

Item 5.**Development Application: 397-399 Harris Street, Ultimo - D/2020/593**

File No.: D/2020/592

Summary

Date of Submission:	1 July 2020, amended plans received 6 November and 23 December 2020
Applicant:	J Uzabeaga
Architect/Designer:	Beta Solutions Architects
Owner:	C Uzabeaga, J Uzabeaga
Planning Consultant	GSA Planning
Heritage Consultant	Heritage 21
DAPRS	15 September 2020
Cost of Works:	\$367,400.00
Zoning:	B4 Mixed Use, proposal permissible with consent
Proposal Summary:	<p>The application proposes alterations to an existing two storey building and use for a nine bedroom boarding house over two levels.</p> <p>The application includes a proposed variation to the motorcycle parking development standard contained in State Environmental Planning Policy (Affordable Rental Housing) 2009. The application proposes no motorcycle parking rather than the required two spaces and is therefore referred to the Local Planning Panel for determination.</p> <p>The application was notified between 8 July 2020 and 30 July 2020. No submissions were received in response.</p>

The application was considered by the Design Advisory Panel Residential Subcommittee on 15 September 2020. The panel made recommendations to improve the amenity of boarding rooms and common areas. The proposal was amended to address issues raised by the panel and Council staff with amended plans received on 6 November 2020 and 23 December 2020. The amended plans are considered to have addressed the key issues raised except in relation to the poor amenity of room 4 on the ground floor. To address this an additional amendment is recommended to improve the amenity of the ground floor dining / kitchen area with the deletion of room 4 on the ground floor boarding room due to poor amenity.

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

Development Controls:

- (i) Sydney Local Environmental Plan 2012
- (ii) Sydney Development Control Plan 2012
- (iii) State Environmental Planning Policy No. 55 - Remediation of Land
- (iv) State Environmental Planning Policy (Affordable rental Housing) 2009
- (v) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (vi) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request - Motorcycle Parking

Recommendation

It is resolved that:

- (A) the variation requested to the motorcycle parking development standard required under State Environmental Planning Policy (Affordable Housing) 2009 in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (B) consent be granted to Development Application No. D/2020/593 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposal is consistent with the objectives of the B4 Mixed Use Zone.
- (B) The proposal generally satisfies the relevant controls relating to boarding houses.
- (C) The proposal, subject to conditions, satisfies the provisions of clause 6.21 of Sydney LEP 2012.
- (D) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the motorcycle parking development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 30 (1)(H) of SEPP Affordable Rental Housing 2009; and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the B4 Mixed Use zone and the motorcycle parking development standard.

Background

The Site and Surrounding Development

1. The site is identified as being part of Lot 101 in DP 736009 and is located at 397-399 Harris Street, Ultimo. Lot 101 includes the building at 397-399 Harris Street and the adjoining building (an existing boarding house) at 401-403 Harris Street. The site has a combined area of 371sqm. The subject building has a frontage of approximately 10.4m to Harris Street, a side frontage to Fig Street of 18.7m and a site coverage of 193.7sqm.
2. The site contains, at 397-399 Harris Street, a two storey commercial building built to boundary. The frontage of the building has been modified with ground floor openings that reflect a previous shop use. At 401-403 Harris Street is a two storey commercial building with an approved boarding house use. The building has a similar appearance at the street frontage.
3. The surrounding area is characterised by a mix of uses and building forms. To the north the site adjoins Fig Street, an elevated pedestrian walkway and the Western Distributor overpass. To the east across Harris Street at 390-422 Harris Street is located a six storey commercial building. To the south the site adjoins a row of two storey terrace buildings including both residential and commercial uses. To the west at 8-14 Ada Place is a three to four storey residential flat building.
4. The site is located within the Ultimo Heritage Conservation Area.
5. A site visit was carried out on 25 August 2020. Photos of the site and surrounds are provided below.



Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Harris Street looking west.



Figure 3: Site viewed from Harris Street looking south.



Figure 4: Site viewed from elevated pedestrian walkway along Fig Street.



Figure 5: Internal views of existing building.

History Relevant to the Development Application

Development Applications

6. The following applications are relevant to the current proposal:
- **D/2007/851** – Development consent was granted on 11 July 2007 for 'Alterations and additions to the existing building to create an additional dwelling and convert the existing retail space into three retail units' for 397-399 and 401-403 Harris Street, Ultimo. The approved plans for 397-399 Harris Street are for two commercial tenancies fronting to Harris Street and a residence at the rear ground floor with four bedrooms on the first floor. The existing site conditions within the subject building largely reflect these approved plans.
 - **D/2011/1055** – Development consent was granted on 19 September 2011 for 'Conversion of an existing dwelling to an eight room boarding house for a maximum of 11 occupants. Undertake internal and external alterations' for 401-403 Harris Street, Ultimo (adjoining building on the same allotment). It is understood that this use is currently operating.
 - **D/2013/1634** – Development consent was granted on 24 April 2014 for 'Alterations and additions to construct an additional storey to an existing two storey building for use as a boarding house and a café at ground level' for 397-399 Harris Street, Ultimo. It is understood this consent was not activated and lapsed.

Compliance Action

7. The site has previously been subject to compliance action in July 2019 where orders were given to cease using the site as a boarding house and the use ceased.

Amendments

8. The application was considered by the Design Advisory Panel Residential Subcommittee (DAPRS) on 15 September 2020. The key recommendations from the Panel were:
- (a) The planning layout and circulation provide poor amenity, in particular for the kitchen and laundry on the ground floor;
 - (b) The extent of roof cover to the courtyard should be reduced;
 - (c) A new opening to the northern wall of the courtyard would improve ventilation and light;
 - (d) The amenity of ground floor Room 4 is unsatisfactory in terms of size, configuration, ventilation and privacy;
 - (e) Overlooking and privacy between the common area and boarding rooms needs to be addressed;

- (f) The first floor study room is a habitable space and requires source of natural light and ventilation; and
 - (g) BCA compliance should be confirmed.
9. Amendments in response to the DAPRS comments and Council staff feedback were received on 6 November 2020. Following further feedback from Council staff, further amendments to plans were received on 23 December 2020. Room 4 was retained in the amendments which did not address the above recommendations.

Proposed Development

10. The application seeks consent for the following:
- (a) Alterations to the existing two storey building including reinstatement of traditional features to the front face;
 - (b) Internal alterations and fit out works for a boarding house containing nine boarding rooms. Parking provided for two bicycles.
11. Plans and elevations of the proposed development are provided below.

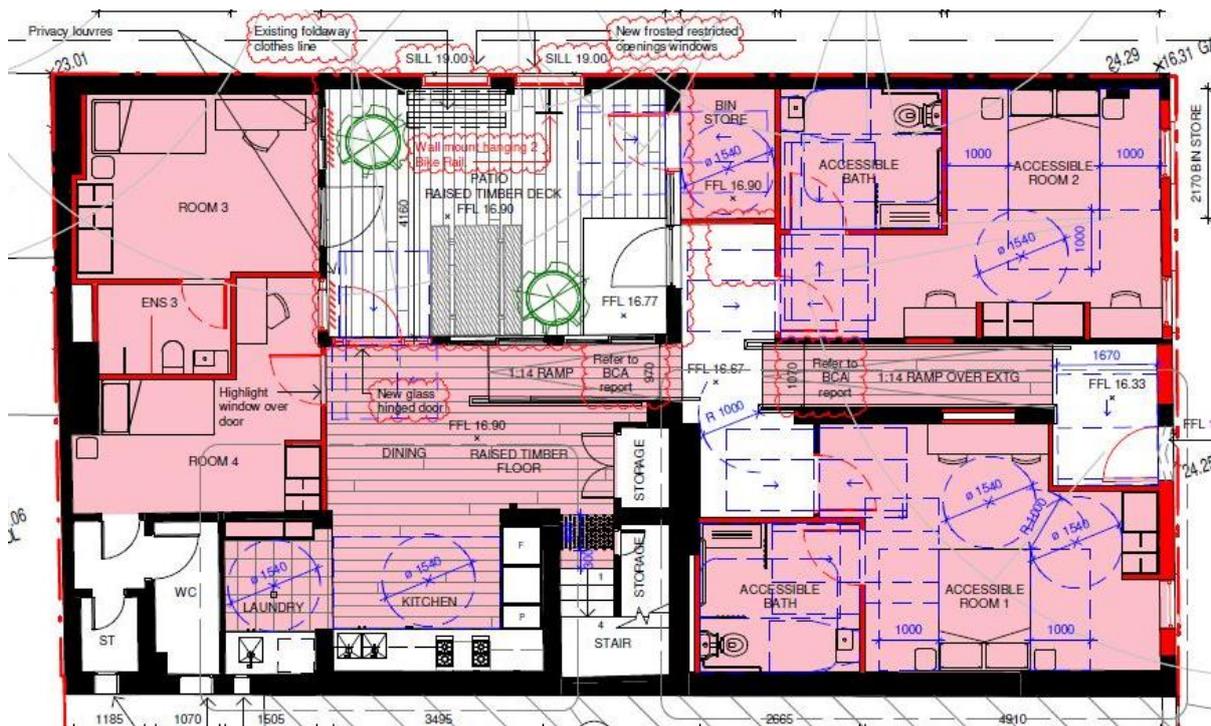


Figure 6: Proposed ground floor plan

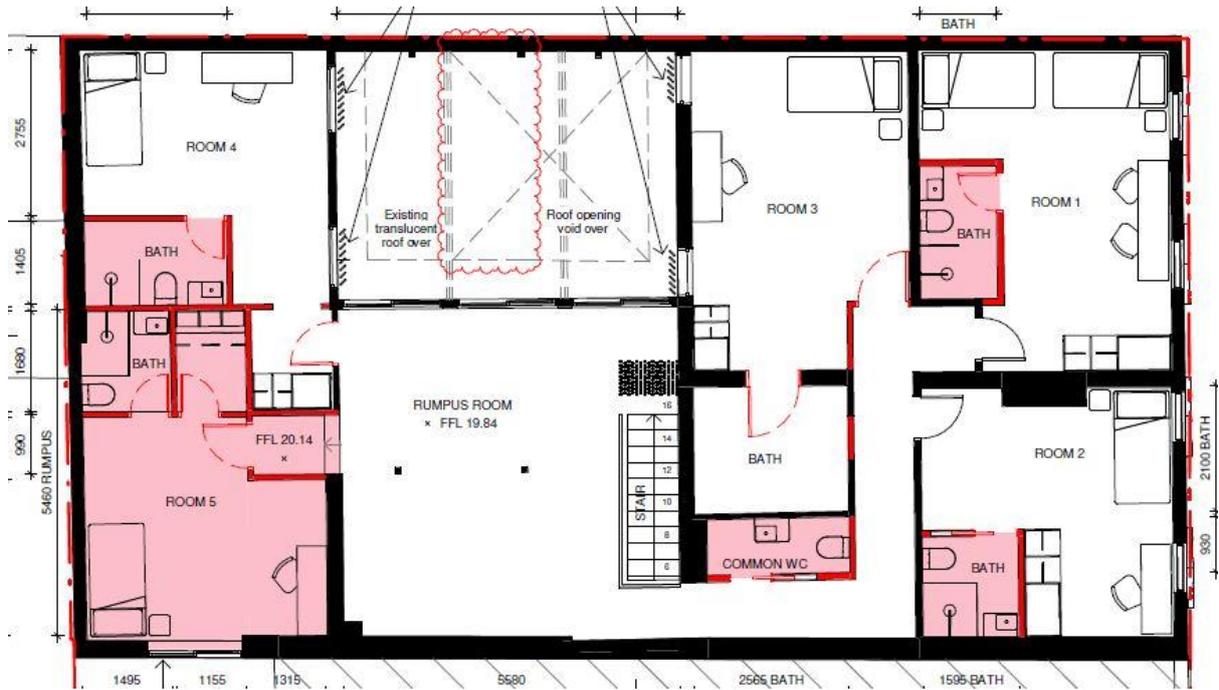


Figure 7: Proposed first floor plan

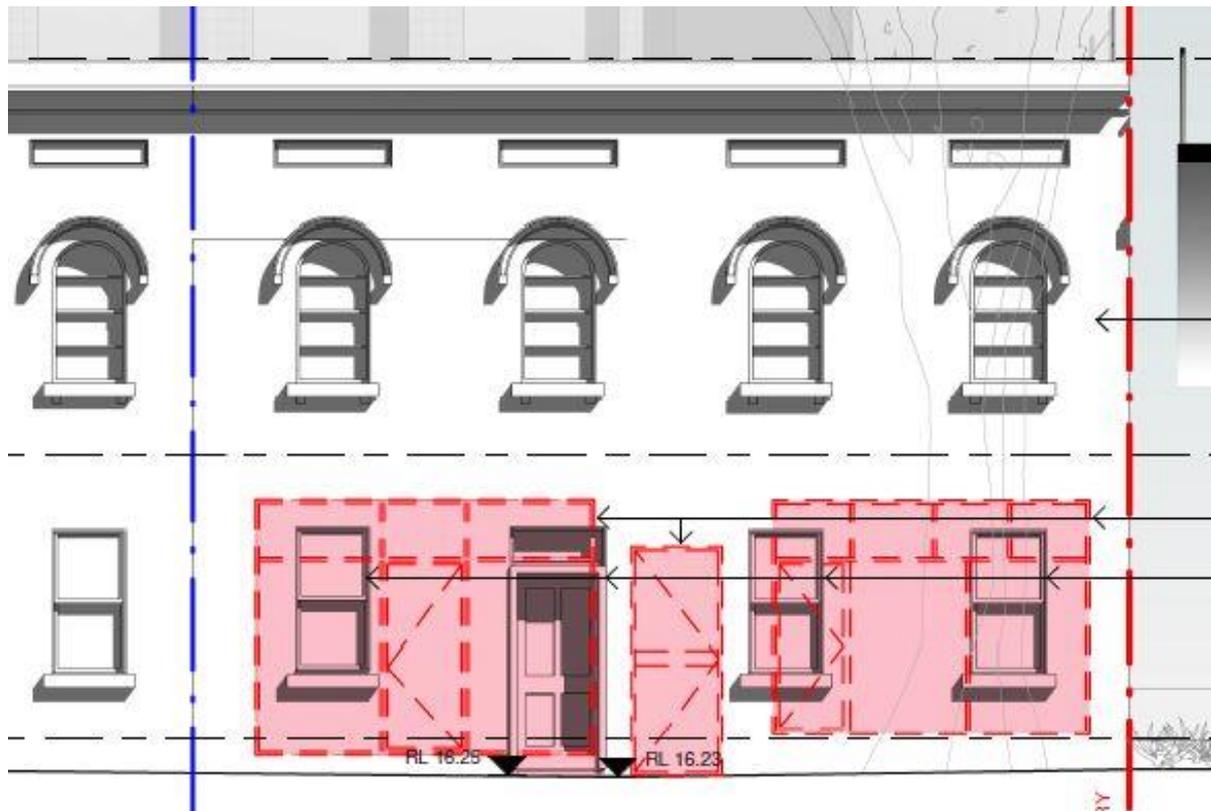


Figure 8: Proposed front elevation plan

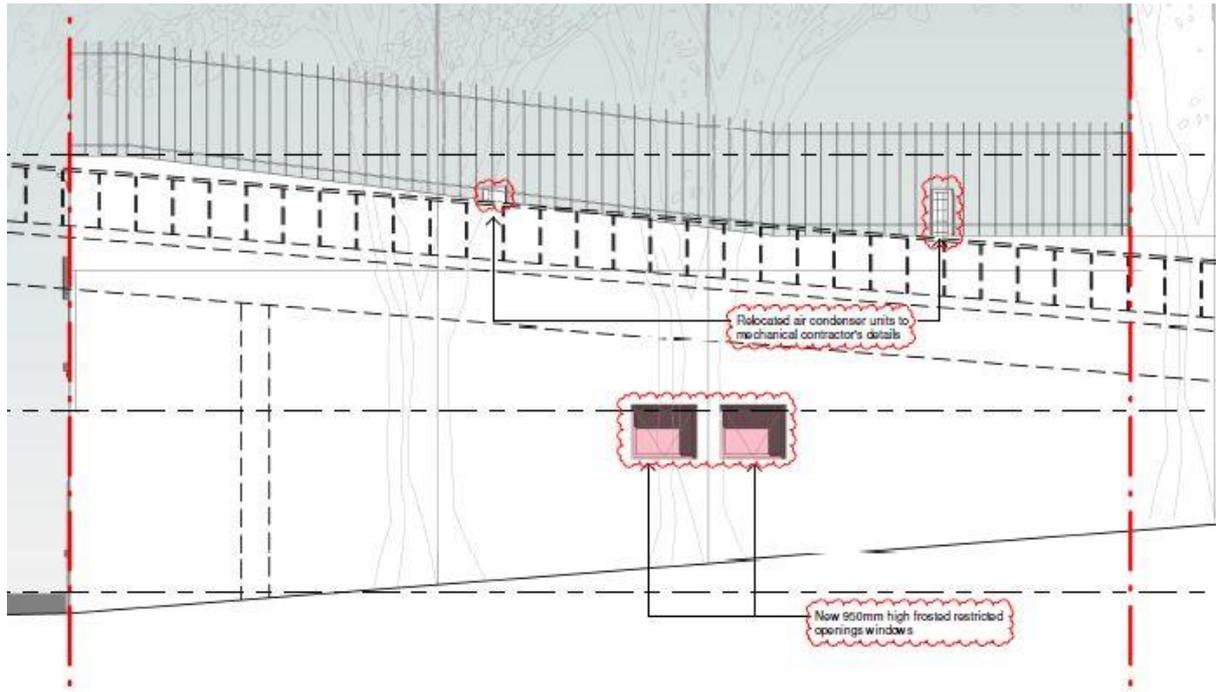


Figure 9: Proposed north elevation

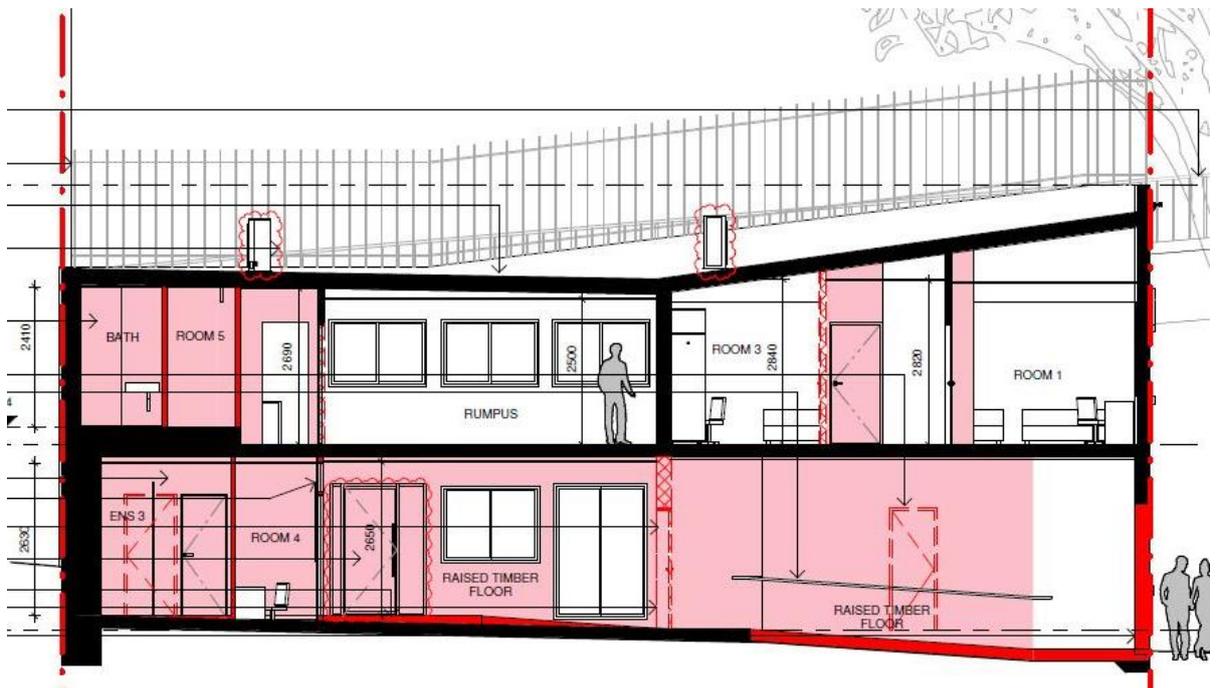


Figure 10: Proposed section plan

Assessment

12. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

State Environmental Planning Policies

State Environmental Planning Policy No 55 - Remediation of Land

13. 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.
14. The proposed works include alterations to the existing commercial building with previous residential uses and approvals for the site. The site is considered to be suitable for the proposed use subject to routine investigations for any hazardous materials during construction.

State Environmental Planning Policy (Affordable Rental Housing) 2009

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

Division 3: Boarding Houses

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

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

Provision	Compliance	Comment
<p>1 Density and scale expressed as floor space ratio</p> <p>An FSR of up to 1.5 plus 0.5:1 is permitted.</p>	Yes	The application proposes a floor space ratio of 1.54:1.
<p>2(a) Building height</p> <p>The proposed building height must not exceed the maximum building height of 9m permitted under the Sydney LEP 2012.</p>	Yes	Existing building height 8m retained.
<p>2(b) Landscaped area</p> <p>The front setback is to be compatible with the streetscape.</p>	Yes	The predominant character of the buildings along the western side of Harris Street in this location is nil street setbacks with no front landscaping.

Provision	Compliance	Comment
<p>2(c) Solar access</p> <p>If more than one communal living area is provided, at least one of the rooms is to receive a minimum of 3 hours direct sunlight between 9:00am and 3:00pm in mid-winter.</p>	No	<p>Due to the existing building configuration, the proposed communal living areas on the ground and first floors will not receive the required solar access, being located behind an existing two storey boundary wall.</p> <p>The amenity to the provided communal living area on the ground floor is recommended to be improved</p> <p>Clause 29(4) notes the consent authority may consent to the development whether or not the development complies with the standards in clause 29(2).</p>
<p>2(d) Private open space</p> <p>(i) One area of at least 20sqm with a minimum dimension of 3m is provided for lodgers.</p> <p>(ii) If accommodation is provided for an onsite manager, one area of at least 8sqm with a minimum dimension of 2.5m, adjacent to the accommodation.</p>	Yes	<p>An outdoor space of 23.5sqm with a minimum dimension of greater than 3m is provided.</p> <p>No onsite manager proposed or required.</p>
<p>2(e) Parking</p> <p>(i) 0.2 parking spaces provided for each boarding house room for sites in an accessible area.</p> <p>(ii) 0.4 parking spaces provided for each boarding house room for sites not in an accessible area.</p> <p>(iii) Not more than 1 parking space for the on-site manager.</p>	No	<p>Five spaces allowed, no spaces provided.</p> <p>Clause 29(4) notes the consent authority may consent to the development whether or not the development complies with the standards in clause 29(2).</p> <p>The reduced provision of no parking is supported.</p>
<p>2(f) Accommodation size</p> <p>(i) Rooms intended to be used by a single lodger are to have a minimum GFA of 12sqm.</p>	Yes	<p>Proposed single rooms are greater than 12sqm. Double rooms are greater than 16sqm.</p>

Provision	Compliance	Comment
(ii) Rooms intended to be used more than one person are to have a minimum GFA of 16sqm. (excluding any area used as a private kitchen/ bathroom)		

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

Clauses 30 – Standards for boarding house

Provision	Compliance	Comment
1(a) At least one communal living room is to be provided.	Yes	Communal living rooms provided on ground and first floor.
1(b) No boarding room is to have a gross floor area (excluding private kitchen or bathroom facilities) of more than 25m ²	Yes	All boarding rooms are less than 25sqm.
1(c) No boarding room to be occupied by more than 2 adult lodgers	Yes	Rooms are designed as single and double rooms. The submitted Plan of Management restricts the number of lodgers to no more than 2 adult lodgers per room.
1(d) Adequate bathroom and kitchen facilities available for use of each lodger	Yes	The boarding house provides adequate bathroom and kitchen facilities for each lodger.
(1e) A boarding room or on-site dwelling to be provided for a boarding house manager if boarding house has a capacity of 20 or more lodgers	Yes	The boarding house will have fewer than 20 lodgers, therefore manager's room not required or provided.

Provision	Compliance	Comment
1(g) If the boarding house is zoned primarily for commercial purposes, no part of the ground floor that fronts a street will be used for residential purposes except where permitted under an EPI.	Yes	The land is zoned mixed use and residential use is permitted on the ground floor.
1(h) At least 1 bicycle and 1 motorcycle parking space to be provided for every 5 rooms.	No	Two bicycle parking spaces are required and provided. Two motorcycle spaces are required, no motorcycle parking is proposed. A request to vary the standard pursuant to cl 4.6 has been submitted to justify the variation and is discussed within the report under the heading 'Discussion'.

Clause 30A – Character of the local area

18. Clause 30A states that a consent authority must not consent to development for a boarding house unless it has taken into consideration whether the design of the development is compatible with the character of the local area.
19. The site is located within an area that contains a range of uses and building forms including other approved boarding houses. The proposed boarding house is compatible with the character of the surrounding area and is consistent with clause 30A.

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

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

State Environmental Planning Policy (Infrastructure) 2007

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

Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations

Clause 101 – Development with frontage to classified road

23. The application is subject to Clause 101 of the SEPP as the site has frontage to Harris Street, which is a classified road.

24. The proposed development satisfies the provisions of Clause 101 subject to conditions of consent, as access to the site is not provided from the classified road and the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development, subject to the recommended conditions of consent.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

25. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP. The SREP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.
26. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development. The development is consistent with the controls contained within the deemed SEPP.

Local Environmental Plans

Sydney Local Environmental Plan 2012

27. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the B4 Mixed Use zone. The proposed development is defined as a boarding house and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	A maximum building height of 9m is permitted. The existing building height of 8m is retained.

Provision	Compliance	Comment
4.4 Floor space ratio	Yes	<p>A maximum floor space ratio of 1.5:1 is permitted under the LEP.</p> <p>A floor space ratio of 1.54:1 is proposed and permitted in accordance with the 0.5 SEPP bonus that applies and prevails over the LEP standard.</p>
4.6 Exceptions to development standards	Yes	<p>The proposed development seeks to vary the motorcycle parking standard prescribed under SEPP Affordable Housing 2009. A request to vary the standard pursuant to cl 4.6 has been submitted with the application.</p> <p>See further details in the 'Discussion' section below.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is located within the Ultimo Heritage Conservation Area.</p> <p>The application as amended includes works to the building façade as recommended by Council's Heritage Specialist to reinstate traditional door and window openings that match the works done to the adjacent building at 401-403 Harris Street.</p> <p>The works will conserve the significance of the heritage conservation area.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	Yes	<p>Subject to conditions to address the recommendations of DAPRS the proposal addresses the relevant provisions.</p> <p>See further details in the 'Discussion' section below regarding design.</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils. The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan.

Development Control Plans**Sydney Development Control Plan 2012**

28. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

Section 2 – Locality Statements

29. The site is located within the Ultimo locality. The proposed development is in keeping with the unique character and the design principles of the locality. The proposed two storey building form is retained with restoration works to the building frontage that will improve the relationship within the heritage conservation area.

Section 3 – General Provisions

Provision	Compliance	Comment
3.2. Defining the Public Domain	Yes	The proposed works to the frontage façade will improve the public domain relationship.
3.5 Urban Ecology	Yes	The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.7 Water and Flood Management	Yes	The site is not identified as being subject to flooding.

Provision	Compliance	Comment
3.8 Subdivision, Strata Subdivision and Consolidation	N/A	<p>Subdivision is not proposed as part of the subject application.</p> <p>No strata subdivision of boarding houses is permitted under SEPP Affordable Housing 2009.</p>
3.9 Heritage	Yes	<p>The site is located within the Ultimo Heritage Conservation Area. The building is identified as a contributing building.</p> <p>The proposal includes works to the front building façade as recommended by Council's Heritage Specialist to reinstate traditional door and window openings that match the works done to the adjacent building at 401-403 Harris Street.</p> <p>The works are supported as they remove previous unsympathetic alterations and reinstate traditional building openings.</p>
3.11 Transport and Parking	Yes	Bicycle parking is provided on the ground floor.
3.12 Accessible Design	Yes	Compliant access to be provided.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Partial compliance	<p>The proposal includes a dedicated bin area for waste and recycling.</p> <p>Council's waste unit recommends additional space be provided as well as a dedicated area for bulky goods waste.</p> <p>As part of the recommendation to delete Bedroom 4 on the ground floor for amenity reasons, additional space would be available for a bulky waste area at the rear of the building. A condition is recommended to require these amendments.</p>

Section 4 – Development Types

4.4 Other Development Types and Uses

4.4.1 Boarding houses and student accommodation

Provision	Compliance	Comment
4.4.1.1 Subdivision	Yes	No strata subdivision proposed or permitted.
4.4.1.2 Bedrooms	Yes	One ensuite 2sqm, all others 3sqm or larger. All rooms sized 15sqm (single), 18sqm (double) or larger.
4.4.1.3 Communal kitchen areas	Yes	A communal kitchen area is provided on the ground floor sized approx. 9sqm adjacent to a communal living/dining area.
4.4.1.4 Communal living areas and open space	Partial compliance	Indoor: Indoor communal area of 12.5sqm required. Communal area on ground floor sized 10.5sqm provided (excluding access ramp). Communal area on first floor sized 25sqm provided. The communal area on the ground floor is adjacent to the kitchen and entry to the outdoor common space. A large proportion of the space would be used as a thoroughfare. It was recommended by DAPRS to delete Room 4 which would provide additional communal area in this space. This is included as a recommended condition. Outdoor: An outdoor space sized 23.5sqm with a minimum dimension of greater than 3m is provided. The area has some weather protection.

Provision	Compliance	Comment
		<p>The area is located behind an existing two storey north boundary wall and would not receive two hours of solar access to 50% of the area midwinter.</p> <p>DAPRS recommended that additional openings be provided to the wall to improve sunlight and ventilation to this space. These recommendations have been included as part of the amended plans.</p> <p>Given the existing building configuration the variation is considered to be acceptable.</p> <p>Private open space:</p> <p>No private open space provided rather than required 30%. Given the existing building configuration within the heritage conservation area the variation is considered to be acceptable.</p>
4.4.1.5 Bathroom, laundry and drying facilities	Yes	1 washing machine and 1 dryer required and provided.
4.4.1.6 Amenity, safety and privacy	Yes	The building including communal areas are secure.
4.4.1.7 Plan of Management	Yes	<p>An operational plan of management has been submitted.</p> <p>The plan addressed the key required items and should be kept on site at all times to be implemented and updated as required.</p>

Discussion

Clause 4.6 Request to Vary a Development Standard

30. The development is subject to a minimum motorcycle parking standard under Environmental Planning Policy (Affordable Rental Housing) 2009. A minimum of 2 motorcycle parking spaces are required under clause 30(1)(h) of the SEPP. The proposal does not provide any motorcycle parking spaces.

31. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- a. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
 - b. that there are sufficient environmental planning grounds to justify contravening the standard;
 - c. the proposed development will be consistent with the objectives of the zone; and
 - d. the proposed development will be consistent with the objectives of the standard.

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

32. The applicant seeks to justify the contravention of the motorcycle parking development standard on the following basis:
- a. That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - i. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
 - ii. The SEPP does not state specific objectives relating to the provision of motorcycle parking, however the overall objectives of the SEPP are to reduce reliance on car use by encouraging the use of bicycles, motorcycles and public transport;
 - iii. The proposal is consistent with this objective providing space for bicycle parking and being located near to public transport including buses and the light rail;
 - iv. The site is located within walking distance of a variety of shops, restaurants and education institutions;
 - v. The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
 - vi. The underlying objective of the SEPP is to provide affordable housing in accessible locations;
 - vii. The proposal achieves this objective being in a highly accessible location. The additional cost of providing motorcycle parking within the existing building would increase the cost and make the proposal unviable; and

- viii. Requiring strict compliance would require significant building interventions to the existing building which would not be in keeping with the desired character of the heritage conservation area.
- b. That there are sufficient environmental planning grounds to justify contravening the standard:
- i. The site is located in a highly accessible location with good access to public transport;
 - ii. Bicycle parking is provided for the development;
 - iii. The existing constraints of the site do not readily allow for the provision of onsite motorcycle parking. This includes the proximity to the intersection of Harris and Fig Streets including the pedestrian overpass; the change in levels along Fig Street; and the existing building configuration not allowing for an additional separate entry point. Any design for motorcycle entry would not meet the requirement for good design and amenity of the built environment;
 - iv. There are examples of variations to the control for other similar developments within the local area including the adjoining existing boarding house at 401-403 Harris Street; and
 - v. Providing motorcycle parking within the site in such a small development would result in a loss of amenity for residents.
- c. The proposed development will be consistent with the objectives of the zone;
- i. The proposal contributes to the mixture of land uses within the mixed use zone;
 - ii. The proposal is in an accessible location within walking distance of shops, restaurants and educational uses and public transport options; and
 - iii. The proposal will contribute economically to the local area.
- d. The proposed development will be consistent with the objectives of the standard
- i. Whilst the standard does not have specific objectives, the proposal achieves the overall objectives of providing affordable accommodation in accessible locations.

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

33. 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)?

34. The submitted request is considered to demonstrate that compliance with the development standard is unreasonable or unnecessary in the particular circumstances of this case. The motorcycle parking standard does not include specific objectives, however the written request has demonstrated that the overall aims of the SEPP are achieved. The proposal provides onsite bicycle parking and is located in an accessible location close to public transport and a range of shops and services

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

35. The applicant's written request has adequately demonstrated there are sufficient environmental planning grounds to contravening the development standard. The written request and advice from Council's Heritage Specialist and Transport Unit has confirmed that providing onsite motorcycle parking is not readily feasible for the subject building given its location within a heritage conservation area and the local street network

Is the development in the public interest?

36. The proposal is considered to be in the public interest as it is consistent with the objectives of the SEPP (Affordable Rental Housing) 2009 and the objectives of the B4 Mixed Use Zone.
37. The proposal provides a permissible boarding house use that is compatible with the mix of uses in the locality and the B4 Mixed Use Zone. The site is located in an accessible location and includes the provision of bicycle parking on the site to promote both walking and cycling. The use will contribute to the viability of nearby shops and services

Conclusion

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

Design

39. The application was considered by the Design Advisory Panel Residential Subcommittee (DAPRS) on 15 September 2020. The key recommendations from the panel in response to the proposal were:
- (a) The planning layout and circulation provide poor amenity, in particular for the kitchen and laundry on the ground floor;
 - (b) The extent of roof cover to the courtyard should be reduced;
 - (c) A new opening to the northern wall of the courtyard would improve breezes and light;
 - (d) The amenity of ground floor Room 4 is unsatisfactory in terms of size, configuration, ventilation and privacy;
 - (e) Overlooking and privacy between the common area and boarding rooms needs to be addressed;
 - (f) The first floor study room is a habitable space and requires a source of natural light and ventilation; and
 - (g) BCA compliance should be confirmed for proposal.
40. Amendments in response to the DAPRS comments and Council staff feedback were received on 6 November 2020. Following further feedback from Council staff, further amendments to plans were received on 23 December 2020. The amended plans include the following changes:
- (a) revised front façade to Harris Street with door and window positions to match those at 401-403 Harris Street;
 - (b) reduction in extent of existing roof cover;
 - (c) new openings provided to northern wall for light and ventilation;
 - (d) privacy louvres provided to boarding room windows orientated towards the internal outdoor common area;
 - (e) study room located on first floor deleted and area available as internal common space; and
 - (f) BCA compliance report provided.
41. The revised plans have been assessed by Council staff including Heritage and Urban Design specialists. The amended plans and information are considered to address a number of the above issues. The amended plans retain Room 4 on the ground floor which is considered to result in both a boarding room of low amenity and a constricted communal living area and dining space within the kitchen area. An extract from the ground floor plan is shown below:

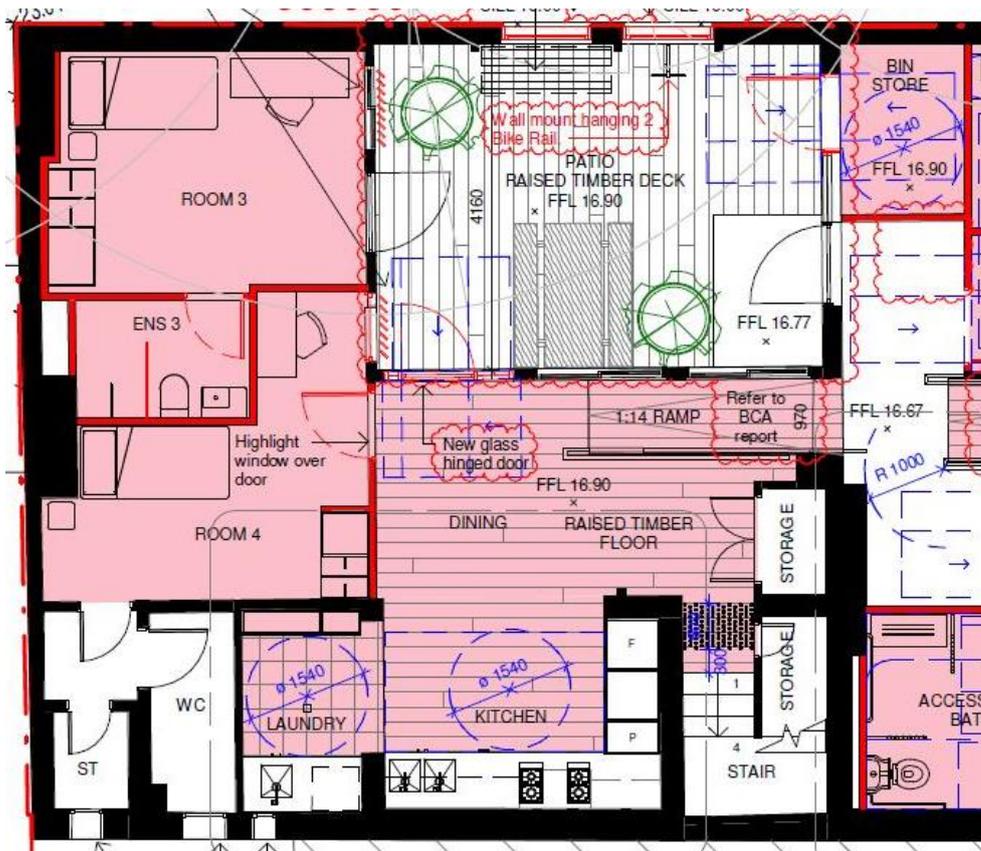


Figure 11: Extract of ground floor plan

42. Room 4 is considered to provide poor amenity in terms of configuration, natural light, and ventilation; and the provided dining area would primarily serve as a thoroughfare to the kitchen and stairs. It is recommended that Room 4 be deleted and the area be reconfigured as additional communal living/dining space and to provide a bulky goods storage space as recommended to be provided by the City's Waste Unit. This recommended design amendment is included as part of the conditions in Attachment A.

Consultation

Internal Referrals

43. The application was discussed with Council's Building Services Unit, Heritage and Urban Design Unit, Transport and Access Unit, Waste Management Unit, and Landscaping Unit. The provided advice is discussed within the assessment above and recommended conditions are included in Attachment A.

Advertising and Notification

44. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 21 days between 8 July 2020 and 30 July 2020. A total of 492 properties were notified, and no submissions were received.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

45. The development is subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015. The calculated contributions is \$50,495.34. Credits have been applied for the most recent approved use of the site, under D/2007/851.
46. A condition relating to this development contribution has been included in the recommended conditions of consent in the Notice of Determination. The condition requires the contribution to be paid prior to the issue of a construction certificate.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

47. The site is located within the Ultimo/Pymont affordable housing contribution area. As the proposed development includes additional floor space, a contribution is required at a rate of \$31.90 per square metre of total residential floor area 358.9 sqm totalling \$11,448.91. A condition of consent is recommended requiring payment prior to the issue of a construction certificate.

Relevant Legislation

48. Environmental Planning and Assessment Act 1979.

Conclusion

49. The application for alterations to the existing two storey commercial building for use as a nine room boarding house at 309-399 Harris Street, Ultimo has been assessed against the relevant planning controls.

50. The application includes a proposed variation to the motorcycle parking development standard contained in State Environmental Planning Policy (Affordable Rental Housing) 2009. The application proposes no motorcycle parking rather than the required two spaces. A written request pursuant to cl 4.6 of SLEP 2012 has been considered and is supported in the circumstances of the application.
51. The proposal was considered by the Design Advisory Panel Residential Subcommittee and amended in response to the feedback of the panel and Council Staff. The amended plans are considered to have addressed the key issues raised, with an additional amendment recommended to improve the amenity of the ground floor dining / kitchen area with the deletion of one ground floor boarding room (Room 4) with low amenity (resulting in an 8 room boarding house). This area would be available for additional useable communal living/dining and storage area improving the overall amenity and functionality of the boarding house use. This is included as part of the recommended conditions for approval of the proposal

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