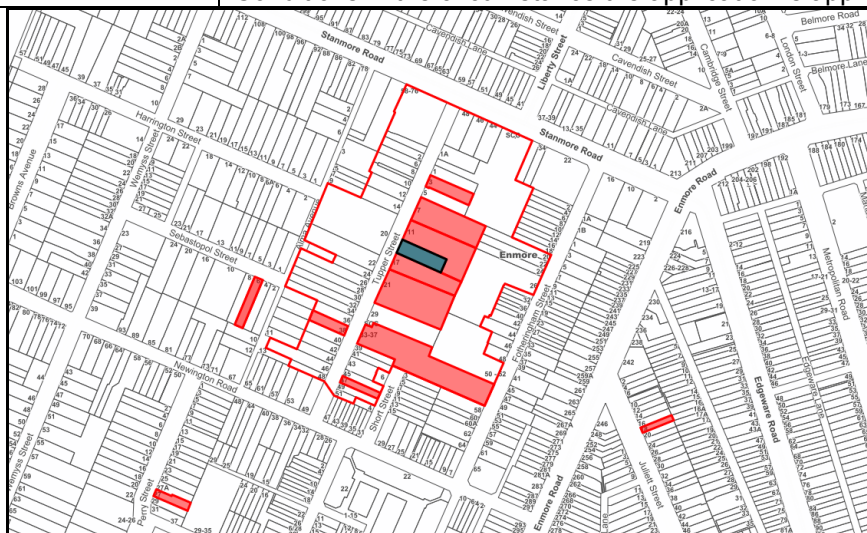








INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	DA201900162
Address	11A Tupper Street, Enmore
Proposal	To demolish the existing dwelling house and construct a four storey boarding house containing 21 rooms above basement parking.
Date of Lodgement	20 May 2019
Applicant	Emag Apartments Pty Ltd
Owner	Tupper Street Holdings Pty Ltd
Number of Submissions	22
Value of works	\$2,944,776
Reason for determination at Planning Panel	More than 10 submissions in objection
Main Issues	Design incompatible with the character of the local area Streetscape and design Inadequate boundary setbacks Residential amenity Inadequate internal amenity Landscape and trees Car and bicycle parking Disabled access and facilities Waste management facilities
Recommendation	Refusal
Attachment A	Recommended reasons of refusal
Attachment B	Plans of proposed development
Attachment C	Conditions in the circumstance the application is approved



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

1. Executive Summary

This report is an assessment of a development application (DA) seeking approval to demolish the existing dwelling house and construct a four storey boarding house containing 21 rooms above basement parking at 11A Tupper Street, Enmore.

The application was notified to the surrounding properties and 22 submissions were received in objection, primarily on the grounds of traffic and parking, design and residential amenity.

The proposal has been assessed against the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP). The design of the development is not compatible with the character of the local area and therefore does not satisfy the character test required by Clause 30A of the ARH SEPP.

The proposal does not comply with the aims of Marrickville Local Environmental Plan 2011 (MLEP 2011) as it is excessive in bulk and scale and presents a poor architectural design within the streetscape and to the adjoining properties.

The proposal does not comply with the building setbacks, site coverage, landscaped area, access, parking and internal amenity requirements under Marrickville Development Control Plan (MDCP 2011).

The boarding rooms will have poor internal amenity for the future occupants due to small room sizes, low ceiling heights, poor solar access and inadequate communal spaces.

The site is constrained due to its relatively small size and the resultant impacts within the streetscape and to the adjoining properties represents an overdevelopment of the site and does not promote the orderly development of the land.

The significant departures to the planning and design controls require fundamental changes to the design and substantive loss of yield outside the scope of the current DA.

The application is therefore recommended for refusal.

2. Proposal

The DA seeks consent to demolish the existing dwelling house and construct a four storey boarding house containing 21 rooms above basement parking

The key development aspects are outlined in **Table 1**.

Table 1 – Development Summary

Key Aspect	Details	
Boarding rooms	Single	7
	Double	14
	Total	21
Manager's room	<ul style="list-style-type: none"> One single room at ground level 	
Number of residents	<ul style="list-style-type: none"> 35 boarders + 1 manager 	
Parking	Residents	5 including 1 accessible room
	Manager	1
	Motorcycle	4
	Bicycle	5
GFA and FSR	<ul style="list-style-type: none"> 641.2 sqm and 1.28:1 	
Number of storeys	<ul style="list-style-type: none"> Four plus one level basement parking 	

3. Site Description

The site is known as 11A Tupper Street, Enmore and the legal description of the land is Lot A in Deposited Plan 320306.

The site is located on the eastern side of Tupper Street, Enmore, between Stanmore Road and Newington Road. It is rectangular with an area of 502m², a frontage to Tupper Street of 12.19 m and a maximum depth of 41.15 m.

The site slopes down from the front of the site (western boundary fronting Tupper Street) to the rear of the site (eastern boundary) by approximately 2.3 m.

The site contains a single storey dwelling house and a detached garage/carport and shed at the rear.

The street is characterised by a mix of building typologies, ranging from 3-4 storey residential flat buildings (RFBs) at the northern end and 1-2 storey dwelling houses at the southern end.

The established built form within the immediate vicinity of the site is largely 3-4 storey RFBs with landscaped setbacks.

The adjoining property to the north and east at 11 Tupper Street contains a 4 storey RFB. The adjoining property to the south at 17-19 Tupper Street contains a 2 storey RFB.

Refer to **Figures 1 and 2**.



Figure 1 – Aerial view of the site showing the existing context

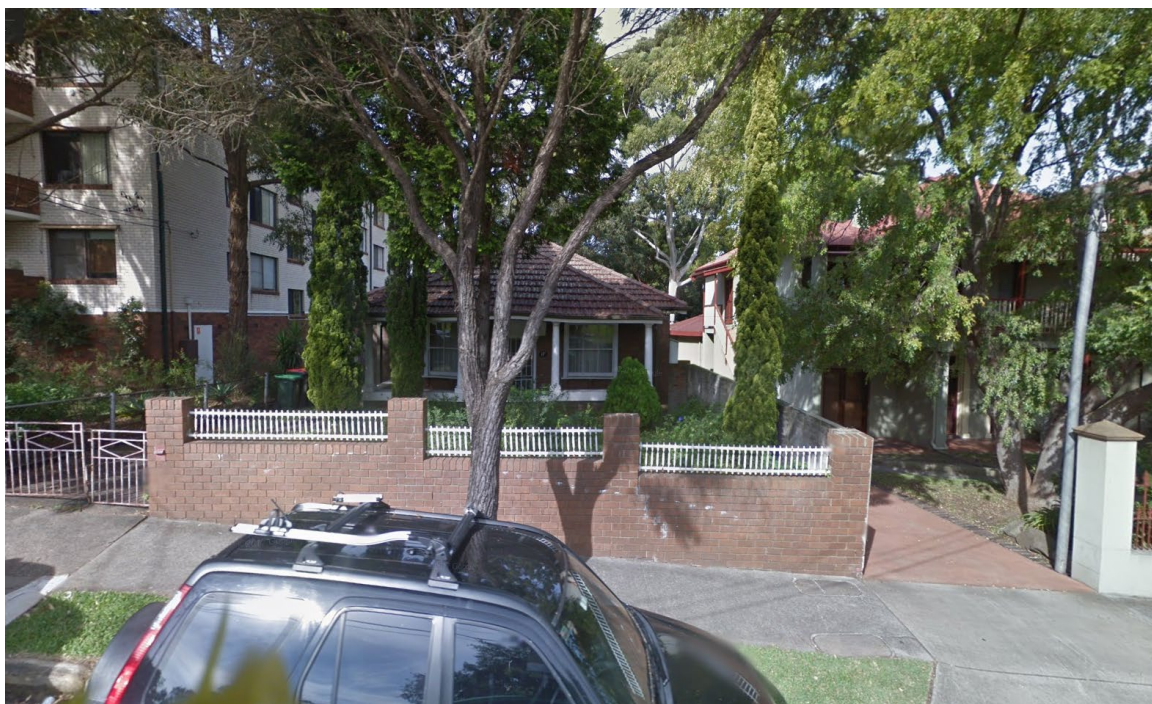


Figure 2 – View of the site from Tupper Street

4. Background

4(a) Site history

Table 3 provides a summary of the development history of the site.

Table 3 – Summary of development history

Application	Proposal	Status/Decision & Date
Determination No. 201700092	To demolish existing structures and construct a 4 storey RFB containing 12 dwellings, associated basement car parking and landscaping	Refused – 18 July 2017

Surrounding properties

Land to the northwest containing the Cyprus Club at 58-76 Stanmore Road, 2-20 Tupper Street, 3-9 Alma Avenue, Stanmore is the subject of a Planning Proposal (PP), which seeks to amend Marrickville Local Environmental Plan 2011 (MLEP 2011) by rezoning the land and increasing the permissible floor space ratio (FSR) in order to facilitate redevelopment to create a new club, commercial floor space and residential apartments in a range of buildings up to six storeys.

Council resolved in July 2017 to submit the PP to the Gateway process. The PP was submitted to the Department of Planning and Environment on 26 September 2018. At the time of writing this report no Gateway determination had been made.

4(b) Application history

Table 4 outlines the relevant history of the DA.

Table 4 – Summary of application history

Date	Discussion / Letter / Additional Information
20 May 2019	DA lodged with Council
23 May 2019 to 11 June 2019	DA publicly notified to surrounding properties

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 (EPIs) listed below:

- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Marrickville Local Environmental Plan 2011.

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

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 relates to the protection/removal of vegetation identified under Marrickville Development Control Plan 2011 (MDCP 2011). The proposed development includes tree removal subject to the provisions of this SEPP. The matter of tree management is discussed later in this report under the provisions of MDCP 2011.

5(a)(vi) **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. MDCP 2011 provides controls and guidelines for remediation works. SEPP 55 requires the consent authority to be satisfied that “the site is, or can be made, suitable for the proposed use” prior to the granting of consent.

The site has been used for residential purposes for many years and no known contaminating activities have occurred on the site. No further investigation is warranted in the circumstance. The proposal is therefore acceptable in terms of the requirements under SEPP 55.

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

A BASIX Certificate was submitted with the application indicating that the proposal achieves compliance with the BASIX requirements.

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

State Environmental Planning Policy (Affordable Rental Housing) 2009 (the AHSEPP) provides guidance for design and assessment of boarding house developments. The SEPP, which commenced operation on 31 July 2009, provides controls relating to various matters including height, floor space ratio, landscaped area, solar access and private open space requirements.

Division 3 – Boarding houses

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

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

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

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

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

Under MLEP 2011, a maximum FSR of 0.6:1 applies to the site. An additional FSR of 0.25:1 applies to development for the purpose of an RFB under Clause 4.4(2B).

The maximum FSR for any form of residential development plus a bonus FSR of 0.5:1 also applies in accordance with Clause 29(1)(c)(i) of the ARH SEPP.

Therefore the total permissible FSR for a boarding house on the site under the ARH SEPP is 1.35:1.

The development has a GFA of 641m² and a site area of 502m², which equates to an FSR of 1.28:1. As such, the proposal complies with the maximum FSR development standard under the ARH SEPP. Notwithstanding, concerns are raised with the quantum of floor space afforded by the bonus provisions and the resultant excessive built form of the proposal which results in adverse impacts to the adjoining properties and poor amenity for future occupants. These aspects are discussed in detail throughout this report.

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

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

A maximum building height of 14 metres applies to the site as indicated on the Height of Buildings Map that accompanies MLEP 2011.

The development has a maximum building height of 14 metres. As such, the proposal complies with the maximum building height development standard.

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

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

Approximately 40% of the front setback will be landscaped area. However, the opportunity to establish canopy trees in this area is limited due to the OSD tank and the Private Open Space (communal courtyard). Locating the private open space within the front setback with associated high fencing not only results in a poor streetscape outcome, poor amenity outcomes with regard to privacy for users of this space, but also limits the ability to provide a meaningful landscape treatment and setting for the building.

The balance of the front setback will contain a vehicular access driveway, pedestrian entry pathway and bicycle parking area. The limited nature and quality of landscape area is not compatible with the character of the streetscape.

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

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

The communal living room has north and west facing windows that will receive a minimum of 3 hours direct sunlight between 9.00am and 3.00pm in mid-winter, which satisfies the requirement of the SEPP.

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

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

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

The private open space (POS) area adjoining the communal room will be provided in the front setback and not at the rear out of view from the street as required under the ARH SEPP. The proposal therefore does not comply with the locational requirements for POS. Furthermore, the 1.8 m high screen fence delineating the POS within the front setback is an uncharacteristic element, resulting in adverse visual impact within the streetscape. The POS

at the rear of the site contains stair access due to the 1.2 m change in level and is not accessible for all future occupants.

The proposed balcony adjoining the manager's room has a minimum dimension of 2 m and does not comply with the minimum dimension of 2.5 m. The balcony space is also encumbered by a return in the external wall and has poor amenity in terms of solar access due to its south-east orientation.

Having regard to the above, the proposal does not comply with the provisions of Part 29(2)(d) of the ARH SEPP.

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

"If:

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

A minimum of 0.5 parking spaces are required for each boarding room as the development is not carried out on or behalf of a social housing provider. Based on 21 boarding rooms and a minimum of 11 car spaces are required on the site for the occupants. Not more than one space is to be provided for the on-site manager.

The proposal includes six car parking spaces in the basement and does not satisfy the parking requirements. The parking issues are discussed in more detail under Part 2.10 of MDCP 2011 - Parking.

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

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

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

Whilst the plan submitted with the DA shows the boarding rooms comply with the minimum sizes identified in ARH SEPP, concerns are raised in relation to the functionality of the rooms. Further discussion is provided under Part 4.3 of MDCP 2011- Boarding Houses regarding the appropriateness of room layouts and sizes when accounting for circulation space and entry corridors etc.

(ii) Standards for Boarding Houses (Clause 30)

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

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

A single communal living room is provided for on the ground floor. However, the proposed communal living room at ground level is inadequate having regard to its size and location as discussed under Part 4.3 of MDCP 2011- Boarding Houses. The enclosed and nature and design of the communal living room is akin to a boarding room and could be easily adapted for such a purpose.

- (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.*

No boarding room has a GFA exceeding 25sqm, excluding the area used for private kitchen and bathroom facilities.

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

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

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

Kitchen and bathroom facilities are available for each lodger within the boarding rooms. However, the kitchen spaces in some of the boarding rooms conflict with the entry circulation spaces which is a consequence of the inadequate room sizes. Further discussion is provided under Part 4.3 of MDCP 2011- Boarding Houses regarding the appropriateness of room layouts and the functionality of some rooms.

- (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.*

The proposal includes a manager's room at ground level.

- (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.*

The property is zoned R1 General Residential and this provision does not apply.

- (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.*

A minimum of four motorcycle parking space and four bicycle parking spaces are required based on 22 boarding rooms (including managers room). The development provides four motorcycle parking spaces in the basement. There are five bicycle parking spaces proposed in the front setback. However, the proposed location of bicycle parking spaces is not acceptable as it adds to the hardstand area in the front setback and will result in potential conflicts with the fire stair egress from the basement. The bicycle parking should be provided in a secure area of the development.

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

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

Clause 30A specifies that a consent authority must not consent to development "unless it has taken into consideration whether the design of the development is compatible with the character of the local area".

The judgement in *Project Venture Developments Pty Ltd v Pittwater Council* [2005] NSWLEC 191 is a commonly suggested reference point on the interpretation of “compatibility”. In Project Venture (and in a planning principle adopted by the Court subsequently based on it), compatibility, is seen to mean “*capable of existing together in harmony*”. The ‘Surrounding development’ Principle specified in Project Venture has been used to assess the compatibility of the proposal with the character of the local area.

Planning Principle Criteria

In order to test whether a proposal is compatible with its context, two questions should be asked.

- *Are the proposal’s physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites.*
- *Is the proposal’s appearance in harmony with the buildings around it and the character of the street?*

The physical impacts, such as noise, overlooking, overshadowing and constraining development potential, can be assessed with relative objectivity. In contrast, to decide whether or not a new building appears to be in harmony with its surroundings is a more subjective task. Analysing the existing context and then testing the proposal against it can, however, reduce the degree of subjectivity.

For a new development to be visually compatible with its context, it should contain, or at least respond to, the essential elements that make up the character of the surrounding urban environment. In some areas, planning instruments or urban design studies have already described the urban character. In others (the majority of cases), the character needs to be defined as part of a proposal’s assessment. The most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by building height, setbacks and landscaping. In special areas, such as conservation areas, architectural style and materials are also contributors to character.

In responding to the first question, the building’s scale, combined with the minimal setbacks which do not adhere to the prescribed DCP setbacks and are not consistent with setbacks of surrounding RFBs, will be exacerbated by the 26 metre long wall plane and lack of articulation along the northern elevation. The bulky design will result in adverse visual impacts when viewed from the apartments at 11 Tupper Street. Whilst the side wall along the southern elevation incorporates recesses at the first floor and above, the brick screens at the lower level only serve to reduce the articulation provided by these design elements. The proposal also results in adverse solar impacts to development to the south and impacts on trees on the subject site and on adjoining properties.

In responding to the second question, it is important to consider the essential elements that make up the character of the surrounding urban environment. The street is characterised by a mix of building typologies generally reflective of the two residential zones with lower scale single dwellings at the southern end of the street in the R2 zone, and larger RFBs at the northern end of the street in the R1 zone.

The immediate vicinity of the site is characterised by 2-4 storey RFBs with 3-4 m boundary setbacks and landscape settings on sites in excess of 1,000sqm.

As stated in the above planning principle, the most important contributor to urban character is the relationship of built form to the surrounding space created by building heights, setbacks and landscaping. These aspects are considered below.

Building Height

The proposed development contains a 3 storey built form, which is generally consistent with height of adjacent RFBs.

Setbacks

The existing built form in the immediate vicinity is characterised by 3-4 m building setbacks to the side boundaries, providing visual separation between the buildings and opportunities for landscaping. A minimum building setback of 4.5 m to the side boundaries applies to the site under Part 4.2 – Multi Dwelling Housing and Residential Flat Buildings of MDCP 2011.

The proposed development is setback 1.5 m to both side boundaries, representing a non-compliance of 3 m or 67% to the side setback control under MDCP 2011.

The proposed building setbacks will result in adverse visual bulk and further reduce solar access to the adjoining properties. The building design includes a basement that extends the full width of the site restricting the provision of suitable deep soil areas and landscape measures to offset the bulky design.

The proposed built form is incompatible with the existing pattern of development in the street. The extent of development proposed due to the FSR bonus results in a development of a bulk and scale which is excessive and represents a significant departure from many of the DCP controls and an overdevelopment of the site.

Landscaping

The existing streetscape contains large established trees in the front setback that contribute to the landscape character and assist in softening the built form. The proposal will result in the removal of four trees on the site and one street tree to accommodate the vehicle crossover. In addition, there are four trees on the adjoining properties that will be potentially impacted by the proposal.

Council's Tree Management Officer (TMO) does not support the proposal because the Arborist Report submitted with the DA fails to demonstrate that the existing trees on the adjoining sites will not be adversely impacted by the development. Furthermore, the cumulative impact associated with the provision of the OSD tank in the front setback is likely to adversely affect the root system of the nearby trees on the adjoining property and limit the opportunity for the establishment of suitable replacement trees within the streetscape. Refer to discussion in 5(c)(i) Tree Management Part 2.20.

Any loss of the existing trees on the adjoining properties will have an adverse impact on the existing landscape character of the street.

Conclusion

The non-compliance with the side setbacks and the largely unbroken, unarticulated and flat bulk of the northern façade is not reflective of the character of the local area, which is comprised of built form with articulation and/or generous setbacks.

The 1.5m side setback to the boundaries accentuate the bulk of the façades and the vertical nature of the development. The result is a built form that is so uncharacteristic as to be incompatible with both the existing local area and its desired future character.

When reviewing the character of the area, it is important to consider the adjoining context and the potential development yield attainable on those sites. The adjoining property to the north at 11 Tupper Street contains a 4 storey residential flat building (3 levels above parking garages) with an FSR of approximately 0.89:1 based on a site area of approximately 1300m². It has maximised its development potential commensurate with the current planning

controls. Further north, the property at 7 Tupper Street also contains 4 storey RFB with an FSR of approximately 0.92:1 based on a site area of approximately 1226sqm.

The adjoining property to the south at 17-19 Tupper Street contains a part 1 and 2 storey RFB with an FSR of approximately 0.27:1 and is relatively underdeveloped. The proposed development will inhibit future development potential of 17-19 Tupper Street due to the minimal side setbacks and resultant increase in overshadowing and lack of separation.

The subject site has an area of 502m² which is generally half the site area of the adjoining RFB sites, but represents an FSR that is 50% more than could be achieved under the current planning controls on the adjoining sites. The proposed development is therefore not suitable due to the small size of the site and the resultant impacts on the amenity of the adjoining sites and future development potential. The proposal represents an overdevelopment of the site and does not promote the orderly development of the land.

For the above reasons, it is considered that the design of the development is not compatible with the character of the local area and the degree of incompatibility is such that the DA should be refused as it does not satisfy the character test required by Clause 30A of the ARH SEPP.

5(a)(ix) Marrickville Local Environment Plan 2011 (MLEP 2011)

The DA was assessed against the following relevant clauses under MLEP 2011:

- (xi) Clause 1.2 - Aims of the Plan
- (xii) Clause 2.3 - Land Use Table and Zone Objectives
- (xiii) Clause 2.7 - Demolition
- (xiv) Clause 4.3 - Height of Buildings
- (xv) Clause 4.4 - Floor Space Ratio
- (xvi) Clause 6.2- Earthworks
- (xvii) Clause 6.5 - Development in areas subject to Aircraft Noise

(xviii) Aims of the Plan (Clause 1.2)

Clause 1.2 of MLEP 2011 specifies the particular aims of this Plan:

- (a) *to support the efficient use of land, vitalisation of centres, integration of transport and land use and an appropriate mix of uses,*
- (b) *to increase residential and employment densities in appropriate locations near public transport while protecting residential amenity,*
- (c) *to protect existing industrial land and facilitate new business and employment,*
- (d) *to promote sustainable transport, reduce car use and increase use of public transport, walking and cycling,*
- (e) *to promote accessible and diverse housing types including the provision and retention of affordable housing,*
- (f) *to ensure development applies the principles of ecologically sustainable development,*
- (g) *to identify and conserve the environmental and cultural heritage of Marrickville,*
- (h) *to promote a high standard of design in the private and public domain.*

The proposal results in poor residential amenity for the occupants of the boarding house. This has been demonstrated through non-compliances with several of the controls Marrickville Development Control Plan 2011, having particular regard to the Boarding House Controls [refer Part 5(c)]. It is unclear as to whether the development results in the provision of affordable housing, with no evidence of potential rentals which conform to this definition to

demonstrate the contrary. Concerns with regard to impacts on trees have not been adequately qualified

Aim (h) seeks to promote a high standard of design in the private and public domain. However, the non-compliance with the setbacks will accentuate the bulk of the building and the vertical nature of the built form, and result in a development incompatible with both the existing local area and its desired future character.

The development lacks sufficient deep soil landscaping and will have an adverse impact on the landscape character of the street. The proposal therefore fails to promote a high standard of design in the public domain. Similarly the proposal fails to provide adequate amenity of future occupants through the poor design of rooms, communal areas and the disparity in levels across the site resulting in a largely inaccessible open space area at the rear of the site which fails to provide a connection to the development other than by virtue of the land being on the same allotment.

Having regard to the above, the proposal is contrary to Clause 1.2 (2) b, e and h of Marrickville Local Environmental Plan 2011.

(xix) Land Use Table and Zone Objectives (Clause 2.3)

The site is zoned R1 General Residential under the provisions of MLEP 2011. Boarding houses are permissible under the zoning provisions applying to the land.

The development is generally acceptable having regard to the objectives of the R1 zone, although, as discussed above, the design fails to adequately integrate with the character of the surrounding neighbourhood.

(xx) Demolition (Clause 2.7)

Clause 2.7 states that the demolition of a building or work may be carried out only with development consent. Any development consent granted would require standard conditions relating to demolition works in the recommendation.

(xxi) Height (Clause 4.3)

A maximum building height of 14 m applies to the site as shown on the Height of Buildings Map under MLEP 2011.

The development has a maximum height of 14m. Whilst the building height complies with the height of buildings development standard, the 1.5 m side setbacks accentuate the bulk and mass of the building and the verticality of the built form and result in a development incompatible with both the existing local development and its desired future character.

(xxii) Floor Space Ratio (Clause 4.4)

An FSR of 0.6:1 applies to the site as shown on the Floor Space Ratio Map under MLEP 2011.

An additional 0.25:1 applies to RFBs on the site under subclause (2B).

The maximum FSR for any form of residential development plus a bonus FSR of 0.5:1 also applies under the ARH SEPP equating to a total FSR of 1.35:1.

The development has an FSR of 1.28:1, which complies with the overall maximum potential FSR for the site making use of both bonus provisions.

Whilst the proposal complies with the maximum FSR development standard for the site, it is worth noting this is only by virtue of the bonus floor space provisions under the ARH SEPP. In the absence of a bonus provision, the proposed FSR of 1.28:1 represents a 50% variation above the allowable FSR of 0.85:1 for a RFB on the site under MLEP 2011.

The proposal as a product of the additional FSR combined with the many departures from the MDCP 2011 with regard to setbacks and landscaping results in a development which has unacceptable impacts on adjoining development. Even within this excessive mass, the proposal fails to provide acceptable residential amenity or the minimum parking required under the ARH SEPP. It is pertinent to acknowledge that the floor space is not an 'as of right' control and must be considered in the context of impacts and requirements in respect of which the proposal fails.

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

The land is located within the 20 Australian Noise Exposure Forecast (2033) Contour. The development is likely to be affected by aircraft noise. The carrying out of the development would result in an increase in the number of people affected by aircraft noise.

An Aircraft Noise Assessment, dated May 2019, prepared by Noise and Sound Services was submitted with the DA. It concludes the proposal can comply with the noise criteria in *Australian Standard AS 2021 – 2015 "Acoustics – Aircraft noise intrusion - building siting and construction"* subject to the implementation of design measures.

5(b) Draft Environmental Planning Instruments

5(b)(i) Draft Marrickville Local Environment Plan 2011 (Amendment 4)

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

The Draft LEP Amendment includes design excellence provisions for buildings 14m or above. As the proposed development is 14 m in building height the design excellence provisions are relevant to the assessment of the proposal and Council must be satisfied the development exhibits design excellence before granting consent to the development. In considering whether the development exhibits design excellence Council must have regard to the following matters:

- (a) *whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,*
- (b) *whether the form and external appearance of the development will improve the quality and amenity of the public domain,*
- (c) *whether the development detrimentally impacts on view corridors and landmarks,*
- (d) *the requirements of Marrickville Development Control Plan,*
- (e) *how the development addresses the following matters:*
 - (i) *the suitability of the land for development,*
 - (ii) *existing and proposed uses and use mix,*
 - (iii) *heritage issues and streetscape constraints,*
 - (iv) *the relationship of the development with other development (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,*

- (v) *bulk, massing and modulation of buildings,*
- (vi) *roof design,*
- (vii) *street frontage heights,*
- (viii) *environmental impacts such as sustainable design, overshadowing, visual and acoustic privacy, wind and reflectivity,*
- (ix) *the achievement of the principles of ecologically sustainable development,*
- (x) *pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network,*
- (xi) *impact on, and any proposed improvements to, the public domain,*
- (xii) *appropriate ground level public domain interfaces,*
- (xiii) *excellence and integration of landscape design.*

The proposal does not satisfy the design matters for the following reasons:

- it relies on the floor space bonus under the ARH SEPP resulting in a built form incompatible with the character of the local area and is of a bulk and scale not anticipated under Council's current planning controls
- it creates a rhythm and pattern of development which is incongruent with the prevailing and desired future character of the neighbourhood in terms of the landscaped areas and setbacks between buildings;
- it does not comply with the setback, site coverage and boarding house requirements under MDCP 2011
- the site is constrained by its small size and it represents an overdevelopment of the site
- it will have detrimental impact on the landscape character of the street due to the impact on existing trees on adjoining sites
- not balanced with other similar development in the immediate vicinity of the site in consideration of setbacks, building rhythm and landscape character of the local area
- it will result in adverse overshadowing impacts to the adjoining property to the south
- the form and external appearance of the development will not improve the quality or amenity of the public domain. Inadequate setbacks and the inability to provide an adequate landscape setting compromises the proposal's capacity to provide amenity in the public domain;
- the proposal provides a poor interface with the public domain as the proposal seeks to locate private open space within the front setback with high fencing to privatise this area;
- the landscaping at the rear of the site fails to demonstrate excellence as it has not been thoughtfully designed as proposed levels preclude disabled access and this area appears to be disassociated remnant space which is somewhat tokenistic and serves little function for the residents of the site.

5(c) Development Control Plans

5(c)(i) Marrickville Development Control Plan 2011

Part 4 of MDCP 2011 contains specific controls for boarding houses in addition to the controls under the ARH SEPP. DAs for boarding houses in the R1 zone are to be assessed in accordance with the relevant controls in Part 2.1 Urban Design and Part 4.2 for multi-unit dwellings and RFBs. **Table 5** provides a summary of the relevant provisions of MDCP 2011.

Table 5 – Summary of development history

Part of MDCP 2011	Compliance
Part A.1 Information to be submitted with a Development Application	Yes
Part 2.1 Urban Design	No – see discussion
Part 2.5 Equity of Access and Mobility	No – see discussion
Part 2.6 Visual and Acoustic Privacy	Yes
Part 2.7 Solar Access and Overshadowing	No – see discussion
Part 2.8 Social Impact	No – see discussion
Part 2.9 Community Safety	No – see discussion
Part 2.10 Parking	No – see discussion
Part 2.16 Energy Efficiency	Yes
Part 2.18 Landscaping and Open Spaces	No – see discussion
Part 2.20 Tree Management	No – see discussion
Part 2.21 Site Facilities and Waste Management	No – see discussion
Part 2.24 Contaminated Land	Yes
Part 2.25 Stormwater Management	Yes
Part 4.2 Multi unit and Residential Flat Building	No – see discussion
Part 4.3 Boarding Houses	No – see discussion
Part 9.1 Strategic Context (Newington Planning Precinct)	No – see discussion

The following provides discussion of the relevant key issues and areas of non-compliance:

i. Urban Design (Part 2.1)

The relevant urban design objectives and controls are addressed in **Table 6**.

Table 6: Urban design controls under Part 2.1 of MDCP 2011

Control	Requirement	Council Officer's Assessment
Part 2.1.2.6 Landscaping	In residential areas it is important to minimise hard surfaces in the front of buildings, such as driveways and hard stand car parking, to maximise the streetscape	The proposed design includes a vehicular driveway, pedestrian pathway and bike storage area at the front of the building. The front setback will also contain an OSD tank that will potentially impact the root zone of the existing trees on the adjoining property and limit the opportunity for the establishment of

	combination of planting of trees, shrubs, grass and front fences.	suitable replacement canopy trees. The proposal therefore will have an adverse impact on the landscape character of the street.
Part 2.1.3 Infill Design Guidelines	Infill means a new building in an established streetscape. An infill building may be on a vacant site or be a replacement for an existing building that is derelict, incompatible with the streetscape or that underutilises the development potential planned for the site. Good infill design is compatible with its context and makes a positive contribution to the urban or suburban character.	The proposal is not balanced with other residential developments in consideration of setbacks, building rhythm and landscape character. The proposal will not make a positive contribution to the streetscape character due to the bulky design accentuated by the minimal building setbacks to the boundary and inadequate provision of deep soil landscape measures which do not facilitate adequate significant tree planting or space between buildings.
Part 2.1.3.2 Scale	Infill buildings should generally respond to the predominant scale of their setting. Understanding of the inter relationships of building heights, widths and bulk will maintain the grain of the locality.	The lack of building articulation along the side elevations combined with the minimal non-compliant side setbacks will accentuate the visual bulk and scale of the building when viewed from the adjoining properties. The proposal is inconsistent with the form of residential development anticipated by the planning controls including external bulk and scale, relationship to neighbouring properties and within the streetscape, and separation of the built form within the future residential context.
Part 2.1.3.2 Siting	Infill buildings that eliminate the wide side setback disrupt this rhythm and detract from the streetscape.	The proposed development will not respect the established pattern of development within the streetscape as it disrupts the rhythm of building setbacks within the immediate streetscape, as the proposal does not afford the prescribed setbacks.
Part 2.1.3.6 Detailing	Contemporary materials can be joined together in ways that create articulation of form and texture of surfaces to provide visual interest.	The long blank side walls are predominately brick material with little articulation. The lack of texture will exacerbate the visual bulk and scale and vertical built form of the development when viewed from the adjoining properties.

Council's Urban Design Advisor also raises the following concerns with the proposal:

The communal room is located in the front (north-west corner) of the building, and the private open space for this room entails the subdivision of the front landscaped area by the construction of a secondary fence, removing streetscape activation at ground floor. The streetscape activation and potential for landscape treatment is further reduced by the vehicle entry to the basement,

located at the south-west corner of the building, which ramps from the street boundary, creating a retaining wall and fence along the side boundary, without the ability to provide a landscaped buffer at this interface. The basement garage extends from side boundary to side boundary.

The setback to the side boundaries (1.5m) is generally less than the adjacent residential flat buildings, requiring the restriction of windows to the side elevation to highlight windows only. This is not a positive amenity outcome for these rooms in terms of natural ventilation and outlook, especially for the south-facing rooms which will receive no solar access (eg. units 04, 05, 12 & 19). No natural daylight is provided to any bathrooms. The access to the living space of apartments 20 & 23 (level 3) is via an excessively long corridor. Shadow diagrams indicate that the 6m deep private open space to the rear of the proposed development will receive minimal solar access, and that the proposed development will create substantial overshadowing to the open space to the rear of the adjoining two storey residential flat building at 17-19 Tupper Street. The cumulative impact of the above, regarding side setbacks, amenity and outlook to bedrooms, restricted solar access, and adverse impact on neighbouring amenity, indicates that proposal may be aiming to achieve too much density to achieve a positive outcome on such a constrained site.

ii. Equity of Access and Mobility (Part 2.5)

A statement of consistency must be included with the Statement of Environmental Effects for a DA that is required to provide access for persons with a disability in accordance with Table 1. All new developments must comply with the applicable minimum access requirements in Table 1. The proposed development does not comply with the accessible rooms and parking requirements prescribed under Part 2.5 of MDCP 2011. Refer to **Table 7**.

Table 7: Equity of access and mobility compliance

Control	Required	Proposed	Complies?
Accessible Rooms 1 accessible room for every 5 boarding rooms or part thereof	22 boarding rooms = 4 accessible rooms	2 accessible rooms	No
Access and Mobility Access for all persons through the principal entrance and access to any shared laundries, kitchens, sanitary and other common facilities	All areas of the proposed development to be accessible by persons with a disability	The private open space at the rear of the site will not be accessible for persons in a wheelchair.	No
Accessible Car Parking 1 accessible parking space for every 10 boarding rooms	21 boarding rooms = 2 accessible spaces	1 accessible car parking space (non-compliant design – see below)	No

The SEE submitted with the DA does not include a statement of consistency with the minimum access requirements. The proposal involves a significant intensification of land use

and yet it fails to provide the minimum number of accessible rooms or accessible car spaces. No adequate justification has been submitted with the DA in relation to the departure from the disability access controls and the design is considered unacceptable in this respect.

iii. Solar Access and Overshadowing (Part 2.7)

Solar Access

Although the ARH SEPP includes provisions relating to solar access for communal living areas in boarding house developments, those provisions do not specify any solar access requirements for the individual rooms within a boarding house. In this regard, control C11 requires that:

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

The shadow plans and the winter sun's eye diagrams submitted with the DA illustrate the windows to rooms 06, 07, 08, 13, 14, 15, 20, 21 and 22, which equates to 40 percent of the total rooms, receive a minimum two hours to more than 50% surface area. The proposal therefore does not comply with the minimum solar access requirements. The proposal is considered to not afford adequate amenity for future occupants having regard to the proposed design and the inadequate room sizes.

Overshadowing

The proposed development involves the replacement of the existing single storey building on the site by a larger 3-3.5 storey built form that will cast additional shadow to the adjoining properties to the south.

Part 2.7.2 requires shadow diagrams in plan and elevation view of existing and proposed overshadowing for June 21 at hourly intervals between 9.00am and 3.00pm. The Applicant's shadow diagrams submitted with the DA do not clearly delineate between the existing and proposed overshadowing to enable a proper assessment of the shadow impacts generated by the proposal. The Survey Plan submitted with the DA shows three windows along the northern elevation at 19 Tupper Street to the south. The SEE submitted with the DA states these windows are not living areas. However, no elevation shadow diagrams have been submitted to confirm the affected window types at 19 Tupper Street. Also, the SEE fails to address the shadow impacts to the existing verandah at the rear elevation of 19 Tupper Street.

Based on the shadow diagrams submitted, the extent of the overshadowing caused by the development is summarised as follows:

- | | |
|-------------------|---|
| 21 June, 9:00am: | Additional overshadowing will occur between the residential flat buildings at 27 Tupper Street to the south. |
| 21 June, 12:00pm: | Additional overshadowing will occur to the northern elevation of No.17-19 Tupper Street and a portion of its rear private open space. |
| 21 June, 3:00pm: | Additional overshadowing will occur portion of the rear private open space at 17-19 Tupper Street. |

Concerns were raised in the public submissions in relation to the overshadowing of the roof at 17-19 Tupper Street and the impact on future solar panels. Notwithstanding, an assessment cannot be based on potential solar panels to be placed on the building in the future.

The excessive bulk and scale of the built form and the non-compliant 1.5m side setbacks would result in unacceptable overshadowing to the adjoining properties.

iv. Social Impact (Part 2.8)

Part 2.8.5 of MDCP 2011 requires a Social Impact Statement (SIS), prepared by a suitably qualified person to be submitted with a DA for a boarding house with a capacity of 20 or more residents.

The proposed boarding house will have a capacity of 36 lodgers and therefore an SIS is required to be submitted with the DA. The SEE includes commentary in relation to the positive impacts associated with the proposal and mitigation measures such as a Plan of Management. However, no SIS has been undertaken by a suitably qualified person and there has been no involvement of the local community affected by the proposal, noting the public notification of the DA undertaken by Council attracted a total of 22 submissions in objection to the proposal.

The proposal has not been adequately justified in terms of Social Impact. The assessment in this report concludes that the proposal results in poor amenity for future potential occupants of the boarding house.

v. Community Safety

Part 2.9 of MDCP 2011 contains objectives and controls relating to community safety. Those controls are based on the Crime Prevention through Environmental Design (CPTED) principles including Surveillance, Access Control, Territorial Reinforcement and Space Management and Maintenance. The development is unacceptable having regard to the provisions of Part 2.9 as the proposal fails to provide an active street frontage at the ground floor level, in particular the proposal seek to to locate the private open space within the front setback and provide high fencing (to protect the privacy of persons using the POS), which results in the loss of street activation at the ground floor level.

vi. Parking (Part 2.10)

Car, Bicycle and Motorcycle Parking Spaces

The site is located in Parking Area 2 under Part 2.10 of MDCP 2011. MDCP 2011 prescribes car, bicycle and motorcycle parking. However, the AHSEPP also contains car parking, bicycle and motor cycle spaces parking rates for boarding house developments, which prevail over the parking rates prescribed in MDCP 2011. This matter has been considered in Section 5(a)(iv) of this report of which the proposal does not comply with the prescribed parking rate.

Furthermore, the proposal seeks to provide a total of 6 car spaces in the basement. However only 5 of these spaces will comply with the prescribed requirements of AS2890.1. An analysis of swept path diagrams provided by Council's Development Engineer identifies that the accessible parking space will not comply with the requirements of AS2890.1, thereby resulting in a further shortfall to the prescribed parking rate, with the proposal not affording any accessible compliant parking spaces.

Concerns have been raised in the public submissions in relation to the traffic and parking congestion in the street. The Applicant's Traffic and Parking Impact Assessment Report (TPIA Report) submitted with the DA includes traffic modelling of the nearby intersections. It concludes the intersections at Stanmore Road/ Tupper Street and Newington Road/ Tupper Street have spare capacity to cater for additional traffic and will perform adequately for AM and PM peak periods.

The TPIA also concludes there is on-street parking available in the surrounding area. However, it does not provide a parking demand study to support this assertion. Based on site inspections undertaken by Council officers it appears there is a shortfall of parking available in Tupper Street, particularly during day time peak hours. The proposal will increase the demand for on-street parking and add to parking congestion in the street. The TPIA submitted with the DA fails to properly quantify, analyse and address parking impacts generated by the proposal.

vii. Landscaping and Open Spaces (Part 2.18)

The ARH SEPP 2009 prescribes controls for landscaping within the front setback and private open space for boarding houses which prevail over the provisions of the MDCP 2011. Notwithstanding this, Part 2.18 provides provisions which ensure the location and quality of the landscaping and proposed private open space affords the best amenity for future occupants.

2.18.11.4 Boarding Houses

Landscaped area

Control C17 prescribes the following for boarding houses:

"C17 Landscaped area (Residential zones)

- i. The entire front setback must be of a pervious landscape with the exception of driveways and pathways.*
- ii. The greater of 4 metres or a prevailing rear setback must be kept as pervious landscaped area.*
- iii. In addition to the front setback, a minimum of 45% of the site area is to be landscaped area at ground level.*
- iv. A minimum of 50% open space must be pervious landscape."*

The DCP defines landscaped area as '*...a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.*'

The proposal does not comply with the landscaped area requirements, in that:

- only 24% of the total site area is landscaped area, representing a shortfall of 21%
- the bicycle parking area adds to the extent impervious landscape in the front setback
- the OSD tank and associated infrastructure and the communal courtyard in the front setback will limit the opportunity for the establishment of replacement canopy trees within the streetscape.
-

Control 18 prescribes common open space controls for boarding houses.

"C18 Communal open space (all zones)

- i. Communal open space is to be a minimum 20m².*

- ii. *Communal open space where the capacity is 20 – 29 is to be a minimum 20m² plus an extra 2.8m² per person.*
 - iii. *Communal open space where the capacity is 30+ is to be a minimum 48m² or 10% of open space on the site (whichever is the greater).*
 - iv. *Communal open space should be provided within rear setback (if one is required) and provide space for relaxation, outdoor dining and entertainment.*
 - v. *Communal open space is to have a minimum dimension of 3 metres.*
 - vi. *Communal open space is not to be located in the required front setback.*
 - vii. *Design communal open space so that it can accommodate outdoor furniture such as chairs, tables and shade structures.*
 - viii. *Communal open space may include drying area and smoking area.*
 - ix. *Provide adequate space and separation between different activities so that activities do not impinge on the effective use and enjoyment of the open space for recreation (for instance the open space should not be dominated by clothes lines, and non smokers should be able to enjoy a smoke-free outdoor area.*
- NB *Fully dimensioned indicative outdoor furniture layouts are to be provided with the development application*
- x. *Locate communal open space adjacent to, and connected to, the communal living area and/or kitchen/dining area if one is provided.*

The proposed boarding house will have a capacity of 36 lodgers, which requires a minimum of 48sqm communal open space (COS) on the site.

The proposal includes two separate COS areas comprising 29sqm in the front setback and 60sqm at the rear of the building.

The COS in the front setback requires the construction of a 1.8m high fence to afford privacy for the users of the space given it will be highly visible from the street. However, the proposed fence is an uncharacteristic element within the streetscape and will reduce activation and the potential for landscape measures in front of the building. The proposed COS will therefore have an adverse visual impact within the streetscape. The COS in the front setback is a product of the development seeking to attain a yield which cannot be reasonably accommodated on the site.

The COS at the rear of the building can only be accessed by a stair at the northern setback due to the change in level of 1.2 m and therefore is not accessible for all persons. This space will have poor amenity for the occupants due to a lack of solar access at the south-eastern side of the building, and the potential overlooking from the balconies at the rear elevation within the site and the windows of apartments on the adjoining property.

The proposal is therefore unacceptable in terms of the provision of COS.

viii. Tree Management (Part 2.20)

The proposal will result in the removal of four trees on the site to make way for the proposed development in addition to one street tree to accommodate the vehicle crossover. Furthermore, there are four trees on the adjoining properties that will be potentially impacted by the proposal. **Table 9** provides a description of the subject trees.

Table 9: Description of the existing trees on and adjoining the site

	Type/Location of Trees	To be retained or removed
Tree 1	Melaleuca bracteata (Black Tea Tree) / street tree located in the road reserve	removed
Tree 2	Chamaecyparis obtusa 'Crippsii' (Hinoki Cypress) / front setback	removed
Trees 3, 4 and 5	Cupressus sempervirens 'Stricta' and 'Stricta Aurea' (Green and Golden Pencil Pines) / front setback	removed
Tree 6	Ulmus parvifolia (Chinese Elm) / front setback of adjoining property to the south at 17-19 Tupper Street	retained
Trees 7 and 8	Eucalyptus microcorys (Tallowwoods) / front setback of adjoining property to the north at 11 Tupper Street	retained
Tree 10	Eucalyptus saligna (Sydney Blue Gum) / adjoining property to the east at 11 Tupper Street	retained

Note: Trees 9 and 11 do not exist.

The Arboricultural Impact Assessment (AIA), prepared by Redgum Horticultural, dated 14 May 2019 submitted with the DA has been reviewed by Council's Tree Management Officer (TMO). Council's TMO does not support the proposal based on the following comments:

Tree 1

The removal of this healthy and structurally sound tree street to accommodate the access to basement parking is not supported as the proposed removal is contrary to several Objectives and Controls under Part 2.20 (Tree Management) of the Marrickville DCP 2011. A design that allows for the viable retention of this tree is required.

Trees 2, 3, 4 and 5

The removal of these trees can be supported provided suitable replacement trees are included in the landscaping.

Tree 6

In Section 14.2 of the AIA it is noted that the encroachment into the TPZ is 17.3% however the Arborist has not demonstrated in accordance with Clause 3.3.4 that the tree located on an adjacent site will not be significantly impacted – in fact the report states that the basement will be a major encroachment within the TPZ of this tree. The suggestion that root mapping be undertaken to ascertain the extent of roots actually impacted is supported. This should be undertaken prior to the DA assessment as a significant redesign after the development has been approved may not be possible.

Tree 7

The Stormwater Detail Plan (Dwg No 19833) indicates a detention tank within the TPZ of this tree including an encroachment into the SRZ. Excavation within the SRZ is not supported. Any encroachment into the TPZ will need to be demonstrated to be viable and minor in impact in accordance with Clause 3.3.4 of AS 4970 by the Arborist.

Tree 8

In section 7.9 and Section 14.4 of the AIA it is noted that proposal for the basement excavation will result in a 16.2 % encroachment into the Tree Protection Zone (TPZ in accordance with AS 4970 'Protection of trees on development sites' – AS 4970). And also states that 'This specimen may not remain viable beyond completion of development due to the proposed encroachment into the structural root zone'. The TIER Architects basement plan (Dwg 304) and dated 13/5/2019 shows the SRZ clear of the basement excavation.

Notwithstanding the above comments - even if the encroachment is outside the SRZ but is 16.2% of the TPZ the Arborist must demonstrate in accordance with Clause 3.3.4 of AS 4970 that the tree located on an adjacent site will not be significantly impacted.

The Stormwater Detail Plan (Dwg No 19833) indicates excavation within the TPZ including in the SRZ. Any encroachment into the SRZ of a tree on an adjacent site will not be supported.

The impact to tree 8 must be clarified and justified as being acceptable or an alternate design is required.

Council's TMO also advised that the cumulative impact associated with the provision of the OSD tank in the front setback, including the pipes and retaining walls/footings and any associated excavation will not only adversely affect the roots of the nearby trees on the adjoining property due to a change in soil hydrology, but also limit the opportunity for the establishment of suitable replacement trees in this area.

Having regard to the above, the proposal fails retain and protect established significant trees on the site and adjoining properties, and also fails to adequately provide for replacement planting. The loss of trees is unsatisfactory and contrary to the provisions of Part 2.20 of MDCP 2011.

ix. Site Facilities and Waste Management (Part 2.21)

Table 10 provides an assessment against the relevant waste management requirements.

Table 10: Compliance with waste management requirements

Control	Requirement	Proposed	Complies?
C4	A boarding house with more than 20 rooms is required to provide the following type and number of bins at the following rates: <ul style="list-style-type: none"> • 1 x 660L general waste per 6 residential occupant rooms • 1 x 660L recycling waste per 6 residential occupant rooms • 1 x 660L green waste per 6 residential occupant rooms 	The SEE submitted with the DA states that 12 x 240L bins will be provided in a waste storage area at ground level. However, the ground floor plan shows 8 x 240L bins for general waste and recycling.	No
C15	Buildings that are 4 or more storeys high must provide waste chute(s) and waste service rooms or provide interim recycling/waste storage rooms.	The plans submitted with the DA show a waste chute.	Yes
C27	For boarding houses, containing up to twenty dwellings, a dedicated room or caged area of at least 8m ³ must be provided for the temporary storage of discarded bulky items which are awaiting removal. The storage area must be readily accessible to all residents and be located close to the main recycling/ waste storage room(s) or area(s).	No area for temporary storage of bulky items is provided. Council's Waste Officer has recommended that a bulky waste storage area is provided on the site.	No
Appendix 4 – Recycling/waste storage rooms and recycling/waste collection areas			
Location and Appearance	2. Recycling/waste storage room(s) must be located and designed to reduce adverse impacts upon the inhabitants of any dwellings on the site and upon neighbouring properties. The location and design of the room should minimise adverse impacts associated with: <ol style="list-style-type: none"> The proximity of the room to any dwellings; The visibility of the room; Noise generated by any equipment located within the room; Noise generated by the movement of bins into and out of the room; Noise generated by collection vehicles accessing the site; and Odours emanating from the room. 	The entry to the waste storage room is located opposite the entry to two boarding rooms, resulting in potential noise and odour impacts to the future occupants.	No

The proposed waste arrangements are not acceptable having regard to Part 2.21 Site Facilities and Waste Management under MDCP 2011 given the waste storage area is not of sufficient size to accommodate the required number of bins and there is no provision for bulky waste storage. Furthermore, the location of the waste storage area results in adverse noise and odour impacts to the occupants of the boarding rooms at ground level.

x. Multi dwelling housing and Residential Flat Buildings (Part 4.2)

The planning controls in Part 4.2 of MDCP 2011 for RFBs are used as a guide in the assessment given the proposed boarding house is akin to an RFB development and also permissible in the R1 zone under MLEP 2011. Council has adopted this approach to ensure the design of a boarding house is consistent with the form of RFBs, including external bulk and scale, relationship to neighbouring properties and within the streetscape, and separation of the built form within the future residential context.

However, the Applicant's SEE fails to consider the RFB controls and incorrectly relies on the 900mm side setback control for a single dwelling house to justify the reduced 1.5m side setbacks. (Note: Even if the single dwelling controls did apply to the proposal as prescribed by Part 4.1 of MDCP 2011 (Low Density Residential Development), it would not comply with the 2.5 m side setback requirement for a 3 storey dwelling house.)

Table 11 provides an assessment against the relevant design requirements in Part 4.2.

Table 11: Compliance with relevant design requirements in Part 4.2

Control	Requirement	Proposed	Complies?
Part 4.2.4.1 Floor space ratio and site coverage			
C8	Maximum 30% site coverage applies to RFBs	58%	No
Part 4.2.4.3 Setbacks			
C12	For RFBs greater than 3 metres or one storey, the following setbacks must apply: One storey – 3.5 metres Two storeys – 4 metres Three storeys – 4.5 metres	The proposed development has a side setback of 1.5 m to the side boundaries, representing a non-compliance of 3 m or 67%.	No
C13	Notwithstanding any compliance with the front, side and rear setback controls, applicants must demonstrate that proposed building setbacks: i. Provide adequate separation between buildings; ii. Protect adjoining buildings from overlooking and loss of amenity; iii. Maintain solar access in accordance with Council's requirements to adjoining premises; and iv. Are acceptable in terms of their impact on existing views (in this regard, Council	The SEE submitted with the DA fails to provide adequate justification that the reduced side boundary setbacks would not result in a loss of amenity to the adjoining premises.	No

	encourages view sharing between surrounding residences).		
C14	Variations to building setbacks may be permitted where: <ul style="list-style-type: none"> i. There is no adverse impact of any proposed boundary wall on neighbours; ii. Privacy between neighbouring dwellings and their open space improves; and iii. The proposed setback matches an existing setback of a neighbouring building, leading to an improved streetscape and visual relationship. 	The proposed setbacks will result in adverse visual bulk and increase overshadowing to the adjoining properties and compromise trees on adjoining properties. The proposed side setbacks disrupt the existing building rhythm and landscape character of the local area. The proposed setbacks bear no relationship to the setbacks of neighbouring buildings.	No
<i>Part 4.2.5.1 Façade and Streetscape Design</i>			
C21	Facades must be composed with an appropriate scale, rhythm and proportion that responds to the building's use and desired future character by avoiding long straight walls.	The proposed 26 m long straight walls along the side elevations will have an adverse visual impact to the adjoining properties.	No
<i>Part 4.2.4.6 Parking and Access</i>			
C34	Vehicular entrance to a communal parking like a basement parking must be located in such a way to have least impact on the streetscape and amenity of adjoining neighbours.	The proposed vehicular access in front of the building will dominate the front façade and have an adverse impact within the streetscape.	No

The inadequate side setbacks and excessive site coverage accentuate the bulk of the façades and the vertical nature of the built form resulting in unacceptable amenity impacts to the adjoining development. It also has National Construction Code (NCC) ramifications (discussed later in this report), which compromises the amenity of occupants.

The site is constrained by its small size and the development relies on bonus floor space under the ARH SEPP, resulting in a built form is not anticipated by the current planning controls for the site and incompatible with the existing and desired future character of the area.

Overall, the proposal fails to satisfy the provisions of Part 4.2 of MDCP 2011 and is an overdevelopment of the site resulting in unacceptable impacts on adjoining development.

xi. Boarding Houses (Part 4.3)

4.3.3.1 Character and amenity of the local area

As discussed in Section 5(a)(iv) of this report under the provisions of Clause 30A of the ARH SEPP, DAs for new boarding houses must satisfy a local character test, which seeks to

ensure developments proposed under the SEPP are consistent with the built forms and desired future character of the area.

The non-compliance with the side setbacks and the largely unbroken, unarticulated and flat bulk of the northern façade is not reflective of the character of the local area, which is comprised of built form with articulation and/or generous setbacks. The result is a built form that is so uncharacteristic as to be incompatible with both the existing and desired future character of the area. The proposal therefore does not satisfy the local character test under Clause 30A.

4.3.3.5 Boarding Rooms

The proposal demonstrates compliance with the boarding room requirements. Refer to **Table 12**.

Table 12: Boarding room design requirements

	Room type and facility	Minimum Requirement	Complies?
C9	Minimum area 1 person room	12sqm GFA	No
C10	Minimum area 2 person room	16sqm GFA	No
C11	Maximum room size	25sqm GFA	Yes
C12	Calculation of room size	*The areas referred to in Controls C9 –C11 exclude kitchenettes, bathrooms and corridors.	No – see discussion below
C13	Minimum room ceiling height	2,700mm	No - see discussion below
C14	Occupation of share rooms – per room	Maximum of two adults	Yes
C15	Fit out room only	Rooms must be able to accommodate: <ul style="list-style-type: none"> • Bed/s for the potential number of occupants, • Enclosed and open storage for clothes, linen and personal items, • At least one easy chair and a desk with chair, • Plus safe and convenient circulation space. 	No - see discussion below
C16	Area of self-contained facilities	<ul style="list-style-type: none"> • Maximum of 5sqm for a kitchenette; • A kitchenette is not to be located along the wall of a corridor; and • Minimum 3sqm and maximum 4sqm for ensuite bathroom. 	No – see discussion below
C17	Energy efficiency & internal climate	<ul style="list-style-type: none"> • All habitable rooms are to have access to natural ventilation through an external window; 	Yes Yes

		<ul style="list-style-type: none"> Natural light is to be available from an external window or light well, Light and air from an internal courtyard is acceptable if the courtyard is an adequate size 	N/A
C18	Private open space (not a requirement but can be provided in the form of a balcony or courtyard)	<ul style="list-style-type: none"> Maximum area 6sqm; and Minimum dimension 2 metres 	No

Room Sizes

The following table below provides a breakdown of the size of each of the boarding rooms in the proposal:

Number	Single or Double Lodger Room	Minimum Requirement (m2)	Proposed Internal Area (m2)*	Complies
02 (manager)	S	14	9	No
03	D	16	12.3	No
04	D	16	14	No
05	D	16	13.7	No
06	D	16	14.3	No
07	S	14	10.8	No
08	D	16	12.3	No
09	D	16	10.8	No
10	S	14	9.6	No
11	D	16	14.6	No
12	D	16	14	No
13	D	16	13.1	No
14	S	14	10.8	No
15	D	16	12.6	No
16	D	16	14.3	No
17	S	14	9.8	No
18	D	16	12.7	No
19	D	16	15.3	No
20	S	14	8.7	No
21	S	14	8.7	No
22	S	14	8.7	No
23	D	16	9.1	No

*Note: The internal floor area excludes 1 m strip adjacent to the kitchenettes, corridors and circulation areas adjacent to the entry doors where it is part of a corridor.

The Applicant's calculation of the room sizes fails to take into account the requirements under MDCP 2011. The architectural plans submitted with the DA overestimate the internal floor area of each of the boarding rooms by including entry corridors and a 1 m strip adjacent to the kitchenette. However, when these spaces are excluded from the calculation of internal floor area, the proposal fails to achieve the minimum size for all boarding rooms as prescribed under MDCP 2011. No natural daylight is provided to any bathrooms. The access

to the living space of rooms 20 and 23 (level 3) is via an excessively long 7.3 m corridor. Furthermore, when combined with the inadequate floor to ceiling heights (see discussion below) and the poor solar access for many of the rooms, the development will result in an unacceptable standard of living for the occupants having regard to the minimum requirements prescribed in Part 4.3.3.5 of MDCP 2011.

Ceiling Heights

A minimum 2.7 m floor to ceiling height applies to boarding house development. The Section Plan submitted with the DA shows a floor to ceiling height of 2.65 m at ground, Level 1 and 2 (2.9 m including the slab). The floor to ceiling height at the top level is shown as 2.3 m. The non-compliance with the floor to ceiling height requirements result in poor internal amenity for the occupants having regard to the floor to ceiling height requirements prescribed in Part 4.3.3.5 of MDCP 2011.

It noted that the floor to ceiling heights are likely to be further compromised by ducting and other services, including a fire sprinkler system required under the National Construction Code 2019 for a Class 2 or 3 building with a rise in storeys of four or more (and an effective height of 25 metres or less). Any reduction to the floor to ceiling heights to accommodate services will only serve to further erode the internal amenity of the already undersized boarding rooms.

Room fit-out

The plans submitted with the DA fail to show how a chair and desk can be accommodated within the room layout. In any event the inadequate room sizes are unlikely to be able to accommodate these facilities having regard to the fit-out requirements prescribed in Part 4.3.3.5 of MDCP 2011.

Self-contained facilities

A kitchenette is not to be located along the wall of a corridor. Boarding rooms 3, 6, 7, 8, 10, 11, 13, 14, 15, 17 and 18, equating to 50% of the total number of proposed boarding rooms contain a kitchenette along the wall of the entry corridor. The non-compliance with the internal layout controls will reduce the amenity of the boarding rooms having regard to the requirements prescribed in Part 4.3.3.5 of MDCP 2011.

4.3.3.6 Communal rooms and facilities

The proposal provides insufficient communal room facilities for a boarding house containing 22 rooms over four levels. Refer to **Table 13**.

Table 13: *Communal room design requirements*

	Communal Room requirement	Proposed	Complies?
C21	The communal living room(s) is to accommodate at least 50% of residents at capacity (as a guide 2m ² per resident).	Based on providing 2sqm per lodger, the communal living room is required to have an area of 72m ² . The development provides 1 communal living area with a total area of 29m ² , which does not comply with the minimum requirements.	No

C23	Provide a smaller, more intimate communal living room on each floor in a multi-storey boarding house that has a capacity of more than 5 residents and multiple floors	A smaller communal room is not provided at each level	No
-----	---	---	----

The communal living room at ground level is akin to a boarding room and not a communal space, due to its enclosed nature along the southern wall, resulting in a long and uninviting entry corridor at the front of the building and poor solar penetration at its eastern end containing the kitchenette.

The proposal fails to provide a smaller communal room at each level. The floor plate at each level incorporates too many rooms in order to maximise the yield at the expense of the amenity of the occupants of the building.

xii. Strategic Context (Newington Planning Precinct) (Part 9.1)

The desired future character of the Newington Planning Precinct seeks to protect significant streetscapes and/or public domain elements within the precinct including landscaping. As discussed earlier in this report, the proposal is likely to result in loss of significant trees on the adjoining properties resulting in adverse impact on the landscape character of the street.

National Construction Code of Australia

The DA is accompanied by a Building Code of Australia (BCA) capability report, prepared by 360 Certification, dated 4 April 2019. The report identifies a number of breaches to the Deemed-to-Satisfy (DtS) provisions in the BCA 2019.

The key BCA issues are:

- The proposed building is 5 storeys and the lift is required to be contained in its own fire isolated shaft and the stair serving the ground and levels 1 to 3 must be fire rated. However, the main stair and the lift are contained in the same shaft.
- The windows to the side elevations require protection as they are within 3 m of the side boundaries.
- The stair serving level 1-4 currently connects four storeys and is required to be fire isolated.
- The exit travel distance in the basement is 22 m to a single exit instead of 20 m.
- The basement requires two exits as egress involves a vertical rise of more than 1.5 m and the basement is more than 50m². A second exit may be provided via the garage roller door.
-

The BCA report states the above departures from the DtS provisions will be addressed by a fire engineered performance solution. No details regarding these alternate solutions have been provided in the BCA Report. These outstanding issues are a result of the proposal seeking to attain too much yield on the small site.

5(d) The Likely Impacts

The assessment of the DA demonstrates that, the design of the development is not compatible with the character of the local area. The proposal does not fit in with the existing

built form pattern of development and will have an adverse impact on the locality for the reasons discussed in this report.

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

It is considered that the proposal will have an adverse impact on the adjoining properties and the streetscape and therefore the site is unsuitable to accommodate the proposed development.

5(f) Any submissions

The DA was notified in accordance with MDCP 2011 for a period of 14 days to surrounding properties. Twenty-two submissions were received by residents during the public notification period. The concerns raised are outlined in **Table 14**. The key issues in terms of traffic and parking, design and residential amenity have been addressed in **Section 5** of this report. The 'Other Issues' are either not relevant to the assessment of the DA or could be dealt with by condition of consent, if granted.

Table 14: Summary of public submissions

Key Issues	Summary of objections and comments	Number and (%) of total submissions
Traffic and Parking Impacts	<ul style="list-style-type: none"> • increase in parking congestion on the streets • no parking should be provided on the site • traffic queuing in the street • incorrect parking assessment as there is no on-street parking available on weekends or after 7pm in surrounding streets and peak hour not 1 hour • increase in vehicles will result in a traffic hazard due to the narrow street • pedestrian safety impacts due to access to the basement • increase accidents at Stanmore Road intersection • vehicular access to properties will be difficult 	16 (73%)
Design	<ul style="list-style-type: none"> • basement is an uncharacteristic element • setbacks from the street are inconsistent with other developments in the street • height exceeds other development in the street • insufficient building setbacks • contravenes the DCP controls • does not comply with maximum FSR • overbearing design • out of scale with surrounding development • no common area provided at each floor • geo-technical impacts due to construction of a basement 	9 (41%)
Residential Amenity	<ul style="list-style-type: none"> • increased noise impacts associated with more people • loss of sunlight • adverse impacts on outlook and views • adverse visual privacy • reduced amenity to the area due to overcrowding 	9 (41%)

	<ul style="list-style-type: none"> • poor air circulation between buildings • incompatible with the existing environment • inhibit use of solar panels at 17-19 Tupper Street • exceeds bulk and density for the area • reduced setbacks increase overshadowing • overshadowing roof for future solar panels 	
Overdevelopment	<ul style="list-style-type: none"> • cumulative impacts with redevelopment of the Cyprus Club • FSR bonus of .25:1 does not apply to boarding houses only RFBs • block size is too small • adverse impact on local infrastructure including stormwater, footpaths • overpopulation 	7 (32%)
Loss of trees	<ul style="list-style-type: none"> • loss of leafy outlook due to reduced setbacks • removal of trees 	4 (18%)
Other	<ul style="list-style-type: none"> • attract undesirable people to the area • increase rubbish dumping on the street • the type residents to be living in the boarding house is not provided in the DA • it will be used as a hotel and not a residence • inconsistent with the character /demographic of the area • detract value of other properties • will be used as an air BnB or hostel • adverse heritage impact • construction impacts • it will lower living standards for residents in the street • it is not bona fide affordable housing • it will be used as a commercial premises • a condition should be imposed to cater for families escaping violence and underpaid/retired working women • the development should not contribute to global warming 	-

5(g) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal is contrary to the public interest as it entails multiple breaches of the applicable planning controls, is incompatible with the local area and will have a detrimental impact within the streetscape and would provide for poor amenity for the future occupants.

6 Referrals

6(a) Internal

The application was referred to the following internal sections/officers and the key issues raised in those referrals have been discussed in **Section 5** above.

Trees

Council's TMO does not support the removal of the street tree in the road reserve and advises that inadequate information has been submitted to demonstrate there will be no adverse impacts on the ongoing viability of existing trees on the adjoining property.

Building

Council's Building Officer raised concern with the breaches to the Deemed to Satisfy provisions in the BCA.

Waste Management

Council's Resource Recovery has advised the proposal does not comply with the quantum of garbage bins required and the proposal requires the provision of a storage area for temporary bulky goods.

Urban Design

Concerns were raised by Council's Urban Design Advisor in relation to the cumulative impact of the reduced boundary setbacks, lack of suitable street activation and landscape treatments in the front setback and poor internal amenity for the future occupants, resulting in an overdevelopment of the site. The detailed comments have been provided under Part 2.1 – Urban Design of MDCP 2011.

Engineering

Council's Development Engineer has identified that manoeuvrability into the accessible parking space does not comply with AS2890.1 and is compromised.

6(b) External

The DA was not required to be referred to any external agencies.

7. Section 7.11 Contributions

The carrying out of the proposed development would result in an increased demand for public amenities and public services within the area. A condition requiring that contribution to be paid would need to be imposed in the event that the development were to be approved.

8. Conclusion

The proposed development is not balanced with other similar development in the immediate vicinity of the site in consideration of setbacks, building rhythm and landscape character of the local area. The proposal is not compatible with the character of the local area and does not satisfy the character test under Clause 30A of the ARH SEPP.

The proposal does not comply with the aims of MLEP 2011 as it is excessive in bulk and scale and presents a poor architectural design within the streetscape and to the adjoining properties.

The proposal does not comply with the building setbacks, site coverage, landscaped area, access, parking and internal amenity requirements under MDCP 2011. The boarding rooms

will have poor internal amenity for the future occupants due to small room sizes, low ceiling heights, poor solar access and inadequate communal spaces.

The site is constrained due to its relatively small size and the resultant impacts within the streetscape and to the adjoining properties represents an overdevelopment of the site and does not promote the orderly development of the land.

The application is therefore recommended for refusal.

9. Recommendation

- A. 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, refuse Development Application No. 201900162 to demolish the existing dwelling house and construct a four storey boarding house containing 21 rooms above basement parking at 11A Tupper Street, Enmore for the reasons in **Attachment A**

Attachment A – Reasons for Refusal

Attachment A – Reasons for Refusal

1. The design of the development is not compatible with the character of the local area and therefore does not satisfy the character test required by Clause 30A of State Environmental Planning Policy (Affordable Rental Housing) 2009.
2. The development does not comply with the urban design objectives and controls under Part 2.1 of Marrickville Development Control Plan 2011 because it is not balanced with other residential developments in consideration of setbacks, building rhythm and landscape character and lacks sufficient building articulation at the side elevations.
3. The development does not comply with the Equity and Access controls under Part 2.5 of Marrickville Development Control Plan 2011 because it fails to provide adequate number of accessible rooms and car spaces on the site.
4. The development does not comply with the solar access objectives and controls under Part 2.7 of Marrickville Development Control Plan 2011 and will result in poor internal amenity for the future occupants.
5. The development does not comply with the car parking and bicycle requirements under Part 2.10 of Marrickville Development Control Plan 2011.
6. The development does not comply with the landscaped area requirements under Part 2.18 of Marrickville Development Control Plan 2011.
7. The removal of the street tree on Tupper Street is not supported as it is contrary to Part 2.20 of the MDCP 2011 and the objectives of the Marrickville Street Tree Master Plan (2014) or the Urban Forest Strategy (2010).
8. The development does not comply with the Site Facilities and Waste Management objectives and controls contained in Part 2.21 of Marrickville Development Control Plan 2011.
9. The development does not comply with the site coverage and building setback objectives and controls under Part 4.2 of Marrickville Development Control Plan 2011 and it will result in a built form inconsistent with the established setback character in the immediate vicinity of the site.
10. The development does not comply with the communal living room requirements under Part 4.3.3.6 of the MDCP 2011 as it will not be able to accommodate at least 50% of residents at capacity.
11. The development application fails to provide adequate justification to address the impact on the ongoing survival and viability of high retention value, prescribed trees of the surrounding sites and it does not provide adequate compensatory tree planting for the loss of trees on the site and is contrary to the objectives and requirements relating to Preservation of trees and vegetation under Clause 5.9 of Marrickville Local Environmental Plan 2011 and the landscaping objectives and controls prescribed under Part 2.18 of Marrickville Development Control Plan 2011.
12. In view of the reasons stated above and the substantiated submissions raised with the application, the development would not be in the public interest, therefore failing to satisfy Clause 4.15(1)(b) and (e) of the Environmental Planning & Assessment Act 1979.

Attachment B – Plans of proposed development

11a Tupper Street ENMORE NSW 2042

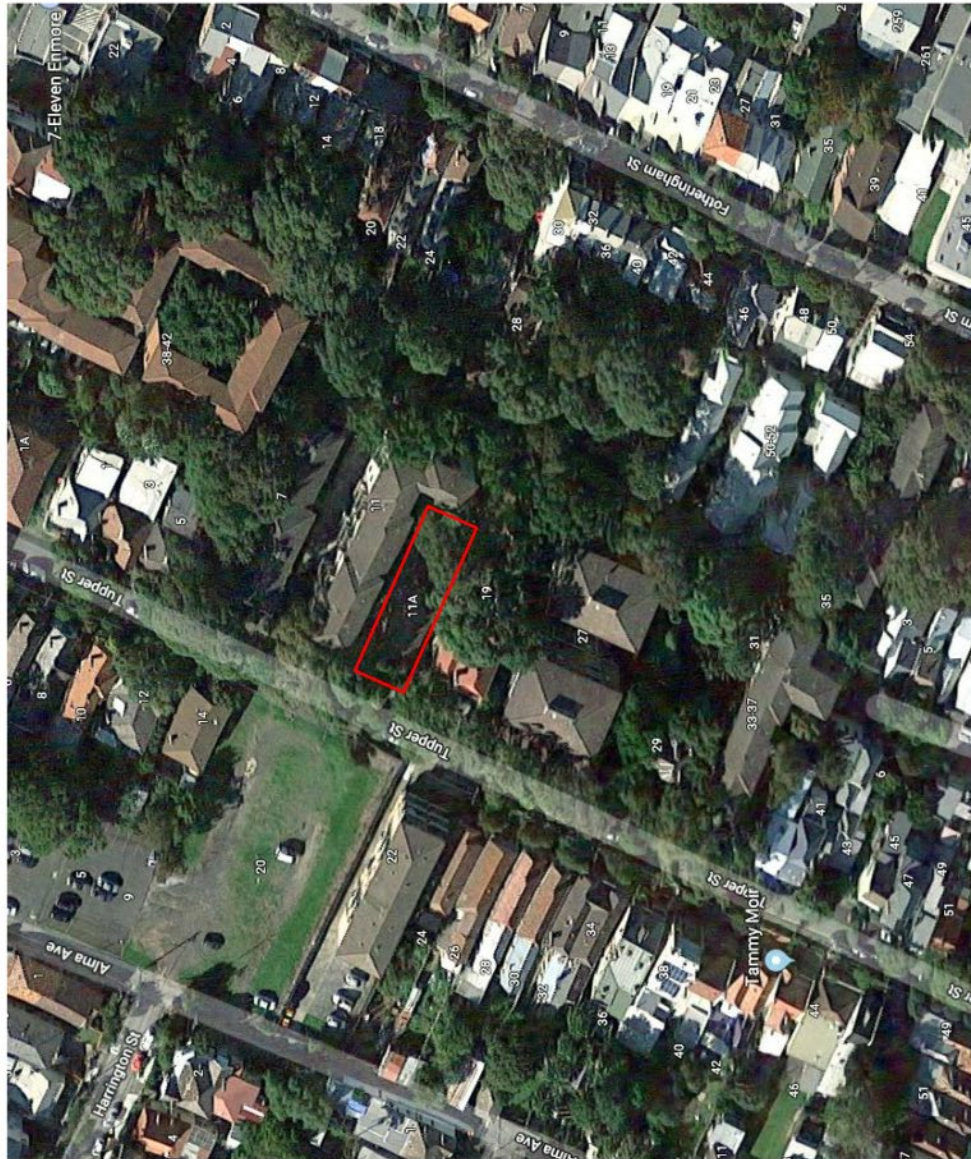
PROPOSED BOARDING HOUSE DEVELOPMENT (ARHSEPP)

100	THE INFORMATION
304	204 BASEMENT FLOOR
305	205 GROUND FLOOR
306	206 FIRST FLOOR
307	207 SECOND FLOOR
308	208 THIRD FLOOR
310	209 ELEVATIONS
311	210 STREET ELEVATION
312	211 SECTIONS
406	406 AREA CALCULATIONS
501	501 WINTER SOLISTICE - 10AM
502	502 WINTER SOLISTICE - 11AM
503	503 WINTER SOLISTICE - 12PM
504	504 WINTER SOLISTICE - 1PM
505	505 WINTER SOLISTICE - 2PM
506	506 WINTER SOLISTICE - 3PM
507	507 EQUINOX - 9AM
508	508 EQUINOX - 12PM
509	509 EQUINOX - 3PM
700	700 HEIGHT PLANE DIAGRAM

Room Number	Area	Room Schedule	Floor
01	13 m ²	COMM. ROOM	GROUND
02	13 m ²	COMM. ROOM	GROUND
03	18 m ²	DOUBLE	GROUND
04	18 m ²	DOUBLE	GROUND
05	18 m ²	DOUBLE	GROUND
06	19 m ²	DOUBLE	LEVEL 1
07	14 m ²	SINGLE	LEVEL 1
08	18 m ²	DOUBLE	LEVEL 1
09	18 m ²	DOUBLE	LEVEL 1
10	13 m ²	SINGLE	LEVEL 1
11	18 m ²	DOUBLE	LEVEL 1
12	18 m ²	DOUBLE	LEVEL 1
13	18 m ²	DOUBLE	LEVEL 1
14	14 m ²	SINGLE	LEVEL 2
15	15 m ²	DOUBLE	LEVEL 2
16	15 m ²	DOUBLE	LEVEL 2
17	13 m ²	SINGLE	LEVEL 2
18	18 m ²	DOUBLE	LEVEL 2
19	20 m ²	DOUBLE	LEVEL 2
20	13 m ²	SINGLE	LEVEL 3
21	13 m ²	SINGLE	LEVEL 3
22	13 m ²	SINGLE	LEVEL 3
23	20 m ²	DOUBLE	LEVEL 3

DEVELOPMENT CONTROLS		PROPOSED
SITE AREA	-	501.4m²
FSR	LEP APRSEPP TOTAL	0.85:1 0.85:1 1.35:1
GFA	TOTAL	677.2 m²
BUILDING MIX	-	7x SINGLE, 14x DOUBLE
BUILDING HEIGHT	14m	14m
DEEP SOIL	N/A	24.3% [122m²]
LANDSCAPED AREA	N/A	24.3% [122m²]
POS	20m² [AHH]	16.2% [81.2m²]
ADAPTABLE UNITS		2
PARKING	RESIDENTS: 6 (MOCIP) MOTORCYCLE: 1 PER 5 (AHH) BICYCLE: 1 PER 1 (AHH)	4 5 5

SITE INFORMATION



TIER

ARCHITECTS

DATE: 10/10/2018

USER: [blank]

DATE: [blank]

N

CLIENT	BIMAC APARTMENTS	DATE	SCALE
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TITLE	SEE INFORMATION	ISSUED BY	100

NOTES:

1. ALL DIMENSIONS ARE IN FEET AND INCHES. DIMENSIONS IN PARENTHESES ARE FOR INFORMATION.

2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

4. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

5. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

6. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

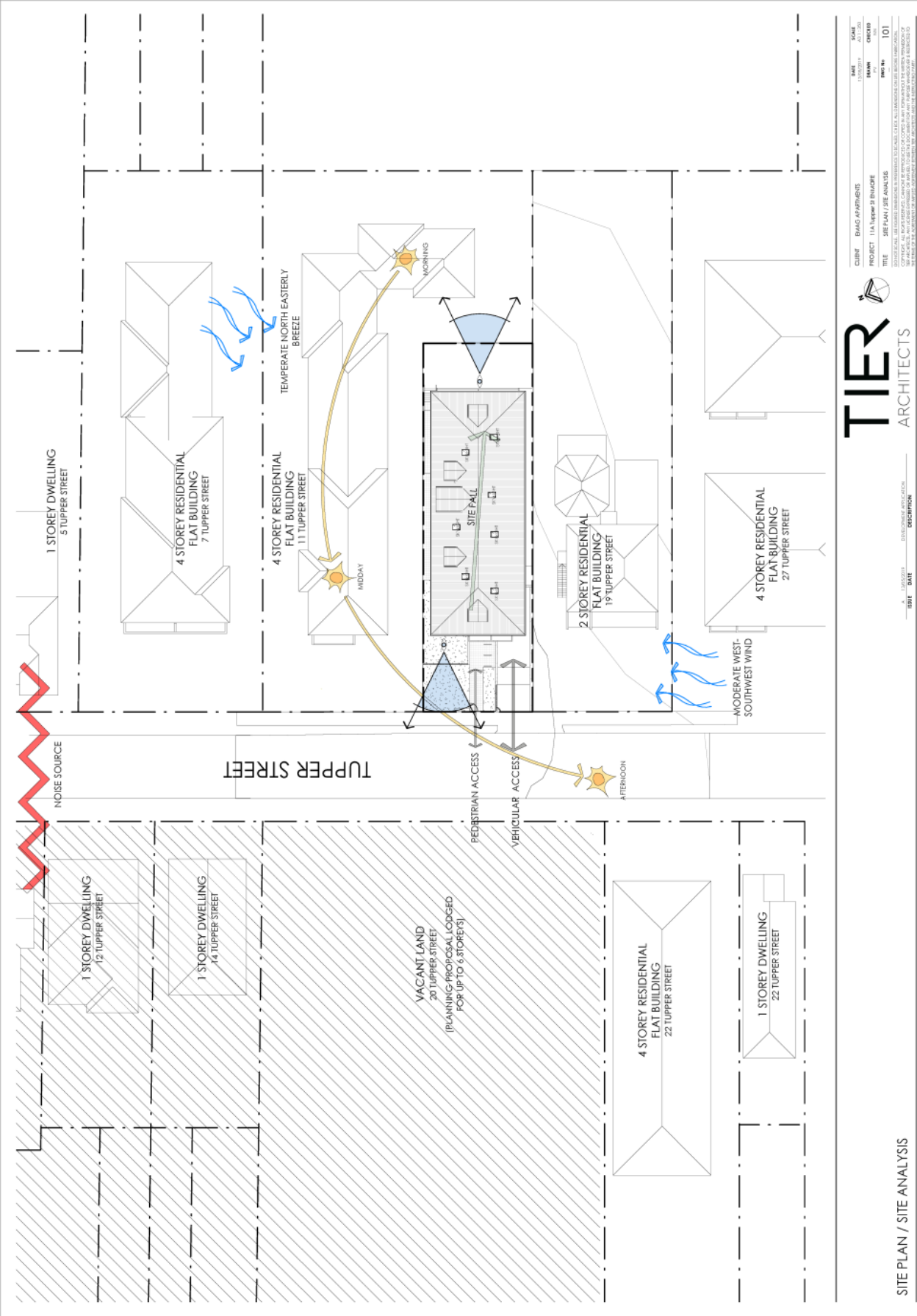
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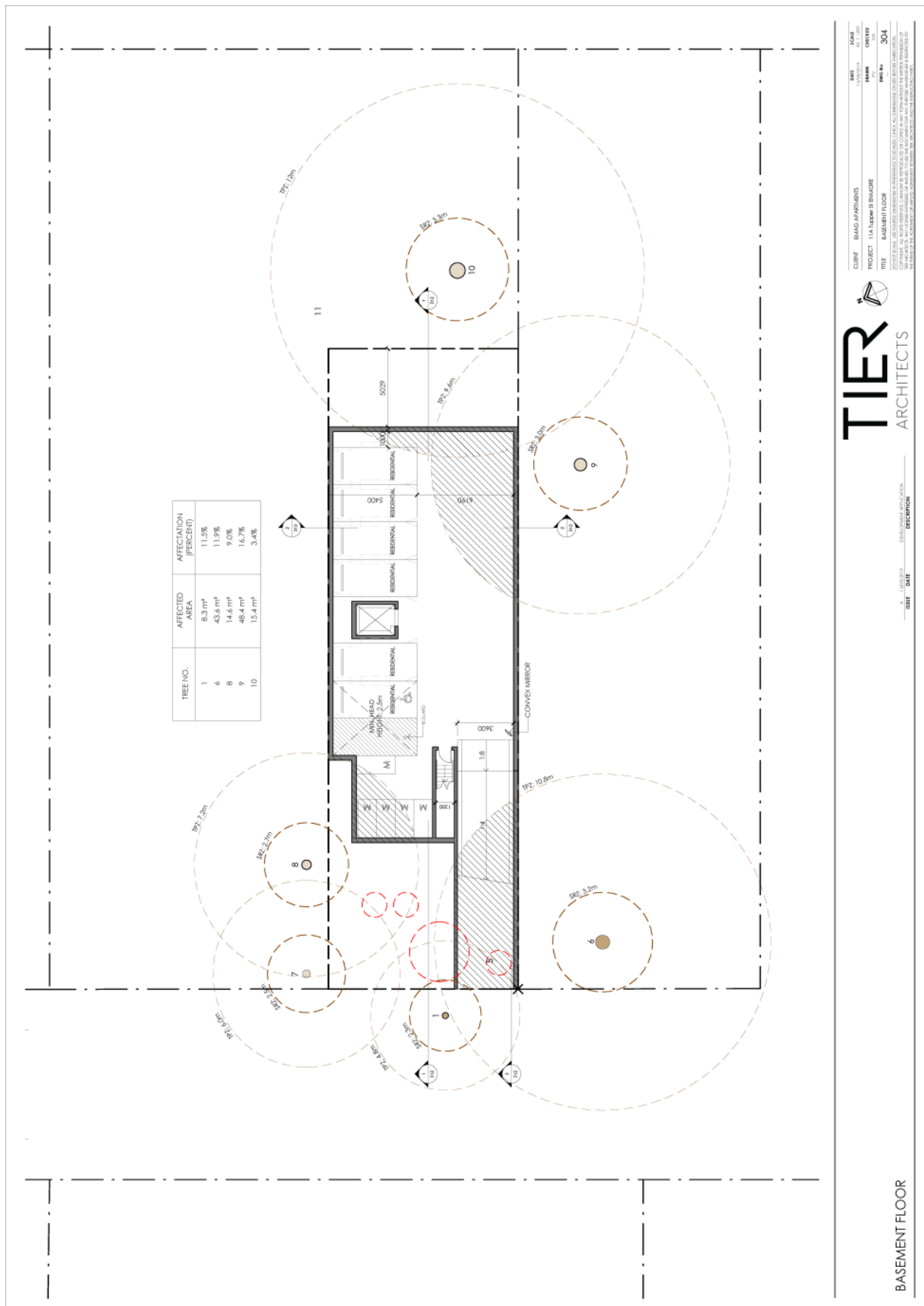
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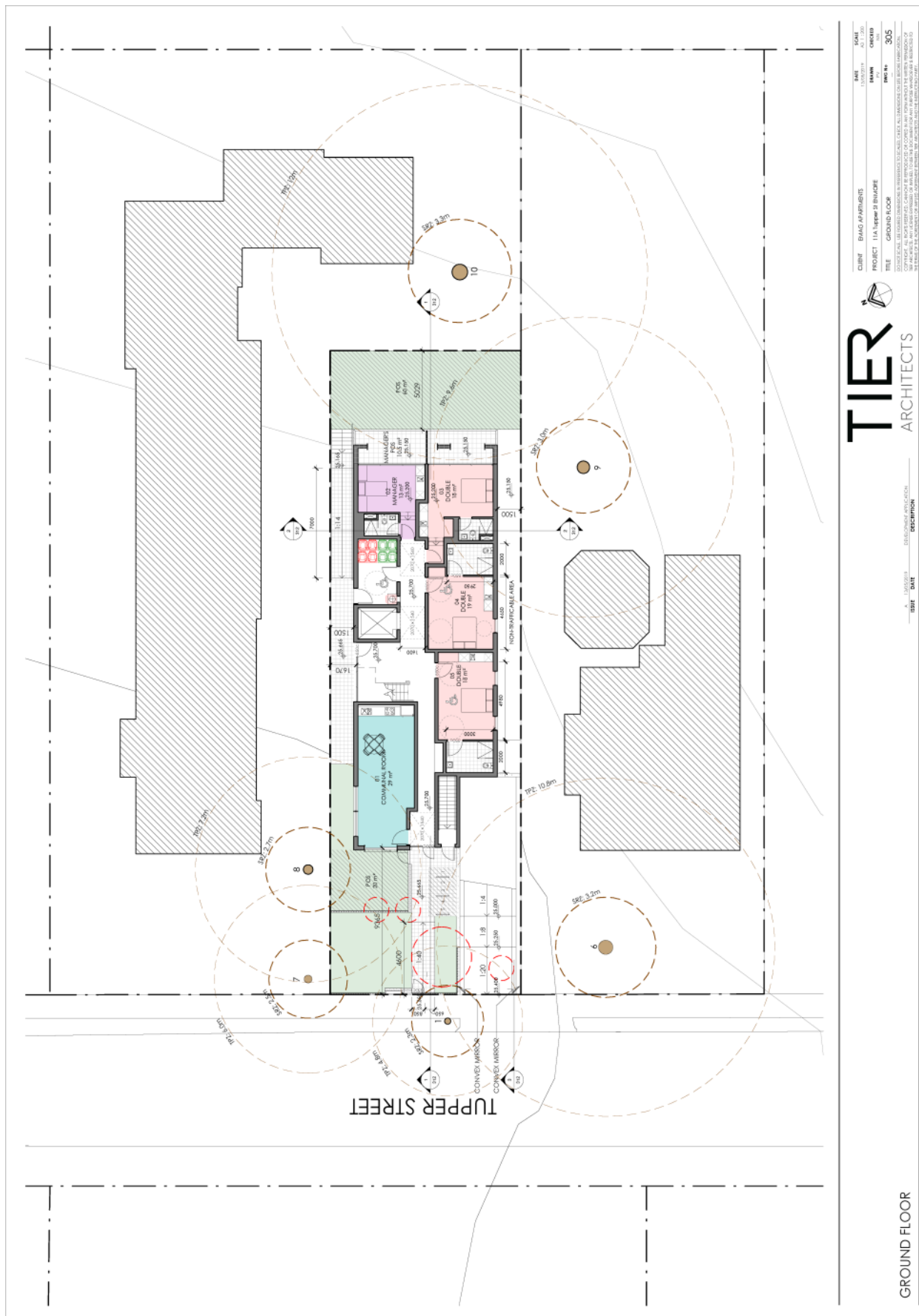
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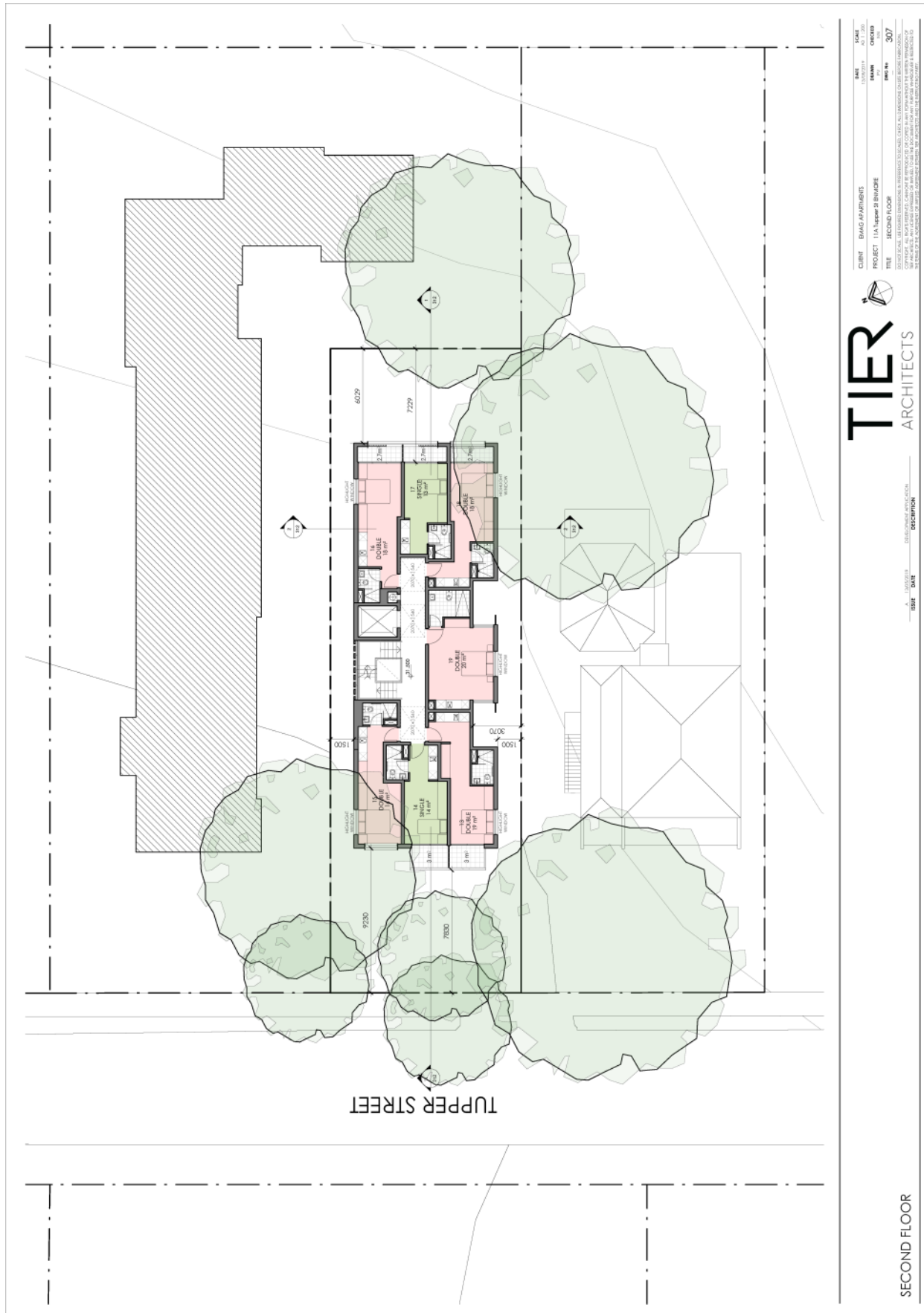
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ARCHITECTS









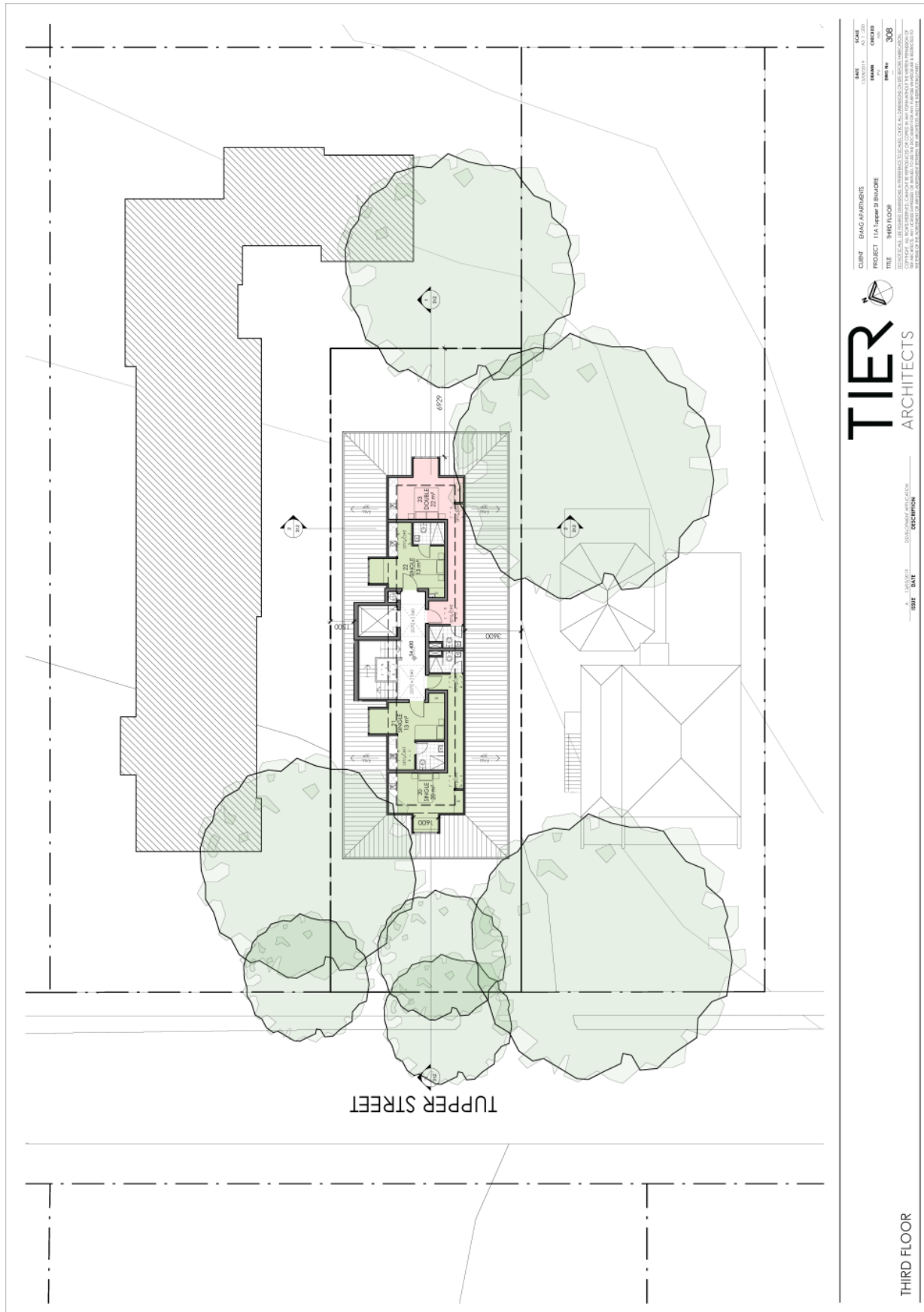


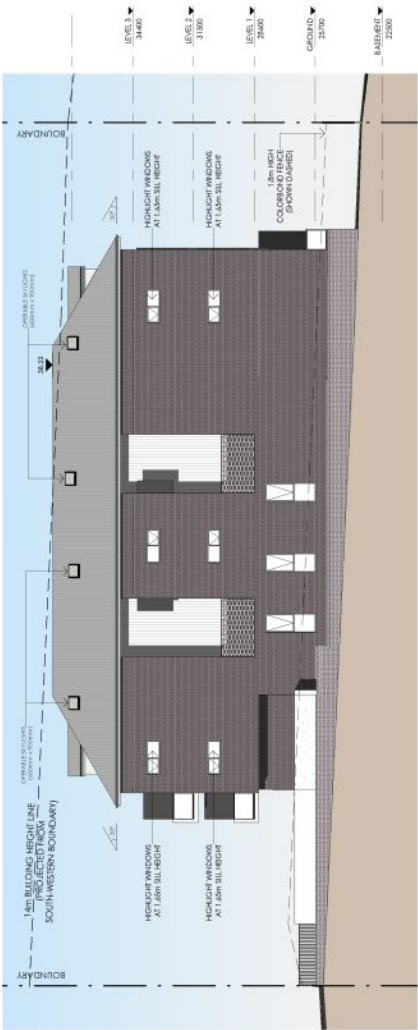
SECOND FLOOR

TIER
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TITLE	SECOND FLOOR	CHECKED	15/07/2018
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DATE: 15/07/2018
BY: 15/07/2018
CHECKED: 15/07/2018
NO. 14: 307

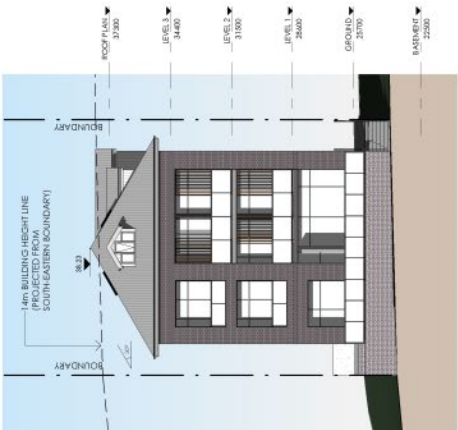




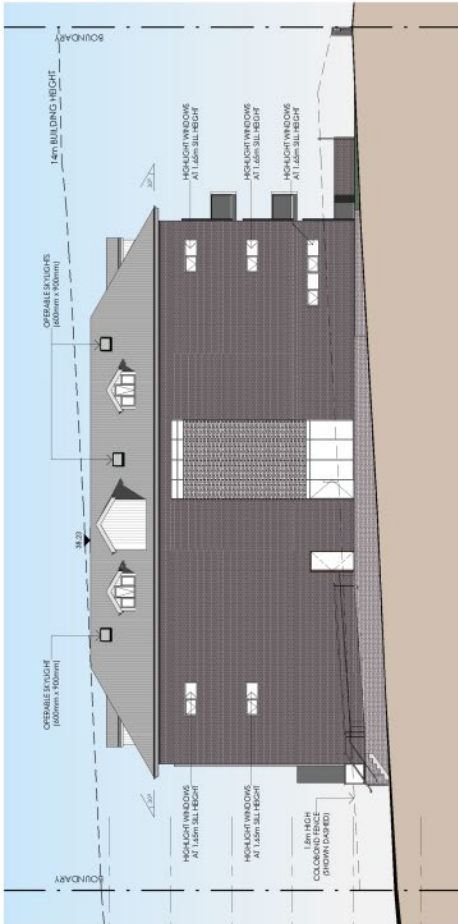
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1 : 200



4 NORTH-WEST ELEVATION
1 : 200



1 SOUTH-EAST ELEVATION
1 : 200



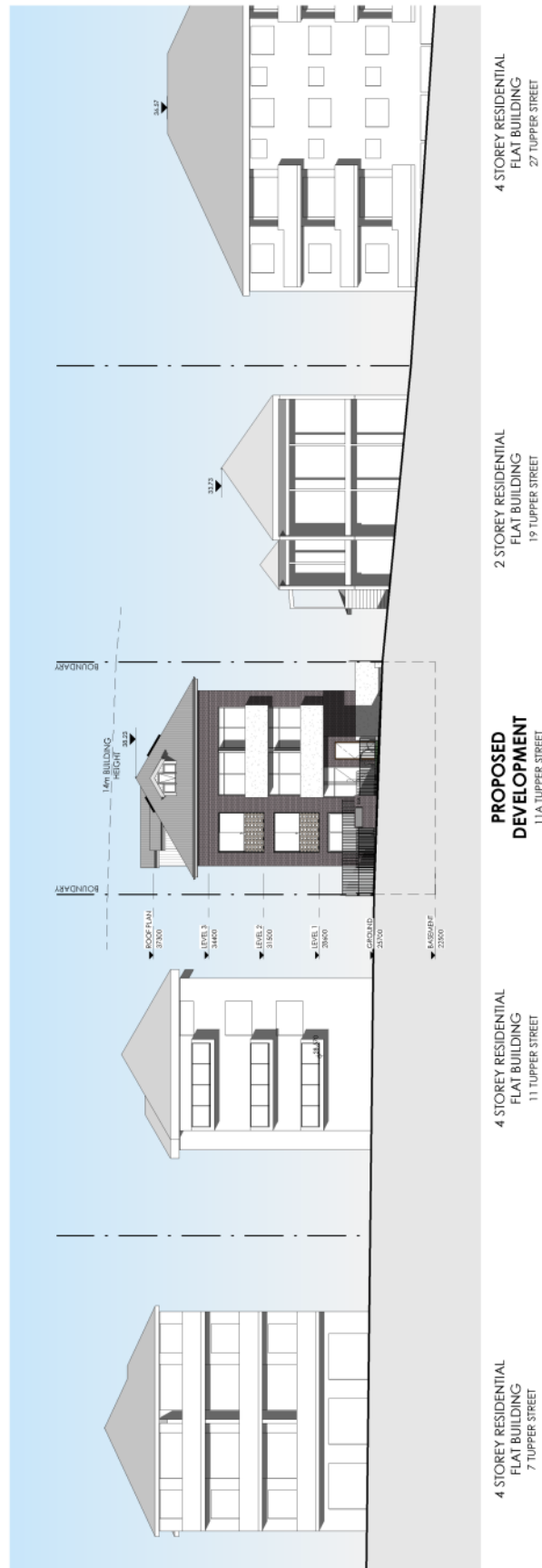
2 NORTH-EAST ELEVATION
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ELEVATIONS

TIER
ARCHITECTS

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TITLE	ELEVATIONS	NO. IN SET	310		

CONSTRUCTION OF THIS ELEVATION IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE ARCHITECT'S VISUAL INSPECTION OF THE SITE. THE ARCHITECT ACCEPTS NO LIABILITY FOR ANY INACCURACIES OR OMISSIONS IN THIS ELEVATION. THE ARCHITECT'S WORK IS LIMITED TO THE DESIGN OF THE BUILDING AND DOES NOT INCLUDE ANY OTHER SERVICES OR PRODUCTS.

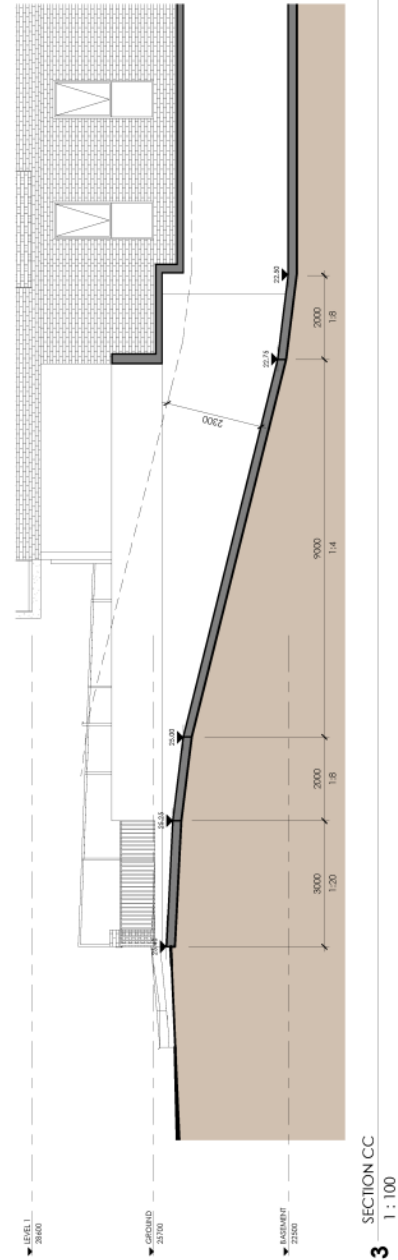


STREET ELEVATION

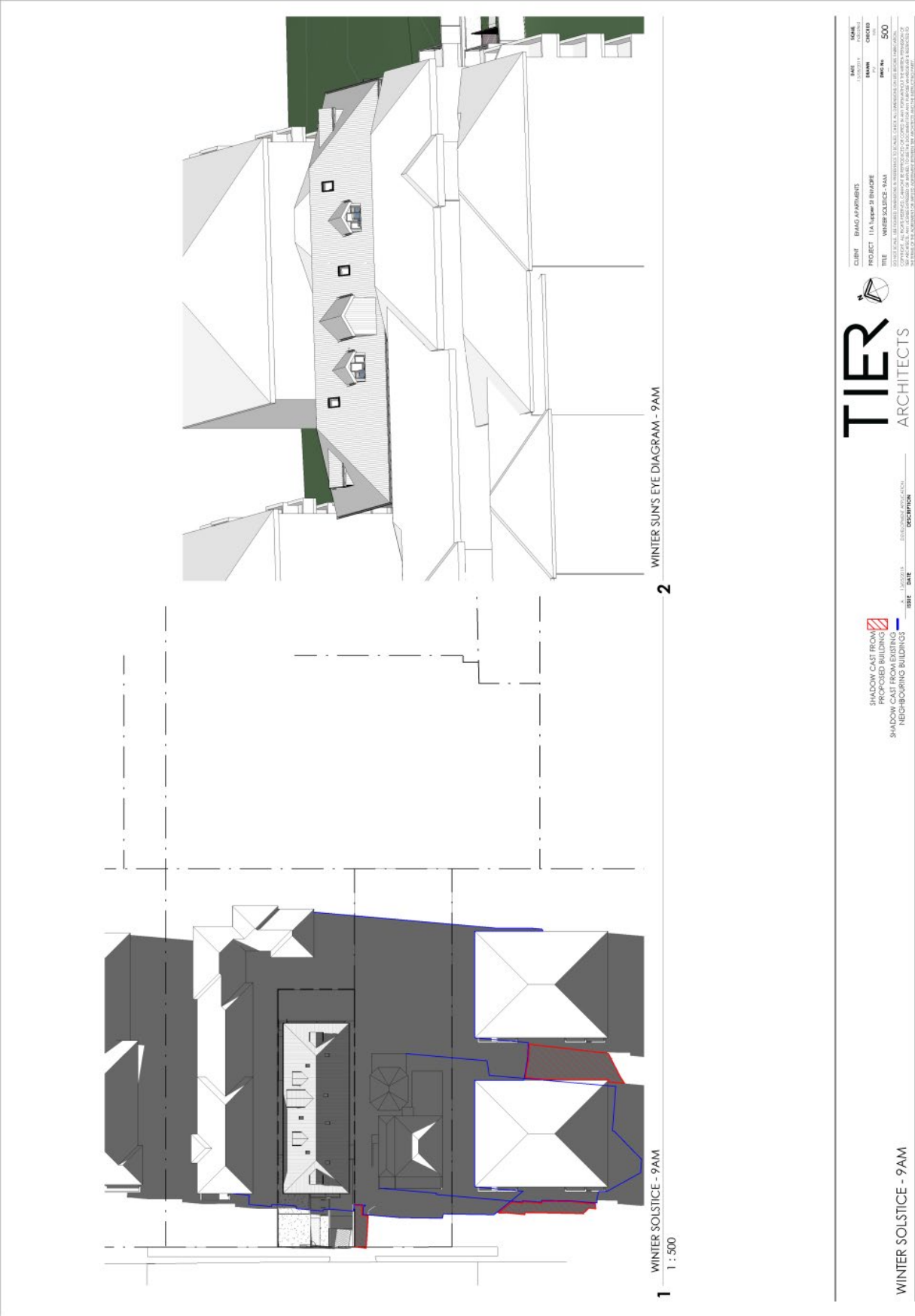
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ARCHITECTS

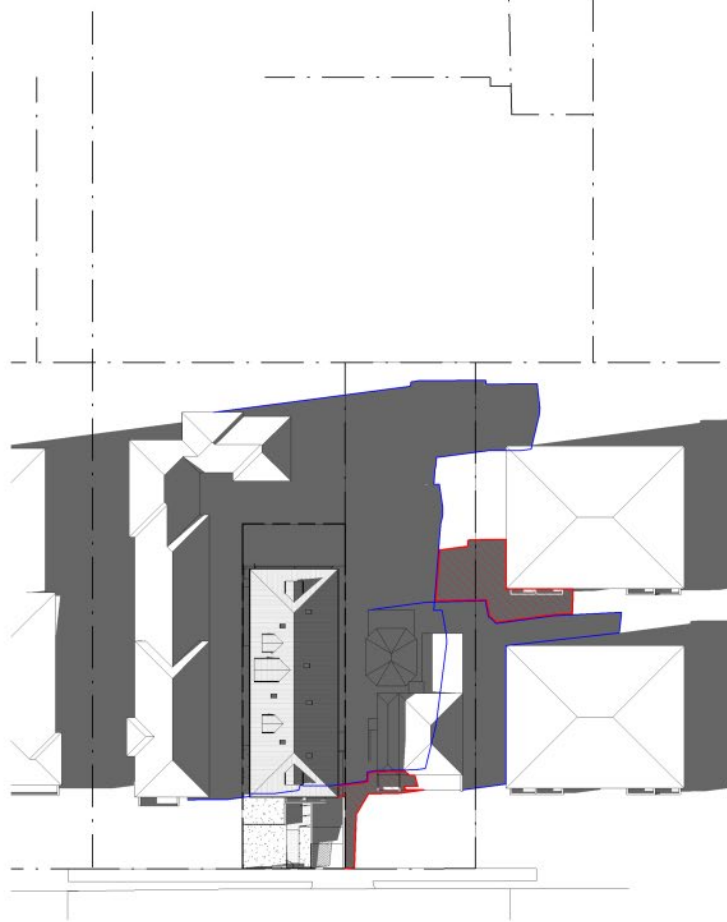
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ISSUE	DATE	DESCRIPTION
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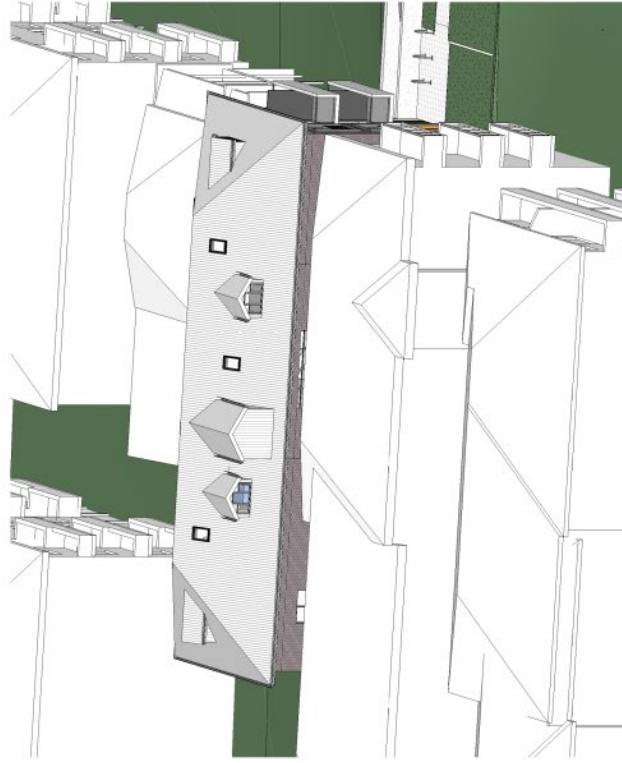
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1 WINTER SOLSTICE - 10AM
1 : 500



2 WINTER SUN'S EYE DIAGRAM - 10AM
1 : 500

SHADOW CAST FROM
PROPOSED BUILDING
SHADOW CAST FROM EXISTING
NEIGHBORING BUILDINGS

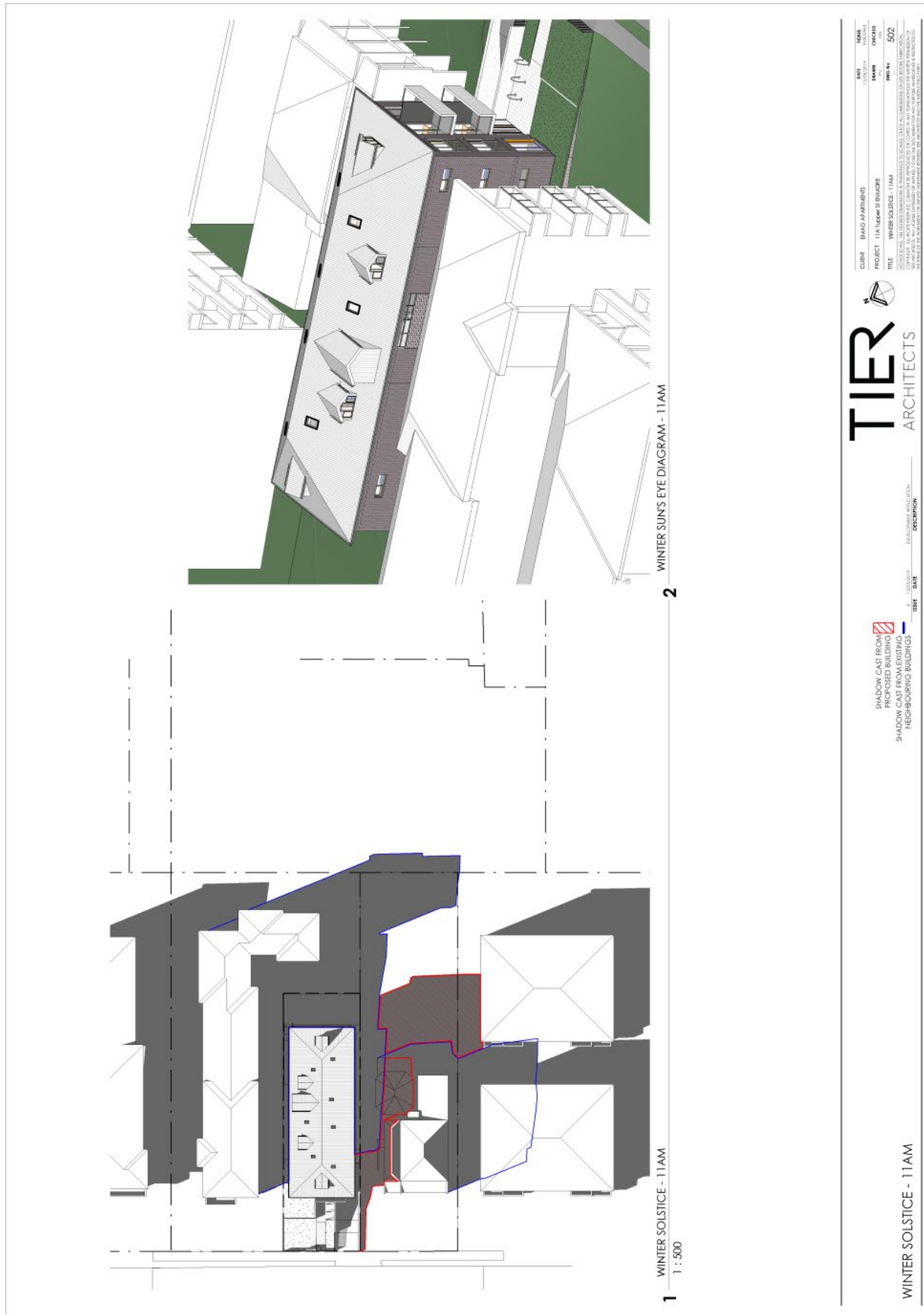


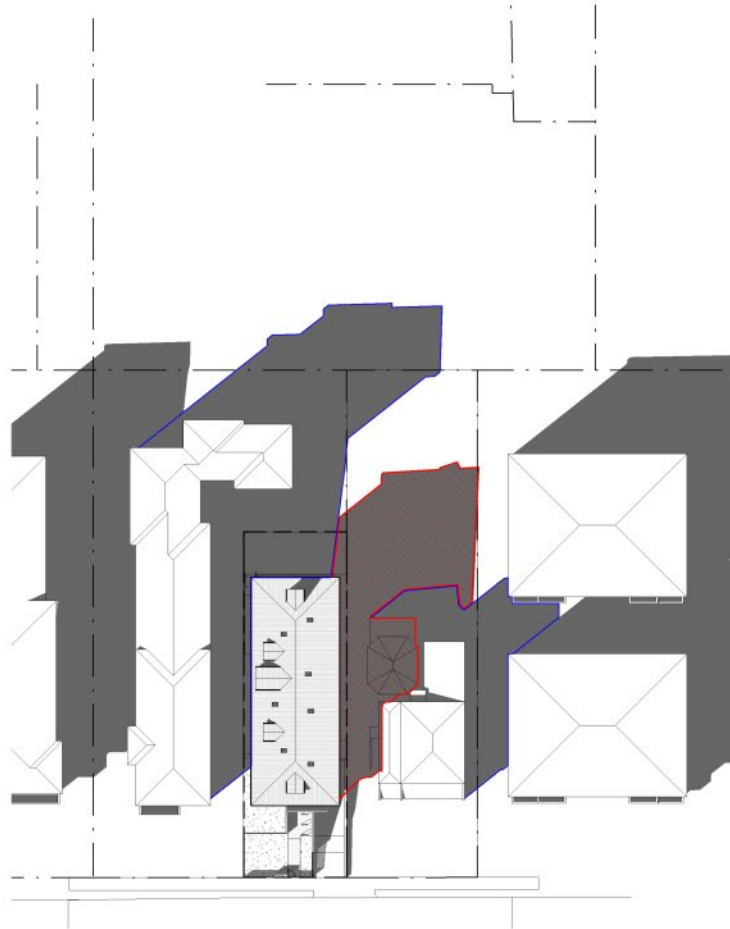
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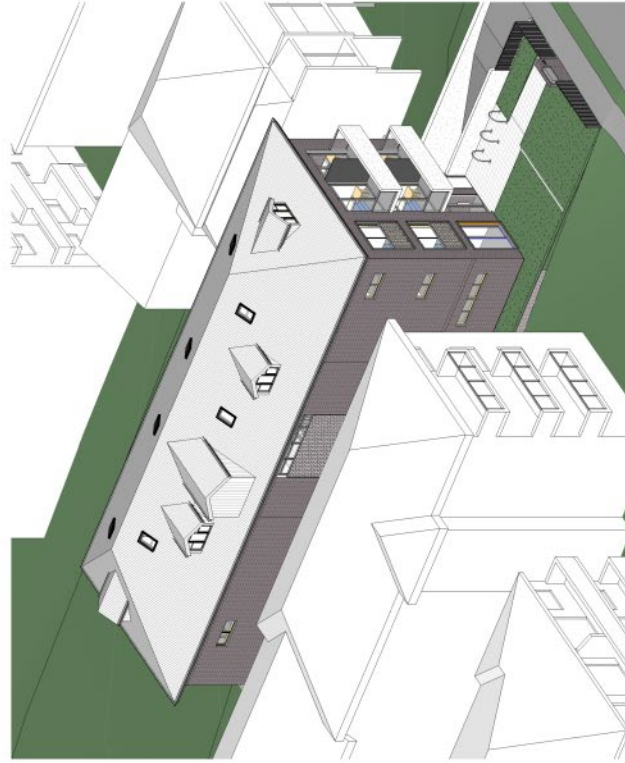
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SHEET: 501

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SHEET NO: 501
DRAWN: 11/01/2018
CHECKED: 11/01/2018
SCALE: 1:500
DATE: 11/01/2018
DESCRIPTION: WINTER SOLSTICE - 10AM
SHEET: 501





1 WINTER SOLSTICE - 12PM
1 : 500



2 WINTER SUN'S EYE DIAGRAM - 12PM

SHADOW CAST FROM
PROPOSED BUILDING
SHADOW CAST FROM EXISTING
NEIGHBORING BUILDINGS

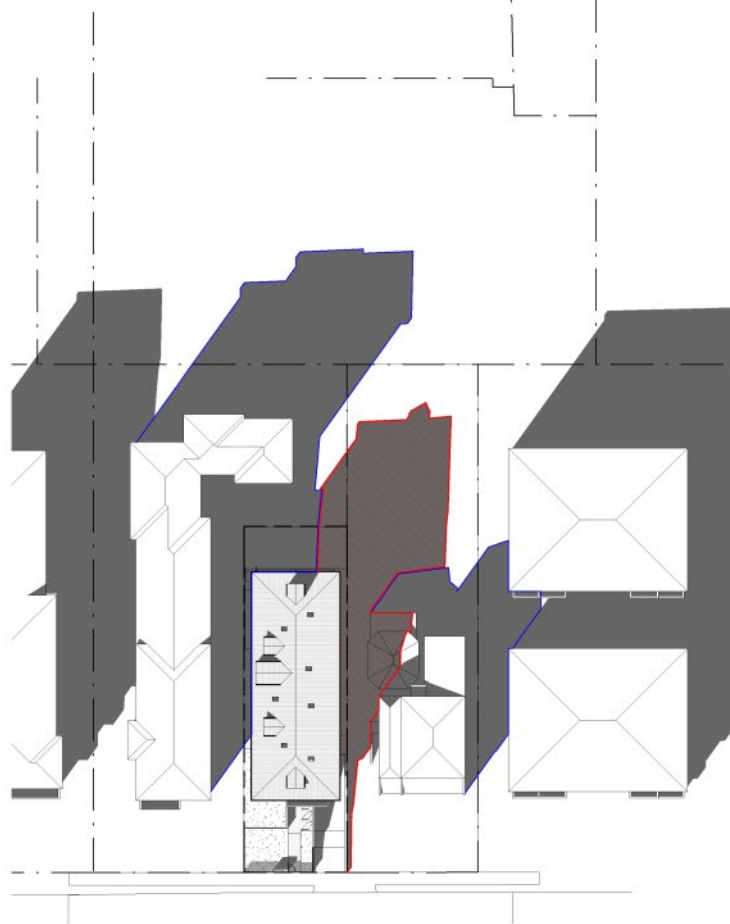
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TIER
ARCHITECTS

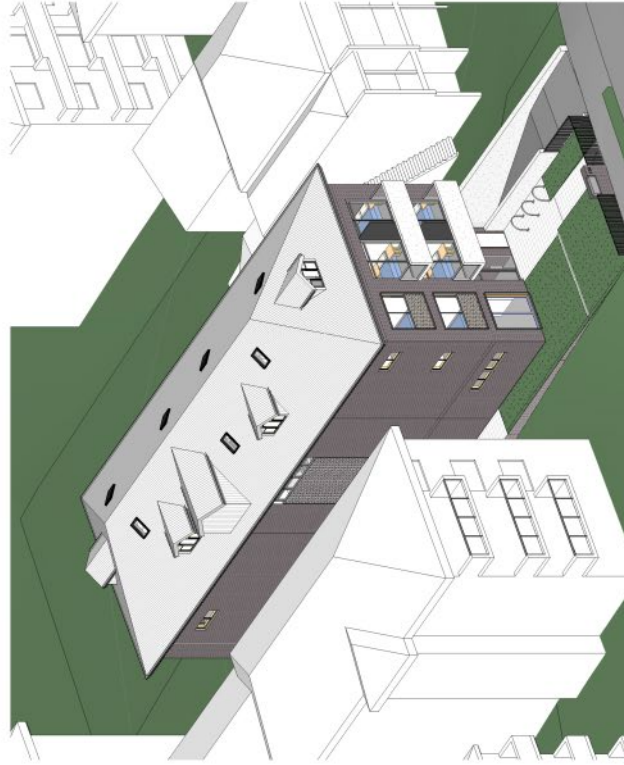
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DESCRIPTION

DATE



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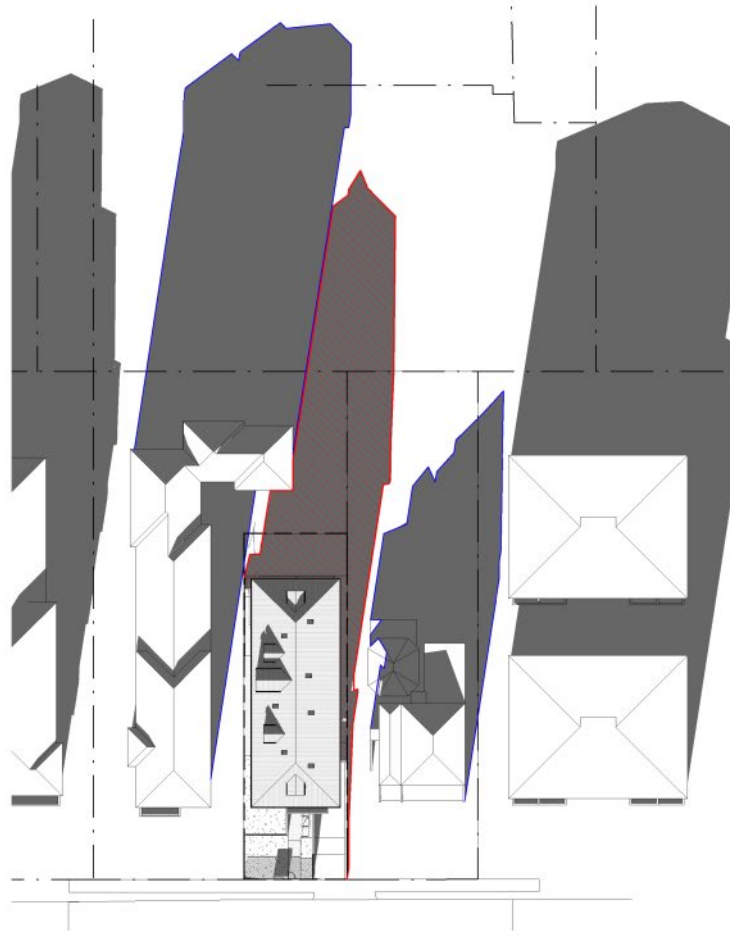
SHADOW CAST FROM
PROPOSED BUILDING
SHADOW CAST FROM EXISTING
NEIGHBORING BUILDINGS

WINTER SOLSTICE - 1PM

TIER
ARCHITECTS

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TITLE	WINTER SOLSTICE - 1PM	SCALE	1:500
REVISIONS	1. REVISIONS TO DRAWING TO MATCH 11A UPPER 2B BUNDOCK	DATE	10/10/2018
DATE	10/10/2018	SCALE	1:500





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1 : 500



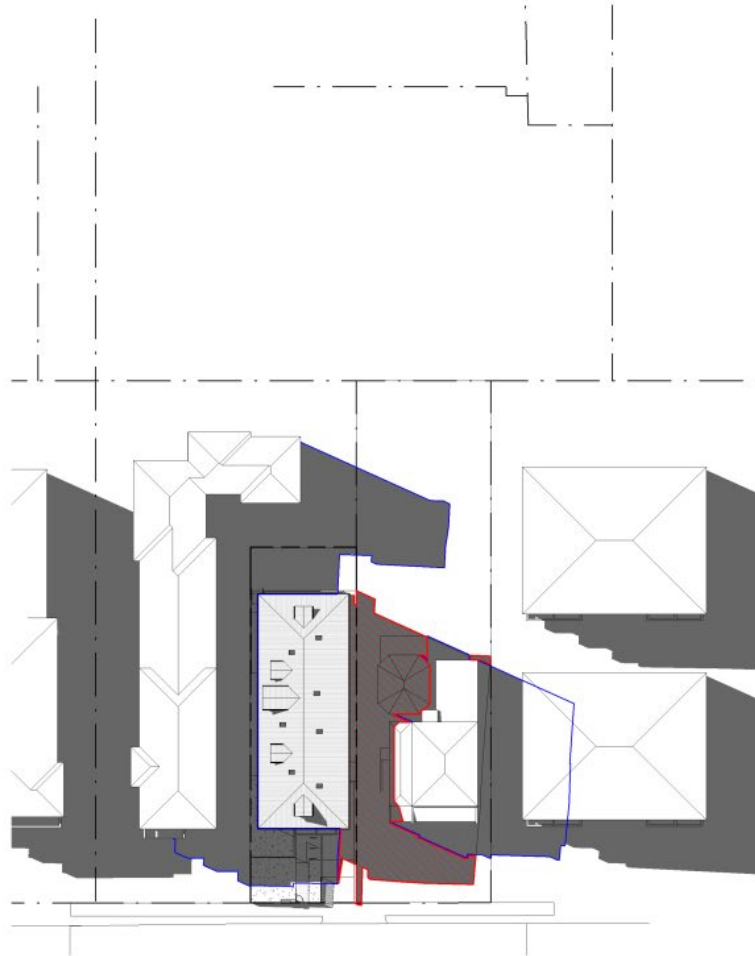
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SHADOW CAST FROM
PROPOSED BUILDING
SHADOW CAST FROM EXISTING
NEIGHBORING BUILDINGS

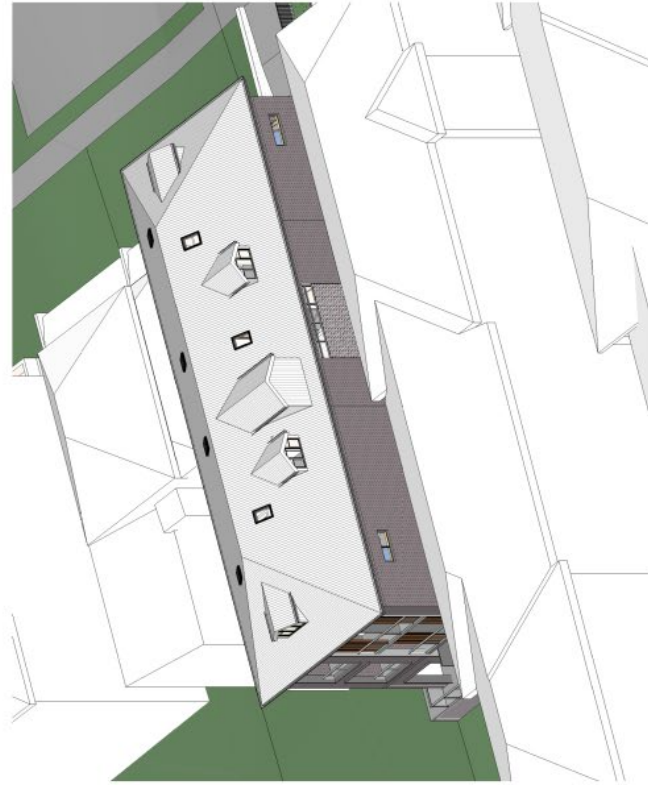
WINTER SOLSTICE - 3PM

TIER
ARCHITECTS

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PROJECT - 11A Upper 3B BUNDOCK
TITLE - WINTER SOLSTICE - 3PM
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DRAWN - [Name]
CHECKED - [Name]
DATE - 10/10/18



1 EQUINOX - 9AM
1 : 500

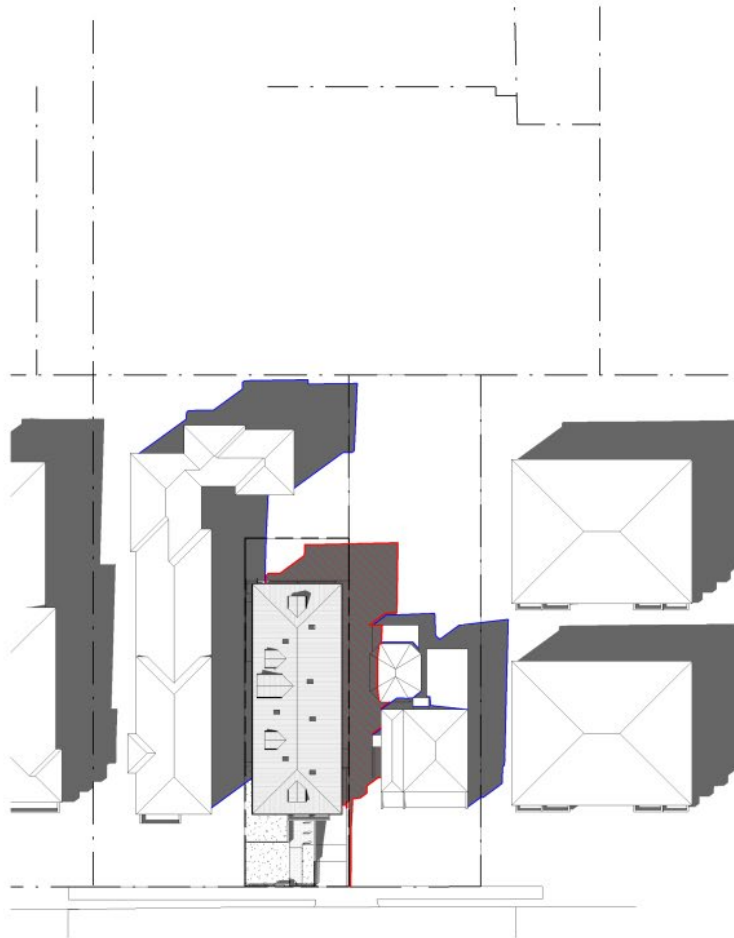


2 EQUINOX SUN'S EYE DIAGRAM - 9AM

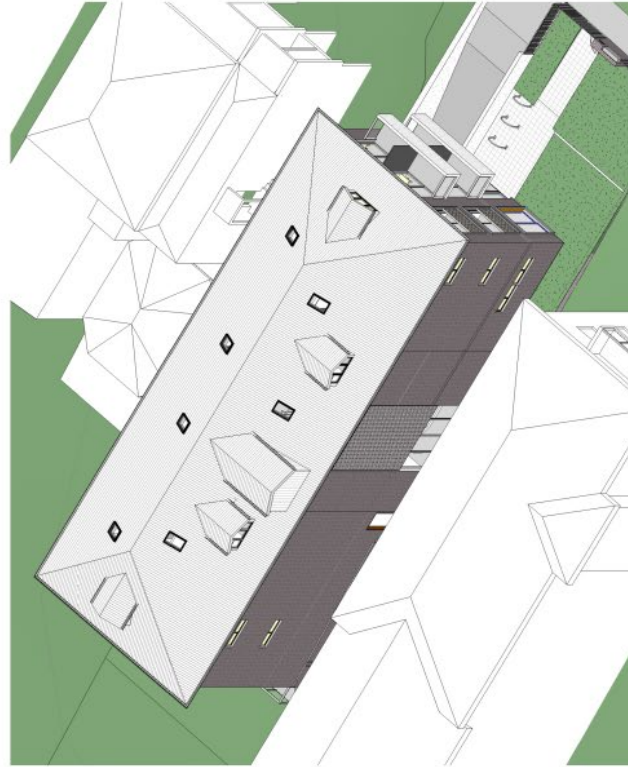
TIER
ARCHITECTS

CURR	BLAND APARTMENTS	DATE	20/07/14
REV	1.000/07/14	BY	AS
PROJECT	11A Upper St Bridge	DESIGN	507
TITLE	EQUINOX 9AM	CHECKED	
DATE	20/07/14	DATE	

EQUINOX - 9AM



1 EQUINOX - 12PM
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EQUINOX SUN'S EYE DIAGRAM - 12PM

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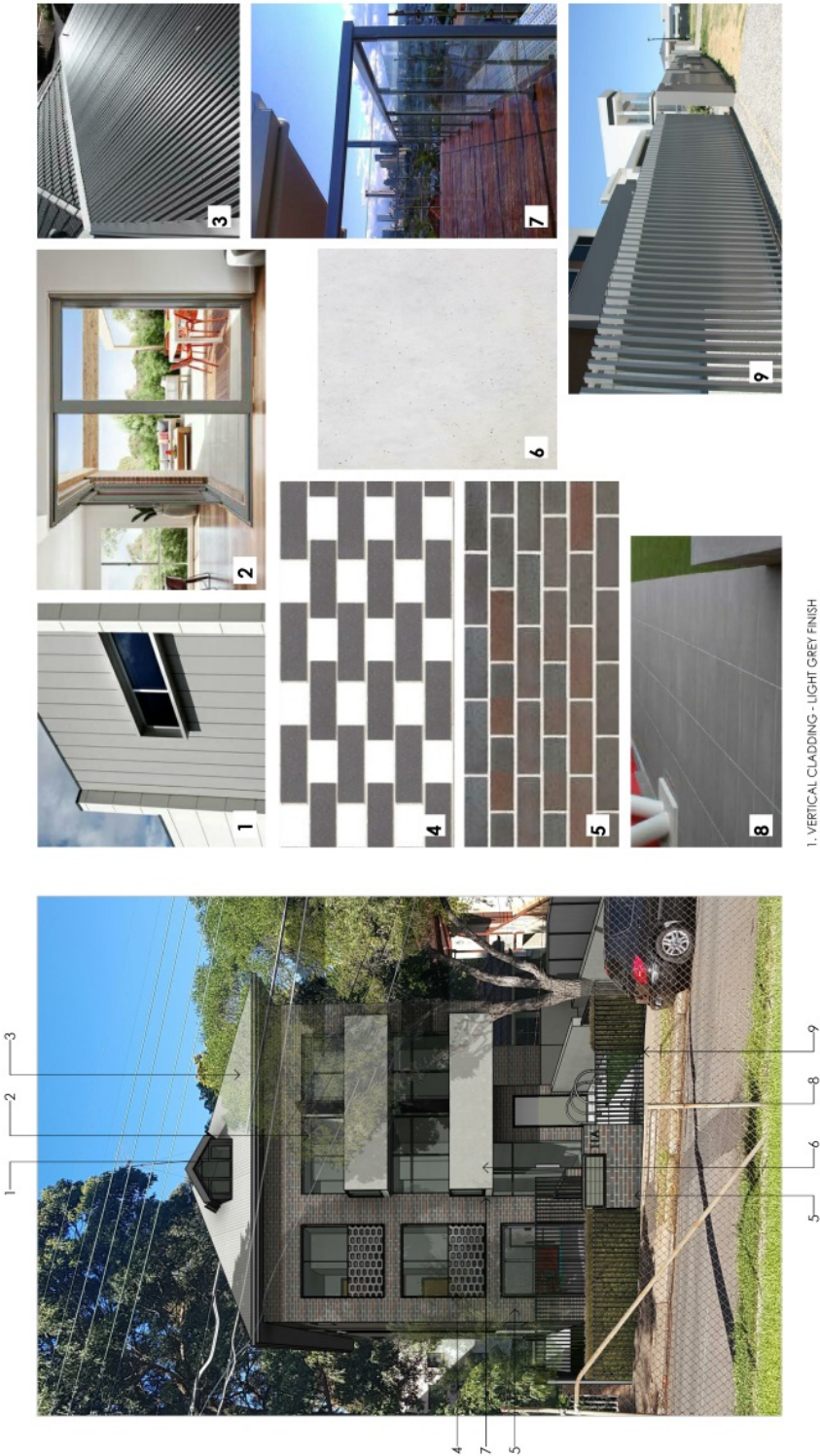


CURSE	BAGG APARTMENTS	SHEET	10
PROJECT	11A Upper 2 BRIDGE	DATE	10/07/2018
TITLE	PERSPECTIVE	NAME	CHUCK
		NO. 10	619

TIER
ARCHITECTS

DATE	DATE	DESCRIPTION
10/07/2018		PERSPECTIVE

PERSPECTIVE



TIER
ARCHITECTS

CURF	BRAC APARTMENTS	NAME	NAME
PROJECT	11A Upper 2 ENCORE	DATE	DATE
TITLE	MATERIALS AND FINISHES	SCALE	SCALE
		600	600

MATERIALS AND FINISHES

DATE	DESCRIPTION

TIER
ARCHITECTS

CLIENT	BKMG APARTMENTS	DATE	SCALE
PROJECT	11A Upper St BROADWAY	DRAWN	CIRCLED
TITLE	HEIGHT PLANE DIAGRAM	BY	700

Attachment C - Conditions in the circumstance the application is approved

Attachment A – Recommended conditions of consent

PART A - DEFERRED COMMENCEMENT CONSENT

The consent will not operate and it may not be acted upon until the Council or its delegate is satisfied as to the following matters:

1. An amended Arboricultural Impact Assessment (AIA) report, prepared by an AQF Level 5 Arborist must be submitted to, and approved by, Council including:
 - i. A Root Mapping Report in accordance with Council's Development Fact Sheet – Trees on Development Sites providing an assessment of the impact of the proposed works on the root system of Trees 6, 7 and 8 shown on Drawing No. 305 Issue A Ground Floor Plan, prepared by Tier Architects, dated 13 May 2019 submitted with the development application. No tree roots greater than 50mm in diameter shall be severed for the purpose of constructing the proposed works, including the OSD tank and associated infrastructure. In the event that this requirement cannot be satisfied then an alternate design will be required.
 - ii. A Pruning Specification for any tree where pruning is proposed, including marked up images, of each branch to be removed. Any encroachment into the Tree Protection Zones (TPZ) of Trees 6, 7 and 8 will need to be demonstrated to be viable and minor in impact in accordance with Clause 3.3.4 of AS 4970 by the Arborist.
2. Amended Landscape Plans showing four (4) replacement canopy trees with a minimum 75 litre container size and a mature height 8 m with one (1) planted in the road reserve (1) planted in the front setback and two (2) planted in the rear setback in accordance with the species and planting details in Council's Marrickville Street Tree Masterplan 2014.

Evidence of the above matters must be produced to the Council or its delegate within 2 years of the date of this Determination otherwise the Consent will lapse.

PART B - CONDITIONS OF CONSENT

Once operative the consent is subject to the following conditions:

GENERAL

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by	Date Submitted
Drawing No. 304 Issue A	Basement Floor	13 May 2019	Tier Architect	20 May 2019
Drawing No. 305 Issue A	Ground Floor	13 May 2019	Tier Architect	20 May 2019
Drawing No. 306 Issue A	First Floor	13 May 2019	Tier Architect	20 May 2019
Drawing No. 307 Issue A	Second Floor	13 May 2019	Tier Architect	20 May 2019
Drawing No. 308 Issue A	Third Floor	13 May 2019	Tier Architect	20 May 2019
Drawing No. 310 Issue A	Elevations	13 May 2019	Tier Architect	20 May 2019
Drawing No. 311 Issue A	Street Elevation	13 May 2019	Tier Architect	20 May 2019
Drawing No.	Sections	13 May 2019	Tier Architect	20 May 2019

312 Issue A				
Drawing No. 620 Issue A	Materials and Finishes	13 May 2019	Tier Architect	20 May 2019
Drawing A01 Issue A	Ground Floor Landscape Plan	14 May 2019	Andrew Murphy Design	20 May 2019
Drawing A02 Issue A	Ground Floor Landscape (Front)	14 May 2019	Andrew Murphy Design	20 May 2019
Drawing A03 Issue A	Ground Floor Landscape (Rear)	14 May 2019	Andrew Murphy Design	20 May 2019
Drawing A04 Issue A	Details	14 May 2019	Andrew Murphy Design	20 May 2019
-	Plan of Management	May 2019	Applicant	20 May 2019
1013397M	BASIX	17 May 2019	Outsource Ideas P/L	20 May 2019

and details submitted to Council on 20 May 2019 with the application for development consent and as amended by the following conditions.

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

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

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

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

3. The materials and finishes of the building constructed pursuant to this consent must be strictly in accordance with the Schedule of Materials and Finishes prepared by Trier Architects and submitted to Council on 20 May 2019. No changes may be made to these drawings except by way of an application under section 4.55 of the *Environmental Planning and Assessment Act 1979*.
4. Where rooms are provided with separate individual hot water systems, these must be located within the internal area of the unit/dwelling and not on any balcony or terrace.
5. The use of the premises as a boarding house must comply at all times with the following:
- a) The use must comply at all times with the Plan of Management referred to in condition 1 above and as amended by the conditions in this Determination;
 - b) A copy of the Plan of Management and House Rules must be annexed to each and every tenancy/occupation agreement for a room;
 - c) A copy of the approved Plan of Management and House Rules must be clearly displayed within every common room in the building at all times;
 - d) The Plan of Management must not be amended without the prior consent of Council;
 - e) All tenancy/occupation agreements for rooms within the premises must be for a minimum period of three (3) months;
 - f) The premises must be used exclusively as a boarding house containing a maximum total of 21 lodger's rooms, 1 Manager's room with not more than 36 adult lodgers residing in the premises at any one time;

- g) Not more than 1 lodger must occupy each single boarding room, and not more than 2 lodgers must occupy each double boarding room;
 - h) The premises must not be adapted for use as backpacker's accommodation, serviced apartments or a residential flat building;
 - i) All common rooms/areas and recreation rooms/areas must be maintained at all times for the use of the lodgers; and
 - j) Each self-contained room and the shared kitchen in the communal room must be fitted out with washing up facilities, a cooktop, oven, fridge and storage space with such utilities being maintained in working order at all times.
6. All rooms within the boarding house must be connected to a centralised electricity, water and gas (if installed) service and room tariffs must not include a separate charge for those services.
7. A total of six (6) off-street car parking spaces must be provided, paved, line marked and must be maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 – Parking prior to commencement of the use.
- All parking spaces and turning area thereto must be provided in accordance with the design requirements set out within Part 2.10 of Marrickville Development Control Plan 2011 - Parking, and must be used exclusively for parking and not for storage or any other purpose. Two (2) of the required car parking spaces must be dedicated as an accessible parking space and marked and signposted appropriately.
8. A minimum of thirteen (13) off-street bicycle storage spaces must be provided, paved, line marked and must be maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 – Parking prior to commencement of the use.
9. A minimum of one (1) off-street motorcycle parking spaces must be provided, paved, line marked and must be maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 – Parking prior to commencement of the use.
10. A minimum of four (4) accessible boarding rooms must be provided in accordance with Part 2.5 of Marrickville Development Control Plan 2011 - Equity of Access and Mobility.
11. No injury must be caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, particulate matter, the exposure to view of any unsightly matter or otherwise.
12. The use of any plant and equipment must not give rise to:
- a) transmission of unacceptable vibration to any place of different occupancy;
 - b) a sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The source noise level must be assessed as an LAeq,15min and adjusted in accordance with Environment Protection Authority guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content as described in the NSW Environment Protection Authority's Environmental Noise Control Manual and Industrial Noise Policy 2000 and The Protection of the Environment Operations Act 1997 (NSW).
13. The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property.
14. All building work must be carried out in accordance with the provisions of the National Construction Code (Building Code of Australia).

15. Occupants of the proposed building shall not be eligible to obtain parking permits under any existing or future resident parking scheme for the area.
16. This development consent does not authorise works outside the property boundaries on adjoining lands.
17. 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.

The boarding house must be operated in accordance with the Boarding Houses Act 2012.

18. Approval is given for the following works to be undertaken to trees on the site:

Tree/location	Approved works
<i>Chamaecyparis obtusa</i> 'Crippsii' (Hinoki Cypress) / front	Removal
<i>Cupressus sempervirens</i> 'Stricta' and 'Stricta Aurea' (Green and Golden Pencil Pines) / front	Removal

Removal or pruning of any other tree (that would require consent of Council) on the site is not approved

19. This development consent does not grant consent for any rock anchors on the road reserve or Council land.

BEFORE COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK

20. No work must commence until:
 - a) A PCA has been appointed. Where an Accredited Certifier is the appointed, Council must be notified within 2 days of the appointment; and
 - b) A minimum of 2 days written notice must be given to Council of the intention to commence work.
21. A Construction Certificate must be obtained before commencing building work. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures.
22. Sanitary facilities must be provided at or in the vicinity of the work site in accordance with the WorkCover Authority of NSW, Code of Practice 'Amenities for Construction'. Each toilet must be connected to the sewer, septic or portable chemical toilet before work commences.

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

23. All demolition work must:
 - a) Be carried out in accordance with the requirements of Australian Standard AS 2601 'The demolition of structures' and the Occupational Health and Safety Act and Regulations; and
 - b) Where asbestos is to be removed it must be done in accordance with the requirements of the Safework NSW and disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be retained by the person performing the work for at least 3 years and be submitted to Council on request.

24. All services in the building being demolished must be disconnected in accordance with the requirements of the responsible authorities before work commences.
25. Before commencing works the person acting on this consent must provide a contact number for a designated person to be available during the demolition and construction for residents to contact regarding breaches of consent or problems relating to the construction.
26. A waste management plan must be prepared in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and submitted to and accepted by the PCA before work commences.
27. The site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property, before work commences.
28. A rigid and durable sign must be erected in a prominent position on the site, before work commences. The sign must be maintained at all times until all work has been completed. The sign is to include:
 - a) The name, address and telephone number of the PCA;
 - b) A telephone number on which Principal Contractor (if any) can be contacted outside working hours; and
 - c) A statement advising: 'Unauthorised Entry To The Work Site Is Prohibited'.
29. A Soil and Water Management Plan must be prepared in accordance with Landcom Soils and Construction, Volume 1, Managing Urban Stormwater (Particular reference is made to Chapter 9, "Urban Construction Sites") and submitted to and accepted by the PCA. A copy of this document must be submitted to and accepted by PCA before work commences. The plan must indicate:
 - a) Where the builder's materials and waste are to be stored;
 - b) Where the sediment fences are to be installed on the site;
 - c) What facilities are to be provided to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way; and
 - d) How access to the site will be provided.

All devices must be constructed and maintained on site while work is carried out.
30. If new street numbers or a change to street numbers (this includes unit and shop numbers) are required, a separate application must be made to and approved by council prior to those street numbers being displayed.
31. The person acting on this consent must ensure the site is 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 roads or Council controlled lands 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. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.

Separate approval is required from the Council under the Roads Act 1993 to erect a hoarding or temporary fence or awning on public property.
32. Prior to Any Demolition, the Certifying Authority, must be provided with a detailed Construction Traffic Management Plan (CTMP), prepared by an appropriately qualified Traffic Management Consultant with RMS accreditation. The Certifying Authority must approved by the CTMP prior to the commencement of any works, including demolition. The

Certifying Authority must ensure that the CTMP instructs vehicles to use State and Regional and Collector Roads to the maximum extent with the use of Local Roads as final approach to the development site via the most suitable direct route.

The following matters should be addressed in the CTMP (where applicable):

- a) Description of the demolition, excavation and construction works;
- b) Site plan/s showing the site, roads, footpaths, site access points and vehicular movements;
- c) Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site);
- d) Proposed route(s) from the arterial (state) road network to the site and the proposed route from the site back to the arterial road network;
- e) Impacts of the work and vehicular movements on the road network, traffic and pedestrians and proposed methods to safely manage pedestrians and construction related vehicles in the frontage roadways;
- f) Any Traffic Control Plans (TCP's) proposed to regulate traffic and pedestrian movements for construction activities (such as concrete pours, crane installation/removal etc.);
- g) Proposed hours of construction related activities and vehicular movements to and from the site;
- h) Current/proposed approvals from other Agencies and Authorities (including Roads and Maritime Services, Police and State Transit Authority);
- i) Any activities proposed to be located or impact upon Council's road, footways or any public place;
- j) Measures to maintain public safety and convenience;
- k) Any proposed road and/or footpath closures;
- l) Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site;
- m) 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;
- n) Location of any proposed crane and concrete pump and truck standing areas on and off the site (and relevant approvals from Council for plant on road);
- o) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
- p) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected;
- q) On-site parking area for employees, tradespersons and construction vehicles as far as possible;
- r) 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;
- s) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways; and
- t) Swept Paths for the proposed construction vehicles to demonstrate that the needed manoeuvres can be achieved without causing any nuisance.

BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

33. The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and if any requirements need to be met. Plans will be appropriately stamped.

Please refer to the web site www.sydneywater.com.au for:

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

or telephone 13 20 92.

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

34. Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been 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 and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit:	\$3,561
Inspection Fee:	\$230.65

Payment will be accepted in the form of cash, bank cheque, 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 the Council to determine the condition of the adjacent road reserve and footpath prior to and 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, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

35. Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report on the visible and structural condition of the following public infrastructure:
- a) Full width of Tupper Street, including road pavement, stormwater drainage infrastructure, kerb and gutter and footpath.
 - b) Half width of adjacent properties, including road pavement, stormwater drainage infrastructure, kerb and gutter and footpath.

The dilapidation report is to be prepared by a practising Civil/Structural Engineer.

36. All ductwork must be concealed within the outer walls of the building so they are not visible. Plans and elevations detailing the method of concealment must be submitted to and approved by Council before the issue of a Construction Certificate. Any variation to this requirement requires Council approval.
37. Bicycle storage with the capacity to accommodate a minimum of 13 bicycles must be provided in accordance with the requirements set out within Part 2.10 of Marrickville Development Control Plan 2011 - Parking, in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.
38. Letterboxes and mail collection facilities must be provided and adequately protected in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.
39. Adequate outdoor clothes drying areas must be provided for the development in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

40. Lighting details of the pedestrian areas and all entrances must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.
41. Plans fully reflecting the selected commitments listed in BASIX Certificate submitted with the application for development consent must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

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

42. Noise attenuation measures must be incorporated into the development complying with Australian Standard 2021:2015 in relation to interior design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction), in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate together with certification by a suitably qualified acoustical engineer that the proposed noise attenuation measures satisfy the requirements of Australian Standard 2021:2015.
43. a) This condition is imposed in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979.
- b) Before the issue of a Construction Certificate, the Council must be paid a monetary contribution of \$347,900.97 indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014 ("CP").

The above contribution is the contribution applicable as at 27 June 2019.

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

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

(CONTRIBUTION PAYMENT REFERENCE NO. DC002719)

- c) The contribution payable has been calculated in accordance with the CP and relates to the following public amenities and/or services and in the following amounts:
- | | |
|-----------------------|--------------|
| Community Facilities | \$38,907.57 |
| Plan Administration | \$6,821.61 |
| Recreation Facilities | \$302,549.61 |
- d) A copy of the CP can be inspected at Council's offices at 2-14 Fisher Street, Petersham or online at <http://www.marrickville.nsw.gov.au>.
- e) The contribution must be paid either in cash, by unendorsed bank cheque (from an Australian Bank only), via EFTPOS (Debit only) or credit card*.

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

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

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

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

For more information on how to calculate the amount payable and where payments can be made contact the Long Services Payments Corporation.
www.lspc.nsw.gov.au

45. Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably qualified Civil Engineer demonstrating that the design of the vehicular access and off-street parking facilities must comply with Australian Standard AS/NZS2890.1-2004 Parking Facilities – Off-Street Car Parking and the following specific requirements:
- a) The floor/finished levels within the property must be adjusted to ensure that the levels at the boundary comply with the Alignment Levels issued with this consent.
 - b) The garage slab or driveway must rise within the property to be 170mm above the adjacent road gutter level and higher than the street kerb and footpath across the full width of the vehicle crossing. The longitudinal profile across the width of the vehicle crossing must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.
 - c) A minimum of 2200mm headroom must be provided throughout the access and parking facilities. Note that the headroom must be measured at the lowest projection from the ceiling, such as lighting fixtures, and to open garage doors.
 - d) Minimum headroom of 2500mm must be provided above any disabled parking space(s).
 - e) The longitudinal profile of the access and any ramps within the parking facilities must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004 for a B99 design vehicle. Longitudinal sections must be provided along each outer edge of all ramps.
 - f) The layout and minimum dimensions of any standing area comply with clause 2.4 of AS/NZS 2890.1-2004 such that:
 - i. Car spaces adjacent to walls or fences are increased in width by an additional 300mm;
 - ii. End spaces are provided with an additional 1m aisle extension; and
 - iii. The location of columns within the carpark complies with figure 5.1 of AS/NZS 2890.1-2004;
 - g) At the property boundary the access from the road to a standing area is (as near as practicable) perpendicular to the line of the adjacent road.
 - h) The relative surface levels of the internal access from the road being controlled so that:
 - i. The surface levels at the property boundary match "alignment levels";
 - ii. The change in grade for any 2m length of access way does not exceed 1 in 8 (12.5%) unless suitable transitions are provided in accordance with AS2890.1;
 - iv. The maximum grade at any point does not exceed 1 in 5 (20%) or in the case of ramps greater than 20m in length 1 in 6 (16.7%); and
 - iii. The maximum grade at the property boundary does not exceed 1 in 20 (5%) within 6m of the property boundary;
 - i) The vehicle egress is designed such that there are no obstructions to lines of sight, along with the footpath and the roadway for drivers of egressing vehicles.
 - j) All parking bays are designed such that all vehicular movements to and from the proposed development are in a forward direction.
 - k) The parking space must have minimum clear internal dimensions of 5400 x 2400 mm (length x width). The dimensions must be exclusive of obstructions such as walls, doors and columns, except where they do not encroach inside the design envelope specified in Section 5.2 of AS/NZS 2890.1-2004.
46. The submitted stormwater plan has been assessed as a concept only. Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage

design plans incorporating on site stormwater detention and/or on site retention/ re-use facilities (OSR/OSD), certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:

- a) The stormwater Pit 3 shall be relocated away from the driveway ramp. This is to ensure the basement car park is protected from any surcharge flows from the pit.
- b) DP1 is used for all down pipes that is not acceptable.
- c) Pits 1 and 2 have same surface and invert levels. Pit 2 and the upstream drainage line are proposed above the basement car park slab. The surface and invert levels shall be shown along the drainage lines (upstream and downstream).
- d) All stormwater drainage being designed in accordance with the provisions of the Australian Rainfall and Runoff (ARR), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP.
- e) Pipe and channel drainage systems must be designed to cater for the twenty (20) year Average Recurrence Interval (ARI) storm event. The major event surface flow paths must be designed to cater for the one hundred (100) year ARI Storm.
- f) Charged or pump-out stormwater drainage systems are not used including for roof drainage.
- g) To provide for adequate site drainage all roof and surface stormwater from the site and any catchment external to the site that presently drains to it, must be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a stormwater drainage system in accordance with the requirements of Council's DCP. Please note any stormwater outlets through sandstone kerbs must be carefully core drilled.
- h) Minor roof and paved areas at the rear of the property that cannot reasonably be drained by gravity to the street may drained to an on-site dispersal system such as an absorption system or otherwise, subject to the roof areas being drained via a suitably sized rainwater tank, no nuisance or concentration of flows to other properties and the feasibility and design of the on-site dispersal system being certified by a suitably qualified and experienced practising Civil and/or Geotechnical Engineer.
- i) The on-site detention system must be designed for all storm events from the 1 in 5 years to the 1 in 100 year storm event, with discharge to a Council controlled storm water system limited to pre-development conditions with the maximum allowable discharge to Council's street gutter limited to 25 litres/second (20 years ARI/100years ARI).
- j) Storage for the 1-year ARI storm event must be provided fully below ground;
- k) Details of the Height vs Storage and Height vs Discharge relationships must be submitted.
- l) Details of external catchments currently draining to the site must be included on the plans. Existing natural overland flows from external catchments may not be blocked or diverted, but must be captured and catered for within the proposed site drainage system. Where necessary an inter-allotment drainage system must be incorporated into the design.
- m) Details of the 1 in 100-year ARI overflow route in case of failure/blockage of the drainage system must be provided.
- n) The stormwater system must not be influenced by backwater effects or hydraulically controlled by the receiving system.
- o) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- p) Only a single point of discharge is permitted to the kerb and gutter, per frontage of the site.
- q) All redundant pipelines within footpath area must be removed and footpath/kerb reinstated.
- r) No impact to street tree(s)
- s) Dry-weather flows of any seepage water including seepage from landscaped areas will not be permitted through kerb outlets and must be connected directly to a Council stormwater system. Alternatively, the basement or any below ground structure must be designed to be "tanked" preventing the ingress of seepage or groundwater.

47. Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the *Roads Act 1993* incorporating the following requirements:
- a) The public domain along all frontages of the site inclusive of footpath paving, kerb, landscaping etc. must be reconstructed and upgraded in accordance with the Street Tree Master plan and the Public Domain Design Guide or scheme.
 - b) The construction of light duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site.
 - c) Cross sections are to be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations. Note, the cross fall of the footpath must be set at 2.5%. These sections will set the alignment levels at the boundary.
 - d) Installation of a stormwater outlet to the kerb and gutter.
48. Before the issue of a Construction Certificate, the Certifying Authority shall be satisfied that no proposed underground services (i.e. water, sewerage, drainage, gas or other service) unless previously approved by conditions of consent, are located beneath the canopy of any tree protected under State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017, located on the subject allotment and adjoining allotments.
- A plan detailing the routes of these services and trees protected under the State Environmental Planning Policy shall be prepared. 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.
49. Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with detailed plans showing a bin storage area and a separate bulky waste storage area complying with the design requirements in Part 2.21 Site Facilities and Waste Management of Marrickville Development Control Plan 2011, including:
- a) The bin storage area must be of sufficient size to fully accommodate the number of bins required for all waste generated by the boarding house development and include 50% allowance for manoeuvring of bins and a doorways/entrance points of 1200mm. The number of bins required must be calculated based on a weekly collection of garbage, and a fortnightly collection of recycling.
 - b) The waste storage areas are to be located away from habitable rooms, windows, doors and private useable open space, and to minimise potential impacts on neighbours in terms of aesthetics, noise and odour.
 - c) The path of travel between the bin storage areas/bulky waste storage areas and the designated waste/recycling collection point is to have a minimum 1200mm wall-to-wall clearance, be slip-proof, of a hard surface, be free of obstructions and at no point have a gradient exceeding 1:12. The use of a lift is permitted, but consideration should be given to the inclusion of a service lift in this instance.

SITE WORKS

50. 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.

51. The area surrounding the building work must be reinstated to Council's satisfaction upon completion of the work.
52. The placing of any materials on Council's footpath or roadway is prohibited, without the consent of Council. The placement of waste storage containers in a public place requires Council approval and must comply with Council's Policy - 'Placement of Waste Storage Containers in a Public Place'.
53. All demolition work must be carried out in accordance with the following:
 - a) compliance with the requirements of Australian Standard AS 2601 'The demolition of structures' with specific reference to health and safety of the public, health and safety of the site personnel, protection of adjoining buildings and protection of the immediate environment;
 - b) all works involving the demolition, removal, transport and disposal of asbestos cement must be carried out in accordance with the 'Worksafe Code of Practice for Removal of Asbestos' and the requirements of the WorkCover Authority of NSW and the Department of Environment, Climate Change and Water;
 - c) all building materials arising from the demolition must be disposed of in an approved manner in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and any applicable requirements of the Department of Environment, Climate Change and Water;
 - d) sanitary drainage, stormwater drainage, water, electricity and telecommunications must be disconnected in accordance with the requirements of the responsible authorities;
 - e) the generation of dust and noise on the site must be controlled;
 - f) the site must be secured to prohibit unauthorised entry;
 - g) suitable provision must be made to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way;
 - h) all trucks and vehicles associated with the demolition, including those delivering to or removing material from the site, must only have access to the site during work hours nominated by Council and all loads must be covered;
 - i) all vehicles taking materials from the site must be loaded wholly within the property unless otherwise permitted by Council;

- j) no waste collection skips, spoil, excavation or demolition material from the site must be deposited on the public road, footpath, public place or Council owned property without the approval of Council; and
 - k) the person acting on this consent must ensure that all contractors and sub-contractors associated with the demolition are fully aware of these requirements.
54. The works are required to be inspected at critical stages of construction, by the PCA or if the PCA agrees, by another Certifying Authority. The last inspection can only be carried out by the PCA. The critical stages of construction are:
- a) At the commencement of the building work;
 - b) For Class 2, 3 and 4 buildings, prior to covering waterproofing in any wet areas (a minimum of 10% of wet areas within a building);
 - c) Prior to covering any stormwater drainage connections, and after the building work has been completed and prior to any occupation certificate being issued in relation to the building; and
 - d) After the building work has been completed and prior to any occupation certificate being issued in relation to the building.

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

55. If the development involves an excavation that extends below the level of the base of the footings of a building on the adjoining allotments, including a public place such as a footway and roadway, the person acting on the consent, at their own expense must:
- a) protect and support the adjoining premises from possible damage from the excavation, and
 - b) where necessary, underpin the adjoining premises to prevent any such damage. Where the proposed underpinning works are not "exempt development", all required consents must be obtained prior to the required works commencing; and
 - c) at least 7 days' notice must be given to the owners of the adjoining land of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

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

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

56. All vehicles carrying materials to, or from the site must have their loads covered with tarpaulins or similar covers.
57. Satisfactory methods and/or devices must be employed on the site to prevent the tracking of mud/dirt onto the surrounding streets from vehicles leaving the site.
58. During construction, all holes (e.g. created for footings etc.), machinery and construction material stockpiles must be inspected daily prior to commencing work to ensure no Long-nosed Bandicoots are sheltering in these areas. In the event that a bandicoot is found, no work must proceed until the bandicoot has been safely vacated from the works area.
59. Activities and storage of materials must be kept away from garden beds.

60. 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.
61. Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary.

BEFORE OCCUPATION OF THE BUILDING

62. You must obtain an Occupation Certificate from your PCA before you occupy or use the building. The PCA must notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within 2 days of the date of the Certificate being determined:
 - a) A copy of the determination;
 - b) Copies of any documents that were lodged with the Occupation Certificate application;
 - c) A copy of Occupation Certificate, if it was issued;
 - d) A copy of the record of all critical stage inspections and any other inspection required by the PCA;
 - e) A copy of any missed inspections; and
 - f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.
63. Occupation of the building must not be permitted until such time as:
 - a) All preconditions to the issue of an Occupation Certificate specified in this development consent have been met;
 - b) The building owner obtains a Final Fire Safety Certificate certifying that the fire safety measures have been installed in the building and perform to the performance standards listed in the Fire Safety Schedule; and
 - c) An Occupation Certificate has been issued.
64. The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:
 - a) Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
 - b) Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Certificate must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.
65. The landscaping of the site must be carried out before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate) in accordance with the approved details and must be maintained at all times to Council's satisfaction.
66. a) Upon completion of the required noise attenuation measures referred to in the "Before the Issue of a Construction Certificate" Section of this Determination, and before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate), a report must be prepared and submitted to the Certifying Authority's satisfaction by an accredited Acoustics Consultant certifying that the final construction meets AS2021:2015 as set down in the subject condition of this consent. Such report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development; and

- b) Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a further certificate must be prepared and submitted to Council in accordance with the requirements as set down in Part a) of this condition.
67. Before the issue of an Occupation Certificate, a street number and identifier of separate occupancies (if applicable) must be clearly displayed in a readily visible location (numbers having a height of not less than 75mm). If any new street numbers or change to street numbers (this includes unit and shop numbers) are required they must have the prior approval of council before being displayed.
68. The Certifying Authority must be satisfied that each of the commitments listed in BASIX Certificate referred to in this Determination have been fulfilled before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate).
69. The Certifying Authority must apply to the Director-General for a BASIX Completion Receipt within 2 days of the issue of a final Occupation Certificate. Completion Receipts can be applied for at www.basix.nsw.gov.au.
70. Prior to the issue of any Occupation Certificate, the Certifying Authority is to be satisfied that all landscape works (including Stratacells) including tree planting, bollards, have been undertaken in accordance with the approved plan(s) and conditions of consent
71. Prior to the issue of an Occupation Certificate, the Certifying Authority must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the *Roads Act 1993* including:
- a) Light duty concrete vehicle crossing(s) at the vehicular access location(s).
 - b) The redundant vehicular crossing to the site must be removed and replaced by kerb and gutter and footpath. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone.
 - c) The existing concrete footpath across the frontage of the site must be reconstructed.
 - d) Other works subject to the Roads Act 1993 approval.
- All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-"Roadworks Specifications".
72. Prior to the issue of an Occupation Certificate, the Certifying Authority must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.
73. Prior to the issue of an Occupation Certificate, the Certifying Authority must ensure that all redundant vehicular crossings to the site have been removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications". Where the kerb in the vicinity of the redundant crossing is predominantly stone the replacement kerb must also be in stone.
74. Prior to the issue of an Occupation Certificate, the Certifying Authority must be provided with a second Dilapidation Report addressing the public infrastructure identified in approved predevelopment dilapidation report, including a photographic survey and structural condition which was compiled after the completion of works. As the report details public infrastructure, a copy is to be furnished to Council at the same time.

75. Prior to the issue of an Occupation Certificate, the Certifying Authority must be provided with Certification by a qualified Civil Engineer with Chartered Engineer of Institution of Engineers Australia (CPEng) or Registered Professional Engineer of Professionals Australia (RPEng) qualifications that:
- a) The stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards.
 - b) Works-as-executed plans of the stormwater drainage system certified by a Registered Surveyor, to verify that the drainage system has been constructed in accordance with the approved design and relevant Australian Standards have been submitted to Council. The works-as-executed plan(s) must show the as built details in comparison to those shown on the drainage plans approved with the Construction Certificate. All relevant levels and details indicated must be marked in red on a copy of the Principal Certifier stamped Construction Certificate plans.
76. Prior to the issue of an Occupation Certificate, the Certifying Authority must be provided with an Operation and Management Plan has been prepared and implemented for the on-site detention and/or on-site retention/re-use facilities and stormwater quality improvement device(s) and pump(s). The Plan must set out the following at a minimum:
- a) The proposed maintenance regime, specifying that the system is to be regularly inspected and checked by qualified practitioners.
 - b) The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan in the event of mechanical failure, etc.
77. Prior to the issue of an Occupation Certificate, the Certifying Authority must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the *Roads Act 1993* including:
- a) Heavy duty concrete vehicle crossing(s) at the vehicular access location(s).
 - b) The redundant vehicular crossing to the site must be removed and replaced by kerb and gutter and footpath. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone.
 - c) The existing concrete footpath across the frontage of the site must be reconstructed.
 - d) Other works subject to the Roads Act 1993 approval.

All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-"Roadworks Specifications".

78. Council is to be notified of bin requirements three months prior to the occupation of the development to ensure timely delivery.
79. Prior to the issue of any Occupation Certificate, the Certifying Authority is to be satisfied that all landscape works, including tree planting, have been undertaken in accordance with the approved plan(s) and conditions of consent.

OPERATIONAL

80. The waste bins shall be presented on the kerb within the property frontage, and not across the frontage of bordering properties. At least 1 metre allowance is to be made for pedestrian passage. All bins are to be brought back inside within 12 hours of being emptied.
81. The building manager is responsible for ensuring all occupants are kept informed regarding Council's services, and best practice waste and recycling source separation.
82. No compaction of waste or recyclable material is permissible on the site.

ADVISORY NOTES

- The Disability Discrimination Act 1992 (Commonwealth) and the Anti-Discrimination Act 1977 (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.
- An engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng).
- Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. Permits are required for the following activities:
 - a) Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application.
 - b) A concrete pump across the roadway/footpath
 - c) Mobile crane or any standing plant
 - d) Skip Bins
 - e) Scaffolding/Hoardings (fencing on public land)
 - f) Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.
 - g) Awning or street veranda over the footpath
 - h) Partial or full road closure
 - i) Installation or replacement of private stormwater drain, utility service or water supply

If required contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.

- The vehicular crossing and/or public domain works are required to be constructed by your contractor. You or your contractor must complete an application for 'Design of Vehicle Crossing and Public Domain Works – Step 1' form and/or 'Construction of Vehicle Crossing and Public Domain Works – Step 2' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.

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 must be at no cost to Council

Any damage caused during construction to Council assets on the road reserve or on Council or Crown land must be repaired at no cost to Council.

Any driveway crossovers or other works within the road reserve must be provided at no cost to Council.

No consent is given or implied for any Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, eaves, awnings, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever, including when open.

- Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West 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.

- A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out.
- The approved plans must be submitted to the Customer Centre of any office of Sydney Water before the commencement of any work to ensure that the proposed work meets the requirements of Sydney Water. Failure to submit these plans before commencing work may result in the demolition of the structure if found not to comply with the requirements of Sydney Water.
- Any natural light or ventilation gained by windows within 900mm of the boundary will not be taken into consideration in the event that the adjoining property owner makes application to Council to carry out building works on their property. The window has been consented to on the basis that alternative sources of light and ventilation are available to the room.
- Buildings built or painted before the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned before occupation of the room or building.
- If you are seeking to use temporary anchors, you must make a request for approval for a Permit under Section 138 of the Roads Act 1993. The submission would need to be supported by an engineering report prepared by a suitably qualified Structural Engineer, with supporting details addressing the following issues:
 - a) Demonstrate that any structures within the road reserve are of adequate depth to ensure no adverse impact on existing or potential future service utilities in the road reserve. All existing services must be shown on a plan and included on cross-sectional details where appropriate.
 - b) Demonstrate how the temporary anchors will be removed or immobilised and replaced by full support from structures within the subject site by completion of the works.
 - c) The report must be supported by suitable geotechnical investigations to the efficacy of all design assumptions.
- The following documents must be submitted to Council as part of the Easement and Covenant process and requirements, for the site on-site detention/on-site retention/reuse facilities (OSD/OSR) and stormwater quality improvement devices (SQIDS):

1. *Work-As-Executed Plans*

A "Work-as-Executed" plan prepared and signed by a Registered Surveyor must be submitted to the Council's Development Assessment Engineer at the completion of the works showing the location of the detention basin and SQIDS with finished surface levels, contours at 0.2-metre intervals and volume of storage available. Also, the outlet pipe from the detention basin to its connection to the Council's drainage system must be shown together with the following information: location; pipe diameter; gradient; pipe material, i.e. PVC or RCP etc.; pits sizes; orifice size; trash screen at orifice; emergency overflow dimensions and RL; all buildings (including floor levels) and finished ground and pavement surface levels and full details of SQIDS.

2. *Engineer's Certificate*

- a) A qualified practising Civil Engineer must certify on the completion of drainage works in respect of:
- b) the soundness of the storage structure;
- c) the capacity of the detention storage;
- d) the emergency overflow system being in place;
- e) the works being constructed in accordance with the Development Application Consent and Council's Stormwater Management DCP/Code;
- f) the freeboard from maximum water surface level to the finished floor and garage levels are at or above the minimum required in Council's Stormwater Management DCP/Code;
- g) basement car park pumps are class one zone two;
- h) OSR pumps and SQIDS have been installed and commissioned.

3. *Restriction-As-To-User*

A "Restriction-as-to-User" must be placed on the title of the subject property to indicate the location and dimensions of the detention area and stormwater quality improvement device(s) (SQIDS). This is to ensure that works, which could affect the function of the stormwater detention system and SQIDS, must not be carried out without the prior consent in writing of the Council.

Such restrictions must not be released, varied or modified without the consent of the Council. A typical document is available from Council's Development Assessment Engineer

4. *A Maintenance Schedule.*

- Contact "Dial Before You Dig" before commencing any building activity on the site.
- Useful Contacts

BASIX Information	☎ 1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	☎ 13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Before You Dig	☎ 1100 www.dialbeforeyoudig.com.au
Landcom	☎ 9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	☎ 131441 www.lspc.nsw.gov.au
NSW Food Authority	☎ 1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.dvysafe.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	☎ 131 555 www.environment.nsw.gov.au
Sydney Water	☎ 13 20 92

www.sydneywater.com.au

Waste Service - SITA
Environmental Solutions

☎ 1300 651 116
www.wasteservice.nsw.gov.au

Water Efficiency Labelling and
Standards (WELS)

www.waterrating.gov.au

WorkCover Authority of NSW

☎ 13 10 50
www.workcover.nsw.gov.au
Enquiries relating to work safety and asbestos
removal and disposal.