmental Health Unit and is acceptable. The report assessed potential noise impacts from future occupants as well as mechanical ventilation.
- (ii) Appropriate conditions are recommended regarding compliance with the recommendations of the acoustic report and maximum noise emissions in accordance with Australian Standards
- (iii) An acceptable Plan of Management has been submitted detailing management of noise and communal areas of the site, including the rooftop.

- (iv) The proposed pool has been deleted from the development. A condition is recommended limiting the use of the roof terrace to between 7am and 10pm.

Tree Impact

- (a) The development has not considered an existing tree in the rear yard of 5 Layton Street.
- (b) The removal of the tree is home to many birds throughout the year and the only greenery outlook available to the apartments facing Mason Street.

Response

- (i) The proposal has been amended to increase the rear setback and the separation from the tree to be outside of the structural root zone of the tree. Conditions are recommended for imposition to require retention and protection of this tree and the street trees.

Parking / Traffic

- (a) Parking is already a premium in the area and the development will further exacerbate the problem.
- (b) Given the size and scale of the proposed development, why more consideration has not been given for parking, particularly for the café use.
- (c) Boarding house users will be heavily reliant on cars increasing the traffic in the area.
- (d) The area has reached parking capacity, and there is not room for more cars requiring on street parking, with a limited number of spaces on Layton St, and the loss of spaces in Mallet St due to the Westconnex shed.
- (e) The proposal does not provide motorcycle parking as required

Response

- (i) The City's planning controls support development with no car parking provision that instead utilise alternative means of transport, such as walking, cycling and the use of public transportation. Bicycle parking above the minimum requirements of the planning controls have been provided in the development and the site is highly accessible to public transport options.
- (ii) The applicant's request to vary the motorcycle parking development standard has been reported for reasons detailed in the Issues section.

Construction

- (a) West Connect's 24 hours 7 days a week ongoing and long-term work on Mallett Street and Mason Street, has created residential stress and any further construction work is unacceptable. Added construction noise, vibrations, dirt and dust will impact residents' and employees' health standards in and around Layton Street.

- (b) Concern regarding structural damage to the properties along Isabella Street, which is currently on unstable earth built in 1890.
- (c) Isabella Street was blocked off for 5 weeks due to Atlas Apartments across the road being a quarantine hotel. Major factors affecting the street are often overlooked and not conveyed to residents. The DA at 7 Layton St will only contribute to further inconveniences and interruptions to daily life.
- (d) Another DA for 140-144 Parramatta Rd, Camperdown to the south of the site has been submitted. If both DAs are approved, I will be surrounded by demolition/construction and the noise associated with it, on all sides. 4 Isabella St has been conducting renovations next door, on and off, for 4 years. Living in Isabella St will become impossible.

Response:

- (i) The application is supported by Council's Traffic and Transport Unit. A condition is recommended requiring the submission of a construction traffic management plan prior to construction commencing.
- (ii) A number of conditions are recommended restricting hours of construction and noise to protect residential amenity.
- (iii) Dilapidation reports are required for all affected adjoining properties. The private certifying authority is to ensure the structural stability of adjoining properties is retained prior to any construction activity. Conditions are recommended in this regard.
- (iv) Council cannot control when owners choose to submit an application or commence any approved works on their properties once a consent is issued. Once a consent is issued the applicant has a 5-year period to commence works.

Sydney Airport Referral Act 1996

- 94. Section 182 of the Commonwealth Airports Act 1996 specifies that, amongst other things, constructing a building or other structure that intrudes into a prescribed airspace is a controlled activity.
- 95. Schedules 2 and 5 of the Civil Aviation (Building Control) Regulations 1988 identify the subject site is subject to a prohibition of the construction of buildings more than 150 feet in height (45.62m) above existing ground height.
- 96. The proposed development reaches a maximum height of 18.32m and therefore will not intrude the prescribed air space area. As such, a referral to the Civil Aviation Safety Authority (CASA) is not required.

Public Interest

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

S7.11 Contribution

98. 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.
99. Credits have been applied for the most recent past use of the site, being 10 room boarding house.
100. The development will result in 18 boarding rooms (8 additional) and 35sqm of commercial space (inclusive of waste and storage areas).
101. The following monetary contribution is required towards the cost of public amenities:

(a) Open Space	\$61,727.95
(b) Community Facilities	\$19,910.99
(c) Traffic and Transport	\$184.28
(d) Stormwater Drainage	\$0
Total	\$81,823.22

Conclusion

102. The application seeks approval for the demolition of existing structures and construction of a six-storey boarding house comprising 18 boarding rooms and a ground floor commercial tenancy.
103. The proposal has been amended to address a number of issues identified by Council officers during the assessment of the application relating to height, design, overshadowing and visual privacy.
104. A written request seeking to vary Clause 4.3, the 'Height of Buildings' development standard, has been submitted. The variation relates to the lift overrun and a portion of the rear roof, where the development exceeds the 18m height control by 320mm (or a 1.8% variation).
105. The proposed request to vary the height standard is well founded. The statement provided demonstrates that compliance with the 'Height of Buildings' development standard is unreasonable and unnecessary in this instance, and that there are sufficient environmental planning grounds to justify the variation. The height variation to the development is consistent with the objectives of Clause 4.3 and the B4 - Mixed Use zone, and therefore is in the public interest.
106. A written request seeking to vary Clause 30(1)(h), the 'minimum motorcycle parking' of the State Environmental Planning Policy (Affordable Rental Housing) 2009, has been submitted. The development provides zero motorcycle parking spaces, where 4 spaces are required.

107. The proposed request to vary the motorcycle parking standard is well founded. The statement provided demonstrated compliance with the motorcycle parking standard is unreasonable and unnecessary in this instance, and that there are sufficient environmental planning grounds to justify the variation. The motorcycle parking variation is consistent with the objectives of ARHSEPP2009 and the B4 Mixed Use zone, and therefore is in the public interest.
108. The proposal has been amended over the course of the assessment to reduce the overall bulk scale and height of the development. The proposal, as amended, presents a building envelope that is appropriate with consideration for the permissible floor space ratio and is set back at its upper level such that its upper level will not be visually dominating over the streetscape and neighbouring properties. The proposed development is considered to be consistent with the character test of ARHSEPP2009 and exhibit design excellence.
109. Subject to conditions, the development is in the public interest and is recommended for approval.

GRAHAM JAHN AM

Director City Planning, Development and Transport

Christina Robinson, Planner