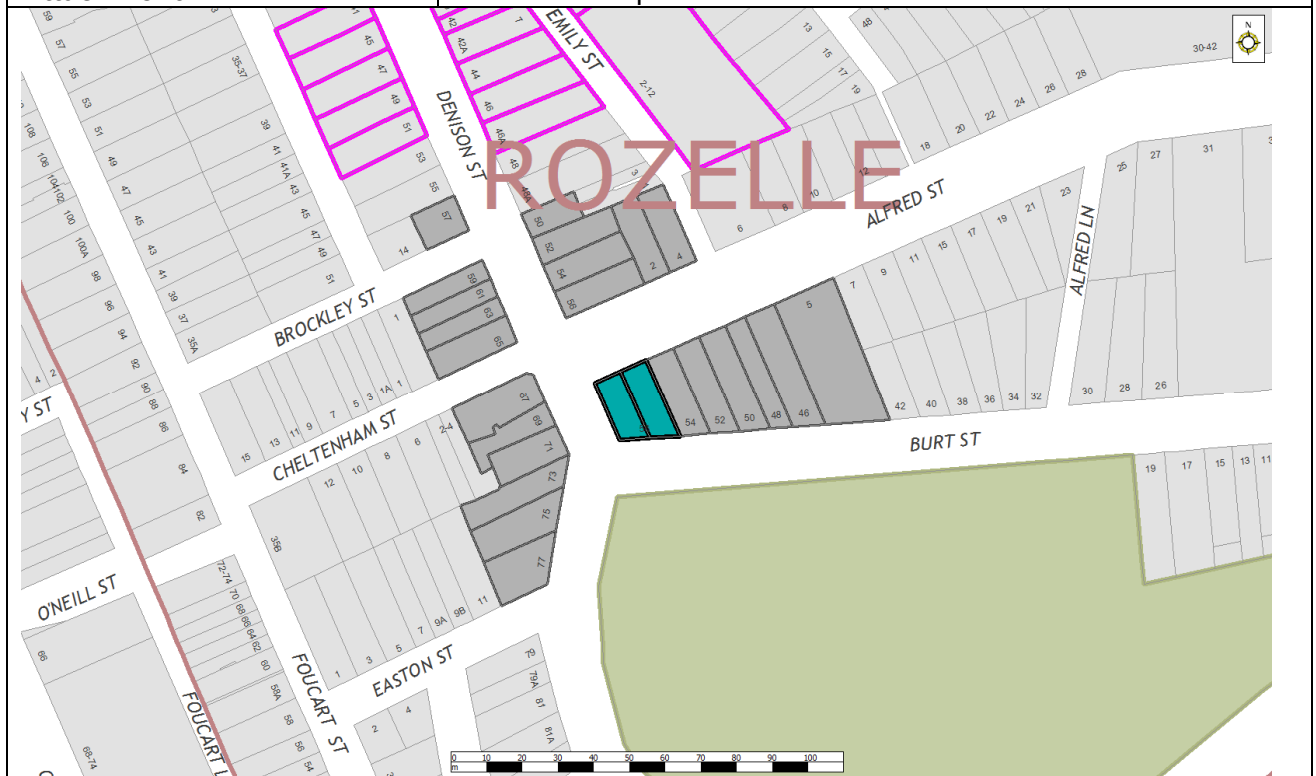




INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	D/2018/262
Address	Guesthouse, 56 Burt Street, ROZELLE NSW 2039
Proposal	Ground and first floor alterations to existing heritage listed boarding house building, resulting in a total of 26 boarding house rooms.
Date of Lodgement	22 May 2018
Applicant	M Barbara
Owner	Mr G Marzullo and Mrs S Marzullo [allows panel members to identify Council applications &/or conflicts]
Number of Submissions	Nil
Value of works	\$36,000
Reason for determination at Planning Panel	Heritage Item (alterations); Clause 4.6 variation exceeds officer delegation
Main Issues	Heritage; FSR; Parking; Solar Access; Boarding room sizes
Recommendation	Approval
Attachment A	Recommended conditions
Attachment B	Proposed Plans
Attachment C	Clause 4.6 requests



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of the application submitted to Council for ground and first floor alterations to an existing heritage listed boarding house building, resulting in a total of 23 boarding house rooms at Guesthouse, 56 Burt Street, Rozelle. The application was notified to surrounding properties and no submissions were received.

The main issues that have arisen from the application include:

- Boarding Room Sizes
- Solar Access
- Parking
- FSR
- Heritage

Notwithstanding the above, the proposal is acceptable given it generally reflects existing bedroom sizes (consistent with the bedroom size requirements of the Boarding House Act 2012) and no adverse streetscape, heritage, parking or amenity impacts arise. Therefore, the application is recommended for approval.

2. Proposal

The proposal involves internal alterations to the ground and first floor of an existing heritage listed licensed assisted boarding house.

The purpose of the proposal is to facilitate the conversion of a number of double rooms to single rooms given recent changes to the Boarding House Act 2012 requiring a maximum of one resident per bedroom (irrespective of room size) unless a resident specifically requests shared (two-person) occupation with a particular person of their choice.

Consequently, the proposal seeks to reconfigure the existing arrangement of 16 double rooms and 3 single rooms to create 16 single lodger rooms ranging from 7.6sqm to 9.8sqm and 7 double lodger rooms ranging from 12.8sqm to 15.7sqm. All rooms are capable of accommodating single beds. The maximum number of occupants will be reduced from 36 to 30 (exclusive of the existing caretaker's room).

Minor alterations are proposed to the existing bathrooms on the first floor resulting in a reduction in the number of toilets from 4 to 3 on the first floor. The proposal results in a minor 4.37sqm increase in floor space on the first floor due to infilling of an existing void to provide new access to a bathroom and bedroom. The existing caretaker's room, administration office, dining room, common room, kitchen, laundry, and ground floor bathrooms remain unchanged. No external changes are proposed as a part of the application.

In response to Council's concerns in relation to proposed first floor bedroom walls conflicting with three existing French doors, the proposal was revised to consolidate 6 single rooms to 3 double rooms (reducing the total number of rooms from 26 to 23 exclusive of the caretaker's room) and retain a complete set of French doors in each room.

Extracts of the proposed plans are shown in the figures below.



Figure 1: Proposed Ground Floor Plan at 56 Burt Street.



Figure 2: Proposed First Floor Plan at 56 Burt Street.

3. Site Description

The subject site is located on the northern side of Burt Street, between Denison Street and Alfred Street. The site consists of two allotments and is generally rectangular in shape with a total area of 334sqm and is legally described as Lots 20 and 21 DP 977519.

The site has frontages of 17.4m to Burt Street, 17.97m to Denison Street, and 15.93m to Alfred Street.

The site supports a two-storey building with timber posted street verandah to Burt Street and Denison Street. The adjoining properties support one and two storey dwellings, two storey shops and three to four storey residential flat buildings.

The subject site is listed as a local heritage item (I732). The property is not located within a conservation area, but is in the vicinity of heritage items (I752, I753, I754 and I755). The land is identified as a flood prone lot.

No trees are located on the site or in the vicinity as shown in the aerial photo below.



Figure 3: Aerial Photo of site and surrounds at 56 Burt Street.



Figure 4: Existing views of site from North (left) and South (right) at 56 Burt Street.

4. Background

4(a) Site history

The following section outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Subject Site

Application	Proposal	Decision & Date
DA 71/84	Conversion of existing building for low income accommodation	Approval 26/6/1984
Section 102 Modification	Increase the number of occupants within the existing boarding house from 32 to 36.	Approval 4/12/1997

Surrounding properties

Not applicable.

4(b) Application history

The following table outlines the relevant history of the subject application.

Date	Discussion / Letter/ Additional Information
8/11/2018	Applicant lodged Clause 4.6 requests to vary the FSR, landscaped area and site coverage standards.
25/10/2018	Council wrote to the Applicant requesting the submission of Clause 4.6 requests to vary the FSR, landscaped area and site coverage standards.
7/9/2018 & 20/9/2018	Applicant lodged revised plans reducing the number of rooms from 26 to 23 and additional information relating to BCA compliance, fire safety and accessibility.
17/8/2018	Council wrote to the Applicant requesting revised plans reducing the number of rooms from 26 to 23 and additional information relating to BCA compliance, fire safety and accessibility.

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 No 55—Remediation of Land
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- State Environmental Planning Policy (Coastal Management) 2018
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Leichhardt Local Environmental Plan 2013

The following provides further discussion of the relevant issues:

5(a)(i) State Environmental Planning Policy No 55—Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. LDCP 2013 provides controls and guidelines for remediation works. SEPP 55 requires that remediation works must be carried out in accordance with a Remediation Action Plan (RAP) as approved by the consent authority and any guidelines enforced under the Contaminated Land Management Act 1997.

The proposal seeks to continue the existing residential use of the land and does not involve any external works or disturbance to the ground. Therefore, it is considered that the site will not require remediation in accordance with SEPP 55. On this basis, the site is considered suitable for commercial use and it is considered that the site.

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

The proposal does not constitute ‘BASIX Affected Development’ given a development cost of less than \$50,000.

5(a)(iii) State Environmental Planning Policy (Affordable Rental Housing) 2009

The provisions of State Environmental Planning Policy (*Affordable Rental Housing*) 2009 are applicable to the proposed development. The relevant provisions of the State Policy are provided in the table below. Whilst the existing assisted boarding house does not achieve strict compliance with all of the relevant provisions below, it is considered that the proposal is acceptable on merit in the circumstances of the case and that consent may be granted notwithstanding strict non-compliance with the standards that cannot be used to refuse.

Standard	Compliance/Comment
<p><u>29 Standards that cannot be used to refuse consent</u> (1) <i>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, inter alia...</i> (a) <i>the existing maximum floor space ratio for any form of residential accommodation permitted on the land</i></p>	<p>The land is zoned R1 – General Residential.</p> <p>The maximum allowable FSR for any form of residential accommodation on the land under Clause 4.4 (2B)(d) of Leichhardt Local Environmental Plan (LLEP) 2013 is 0.8:1.</p> <p>The proposal involves a minor 4.37sqm increase in gross floor area due to the infilling of an existing first floor void, resulting in a FSR of 1.36:1.</p> <p>A Clause 4.6 request to vary the maximum FSR standard under LLEP 2013 accompanies the DA and is considered further below.</p>
<p>(2) <i>A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:</i></p>	
<p>(a) <i>building height if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any</i></p>	<p>The LLEP 2013 does not impose any height limit.</p> <p>The proposal does not involve any change to the external configuration of the building.</p>

<p><i>building on the land,</i></p>	
<p><i>(b) landscaped area if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located</i></p>	<p>The subject site does not contain any existing landscaped area. The proposal does not involve any external changes to the existing building or paved courtyard. The existing 0m front setbacks of the building are compatible with the streetscape.</p> <p>Therefore, the proposal is considered acceptable with respect to landscaped area.</p>
<p><i>(c) solar access 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 9am and 3pm in mid-winter,</i></p>	<p>The existing communal living room is located in the south-western corner of the site and presents an active street frontage to Denison Street and Burt Street. Given the existing internal layout, the development does not achieve 3 hours direct sunlight between 9am and 3pm in mid-winter to the communal living room.</p> <p>However, the proposal does not involve any changes to the existing ground floor communal living room or dining room. Further, overall it is considered that the existing boarding house achieves a satisfactory level of internal and external amenity with north facing private open space on ground and street facing balconies to the west and south with district views.</p> <p>Therefore, the proposal is considered acceptable with respect to solar access.</p>
<p><i>(d) private open space if at least the following private open space areas are provided (other than the front setback area):</i> <i>(i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers,</i> <i>(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,</i></p>	<p>An existing paved private open space area of 78.3sqm with dimensions of 6.4m x 9.9m is provided at the rear, which complies. In addition, the first floor verandah has a total area of 98.4sqm with a useable depth of 2.5m.</p> <p>The existing caretaker's room is located on the ground floor in close proximity to the paved private open space area. Whilst not directly adjacent to private open space, this is considered acceptable given no changes are proposed to the existing caretaker's room.</p> <p>Therefore, the proposal is considered acceptable with respect to private open space.</p>
<p><i>(e) parking if:</i> <i>(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</i></p>	<p>Based on a total of 23 rooms and 1 onsite caretaker, a total of 13 car spaces are required. Taking into account an existing car parking demand of 11 car spaces based on 19 rooms and 1 caretaker, the proposal results in a net car parking demand of 2 car</p>

<p>are provided for each boarding room, and</p> <p>(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</p> <p>(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</p> <p>(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,</p>	<p>spaces.</p> <p>The existing approval under DA 71/84 provided a total of 4 car spaces in a stacked formation within the rear paved courtyard to be used as private open space when not occupied by motor vehicles. However, based on the position of the existing laundry and external stairs, only 2 car spaces can be accommodated within the rear paved area. Further, a site inspection revealed that the rear paved area is currently being wholly used for private open space.</p> <p>Whilst the proposal involves an increase of 4 rooms, the total number of occupants will be reduced from 36 to 30 and does not involve any external changes to the existing building or paved courtyard. Further, given the nature of the proposal as an existing “assisted boarding house” licensed under the Boarding House Act 2012 to cater for “persons with additional needs”, it is considered that the car parking demand of the subject proposal is lower than that of “general boarding houses” or modern “new generation boarding houses”. In addition, a condition will be imposed requiring the provision of bicycle and motorcycle parking as discussed further below.</p> <p>Therefore, the proposal is considered to be acceptable with respect to car parking given the existing paved area is able to accommodate up to 2 cars (if required) when not in use as private open space.</p>
<p>(f) accommodation size 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:</p> <p>(i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or</p> <p>(ii) 16 square metres in any other case.</p>	<p>The proposal involves the provision of 16 single lodger rooms ranging from 7.6sqm to 9.8sqm and 7 double lodger rooms ranging from 12.8sqm to 16.6sqm. With the exception of two existing double rooms on the ground floor of 16.3sqm and 16.6sqm (to be retained) and the caretaker’s room, none of the existing rooms comply with the current room size requirements.</p> <p>All rooms are capable of accommodating single beds with sufficient circulation space and opportunities for bedside tables/storage. No private kitchenettes or bathroom facilities are proposed. In addition, it is considered that the room sizes are appropriately offset by generous communal living, dining and kitchen areas (totalling 81.9sqm or 24.5% of the site area) and private space areas (totalling 176.7sqm or 52.9% of the site</p>

	<p>area). Further, the proposal maintains compliance with the room size provisions of the Boarding House Act 2012, which only require 7.5sqm for single rooms and 11sqm for double rooms.</p> <p>Given the nature of the proposal as an existing “assisted boarding house” licensed under the Boarding House Act 2012 to cater for “persons with additional needs” as opposed to “general boarding houses” or modern “new generation boarding houses”, a variation to the accommodation size requirements is considered acceptable on merit in this instance and unlikely to result in an adverse precedent. In this regard, a condition will be imposed requiring the proposal to remain consistent with the terms of the current approval under DA 71/84 that restricts incoming tenants to genuine low income tenants only with maximum rental levels set at 75% of the maximum single aged/invalid pension plus supplementary rental allowance.</p> <p>Therefore, the proposal is considered acceptable with respect to accommodation size.</p>
<p>(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.</p>	<p>The existing caretaker’s room contains a private kitchenette and bathroom facility. No private kitchenettes or bathroom facilities are proposed within the boarding rooms.</p>
<p>(4) A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (1) or (2).</p>	<p>As noted previously, whilst the existing assisted boarding house does not achieve strict compliance with all of the relevant provisions above, it is considered that the proposal is acceptable on merit in the circumstances of the case and that consent may be granted notwithstanding strict non-compliance. A Clause 4.6 request has been submitted as a part of the DA to vary the FSR, site coverage and landscaped area standards under LLEP 2013, which is considered further below.</p>
<p>30 Standards for boarding houses</p>	
<p>(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:</p>	
<p>(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,</p>	<p>The proposal includes a communal living room of 36sqm, with separate communal dining and kitchen areas.</p>
<p>(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,</p>	<p>No boarding room has an area exceeding 25sqm (excluding any area used for the purposes of private kitchen or bathroom facilities).</p>
<p>(c) no boarding room will be occupied by</p>	<p>No boarding room will be occupied by more</p>

<p><i>more than 2 adult lodgers,</i></p>	<p>than 2 lodgers. A total of 7 rooms have the capacity for 2 lodgers as assessed above. The total amount of lodgers will therefore be 30.</p> <p>It is recommended that the maximum number of adult lodgers be reaffirmed by way of condition.</p>
<p><i>(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,</i></p>	<p>Adequate communal bathroom and kitchen facilities are available within the boarding house for the use of each lodger.</p>
<p><i>(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,</i></p>	<p>The boarding house has the capacity to accommodate 30 lodgers, and as a result, a boarding house manager is required. A condition will be imposed requiring the existing caretaker's arrangements to be maintained onsite in accordance with the current approval.</p>
<p><i>(f) (Repealed)</i></p>	
<p><i>(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,</i></p>	<p>The site is not zoned for commercial purposes.</p>
<p><i>(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.</i></p>	<p>The amended proposal seeks 23 rooms, requiring 5 bicycle and 5 motorcycle parking spaces.</p> <p>A condition will be imposed requiring the provision of 5 bicycle and 5 motorcycle parking spaces within the paved rear courtyard.</p>
<p>30A<i>Character of local area</i> <i>A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.</i></p>	<p>The proposal does not involve any change to the external configuration or appearance of the building and will not result in any adverse streetscape or heritage impacts. Therefore, the proposal is considered to be compatible with the character of the local area.</p>
<p>50 – Reduction of availability of affordable housing</p>	
<p><i>(1) A person must not do any of the following in relation to a building to which this Part applies except with development consent:</i> <i>(a) demolish the building,</i> <i>(b) alter or add to the structure or fabric of the inside or outside of the building,</i> <i>(c) change the use of the building to another use (including, in particular, a change of use to backpackers accommodation),</i> <i>(d) if the building is a residential flat building, strata subdivide the building.</i></p>	<p>The proposal relates to the alteration of the structure of fabric of the inside of a boarding house, being a low-rental residential building as at 28 January 2000. Therefore, the provisions of Clause 50 apply to the proposal.</p>
<p><i>(2) In determining a development application</i></p>	<p>The purpose of the proposal is to facilitate</p>

referred to in subclause (1), the consent authority is to take into account the guidelines and each of the following:

(a) whether there is likely to be a reduction in affordable housing on the land to which the application relates,

(b) whether there is available sufficient comparable accommodation to satisfy the demand for such accommodation,

(c) whether the development is likely to cause adverse social and economic effects on the general community,

(d) whether adequate arrangements have been made to assist the residents (if any) of the building likely to be displaced to find alternative comparable accommodation,

(e) the extent to which the development contributes to any cumulative loss of affordable housing in the local government area,

(f) the structural soundness of the building, the extent to which the building complies with any relevant fire safety requirements and the estimated cost of carrying out work necessary to ensure the structural soundness of the building and the compliance of the building with the fire safety requirements,

(g) whether the imposition of a condition requiring the payment of a monetary contribution for the purposes of affordable housing would adequately mitigate the reduction of affordable housing resulting from the development,

(h) in the case of a boarding house, the financial viability of the continued use of the boarding house.

(3) For the purposes of subclause (2) (b), sufficient comparable accommodation is conclusively taken to be not available if the average vacancy rate in private rental accommodation for Sydney as published monthly by the Real Estate Institute of New South Wales is, for the 3 months immediately preceding the date of lodgment of the development application, less than 3 per cent.

(4) For the purposes of subclause (2) (h), the continued use of a boarding house is financially viable if the rental yield of the boarding house determined under clause 51

(5) not less than 6 per cent.

the conversion of a number of double rooms to single rooms given recent legislative changes to the Boarding House Act 2012 requiring a maximum of one resident per bedroom (irrespective of room size) unless a resident specifically requests shared (two-person) occupation with a particular person of their choice.

Consequently, the proposal seeks to reconfigure the existing arrangement of 16 double rooms and 3 single rooms to create 16 single lodger rooms ranging from 7.6sqm to 9.8sqm and 7 double lodger rooms ranging from 12.8sqm to 15.7sqm. All rooms are capable of accommodating single beds.

Whilst the maximum number of occupants will be reduced from 36 to 30 (exclusive of the existing caretaker's room), the proposal effectively ensures that the minimum number of low income residents will be increased from 19 lodgers to 23 lodgers based on one resident per room.

Therefore, it is considered that the proposal will not result in a reduction in affordable housing on the land or in the locality and that a monetary contribution is not warranted in the circumstances.

The proposal was accompanied with BCA, Accessibility and Fire Safety Reports, which will be implemented as a part of the proposal.

The proposal also assists in ensuring the continued financial viability of the boarding house, whilst meeting the new requirements of the Boarding House Act.

The Affordable Rental Housing Guidelines, dated October 2009, complement and reinforce the provisions of Clause 50.

Furthermore, a condition will be imposed requiring the proposal to remain consistent with the terms of the current approval under DA 71/84 that restricts incoming tenants to genuine low income tenants only with maximum rental levels set at 75% of the maximum single aged/invalid pension plus supplementary rental allowance.

Therefore, it is considered that the proposal is satisfactory with respect to the provisions of the Guidelines and the matters of

	consideration under Clause 50(2) and will not result in any adverse impacts in terms to the availability of affordable housing.
<i>52 – No subdivision of boarding houses</i>	
<i>A consent authority must not grant consent to the strata subdivision or community title subdivision of a boarding house.</i>	Noted. It is recommended a condition be imposed to reaffirm this Clause.

5(a)(iv) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The proposal does not involve any tree removal.

5(a)(v) State Environmental Planning Policy (Coastal Management) 2018

The subject site is not located within the coastal zone and as such, these provisions are not applicable.

5(a)(vi) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject site is not within the Foreshores and Waterways Area.

5(a)(vii) Leichhardt Local Environment Plan 2013 (LLEP 2013)

The application was assessed against the following relevant clauses of the Leichhardt Local Environmental Plan 2013:

- Clause 1.2 – Aims of the Plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition Requires Development Consent
- Clause 4.3A(3)(a) – Landscaped Area for residential development in Zone R1
- Clause 4.3A(3)(b) – Site Coverage for residential development in Zone R1
- Clause 4.4 – Floor Space Ratio
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 5.10 – Heritage Conservation
- Clause 6.1 – Acid Sulphate Soils
- Clause 6.3 – Flood Planning
- Clause 6.4 – Stormwater management

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

Standard (maximum)	Proposal	% of non compliance	Compliances
Floor Space Ratio LEP = 0.7:1 (233.8sqm)	1.36:1 455.749sqm	94.93%	No
Landscape Area 20% (66.8sqm)	0% (no change to existing)	100%	No
Site Coverage 60% (200.4sqm)	76.64% 255.98sqm	27.73%	No

	(no change to existing)		
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Note: The proposal involves no change to existing landscaped area or site coverage. A minor 4.37sqm increase in gross floor area is proposed due to the infilling of an existing first floor void for access to a bedroom and bathroom, resulting in a change of FSR from 1.35:1 (existing) to 1.36:1 (proposed).

The following provides further discussion of the relevant issues:

Clause 4.6 Exceptions to Development Standards

As outlined in table above, the proposal results in a breach of the following development standard/s:

- Clause 4.3A(3)(a)(ii) – Landscaped Area
- Clause 4.3A(3)(b) – Site Coverage
- Clause 4.4 – Floor Space Ratio

Clause 4.6(2) specifies that Development consent may be granted for development even though the development would contravene a development standard.

1. *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
2. *Development consent may be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.*

Comment: As discussed below in subclauses (3) and (4), it is considered that the contravention to the development standard is acceptable in this instance.

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment: The ‘key’ reasons submitted by the applicant as justification to the contravention of the standards are:

Clause 4.3A(3)(a) – Landscaped Area

The proposed development seeks to maintain the existing Landscaped Area of 0%. Notwithstanding numerical non-compliance, the applicant contends that the proposed building satisfies the stated objectives given that:

- *The proposed works remain consistent and are compatible with the existing site.*
- *There is no reduction in landscaped area because the existing landscaped area is 0%.*
- *The opportunity to provide additional deep soil landscaping is limited in the backyard because it is occupied by an existing outside courtyard.*

- *The proposal does not increase the site coverage and provides adequate and usable ground level open space for recreation and landscaping as well as to contain urban run-off.*
- *The proposal does not reduce the site's existing landscaped area. The site coverage is maintained, the proposal also maintains the site's existing landscaped area whilst contributing to the landscape and townscape area character of Leichhardt's residential area.*

Clause 4.3A(3)(b) – Site Coverage

The proposed development seeks to maintain the existing Site Coverage of 76.64% (or a building of 255.98sqm). Notwithstanding numerical non-compliance, the applicant contends that the proposed building satisfies the stated objectives given that:

- *The proposed works remain consistent and are compatible with the existing site.*
- *There is no increase in the existing site coverage.*
- *The non-compliance with the FSR exists and is historical. There is no change proposed to the building footprint and existing site landscaped and site coverage is not increased.*
- *The proposal will achieve a better planning outcome for residents.*
- *The site coverage is maintained, the proposal also maintains the site's existing landscaped area whilst contributing to the landscape and townscape area character of Leichhardt's residential area.*
- *The proposal does not increase the site coverage and provides adequate and usable ground level open space for recreation and landscaping as well as to contain urban run-off.*
- *The proposal does not increase the surface area of the existing building's roof.*
- *The proposal does not increase the buildings footprint.*

Clause 4.4 – Floor Space Ratio

The proposed development seeks to provide a Floor Space Ratio of 1.36:1 (or a building of 455.749sqm). Notwithstanding numerical non-compliance, the applicant contends that the proposed building satisfies the stated objectives given that:

- *The proposed works remain consistent and are compatible with the existing site.*
- *The proposal does not increase the surface area of the existing building's roof.*
- *The proposal does not increase the building footprint.*

(4) *Development consent must not be granted for development that contravenes a development standard unless:*

(a) *the consent authority is satisfied that:*

- the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

(b) *the concurrence of the Secretary has been obtained.*

Comment: The applicant has addressed the matters required under Clause 4.6 Exceptions to development standards, and it is considered to be well founded in this instance. The proposal will not result in a detrimental impact on the public interest and can satisfy the objectives of the development standard/s and General Residential zoning as demonstrated below:

- The proposal is compatible with the existing character of the area in relation to building siting, bulk, form and scale.

- The proposal results in no change to the external form of the building or existing site coverage and landscaped area.
- The proposal does not result in any undue adverse amenity impacts to surrounding properties or any adverse heritage, streetscape or traffic impacts.
- The minor additional 4.37sqm increase of floor space within the existing building envelope will be visually imperceptible from the street and is necessary for the retention of existing low income assisted boarding housing, which would otherwise be lost due to recent legislative changes to the Boarding House Act 2012 requiring a maximum of one resident per bedroom (irrespective of room size) unless a resident specifically requests twin occupation with a particular person of their choice.
- The proposal will not be out of character with the FSR, site coverage and landscaped area characteristic of the general pattern of development in the vicinity.

Clause 5.10 – Heritage Conservation

The subject site is listed as a local heritage item known as Smith's Hall (I732) and is in the vicinity of heritage items (I752, I753, I754 and I755).

The property features a large building constructed in 1908 as a dance hall and converted in 1985 into a boarding house. This conversion was done under the guidance of OCP Architects. The current DA was accompanied by a Heritage Impact Statement (HIS) prepared by OCP Architects, which confirms that all first floor interior walls date from 1985 and are of low significance and that the first floor verandahs also date from 1985. The proposed changes mostly affect this non-significant 1985 fabric, and there are no proposed changes to the exterior of the building.

The HIS considers that the proposed changes to the first floor arrangement of interior rooms has little heritage impact since this interior fabric dates from 1985. The proposed ground floor change involving an adjustment to a doorway to relocate a hallway into administrative rooms is minor and will not result in any adverse heritage impacts to the item. Council's heritage officer has reviewed the proposal and raised no objections to the proposal as lodged. Therefore, the proposal is considered acceptable with respect to heritage.

5(b) Draft Environmental Planning Instruments

Draft State Environmental Planning Policy (Environment) 2018

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of our natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until 31 January 2018. The EIE outlines changes to occur, implementation details, and the intended outcome. It considers the existing SEPPs proposed to be repealed and explains why certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland and Willandra Lakes World Heritage Property. Changes proposed include consolidating seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development would be consistent with the intended requirements within the Draft Environment SEPP.

5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Leichhardt Development Control Plan 2013.

Part	Compliance
Part A: Introductions	
Section 3 – Notification of Applications	Yes
Part B: Connections	
B1.1 Connections – Objectives	Yes
B3.1 Social Impact Assessment	Yes – Refer to discussion below
Part C	
C1.0 General Provisions	Yes
C1.1 Site and Context Analysis	Yes
C1.3 Alterations and Additions	Yes
C1.4 Heritage Conservation Areas and Heritage Items	Yes
C1.5 Corner Sites	Yes
C1.7 Site Facilities	Yes
C1.8 Contamination	Yes
C1.9 Safety by Design	Yes – Refer to discussion below
C1.10 Equity of Access and Mobility	Yes – Refer to discussion below
C1.11 Parking	ARH SEPP
Part C: Place – Section 2 Urban Character	
C2.2.5.2 Easton Park Distinctive Neighbourhood	Yes
Part C: Place – Section 3 – Residential Provisions	
C3.1 Residential General Provisions	Yes
C3.2 Site Layout and Building Design	N/A – No external changes to existing building
C3.3 Elevation and Materials	N/A – No external changes to existing building
C3.4 Dormer Windows	N/A
C3.5 Front Gardens and Dwelling Entries	N/A – No external changes to existing building
C3.6 Fences	N/A – No external changes to existing building
C3.7 Environmental Performance	Yes
C3.8 Private Open Space	ARH SEPP
C3.9 Solar Access	Yes
C3.10 Views	Yes
C3.11 Visual Privacy	Yes
C3.12 Acoustic Privacy	Yes
Part C: Place – Section 4 – Non-Residential Provisions	N/A
Part D: Energy	Yes
Part E: Water	N/A
Part F: Food	N/A
Part G: Site Specific Controls	N/A

B3.1 Social Impact Assessment

The DA was supported by a Social Impact Statement, which concludes that the proposal will remain consistent with the operational model of the current assisted boarding house facility as licensed under the Boarding House Act 2012. The proposal is wholly consistent with Council's Affordable Housing Strategy with the objective to promote affordable housing within the LGA.

In addition, a condition will be imposed requiring the proposal to remain consistent with the terms of the current approval under DA 71/84 that restricts incoming tenants to genuine low income tenants only with maximum rental levels set at 75% of the maximum single aged/invalid pension plus supplementary rental allowance. Council's Social Planner has reviewed the proposal and raised no objections.

Therefore, it is considered that the proposal will not result in any adverse social impacts and will maintain ongoing positive social impacts through the provision of low income housing for persons with additional needs.

C1.9 Safety by Design

A condition will be imposed requiring the preparation of a Plan of Management (POM) incorporating the current 'house rules' and terms and conditions for occupants on the site to be submitted to, and approved by, Council prior to the issue of any occupation certificate.

The assisted Boarding House will also remain registered and licensed under the Boarding House Act 2012.

C1.10 Equity of Access and Mobility

The proposal was accompanied with Building Code of Australia (BCA) and Accessibility Report. Given the heritage status of the existing building and limited opportunity to retrofit the building, it is considered that the proposal is acceptable with respect to accessibility. A condition will be imposed requiring the proposal to comply with the performance based solutions and relevant exemptions outlined in the BCA and Accessibility Report prior to the issue of the Construction Certificate.

Part E: Water

The site is identified as a Flood Control Lot under Part E (Water) of DCP2013. In accordance with Section E1.3.1 of the DCP a report is not required where the value of works is under \$50,000. In addition the number of residents is being reduced under the proposal and the majority of the works are to the first floor which is above the flood planning level.

Council's engineer has reviewed the proposal and raised no objections subject to a condition requiring a flood risk management plan given the existing ground floor is below the flood planning level and potentially the 100 year flood level.

5(d) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

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

The site is zoned R1 General Residential. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(f) Any submissions

The application was notified in accordance with Council's Policy for a period of 14 days to surrounding properties. No submissions were received.

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 not contrary to the public interest.

6 Referrals

6(a) Internal

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

- Heritage Officer: No objections to proposal as lodged.
- Development Engineer: No objections subject to conditions.
- Building Surveyor: No objections subject to conditions.
- Social Planner: No objections to proposal as lodged.

6(b) External

The application was not required to be referred externally.

7. Section 7.11 Contributions

Section 7.11 contributions are not payable for the proposal.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in ARH SEPP 2009, Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6(3) of the LEP in support of the contravention of the development standards for Clause 4.3A(3)(a) Landscape Area, 4.3A(3)(b) Site Coverage and Clause 4.4 Floor Space Ratio. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds, the proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, grant consent to Development Application No: D/2018/262 for

Ground and first floor alterations to existing heritage listed boarding house building, resulting in a total of 26 boarding house rooms at Guesthouse, 56 Burt Street, ROZELLE NSW 2039 subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

- Development must be carried out in accordance with Development Application No. 2018/262 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Dwg. No. A1, Ground Floor Plan - Existing	Cad Draft P/L	5/9/2018
Dwg. No. A2, First Floor Plan - Existing	Cad Draft P/L	5/9/2018
Dwg. No. A3, Ground Floor Plan - Proposed	Cad Draft P/L	5/9/2018
Dwg. No. A4, First Floor Plan - Demo	Cad Draft P/L	5/9/2018
Dwg. No. A5, First Floor Plan - Proposed	Cad Draft P/L	5/9/2018
Document Title	Prepared By	Dated
BCA Report	NSW Certifiers	September 2018
Access Report	Morris Goding Access Consulting	14/9/2018

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

Where there is an inconsistency between approved elevations and floor plan, the elevation shall prevail.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

The existing elements (walls, floors etc) shown to be retained on the approved plans shall not be removed, altered or rebuilt without prior consent of the consent authority.

Note: Carrying out of works contrary to the above plans and/ or conditions may invalidate this consent; result in orders, on the spot fines or legal proceedings.

- Consent is granted for the demolition of the following currently existing on the property, subject to strict compliance with the following conditions:

Elements	Location
As indicated in red on the approved plans	Ground & First Floors

- The adjoining residents must be notified seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence, site contact details/person, elements to be demolished and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of and directly opposite the demolition site.
- Written notice is to be given to the Principal Certifying Authority for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections must be undertaken by the Principal Certifying Authority:
 - A pre commencement inspection when all the site works are installed on the site and prior to demolition commencing.
 - A final inspection when the demolition works have been completed.

NOTE: If Council is nominated as your Principal Certifying Authority 24 - 48 hours notice to carry out inspections is required. Arrangement for inspections can be made by phoning 9367 9222.

- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves etc). Access to the site must be restricted to authorised persons only and the site must be secured against unauthorised entry when work is not in progress or the site is otherwise unoccupied.
- e) The demolition plans must be submitted to the appropriate Sydney Water Quick Check agent for a building plan approval.
- f) Demolition is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: Demolition of structures.
- g) The hours of demolition work are limited to between 7:00am and 6.00pm on weekdays. No demolition work is to be carried out on Saturdays, Sundays and public holidays.
- h) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover New South Wales and the Environmental Protection Authority.
- i) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- j) During demolition, public property (footpaths, roads, reserves etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition.
- k) All vehicles leaving the site with demolition materials must have their loads covered and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.
- l) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
- m) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense. Dial before you dig www.1100.com.au should be contacted prior to works commencing.
- n) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works and must be maintained at all times.
- o) Prior to demolition, a Work Plan must be prepared and submitted to the Principal Certifying Authority in accordance with the relevant provisions of Australian Standard 2601:2001 Demolition of structures by a person with suitable expertise

and experience. The Work Plan must identify hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.

- p) If the property was built prior to 1987 an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:
 - i) A WorkCover licensed contractor must undertake removal of all asbestos.
 - ii) During the asbestos removal a sign "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400 mm x 300 mm is to be erected in a visible position on the site to the satisfaction of Council.
 - iii) Waste disposal receipts must be provided to Council / Principal Certifying Authority as proof of correct disposal of asbestos laden waste.
 - iv) All removal of asbestos must comply with the requirements of WorkCover and Leichhardt Council.
 - v) An asbestos clearance certificate prepared by a qualified occupation hygienist must be provided at the completion of the demolition works.
3. The 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 41** of this consent 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 to 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 boarding house must contain a maximum total of 23 lodger rooms with not more than 30 adult lodgers residing in the premises at any one time;
 - g) All boarding rooms are to be occupied by no more than one lodger with the exception of Boarding Rooms 1 to 4, 10, 19 and 21, which are not to be occupied by more than 2 lodgers;
 - 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;
 - j) Each boarding house room must be used exclusively as such and not be adapted for use as backpackers' accommodation, serviced apartments and not be used for any industrial or commercial purpose.
 - k) Where boarding rooms are provided with separate individual hot water systems, these must be located within the internal area of the boarding room and not on any balcony or terrace.

- l) The Plan of Management is to be amended to require there to be a sign close to the street erected on the property with an after-hours contact name and telephone number of the Manager for residents to call in the event of an emergency.
4. The boarding house is to operate in accordance with the following terms of the current approval under DA 71/84:
- a) Incoming tenants are to be low income tenants only with maximum rental levels set at 75% of the maximum single aged/invalid pension plus supplementary rental allowance.
 - b) Parking spaces shall be paved so as to allow use as private open space when not occupied by motor vehicle.
 - c) A housekeeper/s is to reside permanently on the premises in the caretaker's room. The caretaker's room is to be occupied only by persons working on the premises. The housekeeper is to be a registered nurse; that is, the holder of a nursing certificate.
5. The boarding house must be operated as an "assisted boarding house" in accordance with the Boarding Houses Act 2012.
6. All owners, tenants and occupiers of this building are not eligible to participate in any existing or proposed Council Resident Parking Schemes. All occupants and/or employees of this building will be ineligible to obtain Council Resident Parking Scheme parking permits. All tenants and occupiers of the building, are to be advised of this at the time of entering into a purchase / lease / occupancy agreement, of this prohibition.

Signs reading "all owners, tenants and occupiers of this building advising that they are not eligible to obtain Resident Parking Scheme parking permits from Council", must also be located in prominent places such as at display apartments and on directory boards or notice boards, where they can easily be observed and read by people entering the building. The signs must be erected prior to the issue of an Occupation Certificate being issued and must be maintained in good order at all times.

PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE

7. In accordance with the provisions of the *Environmental Planning and Assessment Act 1979* construction works approved by this consent must not commence until:
- a) A Construction Certificate has been issued by Council or an Accredited Certifier. Either Council or an Accredited Certifier can act as the "Principal Certifying Authority."
 - b) A Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment.
 - c) At least two days notice, in writing has been given to Council of the intention to commence work.

The documentation required under this condition must show that the proposal complies with all Development Consent conditions and is not inconsistent with the approved plans, the Building Code of Australia and the relevant Australian Standards.

8. Prior to the issue of any construction certificate, amended plans are to be prepared incorporating the provision of 5 bicycle spaces and 5 motorcycle spaces within the paved rear courtyard.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

9. Any air conditioning unit on the site must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the Protection of the Environment (Operations) Act 1997.

The system/s shall be operated as follows:

- a) Domestic air conditioners must not be audible in nearby dwellings between:
- i) 10:00pm to 7:00am on Monday to Saturday: and
 - ii) 10:00pm to 8:00am on Sundays and Public Holidays.
- b) At any other time the systems and associated equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background $L_{A90, 15min}$ noise level, measured in the absence of the noise source/s under consideration by 5dB(A).

The source noise level shall be assessed as an $L_{Aeq, 15min}$ and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

Air conditioning units must be installed in accordance with plans referenced in condition 1 or to satisfy provisions of the State Environmental Planning Policy (Exempt & Complying Codes) 2008.

Details demonstrating compliance with the requirements of this condition and the acoustic measures to be employed to achieve compliance with this condition are to be submitted for approval to the Principal Certifying Authority prior to the issue of any Construction Certificate.

10. The following requirements are to be incorporated into the development detailed on the Construction Certificate plans and provided prior to the issue of a Construction Certificate:
- a) No rainforest timbers or timbers cut from old growth forests are to be used in the construction of the development. Timbers to be used are to be limited to any plantation, regrowth or recycled timbers, or timbers grown on Australian Farms or State Forest Plantations.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

11. In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more. The Long Service Levy is payable prior to the issue of a Construction Certificate.

Details demonstrating compliance are to be shown on the plans submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

12. Materials and finishes must be complementary to the predominant character and streetscape of the area, and any existing buildings & the period of construction of the buildings. New materials that are not depicted on the approved plans must not be used. Highly reflective wall or roofing materials and glazing must not be used. Materials must be designed so as to not result in glare (maximum normal specular reflectivity of visible

light 20%) or that causes any discomfort to pedestrians or neighbouring properties.

Details of finished external surface materials, including colours and texture must be provided prior to the issue of a Construction Certificate to the satisfaction of the Principal Certifying Authority.

13. The recommendations of the BCA Compliance Report, dated September 2018, prepared by NSW Certifiers and Access Report, dated 14 September 2018, prepared by Morris Goding Access Consulting are to be implemented.

Amended plans and specifications demonstrating compliance with this condition must be submitted to the satisfaction of the Principal Certifying Authority with the application prior to the issuing of a for a Construction Certificate. No changes to existing building fabric beyond that shown on the approved plans are permitted by this consent.

Note: Where an existing system complying with the above requirements is already installed in the building, evidence of this should be submitted with the application for a Construction Certificate.

14. The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. For Quick Check agent details please refer to the web site <http://www.sydneywater.com.au/SW/plumbing-building-developing/building/quick-check-agents/index.html>

The Principal Certifying Authority must ensure the Quick Check agent/Sydney Water has appropriately stamped the plans prior to the issue of a Construction Certificate.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

15. Prior to the issue of a Construction Certificate, the applicant must prepare a Construction Management and Traffic Management Plan. The following matters should be addressed in the plan (where applicable):

- a) A plan view of the entire site and frontage roadways indicating:
 - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) The locations of work zones (where it is not possible for loading/unloading to occur on the site) in the frontage roadways accompanied by supporting documentation that such work zones have been approved by the Local Traffic Committee and Council.
 - iii) Location of any proposed crane and concrete pump and truck standing areas on and off the site.
 - iv) A dedicated unloading and loading point within the site for construction vehicles, plant and deliveries.
 - v) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
- b) Noise and vibration
During excavation, demolition and construction phases, noise & vibration generated from the site must be controlled. Refer to other conditions of this consent. If during excavation, rock is encountered, measures must be taken to minimise vibration,

dust generation and impacts on surrounding properties. Refer to Environmental Noise Management Assessing Vibration: a technical Guideline (Department of Environment and Conservation, 2006) www.epa.nsw.gov.au for guidance and further information.

- c) Occupational Health and Safety
All site works must comply with the occupational health and safety requirements of the New South Wales Work Cover Authority.
- d) Toilet Facilities
During excavation, demolition and construction phases, toilet facilities are to be provided on the site, at the rate of one toilet for every twenty (20) persons or part of twenty (20) persons employed at the site. Details must be shown on the plan.
- e) Traffic control plan(s) for the site
All traffic control plans must be in accordance with the Roads and Maritime Services publication "Traffic Control Worksite Manual"

Approval is to be obtained from Council for any temporary road closures or crane use from public property. Applications to Council shall be made a minimum of 4 weeks prior to the activity proposed being undertaken.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

16. A Waste Management Plan (WMP) is to be provided in accordance with **Part D – Waste – Development Control Plan 2013**. The Plan must address all issues identified in the DCP including but not limited to:
- a) Estimated volume (m³) or weight (t) of materials that are reused, recycled or removed from site.
 - b) On site material storage areas during construction.
 - c) Material and methods used during construction to minimise waste.
 - d) Nomination of end location of all waste and recycling generated from a facility authorised to accept the material type for processing or disposal and retention of waste dockets to be made available to Council Officer on request
 - e) A clear statement within the Waste Management Plan of responsibility for the transferral of waste and recycling bins within the property and between floors where applicable to the collection point in accordance with DCP 2013.

All requirements of the approved Waste Management Plan must be implemented during the demolition, excavation and construction of the development.

17. The person acting on this consent shall submit to the Principal Certifying Authority a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before the issue of a Construction Certificate.

18. A Flood Risk Management Plan, prepared by a qualified practising Civil Engineer must be provided prepared prior to the issue of a Construction Certificate. The Plan must be prepared to make provision for the following:
- a) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development. Such recommendations must be consistent with the approved development. The flood impacts on the site shall be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm events. The precautions shall include but not be limited to the following:
 - i) Flood warning signs/depth indicators for areas that may be inundated
 - ii) A flood evacuation strategy including consideration of the structural integrity of the building due to immersion and impact of velocity and debris and the appropriateness of evacuating to the first floor.
 - iii) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.

Note that the applicant can apply for a Flood Certificate from Council which will provide details of the flood characteristics in the vicinity of the site. The Certificate can be used to inform the Flood Risk Management Report.

The Flood Risk Management Plan must be submitted to and approved by Council before the issue of a Construction Certificate

PRIOR TO WORKS COMMENCING OR ISSUE OF A CONSTRUCTION CERTIFICATE (WHICHEVER OCCURS FIRST)

19. Prior to the commencement of demolition works on the subject site or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee as detailed below must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works.

Security Deposit (FOOT)	\$4,672.00
Inspection fee (FOOTI)	\$230.65

Payment will be accepted in the form of cash, bank cheque or EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.

The inspection fee is required for Council to determine the condition of the adjacent road reserve & footpath prior to & on completion of the works being carried out.

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, Council may carry out any works necessary to repair the damage and/or remove the risk. The cost of these works will be deducted from the security deposit.

A request for release of the security may be made to the Council after all construction work has been completed and a Final Occupation Certificate issued.

The amount nominated is only current for the financial year in which the consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

20. Should works require any of the following on public property (footpaths, roads, reserves), an application shall be submitted and approved by Council prior to the commencement of the works associated with such activity or the Construction Certificate (whichever occurs first)
- a) Work/Construction zone (designated parking for construction vehicles). – A Work Zone application
 - b) A concrete pump across the roadway/footpath. – A Standing Plant permit
 - c) Mobile crane or any standing plant – A Standing Plant Permit
 - d) Skip bins other than those authorised by Leichhardt Council – Skip Bin Application
 - e) Scaffolding/Hoardings (fencing on public land) – Scaffolding and Hoardings on Footpath Application
 - f) Road works including vehicle crossing/kerb & guttering, footpath, stormwater provisions etc – Road works Application
 - g) Awning or street verandah over footpath. – Road works Application
 - h) Installation or replacement of private stormwater drain, utility service or water supply – Road Opening Permit

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

PRIOR TO THE COMMENCEMENT OF WORKS

21. The proposed structure(s) to be erected must stand wholly within the boundaries of the subject site. No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach onto adjoining properties or upon public property.
22. The site must be secured with temporary fencing prior to any works commencing.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public property to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. Additionally an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property, where necessary.

Separate approval is required under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property. Approvals for hoardings, scaffolding on public land must be obtained and clearly displayed on site for the duration of the works.

Any hoarding, fence or awning is to be removed when the work is completed and must be maintained clear of any advertising.

23. The *Home Building Act 1989* requires that insurance must be obtained from an insurance company approved by the Department of Fair Trading prior to the commencement of works approved by this Development Consent.

A copy of the certificate of insurance must be submitted to the Certifying Authority prior to the works commencing.

If the work is to be undertaken by an owner-builder, written notice of their name and owner-builder permit number must be submitted to the Certifying Authority.

In all other cases, written notice must be given to the Certifying Authority of:

- a) The name and licence number of the principal contractor; and
- b) Reasons why a certificate of insurance is not required.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

24. Any person or contractor undertaking works on public property must take out Public Risk Insurance with a minimum cover of ten (10) million dollars in relation to the occupation of, and approved works within public property. The Policy is to note, and provide protection for Leichhardt Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.
25. Prior to the commencement of works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.
26. At least forty-eight (48) hours prior to the commencement of works, a notice of commencement form (available on Council's web page) and details of the appointed Principal Certifying Authority shall be submitted to Council.
27. Prior to the commencement of works, a sign must be erected in a prominent position on the site (for members of the public to view) on which the proposal is being carried out. The sign must state:
- a) Unauthorised entry to the work site is prohibited.
 - b) The name of the principal contractor (or person in charge of the site) and a telephone number at which that person may be contacted at any time for business purposes and outside working hours.
 - c) The name, address and telephone number of the Principal Certifying Authority for the work.

Any such sign must be maintained while the work is being carried out, but must be removed when the work has been completed.

Photographic evidence demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority and Council for records purposes prior to the commencement of any onsite work.

DURING WORKS

28. Building materials and machinery are to be located wholly on site unless separate consent (Standing Plant Permit) is obtained from Council/ the roads authority. Building work is not to be carried out on the footpath.

Construction materials and vehicles shall not block or impede public use of the footpath or roadway.

29. All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent them from being dangerous to life or property and in accordance with the design of a suitably qualified structural engineer.

If excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must:

- a) Preserve and protect the building from damage.
- b) If necessary, underpin and support the building in an approved manner.
- c) Give at least seven (7) days notice to the adjoining owner before excavating, of the intention to excavate within the proximity of the respective boundary.

Any proposed method of support to any excavation adjacent to adjoining properties or any underpinning is to be designed by a Chartered Civil Engineer, with National Professional Engineering Registration (NPER) in the construction of civil/structural works. Copies of the design plans must be provided to the relevant adjoining property owner/s prior to commencement of such works. Prior to backfilling, any method of support constructed must be inspected by the designing Engineer with certification provided to all relevant parties.

30. The site must be appropriately secured and fenced at all times during works.
31. 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.

32. In addition to meeting the specific performance criteria established under this consent, the Applicant shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the demolition, construction or operation/use of the development.
33. Any new information revealed during development works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.
34. The development must be inspected at the following stages by the Principal Certifying Authority during construction:
 - a) after excavation for, and prior to the placement of, any footings, and
 - b) prior to pouring any in-situ reinforced concrete building element, and
 - c) prior to covering of the framework for any floor, wall, roof or other building element, and
 - d) prior to covering waterproofing in any wet areas, and
 - e) prior to covering any stormwater drainage connections, and
 - f) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
35. A copy of the approved plans and this consent must be kept on site for the duration of site works and in the case of any commercial or industrial premise for the duration of the use/trading. Copies shall be made available to Council Officer's upon request.
36. Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines discharged by gravity to the kerb and gutter of a public road.

Any existing component of the stormwater system that is to be retained must be checked and certified by a Licensed Plumber or qualified practicing Civil Engineer to be in good condition and operating satisfactorily.

If any component of the existing system is not in good condition and /or not operating satisfactorily, it must be upgraded.
37. Sedimentation controls, tree protection measures and safety fencing (where relevant)

shall be maintained during works to ensure they provide adequate protection during the course of demolition, excavation and construction works. Materials must be stored in a location and manner to avoid material being washed to drains or adjoining properties.

The requirements of the Soil and Water Management Plan must be maintained at all times during the works and shall not be removed until the site has been stabilised to the Principal Certifying Authority's satisfaction.

Material from the site is not to be tracked onto the road by vehicles entering or leaving the site. At the end of each working day any dust/dirt or other sediment shall be swept off the road and contained on the site and not washed down any stormwater pit or gutter.

The sediment and erosion control measures are to be inspected daily and defects or system failures are to be repaired as soon as they are detected.

38. No trees on public property (footpaths, roads, reserves etc) are to be removed or damaged during works unless specifically approved in this consent or marked on the approved plans for removal.

Prescribed trees protected by Council's controls on the subject property and/or any vegetation on surrounding properties must not be damaged or removed during works unless specific approval has been provided under this consent.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

39. An Occupation Certificate must be obtained prior to any use or occupation of the development or part thereof. The Principal Certifying Authority must ensure that all works are completed in accordance with this consent including all conditions.
40. A Plan of Management (POM) incorporating the current 'house rules' and terms and conditions for occupants on the site to be submitted to, and approved by, Council.

The POM is to address the key matters set out below:

- a) Site Manager - caretaker/site manager live on the premises on a 24 hour basis and be available for contact. Details of the site manager's/caretaker's responsibilities will be required to be submitted to Council as part of the Plan of Management.
- b) Resident Arrivals and Departures - appropriate signage to be provided within the building informing residents of the maximum number of guests permitted and limiting non-residents arrival and departure times.
- c) Access by non-residents - a resident caretaker can monitor and manage these areas to prevent any adverse impact on neighbours and passersby.
- d) Rights and Responsibilities - minimum information be prominently displayed advising of appropriate house rules, for example guest behaviour, activities and noise, visitor policy, operating hours of outdoor common areas, use of alcohol and/or drugs.
- e) Child Protection under NSW Legislation - the applicant to meet their obligations under the Children and Young Persons (Care and Protection) Act 1998 and where appropriate make referral to the relevant authority being either Human Services NSW (formerly Department of Community Services) and/or the NSW Police.
- f) Health and Safety Procedures - proposed safety and security measures to be employed within the house including prominent display boards within the building of emergency telephone numbers and other essential telephone numbers; and

maintenance and fire safety in the building.

- g) Smoking, Alcohol and Drug Initiatives - appropriate signage is provided within the building informing residents of restrictions that apply in relation to smoking, alcohol and drug usage.
 - h) Ongoing Monitoring and Complaints Procedure – appropriate signage within the building and close to the street erected on the property with an after-hours contact name and telephone number of the Manager for residents to call in the event of an emergency.
41. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure that all works have been completed in accordance with the approved Waste Management Plan referred to in this development consent.

Proof of actual destination of demolition and construction waste shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

42. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. 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 shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.
43. Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever shall not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed before the issue of the Occupation Certificate.
44. Prior to the release of an Occupation Certificate, the Principal Certifying Authority must be satisfied that the development complies with:
- the approved plans;
 - BASIX certificate (where relevant),
 - approved documentation (as referenced in this consent); and
 - conditions of this consent.

ONGOING CONDITIONS OF CONSENT

45. The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within seventy-two (72) hours of its application.
46. The Flood Risk Management Plan approved with the Construction Certificate, must be implemented and kept in a suitable location on site at all times.
47. Any lighting of the premises shall be installed and maintained in accordance with Australian Standard AS 4282-1997: *Control of the Obtrusive Effects of Outdoor Lighting* so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. The intensity, colour or hours of illumination of the lights shall be varied at Council's discretion if in the opinion of an Authorised Council Officer it is considered there to be have adverse effects on the amenity of the area.
48. The premises shall not be used for any purpose other than that stated in the Development Application, i.e. boarding house without the prior consent of the Council unless the change to another use is permitted as exempt or complying development under *Leichhardt Local Environment Plan 2013* or *State Environmental Planning policy (Exempt and Complying Codes) 2008*.

The use of the premises as a boarding house, is defined under the *Leichhardt Local Environmental Plan 2013*.

49. There is to be no entertainment in the form of amplified music on any part of the outdoor area at any time.
50. The boarding house is required to be registered on a register administered by NSW Fair Trading within 28 days, where a proprietor takes over an existing, or begins operating a new, registrable boarding house.

Council will carry out initial (within the first 12 months) and on-going inspections in accordance with the Boarding Houses Act 2012 subject to payment of inspection fees as detailed in Council's Fees and Charges schedule.
51. The boarding house must be operated as an "assisted boarding house" in accordance with the Boarding Houses Act 2012.
52. The boarding house is to operate in accordance with the following terms of the current approval under DA 71/84:
 - a) Incoming tenants are to be low income tenants only with maximum rental levels set at 75% of the maximum single aged/invalid pension plus supplementary rental allowance.
 - b) Parking spaces shall be paved so as to allow use as private open space when not occupied by motor vehicle.
 - c) A housekeeper/s is to reside permanently on the premises in the caretaker's room. The caretaker's room is to be occupied only by persons working on the premises. The housekeeper is to be a registered nurse; that is, the holder of a nursing certificate.
53. The boarding house is not to be subdivided.
54. The boarding house is to operate and comply with the Management Plan that forms part of this consent.
55. A Fire Safety Certificate must be submitted to the Principal Certifying Authority for all of the items listed in the Fire Safety Schedule prior to an Occupation Certificate being issued.
56. An annual Fire Safety Statement must be given to Council and the NSW Fire Brigade commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued.

PRESCRIBED CONDITIONS

A. BASIX Commitments

Under clause 97A of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled. The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

In this condition:

- a) Relevant BASIX Certificate means:

- i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 4.55 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- b) BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000.

B. Building Code of Australia

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

C. Home Building Act

- 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority for the development to which the work relates has given Leichhardt Council written notice of the following:
- a) in the case of work for which a principal contractor is required to be appointed:
 - i) the name and licence number of the principal contractor, and
 - ii) the name of the insurer by which the work is insured under Part 6 of that Act, or
 - b) in the case of work to be done by an owner-builder:
 - i) the name of the owner-builder, and
 - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- 2) If arrangements for doing residential building work are changed while the work is in progress so that the information submitted to Council is out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

D. Site Sign

- 1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and

- c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2) Any such sign must be maintained while to building work or demolition work is being carried out, but must be removed when the work has been completed.

E. Condition relating to shoring and adequacy of adjoining property

- 1) For the purposes of section 4.17(11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - 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.
- 2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

NOTES

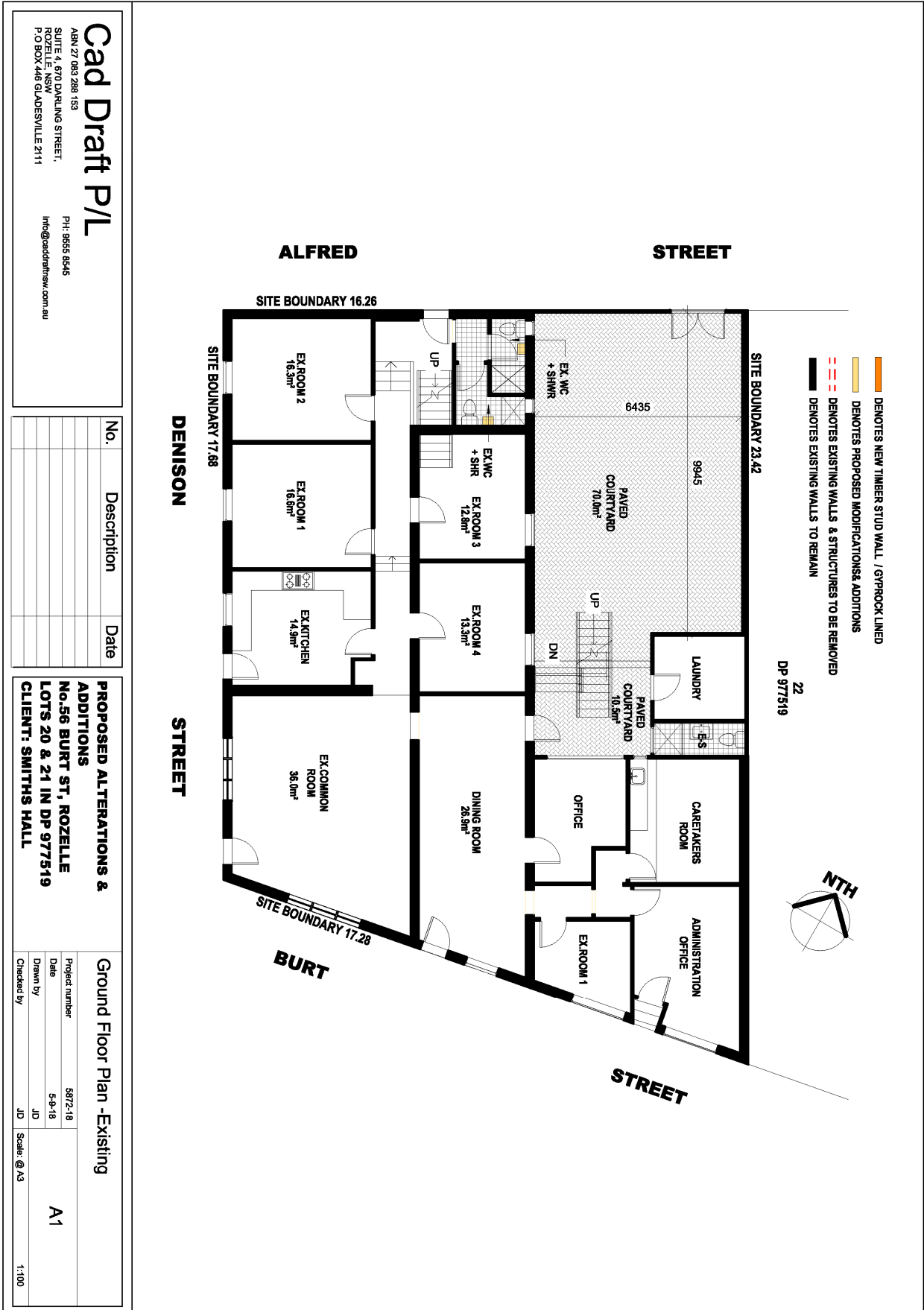
1. This Determination Notice operates or becomes effective from the endorsed date of consent.
2. Section 8.2 of the *Environmental Planning and Assessment Act 1979* provides for an applicant to request Council to review its determination. This does not apply to applications made on behalf of the Crown, designated development or a complying development certificate. The request for review must be made within six (6) months of the date of determination or prior to an appeal being heard by the Land and Environment Court. Furthermore, Council has no power to determine a review after the expiration of these periods. A decision on a review may not be further reviewed under Section 8.2.
3. If you are unsatisfied with this determination, Section 8.7 of the *Environmental Planning and Assessment Act 1979* gives you the right of appeal to the Land and Environment Court within six (6) months of the determination date.
4. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.
5. Works or activities other than those approved by this Development Consent will require the submission of a new development application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.
6. This decision does not ensure compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under that Act.
7. This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):
 - a) Application for any activity under that Act, including any erection of a hoarding.
 - b) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*.

- c) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
 - d) Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed.
 - e) Application for Strata Title Subdivision if strata title subdivision of the development is proposed.
 - f) Development Application for demolition if demolition is not approved by this consent.
 - g) Development Application for subdivision if consent for subdivision is not granted by this consent.
 - h) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.
8. Prior to the issue of the Construction Certificate, the applicant must make contact with all relevant utility providers (such as Sydney Water, Energy Australia etc) whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained.

Have you made a political donation?

If you (or an associate) have made a political donation or given a gift to a Councillor, political party or candidate at the local government elections during the last two (2) years you may need to include with your application a full disclosure of this matter. For information go to Council's website at www.leichhardt.nsw.gov.au/Political-Donations.html. If you have made a reportable donation, failure to provide a completed declaration with your application is an offence under the Environmental Planning and Assessment Act, 1979 for which you may be prosecuted.

Attachment B – Plans of proposed development



Cad Draft P/L
 ABN 27 083 288 153
 SUITE 4, 570 DARLING STREET,
 ROZELLE, NSW
 P.O. BOX 446 GLADESVILLE 2111
 PH: 9555 8545
 info@cadraftp.com.au

No.	Description	Date

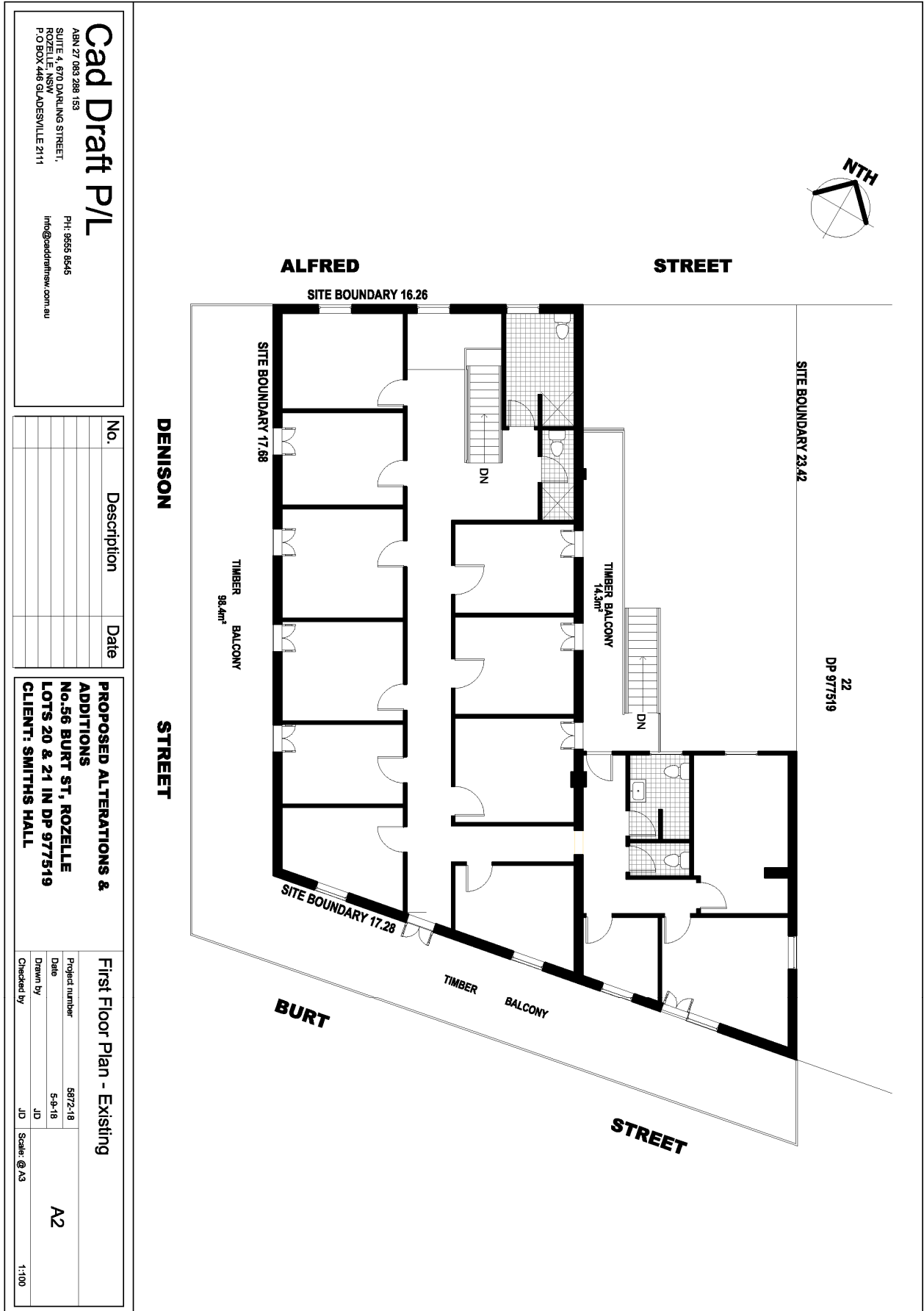
PROPOSED ALTERATIONS & ADDITIONS
 No.56 BURT ST, ROZELLE
 LOTS 20 & 21 IN DP 977519
 CLIENT: SMITHS HALL

Ground Floor Plan - Existing

Project number	5672-18
Date	5-9-18
Drawn by	JD
Checked by	JD
Scale	@ A3

A1

1:100



Cad Draft P/L
 ABN 27 083 288 153
 SUITE 4, 670 DARLING STREET,
 ROZELLE, NSW
 P.O. BOX 446 GLADESVILLE 2111

PH: 9655 8645
 info@caddraftsw.com.au

No.	Description	Date

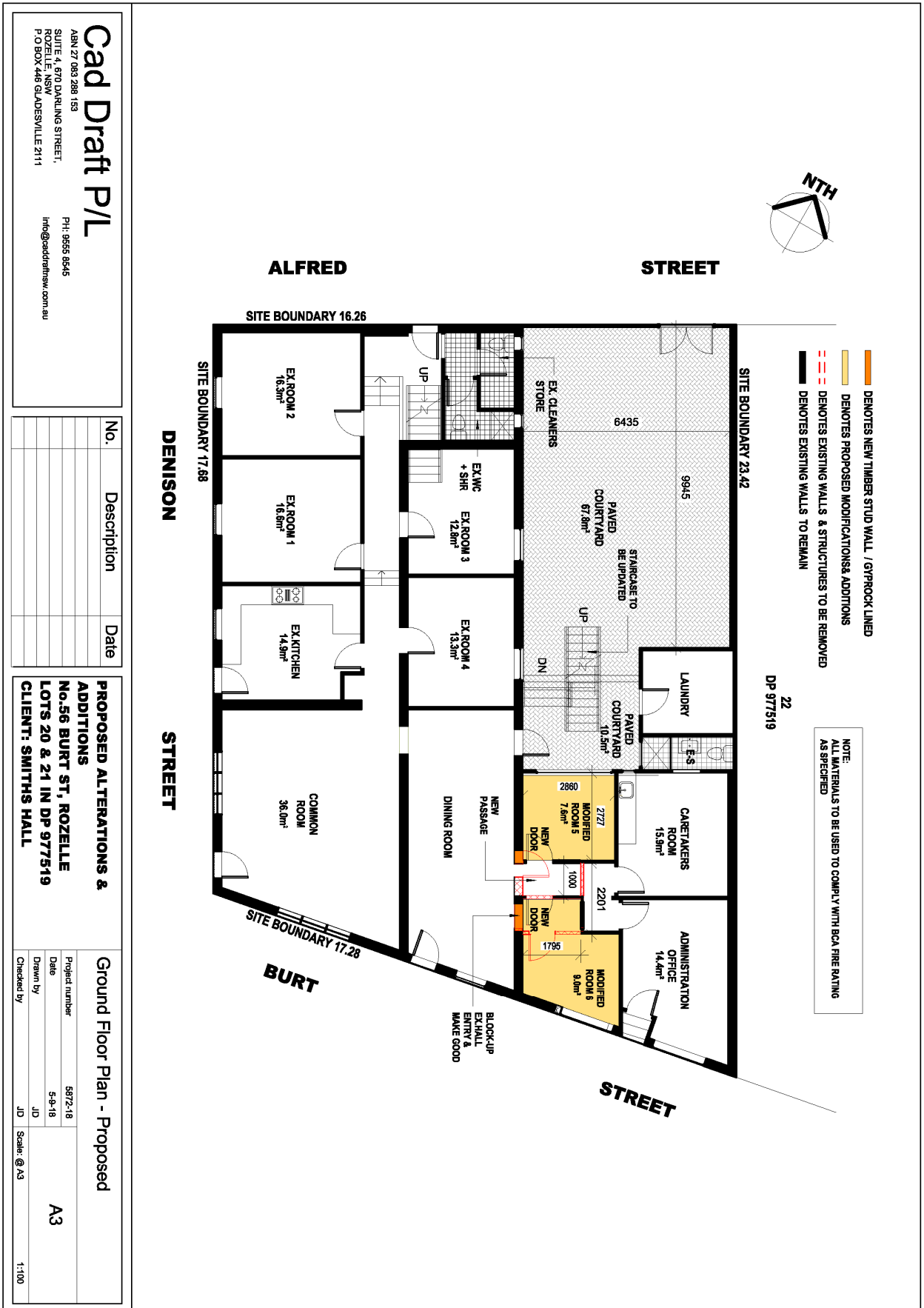
PROPOSED ALTERATIONS & ADDITIONS
No.56 BURT ST, ROZELLE
LOTS 20 & 21 IN DP 977519
CLIENT: SMITHS HALL

First Floor Plan - Existing

Project number	5872-18
Date	5-9-18
Drawn by	JD
Checked by	JD
Scale	@ A3

A2

1:100



Cad Draft P/L
 ABN 27 083 288 163
 SUITE 4, 670 DARLING STREET,
 ROZELLE, NSW
 P.O. BOX 448 GLADESVILLE 2111

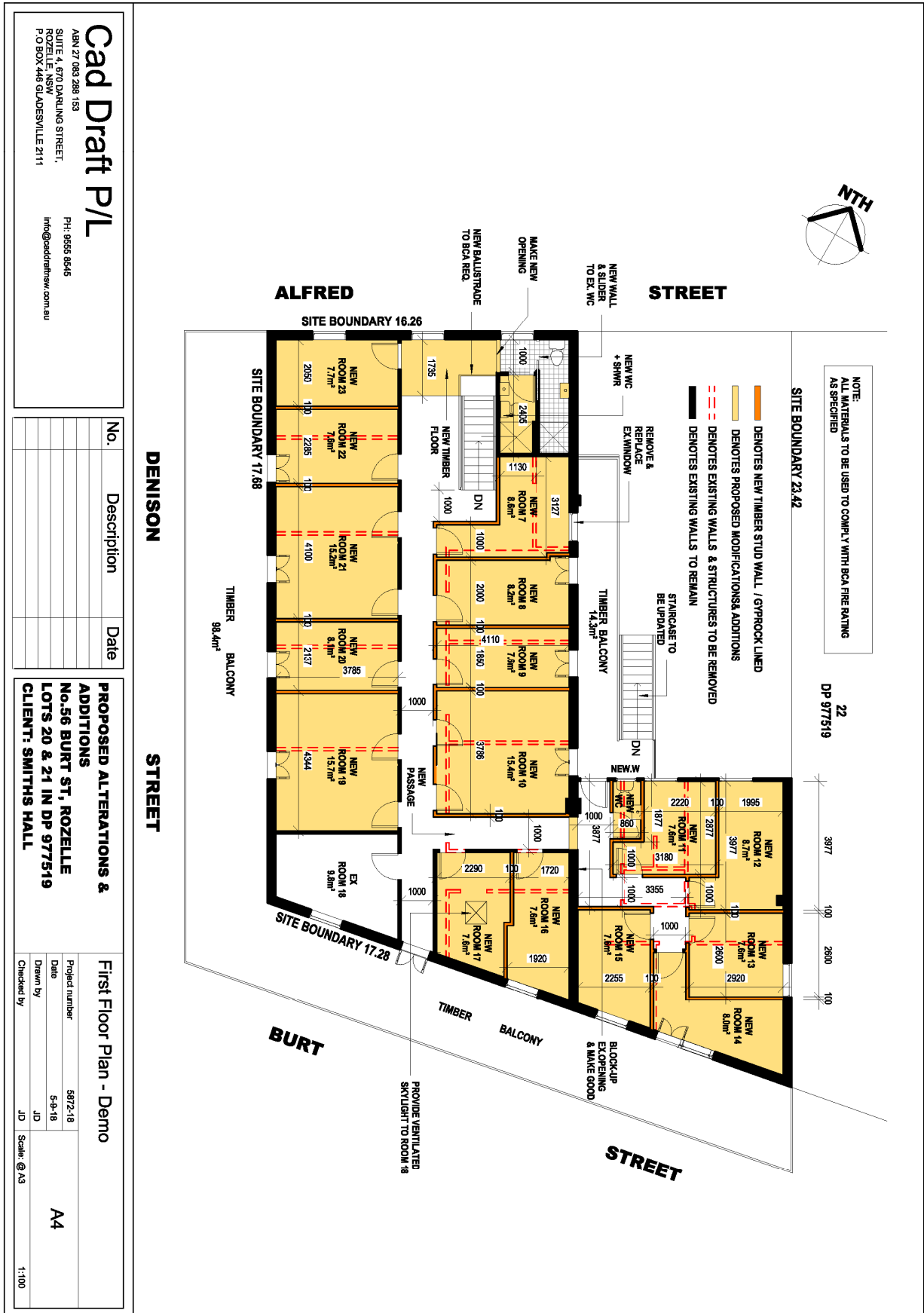
PH: 9655 6645
 info@cadraftnsw.com.au

No.	Description	Date

PROPOSED ALTERATIONS & ADDITIONS
NO.56 BURT ST, ROZELLE
LOTS 20 & 21 IN DP 977519
CLIENT: SMITHS HALL

Ground Floor Plan - Proposed

Project number	5872-18
Date	5-9-18
Drawn by	JD
Checked by	JD
Scale	@ A3
	A3
	1:100



Cad Draft P/L
 ABN 27 083 288 153
 SUITE 4, 670 DARLING STREET,
 ROZELLE, NSW
 P.O. BOX 446 GLADESVILLE 2111

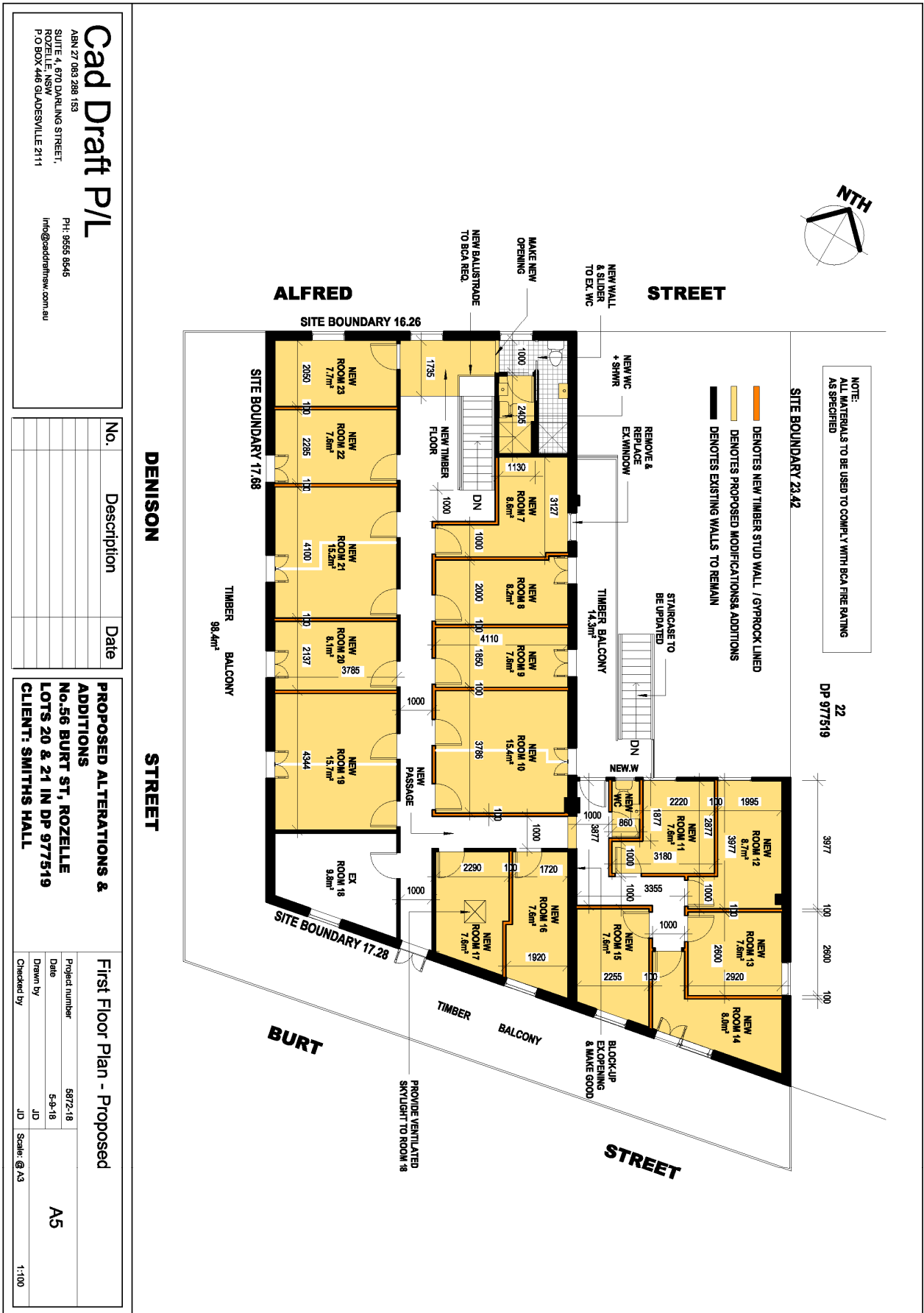
PH: 9556 8645
 info@caddraftp.com.au

No.	Description	Date

PROPOSED ALTERATIONS & ADDITIONS
 No.56 BURT ST, ROZELLE
 LOTS 20 & 21 IN DP 977519
 CLIENT: SMITHS HALL

First Floor Plan - Demo

Project number	5872-18
Date	5-8-18
Drawn by	JD
Checked by	JD
Scale	@ A3
	A4
	1:100



Cad Draft P/L
 ABN 27 083 288 153
 SUITE 4, 670 DARLING STREET,
 ROZELLE, NSW
 P.O. BOX 446 GLADESVILLE 2111

PH: 9655 8645
 info@caddraftnsw.com.au

No.	Description	Date

PROPOSED ALTERATIONS & ADDITIONS
No. 56 BURT ST, ROZELLE
LOTS 20 & 21 IN DP 977519
CLIENT: SMITHS HALL

First Floor Plan - Proposed

Project number	5872-18
Date	5-9-18
Drawn by	JD
Checked by	JD
Scale	@ A3

A5

1:100

Attachment C – Clause 4.6 Exception to Development Standards



**DEVELOPMENT APPLICATIONS
EXCEPTIONS TO DEVELOPMENT STANDARDS
PURSUANT TO CLAUSE 4.6 OF LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013**

DEVELOPMENT APPLICATION DETAILS:

Address:	56 Burt Street Rozelle NSW 2039
Proposed Development:	Internal ground and first floor alterations to existing boarding house building.
I wish to lodge a request to vary the following development standard for the reasons indicated:	

WHAT IS THE STANDARD SOUGHT TO BE VARIED?

- Floor Space Ratio** – Clause 4.4 or 4.4A of LEP 2013
- Landscaped Area** – Clause 4.3A(3)(a) of LEP 2013
- Site Coverage** – Clause 4.3A(3)(b) of LEP 2013
- Subdivision Allotment size** – Clause 4.1 of LEP 2013
- Foreshore Building Area** – Clause 6.5 of LEP 2013
- Diverse Housing** – Clause 6.13 of LEP 2013

The purpose of the above standards is to ensure that the proposed works are compatible with the surrounding environment in terms of bulk, scale, amenity, streetscape, setting, transport and preserving the character of the building and surrounding conservation area and heritage items

Where an applicant wishes to vary a development standard, the application must be accompanied by a well-founded, written request which seeks to justify the contravention of the development standard by demonstrating:

- a. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case
- b. that there are sufficient environmental planning grounds to justify contravening the development standard.

What are the environmental planning grounds that justify contravening the development standard?
The proposed works remain consistent and are compatible with the existing site.
Clause 4.6 of Leichhardt Local Environmental Plan 2013 (LLEP2013) allows for flexibility in the application of certain development standards to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
Why is compliance with the standard unreasonable or unnecessary? What are the special circumstances in this case? (To answer consider whether a development that complies is unnecessary or unreasonable)
The proposal does not increase the surface area of the existing building's roof.
The proposal does not increase the building footprint.
The proposal does not increase the site's FSR.
Is the proposed development consistent with the objectives of the particular standard? Is the proposal consistent with the objectives of the relevant zone?
In my opinion, the proposal is consistent with the underlying objectives of the standard for reasons outlined earlier and is therefore considered to be in the public interest.
In relation to the objectives of the R1 zone: The implications of the proposal not complying with the FSR development standard of the Leichhardt LEP is local in scope and raise no matters of significance for State or regional environmental planning.
The circumstances of the case should be balanced against the usual presumption of public benefit in maintaining a development standard. The FSR of the proposed development is justified as set out above. The variation sought will enhance the utility of the existing development without unreasonable impacts on neighbouring amenity or the public domain.



**DEVELOPMENT APPLICATIONS
EXCEPTIONS TO DEVELOPMENT STANDARDS**
PURSUANT TO CLAUSE 4.6 OF LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013

DEVELOPMENT APPLICATION DETAILS:

Address:	56 Burt Street Rozelle NSW 2039
Proposed Development:	Internal ground and first floor alterations to existing boarding house building.
I wish to lodge a request to vary the following development standard for the reasons indicated:	

WHAT IS THE STANDARD SOUGHT TO BE VARIED?

- Floor Space Ratio** – Clause 4.4 or 4.4A of LEP 2013
- Landscaped Area** – Clause 4.3A(3)(a) of LEP 2013
- Site Coverage** – Clause 4.3A(3)(b) of LEP 2013
- Subdivision Allotment size** – Clause 4.1 of LEP 2013
- Foreshore Building Area** – Clause 6.5 of LEP 2013
- Diverse Housing** – Clause 6.13 of LEP 2013

The purpose of the above standards is to ensure that the proposed works are compatible with the surrounding environment in terms of bulk, scale, amenity, streetscape, setting, transport and preserving the character of the building and surrounding conservation area and heritage items

Where an applicant wishes to vary a development standard, the application must be accompanied by a well-founded, written request which seeks to justify the contravention of the development standard by demonstrating:

- a. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case
- b. that there are sufficient environmental planning grounds to justify contravening the development standard.

<p>What are the environmental planning grounds that justify contravening the development standard?</p> <p>The environmental planning grounds must be particular to the circumstances of the proposed development on its site. The following environmental planning grounds are relevant:</p> <p>There is no reduction in landscaped area because the existing landscaped area is 0%.</p> <p>The opportunity to provide additional deep soil landscaping is limited in the backyard because it is occupied by an existing outside courtyard.</p>
<p>Why is compliance with the standard unreasonable or unnecessary? What are the special circumstances in this case? (To answer consider whether a development that complies is unnecessary or unreasonable)</p> <p>Compliance with the development standard is unreasonable or unnecessary in the circumstances because:</p> <ul style="list-style-type: none"> • the proposal does not reduce the site's existing landscaped area • the proposal does not increase the surface area of the existing building's roof • the proposal does not increase the buildings footprint <p>The proposal does not increase the site coverage and provides adequate and usable ground level open space for recreation and landscaping as well as to contain urban run-off.</p> <p>The proposal does not reduce the site's existing landscaped area. The site coverage is maintained, the proposal also maintains the site's existing landscaped area whilst contributing to the landscape and townscape area character of Leichhardt's residential area.</p>
<p>Is the proposed development consistent with the objectives of the particular standard? Is the proposal consistent with the objectives of the relevant zone?</p> <p>In my opinion, the proposal is consistent with the underlying objectives of the standard for reasons outlined earlier and is therefore considered to be in the public interest.</p> <p>In relation to the objectives of the R1 zone: The implications of the proposal not complying with the landscaped area development standard of the Leichhardt LEP is local in scope and raise no matters of significance for State or regional environmental planning.</p> <p>The circumstances of the case should be balanced against the usual presumption of public benefit in maintaining a development standard. The landscaped area of the proposed development is justified as set out above. The variation sought will enhance the utility of the existing development without unreasonable impacts on neighbouring amenity or the public domain.</p>



DEVELOPMENT APPLICATIONS
EXCEPTIONS TO DEVELOPMENT STANDARDS
 PURSUANT TO CLAUSE 4.6 OF LEICHHARDT LOCAL ENVIRONMENTAL PLAN 2013

DEVELOPMENT APPLICATION DETAILS:

Address:	56 Burt Street Rozelle NSW 2039
Proposed Development:	Internal ground and first floor alterations to existing boarding house building.
I wish to lodge a request to vary the following development standard for the reasons indicated:	

WHAT IS THE STANDARD SOUGHT TO BE VARIED?

- Floor Space Ratio** – Clause 4.4 or 4.4A of LEP 2013
- Landscaped Area** – Clause 4.3A(3)(a) of LEP 2013
- Site Coverage** – Clause 4.3A(3)(b) of LEP 2013
- Subdivision Allotment size** – Clause 4.1 of LEP 2013
- Foreshore Building Area** – Clause 6.5 of LEP 2013
- Diverse Housing** – Clause 6.13 of LEP 2013

The purpose of the above standards is to ensure that the proposed works are compatible with the surrounding environment in terms of bulk, scale, amenity, streetscape, setting, transport and preserving the character of the building and surrounding conservation area and heritage items

Where an applicant wishes to vary a development standard, the application must be accompanied by a well-founded, written request which seeks to justify the contravention of the development standard by demonstrating:

- a. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case
- b. that there are sufficient environmental planning grounds to justify contravening the development standard.

What are the environmental planning grounds that justify contravening the development standard?
There is no increase in the existing site coverage.
The non-compliance with the FSR exists and is historical. There is no change proposed to the building footprint and existing site landscaped and site coverage is not increased.
The proposal will achieve a better planning outcome for residents.
Why is compliance with the standard unreasonable or unnecessary? What are the special circumstances in this case? (To answer consider whether a development that complies is unnecessary or unreasonable)
Compliance with the development standard is unreasonable or unnecessary in the circumstances because:
<ul style="list-style-type: none"> • The site coverage is maintained, the proposal also maintains the site's existing landscaped area whilst contributing to the landscape and townscape area character of Leichhardt's residential area. • The proposal does not increase the site coverage and provides adequate and usable ground level open space for recreation and landscaping as well as to contain urban run-off. • The proposal does not increase the surface area of the existing building's roof. • The proposal does not increase the buildings footprint.
Is the proposed development consistent with the objectives of the particular standard? Is the proposal consistent with the objectives of the relevant zone?
In my opinion, the proposal is consistent with the underlying objectives of the standard for reasons outlined earlier and is therefore considered to be in the public interest.
In relation to the objectives of the R1 zone: The implications of the proposal not complying with the site coverage percentage development standard of the Leichhardt LEP is local in scope and raise no matters of significance for State or regional environmental planning. The circumstances of the case should be balanced against the usual presumption of public benefit in maintaining a development standard. The site coverage of the proposed development is retained.
The variation sought will enhance the utility of the existing development without unreasonable impacts on neighbouring amenity or the public domain.