

Item 4.**Development Application: 5-11 Botany Road and 80-82 Cope Street, Waterloo - D/2019/1201****File No.:** D/2019/1201**Summary**

Date of Submission: The application was lodged on 29 October 2020 and the most recent set of amendments and information was submitted on 6 November 2020.

Applicant: Giovanni Cirillo

Architect/Designer: Mostaghim & Associates

Developer: Suncom Property Development Pty Ltd

Owner: Suncom Property Development Pty Ltd

Cost of Works: \$18,152,343.88

Zoning: The site is zoned B4 Mixed Use. The proposed boarding house and shop use are permissible with consent within the B4 Mixed Use zone.

Proposal Summary: Development consent is sought for the demolition of existing structures and construction of two buildings with one basement for use as a boarding house and small retail tenancy fronting Botany Road. The development includes a 5-storey building fronting Botany Road and a part 5- 6-storey building fronting Cope Street.

The development accommodates 130 boarding rooms with a maximum occupancy of 255 people (including a boarding manager), two common rooms, communal roof terrace, ground floor shop tenancy and basement bicycle (155 spaces), motor bike (6 spaces) and car parking (2 spaces).

The application has been publicly notified twice. It was initially notified and advertised for a period of 21 days between 14 November 2019 and 6 December 2019.

Amended plans were renotified for a period of 14 days between 22 September 2020 and 7 October 2020. 14 submissions were received on each occasion and raised concerns regarding height, solar access and view loss, acoustic and visual privacy, contamination risks and construction risks.

The application is reported to the Local Planning Panel as the proposal exceeds the height development standard of the Sydney Local Environmental Plan (LEP) 2012 by more than 10%. A variation of more than 10% is also sought to the motorcycle parking standard of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP).

The proposal exceeds the 18m building height development standard pursuant to Clause 4.3 of the Sydney LEP 2012 by 2.1m or 10.4%.

A written request has been provided seeking a variation to the height development standard in accordance with Clause 4.6 of the Sydney LEP. The request to vary the height development standard is considered acceptable in this instance for reasons outlined in this report.

The proposal seeks to provide 6 motorcycle spaces. This is a variation of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP) requirement for 26 spaces. A written request has been provided seeking a variation to the motorcycle parking requirements of Clause 30 (1)(h) of the ARHSEPP in accordance with Clause 4.6 of the Sydney LEP 2012. The request to vary the motorcycle development standard is considered acceptable in this instance for reasons outlined in this report.

Following an assessment of the application, including consideration by the Design Advisory Panel - Residential Subcommittee, the applicant was requested to address a number of issues. This included the proposal's relationship to an existing concept approval, building form and massing, public domain interface, privacy and amenity including ventilation, noise management, solar access, transport and traffic, landscaping and tree management and waste management.

The proposal has been amended and has substantially resolved these issues.

Deferred commencement conditions are recommended regarding the requirement for a noise and vibration report, further details regarding the design and performance of the proposed acoustic plenums and minor design changes to the building to ensure appropriate noise and privacy amenity is achieved for residents and neighbouring properties.

A concept application for a residential flat building was approved over the site in October 2017. The application is inconsistent with the existing approved concept development application by way of building form and use. Pursuant to Clause 4.24(2) of the Environmental Planning and Assessment Act 1979, an application that is inconsistent with a concept development application cannot be determined while the concept development application remains in force.

On this basis, it is recommended that determination of the application be delegated to the Chief Executive Officer following surrender of the concept application. Notwithstanding this issue, the application has been assessed against the relevant controls in this report and subject to recommended draft conditions, is generally compliant with relevant planning controls.

**Summary
Recommendation:**

The determination of the development application is recommended to be delegated to the Chief Executive Officer to allow the surrender of the concept approval over the site prior to determination of this application.

Development Controls:

- (i) State Environmental Planning Policy No. 55 - Remediation of Land
- (ii) State Environmental Planning Policy (Affordable Rental Housing) 2009
- (iii) State Environmental Planning Policy (Infrastructure) 2007
- (iv) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (v) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)
- (vi) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)

Developer Contributions

- (vii) City of Sydney Development Contributions Plan 2015

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Height Variation Request
- D. Clause 4.6 Motorcycle Parking Variation Request
- E. Landscape Plans
- F. Shadow Analysis

Recommendation

It is resolved that:

- (A) authority be delegated to the Chief Executive Officer (CEO) to determine Development Application No. D/2019/1201 to allow the surrender of the concept approval over the site prior to determination of this application; and
- (B) if the Chief Executive Officer determines to approve the application, then consideration be given to granting a deferred commencement consent to Development Application D/2019/1201, pursuant to section 4.16(3) of the Environmental Planning and Assessment Act 1979, subject to conditions as detailed in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) To allow the application to proceed to determination once the concept DA has been surrendered.
- (B) The development, subject to conditions, is consistent with the objectives of the B4 mixed use zone.
- (C) The design of the development responds appropriately to the scale of surrounding buildings.
- (D) The development, subject to conditions, exhibits design excellence and satisfies the provisions of Clause 6.21 of the Sydney LEP 2012.
- (E) The development, subject to conditions, will safeguard neighbourhood amenity and will promote the orderly operation of the premises.
- (F) The applicant's written request to vary the height standard of the Sydney LEP 2012 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.
- (G) The applicant's written request to vary the motorcycle parking standard of the ARHSEPP 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 ARHSEPP.
- (H) Subject to conditions, the proposal generally satisfies the relevant strategy, objectives and provisions of the Sydney LEP 2012 and Sydney DCP 2012.

Background

Concept Development Application

1. On 16 October 2017 the Sydney Major Development and Assessment Sub-Committee granted deferred commencement consent for a concept development application for a 5-storey mixed use development (Council reference D/2016/1722). The application included 2 building envelopes with 1 level of basement car parking. Indicative land uses included ground floor commercial use and residential flat building above. On 23 February 2018 the consent was activated following lodgement of a Preliminary Public Art Plan.
2. The application is inconsistent with the existing approved concept development application by way of building form and use. Pursuant to Clause 4.24(2) of the Environmental Planning and Assessment Act 1979, an application that is inconsistent with a concept development application cannot be determined while the concept development application remains in force.
3. The applicant has been advised of this requirement and has agreed to surrender the concept application prior to determination of the development application by the CEO. On this basis, it is recommended that determination of the application be delegated to the CEO following surrender of the concept application. This is discussed further below under the heading Concept Development Application - D/2016/1722 in the Issues section of this report. Notwithstanding this issue, the application has been assessed against the relevant controls below in this report and, subject to draft conditions for consideration, is generally compliant with relevant planning controls.

The Site and Surrounding Development

4. The subject site at 5-11 Botany Road and 80-82 Cope Street Waterloo is formally described as Lots 1 - 7 SP 22032, Lots 1 and 2 DP 632406 and Lots 1 and 2 DP 996766 and comprises a total area of 1812.3sqm.
5. The site is irregular in shape and has a primary street frontage of 26.18 metres to Botany Road and a secondary frontage of 34.22 metres to Cope Street. The site has a fall of approximately 1.5m from east to west (Botany Road to Cope Street).
6. A number of advanced street trees are located along the Botany Road frontage.
7. 5-11 Botany Road is currently occupied by a two-storey commercial building which contains 4 retail tenancies (refer to Figure 3). 80 Cope Street is occupied by a two-storey brick industrial building which is currently being used as a butcher supplies company (refer to Figure 5). 82 Cope Street contains a two-storey commercial building which is currently occupied by the Sydney Film School (refer to Figure 4).
8. The site is not a heritage item and is not located within a Heritage Conservation Area.
9. The site is located approximately 400m from Redfern train station and is located approximately 150m from the future Waterloo Metro Station, currently under construction. The Sydney Metro rail corridor runs north/south below the site.

10. The surrounding area has a varied character and built form with a mix of residential, commercial and remnant light industrial buildings. The site to the immediate north at No. 1 - 3 Botany Road contains a part 4/5 storey residential flat building in a two-building arrangement with a central communal courtyard (refer to Figures 6 and 8). Further north at 199 Regent Street is a 7-storey mixed use building comprising ground floor commercial uses and upper level residential apartments (refer to Figure 6). It is noted that the buildings to the north are located in a 6-storey area within the Sydney DCP 2012.
11. To the south at No. 13-21 Botany Road is a single storey commercial supermarket (IGA) with a rear facing loading dock to Cope Street (refer to Figure 7). Further to the south on Cope Street is No. 86 - 90 Cope Street which is a 5-storey residential flat building with north facing apartments (refer to Figure 4). A part 6-storey and part 7 storey building is located further south along Cope Street at 92-110 Cope Street.
12. To the west across Botany Road is a 5-storey mixed use development at No. 8 Botany Road, which reaches a height of approximately 19.5m above ground level.
13. Directly to the east, across Cope Street is Phillip Street which is bordered to the north by the 2-storey Salvation Army Centre building and an 18-storey social housing complex (refer to Figure 9).
14. A site visit was carried out by staff on 19 December 2019. Photos of the site are provided below:



Figure 1: Aerial image of subject site and surrounding area



Figure 2: Site viewed from across Botany Road



Figure 3: Site viewed from the Botany Road footpath



Figure 4: No.82 Cope Street viewed from Cope Street and No. 86-90 Cope Street viewed beyond

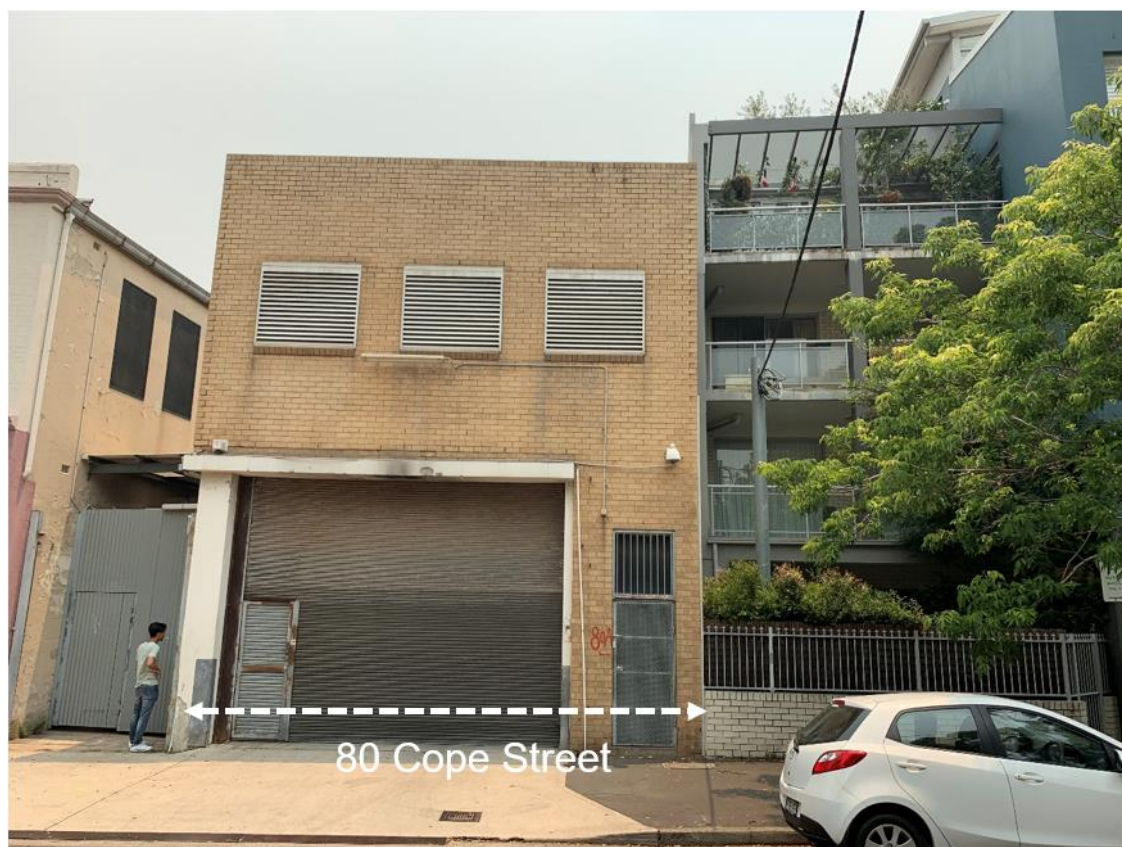


Figure 5: No.80 Cope Street viewed from Cope Street



Figure 6: View from Botany Road to adjoining 4- storey and 7-storey buildings to the north



Figure 7: View from Botany Road to existing IGA supermarket to the south



Figure 8: View from Cope Street to adjoining residential flat buildings to the north



Figure 9: View east from Cope Street towards the existing Salvation Army Centre Building in the foreground and the 18-storey social housing complex behind

Proposal

15. The application seeks consent for demolition of existing structures and construction of a 5-storey building fronting Botany Road and a part 5 and part 6-storey building fronting Cope Street for use as a boarding house with 130 rooms. The proposal includes 125 double rooms (including 5 accessible rooms) and 5 single rooms to accommodate a maximum of 255 lodgers.
16. The Botany Road building will be constructed from masonry with linear breeze blocks to the level 1 - 3 façade and a rendered and painted wall to the level 4 facade. Reinforced concrete planter boxes are also proposed to levels 1 to 4 and a feature copper clad wall is proposed to the ground level facade. The Cope Street building incorporates rendered and painted masonry panels and concrete finish panels with metal balcony balustrades.
17. The development accommodates a shared basement with vehicular access from Cope Street. The Botany Road frontage includes a shop tenancy and co-working communal room. A communal room is also located on the ground level of the Cope Street building. The remainder of communal space is located within a centralised open space area and to the roof of the Cope Street building in the form of a terrace area. Resident access is provided from Botany Road and Cope Street. Details of the proposed development are provided below:

(a) Basement:

- (i) parking for 1 accessible car, 1 GoGet vehicle and 6 motorcycles;
- (ii) storage for 155 bicycles;
- (iii) 18sqm shop waste store and two boarding house waste rooms (24sqm and 25sqm); and
- (iv) pump room, main switch room and services.

(b) Botany Road building:

- (i) *Ground floor:*
 - (i) entry to boarding house;
 - (ii) co-working communal room (108sqm) fronting Botany Road;
 - (iii) Shop tenancy (83sqm) fronting Botany Road;
 - (iv) 6 double boarding rooms including 2 accessible boarding rooms (each with ensuite and kitchenette).
- (ii) *Levels 1 - 3:*
 - (i) 14 double boarding rooms on each level (each with bathroom and kitchenette).

(iii) *Level 4:*

- (i) 13 boarding rooms (8 double rooms and 5 single rooms each with bathroom and kitchenette);
- (ii) laundry and clothes drying area.

(iv) *Rooftop:*

- (i) roof plant and services;
15 solar panels.

(c) Cope Street Building:

(i) *Ground floor:*

- (i) indoor communal area (187sqm);
- (ii) 7 double boarding rooms each with bathroom and kitchenette;
substation and alarm valve room.

(ii) *Level 1 and 2:*

- (i) 17 double boarding rooms (including 2 accessible rooms) on each level (each with bathroom and kitchenette).

(iii) *Level 3:*

- (i) 16 double boarding rooms including 1 accessible room (each with bathroom and kitchenette).

(iv) *Level 4:*

- (i) 12 double boarding rooms (each with bathroom and kitchenette).

(v) *Rooftop/ Level 5:*

- (i) communal outdoor terrace with lift and stair access;
- (ii) laundry and clothes drying area;
- (iii) roof plant and services.

(d) Landscaping and deep soil:

- (i) 211sqm of deep soil area located to the northern and south boundaries of the site;
- (ii) 167sqm of landscape area located to the centre of the site.

18. Plans of the proposed development are provided in Figure 10 to 20 below. A full set of plans and elevations are provided in Attachment B.

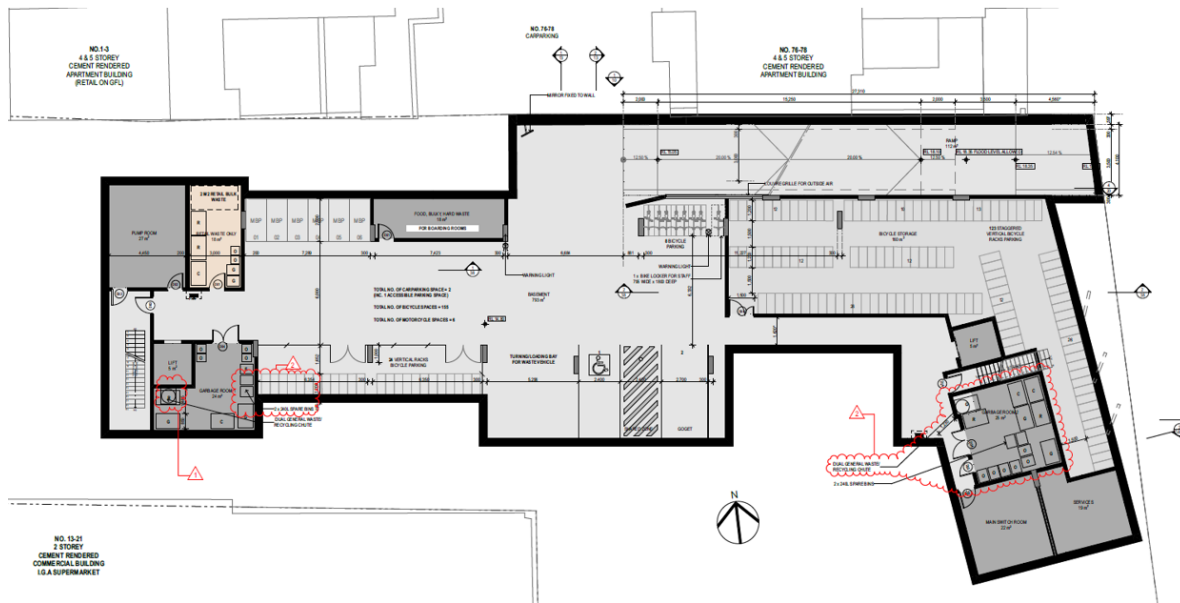


Figure 10: Proposed basement plan

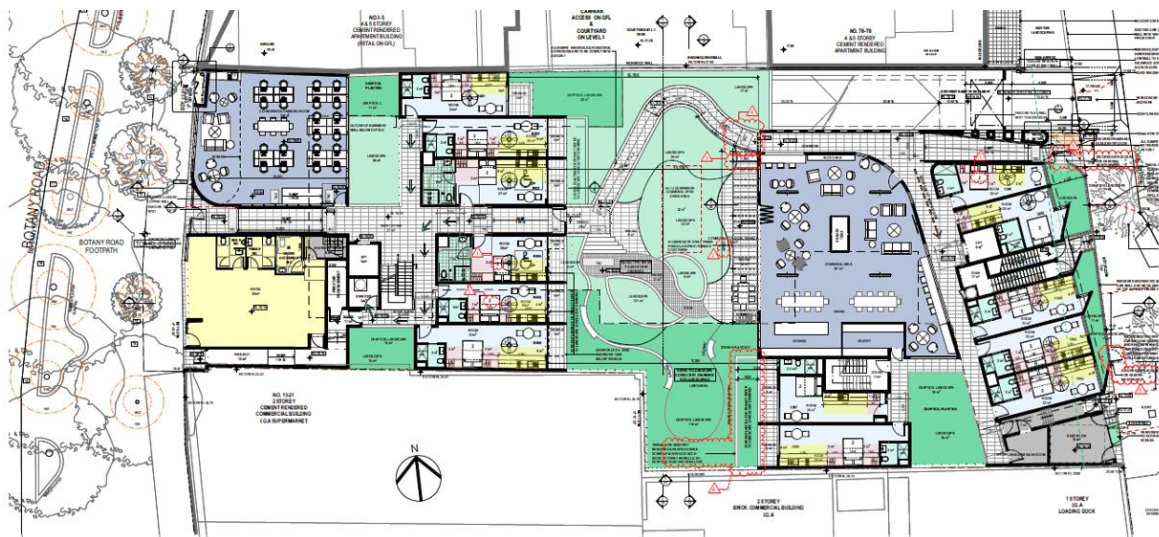


Figure 11: Proposed ground floor plan

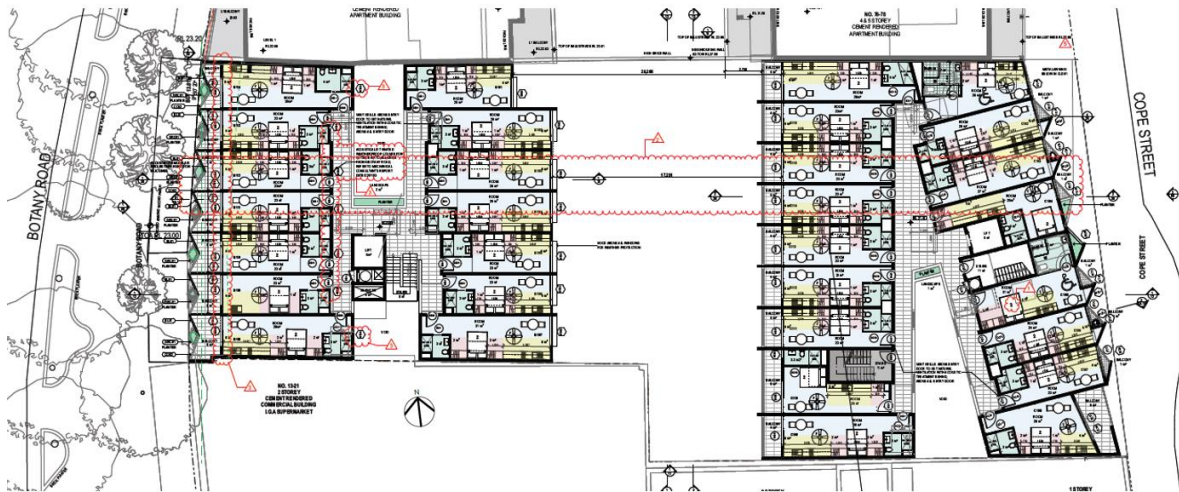


Figure 12: Proposed level 1 plan

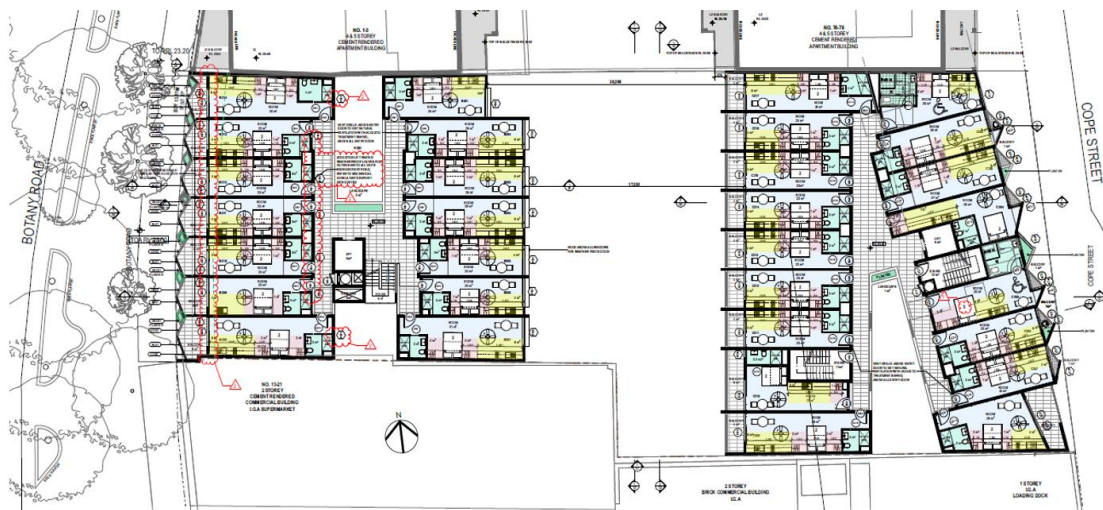


Figure 13: Proposed level 2 plan



Figure 14: Proposed level 3 plan



Figure 15: Proposed level 4 plan

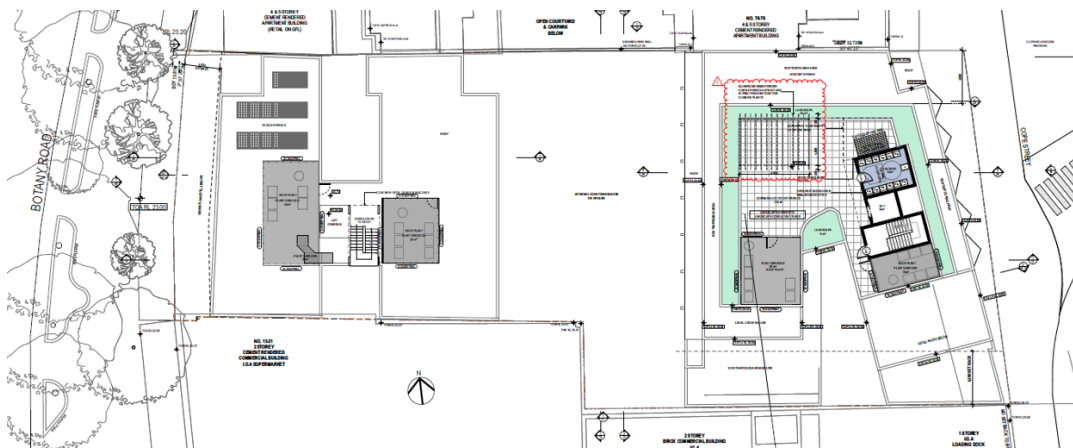


Figure 16: Proposed roof plan

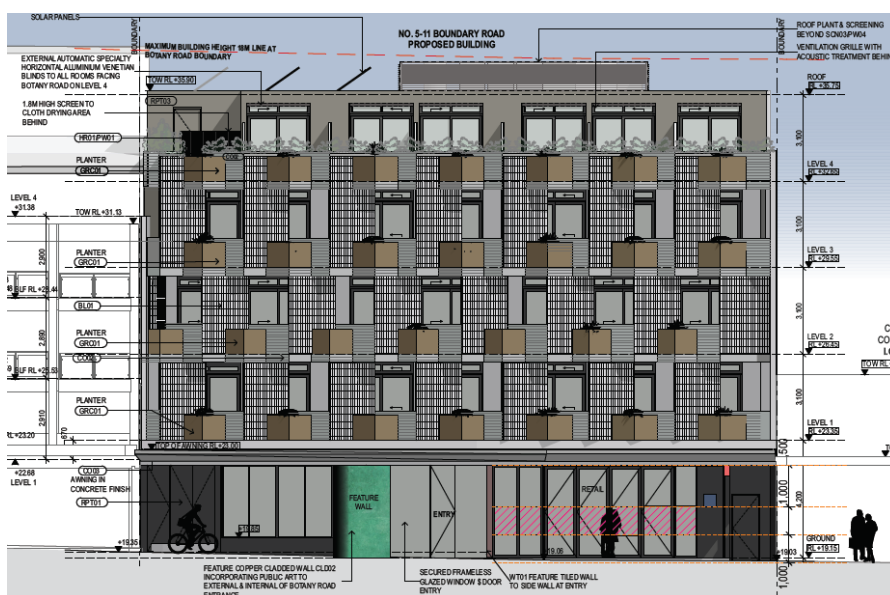


Figure 17: Proposed west (Botany Road) elevation constructed from masonry linear breeze blocks and reinforced concrete planters



Figure 18: Proposed east (Cope Street) elevation consisting of painted masonry and concrete panelling

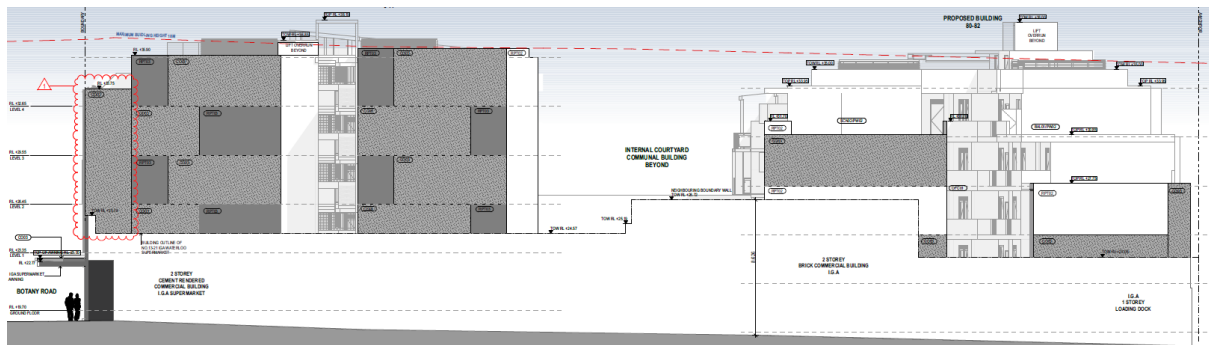


Figure 19: Proposed southern elevation

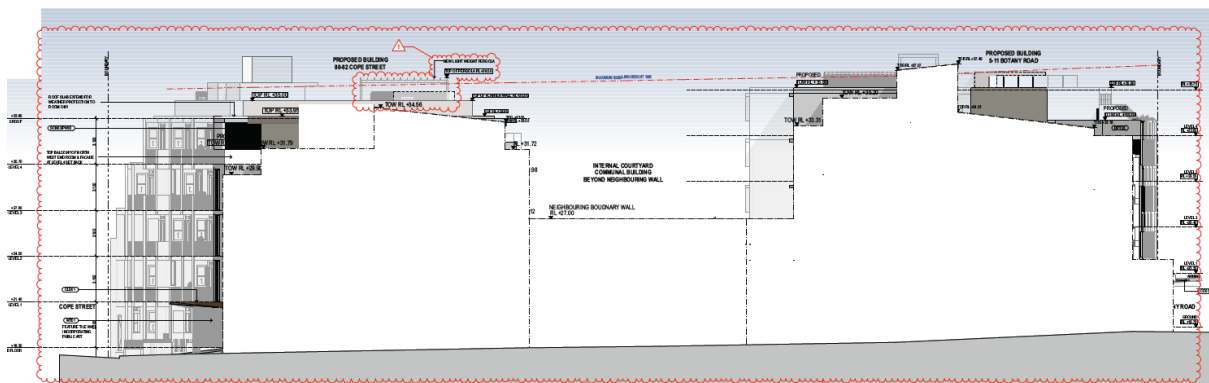


Figure 20: Proposed northern elevation (the form of the existing neighbouring building to the north is outlined in white)

History Relevant to the Development Application

19. D/2016/1722 - As discussed above, the Sydney Major Development and Assessment Sub-Committee granted deferred commencement consent for a concept development application for a 5-storey mixed use development over the site on 16 October 2017. The application included 2 building envelopes with 1 level of basement car parking. Indicative land uses included ground floor commercial use and residential flat building above. On 23 February 2018 the consent was activated following lodgement of a Preliminary Public Art Plan.
20. A concept approval was not required under the Sydney LEP. Rather the process was entered into by the proponent to achieve additional floor space through a competitive process.
21. The proposed use and design of the building is not consistent with the approved concept DA. The concept DA is therefore required to be surrendered prior to determination of this application. This is discussed further below under the heading Concept Development Application - D/2016/1722 in the Issues section of this report.

Application History

22. The application was considered by the City of Sydney Design Advisory Panel Residential Sub-Committee (DAPRS) on 4 February 2020 who raised concern with the bulk of the central communal building, privacy and amenity impacts, the cross-ventilation strategy and acoustic impacts from Botany Road.
23. Council staff requested additional information and amendments regarding the requirement for the concept DA to be surrendered prior to determination, the bulk and form of the central communal building, shadow impacts, noise and vibration management, public domain interface, ventilation, privacy and amenity impacts, contamination, landscaping, tree management and waste management.
24. Information requests were also made to the applicant by Sydney Metro in February, October and November 2020, with the last request made on 19 November 2020. The applicant responded on 19 November 2020 and Concurrence, subject to conditions, was received from Sydney Metro on 23 November 2020.
25. Additional information and amended plans were received by Council from the applicant in April 2020. While a number of design matters were resolved including removal of the central two-storey communal building, relocation of the communal room to the ground level and provision of an active frontage to Botany Road, not all issues were sufficiently addressed. Outstanding issues included the concept DA over the site, site contamination, privacy and amenity impacts, noise and vibration management, landscaping, tree management and waste management.
26. Amended plans and additional information were submitted to Council in September and November. The response addressed the majority of issues and it is recommended that remaining noise and ventilation issues be resolved through deferred commencement conditions as discussed in this report. The concept development application was not surrendered at this time and it is therefore recommended that determination of the application be delegated to the CEO to allow the surrender of the concept application prior to determination of the application.

Economic/Social/Environmental Impacts

27. 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

28. The aim of State Environmental Planning Policy (SEPP) No 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.
29. A Detailed Site Investigation report prepared by Environmental Investigations Australia was submitted with the application. This report identified the following:
- (a) The site has previously been used for commercial/industrial purposes including 'motor assembly' since around the 1930s;
 - (b) No chemicals of potential concern exceeding the human health-based Soil Investigation Levels for residential and commercial/ industrial settings were identified;
 - (c) Statistical analysis of all fill results indicated that the 95% Upper Confidence Limits for both lead and the Carcinogenic polycyclic aromatic hydrocarbons were below human health criteria applicable for the site; and
 - (d) Heavy metal (copper, nickel and zinc) contaminated groundwater was identified during the investigation, however these levels were consistent with background conditions for the historically industrial area of Alexandria.
30. A Remedial Action Plan (RAP) prepared by Environmental Investigations Australia dated 16 October 2019 was submitted with the development application. The preferred remediation option proposed in the RAP is complete and thorough offsite disposal of all impacted fill and natural soils to licensed waste handlers.
31. A Letter of interim advice from Harwood Environmental Consultants dated 14 April 2020 was submitted in response to Council's request for further information. This letter endorsed the RAP dated 16 October 2020, subject to an additional site investigation being undertaken within the setback area to delineate potential lead and polyaromatic hydrocarbons contamination.
32. Following a further request for information by Council, the applicant submitted an additional Site Investigation and updated Remedial Action Plan dated 8 April 2020. These documents indicate that the recommendations within the original Letter of interim advice from Harwood Environmental Consultants have been carried out.
33. The Council's Health Unit has reviewed the information provided and has recommended conditions of consent to ensure compliance with the remediation measures outlined, and for Council to be notified should there be any changes to the strategy for remediation.
34. The Council's Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

State Environmental Planning Policy No 64—Advertising and Signage

35. While no signage is proposed as part of this application, indicative signage zones are shown on the submitted drawings.
36. As insufficient detail has been provided, and there is no requirement for a signage strategy for this development under the Sydney Development Control Plan (DCP) 2012, the signage zone is not supported. A condition requiring deletion of the signage zones has therefore been included within the recommended conditions of consent.
37. Any proposed signage will be required to comply with the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or will require a subsequent development application, at which point assessment against the State Environmental Planning Policy No 64—Advertising and Signage will be undertaken.

Water Management Act 2000

38. As the application proposes excavation that may require dewatering, the application was referred to Water NSW for preliminary advice as to whether an aquifer interference approval will be required pursuant to section 91 of the Water Management Act 2000. No response was received from Water NSW. A condition regarding dewatering has been included within the conditions of consent.

State Environmental Planning Policy (Infrastructure) 2007

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

Clause 45 - Development carried out within 5m of an exposed overhead electricity power line.

40. The application is subject to Clause 45 of the ISEPP as the development will be carried out within 5m of an exposed overhead electricity power line.
41. In accordance with the Clause, the application was referred to Ausgrid for a period of 21 days and no objection was raised. An electricity substation has been integrated into the facade of the Cope Street building. .

Clause 86 - Excavation in, above, below or adjacent to rail corridors

42. As the application involves penetration of the ground to a depth of at least 2m below ground level (existing) on land above the Sydney Metro City and Southwest rail corridor, the application was referred to Sydney Metro for concurrence.
43. Concurrence approval, subject to conditions, was subsequently provided by Sydney Metro on 23 November 2020. Sydney Metro concurrence conditions are included within Schedule 4 in the recommended conditions of consent (Attachment A).

Clause 87 - Impact of rail noise or vibration on non-rail development

44. As the application proposes residential accommodation on land in a rail corridor, consent must not be granted unless it has been demonstrated that appropriate measures will be taken to ensure that the LAeq levels in Clause 87(3)(a) and (b) are not exceeded. A deferred commencement condition has been recommended to ensure that a noise and vibration prediction report is submitted to demonstrate compliance with the LAeq levels in Clause 87(3)(a) and (b). Clause 87 is met by the inclusion of the deferred commencement condition as appropriate measures will be in place to ensure the noise criteria is met prior to activation of the application.

Clause 88 – Development within or adjacent to interim rail corridor

45. As the application is on land within the future CBD Rail Link Corridor, the application was referred to Transport for NSW (TfNSW) for concurrence. TfNSW provided concurrence and recommended conditions on 13 February 2020 which have been included in Schedule 3 in the recommended conditions of consent (Attachment A).

Clause 101 - Development with frontage to a classified road

46. The application is subject to Clause 101 of the ISEPP as the site has frontage to Botany Road, which is a classified road. The proposed design does not propose vehicular access to the site from the classified road and will therefore not compromise the effective and ongoing operation and function of the Botany Road.
47. Noise mitigation design solutions have been incorporated within the Botany Road facade to ensure the relevant noise criteria is achieved for rooms fronting the classified road, and relevant acoustic conditions have been included within the recommended conditions of consent. The application is therefore considered to satisfy Clause 101 of the ISEPP subject to conditions of consent. Noise and ventilation are discussed further under the heading Noise Management in the Issues section of this report.

Clause 102 - Impact of road noise or vibration on non-road development

48. The application is subject to Clause 102 of the SEPP as the average daily traffic volume of Botany Road is more than 20,000 vehicles. The application is considered to satisfy Clause 102 of the Infrastructure SEPP subject to conditions of consent requiring compliance with the submitted Environmental Noise Impact Assessment (dated 6 November 2020). Noise is discussed further under the heading Noise Management in the Issues section of this report.

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

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

State Environmental Planning Policy (Affordable Rental Housing) 2009

51. The relevant matters to be considered under State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP) are outlined below.
52. Under Clause 29, compliance with any of the following standards must not be used to refuse consent.

Clause 29 - Standards That Cannot Be Used To Refuse Consent		
Development Control	Compliance	Comment
1(c)(i) – The maximum permitted FSR is 2:1 + AHSEPP bonus 0.5:1.	Yes	<p>A maximum FSR of 2:1 is permitted under the Sydney LEP 2012. The site is also eligible for bonus floor space of 0.5:1 under the AHSEPP.</p> <p>As the proposed boarding house use makes up 98% of the overall proposed floor area and the shop area makes up 1.86% a maximum bonus floor space of 0.49:1 is permitted.</p> <p>Therefore, a maximum floor space of 2.49:1 is permitted for the development.</p> <p>A FSR of 2.45:1 is proposed.</p>
2(a) Building height, if the development complies with the maximum permitted building height	No	<p>A maximum height of 18m is permitted.</p> <p>The proposed development has a maximum height of 20.1m to the top of the lift overrun structure on the Cope Street building, which is a 2.1m or 10.4% variation to the height control.</p> <p>See discussion under the heading Building Height - Clause 4.6 in the Issues section of this report.</p>
2(b) Landscaped area, if the landscape treatment to the front setback area is compatible with the streetscape	Yes	<p>The proposal maintains a nil setback to Botany Road, which is consistent with adjoining development to the north and south along Botany Road.</p> <p>A landscape setback of between 2.77m to the northern edge and 0.5m to the southern edge is proposed to the Cope Street frontage, with a 1.2m fence provided along the boundary of the site. This is consistent with the landscape treatment of the residential dwellings to the north of the site, which provide low fencing and landscaping to Cope Street</p>

Clause 29 - Standards That Cannot Be Used To Refuse Consent		
Development Control	Compliance	Comment
2(c) Solar access, where the development provides 3 hours of solar access to one living area from 9am to 3pm during midwinter	Yes	The communal indoor space within the Cope Street building will only achieve a small amount of solar access between 2.30pm and 3pm at mid-winter. However, the proposed co-working space to the ground floor of the Botany Road building will achieve 3 hours of sunlight between 12pm and 3pm at mid-winter which complies with the solar access requirements.
<p>2(d) private open space, if at least the following private open space areas are provided (other than the front setback area) -</p> <p>(i) One private open space area of 20sqm with a minimum dimension of 3 metres is provided for residents</p> <p>(ii) One area of 8sqm with a minimum dimension of 2.5sqm for the manager's unit</p>	<p>Yes</p> <p>No</p>	<p>The proposal includes a 110sqm communal terrace to the rooftop of the Cope Street building and 132sqm of landscaped communal open space area to the centre of the site including a communal outdoor terrace (33sqm), seating and lawn areas (99sqm). These areas have a minimum dimension of more than 3m.</p> <p>A 7sqm terrace with a minimum dimension of 1.3m is proposed for the manager's unit on the fourth level of the Cope Street building. This terrace is however, considered to be of an adequate size and dimension to provide appropriate amenity for the site manager.</p>
<p>2(e) Parking, if -</p> <p>(iia) 0.5 car parking spaces provided for each boarding house room</p>	No	<p>0.5 spaces per boarding room would result in 65 car parking spaces.</p> <p>2 vehicle parking spaces are provided on-site including 1 GoGet space and 1 accessible space. 6 motorbike spaces are also provided for residents of the boarding house.</p> <p>The site is considered to be highly accessible by public transport being located 400m from Redfern train station, in close proximity to regular bus services along Botany road and Wyndham Street and within 50m from the future Waterloo Metro Station currently under construction.</p>

Clause 29 - Standards That Cannot Be Used To Refuse Consent		
Development Control	Compliance	Comment
(iii) not more than one parking space for staff residing on the site	Yes	As the site is in a highly accessible location and the development is provided with ample bicycle spaces (155 onsite bicycle spaces), the proposed number of car parking spaces is considered acceptable in this instance. No car parking spaces are proposed for staff residing on the site.
2(f) Accommodation size, if each boarding room has a gross floor area (excluding any area used for the purpose of private kitchen or bathroom facilities) of at least - (i) Minimum 12sqm for single lodger rooms (ii) 16sqm in any other case	Yes	Each boarding room complies with the minimum accommodation size for single (12sqm) and double (16sqm) rooms (excluding areas for private kitchen and bathroom facilities). The proposed room sizes vary between 13sqm and 24sqm (minus kitchen and bathroom facilities).

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

Clause 30 - Standards for Boarding Houses		
Development Control	Compliance	Comment
1(a) At least one communal living room is to be provided	Yes	Two communal rooms have been provided, one co-working communal room to the ground floor fronting Botany Road and one communal room to the ground floor of the Cope Street building fronting the central communal open space area.
1(b) No boarding room is to have a gross floor area (excluding private kitchen or bathroom facilities) of more than 25sqm	Yes	No proposed boarding house rooms exceed 25sqm (excluding private kitchens and bathroom facilities).

Clause 30 - Standards for Boarding Houses		
Development Control	Compliance	Comment
1(c) No boarding room to be occupied by more than 2 adult lodgers	Yes	<p>No boarding room will be occupied by more than 2 adult lodgers.</p> <p>The proposal includes 125 double rooms and 5 single rooms, and room occupancy is detailed on the proposed plans.</p>
1(d) Adequate bathroom and kitchen facilities will be available for use of each lodger	Yes	Each boarding room includes private kitchenettes and bathroom facilities.
(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	A manager's room is proposed on the fourth level of the Cope Street building, facing the central private open space area.
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 Environmental Planning Instrument.	N/A	The site is located within the B4 Mixed Use zone and is not zoned primarily for commercial purposes. A boarding house use with an 83sqm shop use on the ground level are proposed. These uses are permissible within the B4 Mixed Use zone.
1(h) At least one bicycle and one motorcycle parking space to be provided for every five rooms.	No	<p>The ARHSEPP requires the provision of 26 bike parking spaces and 26 motorbike parking spaces.</p> <p>The development provides 155 bicycle parks and 6 motorbike spaces.</p> <p>A Clause 4.6 has been submitted to vary Clause 30 (1)(h) of the ARHSEPP in regard to motorcycle parking which is discussed further below under the heading Motorcycle Parking - Clause 4.6 in the Issues section of this report.</p>

Clause 30A – Character of the local area

53. Clause 30A states that a consent authority must not consent to a boarding house unless it has taken into consideration whether the design is compatible with the character of the local area.
54. The surrounding area has a varied character and built form, with a mix of predominantly 5 storey residential, commercial and remnant two storey light industrial and commercial buildings.
55. The proposed development, which maintains a 4-storey street wall height to Botany Road, but is predominantly 5 storeys in height, is considered to be compatible with the scale of surrounding developments, the character of the local area and the desired future character of the area, with the Sydney DCP 2012 recommending a 5 storey height limit for the site. The proposed building incorporates a mix of contemporary and traditional masonry and glazed elements which are consistent with the materials in existing and new developments that adjoin the site.
56. The proposal, which provides a built to boundary active frontage to Botany Road and a landscape setback to ground level rooms along Cope Street, is considered compatible with the character of the local area in accordance with this provision.

Sydney Local Environmental Plan 2012

57. The site is located within the B4 Mixed Use zone. The proposed uses are defined as Boarding House and Retail Premises (Shop) and are permissible with consent.
58. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	No	<p>A maximum height of 18m is permitted.</p> <p>The proposed development is a maximum height of 20.1m to the top of the lift overrun structure on the Cope Street building.</p> <p>See discussion under the heading Building Height - Clause 4.6 in the Issues section of this report.</p>
4.4 Floor Space Ratio	Yes	<p>A maximum FSR of 2:1 is permitted under the Sydney LEP 2012. The site is also eligible for bonus floor space of 0.5:1 under the AHSEPP.</p>

Development Control	Compliance	Comment
		<p>As the proposed boarding house use makes up 98% of the overall proposed floor area and the shop area makes up 1.86% a maximum bonus floor space of 0.49:1 is permitted.</p> <p>Therefore, a maximum floor space of 2.49:1 is permitted for the development.</p> <p>A FSR of 2.45:1 is proposed.</p>
4.6 Exceptions to development standards	Yes	<p>The proposal seeks to vary the height development standard prescribed under Clause 4.3 of the Sydney LEP 2012.</p> <p>The proposal also seeks to vary the motorcycle parking spaces development standard under Clause 30(1)(h) of the ARHSEPP.</p> <p>See discussion under the Issues section of this report.</p>
5.9 Preservation of trees or vegetation	Yes	<p>The proposed development is in close proximity to eight street trees including four Jacaranda mimosifolia (Jacaranda) and four Schinus molle (Peppercorn).</p> <p>An Arboricultural Impact Assessment was submitted by the applicant in support of the application.</p> <p>The City's Tree Management specialist reviewed the application and advised that, subject to the inclusion of conditions requiring tree protection measures to be undertaken during construction, the development will not have adverse impacts on the surrounding street trees. These conditions have been included within the recommended conditions of consent.</p>
5.10 Heritage conservation	N/A	<p>The site is not a heritage item and is not located within a heritage conservation area.</p>

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
Division 4 Design excellence	Yes	<p>The proposal achieves an appropriate standard of architectural design utilising a mix of contemporary and traditional masonry materials appropriate to the surrounding location and its context.</p> <p>Landscaping is well integrated into the design. Following requests for amendments, the central building was removed from the plans. The amended proposal now includes a large central landscaped and deep soil area, purpose-built planters to the Botany Road elevation which will accommodate climbing plants to create a green façade and roof terrace landscaping (refer to Attachment E for landscape plans).</p> <p>An active frontage, encompassing glazing to a future shop premises and co-working area for the boarding house, is proposed along the full length of the Botany Road frontage. An awning to protect pedestrians from weather is also proposed along this frontage. This will enhance the interface at ground level between the building and the public domain</p> <p>The building meets the sustainable design principles and has been accompanied by a BASIX certificate.</p> <p>For the above reasons, the proposal is considered to achieve design excellence in accordance with Clause 6.21 of the Sydney LEP 2012.</p>

Part 7 Local Provisions - General	Compliance	Comment
7.1 Car parking ancillary to other development	Yes	<p>No maximum car parking rates are specified for the boarding house use under Part 7 Division 1 of the Sydney LEP 2012. A maximum of 1 car parking space is specified for the 83sqm shop premises within the Sydney LEP 2012.</p> <p>No tenant car parking spaces are allocated to the shop use. 1 service bay is provided for the development. 2 car parking spaces are proposed for the boarding house use (1 GoGet space and 1 accessible space) which is considered acceptable. The site is in a highly accessible location in close proximity to Redfern train station, high frequency bus services and the future Waterloo Metro Station. A traffic impact report and Green Travel Plan were submitted with the application which demonstrate that the proposed number of car spaces meets the objectives set out in Sustainable Sydney 2030.</p>
7.13 Affordable housing	N/A	The subject site is not located within the Green Square, Southern Employment Lands or the Ultimo-Pyrmont precincts and is therefore not subject an affordable housing contribution.
7.14 Acid Sulphate Soils	Yes	<p>The site is within a class 5 acid sulfate zone that is in excess of 500m from a class 3 zone. The detailed site investigation submitted with the application concludes that there is no known occurrence of acid sulfate soils on the site.</p> <p>Further, the proposed excavation of one basement level (3m) is not likely to affect the water table, given the identified level of the water table is 4.9m below ground level. The submission of an Acid Sulfate Soils Management Plan was therefore not required.</p> <p>The City's Health specialist reviewed the application and concurred with the conclusions of the reports provided.</p>

Part 7 Local Provisions - General	Compliance	Comment
7.15 Flood planning	Yes	<p>The site is identified by Council as being flood prone.</p> <p>The applicant submitted a Flood Level Summary prepared by Cardno dated 30 August 2019 with the application. The flood summary has set flood planning levels for the site in accordance with the City of Sydney interim floodplain management policy.</p> <p>Following a request for further information by Council, the applicant submitted an amended ground floor plan showing that the co-working communal room floor level is at RL 19.85 (mAHD). The revised plans demonstrate that the development achieves flood planning levels for all habitable space as required by the City of Sydney interim floodplain policy.</p> <p>A condition requiring that details are submitted to the Principal Certifying authority demonstrating that the development will comply with the recommended flood planning levels prior to issue of a construction certificate, has been included within the conditions of consent.</p>
7.16 Airspace operations	Yes	<p>The proposed development will reach a maximum height of 20.1m (RL 38.00 AHD) above ground level and will not penetrate the Obstacle Limitation Surface (70 to 80 AHD) as shown on the Obstacle Limitation Surface Map for the Sydney Airport.</p>

Sydney Development Control Plan 2012

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

2. Locality Statements – 2.13.13 Regent Street/ Botany Road

The subject site is located in the Regent Street/ Botany Road locality. The proposed part 5 and part 6 storey boarding house with a shop on the ground floor is considered to be in keeping with the unique character of the area and design principles in that it incorporates a mix of non-residential and residential uses and provides street level activation to Botany Road.

3. General Provisions	Compliance	Comment
<p>3.1 Public Domain Elements</p> <p>3.1.5 Public Art</p>	Yes	<p>The proposed development will make a positive contribution to the public domain. Conditions of consent will include a requirement for a public domain plan that will incorporate any necessary vehicular access treatments or street upgrades.</p> <p>The applicant has submitted a preliminary public art plan for the development which identifies two façade opportunities for public art (one to Botany Road and one to Cope Street).</p> <p>The preliminary public art plan is in accordance with the City of Sydney Guidelines for Public Art in Private Development meets the requirements of Section 3.1.5 of the Sydney DCP 2012.</p> <p>The City's public art team has reviewed the preliminary public art plan and has advised that it is acceptable, subject to a condition requiring a detailed public art plan to be submitted to and approved by Council prior to issue of any Construction Certificate. A condition to this effect has been included within the recommended conditions of consent.</p>

3. General Provisions	Compliance	Comment
3.2 Defining the Public Domain	Yes	<p>Subject to recommended conditions, the proposed development will enhance the public domain.</p> <p><i>3.2.1 Improving the public domain</i></p> <p>The submitted shadow diagrams demonstrate that the proposal will not overshadow any nearby publicly accessible open space between 9am and 3pm on 21 June in accordance with Section 3.2.1.1 of the Sydney DCP 2012.</p> <p>The proposed buildings will also not impede any views from the public domain to highly utilised public places, parks, Sydney Harbour or heritage buildings and monuments in accordance with Section 3.2.1.2 of the Sydney DCP 2012.</p>
	Yes	<p><i>3.2.2 Addressing the street and public domain</i></p> <p>The proposed buildings have been designed to positively address the street and public domain. A shop tenancy and co-working space are proposed to the ground level fronting Botany Road and a landscape setback and boarding rooms fronting Cope Street on the ground level. This arrangement provides opportunities for direct surveillance of the street at frequent intervals in accordance with Section 3.2.2 (4) of the Sydney DCP 2012.</p> <p>Two entrances are provided to each frontage (fire egress and main entrance). The main entrances are located directly from Botany Road and Cope Street and are provided with a ramp to ensure equitable access from both frontages is achieved in accordance with Section 3.2.2 (2) of the Sydney DCP 2012.</p>

3. General Provisions	Compliance	Comment
		<p>The basement parking area and structures are below ground with the exception of the entry garage door to Cope Street which is recessed and integrated into the design of the building in accordance with Section 3.2.2 (6) of the Sydney DCP 2012.</p> <p>The exposed blank walls to the southern boundary will be adequately articulated through the use of different finishes including off form concrete and rendered/painted finishes, to provide visual interest and texture in accordance with Section 3.2.2 (3) of the Sydney DCP 2012.</p>
	Yes	<p><i>3.2.3 Active frontages</i></p> <p>The Botany Road frontage to the site is identified as requiring an 'active frontage' within the Sydney DCP 2012. The proposed ground level of the Botany Road building presents a shop tenancy and display window as well as glazing to a co-working communal space associated with the boarding house use. The development therefore meets the active frontage requirements of Section 3.2.3 of the Sydney DCP 2012.</p>
	Yes	<p><i>3.2.4 Footpath awnings</i></p> <p>The existing pattern of development along Botany Road includes a mix of awnings and colonnades.</p> <p>A cantilevered concrete awning is proposed to the full extent of the Botany Road frontage between the ground and first floor, with a variable clearance height of 3.4m-3.7m due to slope of the land. The proposed awning is considered to meet the footpath awning requirements of Section 3.2.4 of the Sydney DCP 2012.</p>

3. General Provisions	Compliance	Comment
	Yes	<p><i>3.2.7 Reflectivity</i></p> <p>A condition to ensure that the light reflectivity from the building materials used on the facades does not exceed 20% has been included within the recommended conditions of consent. The conditioned proposal meets the requirements of Section 3.2.7 of the Sydney DCP 2012.</p>
	Yes	<p><i>3.2.8 External lighting</i></p> <p>A condition to ensure that under awning lighting does not exceed 200 lux and will not be directed up, has been included within the recommended conditions of consent.</p>
3.3 Design Excellence and Competitive Design Processes	N/A	The proposed development has not been subject to a design competition as the proposal does not exceed 25m in height and the development does not have a capital investment value of more than \$100,000,000.
3.5 Urban Ecology	Yes	<p>The proposed development does not involve the removal of any trees and, subject to conditions, will not adversely impact on the local urban ecology.</p> <p><i>3.5.2 Urban vegetation</i></p> <p>Large areas of landscaping are proposed to the centre of the site and a concept landscape plan has been submitted with the application. A condition requiring that a detailed landscape plan be submitted prior to issue of a construction certificate has been included within the conditions of consent. The condition requires that the landscape plans should demonstrate that the design will provide a minimum 15% canopy cover across the site within 10 years, in accordance with the requirements of Section 3.5.2 (2) of the Sydney DCP 2012.</p>

3. General Provisions	Compliance	Comment
	Yes	<p><i>3.5.3 Tree Management</i></p> <p>As discussed above in section 5.9 'Preservation of trees or vegetation', an Arboricultural Impact Assessment was submitted by the applicant in support of the application.</p> <p>Conditions to ensure that street tree protection measures are undertaken during construction have been included within the recommended conditions of consent.</p>
3.6 Ecologically Sustainable Development	Yes	<p>The proposal satisfies BASIX and environmental requirements. The proposed plans include a BASIX specification block confirming commitments that the BASIX certificate requires. A condition to ensure that all commitments listed in the BASIX Certificate for the development are fulfilled prior to any Occupation Certificate being issued, has been included within the recommended conditions of consent.</p>
3.7 Water and Flood Management	Yes	<p>Development on sites over 1000sqm must demonstrate how they will achieve specific targets relating to reduction in pollutants and incorporation of Water Sensitive Urban Design (WSUD).</p> <p>A stormwater quality assessment report has been submitted in support of the proposed development.</p> <p>The City's public domain engineer reviewed the submitted documentation and advised that the proposed development is acceptable subject to the inclusion of stormwater drainage design and stormwater quality conditions which have been included in the recommended conditions of consent.</p>

3. General Provisions	Compliance	Comment
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	The application does not propose any subdivision and based on the land use as a boarding house, a condition is recommended so that strata subdivision of the rooms cannot occur.
3.11 Transport and Parking	Yes	<p><i>3.11.1 Managing transport demand</i></p> <p>The proposed development encourages travel by sustainable modes of transport by limiting on site car parking to 2 spaces and motorbike parking to 6 spaces.</p> <p>A Traffic and Parking Impact Assessment report and a Green Travel Plan dated August 2020 and prepared by TTPA were submitted in support of the application.</p> <p>These reports conclude that due to the highly accessible location of the site, which is in close proximity of Redfern train station, multiple bus services along Botany Road and Wyndham Street, numerous car share pods, and the future Waterloo Metro Station currently under construction, residents and visitors are expected to predominantly travel via public transport.</p> <p>Subject to relevant conditions, the development is unlikely to have any detrimental traffic implications on surrounding movement systems.</p> <p><i>3.11.3 Bike parking and associated facilities</i></p> <p>A minimum of 146 bicycle spaces are required for the development under the DCP (143 resident and visitor spaces for the boarding house use and 3 spaces for the shop use).</p>

3. General Provisions	Compliance	Comment
	Yes	<p>The proposal incorporates 155 bicycle spaces which are all located within the secure basement, meeting the minimum requirements of Section 3.11.3 of the Sydney DCP. A condition requiring that all spaces are to comply with Australian Standard AS 2890.32015 has been included within the recommended conditions of consent.</p> <p><i>3.11.4 Vehicle parking</i></p> <p>No maximum car parking rates are specified for the boarding house use under Part 7 Division 1 of the Sydney LEP 2012. A maximum of 1 car parking space is specified for the 83sqm shop premises within the Sydney LEP 2012.</p> <p>No car parking spaces are proposed for the shop use. 2 car parking spaces are proposed for the boarding house use (1 GoGet space and 1 accessible space). A Traffic and Parking Impact Assessment report was also submitted with the application. The proposed number of on-site car parking spaces are considered acceptable due to the highly accessible location of the site.</p>
	Yes	<p><i>3.11.6 Service vehicle parking</i></p> <p>The Sydney DCP 2012 specifies that a minimum of 1 service space is required for the shop premises. There is no requirement for a service vehicle space for boarding house. The proposal incorporates 1 on-site loading bay which is sufficient to service the site.</p>
	Yes	<p><i>3.11.7 Motorbike parking</i></p> <p>The Sydney DCP specifies that a minimum of 1 motorbike space should be provided for every 12 car parking spaces. The development proposes 6 motorcycle parks which meets the requirements of this provision.</p>

3. General Provisions	Compliance	Comment
	No	<p><i>3.11.9 Accessible parking</i></p> <p>A minimum of 1 accessible car parking space is specified per accessible room. The development proposes five accessible rooms and incorporates 1 accessible car parking space. Due to the close proximity of a number of public transport modes, and the requirement to minimise private vehicle use and increase sustainable transport use, the proposed accessible car parking rate is considered accessible in this instance.</p>
	No	<p><i>3.11.10 Vehicle access for developments greater than 1000sqm GFA</i></p> <p>The Sydney DCP states that vehicle access is to be provided on a secondary road. To comply with this requirement vehicle and bicycle access to the development is proposed from Cope Street.</p> <p>Whilst the proposed driveway is located within 10m from the Phillip Street and Cope Street intersection, the driveway services a basement with only 3 car spaces (including 1 service bay) and 6 motorbike spaces, which is expected to generate very few traffic movements. Cope Street is also signposted for 50kph which is a low speed environment. The safety of those using the driveway access and the street is therefore not likely to be compromised by the proposed location of the driveway in this instance.</p>
	Yes	<p><i>3.11.11 Vehicle access and footpaths</i></p> <p>The site is not identified on the pedestrian priority map within the Sydney DCP. The proposed 3.5m wide driveway access to the basement from Cope Street is not considered to interrupt a major pedestrian thoroughfare and is considered acceptable.</p>

3. General Provisions	Compliance	Comment
	Yes	<p><i>3.11.13 Design and location of waste collection points and loading areas</i></p> <p>A commercial waste contractor is proposed to collect waste from the shop premises and boarding house use. A turning path assessment for a 6.4m rigid vehicle was provided as part of the traffic and parking assessment report and it has been demonstrated that waste collection and loading can be accommodated wholly within the basement in accordance with the requirements of Section 3.11.13 of the Sydney DCP 2012.</p>
3.12 Accessible Design	Yes	<p>The proposal includes five accessible boarding rooms and one accessible car parking space. Equitable access to the premises and within the communal courtyard is provided via ramping and internal lifts. Following a request for amendments by Council, equitable access was also provided to the rooftop terrace of the Cope Street building via a lift.</p> <p>All other statutory aspects relating the Disability (Access to Premises – Buildings) Standards 2010 are to be considered by the Certifying Authority prior to a Construction Certificate being issued.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The proposed development will provide adequate passive surveillance from the shop tenancy and co-working spaces to the ground floor of the Botany Road building and from the proposed boarding rooms along Cope Street.</p> <p>The Botany Road entry has also been amended through the assessment of the application to provide clear sightlines into the entry foyer of the building.</p>

3. General Provisions	Compliance	Comment
		<p>The development is therefore considered to be generally designed in accordance with the Crime Prevention Through Environmental Design (CPTED) principles.</p>
3.14 Waste	Yes	<p>The application proposes that a private waste contractor will service the boarding house and shop as the proposed basement has a low entry height which will not permit a standard Council waste collection vehicle to enter or exit the site.</p> <p>The proposal incorporates an 18sqm storage area for retail waste, a garbage room for each boarding house building (24sqm for the Botany Road building and 25sqm for the Cope Street building) and an 18sqm bulky waste area. A chute system is proposed from each level of the boarding house buildings to the waste store areas below.</p> <p>A condition requiring that a detailed waste and recycling management plan be submitted and approved by Council's Area Planning Manager prior to a Construction Certificate being issued has been included within the recommended conditions of consent.</p>
3.15 Late Night Trading Management	Yes	<p>The site is located within the Local Centre Area as specified within the Sydney DCP 2012. The indoor hours specified for Category B premises within a Local Centre Area are between 7am and 11pm.</p> <p>As the details of the proposed shop use are unknown at this stage, a condition requiring the shop premises hours of operation be limited to between 7am and 10pm has been included within the conditions of consent.</p>

3. General Provisions	Compliance	Comment
3.16 Signage and Advertising	N/A	<p>While no signage is proposed as part of this application, indicative signage zones are shown on the submitted drawings. The signage zones include an under-awning location, wall sign location and a window sign zone across the full frontage of the retail facade.</p> <p>As insufficient detail has been provided, the signage zones do not comply with the required sign dimensions in Section 3.16 and there is not requirement for a signage strategy for this development under the Sydney DCP 2012, the signage zone is not supported. A condition requiring deletion of the signage zones has therefore been included within the recommended conditions of consent.</p>
3.16.1 Signage Strategy	N/A	<p>The development does not require a signage strategy as it is not located within a heritage conservation area, does not involve a heritage item, is not strata titled and does not contain more than four business premises.</p>
3.17 Contamination	Yes	<p>A Remedial Action Plan (RAP) prepared by Environmental Investigations Australia dated 8 April 2020 was submitted with the development application. The preferred remediation option proposed within the RAP is complete and thorough offsite disposal of all impacted fill and natural soils to licensed waste handlers.</p> <p>Subject to conditions to ensure compliance with the recommended remediation measures outlined in the submitted RAP, the site can be made suitable for the proposed use.</p>

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4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
		The boarding rooms have floor to ceiling heights of 2.7m in accordance with Section 4.2.1.2 (4) of the Sydney DCP 2012.
4.2.2 Building setbacks	Yes	<p>No specific setbacks are identified for the site within the building setback and alignment map in the Sydney DCP 2012.</p> <p>The proposed development incorporates a two-building arrangement with a 17.29m wide central courtyard. The Botany Road building is built to the front boundary alignment for the first four levels with a 3m setback to the fifth level. The Cope Street building incorporates a landscape setback of between 2.77m to the northern edge and 0.5m to the southern edge of the site.</p> <p>The proposed building setbacks are considered to be generally consistent with existing, adjacent patterns of building setbacks on the street.</p> <p>See further discussion under the heading Setbacks in the Issues section of this report.</p>
4.2.3 Amenity	Yes	<p><i>4.2.3.1 Solar access</i></p> <p>Solar access diagrams and views from the sun were submitted with the application which demonstrate that the development will not create any additional overshadowing at June 21 onto living room windows and private open space areas of the neighbouring residential buildings. See further discussion under the heading Overshadowing in the Issues section of this report.</p>

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4. Development Types	Compliance	Comment
4.2 Residential flat, commercial and mixed use developments		
	Yes, subject to conditions	<p><i>4.2.3.9 Ventilation</i></p> <p>All proposed boarding rooms are provided with either operable windows or sliding doors to private balconies. The applicant has submitted a ventilation design intent statement prepared by 'Two MS' which presents two alternative natural ventilation options for the rooms subject to noise from Botany Road. The preferred option proposes incorporating ductwork/plenum into the ceiling cavity of the bathrooms of rooms fronting Botany Road with air-take through a louvre facing the internal courtyard. A deferred commencement condition requiring all details of this system has been included within the recommended conditions of consent. This is discussed further under the heading Maintaining Acceptable Noise levels and Natural Ventilation in the Issues section of this report.</p>
	Yes	<p><i>4.2.3.10 Outlook</i></p> <p>All proposed rooms are afforded a pleasant outlook to either Botany Road, Cope Street or to the internal communal open space to the centre of the site. The proposed 17.2m wide separation distance between the two buildings will ensure that central facing rooms achieve an outlook in accordance with Section 4.2.3.10 of the Sydney DCP 2012.</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
	Yes, subject to conditions	<p><i>4.2.3.11 Acoustic privacy</i></p> <p>A Noise Impact Assessment report prepared by Koikas Acoustics Pty Ltd dated 6 November 2020 was submitted which concludes the following:</p> <ul style="list-style-type: none"> • The building can be sufficiently insulated against existing external sources or noise such as road traffic noise through the use of acoustic glazing; • It is recommended to engage a geotechnical engineer to conduct vibration monitoring near the underground rail tunnel during both demolition and excavation stages; • Noise impacts from occupants/ guests occupying the outdoor areas can be adequately contained with the inclusion of restriction measures. <p>A deferred commencement condition has been recommended to require that a noise and vibration prediction report be prepared regarding the rail tunnel which runs below the site. Further conditions are included to ensure that the recommendations of the noise report will be incorporated into the development.</p> <p>Acoustic privacy is discussed further under the heading Noise Management in the Issues section of this report.</p>
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>The DCP specifies that the maximum street frontage length of an individual building to a street greater than 18m should not exceed 65m and a street frontage length to a street less than 18m should not exceed 40m.</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
		<p>The proposed frontage length of the Botany Road building is approximately 26m and the frontage length of the Cope Street building is approximately 34m. The proposal is considered to incorporate fine grain architectural diversity and appropriate articulation in accordance with this provision.</p>
<p>4.2.5 Types of development</p> <p>4.2.5.3 Development on busy roads and active frontages</p>	Yes	<p>Botany Road is identified as carrying more than 20,000 vehicles a day.</p> <p>The development proposes non-residential uses on the ground floor fronting Botany Road and incorporates design measures such as solid masonry elements and solid balustrades to the Botany Road elevation to ensure appropriate noise mitigation is achieved for rooms fronting the classified road. This is discussed further under the heading Noise Management under the Issues section of this report.</p>
4.2.6 Waste and Recycling Management	Yes	<p>As discussed above in Section 3.14 Waste, the development will be serviced by a private waste contractor via the proposed basement.</p> <p>The waste storage areas for the boarding house use and the shop use are located in separate areas of the basement. A chute system is proposed from each level of the boarding house buildings to the separate waste store areas below.</p> <p>A condition requiring that a detailed waste and recycling management plan be submitted and approved by Council's Area Planning Manager prior to a Construction Certificate being issued has been included within the recommended conditions of consent</p>

4. Development Types 4.2 Residential flat, commercial and mixed use developments	Compliance	Comment
4.2.7 Heating and Cooling Infrastructure	Yes	Heating and cooling infrastructure for both the Botany Road building and Cope Street building are consolidated on the roof in centralised locations.
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Yes	A condition to ensure that the shop use operates between the hours of 7am and 10pm has been included within the conditions of consent. This will ensure that noise impacts from this tenancy do not unduly disturb residents in the boarding house above and in adjoining residential buildings.

4. Development Types - Boarding House 4.4 Other development types and uses	Compliance	Comment
4.4.1.2 Bedrooms	Yes	<p>The DCP requires bedroom sizes to be a minimum of 12sqm for single occupants and 16sqm for double occupants with an additional 2.1sqm allocated for any ensuite and 2sqm for any kitchenette.</p> <p>Each proposed boarding room contains a private kitchenette and bathroom. The proposed room sizes vary between 13sqm and 24sqm (excluding kitchen and bathroom facilities).</p> <p>125 double rooms are proposed and 5 single rooms are proposed, which will result in a maximum occupation of 255 people, including the site manager.</p> <p>All rooms will be provided with a wardrobe.</p>

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4. Development Types - Boarding House 4.4 Other development types and uses	Compliance	Comment
		<p>Two communal rooms are proposed. One 108sqm co-working space to the ground floor of the Botany Road building and one 187sqm communal area to the ground floor of the Cope Street building. Combined these areas equal 295sqm of indoor communal space which exceeds the required 12.5sqm area.</p> <p>The communal indoor space within the Cope Street building will only achieve a small amount of solar access between 2.30pm and 3pm at mid-winter. However, the proposed co-working space to the ground floor of the Botany Road building will achieve 3 hours of sunlight between 12pm and 3pm at mid-winter which complies with the solar access requirements of Section 4.4.1.4 (2)(c) of the Sydney DCP 2012.</p>
4.4.1.5 Bathroom, laundry and drying facilities	Yes	<p>As individual bathrooms are provided to each boarding room, no communal bathrooms are required.</p> <p>Laundry facilities are provided to both buildings at a rate of 1 washing machine and dryer for every 12 residents. Drying areas are provided to the north of the Botany Road building (level 4) and to the rooftop of the Cope Street building to maximise solar access.</p>
4.4.1.6 Amenity, safety and privacy	Yes	<p>The proposed development maintains a high level of resident amenity, privacy and safety by locating communal spaces to the centre of the site and to the rooftop both of which are accessible locations.</p> <p>Proposed boarding rooms are located so that they are separate from significant noise sources.</p>

4. Development Types - Boarding House 4.4 Other development types and uses	Compliance	Comment
		An Acoustic report prepared by Koikas Acoustics has been submitted which demonstrates that design and management procedures are in place to ensure that the proposal does not detrimentally impact on the acoustic privacy of neighbouring dwellings. Noise Management and Building setbacks and Privacy are discussed further within the Issues section of this report.
4.4.1.7 Plan of Management	Yes	A Plan of Management has been submitted with the application which addresses the operation and maintenance of the development. A condition is recommended which requires that the boarding house use must always be in accordance with the Plan of Management.

Issues

Concept development application - D/2016/1722

60. On 16 October 2017 the Sydney Major Development and Assessment Sub-Committee granted deferred commencement consent for a concept development application over the subject site. The application included a 5-storey mixed use development with one level of basement, commercial on ground floor and residential flat building above (Council reference: D/2016/1722). The applicant 'opted in' to the staged process at the time in order to undertake a design competition and seek the additional 10% bonus floor space.
61. This consent was subsequently activated on 23 February 2018 following the submission of a Preliminary Public Art Plan. A section of the approved building envelope is shown in Figure 21 below.

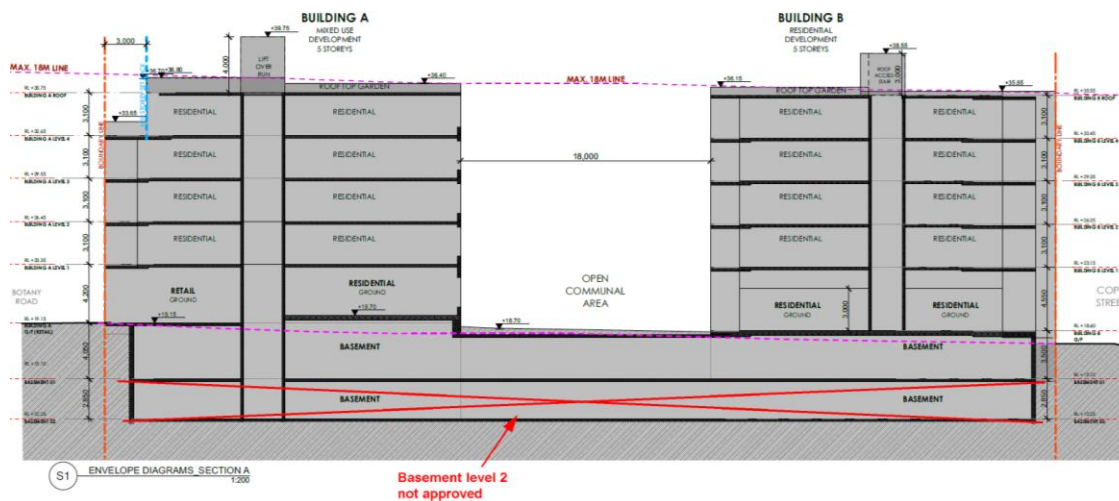


Figure 21: Approved concept envelope under D/2016/1722

62. The applicant has stated that the subject application is not related to the previously approved concept application over the site. As the site area is 1812sqm (does not exceed 5000sqm), there is no requirement to prepare a site specific DCP in this instance under Clause 7.20 of the Sydney LEP 2012.
63. Pursuant to Clause 4.24 (2) of the Environmental Planning and Assessment Act 1979, while any consent granted on the determination of a concept development application for a site remains in force, the determination of any further development application in respect of the site cannot be inconsistent with the consent for the concept proposal for the development of the site.
64. As the proposed development is not consistent with the approved concept application by way of proposed use and building form, including height and setbacks, the subject application cannot be determined while the concept DA remains in force.
65. The applicant was originally advised of this requirement by Council and has agreed to surrender the concept application prior to determination of the application.
66. In this regard, it is recommended that determination of the application be delegated to the CEO following surrender of the concept DA in accordance with Clause 4.24(2) of the Environmental Planning and Assessment Act 1979 or after end of 28 February 2021. This will allow adequate time for the surrender of the concept application prior to determination of the application. Note, if the consent is not surrendered by 28 February 2021, the application could be refused.
67. Notwithstanding this issue, the application has been assessed against the relevant controls above in this report and subject to draft conditions for consideration, is generally compliant with relevant planning controls for the site.

Building Height - Clause 4.6

68. The site is subject to a maximum height control of 18m under Clause 4.3 of the Sydney LEP 2012. The proposed development has a maximum height of 20.1m (RL 38.00) to the top of the Cope Street building lift overrun, which is a maximum 2.1m exceedance or 10.4% variation.

69. Additional roof elements which also exceed the 18m height limit, to a lesser extent, include the top of the fire stairs (RL 36.20 or 18.38m), top of the aluminium pergola (RL 36.55 or 18.20m) and roof over the laundry area (RL 36.20 or 18.21m) on the Cope Street building and the roof over the fire stairs (RL 38.15 or 19.63m), top of the lift overrun (RL 36.83 or 18.2m) and the top of the screens to the AC plant area (RL 36.95 or 18.27m) on the Botany Road Building. The areas of non-compliance are identified in Figures 22 to 27 below.

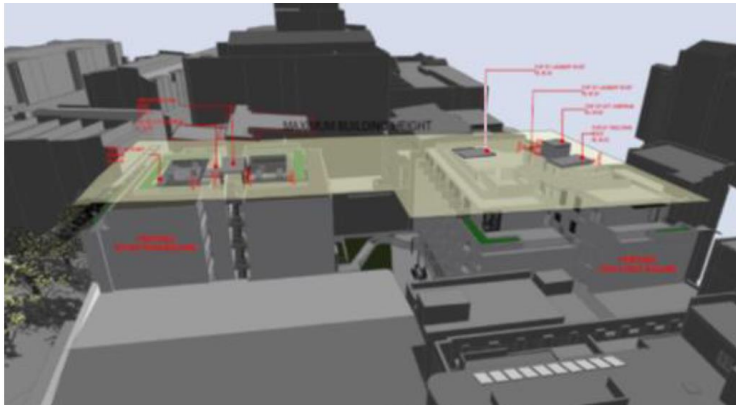


Figure 22: Proposed exceedances to 18m height plane



Figure 23: East elevation (Cope Street) with the 18m height plane shown by red dashed line

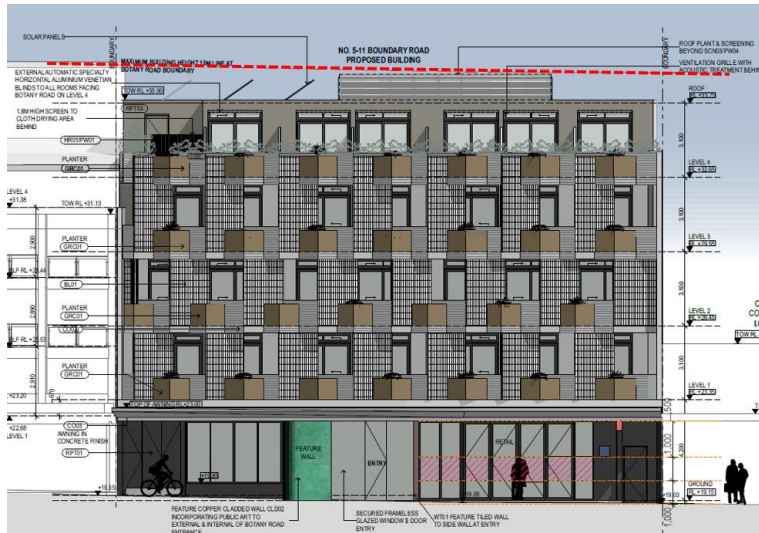


Figure 24: West elevation (Botany Road) with the 18m height limit shown by red line

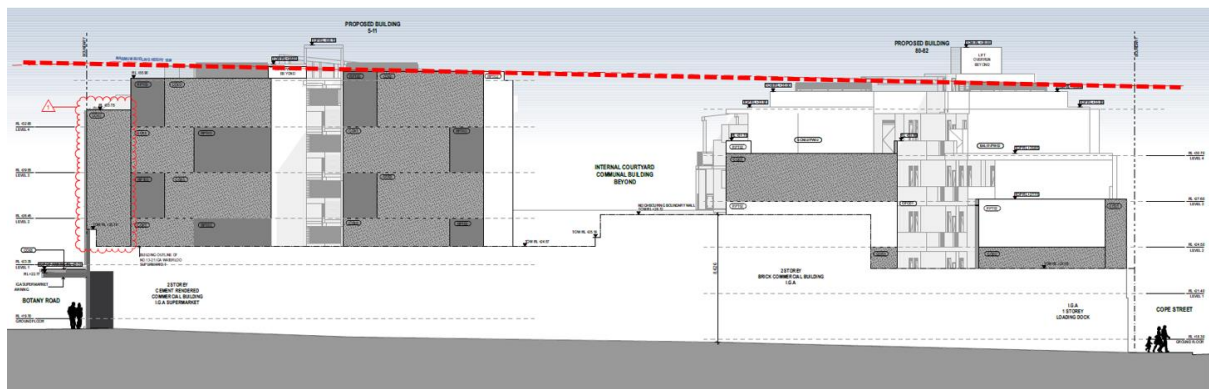


Figure 25: South elevation with 18m height shown by red dashed line

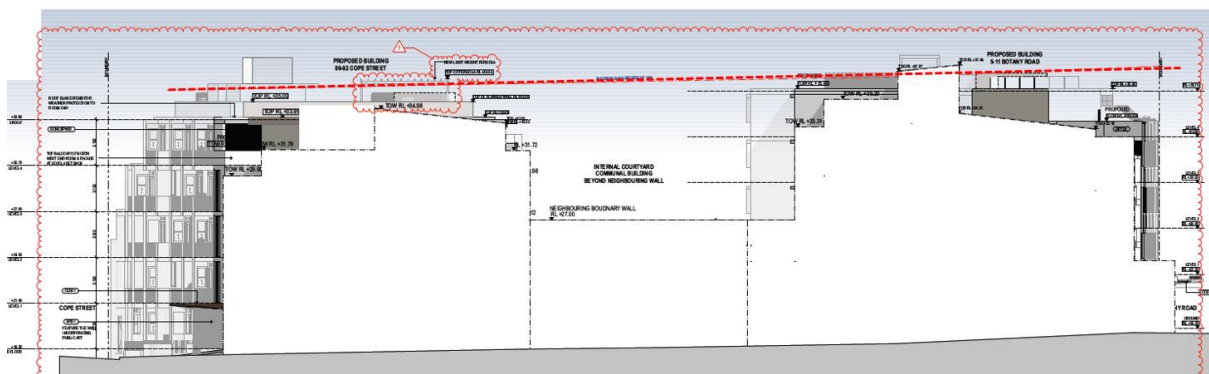


Figure 26: North elevation with 18m height shown by red dashed line

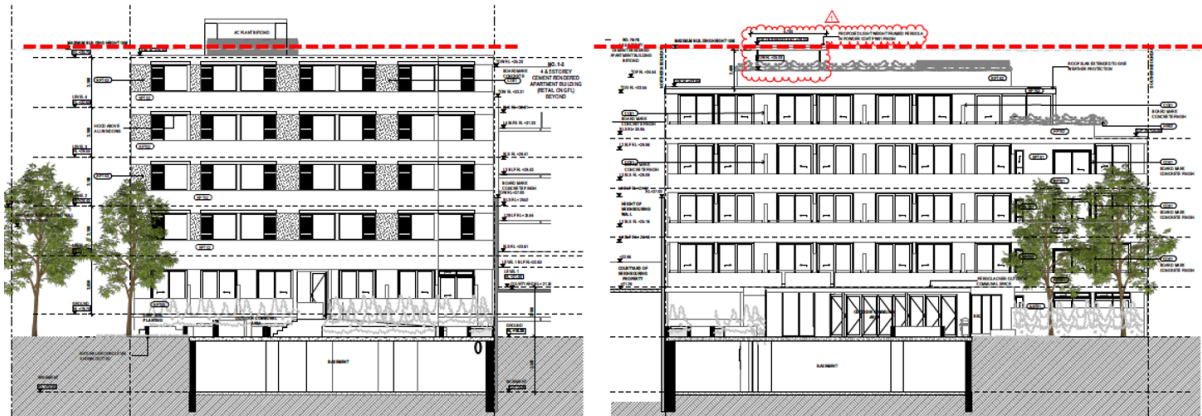


Figure 27: Sections through communal area facing Botany Road building (left) and Cope Street building (right)

70. 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; and
 - That there are sufficient environmental planning grounds to justify contravening the standard.
71. A copy of the applicant's written request is provided at Attachment C.

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

72. The applicant seeks to justify the contravention of the height development standard on the following basis:
- The applicant contends that compliance with the maximum height development standard is unnecessary in the circumstances of the case as despite the non-compliance the development meets the objectives of the height development standard in Clause 4.3 of the Sydney LEP 2012, as summarised below:
 - Objective (a) to ensure the height of development is appropriate to the condition of the site and its context,
 - The height of the development is appropriate to the condition of the site. The majority of the proposed boarding house complies with the 18m height limit. The breach in the height control is confined to small portions of the building containing structures which are necessary building elements being the plant and equipment enclosures and the stair and lift access to the rooftop area.
 - The variation is not a means of achieving additional development yield on the site or an additional floor level; the general 5 storey building is consistent with the

- character of existing and future development in the surrounding area.
- The proposed height will not result in any adverse impacts to surrounding properties. The shadows caused by the structures fall within the building itself and therefore have no material impact on the adjoining sites.
 - The proposed development will not cause any unreasonable visual impact including impact on the streetscape.
 - The variation of the height standard does not result in any additional overlooking of neighbouring properties and will not lead to a reduction in privacy afforded to existing residents or future residents of the proposal.
- (ii) Objective (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,
- The site is not a heritage item, nor is it located within a heritage conservation area. It is, however, adjacent to a heritage conservation area. The proposed height is compatible within its context.
- (iii) Objective (c) to promote the sharing of views,
- There will be no adverse amenity impacts to the properties located in the surrounding area in terms of views as a result of the breach of the height standard.
- (iv) Objective (d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas,
- This objective is not applicable to the site.
- (v) Objective (e) in respect of Green Square—
- (i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and
 - (ii) to ensure the built form contributes to the physical definition of the street network and public spaces.
- This objective is not applicable to the site
- (b) The applicant states that there are sufficient environmental planning grounds to justify contravening the standard:
- (i) The proposed development complies with the floor space standard and the height in storeys control. As such, the scale of the building is consistent with the desired character of the locality notwithstanding a small variation is proposed to the height of buildings standard.

- (ii) The height variation facilitates equitable access to the rooftop communal outdoor terrace and laundry facilities located at the Cope Street Building.
- (iii) The variation to the height standard provides stair access to the roof of the Botany Road building for servicing and maintenance of mechanical plants, solar panels and other equipment located on the rooftop.
- (iv) The exceedance of the height standard allows for the provision of adequate screening to the AC units and chillers located on the roof of the Botany Road building.
- (v) The proposed variation to the height of buildings control does not give rise to any impacts on the amenity of the locality by overshadowing or bulk.
- (vi) The proposal will deliver a superior outcome as the common areas located on the roof of the building afford equitable and dignified access for all residents of the boarding house.

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

73. 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)?

74. The written request states that the development is consistent with the objectives of the height development standard as the breach is a small portion of the buildings and the development remains predominantly 5 storeys, which is consistent with the existing height in storeys of the area.
75. In accordance with recent case law the written request has demonstrated that the objectives of the height development standard are achieved notwithstanding the noncompliance with the standard. Accordingly, it is considered that the applicant has adequately demonstrated that strict compliance with the height development standard is considered unreasonable and unnecessary in the circumstances of the subject application.

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

76. The written request has demonstrated that the non-compliance associated with the works will result in an outcome that generates minimal visual impact to the streetscape and will not result in adverse privacy or overshadowing impacts. Accordingly, it has been demonstrated that there are sufficient environmental planning grounds to justify contravening the standard.

Is the development in the public interest?

77. The development results in a building that is appropriate to the condition of the site, maintains an appropriate street wall height and overall height in storeys and continues to promote the sharing of views in accordance with the objectives of the height development standard (as outlined above at point 63). Despite the height exceedance, the proposal is also still consistent with the objectives of the B4 Mixed Use zone as outlined below:

- (a) To provide a mixture of compatible land uses.
 - (i) The proposed development will provide a mixture of compatible land uses including a retail premises (shop) and boarding house use. A condition of consent has been included to ensure that the proposed shop operates between the hours of 7am and 10pm to ensure that the use remains compatible with the surrounding residential uses.
- (b) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
 - (i) The proposal will integrate a retail premises (shop) and boarding house use in a highly accessible location in close proximity to Redfern Train Station, bus services and the future Sydney Metro station which will assist in maximising public transport patronage and encourage walking and cycling.
- (c) To ensure uses support the viability of centres.
 - (i) The residents of the proposed boarding house will continue to support the viability of the mixed-use local area. The proposed retail premises to the ground floor of the Botany Road building will serve the day to day needs of local residents.

78. The proposal is considered to be 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

79. For the reasons provided above the requested variation to the height 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 development standard and the B4 Mixed Use zone.

Clause 4.6 - Motorcycle Parking

80. Clause 30(1)(h) of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP) states that at least one motorcycle parking space must be provided for every 5 boarding rooms proposed. This equates to a required provision of 26 motorcycle parking spaces for the development.

81. 6 motorcycle parking spaces are proposed for the development.

82. 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 motorcycle development standard by demonstrating:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard.
83. A copy of the applicant's written request is provided at Attachment D.

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

84. The applicant seeks to justify the contravention of the ARHSEPP motorcycle development standard on the following basis:
- (a) That compliance with the minimum motorcycle parking development standard of the ARHSEPP is unreasonable and unnecessary in the circumstances of the case as despite the non-compliance, the development meets the aims of the policy outlined in Clause 3 of the ARHSEPP for the following reasons:
 - (i) The development, which proposes 130 boarding rooms in a highly accessible location, seeks to improve affordable housing outcomes for the City of Sydney to meet anticipated development needs for the foreseeable future. The development provides an intensity of development that is commensurate with the capacity of existing and planned infrastructure. The proposed development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) There are no demonstrable adverse environmental impacts arising from a reduced number of motorcycle parking spaces.
 - (ii) The proposed development is consistent with the zone and development control objectives by providing a modern boarding house in a location identified by the planning provisions for this form of development. The proposal demonstrates that the standards for boarding houses (Clause 30, AHSEPP) does not hinder the achievement of the aims of the Sydney LEP in controlling land use, bulk, scale and intensity of development.
 - (iii) The under provision of motorcycle parking spaces within the development is designed to maximise amenity for future residents and to minimise any adverse impact upon the public domain.
 - (iv) Given the impossibility to expand the development's basement because of conflicts with an underground rail tunnel traversing the site, strict compliance with the 'Standards for Boarding Houses' (AHSEPP Division 3) would require the provision of additional motorcycle parking at grade with likely impacts on residential amenity and the local streetscape.

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

85. 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)?

86. The written request states that despite the non-compliance, the development is still consistent with the aims of the ARHSEPP. The non-compliance with the motorcycle parking standard will have no impact on the proposal to facilitate the delivery of new affordable rental housing in a highly accessible location. Whilst the development has a basement accessible by motorcycles, the provision of additional spaces to fully comply would be to the detriment of the provision of a significant amount of bicycle parking over the requirements. A further extension of the basement to accommodate additional motorcycle spaces is restricted by deep soil requirements and the underground rail. It is therefore considered that the applicant has adequately demonstrated that strict compliance with the motorcycle parking is unnecessary in the circumstances of the subject application.

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

87. The written request has demonstrated that the non-compliance with motorcycle parking will result in an outcome that will not have any adverse environmental impacts and will promote the use of sustainable transport options by residents and a better urban design outcome. Accordingly, it has been demonstrated that there are sufficient environmental planning grounds to justify contravening the standard.

Is the development in the public interest?

88. The objectives of the motorcycle standard are to ensure that residents have adequate access to different modes of transport.
89. The aims of the ARHSEPP are as follows:
- (a) to provide a consistent planning regime for the provision of affordable rental housing,
 - (b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,
 - (c) to facilitate the retention and mitigate the loss of existing affordable rental housing,
 - (d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,

- (e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,
 - (f) to support local business centres by providing affordable rental housing for workers close to places of work,
 - (g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.
90. The application seeks to provide 6 motorcycle parks instead of the required 26 motorcycle parks under Clause 30 (1)(h). Despite the non-compliance, the development, which proposes a 130 boarding rooms in a highly accessible location, is still considered to achieve the objectives of the standard and the aims of the ARHSEPP and is therefore considered to be in the public interest. The development is located in close proximity to the Redfern train station, proposed Sydney Metro station and bus services that run along Botany Road. The proposal will facilitate the effective delivery of new affordable rental housing and support local business centres by providing affordable rental housing for workers close to places of work and within close proximity of a range of public transport modes.
91. The objectives of the B4 Mixed Use zone relevant to the proposal include:
- (a) to provide a mixture of compatible land uses;
 - (b) to integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling; and
 - (c) to ensure uses support the viability of centres.
92. The proposal, which proposes a retail premises (shop) on ground level and 130 boarding rooms is considered to provide a mixture of compatible land uses integrating suitable retail and residential uses in a highly accessible location. The proposed non-compliance with the motorcycle parking standard will assist in maximising public transport patronage and encourage walking and cycling by residents. The proposed shop and boarding house use will support the viability of the local area.

Conclusion

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

Bulk and massing

94. The bulk and massing of the proposed buildings are generally consistent with the existing buildings along Botany Road and Cope Street. A 5-storey apartment development adjoins the site to the north at 1-3 Botany Road and 76-78 Cope Street. Further north is a 7-storey apartment building at 195 – 199 Regent Street. To the south of the site on Cope Street is a single storey loading dock to an IGA which has a frontage to Botany Road. Beyond the IGA to the south is 86 – 90 Cope Street, an apartment building with heights of 5 and 6 storeys. Further south is 92-110 Cope Street Waterloo, a residential apartment building with a stepped form ranging from 4 to 7 storeys.
95. The proposed Botany Road building maintains a 4-storey street wall height to the street frontage with the remainder of the building being 5-storeys in height as required by section 4.2.1 of the Sydney DCP 2012.
96. While the building exceeds the Sydney LEP 2012 height limit, most of the rooftop structures will not be visible when viewed from the public domain, given that they are located centrally within the footprint of the building. Figure 28 below is a 3D view the Botany Road building in relation to the adjoining 5 storey building to the north. The 3D view also demonstrates that the elements of the building which exceed the 18m height control will not add to the 5-storey bulk of the building.



Figure 28: 3D view of the Botany Road elevation

97. The Cope Street building steps from 3 and 4 storeys from the south of the site to a predominantly 5-storey built form, with the exception of the 13sqm laundry room to the centre of the rooftop. The lift overrun at the Cope Street building, will be the only non-compliant element visible from the Cope Street public domain. Given the small footprint of this structure, it is not considered to have an adverse impact on the physical bulk or scale of the development as viewed from the street. Figure 29 is a 3D view of the Cope Street building in relation to the adjoining 5 storey residential flat building to the north and the 4 -5 storey apartment building at 86 - 90 Cope Street to the south of the site.



Figure 29: 3D view of the Cope Street elevation

98. Following a request for amendments, the originally proposed two storey central building structure was removed from the proposed plans.
99. The amended development now incorporates a two-building arrangement (built to the north and south boundaries of the site), with a 17.29m wide central courtyard. The massing of the amended proposal is now consistent with the pattern of emerging residential development in the block, which generally consists of building envelopes which address Botany Road and Cope Street, are built to the side (north and south) boundaries and have large central courtyards

Setbacks

100. Following a request for further information by Council, additional contextual information was provided, and amendments were made to the building setbacks. The amended building setbacks are generally consistent with existing, adjacent patterns of building setbacks, particularly that of 1-3 Botany Road and 76-78 Cope Street to the north of the site.
101. The Botany Road building is built to the front boundary alignment for the first four levels, with a 3m setback to the fifth level. The proposed screening between balconies on this level are visually recessive as they are setback at least 300mm from the street wall alignment in accordance with Section 4.2.2.2 of the Sydney DCP 2012. This setback is consistent with adjoining development to the north and south, which is built to the Botany Road alignment.
102. The originally proposed balconies to the rear of the Botany Road building have been removed to achieve a closer alignment with the building setbacks of the neighbouring development at No. 1 - 3 Botany Road. The northernmost rooms to the rear of the Botany Road building have also been set back to align with the solid wall on the neighbouring building to the north, creating a stepped profile similar to that of No. 1 - 3 Botany Road (see Figure 30 below).
103. The Cope Street building incorporates a front landscape setback of between 2.77m to the northern edge and 0.5m to the southern edge of this elevation. The originally proposed triangular balconies to all floors on the northern end of this frontage have been removed and the northmost room on level 4 has been set back to closely align with the glass line and setbacks of the adjoining building at No. 76-78 Cope Street to the north (see Figure 30). The reduced front setback to the southern edge is considered appropriate in this instance given the existing built to boundary loading dock which adjoins the site to the south.
104. The rear setback of the Cope Street building is generally consistent with the rear setback of the building at No. 76-78 Cope Street as shown in Figure 30.

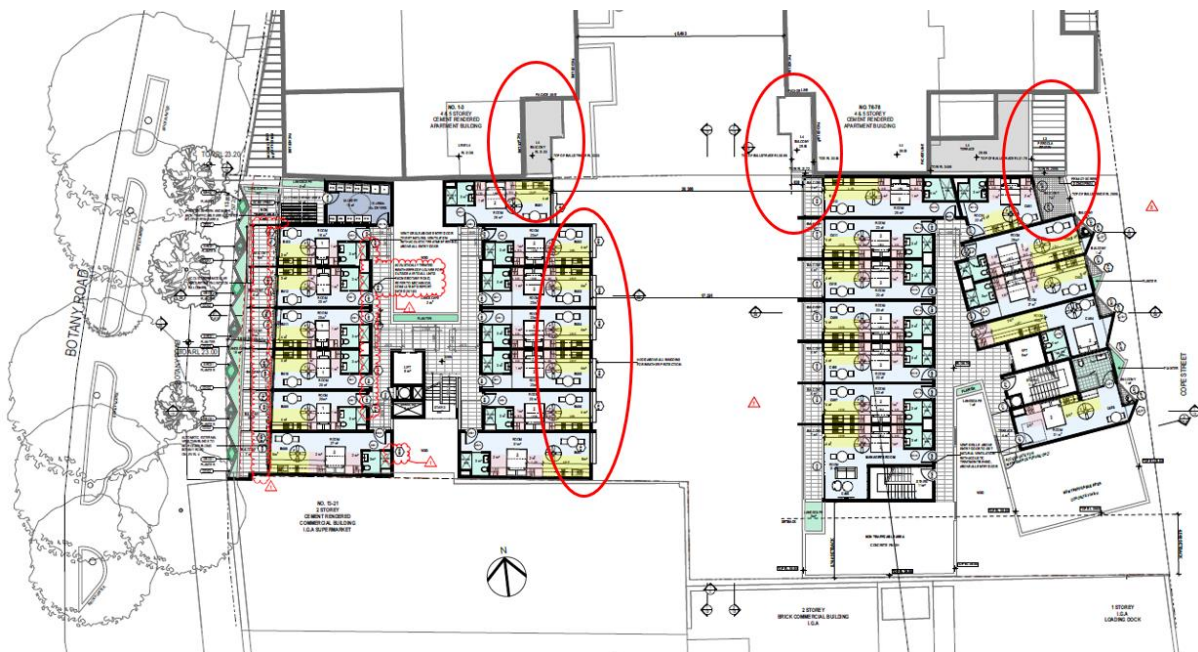


Figure 30: Proposed level four floor plan showing key setback alignments with No. 1-3 Botany Road

105. For the above reasons, the amended building setbacks are considered to be generally consistent with existing, adjacent patterns of building setbacks on the street and reinforce the areas desired future character in accordance with Section 4.2.2 Building Setbacks of the Sydney DCP 2012.

Visual privacy

106. Subject to conditions, the proposed development is considered to maintain appropriate visual privacy for residents and neighbouring properties in accordance with the requirements of Section 4.4.1.6 of the Sydney DCP 2012.

Building separation

107. As discussed above, the originally proposed central building has been removed and the development now incorporates a two-building arrangement with communal open space to the centre of the site. As part of the amendments to the original scheme, the rear of the Botany Road building was set further west and all balconies to the rear of this building were removed. A building separation distance of 17.29m is now proposed between the two buildings, with a 20.2m separation distance between the northernmost rooms.
108. Although the requirements of the Apartment Design Guide (ADG) do not apply to boarding houses, they can be used as a general guide to determine appropriate separation distances in order to maintain appropriate visual privacy between buildings. The ADG recommends a minimum separation distance for buildings of:
- (a) 12 metres between habitable rooms/balconies for buildings up to four storeys, and reduced to 9 metres between habitable and non-habitable rooms or 6 metres between non-habitable rooms; and
 - (b) 18 metres between habitable rooms/balconies for buildings of five to eight storeys, and reduced to 12 metres between habitable and non-habitable rooms or 9 metres between non-habitable rooms
109. The proposed 17.29m building separation distance exceeds the required 12m separation between habitable rooms/ balconies for buildings up to 4-storeys. Whilst the proposal does not maintain 18m separation distance between the upper level of the building, the 0.71m non-compliance is considered minor and will not greatly reduce the visual privacy of the proposed top floor rooms of each building. A diagonal separation distance between the rear building alignments and the rear of the buildings to the north of the site (No.1 -3 Botany Road and No.76-78 Cope Street) exceeds the 18m ADG requirement. The proposed building separation is considered adequate to ensure visual privacy is achieved for residents and neighbouring properties.

Privacy of ground floor rooms adjoining the communal area

110. Following a request for further information from Council, amended sections were provided to demonstrate that adequate privacy is achieved for ground floor rooms directly adjoining the communal open space area. Figures 31 and 32 below demonstrate that due to flooding requirements and the slope of the land, there is a level change between the rear ground floor rooms of the Botany Road building (B001, B002, B003, B004, B005 and B006) and the communal open space area. This level change combined with the proposed landscaping ensures that these rooms achieve appropriate visual and acoustic privacy from the central communal space area.

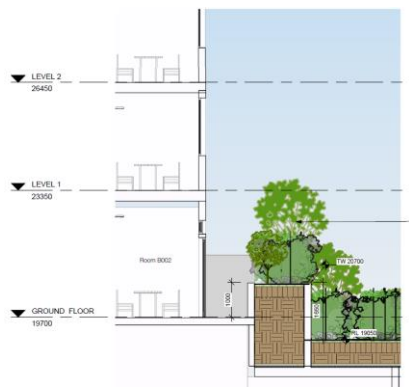


Figure 31: Section through room B002

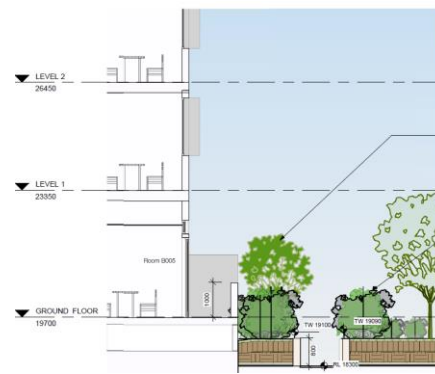


Figure 32: Section through room B005

111. A screen and dense landscaping are proposed between the communal outdoor space and the ground floor rooms of the Cope Street building (C007 and C006). Figure 33 demonstrates that the screen is set far enough away from the rear of these rooms to ensure natural light and ventilation is achieved whilst also maintaining visual and acoustic privacy to these rooms from the communal space area.

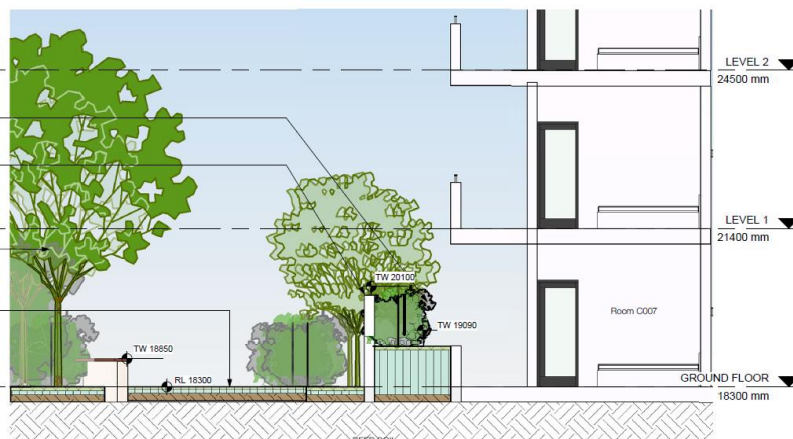


Figure 33: Section through room C007

Overlooking

112. The proposed development includes a communal rooftop terrace to the top of the Cope Street building. As the edge of the roof terrace is set 6m from the northern property boundary, a 1m wide landscape planter surrounds the perimeter of the terrace and the edge of the landscape planter is set appropriately 0.5m above the roof line of the adjoining building to the north, there is not considered to be any overlooking impacts from this area to adjoining properties to the north.
113. Due to the location of plant services to the south of the rooftop, there is also not considered to be any overlooking impacts from the roof terrace to residential properties to south of the site.

114. The following amendments were made during the assessment process to minimise the potential for overlooking from the development to adjoining properties:

- (a) a privacy screen has been incorporated to the level 4 balcony of the northern room C401 within the Cope Street building;
- (b) the originally proposed southern terraces to the Manager's room and room C405 within the Cope Street building have been removed; and
- (c) the area to the west of the level 4 clothes drying area to the Botany Road building has been marked as non-trafficable to prevent overlooking to the northern adjoining balcony.

115. Figure 34 below illustrates the privacy measures incorporated and conditioned within the development.

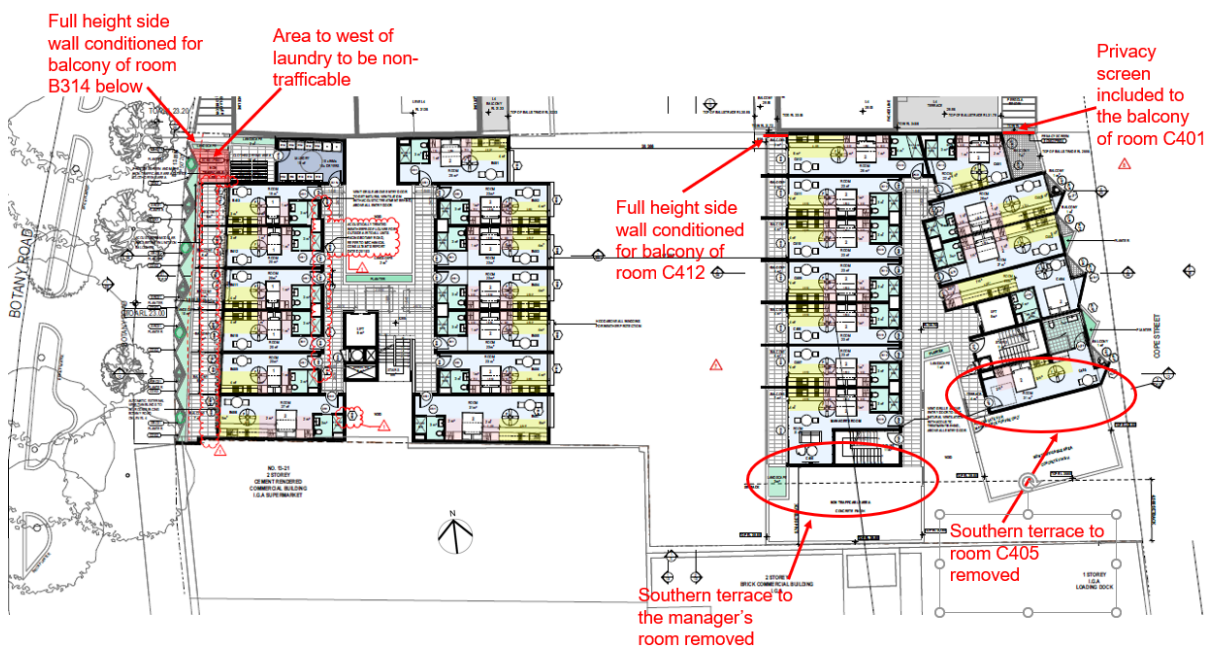


Figure 34: Proposed privacy measures to level 3 and 4 of the development

116. There is still remaining concern that the level 3 balcony to room B314 in the Botany Road building will overlook the front balcony of No. 1 - 3 Botany Road to the north. There is also concern the level 4 balcony to room C412 in the Cope Street building will overlook the rear level 4 balcony of No. 76-78 Cope Street and cause a security issue due to the low side walls proposed (see Figure 35 below).



Figure 35: Low wall proposed to room C412 to the rear of the Cope Street building

117. Design modification conditions to ensure that the side walls to the aforementioned balconies are full height to the top of the parapet have therefore been included within recommended conditions of consent.
118. Subject to conditions, the proposed development is considered to minimise and mitigate visual privacy impacts to residents and neighbouring buildings in accordance with Section 4.4.1.6 of the Sydney DCP 2012.

Overshadowing

119. Section 4.2.3.1 of the Sydney DCP 2012 requires that new developments should ensure that neighbouring developments achieve a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June onto at least 1sqm of living room windows and a minimum 50% of the required minimum area of private open space area. This section also states that new development must not create any additional overshadowing where the minimum solar access requirements are not currently met.
120. Due to the position of the site, there will be no overshadowing from the proposal to adjoining dwellings to the north of the site at No. 1 - 3 Botany Road and No. 76-78 Cope Street at June 21. Shadow diagrams were submitted with the application which indicate that shadows from the development will fall predominantly on the southern adjoining property at No. 13 - 21 Botany Road (IGA supermarket) and with a small portion of additional shadowing on the residential development at No. 86-90 Cope Street at 3pm.
121. Following a request for further information, the applicant submitted sun's eye shadow studies at half hour intervals on June 21 (refer to Attachment F).
122. The sun's eye shadow studies illustrate that additional overshadowing to the residential apartments at No. 86 - 90 Cope Street at 3pm will fall on the northern brickwork of the building and will not reduce existing solar access to private open space areas or living area glazing. Figures 36 and 37 below are existing and proposed sun's eye views of the development at No. 86-90 Cope Street at 3pm with living room windows highlighted in yellow.

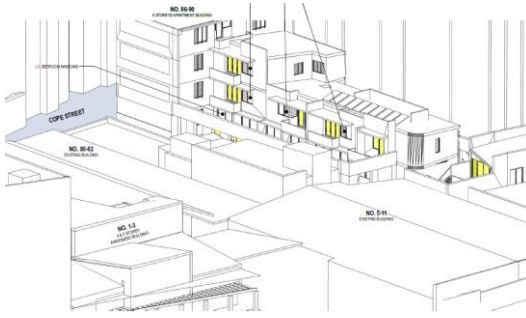


Figure 36: Existing sun's eye view at 3pm

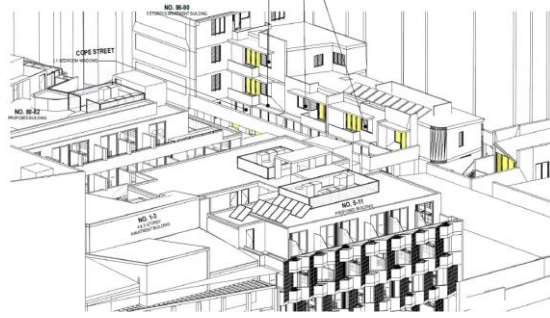


Figure 37: Proposed sun's eye view at 3pm

123. Figure 38 below shows the small additional portion of shadowing from the development onto the brickwork of No. 86 - 90 Cope Street at 3pm.



Figure 38: Overshadowing cast by the proposal onto No. 86 - 90 Cope Street at 3pm (shown in red)

124. It has therefore been demonstrated that the development will not create any additional overshadowing onto living room windows and private open space areas of neighbouring residential developments at June 21 in accordance with the requirements of Section 4.2.3.1 of the Sydney DCP 2012.

Noise Management

Maintaining Acceptable Noise levels and Natural Ventilation

125. The site is located on Botany Road which is defined as a busy road carrying over 20,000 Annual Average Daily Traffic (AADT) number. The ISEPP requires NSW Department of Planning Development near Rail Corridors and Busy Roads - Interim Guideline be applied to any residential developments located near roads with an AADT volume greater than 20,000.
126. Section 4.2.3.11 of the Sydney DCP 2012 also outlines required criteria for internal noise levels in residential developments to ensure that occupants have an acceptable level of noise privacy in noisy environments.
127. The applicant has submitted an Acoustic Report prepared by Koikas Acoustics dated 6 November 2020 which concludes that the noise criteria set out in both the ISEPP and the Sydney DCP 2012 is achieved within each proposed boarding room.

128. The rooms facing Botany Road are not able to achieve the internal acoustic criteria whilst windows and doors to these rooms are open. The applicant has submitted a ventilation design intent statement prepared by 'Two MS' which presents two alternative natural ventilation options for the rooms fronting Botany Road. The preferred option proposes incorporating ductwork/plenum into the ceiling cavity of the bathrooms of rooms fronting Botany Road with air-take through a louvre facing the internal courtyard (see Figure 39 below).

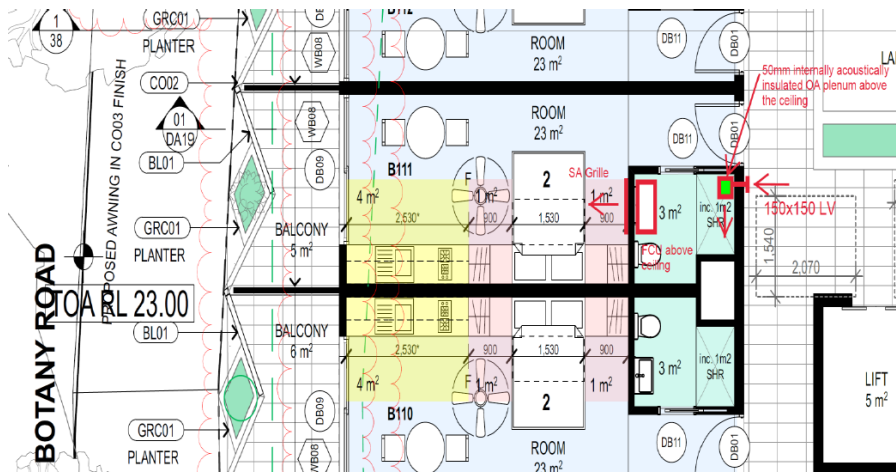


Figure 39: Proposed OA Plenum Intake Typical layout

129. The submitted Acoustic Report states that this method is acoustically adequate to achieve the noise criteria outlined in the ISEPP and the Sydney DCP 2012.
130. All details of the preferred system have not been provided within the proposed plans. A deferred commencement condition to ensure all details of this system are provided prior to activation of the development application has been recommended.
131. This will ensure that the design of the building is modified to provide acoustically treated, natural ventilation plenums or alternative facade treatments to all residential rooms that are affected by noise from Botany Road. The plenums and/or alternative facade treatments are conditioned to be designed to integrate with the building design and to achieve natural ventilation without mechanical assistance. Detailed elevations, plans and sections are to be provided for approval of Council prior to activation of the development application. The design detail is to be accompanied by advice from an acoustic consultant confirming that the acoustic treatment to the plenums and/or alternative treatments ensures compliance with noise criteria contained within the submitted Acoustic Report.
132. Further design recommendations have also been made within the submitted Acoustic Report to ensure the noise criteria is met in rooms fronting Botany Road, including the use of acoustic absorption on balconies, wall treatments and the utilisation of acoustically treated glazing. A condition requiring that the building be constructed in accordance with the acoustic design requirements of the submitted Acoustic Report has also been included within the recommended conditions of consent.

Noise and vibration from future rail tunnel

133. Two Sydney Metro and Southwest rail tunnels are proposed to run in north-south orientation beneath the eastern portion of the site See Figure 40 below.

134. The application documents state that the tunnel centre line is approximately -9.55m AHD, with the crown of the tunnel at approximately RL -652m AHD, or at a depth of about 24.9m below ground level.



Figure 40: Location of the future Sydney Metro rail corridor below the subject site

135. As the application proposes residential accommodation on land in a rail corridor, Clause 87 of the ISEPP applies. This clause states that consent must not be granted unless it has been demonstrated that appropriate measures will be taken to ensure that the LAeq levels in Clause 87(3)(a) and (b) of the ISEPP are not exceeded.
136. Council requested that the applicant provide further information regarding potential impact of the underground rail tunnel to future residents during the assessment of the application. An acoustic letter prepared by Koikas was submitted by the applicant which stated that based on the noise and vibration information available for the Sydney Metro Chatswood to Sydenham line, it is reasonable to expect ground-borne noise levels to be below the LAeq levels outlined in Clause 87. No detailed predictions or calculations were provided on the potential impact of ground borne noise and vibration on the proposed development at this time.
137. It is considered that the development is, however, capable of complying with the noise and vibration requirements of the ISEPP, subject to the inclusion of engineered mitigation measures. Any required engineered solutions would not have a material impact on the perceived design of the building or result in any additional amenity impacts as these elements would be incorporated into the basement level and structural design of the building.
138. A deferred commencement condition has therefore been included within the conditions of consent to ensure that a prediction report, prepared by a suitably qualified geotechnical engineer, is submitted on the potential impact of noise and vibration from the rail tunnel that runs beneath the development. The condition will require that appropriate recommendations are made to ensure that there is no loss of amenity to future residents from noise and vibration arising from the new underground railway. A condition requiring that the recommendations of the submitted prediction report are incorporated within the development has also been recommended.

139. The recommended conditions are considered satisfactory in order to ensure that future residents are not unduly impacted by noise and vibration from the rail corridor in accordance with Clause 87 of the ISEPP 2007.

Internal and adjoining acoustic amenity

140. The following design and management measures have been proposed to ensure that the acoustic amenity of residents of the boarding house and adjoining properties is maintained:
- (a) A boarding house manager will live on the premises and be available to be contacted 24 hours a day should any noise disturbance occur.
 - (b) The use of the common central courtyard and roof terrace on the Cope Street building will be restricted to between 7am and 10pm Monday to Sunday. The submitted Plan of Management states that these areas will be vacated no later than 10pm.
 - (c) The maximum capacity of the common central courtyard is to be 30 people at any time during the day period and 20 people at any time during the evening.
 - (d) The maximum capacity of the roof terrace to the Cope Street building is to be 36 persons during the daytime and evening period. The submitted Plan of Management states that the on-site Manager of the boarding house will be responsible for monitoring occupancy levels of these outdoor areas.
 - (e) All audible music from individual boarding rooms will be required to cease playing after 10pm which will be enforced by the building manager.
 - (f) Partition wall systems, floor and ceilings that are capable of achieving the required acoustic performance are proposed between boarding rooms.
 - (g) Noise and vibration mitigation measures are proposed for the mechanical plant to the roof of the building including the use of noise barriers and rubber mounts. A condition to ensure that these noise attention measures are implemented prior to issue of an occupation certificate has been included within the recommended conditions.
141. The submitted Acoustic Report concludes that, subject to the maintenance of the above management and design measures, the proposal will meet the required noise criteria of the Sydney DCP 2012 and will provide appropriate amenity for residents and neighbours of the development in accordance with Section 4.4.1.6. Conditions to ensure the above measures are incorporated into the operation of the development have been included within the recommended conditions of consent. A condition that partitions between balconies are to be full height to ensure appropriate acoustic privacy between individual balconies is achieved has also been included within the recommended conditions.

Other Impacts of the Development

142. The proposed development is capable of complying with the BCA. It is Class 3.
143. 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

144. 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**Design Advisory Panel - Residential Subcommittee**

145. The application was referred to the Design Advisory Panel - Residential Subcommittee on 4 February 2020. The panel members provided several design recommendations including:

- (a) Refinement of ground floor apartment interface with Cope Street and central courtyard to address privacy amenity and provide natural ventilation that does not compromise security.
- (b) Glazing operability and ceiling fans to be detailed on drawings to demonstrate amenity and viable cross-ventilation to central courtyards.
- (c) The inclusion of sun shading and weather protection to all required openings
- (d) Removal of façade planting would provide a more refined material palette and remove the need for maintenance and irrigation.
- (e) Refinement of Botany Road co-working tenancy required to provide active street frontage. Privacy could be managed with zoning of internal spaces rather than by providing privacy treatment to glazing.
- (f) An alternate strategy is to be provided for the ground floor plane that addresses sightlines and CPTED and provides direct circulation and an improved connection to each street frontage for all building occupants and with the central landscaped space.
- (g) A robust approach to acoustic mitigation and cross ventilation is to be provided, rather than being left to detail design development.
- (h) Remove two storey central communal indoor space to provide better solar, privacy amenity and accessibility outcomes and replace with an aggregated landscaped area.
- (i) Open-air drying facilities to be provided where they can achieve direct sunlight.
- (j) Clarification on whether the terrace next to C407 is intended to be private or common.
- (k) Additional detail / dimensions required to demonstrate that private balconies achieve 4sqm in 30% of rooms.
- (l) Further detail is required on management and maintenance of gardens (including details of proposed irrigation systems) to ensure ongoing health and performance.

146. The majority of the panel's recommendations have been addressed through the provision of amended plans which have removed the two-storey central building, improved sightlines from entrances and demonstrated compliance with the provision of private open space. Recommendations regarding the ventilation strategy and the requirement for weather protection have been addressed through the inclusion of appropriate conditions as discussed above in this report.

Internal Units

147. The following internal referrals reviewed the amended application and provided the below comments. Where relevant, conditions of other sections of Council have been included in the proposed conditions of consent.

(a) Urban Design

The City's Urban Design Specialist raised a number of concerns relating to the overall design of the building, particularly in regard to the natural ventilation and noise mitigation strategy for the rooms fronting Botany Road. They also raised concern regarding a potential for a side wall to the northern most balcony on the 4th level of the Cope Street building for fire rating purposes. Conditions have been recommended to ensure details of the proposed plenums are provided to Council for approval as a deferred commencement condition. A condition requiring an alternative fire rated solution for the 4th level balcony of the Cope Street building has also been included within the conditions of consent.

(b) Environmental Health

The City's Environmental Health Officer raised concern regarding the potential for noise and vibration from the future metro rail tunnel below the site. Concern was also raised regarding the acoustic performance of the proposed plenums for rooms fronting Botany Road. A deferred commencement condition has been recommended to ensure that detailed noise and vibration predictions from the rail tunnel are provided and recommendations incorporated into the development prior to commencement of the consent. Deferred conditions of consent have also been included to ensure that details of the acoustic performance of the plenums are provided.

(c) Ecologically Sustainable Development

The ESD Officer reviewed the application and advised that the BASIX certificate submitted was acceptable and the application was supported subject to inclusion of a condition ensuring compliance with the BASIX certificate. A condition to this effect has been included within the recommended conditions.

(d) Landscaping

The City's Landscaping Specialist advised that the proposal is supported subject to inclusion of a condition requiring a detailed landscape plan to be submitted prior to issue of a Construction Certificate. A condition to this effect has been included within the recommended conditions.

(e) Public Art

Public art advised that the proposed locations for public art were acceptable and the application was supported subject to the submission of a Detailed Public Art Plan prior to Construction Certificate for above ground works. A condition to this effect has been included within the recommended conditions.

(f) Public Domain

Public domain advised that the amended proposal meets the required floor planning levels and the application is acceptable subject to the inclusion of standard public domain conditions. These conditions have been included within the conditions of consent.

(g) Surveyor

The City's Surveyor advised that the application is supported subject to the inclusion of conditions requiring preparation and lodgement of a consolidation plan and additional standard surveying conditions. Conditions to this effect have been included within the recommended conditions.

(h) Transport and Traffic

The City's Transport and Traffic Engineer reviewed the application and advised that trip generation and sustainable transportation had been appropriately considered by the proposal and the application was supported subject to transport conditions. Recommended transport and traffic conditions have been included within the conditions of consent.

(i) Tree Management

Tree Management advised that the application was supported subject to the inclusion of conditions regarding the achievement of 15% canopy cover across the site and the implementation of street tree protection measures during demolition and construction. Conditions to this effect have been included within the conditions of consent.

(j) Waste Management

The City's Waste Management Officer reviewed the application and advised that the proposal was acceptable subject to the inclusion of conditions requiring a detailed waste and recycling management plan to be submitted to Council for approval prior to issue of a Construction Certificate. Recommended waste conditions have been included within the conditions of consent.

(k) Safe City

A review of the initial Plan of Management raised a number of minor areas of consideration for the applicant including provision of a backup person for the on-site manager and management procedures for the communal spaces. The majority of changes recommended by Safe City are incorporated into the amended Plan of Management.

(l) Building Services

The City's Building team advised that the application was acceptable subject to standard building conditions. These conditions have been included within the recommended conditions of consent.

External Referrals

Ausgrid

148. The application was referred to Ausgrid as the development will be carried out within 5m of an exposed overhead electricity power line and no objection was raised.

Water NSW

149. The application was referred to Water NSW for advice pursuant to section 91 of the Water Management Act 2000. No response was received from Water NSW.

Transport for NSW

150. As the application is on land within the future CBD Rail Link Corridor, the application was referred to Transport for NSW (TfNSW) for concurrence. TfNSW provided concurrence and recommended conditions on 13 February 2020 which have been included in Schedule 3 in the recommended conditions of consent (Attachment A).

Sydney Metro

151. As the application involves penetration of ground to a depth of at least 2m below ground level (existing) on land above the Sydney Metro City and Southwest rail corridor, the application was referred to Sydney Metro for concurrence.
152. Sydney Metro issued a stop the clock request for information to the applicant on 4 February 2020.
153. Further information was provided to Sydney Metro by the applicant on 9 September 2020.
154. Sydney Metro requested further clarification from the applicant on 1 October 2020, 12 November and 19 November 2020 regarding the applicant's acoustic report, the submitted geotechnical and structural information and requested that the applicant provide a Monitoring Plan, an Electrolysis report and tower crane foundation information.
155. The applicant responded with further information on 30 October 2020, 14 November 2020 and 19 November 2020.
156. Concurrence approval, subject to conditions, was subsequently provided by Sydney Metro on 23 November 2020. These conditions are included within Schedule 4 in the recommended conditions of consent (Attachment A).

Notification, Advertising and Delegation

157. 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 14 November 2019 and 6 December 2019. As a result of this notification a total of 703 properties were notified and there were 14 submissions received.

158. Following the lodgement of amended plans which increased the height of the lift overrun, the application was re-notified for a period of 14 day between 22 September 2020 and 7 October 2020. As a result of this re-notification a total of 14 submissions were received.

159. Below is an overview of the issues raised in all submissions.

- (a) The building at No. 82 Cope Street has heritage value, adds to the character of the street and should not be demolished.

Response - The existing building at No. 82 Cope Street is not identified as a heritage item and is not located within a heritage conservation. As such, the building is not required to be retained.

- (b) The reports inaccurately represent and describe the neighbouring site.

Response - Council officers conducted a site visit to review the site and surrounds, including neighbouring developments during the assessment of the application.

- (c) The proposed development will impact the sunlight received by adjoining residential development.

Response - As discussed above in the Issues section of this report, due to the position of the site, the development to the north will not be impacted by overshadowing during mid-winter. The proposal results in a minor increase in shadow to the northern brick wall of No. 86 - 90 Cope Street at 3pm. The proposal will not increase shadowing to private open space areas or living room windows and therefore complies with the solar access requirements of the Sydney DCP 2012.

- (d) Staffing arrangements for the boarding house are unclear and it is not evident that support staff will be available for the boarding manager. There are also discrepancies in the plan of management as to the number of proposed residents.

Response - An updated Plan of Management has been provided at the request of Council addressing these concerns.

- (e) The proposal does not meet the requirement for a 4-storey street wall height and the 18m height limit and the buildings are not consistent with the scale of adjoining buildings.

Response - The building provides a 4-storey street wall height to Botany Road. As discussed above in this report, a clause 4.6 request has been submitted with the application which demonstrates that strict compliance with the height development standard is unnecessary in the circumstances of the case. The proposed height and scale of the building is considered consistent with adjoining buildings in the locality.

- (f) The proposed boarding house will add strain on local services and local roads.

Response - The proposed boarding house meets the floor space requirements of the Sydney LEP 2012 and is of a scale that is commensurate with the capacity of existing and planned infrastructure. The site is highly accessible, being in close proximity to Redfern Station and the planned Metro Station.

- (g) The proposal will have detrimental privacy and overlooking impacts for the adjoining residences to the north and south.

Response - As discussed above in the Issues section of this report, subject to conditions, the proposal will not have unreasonable impacts on the privacy of adjoining residential properties.

- (h) The proposed height of the buildings will cause view loss to neighbouring residential properties to the north and south.

Response - The site is zoned for a 5-storey building and the proposed scale of the development, which is commensurate in scale to nearby developments, is not considered to cause undue view loss for adjoining properties. It is considered unreasonable to require retention of all views across the existing site. The proposed building will not impede views from the public domain to highly utilised public places as required by Section 3.2.1.2 of the Sydney DCP 2012.

- (i) The proposed proximity of the balconies to the neighbouring property to the north will cause a safety issue.

Response - Conditions requiring that full height side walls are to be provided to the balconies of room C412 and B314 have been recommended to ensure visual privacy and safety of adjoining terraces to the north is maintained.

- (j) There are errors in the Construction Management Plan and there is concern regarding dust and debris during demolition and construction.

Response - A condition has been included within the recommended conditions to ensure that a detailed demolition, excavation and construction management plan is submitted to and approved by Council prior to the issue of any Construction Certificate.

- (k) There are already too many high-density boarding houses in the area.

Response - The proposed boarding house is a permissible use within the B4 Mixed Use zone of the site. The proposal complies with the floor space ratio requirements of the Sydney LEP 2012 and is of an appropriate density for the site.

- (l) The proposal will detrimentally impact the structural integrity and foundations of neighbouring buildings.

Response - A condition requiring the preparation of a dilapidation report by an appropriately qualified structural engineer prior to commencement of demolition/excavation works and following the works has been included to ensure the structural integrity of neighbouring buildings is not affected by the proposal.

- (m) Neighbours will be detrimentally impacted by the noise during demolition and construction and during operation of the boarding house, including laundry areas.

Response - A condition has been recommended to ensure that all work, including demolition, excavation and building work complies with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites. As discussed above in this report, restrictive measures are proposed and have been conditioned to ensure that noise amenity of adjoining properties is maintained during operation of the boarding house.

- (n) The existing contamination at the site will cause a human health risk.

Response - A preliminary site investigation and Remedial Action Plan were submitted with the application which demonstrate that the site can be made suitable for the proposed use. Conditions to ensure that contaminated soil is removed by suitably qualified persons have been included within the recommended conditions.

- (o) The transient nature of tenants of the building and antisocial behaviour of residents, including rubbish generation and passive smoke, will devalue neighbouring properties.

Response - This is not a matter for planning to consider during the assessment of a development application.

- (p) The proposed location of the driveway is unsafe due to its proximity to a pedestrian crossing and intersection.

Response - The driveway services a basement with only 3 car spaces (including 1 service bay) and 6 motorbike spaces, which is expected to generate very few traffic movements. Cope Street is also signposted for 50kph which is a low speed environment. The safety of those using the driveway access and the street is therefore not likely to be compromised by the proposed location of the driveway in this instance.

- (q) The proposed Cope Street setback is not commensurate with setbacks of residential buildings along the street.

Response - As discussed under the heading Setbacks in the Issues section of this report, the proposed development is consistent with adjacent patterns of building setbacks along Cope Street and are considered appropriate to reinforce the areas desired future character.

- (r) No construction traffic management plan has been submitted with the application.

Response - A condition requiring a construction traffic management plan to be submitted and approved by Council prior to issue of a Construction Certificate has been included within the recommended conditions of consent.

- (s) There are errors in the Noise impact report which refer to the neighbouring property to the north as a boarding house.

Response - This error is noted. Council officers have reviewed the development history of neighbouring residential buildings.

- (t) The proposed perimeter lighting will have a detrimental impact on adjoining properties.

Response - A condition requiring that a separate development application is lodged prior to any external floodlighting or illumination of the building or site landscaping has been included within the conditions of consent.

Public Interest

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

S7.11 Contribution

161. 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.

162. The applicant has submitted gross floor area calculations of the existing buildings on site. Credits have been applied for the most recent past use(s) of the site as follows:

- (a) 5 - 11 Botany Road contains 352sqm of a shop use on the ground floor and 352sqm office on level 1.
- (b) 80 Cope Street contains 487sqm shop (associated with the IGA) on the ground floor and 487sqm of office on level 1.
- (c) 82 Cope Street contains 1375sqm with the last approved use being educational facilities (film school).

163. Credits have therefore been applied as follows:

- (a) 839sqm shop;
- (b) 839sqm office; and
- (c) 1375sqm educational facility.

164. The proposed development encompasses an 83sqm shop premises and 4356sqm boarding house.

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

(a)	Open Space	\$620,074.58
(b)	Community Facilities	\$96,401.58
(c)	Traffic and Transport	\$787,143.42
(d)	Stormwater Drainage	\$311,262.73
	Total	\$1,814,882.30

Relevant Legislation

166. Environmental Planning and Assessment Act 1979.

Conclusion

167. The application seeks consent for demolition of existing structures and construction of a 5-storey building and part 5, part 6-storey building for use as a boarding house. The development encompasses 130 boarding rooms, two common rooms, communal roof terrace, ground floor shop tenancy and basement bicycle (155 spaces), motor bike (6 spaces) and car parking (2 spaces).

168. The application is reported to the Local Planning Panel as the proposal exceeds the height development standard of the Sydney Local Environmental Plan (LEP) 2012 by more than 10%. A variation of more than 10% is also sought to the motorcycle parking standard of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP).

169. The proposal exceeds the 18m building height development standard pursuant to Clause 4.3 of the Sydney LEP 2012 by 2.1m or 10.4% with a height of 20.1m to the top of the lift overrun on the Cope Street building. A written request has been provided seeking a variation to the height development standard in accordance with Clause 4.6 of the Sydney LEP 2012. The request to vary the development standard is acceptable in this instance for reasons outlined in this report.

170. The proposal also seeks to vary the requirement for 26 motorcycle parks under the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP), proposing 6 motorcycle spaces. A written request has been provided seeking a variation to the motorcycle parking requirements of Clause 30 (1)(h) of the ARHSEPP in accordance with Clause 4.6 of the Sydney LEP 2012. The request to vary the motorcycle development standard is acceptable in this instance for reasons outlined in this report.

171. The application was notified and advertised for a period of 21 days between 14 November 2019 and 6 December 2019. As a result of this notification a total of 703 properties were notified and there were 14 submissions received. Following the lodgement of amended plans which increased the height of the lift overrun, the application was re-notified for a period of 14 day between 22 September 2020 and 7 October 2020. As a result of this re-notification a total of 14 submissions were received. The issues raised relate to height, traffic and parking, contamination risks, construction risks and appropriate management of the site.
172. Deferred Commencement conditions are recommended regarding the requirement for a noise and vibration prediction report, further details regarding the design and performance of the proposed plenums and minor design changes to the building to ensure appropriate noise and privacy amenity is achieved for residents and neighbouring properties.
173. Subject to recommended conditions, the proposal generally complies with the requirements of the ARHSEPP, Sydney LEP and Sydney Development Control Plan 2012 (SDCP) in terms of amenity, accommodation size, solar access and character of the local area.
174. The development is considered to exhibit design excellence, is in keeping with the desired future character of the area and is considered to be in the public interest.
175. As the application is inconsistent with the existing concept DA over the site, it is recommended that determination of the application be delegated to the CEO to determine the application following surrender of the concept application. Notwithstanding this issue, the application has been assessed against the relevant controls in this report and subject to recommended draft conditions, is generally compliant with relevant planning controls for the site.

ANDREW THOMAS

Acting Director City Planning, Development and Transport

Julia Errington, Specialist Planner