Item 3.

Development Application: 10, 16 and 18 Raper Street, Newtown - D/2024/935

File Number: D/2024/935

Summary

Date of Submission:	31 October 2024, amended plans received 6 February 2025
Applicant:	NSW Land and Housing Corporation
Architect:	Sam Crawford Architects
Developer:	NSW Land and Housing Corporation
Owner:	Homes NSW
DAPRS:	3 December 2024
Cost of Works:	$3,863,471.00
Zoning:	R1 General Residential Zone. The proposal is permissible with consent.
Proposal Summary:	Proposed demolition of existing buildings on the site and construction of an 8-room boarding house for Homes NSW as affordable housing, including one common room and parking for 2 motorcycles and 6 bicycles. The development is a Crown development application with the landowner being the NSW Land and Housing Corporation. The application was considered by the Design Advisory Panel Residential Subcommittee on 3 December 2024. The applicant submitted amended plans and information on 6 February 2025 in response to comments received. The proposed development is compliant with the height of buildings standard of 9m under the Sydney Local Environmental Plan 2012 with a proposed height of 9m.

The proposal is compliant with the floor space ratio (FSR) standard of 1:1 for 10 and 16 Raper Street, and 1.25:1 for 18 Raper Street under the Sydney Local Environmental Plan 2012 and an addition 30% of maximum permitted FSR under State Environmental Planning Policy (Housing) 2021 with a proposed FSR of 0.63:1.

The application was notified for 21 days between 4 November 2024 and 26 November 2024. 434 properties were notified, and 27 submissions were received, including 13 objections, 12 submissions in support, and 2 comments.

Issues were raised in relation to the density of social housing in the street, a history of policing issues for the site, non-compliance with planning controls, traffic and parking impacts, scale and height of the proposal, noise impacts, lack of consultation, costs of the proposal, and tree health. These matters have been considered within the report and where relevant are able to be adequately addressed by conditions of consent.

The application includes a request to vary the minimum lot size standard of 800sqm for boarding houses under SEPP Housing 2021. The proposed lot size is 472.8sqm which represents a variation to the standard of 41%, and therefore the proposal is referred to the Local Planning Panel for determination.

As a Crown development application, the draft recommended conditions were provided to the Land and Housing Corporation who provided agreement to the conditions on 13 March 2025.

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

Development Controls:

(i) SEPP (Resilience and Hazards) 2021

(ii) SEPP (Housing) 2021

(iii) SEPP (Sustainable Buildings) 2022

(iv) SEPP (Transport and Infrastructure) 2021

(v) SEPP (Biodiversity and Conservation) 2021

(vi) Sydney Local Environmental Plan 2012

(vii) Sydney Development Control Plan 2012

Attachments:

A. Recommended Conditions of Consent

B. Selected Drawings

C. Clause 4.6 Request - Minimum Lot Size

D. Submissions

Recommendation

It is resolved that:

(A) the variation requested to the 'minimum lot size' development standard for boarding houses contained in Section 25(g)(ii) of State Environmental Planning Policy (Housing) 2021 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 Number D/2024/935 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 permissible with consent in the R1 General Residential Zone

(B) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that the applicant's written request has adequately demonstrated that compliance with the minimum lot size development standard specified in section 25(g)(ii) of State Environmental Planning Policy (Housing) 2021 is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify contravening the development standard in accordance with the requirements of Clause 4.6(3) of Sydney Local Environmental Plan 2012.

(C) The proposed development complies with the maximum floor space ratio development standard contained in Clause 4.4 of the Sydney Local Environmental Plan 2012 and Section 24 of State Environmental Planning Policy (Housing) 2021.

(D) The proposed development complies with the maximum height of buildings development standard contained in Clause 4.3 of Sydney Local Environmental Plan 2012.

(E) The proposal is generally consistent with the standards for boarding houses under Chapter 2 Division 2 s24(2) of State Environmental Planning Policy (Housing) 2021.

(F) The proposal exhibits design excellence in accordance with the requirements contained in Clause 6.21C of Sydney Local Environmental Plan 2012.

(G) The proposal retains the heritage significance of the O'Connell Town Estate Heritage Conservation Area.

(H) The proposal is generally consistent with the relevant objectives and provisions of Sydney Development Control Plan 2012.

Background

The Site and Surrounding Development

1. The site is identified as Lots 61,62 and 63 in DP 1277404 and is located at 10, 16 and 18 Raper Street, Newtown. The site has a combined frontage of 19.2m, an average depth of 24.5m and a combined site area of 472.8sqm. The site is located on the northern side of Raper Street opposite to the intersection of Hordern Street. Levels on the site fall from south (front) to north (rear) by approximately 1m.

2. The site contains a building that consists of one storey dwelling at 10-16 Raper Street and an attached two storey dwelling at 18 Raper Street, both constructed circa 1988 by the NSW Department of Housing Urban Renewal Group. The dwellings have been vacant for some time and are in poor condition.

3. Photos of the site and surrounds are provided below.

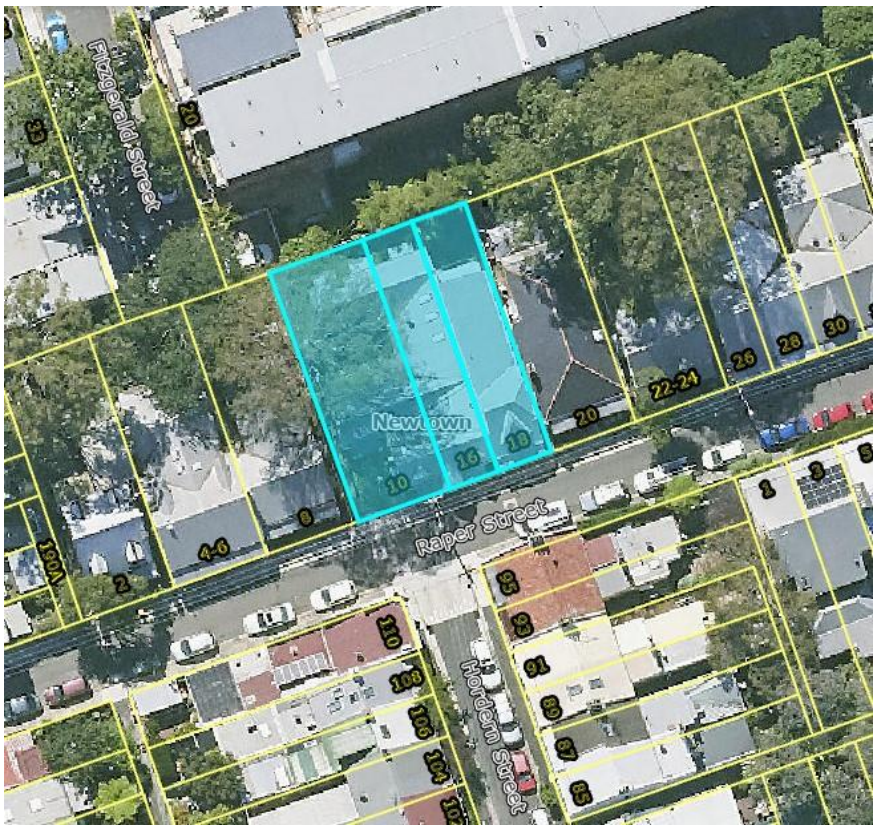

Figure 1: Aerial view of site and surrounds

Figure 2: Site viewed from Raper Street

Figure 3: Site viewed from Raper Street

Figure 4: View along western boundary

Figure 5: Rear of No. 10 Raper Street

Figure 6: View along eastern side boundary

4. The surrounding area is characterised by a mixture of land uses, primarily being residential along Raper Street. The Royal Prince Alfred Hospital and associated medical uses are located approximately 110m north of the site. Land uses adjoining the site include:

   (a) to the east at No. 20 Raper Street: a single storey detached dwelling

   (b) to the west at No. 8 Raper Street: a single storey detached dwelling

   (c) to the north at 20 Fitzgerald Street: a multi storey residential flat building

   (d) to the south at the intersection of Raper and Hordern Street, a mixture of one and two storey residential terrace style dwellings

Figure 7: Adjoining site to the west, No. 8 Raper Street

Figure 8: Adjoining site to the east, No. 20 Raper Street

Figure 9: No. 95 Hordern Street opposite the site

Figure 10: No. 110 Hordern Street opposite the site

Figure 11: View along northern (rear) boundary from Fitzgerald Street looking east

5. The site is located within the O'Connell Town Estate Heritage Conservation Area (C43). The site is identified as a neutral building.

6. Two easements are currently noted on the existing lots, both relating to support and encroachments of the existing building over an internal allotment boundary.

7. The site is identified as being subject to flooding, with flooding affectation along Raper Street and within No. 10 Raper Street.

History Relevant to the Development Application

Development Applications

8. This is no recent application history for the site.

Amendments

9. The proposal was reviewed by the Design Advisory Panel Residential Subcommittee (DAPRS) on 3 December 2024.

10. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information and amendments including advice provided by DAPRS was sent to the applicant on 13 December 2024 including the following items:

- review of building entry
- review of materials to balustrading, front fence, roof
- clarification on natural ventilation to rooms
- review of location of air conditioning units
- assessment of the Forest Red Gum tree to be retained on site which shows signs of significant decline and retention of the tree is not likely to be possible
- amendment of waste bin area.

11. The applicant submitted amend plans and information on 6 February 2025 in response to the comments received.

Proposed Development

12. The application seeks consent for the following:

- demolition of existing buildings on site
- construction of a one to two storey 8 room boarding house as affordable housing sole occupancy rooms, including one common room
- parking for 2 motorcycles and 6 bicycles
- landscaping works including the removal of one existing mature tree with replacement plantings
- consolidation of lots.

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

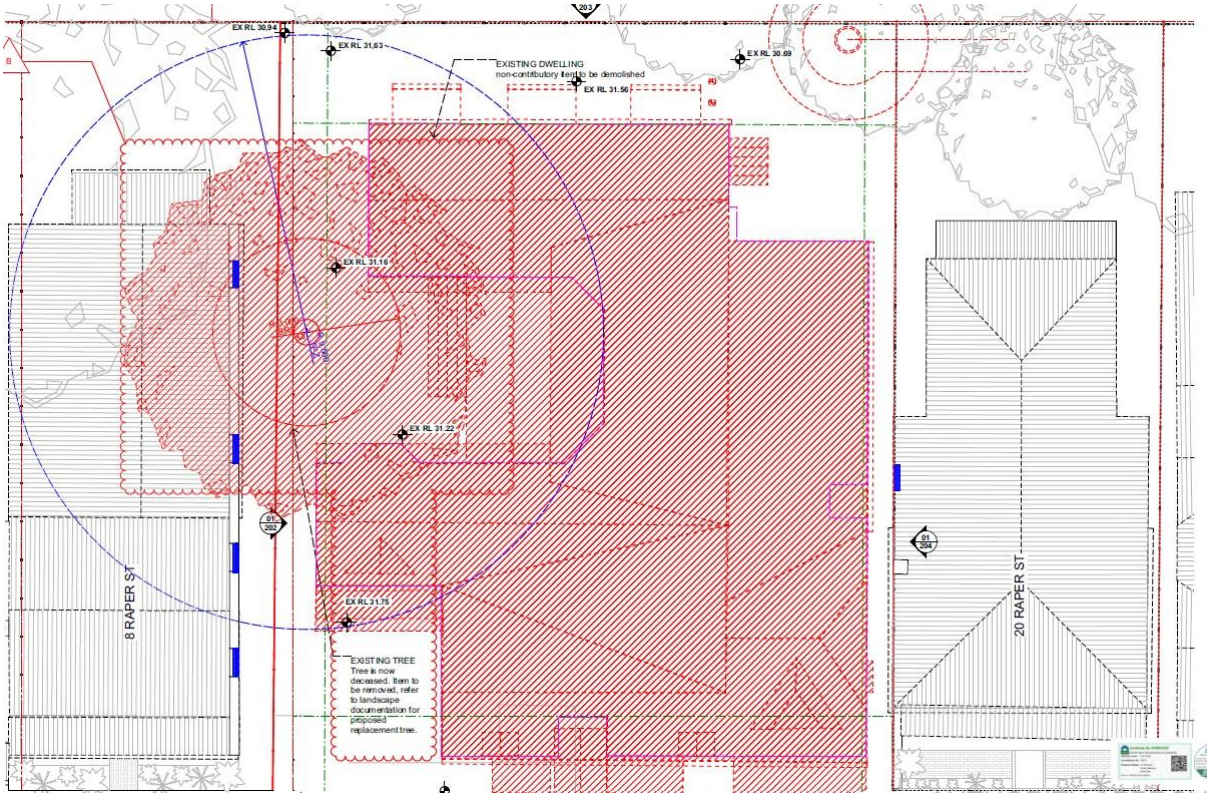

Figure 12: Demolition plan

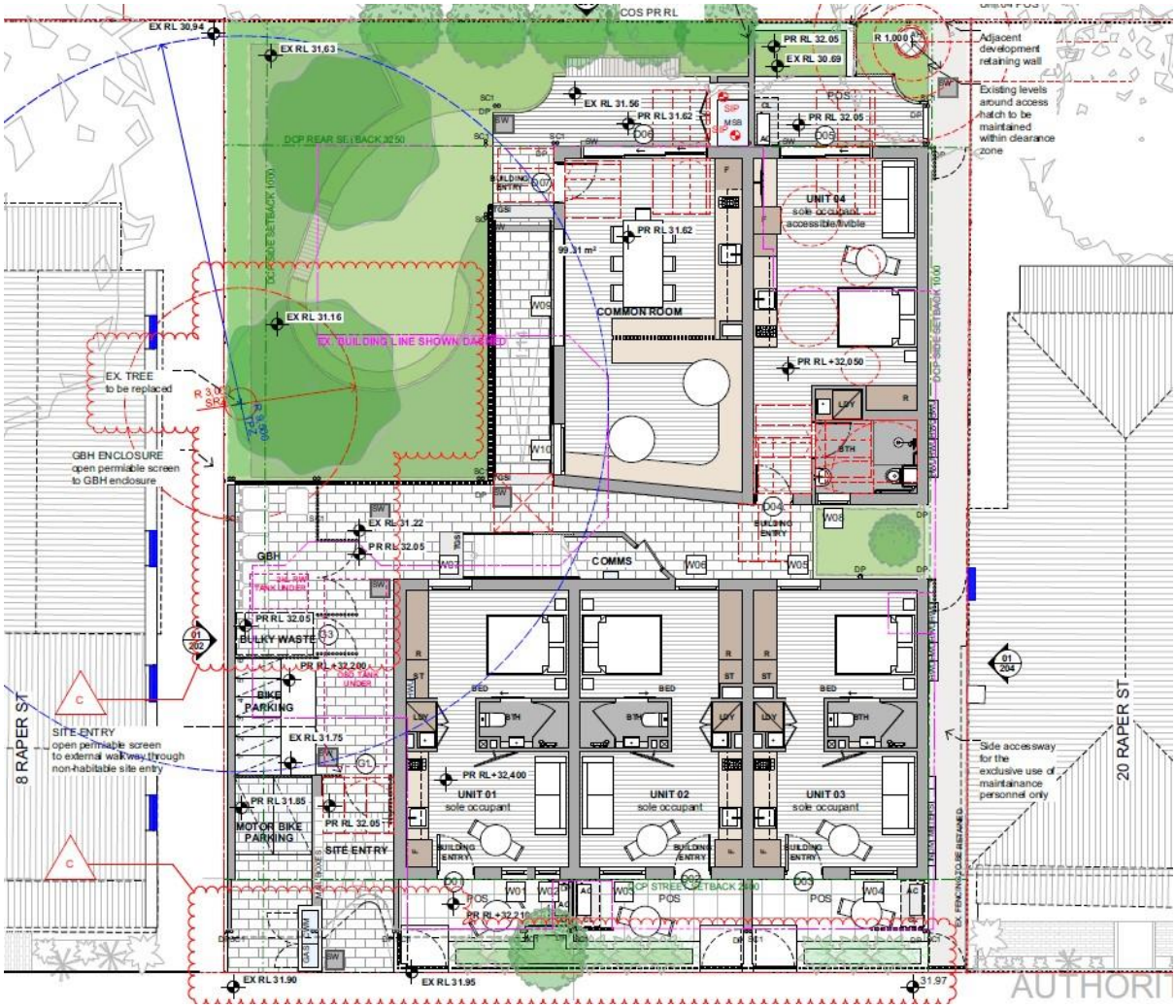

Figure 13: Ground floor plan

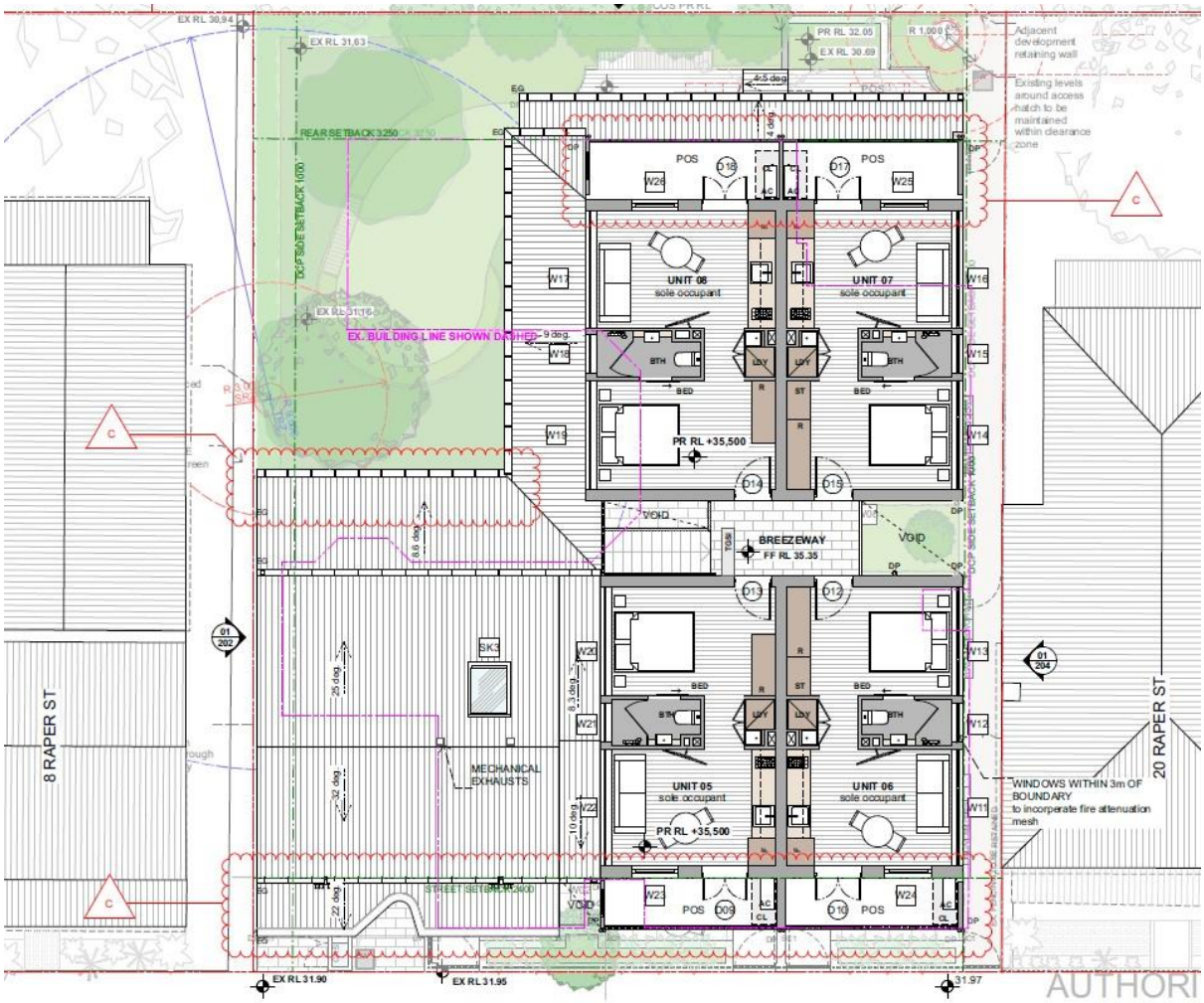

Figure 14: First floor plan

Figure 15: Roof plan

Figure 16: South (Raper Street) elevation

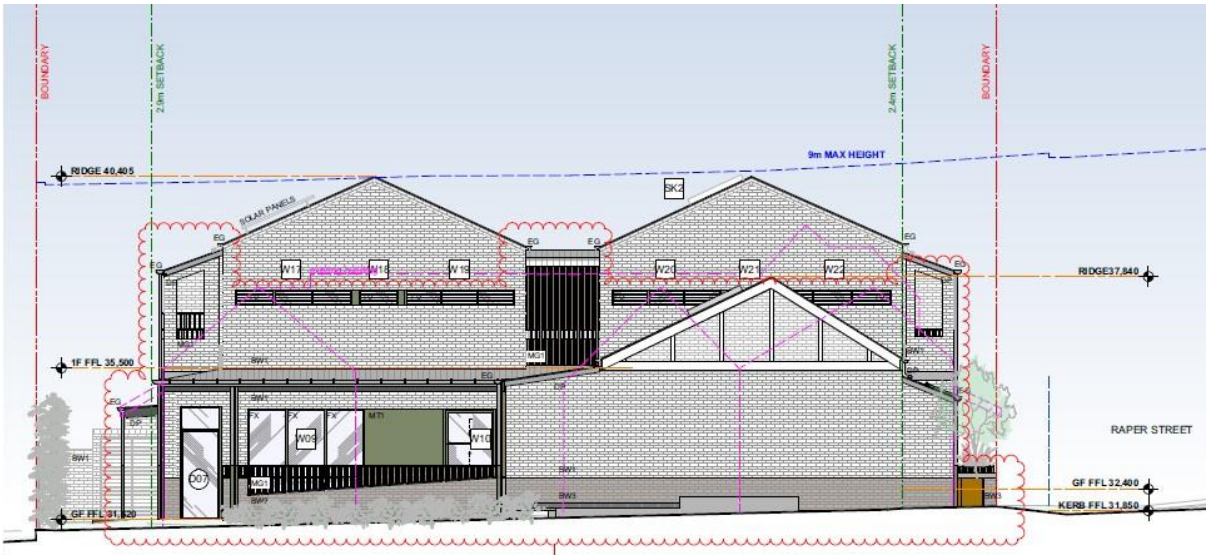

Figure 17: West elevation

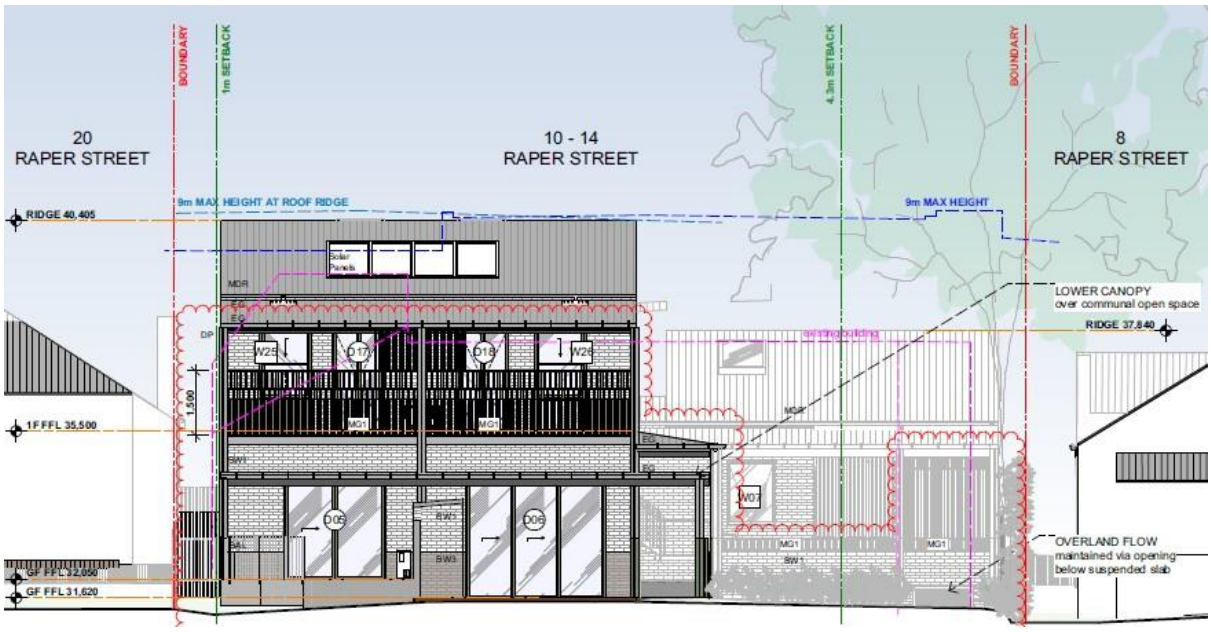

Figure 18: North elevation

Figure 19: East elevation

Figure 20: Materials schedule

Figure 21: Montage image

Assessment

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

Crown Development Applications

15. This application has been made by or on behalf of a public authority (not being a Council) and is therefore to be assessed as a Crown development application.

16. Pursuant to section 4.33(1) of the EP&A Act, a consent authority (other than the Minister) must not:

    (a) refuse its consent to a Crown development application, except with the approval of the NSW Minister for Planning and Public Spaces or

    (b) impose a condition on its consent to a Crown development application, except with the approval of the applicant, or the NSW Minister for Planning and Public Spaces.

17. Draft conditions of consent were provided to the applicant on 7 March 2025.

18. NSW Land and Housing Corporation provided their response on 13 March 2025. Comments and requested amendments made by NSW Land Housing Corporation have been incorporated into the recommended conditions.

19. A request was made by the applicant to amend the standard permitted construction hours (outside of CBD) which are 7.30am to 5.30pm Mondays to Fridays, 7.30am to 3.30pm Saturdays and no works on Sundays and public holidays, to 7.00am to 5.00pm Monday to Saturday and no works on Sundays and public holidays. Council suggested that this request be reconsidered. The applicant confirmed the request for the amended hours, which they reason are those permitted for complying development certificates.

State Environmental Planning Policies

State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land

32. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land 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.

33. The site has been historically used for residential purposes and is suitable for ongoing residential use with no known contaminating activities undertaken on or near the site.

State Environmental Planning Policy (Housing) 2021

34. The aim of SEPP (Housing) 2021 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.

35. Section 7.32 of the EP&A Act states that where the consent authority is satisfied that the development meets certain criteria, and a Local Environmental Plan authorises an affordable housing condition to be imposed, such a condition should be imposed so that mixed and balanced communities are created.

36. Clause 7.13 (Contribution for purpose of affordable housing) of the Sydney Local Environmental Plan 2012 allows for circumstances where an affordable housing contribution may be levied for development of land.

37. This matter is discussed in further detail under the heading Financial Contributions below.

Chapter 2 Affordable Housing

Part 2 Development for affordable housing

Part 2 Division 2: Boarding Houses

38. The proposed boarding house is a permissible development within the R1 General Residential Zone under Sydney Local Environmental Plan 2012 and addresses clause 23.

39. Under section 24, 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.

Section **24 – Non discretionary development standards**

40. If the following non-discretionary development standards are complied with the consent authority cannot require more onerous standards for the matters.

Standards that cannot be used to refuse a boarding house

Provision	Compliance	Comment
(a) FSR In a zone where residential flat buildings are permitted a FSR of up to: 1:1 for 10, 16 Raper Street 1.25:1 for 18 Raper Street plus an 30% is permitted if the additional floor space is used only for purpose of the boarding house	Yes	The application proposes a floor space ratio of 0.63:1.
(c) **Landscaping** In R2 zones the minimum landscaping requirements for multi dwelling housing under relevant planning instruments	N/A	Not located within an R2 Zone.
(e) **Solar Access** At least 3 hours of solar access will be provided between 9.00am and 3.00pm at mid winter in at least one communal living area	Yes	At least 3 hours of solar access to common room and communal open space.
(g) **Communal living area** For boarding house containing more than 6 private rooms a total of at least 30m² plus 2m² per additional room and a minimum dimension of 3m (total required 34sqm)	Yes	Proposed common room sized 38.5sqm with min dimension greater than 3m.
(h) **Communal open space** Communal open space with a total area of at least 20% of	Yes	Communal open space area 102.8sqm (21.7%).

Provision	Compliance	Comment
the site area and a minimum dimension of 3m (total required 94.6sqm)		
(i) **Parking** Unless a relevant planning instrument specifies a lower number 0.2 spaces per boarding room area and 0.5 spaces otherwise	N/A	Sydney LEP 2012 does not require the provision of carparking for the proposed boarding house.

41. The proposed development complies with the relevant provisions of clause 24.

42. Clause 25 (1) states that a consent authority must not grant development consent for the purpose of a boarding house unless it is satisfied of each of the following provisions.

Clauses 25 (1) – Standards for boarding houses

Provision	Compliance	Comment
1(a) no boarding room will have a gross floor area (excluding private kitchen or bathroom facilities) of more than 25m²	Yes	Boarding rooms sized between 20.9sqm to 24.5sqm.
1(b) no boarding room will be occupied by more than 2 adult residents	Yes	All rooms proposed as sole occupancy rooms.
1(c) adequate bathroom, laundry and kitchen facilities will be available within the boarding house for the use of each occupant	Yes	Each room provided with private kitchen, bathroom and laundry facilities.
1(f) for a boarding house containing at least 6 rooms the boarding house will have at least one communal living area	Yes	The proposal includes a communal living area.
1(g)(i) in R2 zone the minimum lot size is 600sqm	No, cl 4.6 request submitted	The site has an area of 472.8sqm. The development does not satisfy the minimum lot size requirement. Refer to Discussion section.

Provision	Compliance	Comment
(ii) on other land the minimum lot size is 800sqm		
1(h) each boarding room has a minimum floor area, excluding kitchen and bathroom, of at least 12m² for a single occupant or 16m² otherwise	Yes	Boarding rooms sized between 20.9sqm - 24.5sqm.
1(i) the boarding house will include adequate bicycle and motorcycle parking spaces	Yes	The proposal provides 2 motorcycle parking spaces and 6 bicycle parking spaces.

43. Clause 25(2) states that a consent authority must not grant development consent for the purpose of a boarding house unless it considers the following matters.

Clauses 25 – Matters for consideration

Provision	Compliance	Comment
2(a) the design of the boarding house is compatible with the desirable elements of the character of the local area or for precincts undergoing transition the desired future character of the precinct	Yes	The development responds to the character of the heritage conservation area and the streetscape.
2(b) in R2 zone the front, side and rear setbacks are no less than those required for multi dwelling housing in another relevant planning instrument	N/A	Whilst the provision does not apply, the proposed front, side and rear setbacks relate to the existing setback pattern of the street locality.
2(c) if the boarding house has at least three storeys, the building complies with the minimum building separation distances in the Apartment Design Guide	N/A	Development is two storeys in height.

44. Clause 27 provides that development consent must not be granted for the subdivision of the boarding house. No subdivision is proposed.

Part 3 Retention of existing affordable rental housing

45. Part 3 of the SEPP addresses the reduction in the availability of low rental residential accommodation arising from a development.

46. Clause 47 provides that in determining to grant development consent the consent authority must take into account a number of matters.

47. The existing buildings on the site were previously used for affordable housing, however, have been vacant for some time. The current proposal will provide for additional affordable housing that does not reduce the amount of affordable housing in the area and thus addresses the provisions.

State Environmental Planning Policy (Sustainable Buildings) 2022

48. The aims of this Policy are as follows—

    (a) to encourage the design and delivery of sustainable buildings

    (b) to ensure consistent assessment of the sustainability of buildings

    (c) to record accurate data about the sustainability of buildings, to enable improvements to be monitored

    (d) to monitor the embodied emissions of materials used in construction of buildings

    (e) to minimise the consumption of energy

    (f) to reduce greenhouse gas emissions

    (g) to minimise the consumption of mains-supplied potable water

    (h) to ensure good thermal performance of buildings.

Chapter 2 Standards for residential development - BASIX

49. A BASIX Certificate has been submitted with the development application.

50. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A condition of consent is recommended ensuring the measures detailed in the BASIX certificate are implemented.

State Environmental Planning Policy (Transport and Infrastructure) 2021

51. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network

Clause 2.48 Determination of development applications – other development

52. The application is subject to Clause 2.48 of the SEPP as the development will be carried out within 5m of an exposed overhead electricity power line.

53. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 (Vegetation in Non Rural Areas)

54. The proposal includes the clearing of vegetation in a non-rural area and as such is subject to this SEPP.

55. The SEPP states that the Council must not grant consent for the removal of vegetation within heritage sites or heritage conservation areas unless Council is satisfied that the activity is minor in nature and would not impact the heritage significance of the site.

56. The proposed removal of the existing Red Gum Tree was included as part of the proposal on the advice of Council's Tree Management Unit after site inspection revealed that the condition of the tree has declined to the point where it is not viable to be retained.

57. The removal of the tree with appropriate tree replacement would not impact on the heritage significance of the site.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 6 Water catchments

58. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of Chapter 6 of the above SEPP. In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the controls set out in Division 2.

59. 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 control of improved water quality and quantity, the controls set out in Division 2 of the SEPP are not applicable to the proposed development.

Local Environmental Plans

Sydney Local Environmental Plan 2012

60. 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 R1 General Residential zone. The proposed development is defined as a boarding house and is permissible with consent in

Provision	Compliance	Comment
		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. A height of 9m is proposed.
4.4 Floor space ratio	Yes	A maximum floor space ratio applies as follows: 10-16 Raper Street: 1:1 18 Raper Street: 1.25:1 Bonus FSR provisions apply for an additional FSR of 30% for boarding houses under SEPP (Housing) 2021. A FSR of 0.63:1 is proposed.
4.6 Exceptions to development standards	Yes	The proposed development seeks to vary the minimum lot size development standard prescribed under section 25(1)(g)(ii) of SEPP Housing 2021. A Clause 4.6 variation request has 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 O'Connell Town Estate Heritage Conservation Area (C43). The site is identified as a neutral building. The proposed development as amended will not have a 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	The proposed development is of a high standard and uses materials and detailing which are compatible with the existing development along the street and will contribute positively to the character of the area.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.3 Car parking spaces not to exceed maximum set out in this Division	Yes	There is no specified maximum or required minimum car parking for boarding house developments under the LEP.
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.
7.15 Flood planning	Yes	The site is identified as being subject to flooding along the Raper Street frontage and within No. 10 Raper Street. A site specific flood risk assessment and stormwater management plan have been submitted as part of the proposal. Council's Public Domain Unit have reviewed the proposal and have advised that the proposed will comply with Council's Flood risk Management Policy Flood Planning Levels.
7.17 Development in areas subject to airport noise	Yes	The proposed development incorporates residential development and the subject site is not located within the ANEF 20 Contour.

Development Control Plans

Sydney Development Control Plan 2012

61. 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

62. The site is located within the North Newtown locality. The proposed development is in keeping with the unique character and the design principles of the locality and retains a low scale of built form consistent with the streetscape.

Section 3 – General Provisions

Provision	Compliance	Comment
3.2. Defining the Public Domain	Yes	The proposal addresses the street with an identifiable entry point.
3.5 Urban Ecology	Yes	The proposed development includes the removal of one tree on the advice of the City's Tree Management Unit. A condition has been recommended to require an amended landscaping plan with an appropriately sized replacement planting.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements. Refer to SEPP (Sustainable Buildings).
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. See discussion under section 7.15 above.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	The proposed development involves the consolidation of three lots into one lot. The new allotment is regular in shape and would not have a detrimental impact on the setting of the heritage conservation area. The application was referred to Council's Specialist Surveyor, who supported the proposal, subject to conditions of consent.
3.9 Heritage	Yes	The site is located within the O'Connell Town Estate Heritage Conservation Area (C43). The site is identified as a neutral building. The proposed development as amended will not have a detrimental impact on the

Provision	Compliance	Comment
		heritage significance of the heritage conservation area.
3.11 Transport and Parking	Yes	The City's Transport Unit have reviewed the proposal and have advised that the proposed design is acceptable subject to conditions.
3.12 Accessible Design	Yes	One accessible room proposed.
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 has been reviewed by the City's Waste Management Unit. The proposal is generally acceptable subject to minor amendments to enclose the bin area and updates to the waste management plan which are included as part of the recommended conditions.

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	N/A	Strata or community title subdivision is not proposed.
4.4.1.2 Bedrooms Rooms minimum 12sqm, plus 2.1sqm for ensuite, 0.8sqm shower, 1.1sqm laundry and 2sqm for kitchenette (Total 18sqm)	Yes	Rooms sized between 20.9sqm to 24.55sqm with bathrooms with showers, kitchen and laundry.
4.4.1.3 Communal kitchen areas	N/A	All rooms provided with kitchenettes.
4.4.1.4 Communal living areas and open space Indoor communal sized 12.5sqm. Communal outdoor space sized 20sqm.	Yes	Indoor communal living area sized 38qm with dimension greater than 3m. Communal outdoor space sized 99sqm. Each boarding room has an area of private open spaces that exceeds 4sqm.

Provision	Compliance	Comment
30% of rooms to have access to private open space		
4.4.1.5 Bathroom, laundry and drying facilities	Yes	Laundry facilities provided to each room.
4.4.1.6 Amenity, safety and privacy	Yes	Building designed to address principles of CPTED. Design allows for overlooking opportunities, whilst maintaining privacy to rooms. Privacy to adjoining sites maintained through use of setbacks, side walls, and balustrades. Acoustic report provides recommendations to achieve relevant acoustic criteria.
4.4.1.7 Plan of Management	Yes	Plan of Management submitted that addresses how the use will operate without disruption within the residential area.
Development Guidelines: Boarding Houses (including student accommodation)	Yes	Proposal has submitted relevant information in accordance with the guidelines.

Discussion

Clause 4.6 Request to Vary a Development Standard - Minimum Lot Size

63. The site is subject to a minimum lot size standard of 800sqm under s25(1)(g) of the SEPP (Housing) 2021. The proposal has a combined site area of 472.8sqm which represents a variation of 41% to the standard.

64. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

    (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and

    (b) That there are sufficient environmental planning grounds to justify contravening the standard;

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

65. The applicant seeks to justify the contravention of the minimum lot size 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 SEPP Housing 2021, and the objectives of the R1 General Residential Zone area are achieved notwithstanding the non-compliance.

(ii) The proposal achieves the principle of SEPP Housing 2021 to enable the development of diverse housing types, including purpose-built rental housing.

(iii) The proposal achieves the principle of the SEPP Housing 2021 to encourage the development housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability.

(iv) The proposal will be delivered by Homes NSW who is a social housing provider. The proposal comprises of 8 sole occupant boarding rooms that will accommodate vulnerable members of the community.

(v) The proposal achieves the principle of the SEPP Housing 2021 to ensure new housing development provides residents with a reasonable level of amenity. The proposal has been designed to provide solar access, natural ventilation, accessibility, and landscaping and meets relevant planning controls.

(vi) The proposal achieves the principle of the SEPP Housing 2021 to minimise adverse climate and environmental impacts of new housing development. The proposal meets BASIX and NatHERS requirements.

(vii) The proposal achieves the principle of the SEPP Housing 2021 to reinforce the importance of designing housing in a way that reflects and enhances its locality. The proposal has been designed to respond to the heritage character of the local area.

(viii) The proposal achieves the principle of the SEPP Housing 2021 to mitigate the loss of existing affordable rental housing. The proposal will assist in the provision of affordable rental housing.

(ix) The proposal achieves the objectives of the R1 Zone which are as follows:

  (i) To provide for the housing needs of the community.
  (ii) To provide for a variety of housing types and densities.
  (iii) To enable other land uses that provide facilities or services to meet the day to day needs of residents.
  (iv) To maintain the existing land use pattern of predominantly residential uses.

(x) The proposal provides for affordable housing in the form of an 8 room boarding house that maintains the residential land use and meets housing needs of the community. It will provide a variation in density and housing type that would promote diversity in the locality. The proposal will not impede the provision of other land uses that provide facilities or services to meet the needs of residents.

(xi) If compliance with the minimum lot size of 800sqm was required, the proposal for a development on the site would not be achievable. The opportunity to provide an affordable housing boarding house within an area with an identified need for social and affordable housing would not occur, which would be an undesirable outcome.

(b) That there are sufficient environmental planning grounds to justify contravention of the standard:

(i) The proposal has been designed to be in-keeping with the character of the area. The character of the locality generally comprises of lots below 200sqm in size, therefore a development with a smaller lot size (than 800sqm) is more preferable in the local context. The proposal has been designed to respond to the local one and two storey context of the heritage conservation area and the smaller lot size is a feature of the design.

(ii) The proposal has been designed to comply with boarding house controls. The proposal complies with boarding house controls contained within Sydney DCP 2012.

(iii) The proposal does not result in adverse impacts on privacy for adjoining development. The design and orientation of private balconies ensures that overlooking to adjoining properties is minimised, with views directed to the street and to the rear, with landscaping providing a buffer to adjoining sites.

(iv) The proposal does not result in adverse impacts on the amenity of adjoining development, including overshadowing and acoustic privacy. Shadowing from the proposal falls largely within the subject site between 9am to 12pm, and at 3pm overshadowing does not significantly impact on the private open space of the adjoining properties. The proposed acoustic measures outlined within the submitted acoustic report will minimise noise impacts to adjoining properties.

(v) The proposal does not result in unacceptable environmental impacts. The proposal encourages walking and cycling and provides for improved landscaping on the site.

Consideration of Applicant's Written Request - Clause 4.6 (3)

66. Development consent must not be granted unless the consent authority is satisfied 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.

Does the written request adequately address those issues at Clause 4.6(3) (a)?

67. The applicant has adequately addressed that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as the objectives of the standard and SEPP Housing 2021 are achieved despite the non-compliance.

68. Whilst there is no stated objective for the minimum lot size control within the SEPP Housing 2021, it can be inferred that the aim of the standards for boarding houses within the SEPP, is to provide criteria to achieve the principles of the policy.

69. The submitted Clause 4.6 has demonstrated that the proposal achieves the principles of the SEPP Housing 2021 and the R1 General Residential Zone in which the site is located despite the non-compliance.

70. The principles of SEPP Housing 2021 are as follows:

    (a) enabling the development of diverse housing types, including purpose-built rental housing,

    (b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,

    (c) ensuring new housing development provides residents with a reasonable level of amenity,

    (d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,

    (e) minimising adverse climate and environmental impacts of new housing development,

    (f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,

    (g) supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,

    (h) mitigating the loss of existing affordable rental housing.

71. The applicant has demonstrated that the proposed 8 room sole occupancy boarding house that is being proposed as affordable housing achieves these aims to provide more diverse and affordable forms of housing to more vulnerable members of the community. The proposal provides residents with a reasonable level of amenity as evidenced from the assessment of the proposal within this report. The design achieves the relevant sustainability targets for the development type and is an appropriate contextual fit within the heritage conservation area.

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

72. The applicant has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the standard.

73. The site is located within a heritage conservation area that is characterised by predominantly small narrow lots that feature terrace style dwellings. The proposal has been designed to respond to this character with a one and two storey form that takes cues from terrace typology. Having a lot size smaller than the minimum 800sqm, assists in the design within the heritage context, whilst still maintaining appropriate amenity for the proposal and adjoining sites.

Conclusion

74. For the reasons provided above the requested contravention to the minimum lot size 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.

Design

75. The proposal was reviewed by the Design Advisory Panel Residential Subcommittee (DAPRS) on 3 December 2024. The table below outlines the response to the key points of advice provided by DAPRS in the submitted plan amendments.

DAPRS Comment	Response
Perforated metal balustrades and screens appear too flat and planar and would benefit from finer detail, greater depth and expression of structure.	Screens amended to vertical batten style balustrading that allows a better reading of the main building structure.
The motorcycle bay dilutes the clarity of the main pedestrian entry and should be less prominent. This could be achieved by adjusting the roof design.	A curved cutout introduced to site entry point to enhance clarity to the street.
The balconies could be provided with a full height window instead of the one of the door openings, this would allow for natural ventilation without compromising security.	One of the French doors for each first floor unit has been replaced with a double hung window at each location.
Bedroom windows should be optimised without compromising privacy.	Window operability clarified on plans. Full height windows provided to first floor with visual screening from balustrading and side walls.
The front fence should be reconsidered to be less visually prominent. Metal palisades or a darker brick could be used.	Fence amended to a darker brick with vertical batten elements.
Alternative positions for the air-conditioning units should be explored to optimise the size of balconies.	Alternative positions explored, however the proposed locations retained with amendments to screening structures.

76. Other design amendments have also been made in response to Council officer feedback including:

    (a) landscape plan updated to note removal of Forest Red Gum and replacement plantings provided

    (b) enlargement of bin area

(c) corrugated roof profile provided.

77. Comparison images of the proposal as lodged (and reviewed by DAPRS) and as amended in response are provided below.

Figure 22: Montage image of proposal as lodged

Figure 23: Montage image of proposal as amended

78. The proposal as amended has been reviewed by the City's Heritage and Urban Design Unit. They have advised that the key items raised by DAPRS and City staff have been addressed in the amended plans. Recommendations from the City's Waste Management and Trees Unit have also been addressed. A landscaping condition is recommended to be included to provide a larger canopy tree planting as a replacement planting.

79. The proposal as amended is considered to address the architectural design advice provided by DAPRS. The proposal is an appropriate design for the site and its context within the streetscape and heritage context.

Consultation

Internal Referrals

80. The application was discussed with Council's:

    (a) Building Services Unit

    (b) Environmental Health Unit

    (c) Heritage and Urban Design Unit

    (d) Public Domain Unit

    (e) Safe City Unit

    (f) Surveyors

    (g) Transport and Access Unit

    (h) Tree Management Unit

    (i) Waste Management Unit

81. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

External Referrals

Ausgrid

82. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.

83. A response was received raising no objections to the proposed development.

Advertising and Notification

84. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 21 days between 4 November 2024 and 26 November 2024. A total of 434 properties were notified and 27 submissions were received, including 13 objections to the proposal, 12 in support and 2 comments.

85. The submissions raised the following issues:

Issue	Response
Density of social housing Existing high density of social housing on Raper Street and this development would further increase this density and result in social impacts including safety impacts in the locality	The proposal would be the only boarding house on the street. The proposal complies with the height development standard and is under the FSR development standard, is modest in size being for 8 sole occupancy rooms and would not have an unacceptable impact in the locality.
Site History Previous policing issues on the site in relation to drugs and violence.	The proposed development does not inherently pose a policing issue. Any previous incidents do not relate to this new proposal. The application includes a Plan of Management to address potential social issues.
Compliance with planning controls Proposal does not comply with relevant planning controls including minimum lot size and car parking controls.	The application includes request to vary the minimum lot size standard for boarding houses under SEPP Housing (2021). The proposal complies with SLEP 2012 and SDCP 2012 controls as discussed above.
Traffic and Parking Proposal would result in traffic and parking impacts in the surrounding street network	The site is located in an accessible area and provides bicycle and motorcycle parking. The proposal has been reviewed by the City's Transport Unit and is satisfactory.
Scale and height Height and scale of the proposal in the locality.	The proposal complies with FSR and height controls and the design is compatible with the locality.
Noise Proposal would result in unacceptable noise impacts to surrounding properties.	The submitted acoustic report and plan of management include measures to limit noise impacts to surrounding properties which are appropriate for the proposal.

Issue	Response
Lack of consultation That there has been a lack of consultation by the application with the surrounding neighbours.	The application has been notified in accordance with the City's Community engagement strategy and community participation plan.
Adaptive reuse A concern has been expressed that adaptive reuse of the existing property has not been explored as part of the proposal.	The existing buildings are in poor condition and have been vacant for some time, having been regarded by NSW Land and Housing as not being in a suitable condition for occupation or adaptive reuse.
History of site The proposal has not considered the Aboriginal history of the site and has not proposed Aboriginal housing.	The application includes a Statement of Heritage Impact that includes a review of the history of the site. It is acknowledged that the history of particular housing tenants may not be known and included as part of the assessment, but the general assessment of the heritage significance of the site is satisfactory. The future allocation of housing for tenants is not a matter of planning consideration.
Cost of development Concerns and comments have been raised regarding the cost of the proposal in terms of value for money.	The application has included a cost summary report prepared by a quantity surveyor. The value for money of the proposal is not a matter of planning consideration.
Guarantee for affordable housing Comments in terms of concerns for guaranteeing the ongoing use of the site for affordable housing.	An approval for the proposal would be for a boarding house. Whilst s26(1) of SEPP Housing (2021) requires a boarding house approved under the provisions to be used as affordable housing in perpetuity, pursuant to s26(2), s26(1) this does not apply to development carried out or on behalf of the Land and Housing Corporation.
Tree health	The City's Tree Management Unit have reviewed the proposal, including the proposed retention of the existing tree on site. Inspection of the tree identified that the health of the tree has been affected

Issue	Response
Comment and concerns have been expressed in relation to the health of a tree onsite.	and the tree should be removed and replaced with a new tree planting to provide replacement canopy cover. A recommended condition has been included to this effect.
Height That the proposal is not high enough and should be re-zoned to provide additional affordable housing.	The proposal has been assessed against the relevant planning controls and complies with the height development standard applicable to this site. The potential for re-zoning of the site is not a matter for consideration.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

86. The City of Sydney Development Contributions Plan 2015 applies to the site. However, the development is for affordable housing by a social housing provider of works and is a type of development listed in Table 2 of the Plan which is excluded from the need to pay a contribution.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

87. The site is located within the residual lands affordable housing contribution area.

88. As the development is development for the purposes of residential accommodation that is used to provide affordable housing or public housing, the development is excluded and is not subject to a Section 7.13 affordable housing contribution.

Housing and Productivity Contribution

89. The development is not subject to a Housing and Productivity Contribution under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

90. While the site is located with the Greater Sydney region, the development is of a type listed in Schedule 2 of the Order as being exempt from the Housing and Productivity Contribution being provided by or on behalf of a social housing provider.

Relevant Legislation

91. Environmental Planning and Assessment Act 1979.

Conclusion

92. The application for the demolition of existing buildings on the site and construction of an 8-room boarding house for Homes NSW as affordable housing, including one common room and parking for 2 motorcycles and 6 bicycles has been assessed against the relevant planning controls. The development is a Crown development application with the landowner being the NSW Land and Housing Corporation.

93. The application is referred to the Local Planning Panel for determination as the proposal includes a request to vary the minimum lot size standard of 800sqm for boarding houses under SEPP Housing 2021. The proposed lot size is 472.8sqm which represents a variation to the standard of 41%. The submitted request has demonstrated that there is sufficient justification for varying the standard in the circumstances.

94. The application was notified for 21 days between 4 November 2024 and 26 November 2024. 434 properties were notified, and 27 submissions were received, including 13 objections, 12 submissions in support, and 2 comments. Issues were raised in relation to the density of social housing in the street, a history of policing issues for the site, non-compliance with planning controls, traffic and parking impacts, scale and height of the proposal, noise impacts, lack of consultation, costs of the proposal, and tree health. These matters have been considered as considered as part of the assessment and where relevant are able to be adequately addressed by conditions of consent.

95. As a Crown development application, the draft recommended conditions were provided to the Land and Housing Corporation who provided agreement to the conditions on 13 March 2025.

96. The application is recommended for approval subject to conditions as included in Attachment A.

ANDREW THOMAS

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