

Attachment E

LPP Planning Report – 3 November 2021

Item 3.**Development Application: 422-424 Cleveland Street, Surry Hills - D/2020/993**

File No.: D/2020/993

Summary

Date of Submission: 30 September 2020. Amended plans received 11 May and 12 August 2021.

Applicant: Pyrafount No. 6 Pty Ltd

Architect: JSA Studio

Owner: Pyrafount No. 6 Pty Ltd

Planning Consultant: Ethos Urban

DAPRS: 7 December 2020

Cost of Works: \$5,658,567.00

Zoning: B4 Mixed Use Zone. The proposal is permissible with consent.

Proposal Summary: Alterations and additions to the 'Kirk' building for a mixed use development including boarding house, cultural entertainment venue and café.

The application was notified for a period of 28 days between 6 October 2020 and 4 November 2020. A total of 312 properties were notified and 45 submissions were received. Following the receipt of amended plans, the development was renotified for a period of 14 days between 18 June 2021 and 3 July 2021. A total of 312 properties and previous objectors were notified, and 23 submissions were received with two in support.

The application is referred to the Local Planning Panel for determination due to the number of submissions received.

Issues raised in submissions include: heritage impacts, height, bulk and scale, noise impacts, traffic and parking impacts, privacy impacts, boarding house use, bar use, construction impacts, financial viability, overshadowing, and view loss. The issues have been considered in the assessment of the proposal with amendments made to the application to address a number of the issues and conditions recommended to address operational details.

The application includes requests pursuant to clause 4.6 to vary the height of buildings and motorcycle parking development standards. The application proposes a maximum height of 15.875m which represents a variation of 5.8% to the standard. The application proposes 3 motorcycle parking spaces which represents a 50% variation to the standard.

The application was reviewed by the Design Advisory Panel Residential Subcommittee on 7 December 2020. The panel provided feedback recommending a reduction in the scale of the proposal, the provision of outdoor and indoor common areas for the boarding house use, further consideration of conflicts between the different users of the building, and consideration of design aspects including services, waste facilities, passive sun control, privacy measures and landscaping.

Amended plans and further information were received on 11 May 2021 and 12 August 2021 following further feedback from Council Officers. The amended application includes the following amendments:

- reduction in building height;
- increased setbacks to the north: 0.6m to the level 3 and 4.8m at level 4;
- reduction in boarding rooms from 30 to 26 rooms;
- outdoor Level 4 communal area provided with landscaping;
- indoor Level 4 communal area provided;
- additional lift provided to address security;
- shading devices to the western and upper northern windows; and
- privacy measures to boarding room windows.

The amendments have generally addressed the issues raised and the proposal is recommended for approval subject to conditions.

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

- 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 (Building Sustainability Index: BASIX) 2004
 - (iv) State Environmental Planning Policy (Infrastructure) 2007
 - (v) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
 - (vi) Sydney Local Environmental Plan 2012
 - (vii) Sydney Development Control Plan 2012
 - (viii) City of Sydney Development Contributions Plan 2015

- Attachments:**
- A. Recommended Conditions of Consent
 - B. Selected Drawings
 - C. Design Advisory Panel Residential Sub-Committee Advice Sheet
 - D. Clause 4.6 Variation Request - Height of Buildings
 - E. Clause 4.6 Variation Request - Motorcycle Parking

Recommendation

It is resolved that:

- (A) the variation requested to the height of buildings standard in accordance with clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld;
- (B) the variation requested to the motorcycle parking standard under State Environmental Planning Policy (Affordable Rental Housing) 2009 in accordance with clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (C) consent be granted to Development Application No. D/2020/993 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 to vary the height of buildings development standard 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;
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the B4 Mixed Use Zone and the height of buildings development standard;
 - (iii) the applicant's written request to vary the motorcycle parking development standard has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the motorcycle parking development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 30(1)(h) of the SEPP (Affordable Rental Housing) 2009; and
 - (iv) 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 Lot 1 in DP 724157 and is located at 422-424 Cleveland Street, Surry Hills. The site is located on the north western side of the intersection of Cleveland Street and High Holborn Street. The site has a frontage of 15.4 metres to Cleveland Street a frontage of 36.5 metres to High Holborn Street and a site area of 577.8 square metres. High Holborn Street is pedestrianised for a length of approximately 13m from the intersection to Cleveland Street adjacent to the subject building.
2. The site currently contains a building known as 'The Kirk', a former church building which occupies approximately half of the site area. Former outbuilding structures to the rear have been cleared. The church building was built circa 1879 and functioned as a church until the early 1970s. The church building has since been used for a variety of artistic and cultural activities and functions. The building is currently not in regular use.
3. The surrounding area is characterised by a mixture of land uses, primarily being residential on the northern side of Cleveland Street in this location.
4. To the east of the site across High Holborn Street at 426 Cleveland Street is a 4 to 5 storey warehouse building converted to mixed use development with ground floor retail and apartments above. Further to the east along Cleveland Street are a variety of 2 to 3 storey shop top housing and commercial buildings.
5. To the north at 73 High Holborn Street is a single storey terrace building. Development further to the north consists of one and two storey terrace dwellings.
6. To the west of the site at 418-420 Cleveland Street is a two storey terrace building with a ground floor shopfront. Development further to the west consists of two storey terrace dwellings.
7. To the south of the site across Cleveland Street is the Surry Hills village shopping centre mixed use redevelopment site which is currently under construction.
8. The site is located within the High Holborn Street Heritage Conservation Area. Heritage items in the vicinity include 'Terrace group including interiors' at 32-52 High Holborn Street, an item of local significance; 'Former Bank of NSW including interior' at 397-399 Cleveland Street an item of local significance; and 'Terrace house including interior' at 396-398 Cleveland Street an item of local significance.
9. A site visit was carried out on 19 October 2021. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of site and surrounds



Figure 2: Aerial view of site and surrounds



Figure 3: Site viewed from Cleveland Street looking north



Figure 4: Site viewed from High Holborn Street



Figure 5: Site viewed from High Holborn Street looking north



Figure 6: Site viewed from High Holborn Street looking south



Figure 7: Site viewed from Goodlet Lane looking west



Figures 8: Building interior



Figure 9: Building interior, northern wall



Figure 10: Adjoining site to the east: 426 Cleveland Street



Figure 11: Adjoining site to the north: 73 High Holborn Street



Figure 12: Sites adjoining to the west that front to Cleveland Street viewed from Goodlet Lane to the rear

History Relevant to the Development Application

Development Applications

10. The following applications are relevant to the current proposal:

- **D/2008/628** – Development consent was granted on 14 October 2008 for "Use of 'The Kirk' as an arts and entertainment venue with trading hours ceasing at 10.00pm, with a trial period of one year until 11.30pm with all patrons off the site by 12.00 midnight. Alterations and additions to the existing building including demolition of rear extension, metal garage and brick toilet; construction of new kitchen, stage facilities, first floor toilets, office and storage; construction of new rear garage; new sandstone base and cast iron picket front fence".

The approved building additions under this consent have not been constructed.

Compliance Action

11. The site is not subject to compliance action.

Design Advisory Panel Subcommittee Residential

12. The application was considered by the Design Advisory Panel Subcommittee Residential (DAPRS) on the 7 December 2020. The panel provided the following feedback in summary:
- (a) concern regarding the overlapping nature of the proposal to the existing building which overwhelms the existing building and requires intrusive building supports within the existing building;
 - (b) building should sit within height control;
 - (c) recommended the provision of communal outdoor space, communal indoor space, deep soil;
 - (d) concerns expressed regarding the conflicts between different uses: boarding house, café, workshop, and performance space;
 - (e) amenity considerations for exhaust risers, garbage rooms, air conditioning; and
 - (f) further consideration of passive sun control, privacy, landscaping.

Amendments

13. Following a preliminary assessment, a request for additional information and amendments was sent to the applicant on 21 December 2020 in addition to the matters raised by DAPRS as follows:

- (a) Further consideration of the integrated uses to provide appropriate security and amenity between the different users.

Heritage:

- (b) Building massing overwhelming the existing building and heritage conservation area.
- (c) Retention of the last timber arch at the north end recommended.
- (d) Development should provide a transition to the lower scale developments to the north and west.
- (e) Further visual analysis of the proposal from High Holborn Street and Goodlet Lane to be provided.

Design:

- (f) Views from the sun and overshadowing analysis to be provided.
- (g) Permanent shading devices should be provided rather than relying on planters only.
- (h) Details of any required fire hydrant, services and mechanical plant to be included for visual analysis.

Landscape:

- (i) Clarify and quantify deep soil and canopy cover to be provided.
- (j) Provide an arborist report and clarify ownership of trees for removal and pruning.

Other:

- (k) Provide Stage 2 contamination assessment.
- (l) Provide details of café fitout.
- (m) Further stormwater and flooding assessment required.

14. The applicant responded to the request on 11 May 2021, and submitted the following information and amendments:

- (a) Reduction in building height.
- (b) Increased setbacks to the north: 0.6m to the level 3 and 4.8m at level 4.
- (c) Reduction in boarding rooms from 30 to 26 rooms.
- (d) Outdoor Level 4 communal area incorporated with landscaping.

- (e) Indoor Level 4 communal area incorporated.
 - (f) Additional lift provided to address security.
 - (g) Details of services and mechanical plant.
 - (h) Views from the sun and overshadowing analysis.
 - (i) Arborist report.
 - (j) Contamination response.
 - (k) Revised landscaping details.
 - (l) Stormwater and flooding details.
15. Feedback and a request for further amendments to the proposal was made to the applicant on 16 July 2021 including:
- (a) Requiring the retention of Tree 7 within the public domain within High Holborn Street.
 - (b) Additional landscaping maintenance details and soil depth to accommodate plantings on Level 4 required.
 - (c) The provision of shading devices to western and upper northern windows to be provided.
 - (d) Location of hydrants to be shown.
 - (e) Further amended stormwater and flooding design details to be incorporated in design.
16. Additional information and amended plans were provided on 12 August 2021.

Proposed Development

17. The application seeks consent for the following:

- Demolition of lean-to addition and northern rear wall of existing Kirk building.
- Alterations and additions for a mixed use building including:
 - Alterations and restoration works to the Kirk building for use as a community/entertainment venue with entries off Cleveland Street and High Holborn Street. Proposed hours of operation:
 - Monday to Saturday 7:00am to 12:00 midnight, Sunday 7:00am to 10:00pm.
 - New five storey plus basement addition for café and boarding house uses.
 - 26 room boarding house with level 4 balcony communal open space and indoor common area. Ground level car / motorcycle and bicycle parking.
 - Ground level café with entry from High Holborn street. Proposed hours of operation:
 - Monday to Saturday 8:00am to 12:00 midnight, Sunday: 8:00am to 10:00pm
 - Basement level co-working workshop space.

18. Plans and elevations of the proposed development are provided below.

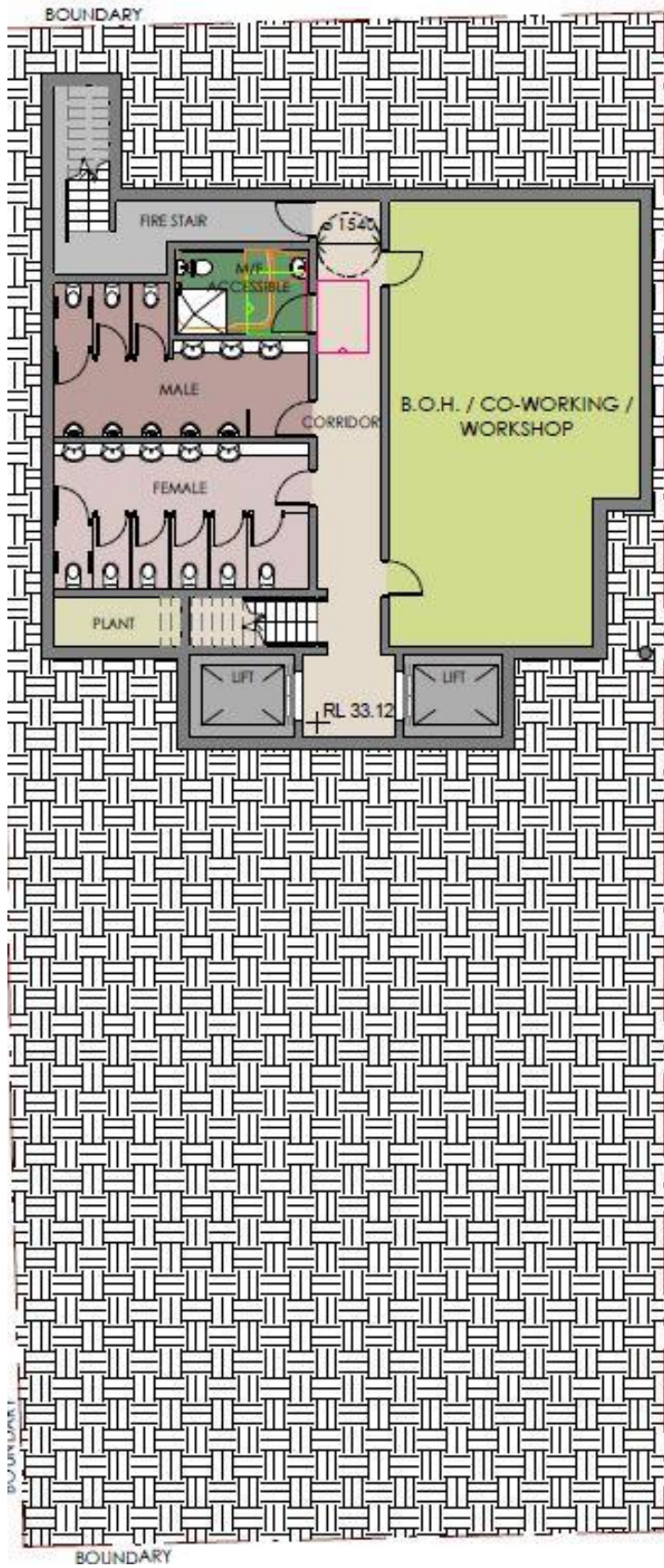


Figure 13: Basement plan

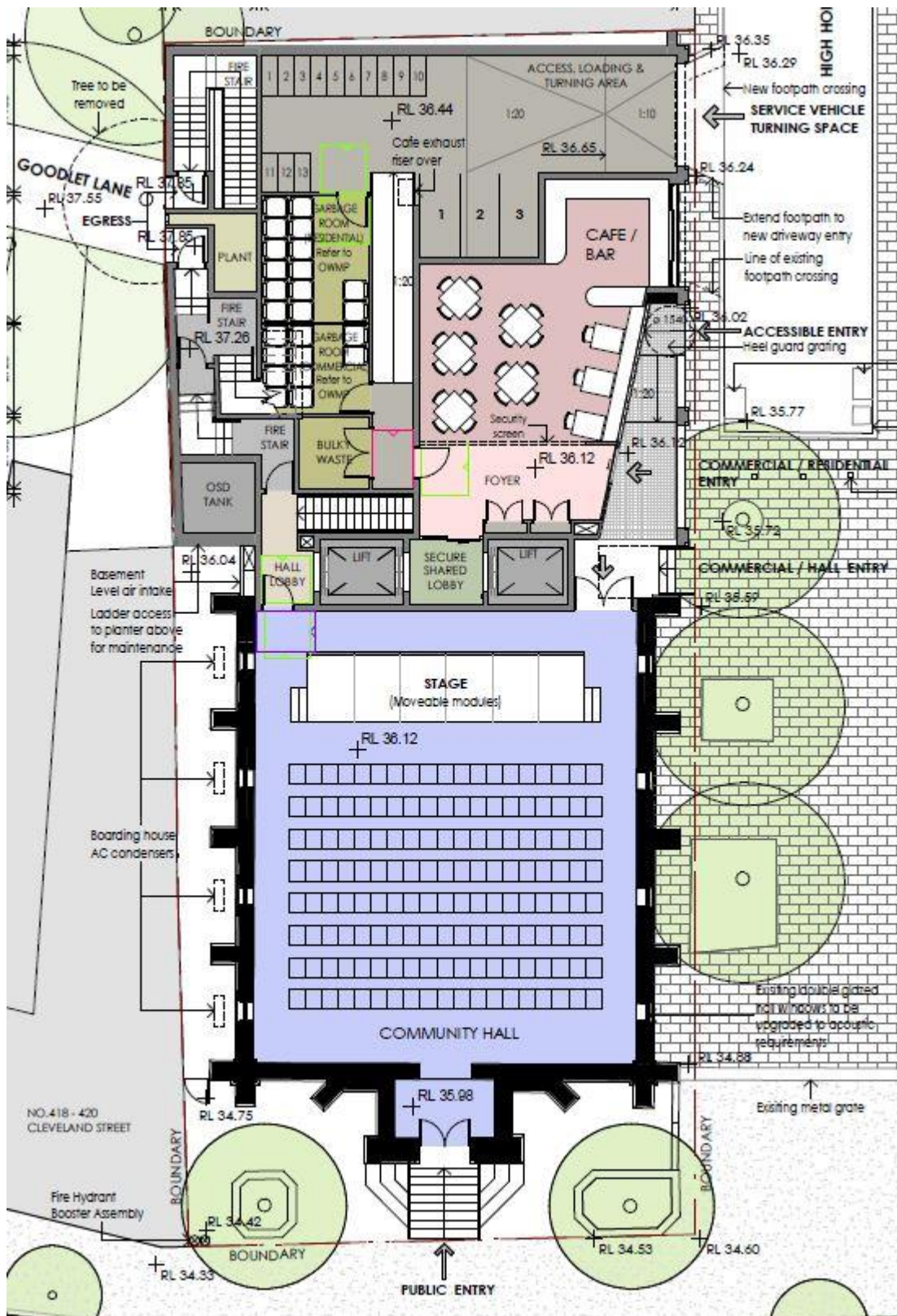


Figure 14: Ground floorplan



Figure 15: Level 1 floorplan (left), Level 2 floorplan (right)



Figure 16: Level 3 floorplan (left), Level 4 floorplan (right)

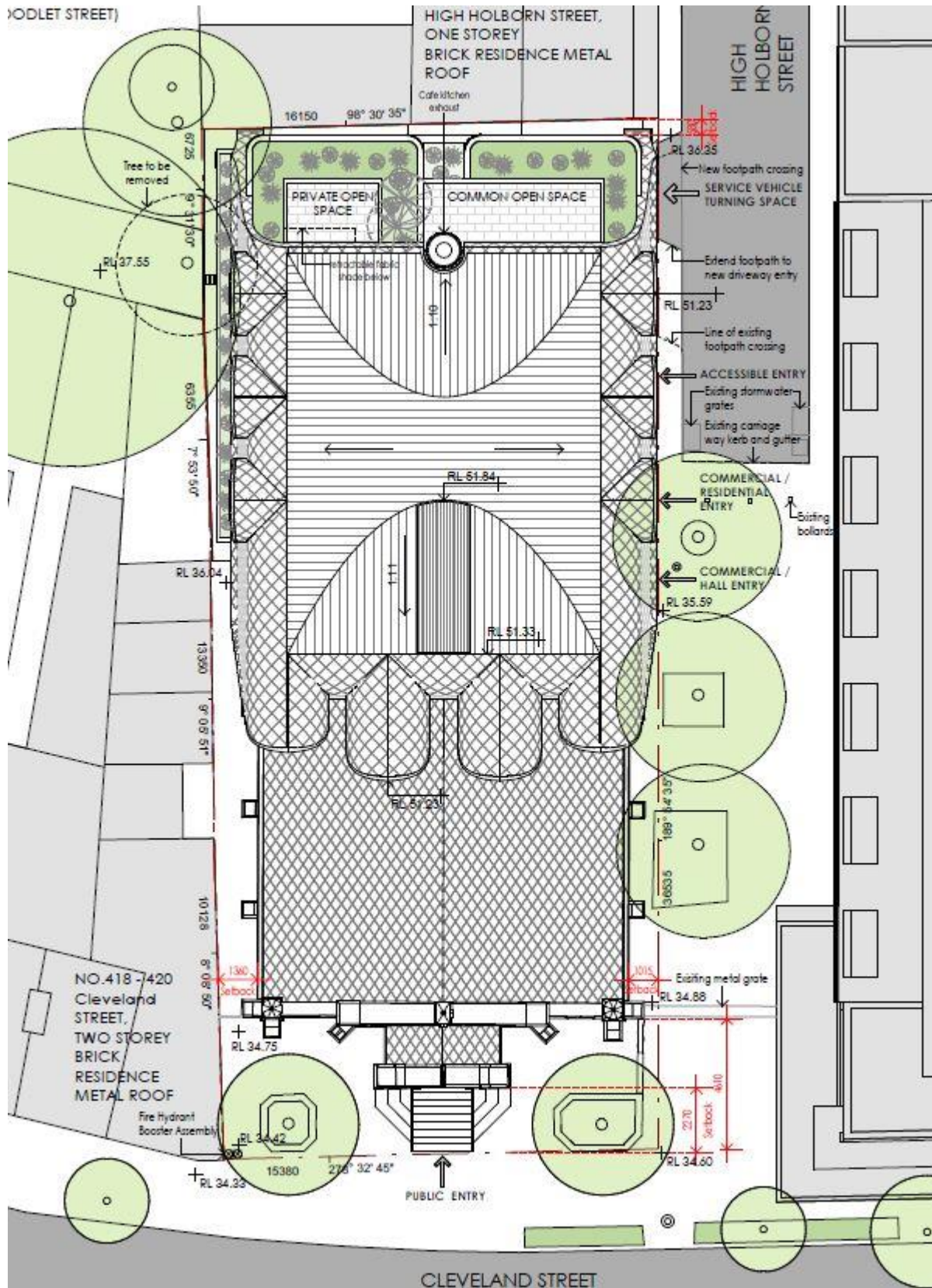


Figure 17: Roof plan

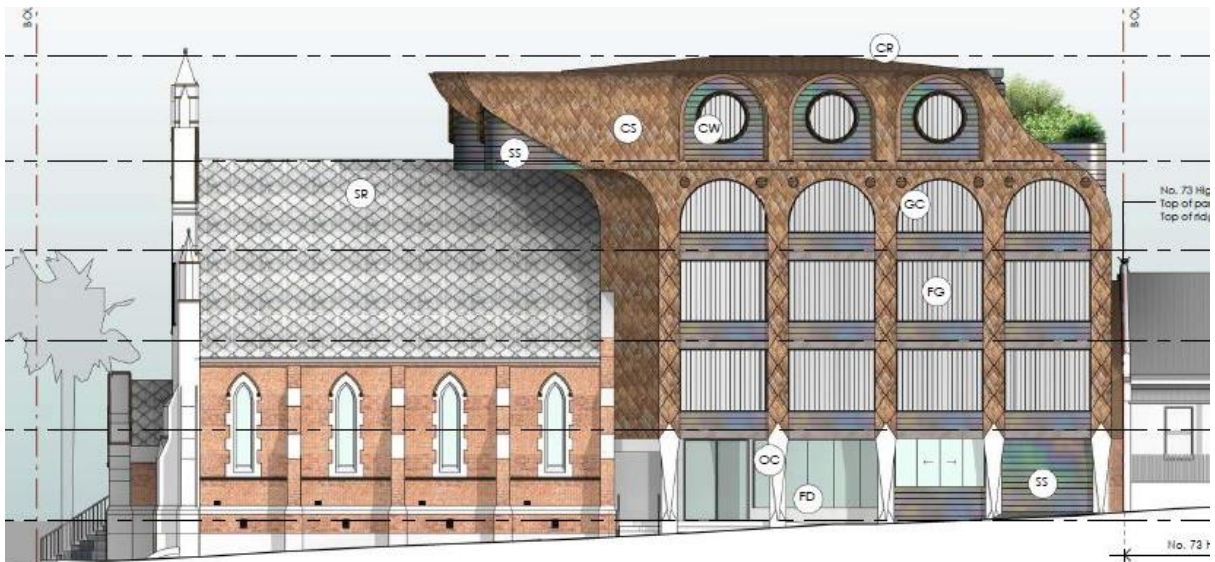


Figure 18: East elevation



Figure 19: North elevation

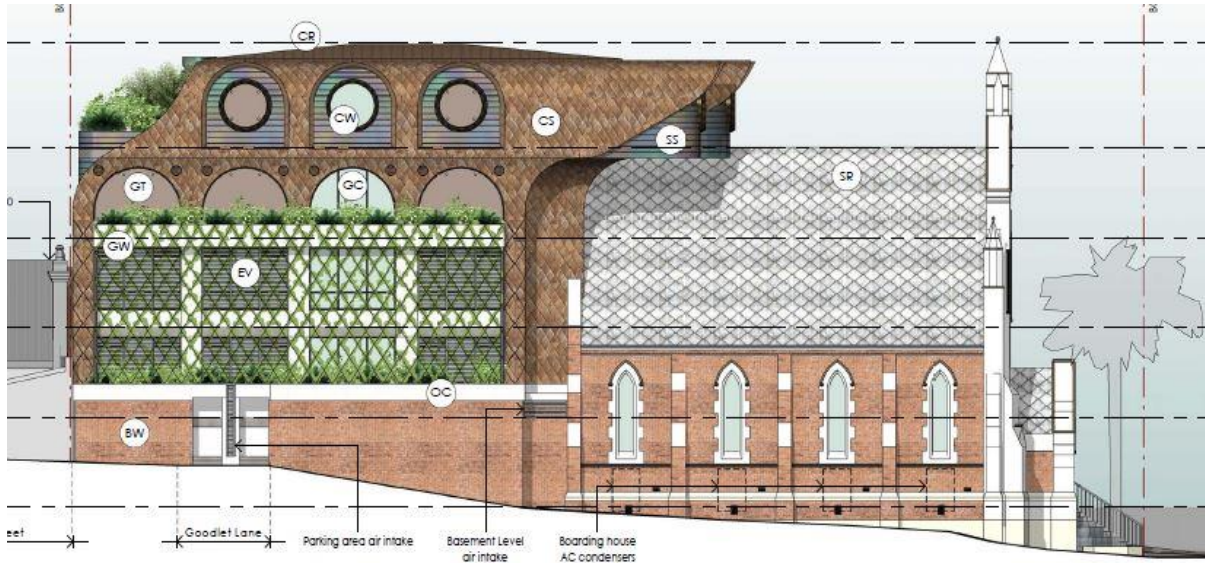


Figure 20: West elevation

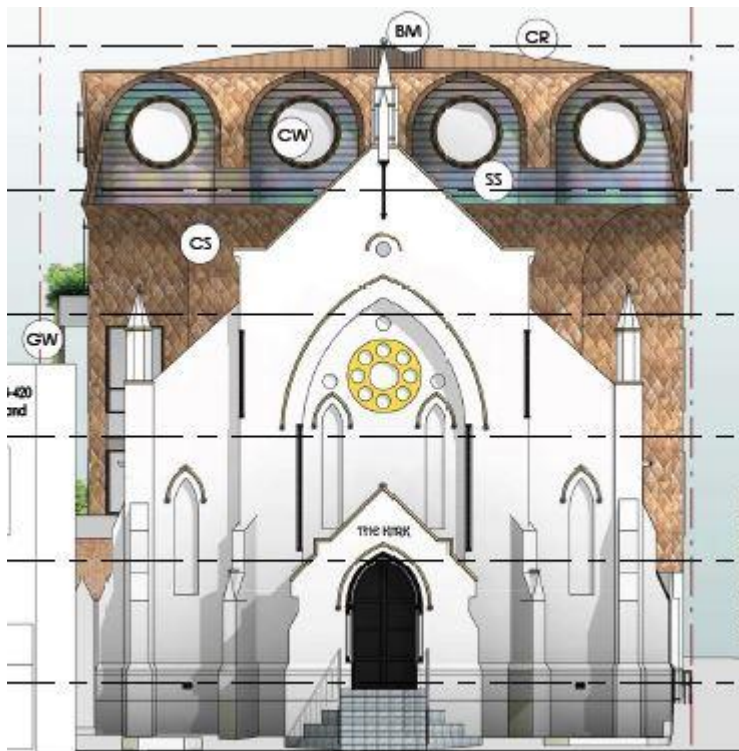


Figure 21: South elevation



Figure 22: Section A



Figure 23: Section C



Figure 24: Montage image, Cleveland Street looking north

Assessment

19. 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

20. 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.
21. The application documentation includes a preliminary assessment of potential land contamination of the site including soil sampling. An addendum report was also provided that considered the reduced extent of excavation area. The report concludes that the site is suitable for the proposed uses.
22. 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 (Affordable Rental Housing) 2009

23. 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

24. 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 2:1 plus 0.5:1 is permitted.</p>	Yes	<p>A maximum floor space ratio (FSR) of 2.5:1 is permitted.</p> <p>The application proposes a floor space ratio of 2.1:1.</p>
<p>2(a) Building height</p> <p>The proposed building height must not exceed the maximum building height of 15m permitted under the Sydney LEP 2012.</p>	No	<p>A maximum building height of 15m is permitted.</p> <p>The building has a maximum building height of 15.9m. A request to vary the height standard pursuant to clause 4.6 has been submitted.</p> <p>Refer to discussion below under heading Issues.</p>
<p>2(b) Landscaped area</p> <p>The front setback is to be compatible with the streetscape.</p>	Yes	Existing landscaping within the front setback to be retained within the streetscape and remains compatible.
<p>2(c) Solar access</p> <p>If more than one communal living area is provided, at least one of the rooms is to receive a minimum of 3 hours' direct sunlight between 9:00am and 3:00pm in mid-winter.</p>	Yes	<p>Level 4 communal living area provided.</p> <p>Receives minimum 3 hours of sunlight mid-winter.</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>	Yes	<p>Level 4 private open space (POS) area sized 29sqm provided.</p> <p>Managers' POS area sized 8sqm provided.</p>

Provision	Compliance	Comment
(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.		
2(e) Parking (i) 0.5 parking spaces provided for each boarding house room (13 spaces) (iii) Not more than 1 parking space for the on-site manager.	No	No parking spaces proposed. 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). The reduced provision of parking is supported.
2(f) Accommodation size (i) Rooms intended to be used by a single lodger are to have a minimum GFA of 12sqm. (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)	Yes	Rooms sized 16sqm to 25sqm (excluding kitchens and bathrooms).

25. 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.

Clause 30 – Standards for boarding house

Provision	Compliance	Comment
1(a) At least one communal living room is to be provided.	Yes	A communal living room is provided on level 4 adjacent to the outdoor common area.
1(b) No boarding room is to have a gross floor area (excluding private kitchen or bathroom facilities) of more than 25m ²	Yes	No boarding rooms are sized greater than 25sqm.

Provision	Compliance	Comment
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 two 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	An on-site manager's room is provided.
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 boarding rooms are permitted on the ground floor, however no boarding rooms are proposed on the ground level.
1(h) At least 1 bicycle and 1 motorcycle parking space to be provided for every 5 rooms.	No	6 bicycle and 6 motorcycle parking spaces required 13 bicycles spaces are provided. 3 motorcycle spaces are provided rather than required 6 spaces. A request to vary the motorcycle parking standard pursuant to clause 4.6 has been submitted. Refer to discussion below under heading Issues.

Clause 30A – Character of the local area

26. 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.
27. The site is located within an area than contains a mixture of commercial and residential uses. 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

28. A BASIX Certificate has been submitted with the development application.
29. 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

30. 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**

31. The application is subject to Clause 101 of the SEPP as the site has frontage to Cleveland Street which is a classified road.
32. 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.

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

33. The application is subject to Clause 102 of the SEPP as the site is adjacent to Cleveland Street which has an annual average daily traffic volume of more than 20,000 vehicles and the development is likely to be adversely affected by road noise or vibration.
34. The application includes an acoustic assessment of the development that includes analysis of the impacts of traffic noise on the proposed boarding rooms. The report concludes that the specified noise criteria is achievable for the boarding rooms with the use of standard construction materials. The two south facing boarding rooms on level 4 must also provide an alternative natural ventilation solution other than south facing windows to achieve natural ventilation and the acoustic criteria. This is included as a recommended condition.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

35. 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.
36. 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

37. 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 a mixed use development comprised of a boarding house, food premises and entertainment facility which are 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	No	A maximum building height of 15m is permitted. The building has a maximum building height of 15.9m. A request to vary the height standard pursuant to clause 4.6 has been submitted. Refer to discussion below under heading Issues.
4.4 Floor space ratio	Yes	A maximum floor space ratio of 2:1 plus a bonus of 0.5:1 under the Affordable Housing SEPP for a total of 2.5:1 is permitted. A floor space ratio of 2.1:1 is proposed.
4.6 Exceptions to development standards	Yes	The proposed development seeks to vary the height standard prescribed under SLEP and SEPP Affordable Rental Housing 2009. The proposal seeks to vary the motorcycle parking standard prescribed under SEPP Affordable Rental Housing 2009. Requests to vary the standards have been submitted with the application. See further details in the 'Discussion' section below.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	The site is located within the High Holborn Street Heritage Conservation Area. The proposed development as amended will not have detrimental impact on the heritage significance of the heritage conservation area.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	Yes	Subject to conditions relating to specific design issues, the proposal is considered to satisfy the provisions of the clause.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.5 Residential flat buildings, dual occupancies and multi dwelling housing 7.7 Retail premises	Yes	The proposed development does not include car parking spaces.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils and includes basement excavation, but is not located within 500m of class 1,2,3 or 4 land therefore consent under the clause is not required.
7.15 Flood planning	Yes	The site is not flood affected.

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

38. 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

39. The site is located within the Cleveland Street locality. The proposed development is in keeping with the unique character and the design principles of the locality. The proposal retains the existing church building within the setting and will enable an active ground floor use of the building and site.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements	Yes	Public domain upgrade works required via condition.
3.2. Defining the Public Domain	Yes	The development retains the building address to Cleveland Street. The new building to the rear addresses High Holborn Street with the building foyer entry and café use.
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. It is recommended that additional tree canopy cover be provided to the Level 4 communal open space area.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.7 Water and Flood Management	Yes	The site is not flood affected.
3.8 Subdivision, Strata Subdivision and Consolidation	N/A	Subdivision is not proposed as part of the subject application. No strata subdivision of boarding houses is permitted under SEPP Affordable Housing 2009.
3.9 Heritage	Yes	The site is located within the High Holborn Street Heritage Conservation Area. The building is identified as a contributory building within the conservation area. The proposal includes conservation works to the church building and its use as a community/entertainment venue. This will safeguard the significance of the building and enable ongoing maintenance.

Provision	Compliance	Comment
		The proposed development as amended will not have detrimental impact on the heritage significance of the heritage conservation area.
3.10 Significant Architectural Building Types	Yes	The proposal includes the retention and repurposing of a former church building older than 50 years. The proposal includes conservation works and retention of the significant external and internal building fabric and internal space . The use of the site will enable ongoing maintenance of the building.
3.11 Transport and Parking	Yes	Bicycle parking is provided at the ground level. One service space provided.
3.12 Accessible Design	Yes	Compliant access to be provided off High Holborn Street.
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	Yes	The proposal includes separate waste areas for commercial and residential components including a bulky waste storage area. The submitted WMP has been reviewed by Council's Waste Unit who have endorsed the WMP.
3.15 Late Night Trading Management	Yes	The site is located within a 'local centre area' with Cleveland Street identified as a main street. The proposed uses for an entertainment venue of up to 200 persons and a café are defined as Category B - low impact premises under the provisions. The proposed hours of operation for the entertainment use are: Hall: Monday to Saturday 7:00am to 12:00 midnight.

Provision	Compliance	Comment
		<p>Sunday: 7:00am to 10:00pm</p> <p>Café:</p> <p>Monday to Saturday 7:00am to 12:00 midnight</p> <p>Sunday: 8:00am to 10:00pm</p> <p>The permitted base indoor trading hours within the local centre for Category B premises are 7:00am to 11:00pm. With extended indoor trading permitted to 12:00 midnight.</p> <p>A trial period would apply to any approved trading between 11:00pm to 12:00 midnight.</p> <p>The application is accompanied by an acoustic report and plan of management for the premises. The acoustic report recommends that amplified music within the hall cease at 10:00pm and that a number of upgrade works be undertaken to improve acoustic performance.</p> <p>For the café use it recommends that all shopfront glazing be closed after 6:00pm.</p> <p>These Acoustic Report recommendations are included as part of the recommended conditions.</p> <p>In relation to the use of the hall, the plan of management is generic in nature and is recommended to be updated to a more detailed plan prior to any use of the hall commencing by an operator.</p> <p>In accordance with the provisions, a one year extended trading period to 12:00 midnight is recommended subject to the preparation of a satisfactory detailed plan of management.</p>
3.16 Signage and Advertising	N/A	No advertising proposed. Separate approval would be required.

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	No	<p>The site is permitted a maximum building height of two storeys (although it is subject to a 15m LEP height limit).</p> <p>The proposed development retains the existing church building which is higher than two storeys, with the new building five storeys in height.</p> <p>Refer to the discussion below regarding the design of the building.</p>
4.2.1.2 Floor to ceiling heights and floor to floor heights	No	<p>The proposed ground level floor to floor height is 2.7m rather than 4.5m.</p> <p>The existing ceiling heights of the church building are retained.</p> <p>Given the unique nature of the proposal the non-compliance is acceptable in the circumstances.</p>
4.2.2 Building setbacks	Yes	<p>Existing church building retained.</p> <p>Built to boundary form is consistent with the warehouse buildings to the east of the site.</p>
4.2.3 Amenity		
4.2.3.1 Solar access	No, acceptable	<p>The application includes views from the sun which demonstrate the overshadowing impact of the proposal.</p> <p>The proposal will impact on apartments within the converted warehouse building to the east at 426 Cleveland Street.</p> <p>14 apartments face west, 8 of the apartments currently receive 2 hours of sunlight, 6 of the apartments receive less than 2 hours of sunlight as the ground level apartments do not start receiving sunlight until after 1pm.</p>

Provision	Compliance	Comment
		<p>The upper level apartments retain sunlight as they are not impacted upon until 3pm.</p> <p>The lower level apartments will be impacted and will not receive sunlight. Given that any form of development other than a single storey form with a flat roof would result in overshadowing to these apartments, the overshadowing is acceptable in the circumstances given the permitted height controls for the development.</p>
4.2.3.3 Internal common areas	Yes	Internal common area has access to daylight.
4.2.3.4 Design features to manage solar access	Yes	External louvres proposed to manage solar gain. Additional measures recommended for west facing rooms.
4.2.3.5 Landscaping	Yes	Landscaping plan provided. Amendments recommended by condition to provide additional canopy cover to the Level 4 common area.
4.2.3.6 Deep Soil	No	<p>Existing deep soil areas of 40sqm (7%) at front to Cleveland Street to be retained.</p> <p>Amendments recommended by condition to provide additional permeable area.</p>
4.2.3.9 Ventilation	Yes	Natural ventilation is provided for all boarding rooms.
4.2.3.11 Acoustic privacy	Yes	<p>The submitted acoustic report addresses the relevant noise controls including those within the DCP and provides recommended construction requirements in order to achieve internal noise levels. The recommended conditions include the requirement for these recommendations to be incorporated into the design documentation.</p>

Provision	Compliance	Comment
		The two south facing boarding rooms on level 4 must also provide an alternative natural ventilation solution other than south facing windows to achieve natural ventilation and the acoustic criteria. This is included as a recommended condition.
4.2.4 Fine grain, architectural diversity and articulation	Yes	Development has fine grain built form with two distinct building forms.
4.2.5 Types of development	Yes	Masonry church building retained to Cleveland Street frontage.
4.2.6 Waste and recycling Management	Yes	The proposal includes separate waste areas for commercial and residential components including a bulky waste storage area. The submitted WMP has been reviewed by Council's Waste Unit who have endorsed the WMP.
4.2.7 Heating and cooling infrastructure	Yes	Centralised plant areas provided.
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Yes	Subject to conditions, the ground floor commercial development will not adversely impact the amenity of neighbouring residential properties.

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	All ensuites sized greater than 2.9sqm. Double occupancy rooms sized 21sqm to 25sqm.
4.4.1.3 Communal kitchen areas	Yes	Kitchenette facilities provided within each boarding room. Kitchen facilities provided within indoor common area.

Provision	Compliance	Comment
4.4.1.4 Communal living areas and open space	No, acceptable	Indoor: 64sqm required. 24sqm provided. Outdoor: 20sqm required. 29sqm provided. The proposal also includes a basement level workshop sized 137sqm and the Kirk performance area sized 166sqm that are to be available to residents as part of the cultural aspect of the proposal.
4.4.1.5 Bathroom, laundry and drying facilities	Yes	Space for 10 washing machines and dryers required. Two rooms provided for washing and dryers.
4.4.1.6 Amenity, safety and privacy	Yes	Entry lobby to be controlled by card access. Further detailed plan of management to provide details on management of the uses on site. Common areas adjacent to building manager's room.
4.4.1.7 Plan of Management	Yes	An operational plan of management has been submitted. As noted above, a further detailed plan of management is recommended to be provided by the operator for the boarding and entertainment components of the uses on site prior to these uses commencing.

Discussion

Clause 4.6 Request to Vary a Development Standard - Height

40. The site is subject to a maximum height of buildings development standard of 15 metres. The proposed development has a maximum building height of 15.875 metres. This represents a variation of 5.8% to the control.

41. 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)

42. The applicant seeks to justify the contravention of the maximum height of buildings development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) That the objectives of the height of buildings development standard are achieved notwithstanding the non-compliance with the standard.
 - (ii) The proposed building height is consistent with the surrounding context and conditions of the site.
 - (iii) Surrounding built forms include a variety of mid-rise, higher density to terraces. The Surry Hills shopping redevelopment located opposite on Cleveland Street will be up to seven storeys in height. Adjacent development to the east at 426 Cleveland Street is 3-4 storeys.
 - (iv) The existing building currently exceeds the control to a height of 17.2m.
 - (v) The proposal provides a transition from Cleveland Street to the lower scale terraces to the north and northwest.
 - (vi) The proposed development retains the existing church building with a recessed addition to the rear in a currently vacant rear yard. The addition takes it cues from the height and scale of the existing building and neighbouring properties.
 - (vii) The proposal does not obscure views across the site. Views across the site are limited short distance views which are not significant and generally consist of views of the existing building or trees beyond. The height exceedance will not impact on views.
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The proposal provides compliant access to each level with the lift overrun in a centralised location resulting in a minor non-compliance with the standard.

- (ii) Higher than minimum floor to ceiling heights of 2.7m are provided to maximise the amenity to boarding rooms. A minor breach in the height standard results for some rooms from the non-compliance. Strict compliance with the standard would require reduced floor to floor heights.
- (iii) The portion of the building which exceeds the standard is 875mm and is limited to a small area as illustrated in the height plane perspective view.

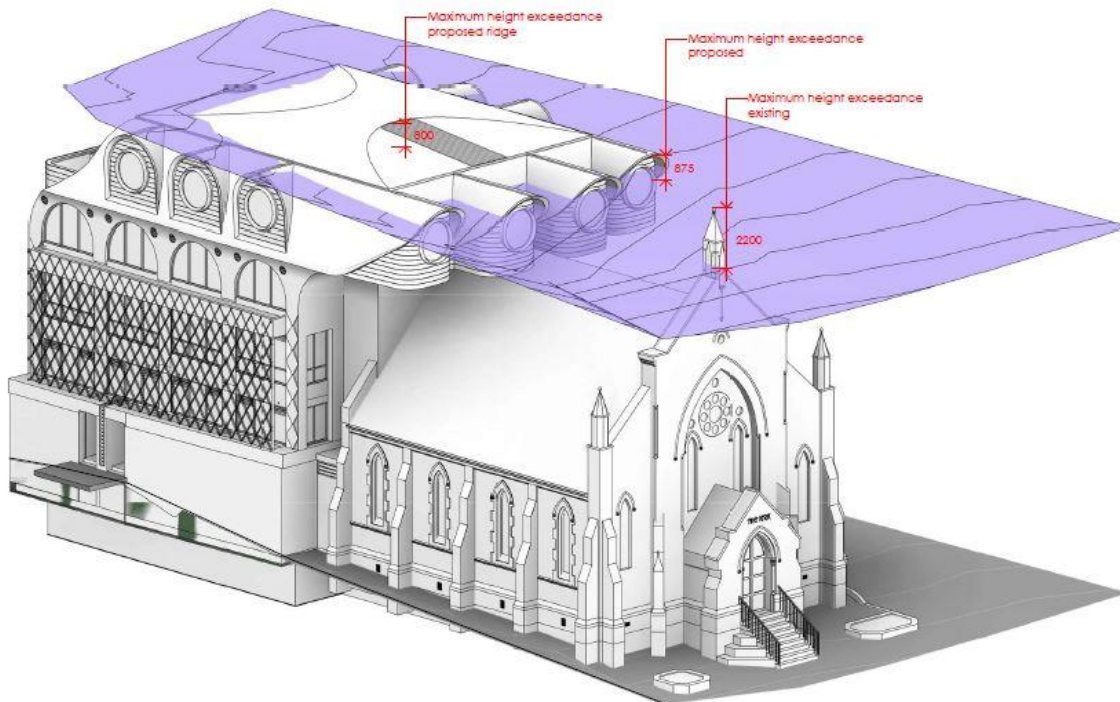


Figure 25: Height plane perspective drawing

- (iv) The non-compliance results in negligible additional overshadowing impacts to neighbouring sites.
- (c) The proposed development will be consistent with the objectives of the zone;
 - (i) The proposed development provides a mix of land uses including the hall/event space, café and boarding house. The uses are compatible with each other and more broadly the surrounding context.
 - (ii) The site is within an accessible location on Cleveland Street nearby to public transport including bus services, the light rail and Central Station. Bicycle parking is also provided on site.
 - (iii) The development will contribute to the viability of the Surry Hills area with additional employment and residential floorspace.
- (d) The proposed development will be consistent with the objectives of the standard
 - (i) The proposed building height is consistent with the surrounding context and conditions of the site.

- (ii) Surrounding built forms include a variety of mid-rise, higher density to terraces. The Surry Hills shopping redevelopment located opposite on Cleveland Street will be up to seven storeys in height. Adjacent development to the east at 426 Cleveland Street is 3-4 storeys.
- (iii) The existing building currently exceeds the control to a height of 17.2m.
- (iv) The proposal provides a transition from Cleveland Street to the lower scale terraces to the north and northwest.
- (v) The proposed development retains the existing church building with a recessed addition to the rear in a currently vacant rear yard. The addition takes it cues from the height and scale of the existing building and neighbouring properties.
- (vi) The proposal does not obscure views across the site. Views across the site are limited short distance views which are not significant and generally consist of views of the existing building or trees beyond. The height exceedance will not impact on views.

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

43. 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)?

44. The written request has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that the objectives of the development standard are achieved despite the non-compliance. The written request has demonstrated that the objectives of the height of buildings standard are achieved despite the non-compliance.
45. The height of the proposal is appropriate to the site and the existing church building and its context. The non-compliant building height is relatively minor and is located centrally in the roof design. The lift overrun has been integrated within a sculpted roof form.
46. The height of the proposal provides a height transition between development to the south and east to the lower scale development to the north and northwest.
47. The proposal promotes the sharing of views. The proposal does not impact on important views from neighbouring properties or views within the public domain.

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

48. The application has demonstrated there are sufficient environmental planning grounds to justify contravening the height of buildings development standard in the circumstances of the application.
49. The building form that exceeds the height control is setback from the building edge and consists of lift overrun and sculpted roof form that integrated into the building design.
50. Impacts of the building form exceeding the control are minimal as compared to a compliant building form. Upper level apartments of the adjoining building at 426 Cleveland Street retain sunlight to 3pm and therefore meet the solar access requirements. Lower level apartments are overshadowed by compliant building height.

Is the development in the public interest?

51. The development is in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.
52. The written request has demonstrated that the objectives of the height of buildings standard are achieved despite the non-compliance.
53. The height of the proposal is appropriate to the site and existing building and its context. The non-compliant building height is relatively minor and is located centrally in the roof design. The lift overrun has been integrated within a sculpted roof form.
54. The height of the proposal provides a height transition between development to the south and east to the lower scale development to the north and northwest.
55. The proposal promotes the sharing of views. The proposal does not impact on important views from neighbouring properties or views within the public domain.
56. The development is consistent with the objectives of the B4 Mixed Use Zone. The proposal provides additional commercial floor space within the B4 Zone in an area that contains a mix of commercial and residential uses. The proposal is located in an accessible location in proximity to public transport. The provision of bicycle parking on site will promote the use of public transport and encourage walking and cycling. The proposal will promote the viability of nearby centres in the locality.

Conclusion

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

Clause 4.6 Request to Vary a Development Standard - Motorcycle Parking

58. The site is subject to a minimum motorcycle parking standard under State Environmental Planning Policy (Affordable Rental Housing) 2009. A minimum of 6 motorcycle parking spaces are required under clause 30(1)(h) of the SEPP. The proposal provides 3 motorcycle spaces which represents a 50 percent variation to the control.
59. 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)

60. 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) Whilst there are no specific objectives for the standard, the objectives of the Affordable Rental Housing SEPP are achieved.
 - (iii) The development will provide boarding house rooms in a well serviced location.
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard:
 - (i) The variation to motorcycle spaces is offset by the over provision of bicycle parking spaces. Six bicycle spaces are required and 13 bicycle spaces are provided.
 - (ii) Bicycle parking is provided at ground level and supports active and sustainable transportation.
 - (iii) The site is located in a highly accessible areas on Cleveland Street close to bus services, the light rail and Central Station.
 - (iv) Strict compliance with the standard would require a reduction in bicycle parking which would be considered a reduction in amenity and worse outcome in terms of sustainability.

- (c) The proposed development will be consistent with the objectives of the zone;
 - (i) The proposed development provides a mix of land uses including the hall/event space, café and boarding house. The uses are compatible with each other and more broadly the surrounding context.
 - (ii) The site is within an accessible location on Cleveland Street nearby to public transport including bus services, the light rail and Central Station. Bicycle parking is also provided on site.
 - (iii) The development will contribute to the viability of the Surry Hills area with additional employment and residential floorspace.
- (d) The proposed development will be consistent with the objectives of the standard
 - (i) Whilst there are no specific objectives for the standard, the objectives of the Affordable Rental Housing SEPP are achieved. The development will provide boarding house rooms in a well serviced location.

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

61. 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)?

62. The submitted request is considered to demonstrate that compliance with the development standard is unreasonable or unnecessary in the particular circumstances of the case. The motorcycle parking standard does not include specific objectives, however the written request has demonstrated that the overall aims of the Affordable Rental Housing SEPP are achieved despite the non-compliance. The proposal provides additional 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)?

63. The submitted request has adequately demonstrated there are sufficient environmental planning grounds for contravening the standard. The City's Transport Unit has advised that the provision of additional bicycle parking is preferred to the provision of additional motorcycle parking.

Is the development in the public interest?

64. The proposal is considered to be in the public interest as it consistent with the objectives of the SEPP (Affordable Rental Housing) 2009 and the objectives of the B4 Mixed Use Zone.

65. The proposal provides boarding house rooms for rental accommodation in accordance with the Affordable Rental Housing SEPP.
66. The proposal provides additional commercial floor space within the B4 Zone in an area that contains a mix of commercial and residential uses. The proposal is located in an accessible location in proximity to public transport. The provision of bicycle parking on site will promote the use of public transport and encourage walking and cycling. The proposal will promote the viability of nearby centres in the locality.

Conclusion

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

Design

68. The application was considered by the Design Advisory Panel Residential Subcommittee (DAPRS) on 7 December 2020. The panel provided the following feedback in summary:
 - (a) Concern regarding the overlapping nature of the proposal to the existing building which overwhelms the existing building and requires intrusive building supports within the existing building.
 - (b) Building should sit within height control.
 - (c) Recommended the provision of communal outdoor space, communal indoor space, deep soil.
 - (d) Concerns expressed regarding the conflicts between different uses: boarding house, café, workshop, and performance space.
 - (e) Amenity considerations for exhaust risers, garbage rooms, air conditioning.
 - (f) Further consideration of passive sun control, privacy, landscaping.
69. The applicant responded to the comments from DAPRS and City staff with the following amendments to the proposal:
 - (a) Reduction in maximum building height from 16.04m to 15.875m.
 - (b) Increased setbacks to the north: 0.6m up to level 3, and 4.8m at level 4.
 - (c) Reduced building form over church roof with retention of all timber support arches and new structures supported from the new additions with intrusive building supports deleted from within church building.
 - (d) Reduced basement servicing and workshop area.
 - (e) Reduction in boarding rooms from 30 to 26 rooms.
 - (f) Outdoor Level 4 communal area provided with landscaping.

- (g) Indoor Level 4 communal area provided.
- (h) Additional lift provided to address security between different building users.
- (i) Details of services and mechanical plant.
- (j) Views from the sun and overshadowing analysis provided.

70. A comparison between the scheme as lodged and as amended is shown below.



Figure 26: Proposal as lodged, perspective view from Cleveland Street



Figure 27: Proposal as lodged, perspective view High Holborn Street



Figure 28: Amended proposal, montage view Cleveland Street



Figure 29: Amended proposal, perspective view High Holborn Street

71. The proposal as amended has addressed the key issues raised by DAPRS. The proposal now provides indoor and outdoor common areas for the boarding house use in accordance with SEPP Affordable Rental Housing and an additional lift core will enable secure access between different building users. The design has an improved relationship within its context including a reduction in the additions above the church roof.
72. The proposal as amended has provided additional privacy measures to the boarding room windows. To the eastern elevation, fixed frosted glass external louvres are provided at an angle of 35 degrees to windows at all levels. To the western elevation external operable louvres are provided for both sun protection and privacy for levels 1, 2. Plant screening also provides an additional measure of privacy and greening at these levels. External bronze tinted glass with internal blinds are proposed for levels 3 and 4 for privacy and sun control. These measures are supported in principle with further details of bronze tinted glass to be provided to ensure appropriate solar performance is achieved without creating excessive glare.

Consultation

Internal Referrals

73. The application was discussed with Council's:
 - Building Services Unit;
 - Environmental Health Unit;
 - Heritage and Urban Design Unit;
 - Public Domain Unit;
 - Transport and Access Unit;
 - Tree Management Unit; and
 - Waste Management Unit.
74. Recommended conditions are included in the Notice of Determination.

Advertising and Notification

75. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 28 days between 6 October 2020 and 4 November 2020. A total of 312 properties were notified and 45 submissions were received.
76. Following the receipt of amended plans, the proposed development was renotified for a period of 14 days between 18 June 2021 and 3 July 2021. A total of 312 properties and previous objectors were notified and 23 submissions were received with two in support.

77. The submissions raised the following issues which are discussed as follows.

Issue	Comment
Heritage Impacts - Impacts on the existing building, the locality including heritage terraces on High Holborn Street.	The proposal has been amended to reduce impacts to the church building and its relationship to the surrounding area. Council's heritage planner advises the amendments are acceptable and will have a positive heritage outcome.
Scale of development - objections to proposed height, the lack of transition to adjoining lower scale development, and the lack of setbacks to adjoining development.	The height and scale of the proposal has been amended and reduced to provide an improved and acceptable contextual fit to the surrounding area. Consideration of the request to breach the height standard is discussed above.
Noise - objections to noise to be generated from use of hall, café, bar, boarding house and any patrons exiting along High Holborn Street, including proposed hours of operation.	<p>Whilst some associated documentation refers to a café/bar, no bar use is proposed or would be approved as part of this application. The submitted plan of management would not be approved as written as part of any consent and would be required to be updated to reflect any approved café use. Refer to the recommended conditions of consent.</p> <p>An acoustic assessment submitted with the application assesses the potential impacts against the relevant acoustic criteria.</p> <p>The finding of the report have been reviewed and endorsed by Council's Health Unit. Conditions are included to require the implementation of the recommendations of the acoustic report as part of construction works and management of the premises and include:</p> <ul style="list-style-type: none"> - Amplified music to cease at 10.00pm - Additional soundproofing to stained-glass windows. - Additional soundproofing to church building roof.

Issue	Comment
	<p>- Amplification equipment to include an audio limiting device.</p> <p>- Patron limits for café and hall.</p>
<p>Traffic and Parking - objections to traffic and parking impacts within locality including High Holborn Street, including concerns with servicing of the site, waste collections and loss of on-street parking.</p>	<p>The site is located in an accessible location with public transport options. The proposal includes 16 bicycle parking spaces and 3 motorcycle parking spaces which promote sustainable transport use.</p> <p>Servicing is to be restricted to vehicles that can be accommodated within the loading area.</p> <p>Waste arrangements have been reviewed and endorsed by Council's Waste Unit.</p>
<p>Privacy - objections to lack of privacy treatments to boarding rooms.</p>	<p>Additional privacy measures have been included to both the eastern and western facades. Subject to details these measures will provide an appropriate level of privacy.</p>
<p>Boarding house use - concerns with potential anti-social behaviour and smoking within street.</p>	<p>Boarding house to be managed by an on-site boarding house manager and a final plan of management.</p> <p>Smoking in public areas is permitted by health laws.</p>
<p>Construction impacts - concerns with narrowness of High Holborn Street, noise that would be generated and the damage that may be caused to adjoining dwellings.</p>	<p>Construction impacts including construction vehicle sizes to be managed via construction management plans.</p> <p>A recommended condition requires dilapidation reports of adjoining buildings to be undertaken prior to works commencing.</p> <p>Condition 98E prescribed by the regulations requires shoring and underpinning for excavation works.</p>

Issue	Comment
	<p>A small ground level setback to the north would allow for continued sub-floor ventilation to the adjoining building. A flashing-like structure is provided to the north elevation along the profile of the adjoining building between the proposed and adjoining building.</p> <p>The development is required to convey all stormwater from the site.</p>
Financial viability - concerns regarding the financial viability of the use.	Financial viability is not a planning consideration.
Tree removal - objections to tree removal including street trees and a tree on neighbouring land.	Proposal amended. No longer includes street tree removal. Removal of tree on neighbouring land not included as part of proposal.
Overshadowing impacts - objections to overshadowing impacts to the neighbouring apartment building at 426 Cleveland Street.	<p>Overshadowing impacts of the proposal considered in accordance with applicable control as discussed above.</p> <p>The proposal will impact on apartments within the converted warehouse building to the east at 426 Cleveland Street.</p> <p>The lower level apartments will be impacted and will not receive sunlight. Given that any form of development other than a single storey form with a flat roof would result in overshadowing to these apartments, the overshadowing is acceptable in the circumstances given the permitted height controls.</p>
Loss of views - objections to the loss of views due to the proposal in this location.	The proposal will impact on outlooks from neighbouring dwellings and apartments. These are not views or view corridors as described in the view sharing planning principle.
Support for proposed cultural use of the site.	Noted.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

78. 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 contribution is \$281,339.56. Credits have been applied for the existing building on a best basis as an entertainment venue.
79. 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.

Relevant Legislation

80. Environmental Planning and Assessment Act 1979.

Conclusion

81. The application for alterations and additions to the Kirk building for a mixed use development including a boarding house, cultural entertainment venue and café has been assessed against the relevant planning controls.
82. The application includes requests to vary the height of buildings and motorcycle parking development standards. The application proposes a maximum height of 15.875m which represents a variation of 5.8% to the standard. The application proposes 3 motorcycle parking spaces which represents a 50% variation to the standard. The requests to vary the standards are supported in the circumstances of the proposal.
83. The application was reviewed by the Design Advisory Panel Residential Subcommittee on 7 December 2020. The panel provided feedback recommending a reduction in scale of the proposal, the provision of outdoor and indoor common areas for the boarding house use, further consideration of conflicts between the different uses of the proposal, and consideration of design aspects including services, waste facilities, passive sun control, privacy measures and landscaping.
84. Amended plans and further information were received on 11 May 2021 and 12 August 2021 following further feedback from Council Officers. The amendments have generally addressed the key issues raised and the proposal is recommended for approval subject to conditions.

ANDREW THOMAS

Executive Manager Planning and Development