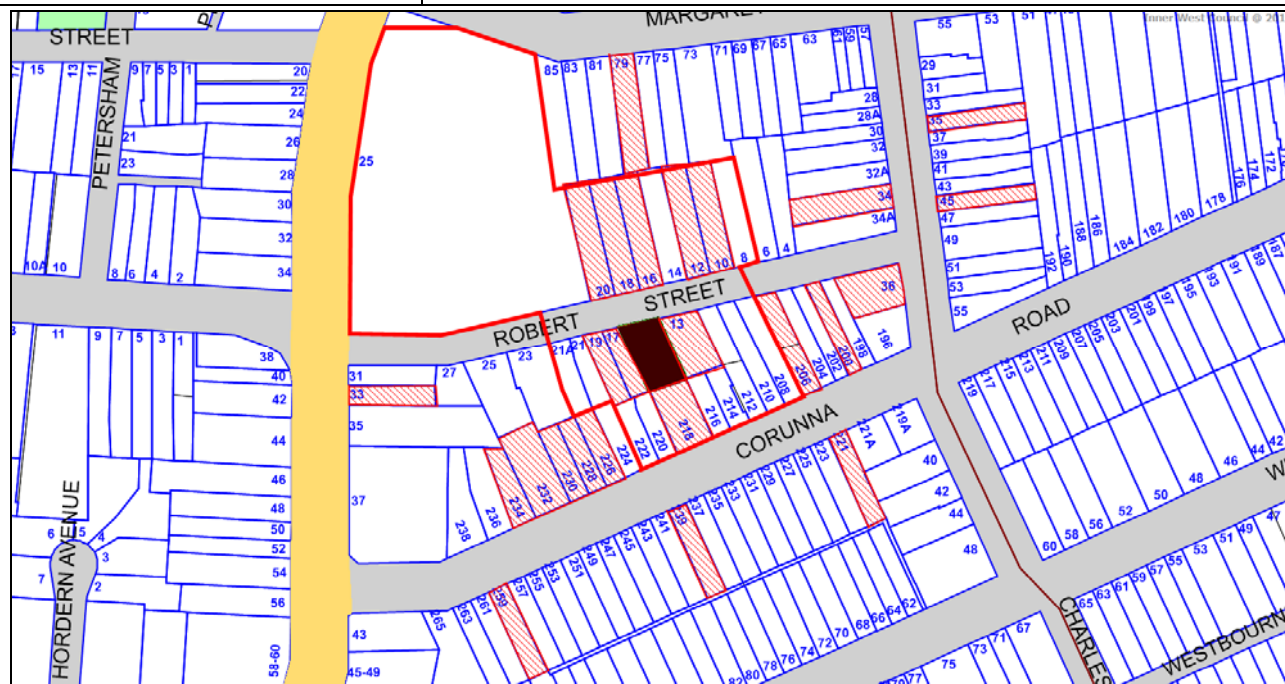


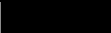




# INNER WEST COUNCIL

## DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	DA201800232
<b>Address</b>	15 Robert Street, Petersham
<b>Proposal</b>	To demolish the existing improvements, subdivide the land into 3 Torrens Title lots and a construct a 3 storey boarding house on each lot.
<b>Date of Lodgement</b>	30 May 2018
<b>Applicant</b>	Cracknell and Lonergan Architects P/L
<b>Owner</b>	Ms C Montano
<b>Number of Submissions</b>	34 submissions
<b>Value of works</b>	\$1,032,500.00
<b>Reason for determination at Planning Panel</b>	Number of submissions received exceeds officers delegation
<b>Main Issues</b>	Proposed subdivision pattern, streetscape impacts, amenity impacts on neighbouring properties, departure from the maximum allowable FSR, insufficient on-site car parking, insufficient building setbacks and excessive bulk and scale.
<b>Recommendation</b>	Refusal



<b>Subject Site:</b> 	<b>Objectors:</b> 
<b>Notified Area:</b> 	<i>(Some objections outside map area)</i>

## 1. Executive Summary

This report is an assessment of the application submitted to Council to demolish the existing improvements, subdivide the land into 3 Torrens Title lots and a construct a 3-storey boarding house on each lot at 15 Robert Street, Petersham. The application was notified to surrounding properties and 34 submissions received.

The main issues that have arisen from the application include:

- The proposed Torrens title subdivision results in a subdivision pattern that does not reflect the prevailing cadastral features within the streetscape. Further, the ensuing built form proposed on those allotments is inconsistent with the prevailing streetscape character and therefore does not satisfy the Character test in State Environmental Planning Policy (Affordable Rental Housing) 2009;
- Departures from the floor space ratio development standard within Clause 4.4 of Marrickville Local Environmental Plan 2011;
- Non-compliance with the applicable off-street car parking requirements;
- Conflicting information as to whether a boarding house manager is proposed for each of the boarding houses or not;
- Insufficient building setbacks;
- Poorly designed integration between the boarding rooms and the required private open space area; and
- Amenity impacts to the neighbouring residential dwellings.

The proposed development does not comply with the aims, objectives and design parameters within State Environmental Planning Policy (Affordable Rental Housing) 2009, Marrickville Local Environmental Plan 2011 and Marrickville Development Control Plan 2011. The proposed development would result in unacceptable impacts upon the streetscape as well as the amenity of adjoining residential properties and therefore the application is recommended for refusal.

## 2. Proposal

This development application seeks Council's consent to demolish the existing improvements, subdivide the land into 3 Torrens Title lots and a construct a 3-storey boarding house on each lot.

The proposed development is further described as follows:

### Torrens title subdivision

Subdivision of the existing allotment into three (3) Torrens title lots with the following dimensions:

Site	Area	Frontage (approximately)
13 Robert Street	83.14m <sup>2</sup>	4.06 metres
15A Robert Street	81.50m <sup>2</sup>	4.06 metres
15B Robert Street	88.75m <sup>2</sup>	4.06 metres

### Ground Floor Plan

The ground floor plan of each of the three boarding houses consists of:

- 1 x motorcycle space in the front setback area to Robert Street;
- Bicycle parking on the front external walls at No.13 and No.15B Robert Street;

- 1.2 metre high palisade front fence;
- 1 x boarding room; and
- Open space within the rear setback area.

#### First Floor Plan

The first floor plan of each of the three boarding houses consists of:

- 1 x boarding room; and
- Front and rear balconies.

#### Second Floor Plan

The second floor plan of each of the three boarding houses consists of:

- 1 x boarding room; and
- Front and rear balconies.

Each of the boarding rooms proposed are designed to be fully self-contained as they include individual kitchen and bathroom facilities. No off-street car parking is proposed. Each boarding house would be comprised of a total of three (3) rooms. The submitted Plan of Management states that each room is proposed as single occupancy only. Additionally, page 6 of the Plan of Management states that *“The boarding house premises shall not be occupied by more than 3 lodgers and 1 boarding house manager at any time”*. The submitted drawings do not however appear to include any such accommodation for a boarding house manager. Each boarding house therefore has a total capacity of three (3) lodgers.

Externally, the development presents as a rectilinear form with a flat roof. Nil setbacks are proposed to the side boundaries across all three storeys. The materials proposed are predominately face brick throughout, with a grey steel roof, aluminium framed windows and doors and steel balustrades on the front and rear elevations.

### **3. Site Description**

The subject site is located on the southern side of Robert street, between Charles Street and Crystal Street, Petersham. The site consists of one allotment and is generally rectangular in shape with a total area of 253.4m<sup>2</sup>. The lot is legally described as Lot 6A Section 7 in DP 1004.

The site has a frontage to Robert Street of 12.19 metres, is relatively flat and does not contain any trees. The site supports an existing two storey residential dwelling which is located on the western side of the allotment. There is a large open grassed area on the eastern side of the allotment which does not appear to be utilised and is separated from the dwelling by a fence.

Adjoining the site to the east is No.11 Robert Street which contains a detached single storey dwelling. Immediately to the west is No.17 Robert Street which contains a single storey semi-detached dwelling. There is a metal carport on the eastern side of the property at No.17 Robert Street which adjoins the dwelling on the subject site. Further to the east, on the southern side of Robert Street are the rear boundaries of allotments which face Corunna Road. Structures on these allotments are generally limited to detached single storey garages. The remainder of the streetscape is predominately characterised by single storey dwellings (semi-detached and detached) interspersed with some two storey dwellings. Petersham TAFE is located in close proximity to the site on the opposite (northern) side of Robert Street.



*Figure 1: The subject site as viewed from Robert Street*

## 4. Background

### 4(a) Site history

No relevant site or surrounding development history.

### 4(b) Application history

30 May 2018 – The subject DA was submitted to Council.

12 June 2018 until 26 June 2018 – The application was notified for 14 days in accordance with the requirements of Marrickville Development Control Plan 2011. A total of 34 submissions were received.

## 5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979.

### 5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:



- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy (Affordable Rental Housing) 2009; and
- Marrickville Local Environmental Plan 2011

The following provides further discussion of the relevant issues:

#### **5(a)(iii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

The application was accompanied by three separate BASIX Certificates for *Single Dwellings* (i.e. – one for each boarding house). The *Single Dwelling* certificates issued are considered to be incorrect for the form of development proposed given that there are 3 boarding rooms within each boarding house proposed and the design of each boarding room is capable of being occupied or used as a separate domicile. Accordingly, the application does not satisfy the requirements of SEPP (BASIX) 2004.

#### **5(a)(iv) State Environmental Planning Policy (Affordable Rental Housing) 2009**

State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP 2009) provides guidance for design and assessment of boarding house developments. The main design parameters are addressed below:

##### (i) Standards that cannot be used to refuse consent (Clause 29)

Clause 29 of the ARHSEPP 2009 prescribes that a consent authority must not refuse consent to a development application for a boarding house development if the development satisfies the following numerical controls:

##### (a) Density - Floor Space Ratio (Clause 29(1))

*“A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than:*

- the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or*
- if the development is on land within a zone in which no residential accommodation is permitted - the existing maximum floor space ratio for any form of development permitted on the land, or*
- if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register - the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:*
  - 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or*
  - 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.”*

Under the Interpretation provisions in Clause 4 of the SEPP existing maximum floor space ratio means as follows:

**“existing maximum floor space ratio** means the maximum floor space ratio permitted on the land under an environmental planning instrument or development control plan applying to the relevant land, other than this Policy or State Environmental Planning Policy No 1 - Development Standards.”

**Comment:**

The information within the submitted Statement of Environmental Effects (page 6) purports that, in view of the proposed subdivision, clause 4.4(2A) of MLEP 2011 is applicable to the proposed development.

Clause 4.4(2A) prescribes the following maximum floor space ratio:

Site area	Maximum floor space ratio
≤ 150 square metres	1.1:1
> 150 ≤ 200 square metres	1:1
> 200 ≤ 250 square metres	0.9:1
> 250 ≤ 300 square metres	0.8:1
> 300 ≤ 350 square metres	0.7:1
> 350 ≤ 400 square metres	0.6:1
> 400 square metres	0.5:1

However, clause 4.4(2A) states the following:

*Despite subclause (2), development for the purposes of attached dwellings, bed and breakfast accommodation, dwelling houses and semi-detached dwellings on land labelled “F” on the Floor Space Ratio Map is not to exceed the relevant floor space ratio determined in accordance with the Table to this subclause.*

Although the proposal is for a boarding house development and is not for the purposes of attached dwellings, bed and breakfast accommodation, dwelling or semi-detached dwellings, clause 4.4(2A) is applicable as a result of clause 29(1)(a) of the ARHSEPP 2009 which permits the existing maximum floor space ratio for *any* form of residential accommodation permitted on the land.

The application argues that a 0.5:1 FSR bonus (i.e. – above the allowable 1.1:1) is applicable in accordance with clause 29(1)(c) of the ARHSEPP 2009. It is acknowledged that residential flat buildings are not explicitly prohibited in the R2 – Low Density Zone. However, clause 6.9 of MLEP 2011 establishes that development consent cannot be granted to a residential flat building in the R2 zone unless the development relates to a building that was designed and constructed for an industrial or warehouse purpose and was erected before the commencement of the LEP. This is reflected in the R2 zone objectives which states:

*“To provide for multi dwelling housing and residential flat buildings but only as part of the conversion of existing industrial and warehouse buildings.”*

The subject site does not accommodate an existing industrial or warehouse building and in view of the above, Council cannot lawfully consent to a residential flat building development on the subject site. In any case, Draft Marrickville Local Environmental Plan Amendment No.4 seeks to include “*residential flat buildings*” in the land use table for the R2 – Low Density Residential zone in Part 4 Prohibited Development. The Draft LEP Amendment was placed on public exhibition commencing on 3 April 2018 and accordingly is a matter for consideration in the assessment of the application under Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979.

The allowable FSR for each of the proposed allotments would therefore be 1.1:1. The development exceeds the density provisions prescribed by the ARHSEPP 2009 as indicated in the table below:

Site	Proposed Area	Allowable FSR	Proposed FSR
13 Robert Street	83.14m <sup>2</sup>	1.1:1 or 91.45m <sup>2</sup>	1.58:1 or 132m <sup>2</sup>
15A Robert Street	81.50m <sup>2</sup>	1.1:1 or 89.65m <sup>2</sup>	1.62:1 or 132m <sup>2</sup>
15B Robert Street	88.75m <sup>2</sup>	1.1:1 or 97.62m <sup>2</sup>	1.48:1 or 132m <sup>2</sup>

The proposed variation to the FSR development standard is not supported. In addition, the application was not accompanied by a clause 4.6 exception and as such, the Council has no legislative power to consent to the application. This matter is discussed in greater detail in the Marrickville LEP 2011 section of this report.

(b) Building Height (Clause 29(2)(a))

*"If the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land."*

**Comment:**

A maximum building height of 9.5 metres applies to the site as indicated on the Height of Buildings Map that accompanies MLEP 2011. The development has a maximum building height of approximately 9.04 metres which complies with the maximum building height permitted under the ARHSEPP 2009. Notwithstanding this, the 3 storey form proposed is not compatible with the streetscape and the proposed development fails the *Character Test* under clause 30A of the ARHSEPP 2009. This is discussed later in this report.

(c) Landscaped Area (Clause 29(2)(b))

*"If the landscape treatment of the front setback area is compatible with the streetscape in which the building is located."*

**Comment:** The proposed development incorporates soft landscaping within the front setback area to Robert Street which is compatible with the streetscape and is therefore acceptable.

(d) Solar Access (Clause 29(2)(c))

*"Where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9.00am and 3.00pm in mid-winter."*

**Comment:** Each boarding house contains a total of 3 boarding rooms. A communal living area is therefore not required in accordance with clause 30(1)(a) of ARHSEPP 2009.

(e) Private Open Space (Clause 29(2)(d))

*"If at least the following private open space areas are provided (other than the front setback area):*

- (i) *one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers;*
- (ii) *if accommodation is provided on site for a boarding house manager - one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation."*

**Comment:**

The design of each of the three (3) boarding houses incorporates a private open space area at ground level within the rear setback area. Whilst these spaces generally achieve the 20m<sup>2</sup> area and the 3 metre minimum dimension requirements, the configuration of the proposed boarding rooms and their relationship and access arrangements to the rear private open space areas is poorly designed and not supported.

Only the ground floor boarding rooms would have access to the private open space areas via the bedrooms in those rooms. Occupants of the boarding rooms on the first and second floor would be required to enter the private open space area via the ground floor boarding rooms which is an unsatisfactory and impractical design outcome and demonstrates that the proposal is overdevelopment of the site. The proposal does not satisfy clause 29(2)(d) of the ARHSEPP 2009.

**(f) Parking (Clause 29(2)(e))**

*"If:*

- (i) in the case of development carried out by or on behalf of a social housing provider in an accessible area – at least 0.2 parking spaces are provided for each boarding room, and*
- (ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area - at least 0.4 parking spaces are provided for each boarding room, and*
- (iia) in the case of development not carried out by or on behalf of a social housing provider – at least 0.5 parking spaces are provided for each boarding room, and*
- (iii) in the case of any development - not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site."*

**Comment:**

The development is not proposed to be carried out by or on behalf of a social housing provider and as such, the applicable car parking rate is 0.5 spaces for each boarding room. Each of the boarding houses are proposed to contain 3 rooms which equates to 1.5 spaces (rounded up to 2). The total required number of car parking spaces is therefore 6.

The proposal does not contain any on-site car parking and therefore does not comply with clause 29(2)(e) of the ARHSEPP 2009. The car parking variation sought is not supported for the following reasons:

- Off-street car parking is constrained in this locality. Robert Street has a narrow carriageway and consequently, there is no off-street parking on the northern side of the street. The application was reviewed by Council's Development Engineer who stated that the locality of Petersham has a high concentration of boarding houses and the lack of on street parking is an issue faced by residents;
- The application was not accompanied by a detailed parking study to demonstrate that the provision of no parking is suitable in this locality; and
- The NSW government has made recent legislative changes to the ARHSEPP 2009 which mandate the provision of more parking for boarding house developments. There are insufficient planning reasons identified to support a variation to the minimum requirements.



(g) Accommodation Size (Clause 29(2)(f))

*“If each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:*

- (i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or*
- (ii) 16 square metres in any other case.”*

**Comment:**

The information submitted with the application indicates the size of each of the boarding rooms as follows:

Floor	Area
Ground Floor	24.6m <sup>2</sup>
First Floor	21.88m <sup>2</sup>
Second Floor	24.9m <sup>2</sup>

The above calculations presented are derived from submitted drawing *Area Schedule, DA 501, Issue A* which appears to exclude the areas proposed to be used for the purposes of private kitchen and bathrooms. All rooms within the boarding house comply with the minimum accommodation size requirements of the ARHSEPP 2009.

(ii) Standards for Boarding Houses (Clause 30)

Clause 30 of the ARH SEPP prescribes that a consent authority must not consent to a development to which this Division applies unless it is satisfied of each of the following:

- (a) a boarding house has 5 or more boarding rooms, at least one communal living room will be provided.*

**Comment:** Each boarding house is proposed to contain 3 boarding rooms and is therefore not required to provide a communal living room.

- (b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres.*

**Comment:** The sizes of the proposed boarding rooms range between 21.88m<sup>2</sup> – 24.9m<sup>2</sup> and are therefore compliant in this respect.

- (c) no boarding room will be occupied by more than 2 adult lodgers.*

**Comment:** No boarding room is proposed to be occupied by more than 2 adult lodgers.

- (d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger.*

**Comment:** Each boarding room is provided with individual bathroom and kitchen facilities which are considered to be adequate.

- (e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager.*

**Comment:** None of the boarding houses proposed have a capacity to accommodate 20 or more lodgers and are therefore not obligated to provide a boarding

house manager. It is noted that the submitted Plan of Management does make reference to a boarding house manager, however a manager's room is not identified on the architectural drawings.

- (g) *if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use.*

**Comment:** The property is zoned R2 - Low Density Residential under MLEP 2011, and as such the land is not zoned primarily for commercial purposes and consequently, the provisions contained in the above sub clause are not applicable to the proposal.

- (h) *at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.*

**Comment:** Each boarding house is proposed to contain 3 boarding rooms. As such, the provision of bicycle and/or motorcycle spaces is not required. The submitted drawings do however identify a motorcycle space within the front setback area of each allotment. Further, an annotation stating 'bicycle parking on wall' is included for the boarding houses on 13 and 15B Robert Street, but not 15A Robert Street.

(iii) Character of Local Area (Clause 30A)

Under the provisions of Clause 30A of the ARHSEPP 2009, applications for new boarding houses must satisfy a local character test which seeks to ensure developments proposed under the ARH SEPP are consistent with the design of the area.

**Comment:**

In *Redevelop Projects Pty Ltd v Parramatta City Council* [2013] NSWLEC 1029, Commissioner Morris concluded that the 'local area' includes both sides of the street and the 'visual catchment' as the minimum area to be considered in determining compatibility. Accordingly, with regard to the subject site, the 'local area' is taken to include both sides of Robert Street as well as the allotments at the eastern end of Robert Street which have primary frontages orientated towards Charles Street.

In *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191 the Land and Environment Court specifically set out a relevant planning principle. Consideration has therefore been given to the two key questions identified in the L&E Court Planning Principles:

***(a) Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.***

The proposed development would cause adverse physical impacts upon surrounding residential development and would constrain the development potential of adjoining sites. The following concerns are raised:

- The development presents unreasonable visual bulk and scale impacts to the neighbouring properties, noting that a 3-storey wall is proposed on nil setback to the northern and southern side boundaries. The existing dwelling at No.11 Robert Street contains two window openings along its southern elevation facing the subject site. The 3-storey wall proposed immediately adjacent to those windows

would result in an appreciably loss of daylight (not sunlight given the aspect), outlook and ventilation. See image below:



**Figure 2: Existing windows of the adjoining property to the north**

- The overshadowing impacts caused to nearby residential dwellings are unreasonable given that they are caused, or at least contributed by, a non-compliance with the FSR development standard.

The proposal will unreasonably constrain the development potential of adjoining sites. The nil side setbacks proposed effectively dictate the pattern of future development on adjoining properties, i.e. – No.11 and No.17 would also likely redevelop with nil side setbacks on all levels. This form results in window openings only being achievable along the front and rear elevations which may compromise solar access and ventilation opportunities particularly given the orientation of north which is across a side boundary for all the lots on the south-eastern side of Roberts Street.

***(b) Is the proposal's appearance in harmony with the buildings around it and the character of the street?***

The existing streetscape is characterised by single storey dwellings (semi-detached and detached) with some interspersed two storey dwellings. Pitched tiled roof forms are common and can be found on the majority of dwellings. There are no 3-storey residential buildings within the visual catchment of the site. See images below:



**Figure 3: Existing development south-west of the subject site**



**Figure 4: Existing development on the opposite (north-western) side of Robert Street**





**Figure 5: Existing development at the junction of Roberts Street and Charles Street**

In contrast to the physical characteristics of existing development in the vicinity of the site, the design of the proposed development is a 3-storey form with a flat roof and constructed on nil side setbacks. The proposal's appearance would be discordant with the established streetscape character. In particular, the bulk and scale of the development, which is borne out by the number of storeys, roof form and setbacks proposed, would be inconsistent with the predominant built form in the streetscape which is relatively low scale.

The subdivision pattern proposed would be inconsistent with the prevailing cadastral pattern in the street because the allotments sought to be created would have a narrower frontage width and smaller site area when compared to other allotments in the visual catchment of the site. The subdivision pattern proposed does not enable a continuation of the predominant built form that can be found in the streetscape. This is substantiated in more detail later in this report within *Part 5(c) – Development Control Plans*.

Assessing 'compatibility' required both the existing and future character of the local area to be taken into account (*Sales Search Pty Ltd v The Hills Shire Council* [2013] NSWLEC 1052 and *Redevelop Projects Pty Ltd v Parramatta City Council* [2013] NSWLEC 1029). It is acknowledged that there are sites within the Robert Street streetscape that are yet to reach their development potential. However, given that the proposed development does not comply with the applicable planning controls within MLEP 2011 and MDCP 2011, the design and streetscape presentation of future development on adjoining sites is unlikely to resemble the proposed development.

The proposed development would not co-exist in harmony with the existing development in the streetscape and does not satisfy the character test within clause 30A of the ARHSEPP 2009 and is not supported.



**5(a)(v)Marrickville Local Environmental Plan 2011 (MLEP 2011)**

The application was assessed against the following relevant clauses of the Marrickville Local Environmental Plan 2011:

- Clause 1.2 – Aims of the plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.6 – Subdivision
- Clause 2.7 – Demolition
- Clause 4.3 – Height of buildings
- Clause 4.4 – Floor space ratio
- Clause 4.6 – Exceptions to development standards
- Clause 5.10 – Heritage conservation
- Clause 6.5 – Development in areas subject to aircraft noise

The following table provides an assessment of the application against the development standards:

Standard (maximum)	Proposal	% of non compliance	Compliance
<b>Floor Space Ratio</b> Allowable: 1.1:1	No.13 – 1.58:1 No.15A – 1.62:1 No.15B – 1.48:1	40.5m <sup>2</sup> or 44% 42.35m <sup>2</sup> or 47% 34.38m <sup>2</sup> or 35%	No
<b>Height of Building</b> Allowable: 9.5m	9.04 metres	N/A	Yes

(vi) Clause 1.2 - Aims of the Plan

Clause 1.2(2)(h) identifies that the LEP aims to promote a high standard of design in the private and public domain.

As outlined in throughout this report, the proposal fails to satisfy this criterion as the design of the proposed boarding houses fails to provide a positive contribution to the streetscape.

(vii) Clause 2.3 - Land Use Table and Zone Objectives

The property is zoned R2 – Low Density Residential under the provisions of MLEP 2011. Boarding houses are permissible with Council's consent under the zoning provisions applying to the land. The development is considered acceptable having regard to the objectives of the R2 – Low Density Residential zone.

(viii) Subdivision (Clause 2.6)

Clause 2.6 of MLEP 2011 states that land to which the Plan applies may be subdivided, but only with development consent. The development includes subdivision of the land into 3 Torrens title allotments. The issue of subdivision is discussed later in this report under the heading "Part 3 - Subdivision, Amalgamation and Movement Networks".

Demolition (Clause 2.7)

Clause 2.7 of MLEP 2011 states that the demolition of a building or work may be carried out only with development consent. The application seeks consent for demolition works. No concerns are raised in this regard.

(ix) Height (Clause 4.3)

A maximum building height of 9.5 metres applies to the site as indicated on the Height of Buildings Map that accompanies MLEP 2011. The development has a maximum building height of 9.04 metres which complies with the height development standard. In accordance with clause 29(2)(a) of the ARHSEPP 2009, the application cannot be refused on the basis of building height if it complies with the development standard. Notwithstanding the compliance with the height development standard, the proposal does not comply with the character provision of the ARHSEPP and is not supported.

(x) Floor Space Ratio (Clause 4.4) and Clause 4.6 (Exceptions to Development Standards)

A maximum floor space ratio (FSR) of 1.1:1 applies to each of the proposed allotments in accordance with clause 29(1) of the ARHSEPP 2009.

The proposed FSR's are presented below:

Site	Proposed Area	Allowable FSR	Proposed FSR
13 Robert Street	83.14m <sup>2</sup>	1.1:1 or 91.45m <sup>2</sup>	1.58:1 or 132m <sup>2</sup>
15A Robert Street	81.50m <sup>2</sup>	1.1:1 or 89.65m <sup>2</sup>	1.62:1 or 132m <sup>2</sup>
15B Robert Street	88.75m <sup>2</sup>	1.1:1 or 97.62m <sup>2</sup>	1.48:1 or 132m <sup>2</sup>

The development does not comply with the FSR development standard.

A written request, in relation to the development's non-compliance with the FSR development standard in accordance with Clause 4.6 (Exception to Development Standards) of MLEP 2011 was not submitted with the application. Accordingly, Council (or in this case, the Local Planning Panel) does not have any statutory power to consent to the development application. Nevertheless, the application is considered to be inconsistent with the objectives of clause 4.4 and clause 4.6 of MLEP 2011. The following comments are made in this respect:

- The proposal is inconsistent with the stated objectives in Clause 4.4(1) of MLEP 2011. In particular:
  - (i) Objective (b) as the proposal does not control building density and bulk in relation to the site area and is inconsistent with the desired future character for the area; and
  - (ii) Objective (c) as the proposal does not minimise adverse environmental impacts on adjoining properties and the public domain. The extent of gross floor area proposed is at the expense of suitable building setbacks from the side boundaries which results in unreasonable impacts for neighbouring properties. Further, the additional gross floor area above the FSR control directly contributes to increased overshadowing for adjoining residential properties. Therefore, the proposed development does not *minimise* adverse environmental impacts as explicitly required by this objective.
- In view of the above, the proposal is inconsistent with both objectives of Clause 4.6 of MLEP 2011:

- (i) Objective (a) as the proposal does not provide an appropriate degree of flexibility in applying the FSR development standard to the proposal; and
- (ii) Objective (b) as the proposal will not achieve better outcomes for and from development by allowing flexibility in this circumstance.

(xi) Heritage Conservation (Clause 5.10)

The site is not listed as a heritage item under MLEP 2011 and is not located within a Heritage Conservation Area under MLEP 2011. The site is however located within the vicinity of a heritage item, namely Petersham TAFE, including interiors (Item I185) at 25 Crystal Street, Petersham. Overall, the development would not have any significant impacts on the nearby heritage item (having regard to its proximity to the site). The development satisfies Clause 5.10 of MLEP 2011 and Part 8 of MDCP 2011.

(xii) Development in areas subject to Aircraft Noise (Clause 6.5)

Clause 6.5 applies to development on that that (in part) is in an ANEF contour of 20 or greater, and the consent authority considers is likely to be adversely affected by aircraft noise.

The site is located within the 25-30 Australian Noise Exposure Forecast (2033) Contour. The development is likely to be affected by aircraft noise. The carrying out of development would result in an increase in the number of people affected by aircraft noise.

The development would need to be noise attenuated in accordance with AS2021:2015. An Acoustic Report did not accompany the application. The application is therefore deficient in this respect and does not satisfy clause 6.5 of MLEP 2011.

### 5(b) Draft Environmental Planning Instruments

Draft Marrickville Local Environmental Plan 2011 (Amendment 4) (the Draft LEP Amendment) was placed on public exhibition commencing on 3 April 2018 and accordingly is a matter for consideration in the assessment of the application under Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979.

The following assessment considers the development having regard to the amended provisions contained in the Draft LEP Amendment that are of relevance in the assessment of the application:

Draft Marrickville Local Environmental Plan Amendment No.4 seeks to include “residential flat buildings” in the land use table for the R2 – Low Density Residential zone as Prohibited. This is of relevance to the assessment of the proposed development insofar as the applicant relies on the permissibility of residential flat buildings in the R2 – Low Density Residential zone to receive an FSR bonus under the provisions with SEPP (Affordable Rental Housing) 2009. The Draft LEP amendment would preclude this bonus from being available. The application is assessed on the basis of a maximum allowable FSR of 1.1:1 as previously discussed within this report.

### 5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Marrickville Development Control Plan 2011 (MDCP 2011).

Part of MDCP 2011	Compliance
Part 2.1 – Urban Design	No

Part of MDCP 2011	Compliance
Part 2.3 – Site and Context Analysis	Yes
Part 2.6 – Acoustic and Visual Privacy	No
Part 2.7 – Solar Access and Overshadowing	No
Part 2.8 – Social Impact Assessment	No
Part 2.9 – Community Safety	Yes
Part 2.10 – Parking	N/A – ARHSEPP 2009 prevails
Part 2.18 – Landscaping and Open Spaces	N/A – ARHSEPP 2009 prevails
Part 2.21 – Site Facilities and Waste Management	Yes
Part 3 – Subdivision, Amalgamation and Movement Networks	No
Part 4.1 – Low Density Residential Development	No
Part 4.3 – Boarding Houses	No
Part 9 – Strategic Context	No

The following provides discussion of the relevant issues:

## **PART 2 - GENERIC PROVISIONS**

### (iv) Urban Design (Part 2.1)

Part 2.1 of MDCP 2011 contains the objectives and controls relating to urban design.

The development is unacceptable having regard to the relevant aspects of the 12 urban design principles in that the design of the development does not have an appropriate density or urban form. The bulk, style and form of the proposed built form is uncharacteristic of surrounding development and would not contribute positively to the streetscape.

Part 2.1.3 of MDCP 2011 contains specific infill design guidelines including that infill buildings should generally respond to the predominant scale of their setting. The 3 storey form with zero setbacks fails to adequately address this and cannot be supported.

The development does not satisfy the streetscape and townscape principle (Principle 9) relating to infill development which is considered further in Part 2.1.3 of MDCP 2011. MDCP 2011 states that good infill design should be compatible with its context and should make a positive contribution to the urban setting, while considering character, scale, massing, siting, materials and colours and detailing. In this case, the proposal seeks subdivide the land and construct a three storey built form on these resultant narrow lots (being 4.06 metres wide) with a nil setback to the northern and southern side boundary. This is inconsistent with the siting of existing buildings in the streetscape, particularly as a setback to one or two boundaries is typical of surrounding single storey or 2 storey dwelling houses.

The form, character and materials of the proposed dwellings bear little if any relationship to neighbouring development, and the proposal to provide a nil side setback to both boundaries is inconsistent with the character of surrounding development, and the overall form of the building fails to adequately respond to the character of surrounding development.

(v) Visual and Acoustic Privacy (Part 2.6)

The visual privacy impacts of the development are unacceptable. The first and second floor windows facing the rear elevation would result in unacceptable privacy impacts to the neighbouring property to the rear by way of overlooking.

Furthermore, the application does not satisfy Part 2.6.2 of MDCP 2011 concerning aircraft noise. The site is located within the 25-30 Australian Noise Exposure Forecast (2033) Contour. An acoustic report was not submitted with the application to demonstrate that the development is capable of complying with the relevant Australian Standard.

(vi) Solar Access and Overshadowing (Part 2.7)*Overshadowing*

Shadow diagrams were submitted with the application. However, they are of insufficient detail to carrying out a proper assessment of the application in order to quantify the performance of the development against the applicable MDCP 2011 controls. The submitted shadow diagrams do not show the allotment boundaries of surrounding properties or identify where the private open space areas are on those allotments to enable an assessment as to whether the requisite amount of sunlight is retained for those properties in accordance with the MDCP 2011 requirements.

*Solar Access*

Although the provisions of the ARHSEPP 2009 include provisions relating to solar access requirements for communal living areas in boarding house developments, those provisions do not specify any solar access requirements for the individual rooms within a boarding house. In this regard, control C11 of MDCP 2011 requires that:

***“C11 At least 65% of habitable rooms within a boarding house, a hostel or a residential care facility must provide a window positioned within 30 degrees east and 20 degrees west of true north and allow for direct sunlight over minimum 50% of the glazed surface for at least two hours between 9.00am and 3.00pm on 21 June.”***

The design of the proposed boarding rooms would comply with the above and receive adequate solar access.

(vii) Social Impact Assessment (Part 2.8)

Part 2.8 of MDCP 2011 requires that development for the purpose of boarding houses with capacity to accommodate up to 20 residents require a Social Impact Comment (SIC). The Statement of Environmental Effects does not appear to include any such comment and is therefore deficient.

**PART 3 - SUBDIVISION, AMALGAMATION AND MOVEMENT NETWORKS**

Part 3.1.1.2 of MDCP 2011 does not contain minimum lot width or area requirements for subdivisions but rely on performance based controls that aim to ensure that new lots facilitate development that is compatible with the immediate area.

The subdivision would result in three (3) lots which are inconsistent with the adjoining and prevailing subdivision pattern in the streetscape. This is depicted in the diagrams below which show the proposed subdivision of the allotments and the surrounding subdivision pattern:



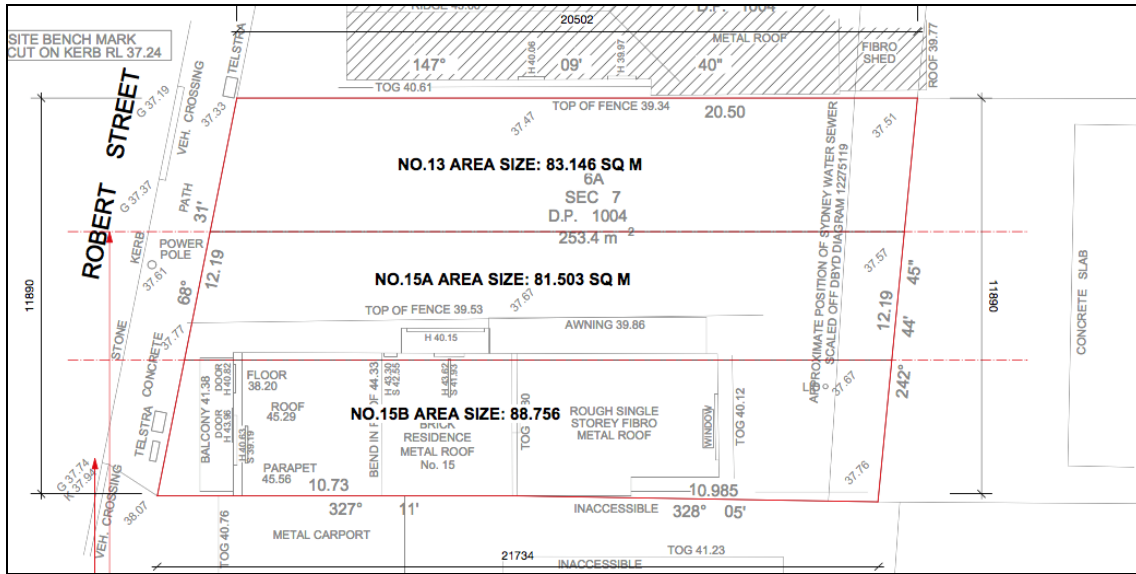


Figure 6: Proposed 3 lot subdivision

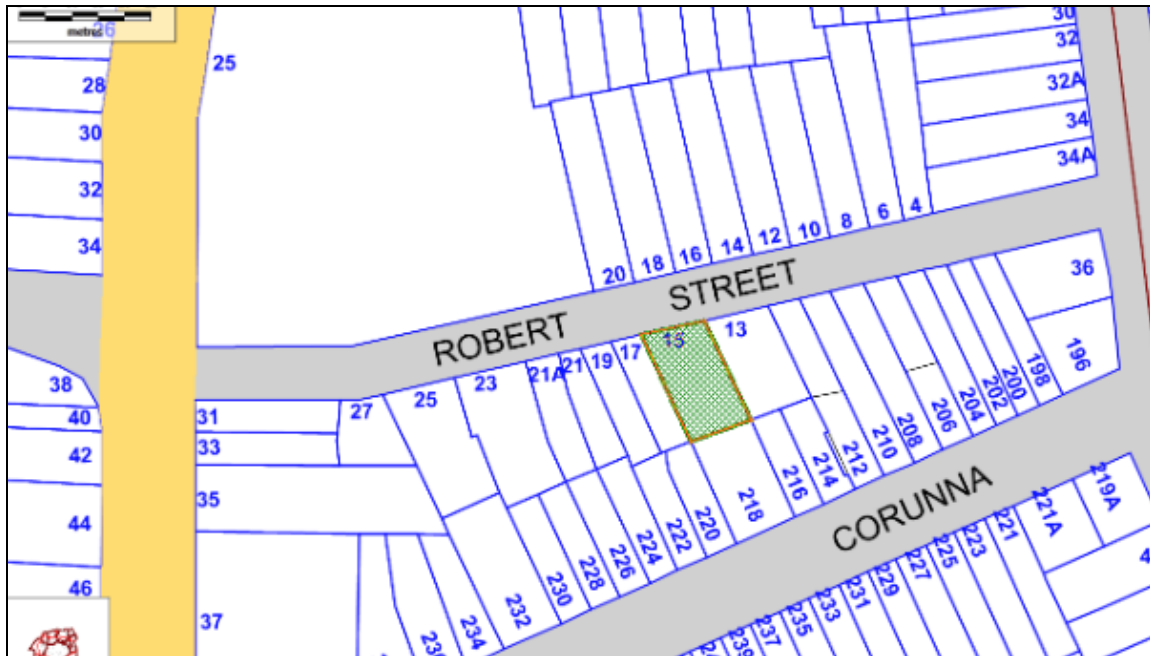


Figure 7: Existing cadastral pattern with subject site cross-hatched

The following table illustrates the proposed lot dimensions and the approximate dimensions of lots within the street:

Number	Site Area	Frontage	Number	Site Area	Frontage
11	244.1sqm	12.6m	20	287.5sqm	7.8m
13	83.1sqm	4.06m	18	289.7sqm	8.1m
15A	81.5sqm	4.06m	16	268.4sqm	7m
15B	88.75sqm	4.06m	14	273.7sqm	7.6m
17	133.4sqm	5.8m	12	267.9sqm	7.4m
19	140.4sqm	5.9m	10	269.9sqm	7.6m
21	128sqm	4.1m	8	256sqm	7.6m
21A	153.5sqm	6.8m	6	291.4sqm	6.9m
23	327.7sqm	13.5m	4	249.9sqm	5.3m
	25	310.2sqm	14m		
	27	150.7sqm	7.7m		

As can be seen in the Figures and Table above, the current lots within Robert Street range from 128sqm at the low end, to approximately 328sqm at the high end. The proposed subdivision pattern would not promote this consistency because it seeks to create a cadastral pattern that is not found elsewhere in the street. The site areas and frontage widths proposed for each lot would be smaller than any of the existing allotments.

The proposed subdivision would not allow for continuation of the dominant built form of development in the street. Solar access, building setbacks, parking and other amenity impacts of the proposal have been discussed elsewhere in the report and the proposed allotments are not considered to allow for built forms which comply with Council's requirements with respect to those issues.

In view of the above, the proposed development is not considered to satisfy the objectives of Part 3.2.2 of MDCP 2011 in that it would not retain the prevailing cadastral character of the street, fails to ensure that new allotments cater for car parking, does not provide suitable building setbacks and does not ensure that subdivision reflects and reinforces the predominant subdivision pattern of the street.

#### **PART 4 - RESIDENTIAL DEVELOPMENT**

The property is located on land in the R2 – Low Density Residential zone. Development applications for boarding houses in the R2 – Low Density Residential Zone are assessed in accordance with the relevant controls in Part 4.1 of this DCP relating to Low Density Residential buildings and the relevant objectives and controls in Part 4.3 of MDCP 2011 which relate specifically to boarding houses.

##### **Part 4.1 - Low Density Residential Development**

###### **(i) Good Urban Design Practice (Part 4.1.4)**

The height, bulk, scale and setbacks of the development does not complement existing developments in the street and is therefore not in keeping with the character of the area. The proposed development does not satisfy the objectives and controls relating to good urban design contained in MDCP 2011.

###### **(ii) Streetscape and Design (Part 4.1.5)**

The development does not satisfy the streetscape and design controls outlined in MDCP 2011 in that:

- The development does not compliment the bulk, scale and height of the existing streetscape; and
- The development is of a scale which is at odds with the character of the street;
- The façade design fails to enhance the existing built character by interpreting and translating any positive characteristics found in the surrounding locality into design solutions, specifically the proposal fails to;
- Provide appropriate massing which relates to the overall bulk and arrangement as well as modulation and articulation of building parts;
- Enhance or embellish the streetscape or reflect the character of the area as required by the DCP when one considers the built form in the locality including roof forms, materials, setbacks and articulation
- The development does not incorporate suitable setbacks from the side boundaries to be consistent with the rhythm of development in the street and maintain sufficient amenity for adjoining residential properties.

(iii) Building Setbacks (Part 4.1.6.2)

**Front setback**

The front setback of the proposed development is generally acceptable.

**Side setbacks**

The proposed lots are less than 8 metres wide. The side setback requirements are therefore at Council’s discretion in accordance with MDCP 2011. The development proposes nil setbacks to the northern and southern side boundaries on all three (3) levels of the proposed development. This outcome does not satisfy Part 4.1.6.2 of MDCP 2011 and is not supported for the following reasons:

- The proposal setbacks proposed are unsatisfactory in the street context and lead to overwhelming visual bulk and scale impacts for the streetscape and adjacent residential properties;
- The setbacks proposed contribute to additional overshadowing impacts for surrounding properties; and
- The existing dwelling at No.11 Robert Street contains two window openings along its southern elevation facing the subject site. The 3-storey wall proposed immediately adjacent to those windows on nil side setback would result in a loss of daylight outlook and ventilation.

**Rear setback**

The proposed development has a setback from the rear boundary which ranges from 3.94 metres up to 5.0 metres. This setback is proposed for all three storeys of the development.

The rear setbacks proposed are not supported on the basis of the following:

- The proposal will create adverse impacts on the amenity of adjoining properties in relation to visual bulk. The rear of the building, being 3 storeys would be highly visible from the adjoining property to the south as well as adjoining properties at the rear; and
- The proposal does not provide sufficient open space for use by lodgers.

(iv) Site Coverage (Part 4.1.6.3)

Site Area	Site Coverage Permitted (max.)	Site Coverage Proposed	Compliance
0-300sqm	On-merit	No. 13 – 62% No. 15A – 63% No. 15B – 58%	N/A

The extent of site coverage proposed is considered to be excessive because it contributes to a development that is not compatible with the character of the streetscape and does not enable the provision of suitable off-street parking or adequate landscape area.

The development does not satisfy the objectives relating to site coverage contained in MDCP 2011.

**Part 4.3 – Boarding Houses**

(i) Character and Amenity of the Local Area (Part 4.3.3.1)

As discussed in Section 5(a) of this report under the provisions of Clause 30A of the ARHSEPP 2009, applications for new boarding houses must satisfy a local character test which seeks to ensure developments proposed under the SEPP are consistent with the built forms and desired future character of the area. For reasons previously identified, the development is not compatible with the desired future character of the local area and results in unreasonable impacts on the amenity of the local area. The development is not compatible with the desired future character of the local area.

(ii) Boarding House Capacity (Part 4.3.3.2)

The total number of residents is determined based on the gross floor area of the boarding rooms. Each boarding house within the development has 3 rooms, all of which exceed 16m<sup>2</sup>. As such, a total of 2 lodgers would be permitted within the boarding rooms. However, the submitted Plan of Management identifies that the proposed boarding rooms are sought as single lodgers only. The proposed development is therefore compliant in this respect.

(iii) Management (Part 4.3.3.4)

Each boarding house has a capacity of 3 lodgers as a result an on-site manager is not required.

It is however noted that the submitted Plan of Management does make reference to a boarding house manager, however a manager’s room is not identified on the architectural drawings.

(iv) Boarding Rooms (Part 4.3.3.5)

Room type and facility	Minimum Requirement	Complies?
<b>C9</b> Minimum area 1 person room	12sqm GFA*	Yes
<b>C10</b> Minimum area 2 person room	16sqm GFA*	Yes
<b>C11</b> Maximum room size	25sqm GFA*	Yes
<b>C12</b> Calculation of room size	*The areas referred to in Controls C9 – C11 inclusive exclude kitchenettes (excluding circulation space), bathrooms and corridors.	Yes
<b>C13</b> Minimum room ceiling height	2,700mm	Rear portion of topmost units 2.4m
<b>C14</b> Occupation of share rooms – per room	Maximum of 2 adults	Yes
<b>C15</b> Fit out room only	Rooms must be able to accommodate: <ul style="list-style-type: none"> <li>• Bed/s for the potential number of occupants,</li> <li>• Enclosed and open storage for clothes, linen and personal items,</li> <li>• At least one easy chair and a desk with chair,</li> <li>• Plus safe and convenient circulation</li> </ul>	Yes

	space.	
<b>C16</b> Area of self-contained facilities	<ul style="list-style-type: none"> <li>• Maximum of 5sqm for a kitchenette;</li> <li>• A kitchenette is not to be located along the wall of a corridor; and</li> <li>• Minimum 3sqm and maximum 4sqm for ensuite bathroom.</li> </ul>	No
<b>C17</b> Energy efficiency & internal climate	<ul style="list-style-type: none"> <li>• All habitable rooms are to have access to natural ventilation through an external window;</li> <li>• Natural light is to be available from an external window or from a light well – not from a skylight;</li> <li>• Light and air from an internal courtyard is acceptable if the courtyard is an adequate size</li> </ul>	Yes
<b>C18</b> Private open space	<ul style="list-style-type: none"> <li>• Maximum area 6sqm; and</li> <li>• Minimum dimension 2 metres</li> </ul> <p><b>NB</b> private open space is not a requirement but may be provided in a courtyard or balcony that adjoins a room</p>	No

As demonstrated above the development does not satisfy Control C16 and Control C18 in that the size of the kitchens (inclusive of the proposed pantries) exceed 5m<sup>2</sup> and the size of the combined private open space areas (front and rear balconies) on the first and second floors would exceed 6m<sup>2</sup>. These non-compliances are not however considered to constitute reasons for refusal in their own right given that the boarding rooms do not exceed the overall maximum room size requirements.

(v) Landscaped Area and Common Open Space (Part 4.3.3.8)

The information in the submitted Statement of Environmental Effects states “*The communal open space is fronting onto Robert Street, and it has access to direct sunlight*”. Whilst this space does receive the requisite solar access, Council does not support reliance on the front setback area to meet the common open space requirements given that:

- The front setback areas are identified to accommodate facilities in the form of pedestrian access to the building, motorcycle spaces and waste storage. The utility of the space is therefore compromised; and
- The front setback area has a direct interface with the public domain at the front of the site as well as the boarding rooms on the ground floor. On this basis, they are not sufficiently privatised for use by lodgers.

**PART 9 - STRATEGIC CONTEXT**

The site is located in the Stanmore North Planning Precinct (Precinct 3) under Marrickville Development Control Local Plan 2011. The proposed development would be inconsistent with the desired future character detailed within Part 9.3.2 of MDCP 2011 in that:

- The proposal would not protect streetscapes within the precinct in respect of maintaining the prevailing subdivision patterns; and
- The proposal would not preserve the predominantly low density residential character of the precinct.



### 5(d) The Likely Impacts

The assessment of the Development Application demonstrates that the proposal will have an adverse impact on the character of the locality and the amenity of neighbouring residential properties. The environmental impacts on the built environment are considered to be unreasonable and the application is not supported.

### 5(e) The suitability of the site for the development

The site is zoned R2 – Low Density Residential. Whilst the proposal is a permissible form of development in this zone, it is considered that the proposal will have an adverse impact on the adjoining properties and the streetscape. The site cannot support the extent of gross floor area sought. The proposal is considered to constitute an overdevelopment and ultimately, the site is unsuitable for the development.

### 5(f) Any submissions

The application was notified in accordance with the requirements of Marrickville Development Control Plan 2011 for a period of 14 days to surrounding properties. A total of 34 submissions were received.

The following key issues raised in submissions have been discussed in this report:

Increased traffic and parking - see Section 5(a)(ii)

- Proposed subdivision pattern – see Section 5(c)
- Requirement for a boarding house manager – see Section 5(a)(ii)
- Privacy – see Section 5(c)
- Permitted FSR – see Section 5(a)(ii)
- Overdevelopment – see Section 5(e)
- Loss of solar access – see Section 5(c)
- Impact of availability of on-street car parking – see Section 5(a)(ii)
- Building form/out of character with the locality – see Section 5(a)(ii)
- Bulk and scale/size of the proposed development – see Section 5(a)(iii)

In addition to the above issues, the submissions raised the following concerns which are discussed under the respective headings below:

Issue: Safety impacts, anti-social behaviour and on-going building maintenance

Comment: These concerns are capable of being addressed via the implementation of a Plan of Management and/or conditions of development consent. However, the application is not supported for other reasons.

Issue: Proposed use as a boarding house

Comment: Boarding houses are a permissible form of development within the R2 – Low Density Residential zone pursuant to Marrickville LEP 2011 and the provisions of the ARHSEPP 2009. As such, this concern does not constitute a reason for refusal.

Issue: Saturation of boarding houses in the locality

Comment: Council does not have any anti-clustering planning controls regulating boarding house developments. As such, this concern does not constitute a reason for refusal.

Issue: Negative impact on property prices

Comment: There is no evidence that the development, if approved, would affect property values in the area.

Issue: Lodgers of the boarding house smoking

Comment: This matter is not a planning consideration pertinent to the assessment of the subject application.

### 5(g) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed. The proposal is contrary to the public interest in view of the extent of non-compliances with the applicable planning controls and the likely impacts upon the amenity of surrounding properties and the streetscape.

## 6 Referrals

### 6(a) Internal

The application was referred to the following internal sections/officers:

Internal referral	Response/Comments
Development Engineer	Application is not supported on the basis of insufficient on-site car parking. For any future application, there shall be a setback at the northern boundary to allow for overland flow path. Separate drainage systems must be provided to drain each proposed lot.
Tree Management Officer	No concerns raised.

### 6(b) External

The application was not required to be referred to any external bodies.

## 7. Section 94 Contributions

The carrying out of the proposed development would result in an increased demand for public amenities and public services within the area. A condition requiring that contribution to be paid should be imposed on any consent granted.

## 8. Conclusion

The proposal does not comply with the aims, objectives and design parameters contained in State Environmental Planning Policy (Affordable Rental Housing) 2009, Marrickville Local Environmental Plan 2011 Marrickville Development Control Plan 2011. The development will result in unreasonable impacts on the amenity of adjoining premises and the streetscape. The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

## 9. Recommendation

That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to section 4.16(1)(b) of the Environmental Planning and Assessment Act 1979, refuse Development Application No: 201800232 to demolish the existing improvements, subdivide the land into 3 Torrens Title lots and a construct a 3 storey boarding house on each lot at 15 Robert Street, Petersham for the following reasons:

1. The proposal does not satisfy the requirements of State Environmental Planning Policy (BASIX) 2004 as the BASIX Certificates submitted do not relate to the form of development proposed.
2. The proposal exceeds the floor space ratio development standard under Clause 29 of State Environmental Planning Policy (Affordable Rental Housing) 2009 and Clause 4.4 of Marrickville Local Environmental Plan 2011. The proposed development is inconsistent with the stated objectives of the development standard. A clause 4.6 exception was not submitted with the application. Accordingly, Council has no statutory power to consent to the application.
3. The proposal is inconsistent with Clause 4.6(1)(b) of Marrickville Local Environmental Plan 2011 in that the development does not provide a better planning outcome than an otherwise FSR compliant development.
4. The proposal does not satisfy Clause 29(2)(d) and (e) of State Environmental Planning Policy (Affordable Rental Housing) 2009 in that the design of the private open space areas are not accessible for all lodgers and the development does not provide the minimum required number of off-street car parking spaces.
5. The design of the development is not compatible with the character of the local area and therefore does not satisfy Clause 30A of State Environmental Planning Policy (Affordable Rental Housing) 2009.
6. The proposal does not satisfy the requirements of Clause 6.5 – Development in areas subject to aircraft noise within Marrickville Local Environmental Plan 2011 and Part 2.6 – Visual and Acoustic Privacy within Marrickville Development Control Plan 2011 as the application was not accompanied by an Acoustic assessment.
7. The application fails to address the requirements set out in Part 2.8 – Social Impact Assessment within Marrickville Development Control Plan 2011.
8. The proposed subdivision does not satisfy the objectives of Part 3.2.2 of Marrickville Development Control Plan 2011 in that it would not retain the prevailing cadastral character of the street, fails to ensure that new allotments cater for car parking and does not ensure that the subdivision reflects and reinforces the predominant subdivision pattern of the street.
9. The proposal fails to satisfy the requirements set out within Part 4.1.4, 4.1.5, 4.1.6.2 and 4.1.6.3 of Marrickville Development Control Plan 2011 in that the development does not promote good urban design, is inappropriate in the streetscape context, contains insufficient side and rear building setbacks and results in excessive site coverage.
10. The proposed subdivision is inconsistent with the desired future character of the Stanmore North Precinct within Part 9.3 of Marrickville Development Control Plan 2011.

11. Incomplete or insufficient information was submitted with the application to enable a proper assessment of the proposal to be carried out in accordance with the requirements of the Environmental Planning and Assessment Act 1979. In particular:
  - a) The submitted Statement of Environmental Effects and Plan of Management states that a boarding house manager is proposed whereas the submitted drawings do not appear to make any provision for such; and
  - b) The submitted shadow diagrams are inadequate to under a proper assessment of this aspect of the proposed development and the likely impacts on surrounding residential properties.
12. The proposal is unsatisfactory having regard to section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 as the development would cause adverse impacts upon the built environment.
13. The proposed development is unsatisfactory having regard to section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 in that the site is not suitable for the development.
14. Approval of the development would not be in the public interest and contrary to section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.

## Attachment A – Recommended conditions of consent should the Panel approve the application

### RECOMMENDATION

- A. THAT the development application to demolish existing improvements, subdivide the land into 3 Torrens Title lots and a construct a 3 storey boarding house on each lot be **APPROVED** subject to the following conditions:

### GENERAL

The development must be carried out in accordance with plans and details listed below:

Plan, Revision and Issue No.	Plan Name/ Certificate Type	Date Issued	Prepared by	Date Submitted
101 A	Ground Floor Plan	24.05.2018	Cracknell & Lonergan Architects P/L	30.05.2018
102 A	First Floor Plan	24.05.2018	Cracknell & Lonergan Architects P/L	30.05.2018
103 A	Second Floor Plan	24.05.2018	Cracknell & Lonergan Architects P/L	30.05.2018
104 A	Roof Plan	24.05.2018	Cracknell & Lonergan Architects P/L	30.05.2018
105 A	Landscape Plan	24.05.2018	Cracknell & Lonergan Architects P/L	30.05.2018
106 A	Subdivision Plan	24.05.2018	Cracknell & Lonergan Architects P/L	30.05.2018
201 A	Section	24.05.2018	Cracknell & Lonergan Architects P/L	30.05.2018
202 A	Section	24.05.2018	Cracknell & Lonergan Architects P/L	30.05.2018
203 A	North Elevation	24.05.2018	Cracknell & Lonergan Architects P/L	30.05.2018
204 A	South Elevation	24.05.2018	Cracknell & Lonergan Architects P/L	30.05.2018
205 A	East Elevation	24.05.2018	Cracknell & Lonergan Architects P/L	30.05.2018
206 A	West Elevation	24.05.2018	Cracknell & Lonergan Architects P/L	30.05.2018
301 A	Schedule of Finishes	24.05.2018	Cracknell & Lonergan Architects P/L	30.05.2018
-	Plan of Management	May 2018	Applicant	30.05.2018

and details submitted to Council on 30 May 2018 with the application for development consent and as amended by the following conditions.

Reason: To confirm the details of the application submitted by the applicant.



Where any plans and/or information forming part of a construction certificate issued in relation to this consent are inconsistent with:

- (a) the plans and/or information approved under this consent; or
- (b) any relevant requirements of this consent,

the plans, information and/or requirements of this consent (as the case may be) shall prevail to the extent of the inconsistency.

All development approved under this consent shall be carried out in accordance with the plans, information and/or requirements of this consent taken to prevail by virtue of this condition.

Reason: To ensure the development is carried out in accordance with this Determination.

The use of the premises as a boarding house must comply at all times with the following:

- a) The use must comply at all times with the Plan of Management referred to in condition 1 above and as amended by the conditions in this Determination;
- b) A copy of the Plan of Management and House Rules must be annexed to each and every tenancy/occupation agreement for a room;
- c) A copy of the approved Plan of Management and House Rules must be clearly displayed within every common room in the building at all times;
- d) The Plan of Management must not be amended without the prior consent of Council;
- e) All tenancy/occupation agreements for rooms within the premises must be for a minimum period of three (3) months;
- f) The premises must be used exclusively as a boarding house with each boarding house containing a maximum total of 3 lodger's rooms with not more than 3 adult lodgers and residing in each premises at any one time;
- g) Not more than 1 lodgers must occupy each boarding room;
- h) The premises must not be adapted for use as backpacker's accommodation, serviced apartments or a residential flat building;
- i) All common rooms/areas and recreation rooms/areas must be maintained at all times for the use of the lodgers; and
- j) Each self-contained room and shared kitchen must be fitted out with washing up facilities, a cooktop, oven, fridge and storage space with such utilities being maintained in working order at all times.

Reason: To ensure the development is the permanent place of residence for occupants and ensure occupants abide by the rules and regulations identified in the Plan of Management.

All trees, covered by Part 2.20 of Marrickville Development Control Plan 2011 - Tree Management, not requiring removal to permit the erection of the development must be retained.

Reason: To preserve existing mature trees on the property.

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property.

Reason: To ensure that the development is adequately serviced.

All building work must be carried out in accordance with the provisions of the National Construction Code (Building Code of Australia).

Reason: To ensure the work is carried out to an acceptable standard and in accordance with the State's building code.

Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be at no cost to Council and undertaken before occupation of the site.

Reason: To ensure all costs for the adjustment/augmentation of services arising as a result of the redevelopment are at no cost to Council.

Any damage caused to the footpath, kerb and gutter, or other Council property during construction of the development must be restored in accordance with Council's Specifications and AUS-SPEC#2-"Roadworks Specifications", at no cost to Council. Council may utilise part or all of any Building Security Deposit (B.S.D.) for the development to restore any damages. Further Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

Reason: To ensure all damage to Council's infrastructure is repaired at the applicant's expense and to satisfactory standard.

No injury must be caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, particulate matter, the exposure to view of any unsightly matter or otherwise.

Reason: To protect the amenity of the locality.

The use of any plant and equipment must not give rise to:

- a) transmission of unacceptable vibration to any place of different occupancy;
- b) a sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The source noise level must be assessed as an LAeq,15min and adjusted in accordance with Environment Protection Authority guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content as described in the NSW Environment Protection Authority's Environmental Noise Control Manual and Industrial Noise Policy 2000 and The Protection of the Environment Operations Act 1997 (NSW).

Reason: To prevent loss of amenity to the area.

Noise and vibration from the use and operation of any plant and equipment and/or building services associated with the premises must not give rise to "offensive noise" as defined by The Protection of the Environment Operations Act 1997 (NSW).

Reason: To protect the amenity of the surrounding neighbourhood.

Separate Development Consent or Complying Development Certificate must be obtained prior to the erection of any advertisements or advertising structures. The shop windows must not be painted with advertisements and no flashing lights are to be installed on the premises.

Reason: To confirm the terms of Council's approval.

Owners and occupants of the proposed building shall not be eligible to obtain parking permits under any existing or future resident parking scheme for the area. The by-laws of any future residential strata plans created for the property shall reflect this restriction.

Reason: To ensure the development does not reduce the amount of "on street" parking currently available.

**BEFORE COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK**

No work must commence until:

- a) A PCA has been appointed. Where an Accredited Certifier is the appointed, Council must be notified within 2 days of the appointment; and
- b) A minimum of 2 days written notice must be given to Council of the intention to commence work.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

A Construction Certificate must be obtained before commencing building work. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

Sanitary facilities must be provided at or in the vicinity of the work site in accordance with the WorkCover Authority of NSW, Code of Practice 'Amenities for Construction'. Each toilet must be connected to the sewer, septic or portable chemical toilet before work commences.

Facilities must be located so that they will not cause a nuisance.

Reason: To ensure that sufficient and appropriate sanitary facilities are provided on the site.

All demolition work must:

- a) Be carried out in accordance with the requirements of Australian Standard AS 2601 'The demolition of structures' and the Occupational Health and Safety Act and Regulations; and
- b) Where asbestos is to be removed it must be done in accordance with the requirements of the WorkCover Authority of NSW and disposed of in accordance with requirements of the Department of Environment, Climate Change and Water.

Reason: To ensure that the demolition work is carried out safely.

Where any loading, unloading or construction is to occur from a public place, Council's Infrastructure Services Division must be contacted to determine if any permits or traffic management plans are required to be obtained from Council before work commences.

Reason: To protect the amenity of the area.

All services in the building being demolished must be disconnected in accordance with the requirements of the responsible authorities before work commences.

Reason: To ensure that the demolition work is carried out safely.

Before commencing works the person acting on this consent must provide a contact number for a designated person to be available during the demolition and construction for residents to contact regarding breaches of consent or problems relating to the construction

Reason: To provide a person that residents can contact.

The site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property, before work commences.

Reason: To secure the area of the site works maintaining public safety.

A rigid and durable sign must be erected in a prominent position on the site, before work commences. The sign must be maintained at all times until all work has been completed. The sign is to include:

- a) The name, address and telephone number of the PCA;
- b) A telephone number on which Principal Contractor (if any) can be contacted outside working hours; and
- c) A statement advising: 'Unauthorised Entry To The Work Site Is Prohibited'.

Reason: To maintain the safety of the public and to ensure compliance with the Environmental Planning and Assessment Regulations.

A Soil and Water Management Plan must be prepared in accordance with Landcom Soils and Construction, Volume 1, Managing Urban Stormwater (Particular reference is made to Chapter 9, "Urban Construction Sites") and submitted to and accepted by the PCA. A copy of this document must be submitted to and accepted by PCA before work commences. The plan must indicate:

- a) Where the builder's materials and waste are to be stored;
- b) Where the sediment fences are to be installed on the site;
- c) What facilities are to be provided to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way; and
- d) How access to the site will be provided.

All devices must be constructed and maintained on site while work is carried out.

Reason: To prevent soil erosion and sedimentation of the stormwater network.

The person acting on this consent is responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report is to include colour photographs and must be submitted to the Certifying Authority's satisfaction, with a copy being provided to Council and the property owner of the identified property, before work commences, on the buildings on the adjoining property at 13 Robert Street (known as 11), if the consent of the adjoining property owner can be obtained. In the event that the consent of the adjoining property owner cannot be obtained copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the PCA before work commences.

Reason: To catalogue the condition of the adjoining property for future reference in the event that any damage is caused during work on site.

Before commencing works the person acting on this consent must provide a contact number for a designated person to be available during the demolition and construction for residents to contact regarding breaches of consent or problems relating to the construction.

Reason: To provide a person that residents can contact.

Where it is proposed to carry out in public roads or Council controlled lands, a road opening permit must be obtained from Council before the carrying out of any works in public roads or Council controlled lands. Restorations must be in accordance with Marrickville Council's Restorations Code. Failure to obtain a road opening permit for any such works will incur an additional charge for unauthorised openings in the amount as provided for in Council's adopted fees and charges.

Reason: To ensure that all restoration works are in accordance with Council's Code.

The person acting on this consent must apply as required for all necessary permits including crane permits, road opening permits, hoarding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the Local Government Act, 1993 or Section 138 of the Roads Act, 1993.

Reason: To ensure all necessary approvals have been applied for.

A detailed Traffic Management Plan to cater for construction traffic must be submitted to and approved by Council before commencement of works. Details must include proposed truck parking areas, construction zones, crane usage, truck routes etc. All construction traffic must comply at all times with the approved Traffic Management Plan. The developer must ensure that all construction workers and contractors are fully aware of the approved Traffic Management Plan.

Reason: To ensure construction traffic does not unduly interfere with vehicular or pedestrian traffic, or the amenity of the area.

The person acting on this consent must provide details of the means to secure the site and to protect the public from the construction works. Where the means of securing the site involves the erection of fencing or a hoarding on Council's footpath or road reserve the person acting on this consent must submit a hoarding application and pay all relevant fees before commencement of works.

Reason: To secure the site and to maintain public safety.

Alignment levels for the site at all pedestrian and vehicular access locations must be obtained from Council before the commencement of construction. The alignment levels must match the existing back of footpath levels at the boundary. Failure to comply with this condition will result in vehicular access being denied.

Reason: In accordance with Council's powers under the Roads Act, 1993, alignment levels at the property boundary will be required to accord with Council's design or existing road and footpath levels.

The landscape plan shall be amended to provide details of tree species that will provide adequate and appropriate compensatory tree planting for prescribed trees that are approved for removal, and shall be submitted to and approved by council before work commences. Tree planting detail shall be amended so that the planting hole is excavated no deeper than the root ball and the bottom of the planting hole is not cultivated or ripped. New trees shall not be staked.

Note 1: Three trees of species with a minimum mature height of 8 metres or two trees of species with a minimum mature height of 10 metres or one tree of a species with a minimum mature height of 12 metres should be adequate.

Note 2: Backfilling below the rootball or cultivating or ripping the bottom of a planting hole can result in the rootball sinking. A tree that is grown in accordance with the Australian Standard *Tree Stock for Landscape Use* AS 2303-2015 should be self-supporting and not require staking. Tree planting Detail 1 (p.128) in the Marrickville Street Tree Master Plan 2014 provides an acceptable detail for tree planting.

Reason: To ensure that local amenity and urban forest canopy is sustained.

#### **BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE**

The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water wastewater and water mains,

stormwater drains and/or easement, and if any requirements need to be met. Plans will be appropriately stamped.

Please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick Check agents details - see Plumbing, building and developing then Quick Check agents and
- Guidelines for Building Over/Adjacent to Sydney Water Assets – see Plumbing, building and developing then Plan submissions or telephone 13 20 92.

The stamped plans must be submitted to Certifying Authority satisfaction before the issue of a Construction Certificate.

Reason: To ensure compliance with Sydney Water requirements.

Prior to the issue of the Subdivision or Construction Certificate in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- (i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.
- (ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

(iii)

Reason: To ensure adequate provision is made for telecommunications infrastructure.

- a) This condition is imposed in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979.
- b) Before the issue of a Construction Certificate or the issue of a Subdivision Certificate (whichever comes first), the Council must be paid a monetary contribution of \$80,766.79 indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014 ("CP").

The above contribution is the contribution applicable as at 23 August 2018.

**\*NB** Contribution rates under Marrickville Section 94/94A Contributions Plan 2014 are indexed quarterly (for the method of indexation refer to Section 2.15 of the Plan).

The indexation of the contribution rates occurs in the first week of the months of February, May, August and November each year, following the release of data from the Australian Bureau of Statistics.

**(CONTRIBUTION PAYMENT REFERENCE NO. DC002392)**

- c) The contribution payable has been calculated in accordance with the CP and relates to the following public amenities and/or services and in the following amounts:
 

Community Facilities	\$8,749.38
Plan Administration	\$1,583.70
Recreation Facilities	\$70,798.66
Traffic Facilities	\$-364.95
- d) A copy of the CP can be inspected at Council's offices at 2-14 Fisher Street, Petersham or online at <http://www.marrickville.nsw.gov.au>.



- e) The contribution must be paid either in cash, by unendorsed bank cheque (from an Australian Bank only), via EFTPOS (Debit only) or credit card\*.

\*NB A 1% credit card transaction fee applies to all credit card transactions.

**Reason:** To ensure provision is made for the increase in demand for public amenities and services required as a consequence of the development being carried out.

Details and/or specifications for the planting works indicated on the landscape documents, must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate and must include the following:

- a) Soil preparation, minimum depth 400mm, of good quality topsoil;
- b) An approved slow release fertiliser;
- c) A mulch layer, minimum depth 75mm, of pine flake or leaf litter in all planting areas;
- d) Planting details, such as installation, staking and tying;
- e) Adequate drainage for all planting areas; and
- f) Preference is to be given to native plants.

**Reason:** To enable the establishment of the approved landscaping.

Noise attenuation measures must be incorporated into the development complying with Australian Standard 2021-2015 in relation to interior design sound levels, in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate together with certification by a suitably qualified acoustical engineer that the noise attenuation measures satisfy the requirements of Australian Standard 2021-2015.

**Reason:** To reduce noise levels within the development from aircraft.

Before the issue of a Construction Certificate an amended plan must be submitted to the Certifying Authority's satisfaction addressing the requirements of The Disability (Access to Premises – buildings) Standards 2010 (the Premises Standards).

**Reason:** To ensure that the premises are accessible to all persons.

Plans fully reflecting the selected commitments listed in BASIX Certificate submitted with the application for development consent must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

**NOTE:** The application for the Construction Certificate must be accompanied by either the BASIX Certificate upon which development consent was granted or a revised BASIX Certificate (Refer to Clause 6A of Schedule 1 to the Regulation).

**Reason:** To ensure that the BASIX commitments are incorporated into the development.

Lighting details of the entrances to the dwelling houses must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

**Reason:** To ensure appropriate lighting is provided to create a safe living environment.

Evidence of payment of the building and construction industry Long Service Leave Scheme, must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate. (The required payment can be made at the Council Offices).

**NOTE:** The required payment is based on the estimated cost of building and construction works and the long service levy rate, set by the Long Service Payments Corporation. The rate set by the Long Service Payments

Corporation is currently of 0.35% of the cost of the building and construction work.

For more information on how to calculate the amount payable and where payments can be made contact the Long Services Payments Corporation.  
[http://www.lspc.nsw.gov.au/levy\\_information/?levy\\_information/levy\\_calculator.stm](http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm)

Reason: To ensure that the required levy is paid in accordance with the Building and Construction Industry Long Service Payments Act.

Before the issue of a Construction Certificate the person acting on this consent must sign a written undertaking that they are responsible for the full cost of repairs to footpath, kerb and gutter, or other Council property damaged as a result of construction of the development. Council may utilise part or all of any Building Security Deposit (B.S.D.) or recover in any court of competent jurisdiction, any costs to Council for such repairs.

Reason: To ensure that all damages arising from the building works are repaired at no cost to Council.

Plans, details and calculations of an On Site Detention system in accordance with Marrickville Council Stormwater and On Site Detention Code, must be submitted to Council's satisfaction before the issue of a Construction Certificate. The on site detention system must be designed for all storm events from the 1 year to the 1:100 year storm event, with discharge to a Council controlled storm water system limited to pre-development conditions with the maximum allowable discharge to Council's street gutter limited to 25 litres/second. Storage for the 1 year storm event must be provided fully below ground. Details must also include the Height v Storage and Height v Discharge relationships.

Reason: To ensure the development does not increase the stormwater runoff from the site.

Details regarding all hard paved areas within the development must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate. In this regard the materials used should be chosen to break up the extent of hard paving and enhance the appearance of the development.

Reason: To ensure all hard paved areas within the development are sympathetic to and enhance the appearance of the development.

A detailed plan showing the height, colour and material of all fencing within the development in accordance with the requirements of Part 2.11 of Marrickville Development Control Plan 2011 – Fencing must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To ensure all fencing is in keeping with the character of the area and maintains adequate privacy.

Letterboxes and mail collection facilities must be provided and adequately protected in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To ensure adequate mail collection facilities are provided.

Adequate outdoor clothes drying areas must be provided for the development in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

Reason: To ensure adequate outdoor clothes drying facilities are provided.

**SITE WORKS**

~ Unless otherwise approved by Council, excavation, demolition, construction or subdivision work shall only be permitted during the following hours:

- a) 7:00 am to 6.00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
- c) at no time on Sundays or public holidays.

Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.

In the case that a standing plant or special permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.

This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.

Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving shall be limited to:

8:00 am to 12:00 pm, Monday to Saturday; and  
2:00 pm to 5:00 pm Monday to Friday.

The Proponent shall not undertake such activities for more than three continuous hours and shall provide a minimum of one 2 hour respite period between any two periods of such works.

"Continuous" means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

Reason: To minimise the effect of the development during the construction period on the amenity of the surrounding neighbourhood.

The area surrounding the building work must be reinstated to Council's satisfaction upon completion of the work.

Reason: To ensure that the area surrounding the building work is satisfactorily reinstated.

The placing of any materials on Council's footpath or roadway is prohibited, without the consent of Council. The placement of waste storage containers in a public place requires Council approval and must comply with Council's Policy – 'Placement of Waste Storage Containers in a Public Place'.

Reason: To ensure the public ways are not obstructed and the placement of waste storage containers in a public place are not dangerous to the public.

All demolition work must be carried out in accordance with the following:

- a) compliance with the requirements of Australian Standard AS 2601 'The demolition of structures' with specific reference to health and safety of the public, health and safety

- of the site personnel, protection of adjoining buildings and protection of the immediate environment;
- b) all works involving the demolition, removal, transport and disposal of asbestos cement must be carried out in accordance with the 'Worksafe Code of Practice for Removal of Asbestos' and the requirements of the WorkCover Authority of NSW and the Department of Environment, Climate Change and Water;
  - c) all building materials arising from the demolition must be disposed of in an approved manner in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and any applicable requirements of the Department of Environment, Climate Change and Water;
  - d) sanitary drainage, stormwater drainage, water, electricity and telecommunications must be disconnected in accordance with the requirements of the responsible authorities;
  - e) the generation of dust and noise on the site must be controlled;
  - f) the site must be secured to prohibit unauthorised entry;
  - g) suitable provision must be made to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way;
  - h) all trucks and vehicles associated with the demolition, including those delivering to or removing material from the site, must only have access to the site during work hours nominated by Council and all loads must be covered;
  - i) all vehicles taking materials from the site must be loaded wholly within the property unless otherwise permitted by Council;
  - j) no waste collection skips, spoil, excavation or demolition material from the site must be deposited on the public road, footpath, public place or Council owned property without the approval of Council; and
  - k) the person acting on this consent must ensure that all contractors and sub-contractors associated with the demolition are fully aware of these requirements.

Reason: To ensure that the demolition work is carried out safely and impacts on the surrounding area are minimised.

The works are required to be inspected at critical stages of construction, by the PCA or if the PCA agrees, by another Certifying Authority. The last inspection can only be carried out by the PCA. The critical stages of construction are:

- a) At the commencement of the building work;
- b) After excavation for, and prior to the placement of, any footings;
- c) Prior to pouring any in-situ reinforced concrete building element;
- d) Prior to covering of the framework for any floor, wall, roof or other building element;
- e) Prior to covering waterproofing in any wet areas;
- f) Prior to covering any stormwater drainage connections; and
- g) After the building work has been completed and prior to any occupation certificate being issued in relation to the building.

You are advised to liaise with your PCA to establish if any additional inspections are required.

Reason: To ensure the building work is carried out in accordance with the Environmental Planning and Assessment Regulations and the National Construction Code (Building Code of Australia).

If the development involves an excavation that extends below the level of the base of the footings of a building on the adjoining allotments, including a public place such as a footway and roadway, the person acting on the consent, at their own expense must:

- a) protect and support the adjoining premises from possible damage from the excavation, and
- b) where necessary, underpin the adjoining premises to prevent any such damage. Where the underpinning works are not "exempt development", all required consents must be obtained prior to the required works commencing; and

- c) at least 7 days notice is given to the owners of the adjoining land of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

Where a dilapidation report has not been prepared on any building adjacent to the excavation, the person acting on this consent is responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report must be submitted to and accepted by the PCA before works continue on site, if the consent of the adjoining property owner can be obtained.

Copies of all letter/s that have been sent via registered mail to the adjoining property owner and copies of any responses received must be forwarded to the PCA before work commences.

Reason: To ensure that adjoining buildings are preserved, supported and the condition of the buildings on the adjoining property catalogued for future reference in the event that any damage is caused during work on site.

All vehicles carrying materials, to or from the site, must have their loads covered with tarpaulins or similar covers.

Reason: To ensure dust and other particles are not blown from vehicles associated with the use.

A certificate of survey from a registered land surveyor must be submitted to the PCA upon excavation of the footings and before the pouring of the concrete to verify that the structure will not encroach on the allotment boundaries.

Reason: To ensure all works are contained within the boundaries of the allotment.

All roof and surface stormwater from the site and any catchment external to the site that presently drains to it, must be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a Council controlled stormwater drainage system in accordance with the requirements of Marrickville Council Stormwater and On Site Detention Code.

Reason: To provide for adequate site drainage.

All stormwater drainage must be designed in accordance with the provisions of the 1987 Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3.2-1998 'Stormwater Drainage-Acceptable Solutions' and Marrickville Council Stormwater and On Site Detention Code. Pipe and channel drainage systems must be designed to cater for the 20 year Average Recurrence Interval (A.R.I.) storm in the case of low and medium residential developments, the 20 year A.R.I. storm in the case of high density residential development and commercial and/or industrial developments and the 50 year A.R.I. storm in the case of heavy industry. In all cases the major event surface flow paths must be designed to cater for the 100 year A.R.I. storm.

Reason: To provide for adequate site drainage.

The works are required to be inspected at critical stages of construction, by the PCA or if the PCA agrees, by another Certifying Authority. The last inspection can only be carried out by the PCA. The critical stage inspections are:

- a) after excavation for, and prior to the placement of, any footings;
- b) prior to pouring any in-situ reinforced concrete building element;
- c) prior to filling the pool with water a satisfactory inspection of the swimming pool barrier must be carried out;
- d) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Reason: To ensure the building work is carried out in accordance with the Environmental Planning and Assessment Regulations, the Swimming Pools Act and the National Construction Code (Building Code of Australia).

Trees to be removed shall be removed by a practicing arborist who has a minimum qualification of Certificate 3 in Arboriculture, in compliance with the Safe Work Australia *Guide to Managing Risks of Tree Trimming and Removal Work*, July 2016.

Reason: To ensure trees are removed in a safe and environmentally responsible manner.

Landscaping of the site must be carried out prior to occupation or use of the premises in accordance with the approved plan, and must be maintained at all times to Council's satisfaction.

Reason: To ensure adequate landscaping is maintained.

Following completion of construction and prior to the issue of the Occupation Certificate, the approved number of new trees shall be planted.

Reason: To sustain the urban forest canopy across the LGA.

The new tree(s) shall be planted in accordance with the following criteria:

- a) The new tree(s) shall be located in accordance with the approved amended landscape plan and shall be located a minimum of 1.5 metre from any property boundary and a minimum of 2.0 metres from any building.
- b) The species of tree(s) and planting stock size shall be as detailed in the approved amended landscape plan.
- c) The planting stock size shall be at least 75 litres.
- d) The planting stock shall comply with the Australian Standard *Tree Stock for Landscape Use* AS 2303-2015.
- e) The new tree(s) shall be planted in accordance with the tree planting detail included in the Marrickville Street Tree Master Plan 2014. Please note that planting holes for trees shall not be excavated deeper than the root ball and that new trees shall not be staked.
- f) The new tree(s) shall be planted by a qualified horticulturist or arborist, with a minimum qualification of Certificate 3.
- g) Each replacement tree shall be maintained in a healthy and vigorous condition until it attains a height of 5 metres, from which time it is protected by Council's Development Control Plan (DCP).
- h) If any tree dies or needs to be removed before that time it shall be replaced with a similar tree in accordance with these conditions at the expense of the applicant.
- i)

Reason: To ensure that the new trees provide adequate and appropriate compensation, are planted in a suitable location and maintained properly.

#### **BEFORE THE ISSUE OF A SUBDIVISION CERTIFICATE**

The Section 7.11 Contribution must be paid before the issue of a Subdivision Certificate.

Reason: To ensure provision is made for the increase in demand for public amenities and services required as a consequence of the development being carried out.

The Section 73 Certificate must be submitted to the Principal Certifying Authority before the issue of a Subdivision Certificate.

- a) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.



- b) Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Providers > Lists or telephone 13 20 92.

**Reason:** To ensure compliance with Sydney Water requirements.

All instruments used to create easements, rights and/or restrictions as to user must include in them provisions that such may not be revoked or modified without the prior approval of Council.

**Reason:** To ensure that such instruments are not revoked or modified without the prior approval of Council.

Separate drainage systems must be provided to drain each proposed lot. Plans detailing the proposed system must be submitted to and accepted by Council before the issue of a Subdivision Certificate.

**Reason:** To provide for adequate site drainage.

#### **BEFORE OCCUPATION OF THE BUILDING**

You must obtain an Occupation Certificate from your PCA before you occupy or use the building. The PCA must notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within 2 days of the date of the Certificate being determined:

- a) A copy of the determination;
- b) Copies of any documents that were lodged with the Occupation Certificate application;
- c) A copy of Occupation Certificate, if it was issued;
- d) A copy of the record of all critical stage inspections and any other inspection required by the PCA;
- e) A copy of any missed inspections; and
- f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.

**Reason:** To comply with the provisions of the Environmental Planning and Assessment Regulations.

The subdivision of the land into 3 lots being registered at the NSW Department of Lands before the issue of an Occupation Certificate.

**Reason:** To confirm the terms of Council's approval.

The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:

- a) Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
- b) Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

**Reason:** To ensure compliance with the relevant provisions of the Environmental Planning and Assessment Regulations and Building Legislation Amendment (Quality of Construction) Act.

The landscaping of the site must be carried out prior to occupation or use of the premises in accordance with the approved plan, and must be maintained at all times to Council's satisfaction.

Reason: To ensure adequate landscaping is maintained.

- a) Upon completion of the required noise attenuation measures referred to in the "Before the Issue of a Construction Certificate" Section of this Determination, and prior to the occupation of the dwelling-houses a report must be prepared and submitted to the Certifying Authority's satisfaction by an accredited Acoustics Consultant certifying that the final construction meets AS2021-2015 as set down in the subject condition of this consent. Such report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development; and
- b) Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a further certificate being prepared and submitted to Council in accordance with the requirements as set down in Part a) of this condition.

Reason: To reduce noise levels within the dwelling-houses from aircraft and to ensure that the noise attenuation measures incorporated into the dwelling-houses satisfactorily comply with the relevant sections of Australian Standard 2021-2015.

The Certifying Authority must be satisfied that each of the commitments listed in BASIX Certificate referred to in this Determination have been fulfilled before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate).

Reason: To ensure that all of the BASIX commitments have been fulfilled and to comply with the requirements under Section 154B of the Environmental Planning and Assessment Regulations 2000.

The Certifying Authority must apply to the Director-General for a BASIX Completion Receipt within 2 days of the issue of a final Occupation Certificate. Completion Receipts can be applied for at [www.basix.nsw.gov.au](http://www.basix.nsw.gov.au).

Reason: To ensure compliance with the requirements under Section 154C of the Environmental Planning and Assessment Regulations 2000.

All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development must be completed before the issue of an Occupation Certificate. Works must be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".

Reason: To ensure that the person acting on this consent completes all required work.

All redundant vehicular crossings to the site must be removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" before occupation of the site and at no cost to Council.

Reason: To eliminate redundant crossings and to reinstate the footpath to its normal condition.

Before occupation of the site written verification from a suitably qualified professional civil engineer, stating that all stormwater drainage and related work has been and constructed in accordance with the approved plans must be submitted to and accepted by Council. In addition, full works-as-executed plans, prepared and signed by a registered surveyor, must

be submitted to Council. Those plans must include levels for all drainage structures, buildings (including floor levels), finished ground levels and pavement surface levels.

Reason: To ensure drainage works are constructed in accordance with approved plans.

Before the issue of an Occupation Certificate, a street number and identifier of separate occupancies (if applicable) must be clearly displayed in a readily visible location (numbers having a height of not less than 75mm). If any new street numbers or change to street numbers (this includes unit and shop numbers) are required they must have the prior approval of council before being displayed.

Reason: To ensure that the building is easily identifiable.

The Principal Certifying Authority shall certify in writing before the issue of the Occupation Certificate that the conditions relating to tree removal and tree planting have been complied with, or if not, detail the nature of any departure from the conditions and shall report breaches of the conditions to Inner West Council.

Reason: To ensure that conditions relating to tree removal, tree protection and tree planting are complied with.

#### ADVISORY NOTES

- A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out.
- Contact "Dial Before You Dig" before commencing any building activity on the site.
- Useful Contacts

BASIX Information	☎ 1300 650 908 weekdays 2:00pm - 5:00pm <a href="http://www.basix.nsw.gov.au">www.basix.nsw.gov.au</a>
Department of Fair Trading	☎ 13 32 20 <a href="http://www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a> Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Before You Dig	☎ 1100 <a href="http://www.dialbeforeyoudig.com.au">www.dialbeforeyoudig.com.au</a>
Landcom	☎ 9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	☎ 131441 <a href="http://www.lspc.nsw.gov.au">www.lspc.nsw.gov.au</a>
NSW Government	<a href="http://www.nsw.gov.au/fibro">www.nsw.gov.au/fibro</a> <a href="http://www.diysafe.nsw.gov.au">www.diysafe.nsw.gov.au</a> Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	☎ 131 555 <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>
Sydney Water	☎ 13 20 92 <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a>

Waste Service - SITA  
Environmental Solutions

☎ 1300 651 116  
[www.wasteservice.nsw.gov.au](http://www.wasteservice.nsw.gov.au)

Water Efficiency Labelling and  
Standards (WELS)


[www.waterrating.gov.au](http://www.waterrating.gov.au)

WorkCover Authority of NSW

☎ 13 10 50  
[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)  
Enquiries relating to work safety and asbestos  
removal and disposal.

- B. **THAT** those persons who lodged a submission in respect to the proposal be advised of the Council's determination of the application.

Attachment B – Plans of proposed development



**PROPOSED 3 X 3 ROOM BOARDING HOUSE  
15 ROBERT STREET, PETERSHAM**

LIST OF DRAWINGS	
DA-000	TITLE PAGE
DA-001	CONTEXT ANALYSIS PLAN
DA-002	SITE PLAN
DA-101	GROUND FLOOR PLAN
DA-102	FIRST FLOOR PLAN
DA-103	SECOND FLOOR PLAN
DA-104	ROOF PLAN
DA-105	LANDSCAPE PLAN
DA-106	SUBDIVISION PLAN
DA-201	LONG SECTION
DA-202	SHORT SECTION
DA-203	ELEVATION NORTH
DA-204	ELEVATION SOUTH
DA-205	ELEVATION EASTERN
DA-206	ELEVATION WESTERN

DATE	ISSUE/REVISION	TITLE	LIST OF DRAWINGS
24/05/2018	DA-A DEVELOPMENT APPLICATION	PROJECT 3 X 3 ROOM BOARDING HOUSE	<b>DA 000</b>
		ADDRESS 15 ROBERT STREET, PETERSHAM	ISSUE
		CLIENT CAROL MONTANO	<b>A</b>
		SCALE 1:100 @A3	
		DATE 24 MAY 2018	

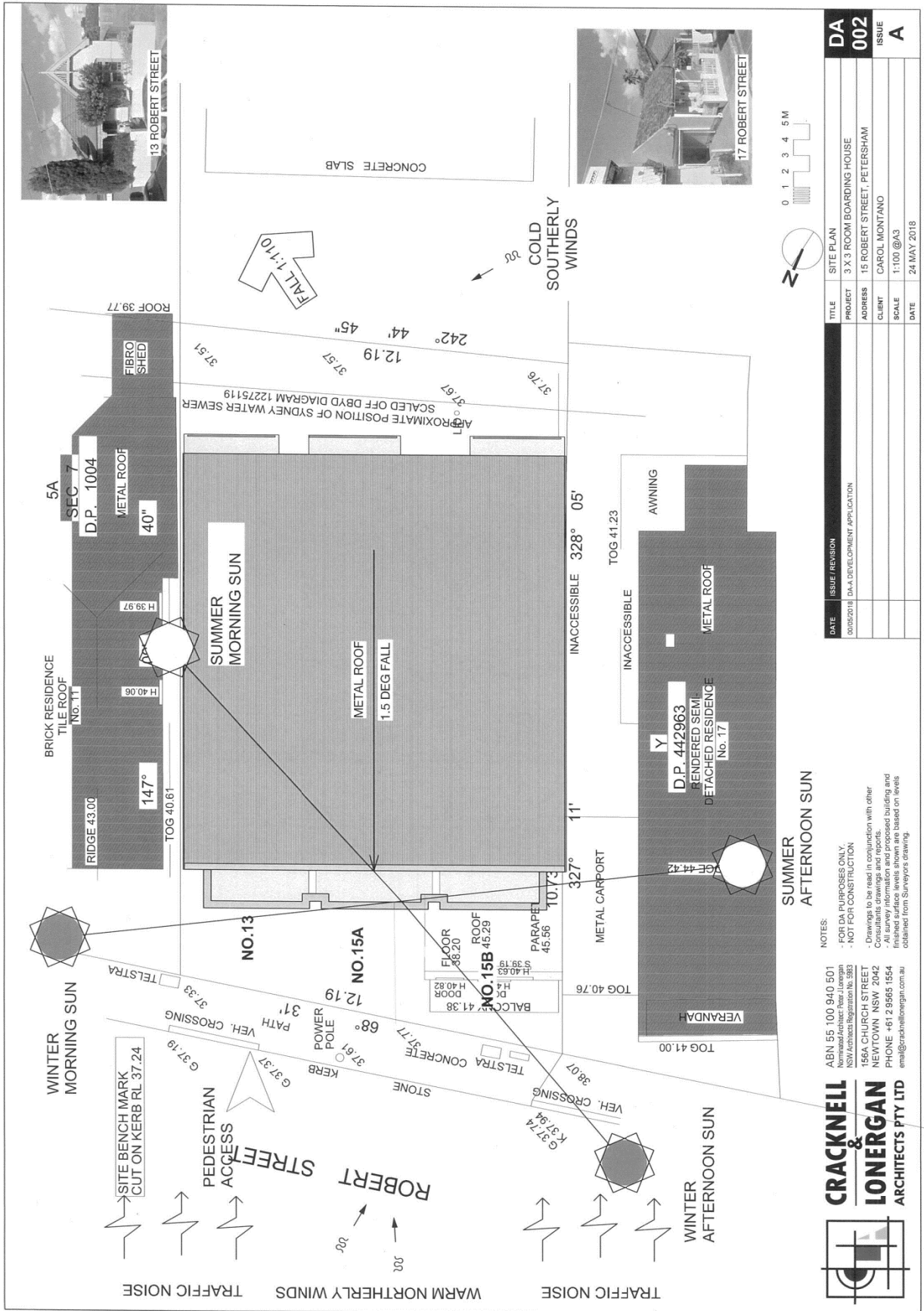
  

**CRACKNELL & LONERGAN ARCHITECTS PTY LTD**

ABN 55 100 940 501  
 155A Church Street  
 Newtown NSW 2042  
 Phone +61 2 9565 1554  
 email@cracknellorgan.com.au

**NOTES:**

- FOR DA PURPOSES ONLY
- NOT FOR CONSTRUCTION
- Drawings to be read in conjunction with other consultants drawings and reproduced building and finished surface levels shown are based on levels obtained from Surveyors drawing.



DATE	ISSUE / REVISION	TITLE	SITE PLAN
09/05/2018	DA-A DEVELOPMENT APPLICATION	PROJECT	3 X 3 ROOM BOARDING HOUSE
		ADDRESS	15 ROBERT STREET, PETERSHAM
		CLIENT	CAROL MONTANO
		SCALE	1:100 @A3
		DATE	24 MAY 2018

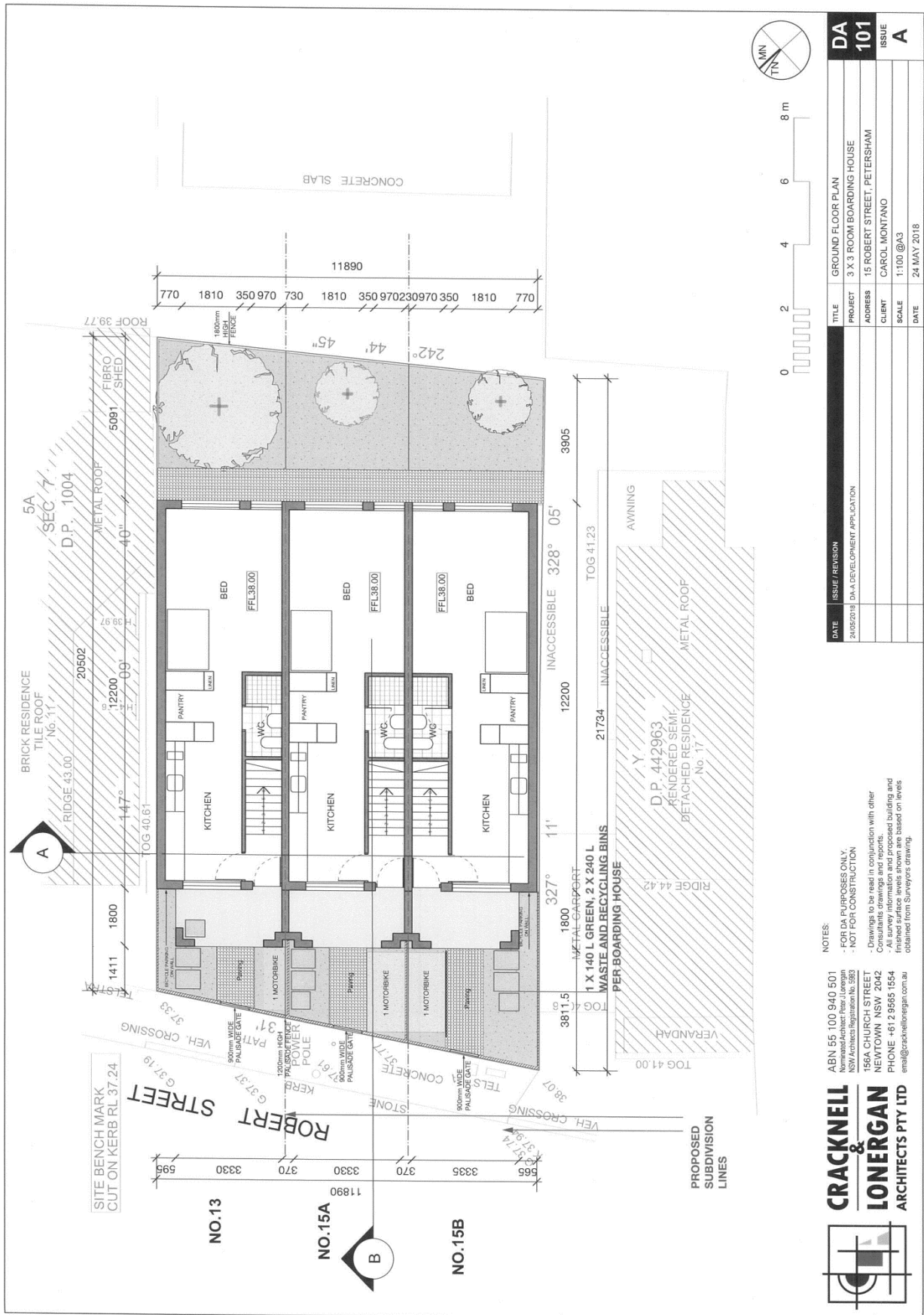
DA	002
ISSUE	A

NOTES:  
 - FOR DA PURPOSES ONLY  
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 - Drawings to be read in conjunction with other Consultants drawings and reports.  
 - Finished surface levels shown are based on levels obtained from Surveyors drawing.

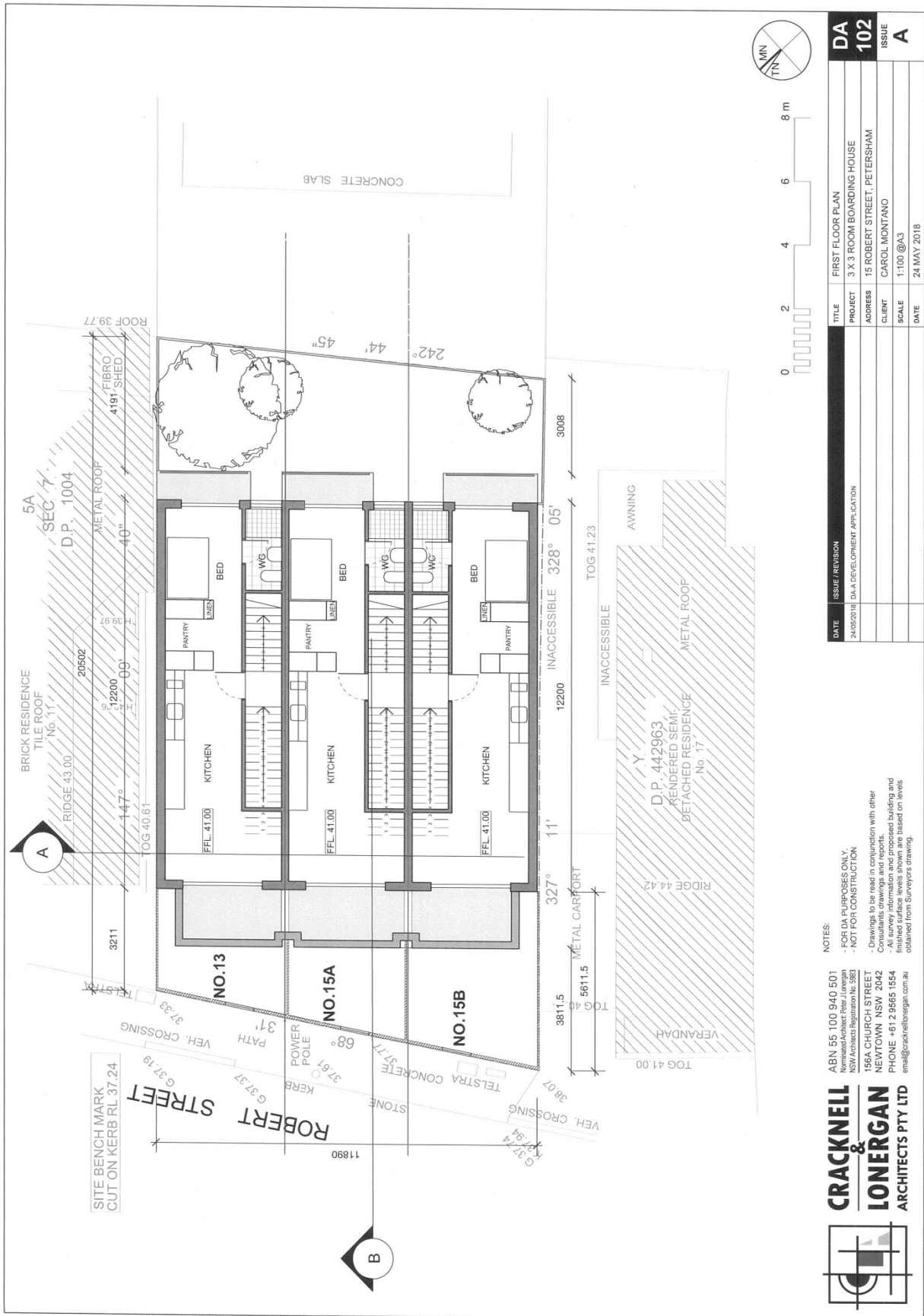
ABN: 55 100 940 501  
 156A CHURCH STREET  
 NEWYOUN NSW 2042  
 PHONE +61 2 9965 1554  
 email@cracknellandlorgan.com.au

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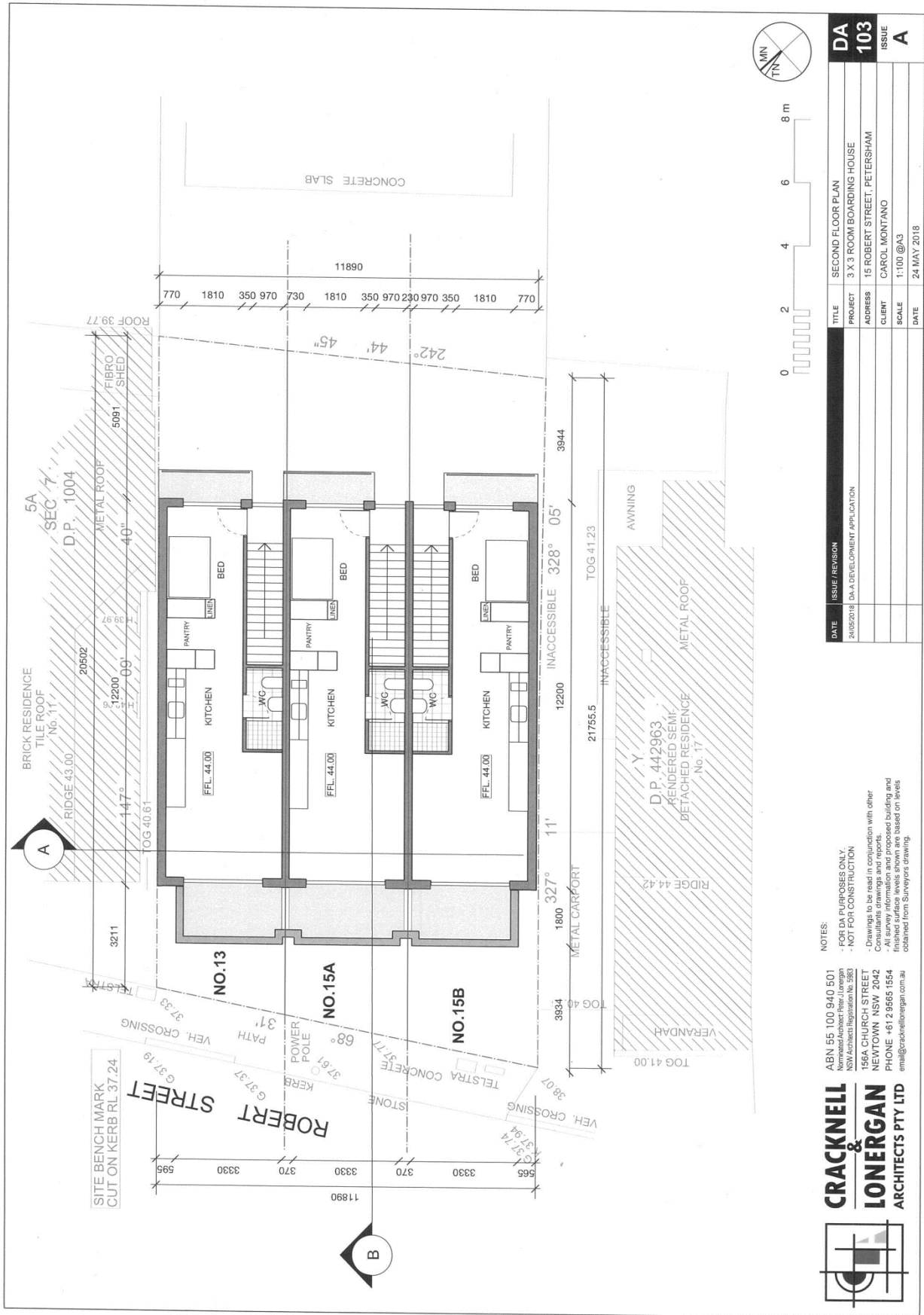
DATE	ISSUE REVISION	TITLE	FIRST FLOOR PLAN
24/05/2018	DA DEVELOPMENT APPLICATION	PROJECT	3 X 3 ROOM BOARDING HOUSE
		ADDRESS	15 ROBERT STREET, PETERSHAM
		CLIENT	CAROL MONTANO
		SCALE	1:100 @A3
		DATE	24 MAY 2018

NOTES:  
 - FOR DA PURPOSES ONLY.  
 - NOT FOR CONSTRUCTION  
 Drawings to be read in conjunction with other  
 Consultants drawings and reports.  
 - All survey information and proposed building and  
 finished surface levels shown are based on levels  
 obtained from Surveyors drawing.

ABN 55 100 940 501  
 Nominated Architect Peter J. Loneragan  
 NSW Architects Registration No. 5983  
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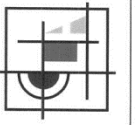
DATE	ISSUE / REVISION	TITLE	SECOND FLOOR PLAN
24/05/2018	DA DEVELOPMENT APPLICATION	PROJECT	3 X 3 ROOM BOARDING HOUSE
		ADDRESS	15 ROBERT STREET, PETERSHAM
		CLIENT	CAROL MONTANO
		SCALE	1:100 @A3
		DATE	24 MAY 2018

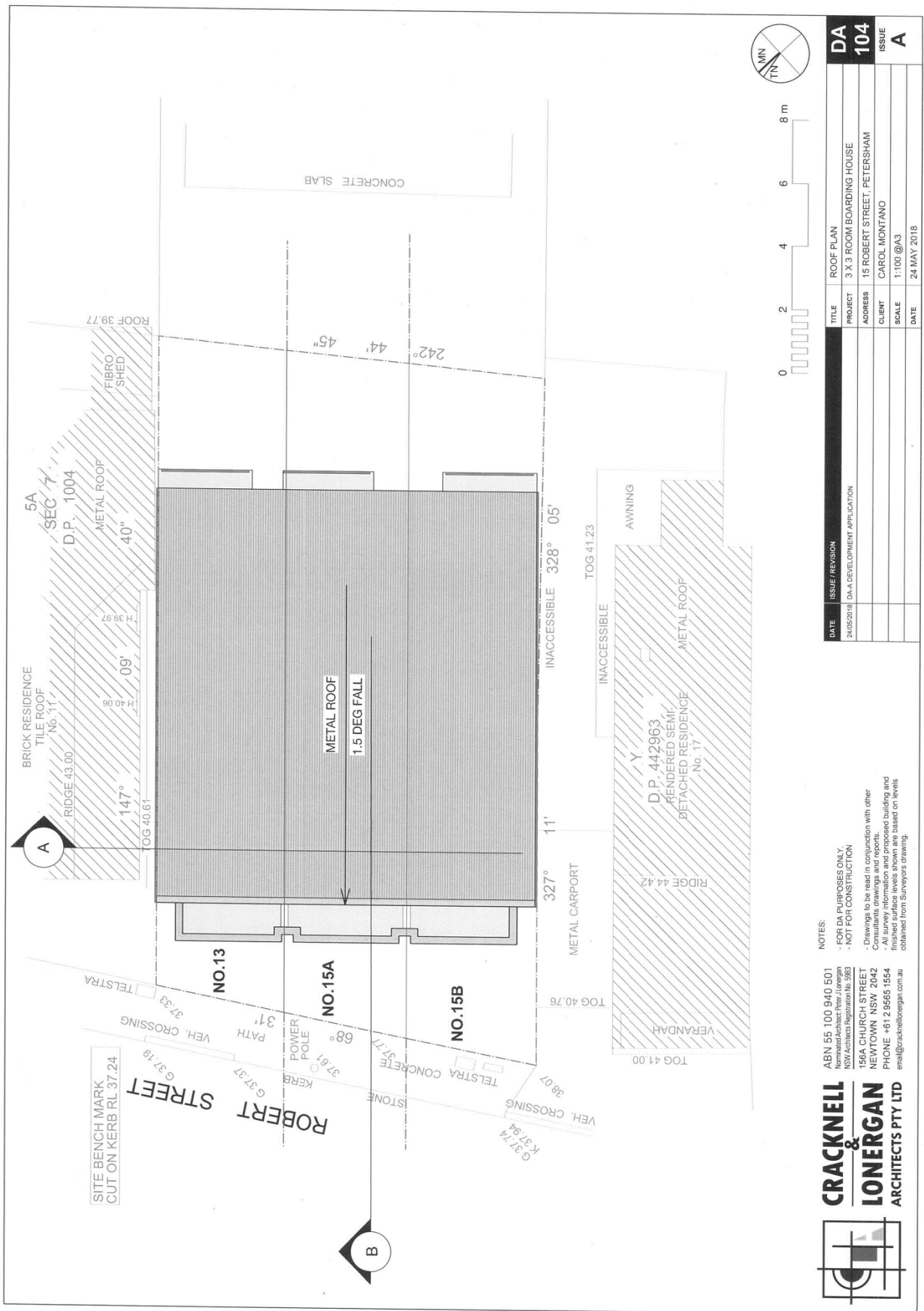
NOTES:

- FOR DA PURPOSES ONLY.
- NSW Architects Registration No. 15963
- NOT FOR CONSTRUCTION
- Drawings to be read in conjunction with other consultants drawings and reports.
- Finished surface levels shown are based on levels obtained from Surveyors drawing.

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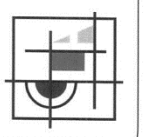


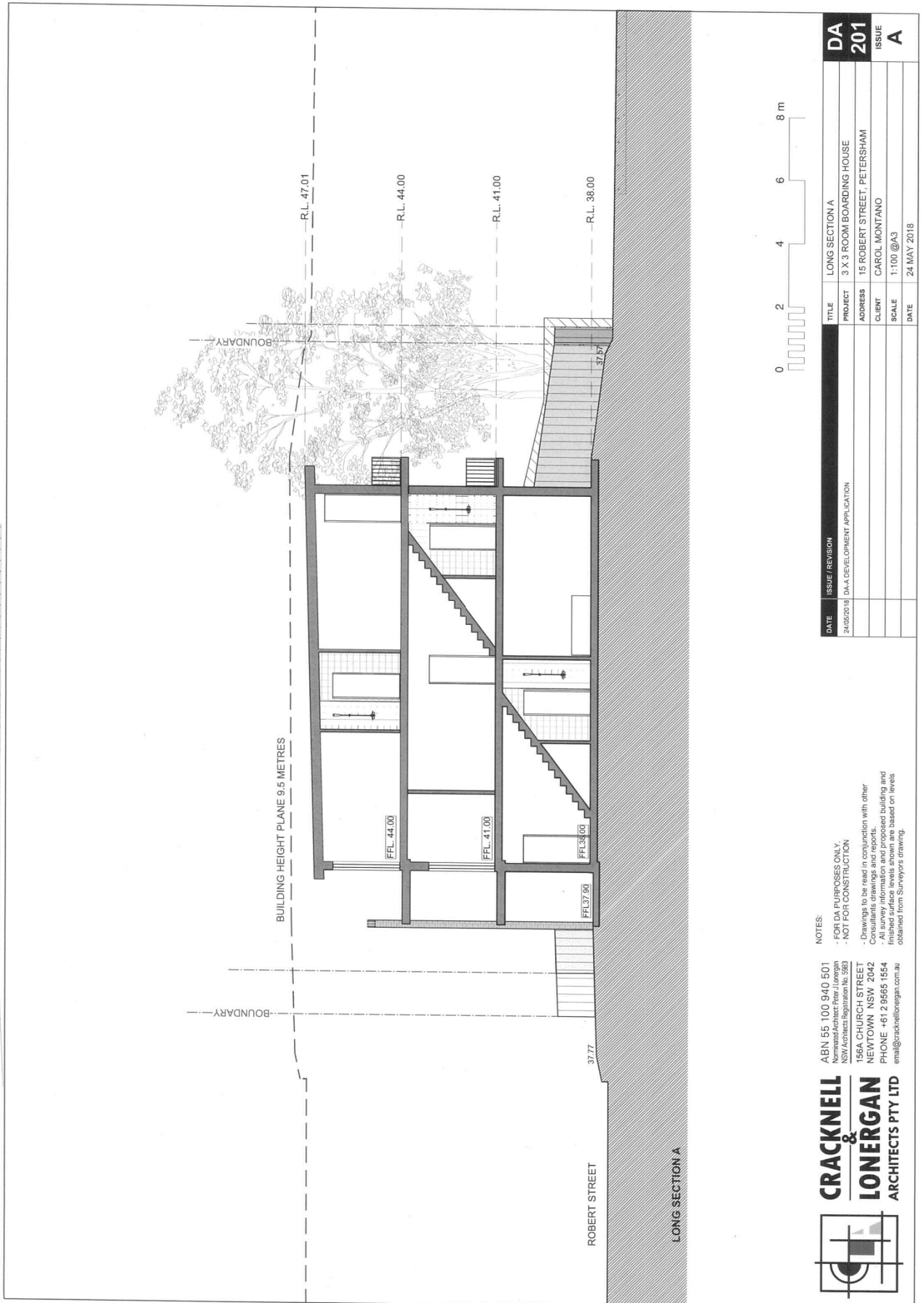
DATE	ISSUE/REVISION	TITLE	ROOF PLAN
24/05/2018	DA-A DEVELOPMENT APPLICATION	PROJECT	3 X 3 ROOM BOARDING HOUSE
		ADDRESS	15 ROBERT STREET, PETERSHAM
		CLIENT	CAROL MONTANO
		SCALE	1:100 @A3
		DATE	24 MAY 2018

NOTES:  
 - FOR DA PURPOSER ONLY  
 - NOT FOR CONSTRUCTION  
 - Drawings to be read in conjunction with other consultants drawings and reports.  
 - Finished surface levels shown are based on levels obtained from Surveyors drawing.

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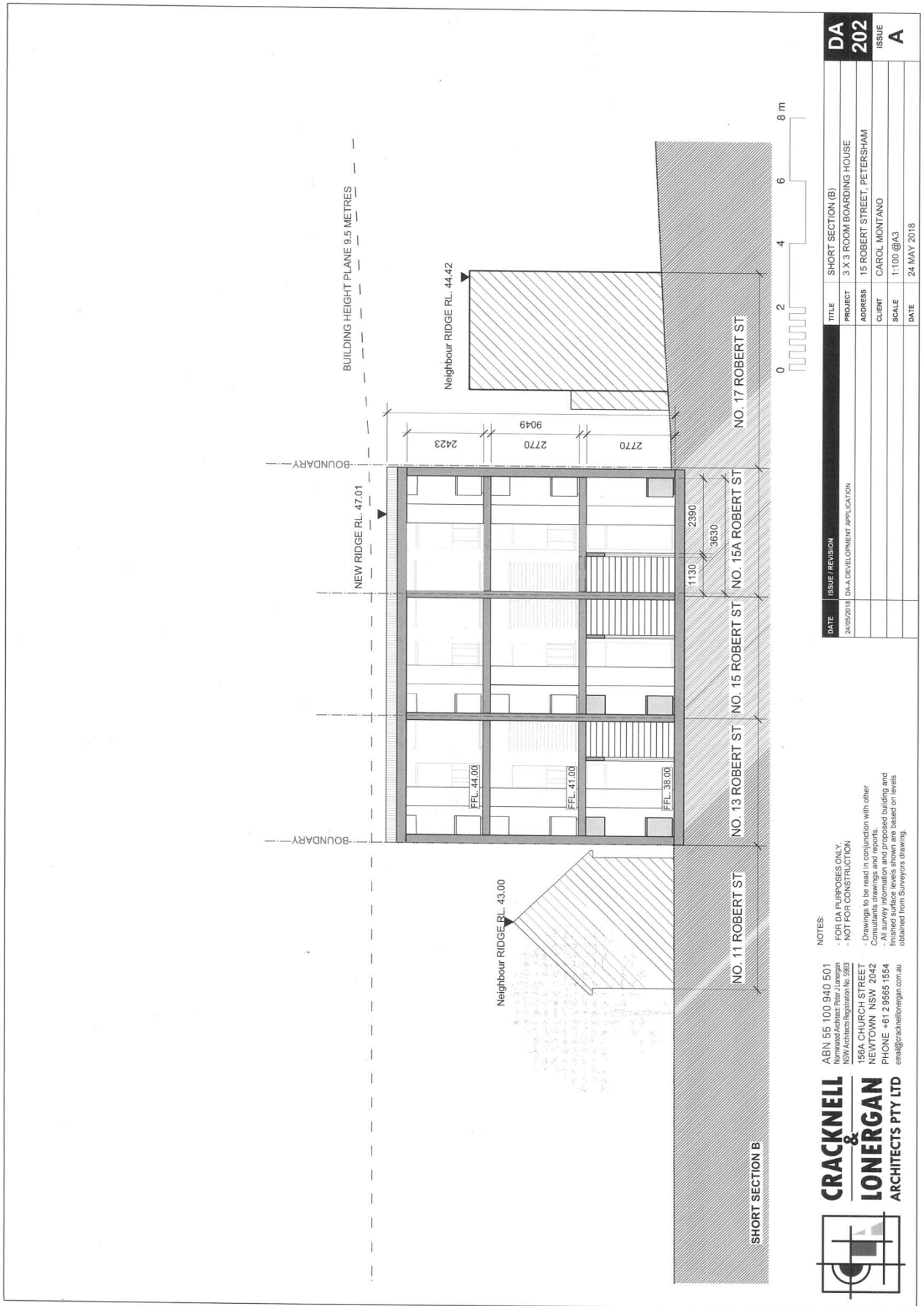


NOTES:  
 - FOR DA PURPOSES ONLY.  
 - NOT FOR CONSTRUCTION  
 - Drawings to be read in conjunction with other Consultants drawings and reports.  
 - All measurements and proposed building and finished surface levels based on levels obtained from Surveyors drawing.

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 155A CHURCH STREET  
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 ARCHITECTS PTY LTD



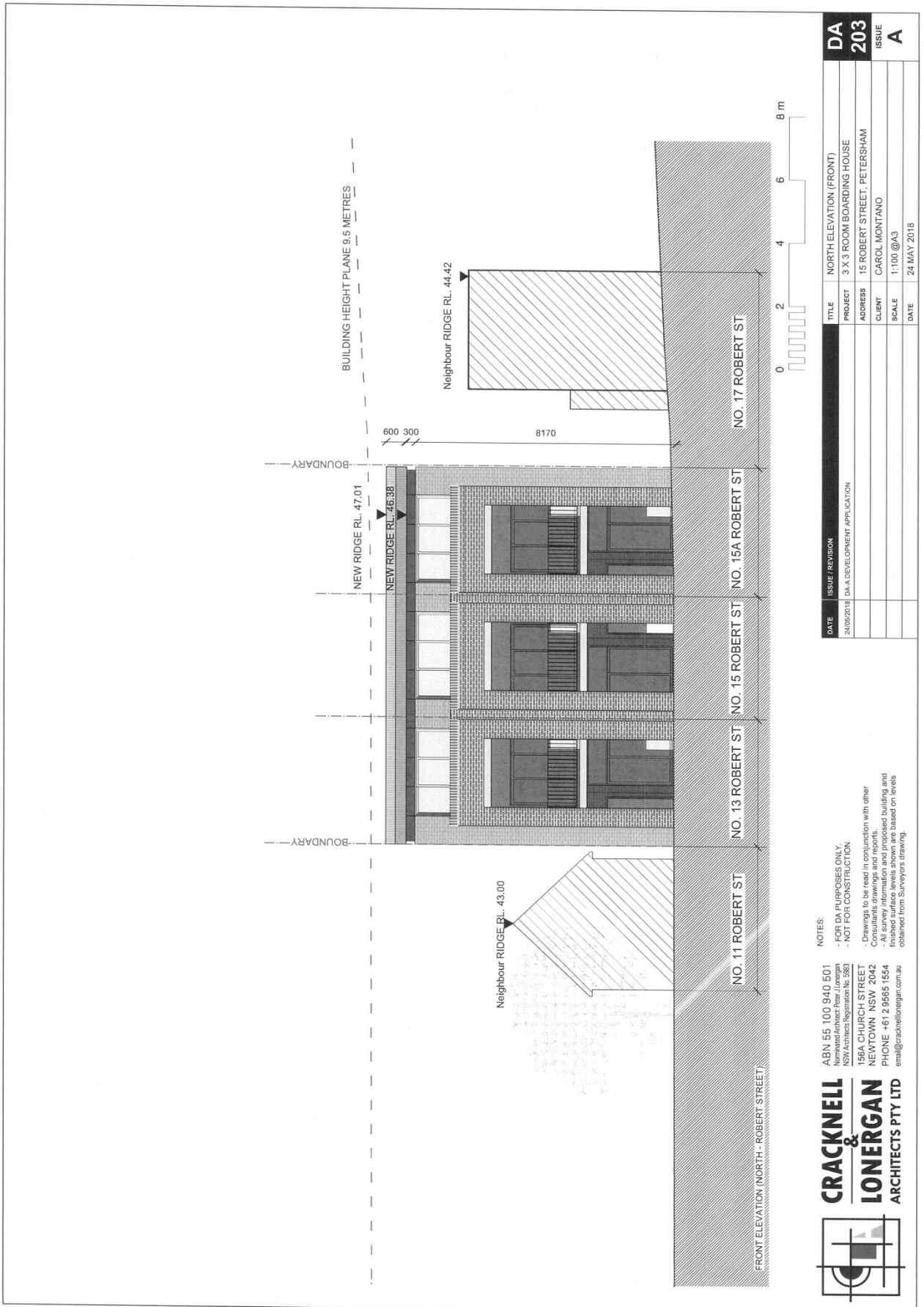


NOTES:  
 - FOR DA PURPOSES ONLY.  
 - NOT FOR CONSTRUCTION  
 - Drawings to be read in conjunction with other relevant drawings and proposed building and site plans.  
 - All survey reference levels shown are based on levels obtained from Surveyors drawing.

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DATE	ISSUE / REVISION	TITLE	NORTH ELEVATION (FRONT)
24/05/2018	DA.A DEVELOPMENT APPLICATION	PROJECT	3 X 3 ROOM BOARDING HOUSE
		ADDRESS	15 ROBERT STREET, PETERSHAM
		CLIENT	CAROL MONTANO
		SCALE	1:100 @A3
		DATE	24 MAY 2018

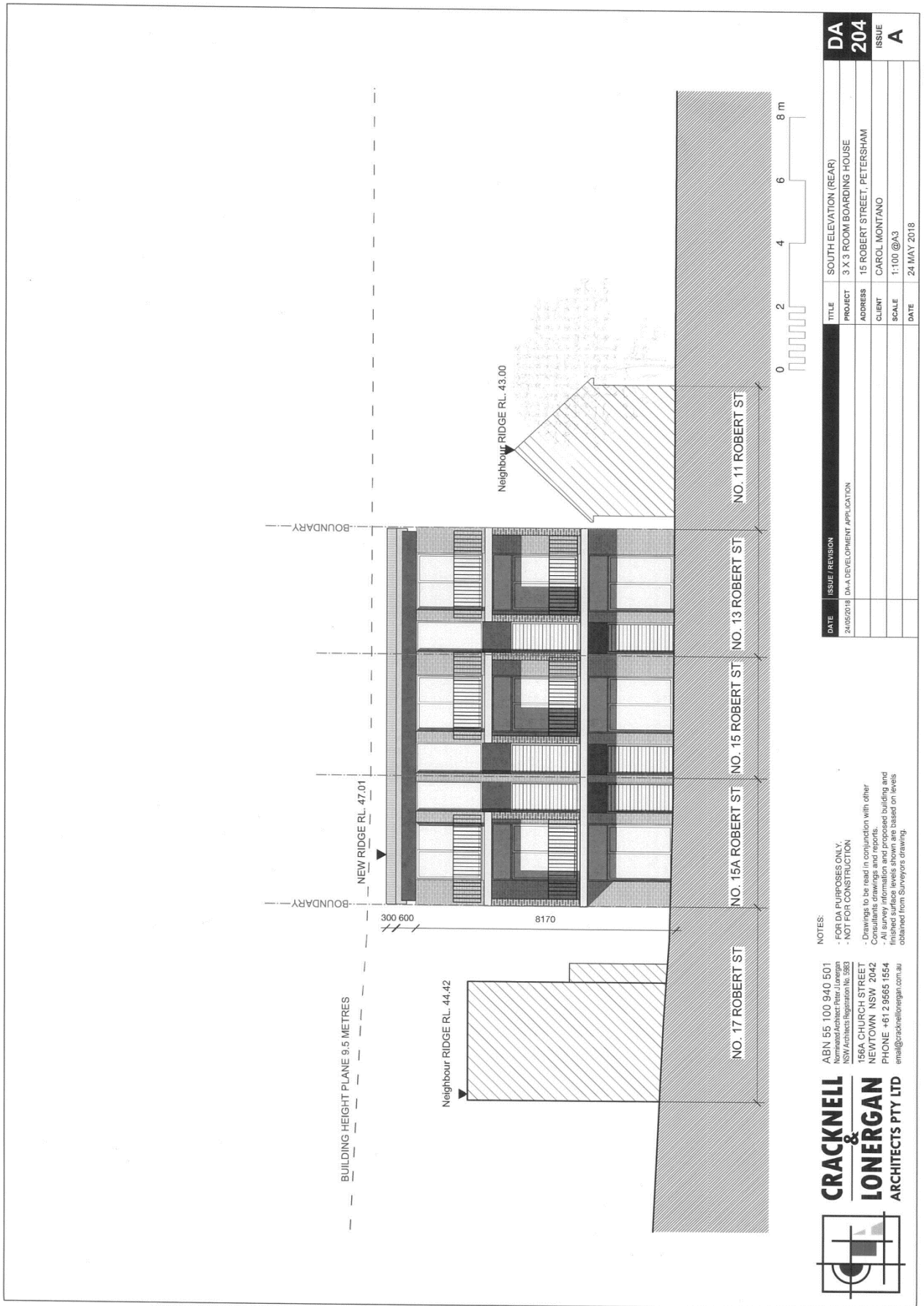
**CRACKNELL & LONERGAN ARCHITECTS PTY LTD**

ABN 55 100 940 501  
 Accredited Architect Peter J. Longren  
 NSW Architects Registration No. 5363  
 1564 CHURCH STREET  
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 PHONE +61 2 9565 1554  
 email@cracknelllongren.com.au

**NOTES:**

- FOR DA PURPOSES ONLY
- NOT FOR CONSTRUCTION
- Drawings to be read in conjunction with other information provided
- All survey information used in proposed building and finished surface levels shown are based on levels obtained from Surveyors drawing.

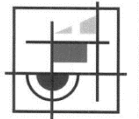




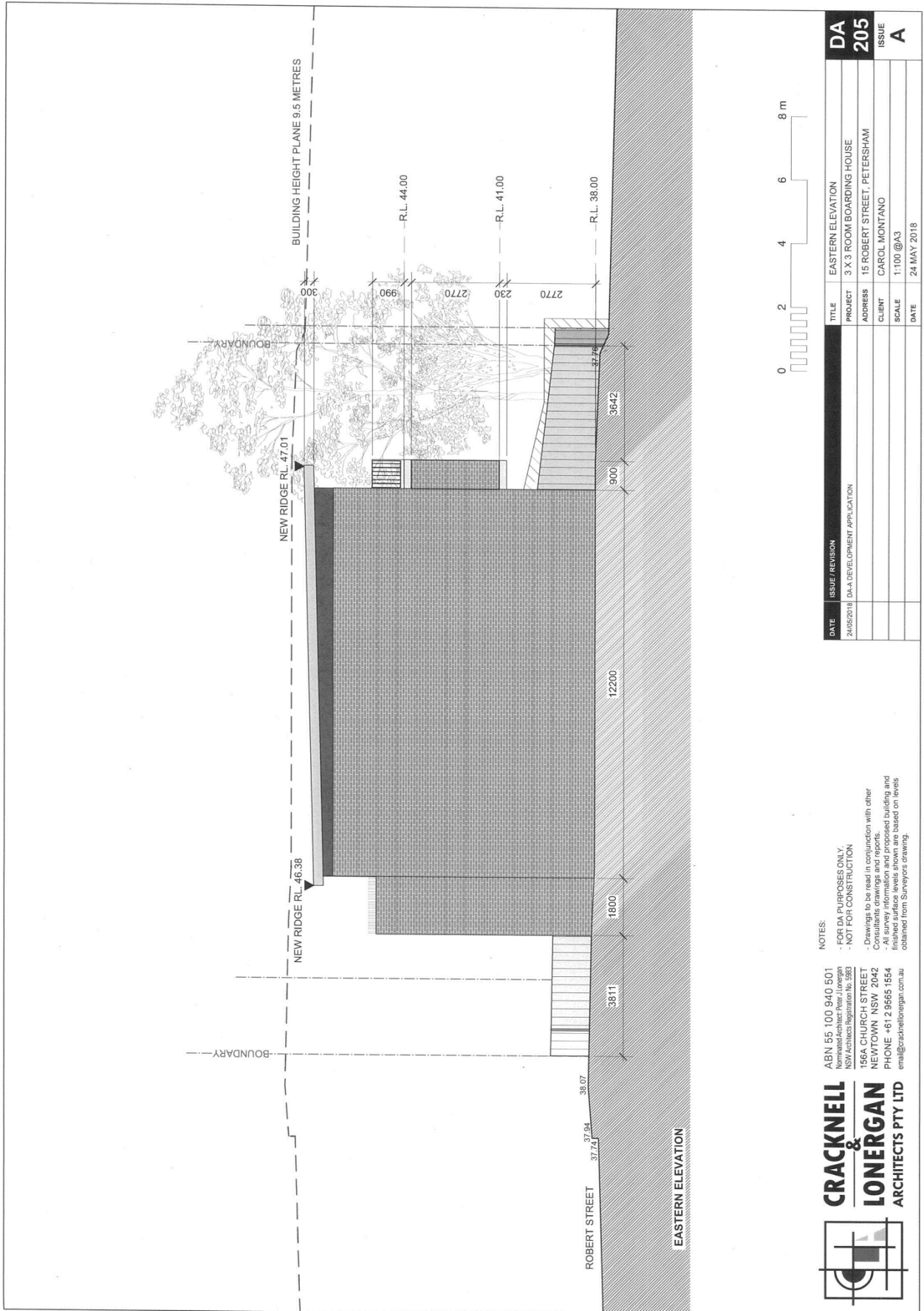
NOTES:  
 - FOR DA PURPOSES ONLY  
 - NOT FOR CONSTRUCTION  
 - Drawings to be read in conjunction with other  
 drawings and reports.  
 - All survey performance and finished building and  
 finished surface levels shown are based on levels  
 obtained from Surveyors drawing.

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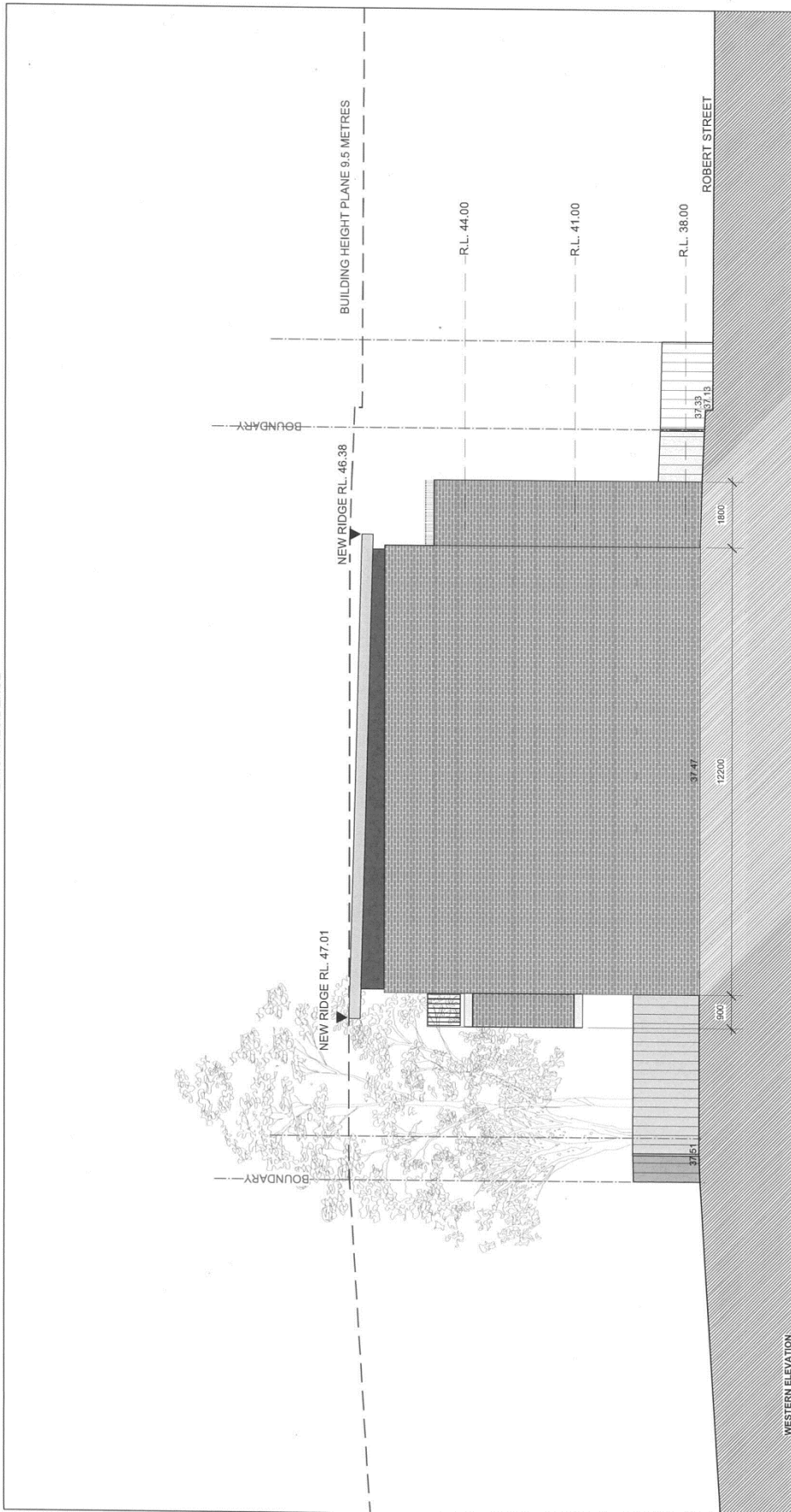
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DATE	ISSUE / REVISION	TITLE	DA
24/05/2018	DAA DEVELOPMENT APPLICATION	SOUTH ELEVATION (REAR) PROJECT 3 X 3 ROOM BOARDING HOUSE	204
		ADDRESS 15 ROBERT STREET, PETERSHAM	ISSUE
		CLIENT CAROL MONTANO	A
		SCALE 1:100 @A3	
		DATE 24 MAY 2018	



5A BRICK RESIDENCE



DATE	ISSUE / REVISION	TITLE	WESTERN ELEVATION
24/05/2018	DA DEVELOPMENT APPLICATION	PROJECT	3 X 3 ROOM BOARDING HOUSE
		ADDRESS	15 ROBERT STREET, PETERSHAM
		CLIENT	CAROL MONTANO
		SCALE	1:100 @A3
		DATE	24/MAY 2018

NOTES:

- FOR DA PURPOSES ONLY
- NOT FOR CONSTRUCTION
- Drawings to be read in conjunction with other Consultants drawings and reports.
- All building and finished surface levels shown are based on levels obtained from Surveyors drawing.

ABN 55 100 940 501  
 NSW Architect Registration No. 52893

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