






INNER WEST

DEVELOPMENT ASSESSMENT REPORT

Application No.	DA/2021/0791
Address	117 Addison Road MARRICKVILLE NSW 2204
Proposal	Alterations and additions to the existing building to use the upper levels for a boarding house, with associated access and parking
Date of Lodgement	10 September 2021
Applicant	Foorohoneone Pty Limited
Owner	Mr John Wardy
Number of Submissions	Initial: 14
Value of works	\$1,534,361.00
Reason for determination at Planning Panel	Clause 4.6 variation exceeds 10% - FSR Number of submissions
Main Issues	Non-compliance with FSR; Parking
Recommendation	Approved with Conditions
Attachment A	Recommended conditions of consent
Attachment B	Plans of proposed development
Attachment C	Clause 4.6 Exception to Development Standards
Attachment D	Plan of Management



LOCALITY MAP

Subject Site		Objectors		 N
Notified Area		Supporters		

Note: Due to scale of map, not all objectors could be shown.

1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to the existing building to use the upper levels for a boarding house, with associated access and parking. at 117 Addison Road, Marrickville. The application was notified to surrounding properties and 14 submissions were received in response to the initial notification.

The main issues that have arisen from the application include:

- Parking shortfall
- Variation to the FSR development standard

The non-compliances are acceptable given that the proposal seeks to adapt the upper floors of the existing building to accommodate the boarding house, as such any FSR variation will be contained within the existing built form. Furthermore, given that the proposal seeks to adaptively reuse the existing building, no additional car parking can be accommodated on site. Notwithstanding, the existing tenancies cannot accommodate on site car parking and no previous consents have required car parking to be provided for the tenancies. Furthermore, the subject site is located within close proximity to public transport along Addison Road. Therefore the application is recommended for approval.

2. Proposal

The application involves alterations and additions to the existing building to accommodate a mixed use development comprising of existing shop tenancies on the ground floor and boarding rooms on the upper two floors comprising of 25 of boarding rooms and one boarding manager room. The proposal as amended seeks the following:

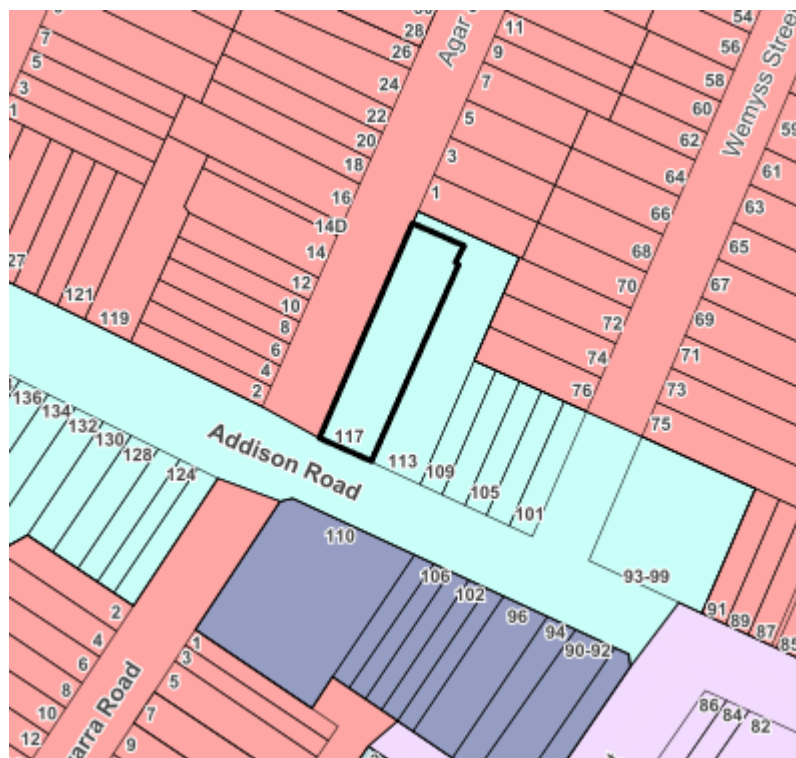
- Reconfiguration of the existing rear car parking area to accommodate a waste storage areas, seven car parking spaces, four motor cycle spaces and nine bicycle parking spaces.
- The first floor contains 12 boarding rooms, including two accessible rooms, a manager's room and communal lounge room;
- The second floor contains 13 boarding rooms, including 4 accessible rooms and a communal lounge area;
- Construction of a balcony to the rear of the existing building at the first and second floor to serve as the communal open space area in addition to the managers private open space area;
- Installations of an external stair and lift at the rear of the building.
- Installation of solar panels on the eastern and southern roof planes.
- Installation of six skylights.

3. Site Description

The subject site is located on the north eastern corner at the intersection of Addison Road and Agar Street. The site consists of a single allotment and is generally rectangular in shape with a total area of 847.8sqm and is legally described as 117 Addison Road, Marrickville.

The site has a primary frontage to Addison Road of 14.5m and a secondary frontage of approximate 58m to Agar Street. The subject site supports a three storey building, the ground floor contains five shops, with three out of the four being occupied by the same business premises. Four sets of stairs providing access to the upper floors are available, three from Agar Street and the remaining from Addison Road. The first floor comprises of three unoccupied residential units at the intersection of Addison Road and Agar Street, with the remainder of the first floor in addition to the second floor being in poor condition and disrepair. There is no floor located within the centre of the secondary storey.

The adjoining properties support single and two storey residential dwellings along Agar Street, immediately to the east of the subject site at 113 Addison Road contains self-contained flats whilst adjacent to the subject site at 110 Addison Road is under construction for an approved mixed use development.



Land zoning map extract, subject site outlined in black



Front elevation



Existing condition of the upper floors

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
DA201800009	To use the ground floor premises as a bicycle shop	Approved, 14/05/2018

4(b) Application history

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

Date	Discussion / Letter / Additional Information
25/01/2022	Request for additional information sent to the applicant to address the following outstanding matters: <ul style="list-style-type: none"> • FSR variation; • Overall amenity and functionality of the boarding house; • Parking shortfall; • Stormwater management; • Waste management; • Character of the area; and • The provisions of the Housing SEPP.
2/03/2022	<ul style="list-style-type: none"> • Additional information provided by the applicant addressing the matters raised in the request for additional information.

5. Assessment

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

5(a) Environmental Planning Instruments

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

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Affordable Rental Housing) 2009*
- *State Environmental Planning Policy (Housing) 2021*

The following provides further discussion of the relevant issues:

5(a)(i) State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of land

Section 4.16 (1) of the SEPP requires the consent authority not consent to the carrying out of any development on land unless:

- “(a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”*

In considering the above, there is no evidence of contamination on the site.

There is also no indication of uses listed in Table 1 of the contaminated land planning guidelines within Council’s records. The land will be suitable for the proposed use as there is no indication of contamination.

On the basis of this report the consent authority can be satisfied that the land will be suitable for the proposed use and that the land can be remediated.

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

State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP) provides requirements for boarding house development and the relevant provisions are considered below.

It is noted that the subject application was lodged prior to the commencement of State Environmental Planning Policy (Housing) 2021 (Housing SEPP) on 26 November 2021 and due to the savings provisions the ARHSEPP is the applicable instrument. However, the Housing SEPP is considered under draft instruments later in this report.

Division 3 – Boarding Houses

Clause	Standard	Proposed	Compliance
26 - Zone	The site is zoned R1, R2, R3, R4, B1, B2, B4	The site is zoned B1 – Neighbourhood Centre	Yes
Clause	Standards that cannot be used to refuse consent	Proposed	Compliance
29 (1) - FSR	1.2:1 or 1,1017.4sqm	1.62:1 or 1,374sqm	No, discussed below in further detail
29 (2)(a) Height	11m	13.37m	No, discussed below in further detail

29 (2)(b) Landscaped Area	Consistent with streetscape	The subject site has a nil setback to Addison Road and Agar Street, and this does not provide for landscaping. This is consistent with the streetscape.	No
29(2)(c) Solar Access	Min 3 hours direct sunlight between 9am-3pm for at least one communal living room	The communal room located on the second floor receives 3 hours of direct solar access between 9am and 3pm on 21 June	Yes
29 (2)(d) Private Open Space	At least one of the following is provided (not in the front setback): <ul style="list-style-type: none"> • 20sqm minimum dimension of 3 metres for use of lodgers • 8sqm minimum dimension of 2.5metres adjacent to mangers room for manager 	<ul style="list-style-type: none"> • A total of 109sqm of communal open space is provided for lodgers on the first and second floor at the rear. Each COS area is generally 3m in depth with a minimum dimension of 2m and 2.5m on the first and second floor immediately adjacent to the stair access. • 8sqm of private open space is directly adjacent to the managers room with a minimum dimension of 2.5m 	Yes
29 (2)(e) Parking	<ul style="list-style-type: none"> • 0.5 spaces per boarding room, this being 13 spaces • 1 space for each on site boarding manager 	<ul style="list-style-type: none"> • 7 car parking spaces are provided for residents, this is a shortfall of 6 spaces • No car parking has been nominated for the on-site manager on the plans provided 	No, discussed below in further detail
29 (2)(f) Accommodation Size	Excluding private kitchen and bathroom facilities each single lodger room is a minimum of 12sqm and 16sqm in any other case	<ul style="list-style-type: none"> • 25 rooms are provided with an area greater than 16sqm 	Yes
Clause	Standard	Proposed	Compliance
30 (1)(a) Communal Room	If more than 5 rooms are proposed there is at least 1 common room	Two common rooms are provided, one on each floor.	Yes
30 (1)(b) Maximum room sizes	No boarding room will have a gross floor area of more than 25sqm excluding private kitchen or bathrooms	No rooms are greater than 25sqm	Yes
30 (1)(c) Maximum occupation	No more than 2 adult lodgers with occupy each room	A condition is recommended requiring that a maximum of 1 adult lodger occupy any single room or 2 adult lodgers for any double room	Yes (subject to condition)

30 (1)(d) Adequate facilities	Adequate bathroom and kitchen facilities are available for use of each lodger	<ul style="list-style-type: none"> • Each lodger has been provided with their own private kitchen and bathroom • There are adequate communal kitchen and bathrooms for use of each lodger 	Yes
30 (1)(e) Manager	If there are more than 20 lodgers an on site dwelling must be provided for a boarding house manager	Room U-107 has been provided for an on-site manager	Yes
30 (1)(f) Commercial Land	If the site is zones primarily for commercial purposes the ground floor cannot be used for residential uses	No residential use of the ground floor is proposed	Yes
30 (1)(h) Bicycle and Motorcycle parking	A minimum of 1 bicycle space and 1 motorcycle space is provided per 5 boarding rooms	<ul style="list-style-type: none"> • 9 bicycle and 4 motorcycle spaces are for the 25 rooms proposed. The proposal results in a shortfall of 1 motorcycle space. • The shortfall of 1 motorcycle spaces is acceptable as this is offset by the surplus of 4 bicycle spaces provided 	No, acceptable
30A Character of the Local Area	A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.”	<ul style="list-style-type: none"> • The proposal seeks to adapt the upper floors of the existing building to accommodate the boarding house, as such the proposal will not adversely impact the existing built form and subsequently the character of the area. • The proposal seeks to retain and repair the existing window openings in addition to installing new windows to the Addison Road elevation to improve the amenity of the rooms and presentation to the streetscape. • The new balcony, stair and lift works proposed are suitably scaled so as not to detract form from the existing building or the character of the area. Furthermore, the balconies proposed are suitably setback from the rear so as 	Yes

		not to result in adverse amenity impacts to the neighbouring residential dwellings.	
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(i) Clause 29(1) – Floor Space Ratio

Clause 29(1) of the ARH SEPP reads as follows:

(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.

The maximum FSR applicable to the site is 1.2:1 or 1,017.4sqm under the MLEP 2011. residential flat buildings are prohibited in the B1 Neighbourhood Centre zone and as such no FSR bonus is afforded under Clause 29(1).

The application proposes a non-compliant FSR of 1.62:1 or 1,374sqm which represents a variation of 356.6sqm or 35%. Clause 29 provides for standards that cannot be used to refuse consent related to density and scale. In this case the development exceeds the maximum FSR for development on the land under MLEP 2011 and Clause 29(1) does not create any impediment to refusing consent on the grounds of density and scale. The variation to the development standard is discussed in further detail under Section 5(a)(iii) of this report.

(ii) Clause 29(2)(a) – Height

Clause 29(2) of the ARH SEPP reads as follows:

(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds—

(a) building height

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

The maximum height applicable to the site is 11m under the MLEP 2011. The proposal seeks to adaptively reuse the existing building to accommodate the works, as such no amendments are proposed to the existing non-compliant building height which measures 13.37m. A clause 4.6 variation request is not required for existing variances to the development standard. The new works proposed, including the lift overrun falls within the maximum height limit permitted on the site.

(iii) Clause 29 (2)(e) Parking

Clause 29(2)(e) of the ARH SEPP reads as follows:

(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds—

(e) parking 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,

The proposed boarding house is not to be carried out on behalf of a social housing provider, as such 0.5 parking spaces are to be required per boarding room in addition to 1 space for each person employed in connection with the boarding house. The proposed boarding house as part of the mixed-use development requires the provisions of 14 spaces.

In addition, the site is located in Parking Area 2 under Part 2.10 of MDCP 2011. In accordance with the provisions under this part each shop tenancy requires 1 car parking space and therefore the proposal requires the provision of 5 spaces. No car parking is proposed or provided and as such the development does not comply with this requirement. Notwithstanding, the existing tenancies cannot accommodate on site car parking and no previous consents have required car parking to be provided for the tenancies.

The development provides 7 car parking spaces in total, two of which are dedicated as a share spaces. Given the above results in a shortfall of 6 spaces. The subject site is located within close proximity to public transport along Addison Road. Furthermore, given that the proposal seeks to adaptively reuse the existing building, no additional car parking can be accommodated on site. Given the circumstances, a variation to the requirements of under the AFHSEPP and Part 2.10 of MDCP 2011 is considered acceptable and worthy of support.

5(a)(ii) State Environmental Planning Policy (Housing) 2021

The current application was lodged with Council on the 10 September 2021 and was made prior to the commencement of the SEPP Housing 2021 (26 November 2021). Under the savings provisions of the SEPP Housing 2021 – Schedule 7 (2)(a) any development application made but not yet determined on or before the commencement date of the new SEPP is to apply the provisions of the former SEPP. Regardless the consent authority in its determination of the current application must consider the provisions of new SEPP.

An assessment of these provisions is found below:

Clause	Standard	Proposed	Compliance
26 - Zone May be carried out on land	26 - Zone May be carried out on land	Boarding houses are permitted within the B1 – Neighbourhood Centre	Yes
24(2)(a) - FSR	1.2:1 or 1,1017.4sqm	1.62:1 or 1,374sqm.	No, discussed in detail under ARHSEPP
24(2)(e) Solar Access	Min 3 hours direct sunlight between 9am-3pm for at least one communal living area	The communal room located on the second floor receives 3 hours of direct solar access between 9am and 3pm on 21 June	Yes
24(2)(f) Communal living area	For a boarding house containing 6 boarding rooms a total of at least 30sqm of communal living area, and minimum dimensions of 3m for each communal living area	A total of 71sqm of communal living area is proposed between the two communal lounge areas proposed.	Yes
24(2)(h) Communal open spaces	A total area of at least 20% of the site area, (this being 169.56sqm) and each with minimum dimensions of 3m	The boarding house is contained to the upper floors of the existing building, as such the rear balconies proposed provide of total of 108sqm (12.7%) of communal open space. The balconies are suitably scaled so as not to detract from the streetscape or adversely impact the amenity of the adjoining low scale residential development by way of visual bulk, visual and acoustic privacy. Given the constraints of the site, additional communal open space cannot be accommodated on the ground floor at the rear of the existing building to be retained as this area is to be utilised for access, parking and waste amenities.	No, acceptable

Clause	Standard	Proposed	Compliance
		Furthermore, the shortfall in COS is partially offset by the surplus of communal living areas proposed for the development.	
24(2)(i) Parking	0.2 spaces per boarding room in accessible areas	<ul style="list-style-type: none"> 7 car parking spaces are provided for residents, this is a shortfall of 6 spaces No car parking has been nominated for the on site manager on the plans provided. 	No, discussed in detail under ARHSEPP
25(1)(a) Maximum room sizes	No boarding room will have a gross floor area of more than 25sqm excluding private kitchen or bathrooms	No rooms are greater than 25sqm	Yes
25(1)(b) Maximum occupation	No more than 2 adult lodgers with occupy each room	A condition is recommended requiring that a maximum of 1 adult lodger occupy any single room or 2 adult lodgers for any double room	Yes (subject to condition)
25(1)(c) Adequate facilities	Adequate bathroom and kitchen facilities are available for use of each lodger	<ul style="list-style-type: none"> Each lodger has been provided with their own private kitchen and bathroom There are adequate communal kitchen and bathrooms for use of each lodger 	Yes
25(1)(e) Business zoned land	If the site is zones primarily for business purposes the ground floor cannot be used for residential uses	No residential use of the ground floor is proposed	Yes
25(1)(f) Communal Room	If at least 6 rooms are proposed there is at least 1 common room	Two common rooms are provided, one on each floor.	Yes
25(1)(h) Accommodation Size	Excluding private kitchen and bathroom facilities each single lodger room is a minimum of 12sqm and 16sqm in any other case	25 rooms are provided with an area greater than 16sqm	Yes
25(2)(a) Compatibility with local and/or desired future character	The design of the boarding house will be compatible with the desirable elements of the character of the local area, or for precincts undergoing transition, the desired future character of the precinct	The overall form and character of the proposed development is considered to be compatible with the existing and desired future character of the local area.	Yes, discussed in detail under ARHSEPP
25(2)(c) Building separation	If the boarding house has at least 3 storeys the building will comply with the minimum building separation distances	The COS balconies proposed on the upper floors of the boarding house are setback approximately 15m from the	No, acceptable

Clause	Standard	Proposed	Compliance
	<p>specified in the Apartment Design Guide</p> <p>This being, for up to 25m (5-8 storeys):</p> <ul style="list-style-type: none"> Habitable rooms and balconies: 9m Non-habitable rooms: 4.5m 	<p>living room windows of the adjoining dwelling house at the rear at 1 Agar Street.</p> <p>The proposal does not provide adequate separation between the COS and the POS area of U-108 to the windows at 113 Addison Road. The proposal seeks to erect full height privacy screens at the eastern elevation to avoid direct sightline into the adjoining property at 113 Addison Road.</p>	
25(2)(d) Motorcycle Parking	At least 1 motorcycle parking space will be provided for every 5 boarding room	4 motorcycle spaces for the 25 rooms is proposed. The proposal results in a shortfall of 1 motorcycle space.	No, discussed in detail under ARHSEPP
25(2)(e) Bicycle parking	At least 1 bicycle parking space will be provided for each boarding room	9 bicycle spaces are for the 25 rooms proposed, this being a shortfall of 16 spaces.	No, discussed below in further detail
26(1) Must be used for affordable housing in perpetuity	Development consent must not be granted under this Division unless the consent authority is satisfied that from the date of the issue of the occupation certificate and continuing in perpetuity, the boarding house will be used for affordable housing, and, the boarding house will be managed by a registered community housing provider	The development is not proposed to be affordable housing.	No, discussed below in further detail

A number of provisions within the ARH SEPP and the Housing SEPP are similar and therefore the development remains non-compliant with a number of provisions including FSR, height, car and motorcycle parking. The proposal is also inconsistent with additional measures within the Housing SEPP including an undersized communal open spaces area, further shortfall in car parking and building separation. As previously discussed, the proposal seeks to adaptively reuse the existing building to accommodate the boarding house as such no further parking or building separation can be accommodated. In addition, the shortfall of communal open spaces is offset by a surplus of internal communal areas ensuring that the amenity and functionality of the communal areas is not compromised resulting in a positive planning outcome. The non-compliances list above have been assessed as part of this application.

However, the listed non-compliances are generally consistent with the requirements with ARH SEPP listed above. As such the consent authority is required to ensure compliance with the lesser standard. In this instance the proposal is compliant with the lesser requirements outlined within ARH SEPP and is therefore acceptable. With regards to permissibility the current proposal obtains its permissibility through the provisions of the ARH SEPP.

Additionally, boarding houses under the Housing SEPP are required to be held as affordable housing in perpetuity and managed by a registered not for-profit community housing provider. The application is not proposed to be affordable housing as required by Clause 26(1). It is noted that this requirement would not alter the form and scale of the development. However, it would substantially alter the management and operation of the proposal and should the development not be affordable, the proposal would likely be considered a different form of development under the Housing SEPP, such as Co-Living. Notwithstanding this, the proposal would still generally conform to the prescribed controls.

These non-compliances are considered for the reasons discussed earlier in this report in consideration of ARH SEPP.

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

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

- Clause 1.2 - Aims of the Plan
- Clause 2.3 - Zone objectives and Land Use Table
- Clause 2.7 - Demolition
- Clause 4.3 - Height of buildings
- Clause 4.4 - Floor space ratio
- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 4.6 - Exceptions to development standards
- Clause 6.5 - Development in areas subject to aircraft noise
- Clause 6.15 – Location of boarding houses in business zones

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

Standard	Proposal	non compliance	Complies
Height of Building Maximum permissible: 11m	13.37m	2.37m or 21.5%	No - existing
Floor Space Ratio Maximum permissible: 1.2:1 or 1,1017.4sqm	1.62:1 or 1,374sqm	356.6sqm or 35%	No

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

The site is zoned B1 – Neighbourhood Centre under the MLEP 2011. The MLEP 2011 defines the development as a boarding house and shops. Generally, retail premises are prohibited in the B1 zone, with the exception of a “shop” which is defined as follows:

“shop means premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop, but does not include food and drink premises or restricted premises”

With the exception of new bathroom amenities, the proposal seeks to retain the five shops located on the ground floor as existing.

The development is permitted with consent within the land use table. The development is consistent with the objectives of the B1 zone.

Clause 4.6 Exceptions to Development Standards

As outlined in table above, the proposal results in a breach of the following development standards:

- Clause 4.4 - Floor space ratio

The applicant seeks a variation to the floor space ratio development standard under Clause 4.6 of the Marrickville Local Environmental Plan 2011 by 35% (or 356.6sqm).

Clause 4.6 allows Council to vary development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the development standard has been assessed against the objectives and provisions of Clause 4.6 of the *Marrickville Local Environmental Plan 2011* below.

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of the *Marrickville Local Environmental Plan 2011*. In justifying the proposed contravention of the development standard which is summarised as follows:

- *The proposed density is entirely consistent with the existing building on site and remains characteristic of the subject site and streetscape. Requiring the removal of 356.64m² of GFA in order to comply with the MLEP FSR standard would result in partial demolition and 'opening up' of the existing building which would not only be unreasonably costly but would also have a negative impact on the aesthetic appearance of the building and wider locality. As such, there are no public benefits in insisting on strict compliance with the MLEP FSR development standard .*
- *The proposal utilises the existing building envelope, the development provides for an appropriate scale and form that reflects the established and desired future character for development at the site and within the locality.*
- *The FSR breach enables the retention of the existing building that is a 'period building' located on a prominent corner lot within this part of Marrickville. There are public clear benefits in retaining and restoring this existing building rather than demolishing it and redeveloping the site to provide a new FSR compliant development. The improved urban design outcome, which in part can be attributed to the FSR non-compliance, will result in a significant improvement to the character of the locality and should therefore be given weight in considering the variation*
- *The upper levels of the existing building are currently largely vacant and have fallen into disrepair. The proposed FSR variation enables a financially viable development to proceed on site that sympathetically adaptively reuses the existing building. The proposed boarding house use is compatible with the locality and is ideally located in an accessible area to provide future occupants with convenient access to shops, services and public transport. Furthermore, the development will increase housing choice in the locality*

- *The FSR breach creates no significant additional overshadowing when compared to the existing building on site given that the proposal utilises the existing building envelope, with minor 'lightweight' additions at the rear. Consequently, shadows cast from the development are almost identical to those from the existing building and will not give rise to any unreasonable additional adverse overshadowing of neighbouring properties. As such and when considering the overshadowing against the backdrop of the existing building, the extent of overshadowing is created by the additional FSR is insignificant or nil*
- *The FSR breach does not result in any significant additional privacy impacts. That is, the proposal utilises the existing building has been designed to ensure all primary living areas are orientated to look over the adjacent street frontages and or incorporate privacy treatments (window placement and design or privacy screens) to ensure that overlooking is minimised as far as practicable. When considered against the backdrop of the existing building on site, the extent of privacy impacts created by the additional FSR is considered to be insignificant or nil;*

The applicant's written rationale adequately demonstrates compliance with the development standard is unreasonable / unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

It is considered the development is in the public interest because it is consistent with the objectives of the B1 – Neighbourhood Centre, in accordance with Clause 4.6(4)(a)(ii) of the *Marrickville Local Environmental Plan 2011* which read:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To provide for housing attached to permissible non-residential uses in development of a type and scale compatible with the surrounding neighbourhood.*
- *To provide for spaces, at street level, which are of a size and configuration suitable for land uses which generate active street-fronts.*
- *To enable a purpose built dwelling house to be used in certain circumstances as a dwelling house.*

The proposal is considered to be consistent with the relevant zone objectives for the following reasons:

- The proposal provides affordable housing in the form of a boarding house, which is considered to provide a different form of housing to meet the needs of the community within a medium density residential environment. The development includes a range of room layouts to cater to different occupants. The development also provides accessible rooms, which provides further housing diversity.
- The proposal does not inhibit the ability of other land uses that provide facilities or services to meet the day to day needs of residents.

It is considered the development is in the public interest because it is consistent with the objectives of the floor space ratio development standard, in accordance with Clause 4.6(4)(a)(ii) of the *Marrickville Local Environmental Plan 2011*, which read:

- (a) to establish the maximum floor space ratio,
- (b) to control building density and bulk in relation to the site area in order to achieve the desired future character for different areas,
- (c) to minimise adverse environmental impacts on adjoining properties and the public domain.

The proposal is considered to be consistent with the relevant objectives of the development standard for the following reasons:

- The proposal seeks to adapt the upper floors of the existing building to accommodate the boarding house, as such the proposal will not adversely impact the existing built form and subsequently the character of the area.
- The proposed development is considered unlikely to result in any impacts that would adversely affect or inhibit the use or enjoyment of adjoining properties and the public domain as result of the FSR variation.

The concurrence of the Planning Secretary may be assumed for matters dealt with by the Local Planning Panel.

The proposal thereby accords with the objective in Clause 4.6(1)(b) and requirements of Clause 4.6(3)(b) of the *Marrickville Local Environmental Plan 2011*. For the reasons outlined above, there are sufficient planning grounds to justify the departure from floor space ratio and it is recommended the Clause 4.6 exception be granted.

5(b) Draft Environmental Planning Instruments

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

Draft Environmental Planning Instruments	Compliance
Draft State Environmental Planning Policy (Environment) 2018	Yes
Draft State Environmental Planning Policy (Remediation of Land) 2018	Yes
Draft State Environmental Planning Policy (Environment) 2017	Yes

5(c) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under *Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979*.

The Draft IWLEP 2020 contains substantially the same provisions relating to the MLEP 2011 and as such the proposal would remain consistent with the objectives of these provisions for the reasons discussed earlier in this report. Draft IWLEP 2020 contains provisions for amendments to the aims of Clause 1.2 Aims of Plan and objectives for the B1 – Neighbourhood Centre zone. The development is considered acceptable having regard to the provisions of the Draft IWLEP 2020.

5(d) Development Control Plans

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

DCP 2011 Part of MDCP 2011	Compliance
Part 2.1 – Urban Design	Yes
Part 2.3 – Site and Context Analysis	Yes
Part 2.5 – Equity of Access and Mobility	Yes
Part 2.6 – Acoustic and Visual Privacy	Yes
Part 2.7 – Solar Access and Overshadowing	Yes
Part 2.8 – Social Impact	Yes
Part 2.9 – Community Safety	Yes
Part 2.10 – Parking	No – see discussion under Section 5(a)(i)(iii) of this report
Part 2.11 – Fencing	Yes
Part 2.18 – Landscaping and Open Space	Yes – see discussion under Section 5(a)(i)
Part 2.21 – Site Facilities and Waste Management	Yes
Part 2.25 – Stormwater Management	Yes
Part 4.3 – Boarding Houses	Yes
Part 5 – Commercial and Mixed Use Development	Yes
Part 9 – Strategic Context	Yes

5(e) The Likely Impacts

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

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

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

5(g) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 14 days to surrounding properties. 14 submissions were received in response to the initial notification. The following issues have been discussed within the report:

- Carparking
- Out of character

The submissions raised the following concerns which are discussed under the respective headings below:

Issue: Visual privacy impacts from the COS rear balconies to the dwellings along Agar Street.

Comment: The rear balconies proposed are suitably setback 12m from the rear boundary and include a 1m wide planting buffer around each balcony edge to mitigate direct overlooking into the adjoining properties along Agar Street.

Issue: Noise impacts from the proposal including from the communal open space areas

Comment: Access to the boarding rooms is available via three entrances, this being Addison Road, Agar Street and at the rear of the dwelling. The inclusion of three entrances allows the dispersal of tenants entering/exiting the building and discourage the congregation of people at one entry point. In addition, the eastern corner of the COS balconies on the first and second floor propose an acoustic wall to mitigate impacts to the adjoining properties. Furthermore, the proposal includes a detailed plan of management (POM) which is recommended to form part of any consent issued. The POM details house rules including limited the use of the common outdoor areas between 7am and 10pm so as not to adversely impede on the acoustic amenity of the neighbouring properties.

Issue: Noise impacts from air-conditioning units

Comment: The proposal as amended do not illustrate air conditioning units as part of the application.

Issue: Transient nature of the occupants and loitering within the rear car park

Comment: There is no evidence that the proposal would increase this anti-social behaviour in the area purely as a result of a boarding house use.

Issue: Waste management and odour impacts

Comment: The development proposes a suitable number of waste bins for the size of the development. The number of additional bins on the street would be minor and only presenting to the street on collection days, which is considered acceptable and not an adverse impact to the street

Issue: Poor management of the property and boarding house

Comment: An adequate Plan of Management (POM) was submitted with the application. A condition of consent has been included in the recommendation to ensure the operation of the boarding house complies with the POM at all times

5(h) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed. The proposal is not contrary to the public interest.

6 Referrals

6(a) Internal

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

- Engineering
- Waste Management

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$512,064.52 would be required for the development under Marrickville Section 94 Contributions Plan 2014. A condition requiring that contribution to be paid is included in the recommendation.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Marrickville Local Environmental Plan 2011* and Marrickville Development Control Plan 2011.

The development will not result in any significant impacts on the amenity of the adjoining premises/properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.4 of the *Marrickville Local Environmental Plan 2011*. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds to support the variation. The proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out. **(KL)**
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2021/0791 for Alterations and additions to the existing building. Use of upper levels for a boarding house, with associated access and parking. at 117 Addison Road, subject to the conditions listed in Attachment A below.

Attachment A – Recommended conditions of consent

CONDITIONS OF CONSENT

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
DA-004, Rev B	Demolition Plans	Received 2/03/2022	Urban Link
DA-101, Rev B	Ground Floor Plans	Received 2/03/2022	Urban Link
DA-102, Rev B	Level 1 Plan	Received 2/03/2022	Urban Link
DA-103, Rev B	Level 2 Plan	Received 2/03/2022	Urban Link
DA-104, Rev B	Roof Plan	Received 2/03/2022	Urban Link
DA-201, Rev B	West & East Elevations	Received 2/03/2022	Urban Link
DA-202, Rev B	North & South Elevations	Received 2/03/2022	Urban Link
DA-301, Rev B	Section AA & BB	Received 2/03/2022	Urban Link
-	Operational Plan of Management	March 2022	Planning Ingenuity
A32287-SW01 - SW04, Rev B	Stormwater plans	28/02/2022	Alpha Engineering & Development
2021-201, Rev 1	Acoustic Report	24/08/2021	Acoustic Noise & Vibration Solutions

As amended by the conditions of consent.

DESIGN CHANGE

2. Waste Management Plans - update

Prior to the issue of a construction certificate the certifying authority is to be provided with an amended operational waste management plan that:

- Is updated to reflect the amended plans within this consent;
- Is amended to provide residential kerbside waste collection provided by Council services and frequency of collections
- Is updated to reflect the waste and also recycling generation rates of 80L respectively, per dwelling
- Demonstrates that the proposal complies with the control C14 of the Marrickville Development Control Plan 2011;
- The building manager will be responsible for the presentation and return of bins to the storage area; and
- The building manager will be responsible for ensuring that bulky household items are booked for collection and not presented on public property until the night prior to the given collection date.

The amended Waste Management plan is to form part of the construction certificate documents.

FEES

3. Security Deposit - Custom

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:	\$22,000.00
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Inspection Fee:	\$241.50
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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.

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

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

4. Section 7.11 (Former Section 94) Contribution

Prior to the issue of a Construction Certificate written evidence must be provided to the Certifying Authority that a monetary contribution of \$512,064.52 indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014 ("CP") has been paid to the Council.

The above contribution is the contribution applicable as at 21/04/2022.

***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.

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:

Public Amenities Type:	Contribution \$
Recreation Facilities	\$447,364.24
Community Facilities	\$54,659.80

Plan Administration	\$10,040.48
TOTAL	\$512,064.52

A copy of the CP can be inspected at any of the Inner West Council Services Centres or viewed online at:

<https://www.innerwest.nsw.gov.au/develop/planning-controls/section-94-contributions>

Payment methods:

The required contribution must be paid either *by BPAY (to a maximum of \$500,000); unendorsed bank cheque (from an Australian Bank only); EFTPOS (Debit only); credit card (Note: A 1% credit card transaction fee applies to all credit card transactions; cash (to a maximum of \$10,000).* It should be noted that personal cheques or bank guarantees cannot be accepted for the payment of these contributions. **Prior to payment contact Council's Planning Team to review charges to current indexed quarter, please allow a minimum of 2 business days for the invoice to be issued before payment can be accepted.**

*NB A 0.75% credit card transaction fee applies to all credit card transactions.

5. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more.

GENERAL CONDITIONS

6. Noise – Consultant's Recommendations

All performance parameters, requirements, engineering assumptions and recommendations contained in the acoustic report prepared by Acoustic Noise and Vibration Solutions P/L, dated August 24th, 2021 (ref: 2021-204 Rev.1) must be implemented.

7. Hazardous Materials Survey

Prior to any demolition or the issue of a Construction Certificate (whichever occurs first), the Certifying Authority must provide a hazardous materials survey to Council. The survey shall

be prepared by a suitably qualified Occupational Hygienist and is to incorporate appropriate hazardous material removal and disposal methods in accordance with the requirements of SafeWork NSW.

A copy of any SafeWork NSW approval documents is to be included as part of the documentation.

8. Separation of Commercial and Residential Waste and Recycling

The waste and recycling handling and storage systems for residential waste and commercial waste (including waste originating from retail premises) are to be separate and self-contained. Commercial and retail tenants must not be able to access residential waste storage area/s, or any storage containers or chutes used for residential waste and recycling.

9. Boarding House

The development must provide and maintain:

- a. A minimum of 6 Accessible boarding rooms; and
- b. All rooms within the boarding house must be connected to a centralised electricity, water and gas (if installed) service.

10. Works Outside the Property Boundary

This development consent does not authorise works outside the property boundaries on adjoining lands.

11. Car Parking

The development must provide and maintain within the site:

- a. 5 car parking spaces must be paved and line marked;
- b. 2 car parking spaces, for persons with a disability must be provided and marked as disabled car parking spaces;
- c. 5 off-street motorcycle parking spaces must be provided, paved, line marked and maintained at all times;
- d. 9 Bicycle storage capacity within the site.

PRIOR TO ANY DEMOLITION

12. Resource Recovery and Waste Management Plan - Demolition and Construction

Prior to any demolition works, the Certifying Authority must be provided with a Resource Recovery and Waste Management Plan - Demolition and Construction that includes details of materials that will be excavated and their proposed destination or reuse.

13. Hoardings

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.

14. Construction Traffic Management Plan

Prior to any demolition, the Certifying Authority, must be provided with a detailed Construction Traffic Management Plan (CTMP) to cater for construction prepared by a person with RMS accreditation to prepare a work zone traffic management plan. Details must include haulage routes, estimated number of vehicle movements, truck parking areas, work zones, crane usage, etc., related to demolition/construction activities. A work zone approval must be obtained.

15. Dilapidation Report

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the adjoining properties at 1 Agar Street and 113 Addison Road to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

16. Construction Fencing

Prior to the commencement of any works (including demolition), 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.

PRIOR TO CONSTRUCTION CERTIFICATE**17. Noise General – Acoustic Report**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an acoustic report demonstrating that noise and vibration from the operation of the premises will satisfy the relevant provisions of the *Protection of the Environment Operations Act 1997* and Regulations and relevant state and local policies and guidelines. The acoustic report is to be prepared by a suitably qualified and experienced acoustic consultant and any recommendations must be consistent with the approved plans.

18. Aircraft Noise – Acoustic Report (ANEF20-25 or Greater)

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an acoustic report that meets the relevant provisions of Australian Standard AS 2021:2000 Acoustics – Aircraft noise intrusion – Building siting and construction. The recommendations of the report are to be indicated on the architectural plans and / or specifications.

19. Shared Accommodation / Boarding House – Plan Of Management

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Plan of Management demonstrating compliance with operation and maintenance standards set out in the *Local Government (General) Regulation 2005*.

20. Bin Storage Area - Residential

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a report detailing the ongoing waste generation requirements of the development and demonstrate that the bin storage area is to be provided within the site that will fully accommodate the number of bins required for all waste generated by a development of this type and scale. The number of bins required must be calculated based on a weekly collection of garbage, and a fortnightly collection of recycling.

The area must also include 50% allowance for manoeuvring of bins. The bin storage area is 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.

The bin storage area is to meet the design requirements detailed in the Marrickville DCP 2011 and must include doorways/entrance points of 1200mm.

21. Bulky Waste Storage Area – Residential

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating that the bulky waste storage area must meet the floor area requirements as per the Marrickville DCP 2011 and have minimum doorways of 1200mm wide to accommodate large items.

22. Waste Transfer Route

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a plan demonstrating that the path of travel between the bin storage area/bulky waste storage area and the designated waste/recycling collection point is has 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.

23. Each Residential Level is to have Access to a Disposal Point for All Waste Streams

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a plan demonstrating that the disposal point is to be within 30m of the dwelling access (distance covered by lifts excluded). Any bins stored on residential floors are to have the capacity to store, at minimum, all waste generated by that floor over a 24 hour period.

24. Stormwater Drainage System – Minor Developments (OSD is required)

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with stormwater drainage design plans incorporating on site stormwater detention (OSD), certified by a suitably qualified Civil Engineer that the design of the site drainage system complies with the following specific requirements:

- a. The design must be generally in accordance with the stormwater drainage concept plan on Drawing No. A21187 - SW02 Rev B prepared by ALPHA Engineering & Development and dated 28-02-2022, as amended to comply with the following;
- b. Stormwater runoff from all roof areas within the property being collected in a system of gutters, pits and pipeline and be discharged, together with overflow pipelines from any rainwater tank(s), by gravity to the kerb and gutter of a public road/directly to Council's piped drainage system via the OSD/OSR tanks as necessary;
- c. Comply with Council's Stormwater Drainage Code, Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2018 'Stormwater Drainage' and Council's DCP;
- d. The design plans must detail the existing and proposed site drainage layout, size, class and grade of pipelines, pit types, roof gutter and downpipe sizes;

- e. 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);
- f. Details of the Height vs Storage and Height vs Discharge relationships must be submitted.
- g. Pipe and channel drainage systems including gutters must be designed to convey the one hundred (100) year Average Recurrence Interval (ARI) flows from the contributing catchment to the OSD/OSR tanks;
- h. Details of the 100-year ARI overflow route in case of failure\blockage of the drainage system must be provided;
- i. 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;
- j. No nuisance or concentration of flows to other properties;
- k. Plans must specify that any components of the existing system to be retained must be certified during construction to be in good condition and of adequate capacity to convey the additional runoff generated by the development and be replaced or upgraded if required;
- l. New pipelines within the footpath area that are to discharge to the kerb and gutter must be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0mm and a maximum section height and width of 100mm or sewer grade uPVC pipe with a maximum diameter of 100mm; and
- m. All stormwater outlets through sandstone kerbs must be carefully core drilled in accordance with Council standard drawings.

25. Public Domain Works – Prior to Construction Certificate

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 construction of heavy duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site
- All works must be completed prior to the issue of an Occupation Certificate.

26. Parking Facilities

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans certified by a suitably qualified Civil Engineer who holds current Chartered Engineer qualifications with the Institution of Engineers Australia (CPEng) or current Registered Professional Engineer qualifications with Professionals Australia (RPEng) demonstrating that the design of the vehicular access, off-street parking facilities and associated vehicle standing areas comply with Australian Standard AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking, AS/NZS 2890.3-2015 Parking facilities: Bicycle Parking, AS/NZS 2890.6-2009 Parking facilities: Off-street parking for people with disabilities and the following specific requirements:

- a. The maximum grade at the property boundary does not exceed 1 in 20 (5%) within 6m of the property boundary; and
- b. 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.

27. Sydney Water – Tap In

Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

Note: Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 13 20 92

28. Structural Certificate for retained elements of the building

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction. The certificate must also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

DURING DEMOLITION AND CONSTRUCTION

29. Contamination – Retention of Ground Slab

This consent only permits the fit-out and use of the premises with the retention of the existing ground slab. Intrusive ground excavations and/or works that may compromise the integrity of the existing ground slab covering the site are not approved, and existing ground slabs and hardstand areas must be retained and maintained in their original form.

Should any ground slab or hardstand area be damaged or disturbed, an appropriately qualified Environmental Consultant must inspect the site immediately and determine whether any potential contaminants have been disturbed. If preventative works need to be undertaken, a written statement prepared by a qualified Environmental Consultant must be provided to Council detailing the outcome of this investigation and associated works.

30. Contamination – New Evidence

Any new information revealed during demolition, remediation or construction works that have the potential to alter previous conclusions about site contamination must be immediately notified to the Council and the Certifying Authority.

31. Documentation of Demolition and Construction Waste

All waste dockets from the recycling and/or disposal of any demolition and construction waste generated from the works must be retained on site.

32. Construction Hours – Class 2-9

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

- a. 7:00am to 6.00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b. 8:00am to 1:00pm 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 out of hours 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 must be limited to:

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

The person acting on this consent must not undertake such activities for more than three continuous hours and must 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.

PRIOR TO OCCUPATION CERTIFICATE

33. Noise – Acoustic Report

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an acoustic report prepared by suitably qualified acoustic consultant which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of *the Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority's Noise Policy for Industry and Noise Control Manual and conditions of Council's approval, including any recommendations of the acoustic report referenced in the conditions of the approval. The acoustic report is to be prepared by a suitably qualified and experienced acoustic consultant and any recommendations must be consistent with the approved plans.

34. Noise From Road, Rail & Aircraft – Compliance

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an acoustic report prepared by suitably qualified acoustic consultant, confirming that the development complies with the requirements of the:

- a. *State Environmental Planning Policy (Infrastructure) 2007*;
- b. NSW Planning, Development near Rail Corridors and Busy Roads – Interim Guideline;
- c. Australian Standard 2021-2000: Acoustics - Aircraft noise intrusion - Building siting and construction;
- d. conditions of development consent; and

- e. Recommendations

35. Public Domain Works

Prior to the issue of an Occupation Certificate, the Principal Certifier 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 crossings at the vehicular access locations;
- 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; and
- c. 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".

36. No Encroachments

Prior to the issue of an Occupation Certificate, the Principal Certifier 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.

37. Protect Sandstone Kerb

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any stone kerb, damaged as a consequence of the work that is the subject of this development consent, has been replaced.

38. Whiteway Lighting - Existing

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that the Whiteway lighting scheme and any existing meter box being maintained and any defects (including the need to install a "special small service") in the system are repaired.

39. Parking Signoff – Minor Developments

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with certification from a qualified practising Civil Engineer that the vehicle access and off street parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.

40. Works as Executed – Site Stormwater Drainage System

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with Certification by a suitably qualified Civil Engineer that:

- a. The stormwater drainage system has been constructed in accordance with the approved design and relevant Australian Standards; and
- b. Works-as-executed plans of the stormwater drainage system certified by a Registered Surveyor, to verify that the drainage system has been constructed, OSD system commissioned 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.

41. Operation and Management Plan

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an Operation and Management Plan has been prepared and implemented for the on-site detention. 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; and
- b. The proposed method of management of the facility, including procedures, safety protection systems, emergency response plan, etc.

42. Redundant Vehicle Crossing

Prior to the issue of an Occupation Certificate, the Principal Certifier 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.

43. Easements, Restrictions on the Use of Land and Positive Covenants

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with evidence that Easements, Restrictions on the Use of Land and Positive Covenants under Section 88B or 88E, whichever is relevant to the subject development, of the *Conveyancing Act 1919*, has been created on the title of the property detailing the following :

- a. Restrictions on the Use of Land related to on Site Stormwater Detention System; and
- b. Positive Covenant related to on-site stormwater detention.

The wording in the Instrument must be in accordance with Councils Standard wording.

44. Smoke Alarms - Certification of upgrade to NCC requirements

Prior to the issue of any Occupation Certificate, the Principal Certifier is required to be satisfied the existing building has been upgraded to comply with the provisions of the National Construction Code (Building Code of Australia) in relation to smoke alarm systems.

45. Section 73 Certificate

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a Section 73 Certificate under the *Sydney Water Act 1994*.

ON-GOING**46. Noise General**

The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.

47. Commercial Waste/Recycling Collection

The collection of waste and recycling must only occur between 7:00am and 8:00pm weekdays and 9:00am and 5:00pm weekends and public holidays, to avoid noise disruption on the surrounding area,

Garbage and recycling must not be placed on the street for collection more than one (1) hour before the scheduled collection time. Garbage bins and containers are to be removed from the street within one (1) hour after collection.

48. Bin Storage

All bins are to be stored within the site. Bins are to be returned to the property within 12 hours of having been emptied.

49. Operation and Management Plan

The Operation and Management Plan for the on-site detention, approved with the Occupation Certificate, must be implemented and kept in a suitable location on site at all times.

50. Vehicles Leaving the Site

All vehicles must enter and exit the site in a forward direction.

51. Boarding House

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 the condition 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 and must be made available to Council officers and the Police upon request;
- 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 25 lodger's rooms and 1 on-site manager's room with not more than 2 adult lodgers and 1 adult on-site manager residing in the premises at any one time;
- g. Not more than 2 lodgers must occupy each boarding room;
- h. The premises must not be adapted for use as backpacker's accommodation, serviced apartments or a residential flat building;
- i. All common rooms/areas and recreation rooms/areas must be maintained at all times for the use of the lodgers; and
- j. Each self-contained room and shared kitchen must be fitted out with washing up facilities, a cooktop, oven, fridge and storage space with such utilities being maintained in working order at all times.

ADVISORY NOTES**Mechanical Ventilation System Certification**

The mechanical ventilation systems are to be designed, constructed and operated in accordance with the following:

- a. Australian Standard AS 1668 Part 1 – 1998;
- b. Australian Standard AS 1668 Part 2 – 2012;
- c. Australian Standard 3666.1 – 2011;
- d. Australian Standard 3666.2 – 2011; and
- e. Australian Standard 3666.3 - 2011.

The system must be located in accordance with the approved plans and/or within the building envelope, design and form of the approved building. Any modifications to the approved plans required to house the system must be the subject of further approval from Council.

Storage of Hazardous and Dangerous Goods

Dangerous and hazardous goods must be stored in accordance with NSW WorkCover requirements and AS1940-2004, The Storage and Handling of Flammable and Combustible Liquids.

Transport and Disposal of Hazardous and Dangerous Goods

Hazardous and industrial waste arising from the use must be removed and / or transported in accordance with the requirements of the NSW Environment Protection Authority (EPA) and the New South Wales WorkCover Authority.

Asbestos Removal

A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10m² of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

Removal of friable asbestos material must only be undertaken by a contractor that holds a current Class A Friable Asbestos Removal Licence.

Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.

All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2014. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

Health Premises Registration – Generic

The premises are required to be registered with Council's Environment Health Team in accordance with the following relevant legislation:

- a. *Food Shop - Food Act 2003;*
- b. *Hairdressing Salon / Barber - Public Health Act 2010 and the Local Government (General) Regulation 2005;*

- c. Skin Penetration - *Public Health Regulation 2012*;
- d. Cooling Tower / Warm Water System - *Public Health Act 2010* and *Public Health Regulation 2012*; and
- e. Boarding House / Shared Accommodation - *Boarding Houses Act 2012* and the *Local Government (General) Regulation 2005*.

Notice to Council to deliver Residential Bins

If 660L bins are required Council should be notified three months prior to the occupation of the building to ensure timely delivery. If 240L bins are required, Council should be notified three weeks prior to occupation.

Council will place an order for the required bins. Delivery will occur once the applicant has completed a Request for New Service.

Recycling / Garbage / Organics Service Information and Education

The building manager / strata title manager or body corporate is responsible for ensuring all tenants are kept informed regarding Council's services, and best practice waste and recycling source separation.

Electrical Substations

Should the proposed development require the provision of an electrical substation, such associated infrastructure must be incorporated wholly within the development site and may be the subject of an application for modification of consent.

Permits

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; and

- 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.

Easement and Covenant Process

The following documents must be submitted to Council as part of the Easement and Covenant process and requirements, for the site on-site detention:

- a. 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 tank with finished surface levels and volume of storage available. Also, the outlet pipe from the detention tank 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.

- b. Engineer's Certificate

A qualified practising Civil Engineer must certify on the completion of drainage works in respect of:

- c. The soundness of the storage structure;
- d. The capacity of the detention storage;
- e. The emergency overflow system being in place;
- f. The works being constructed in accordance with the Development Application Consent and Council's Stormwater Management DCP/Code; and
- g. 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.

- c. 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. This is to ensure that works, which could affect the function of the stormwater detention system, 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.

- d. A Maintenance Schedule.

Insurances

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.

Storage of Materials on public property

The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.

Notification of commencement of works

At least 7 days before any demolition work commences:

- a. the Council must be notified of the following particulars:
 - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - ii. the date the work is due to commence and the expected completion date; and
- b. a written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

Prescribed Conditions

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2000*.

Toilet Facilities

The following facilities must be provided on the site:

- a. Toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees; and

- b. A garbage receptacle for food scraps and papers, with a tight fitting lid.

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

Infrastructure

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. 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 undertaken before occupation of the site.

Other Approvals may be needed

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.

Failure to comply with conditions

Failure to comply with the relevant provisions of *the Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.

Other works

Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Obtaining Relevant Certification

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;

- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;
- f. Development Application for demolition if demolition is not approved by this consent; or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

Disability Discrimination Access to Premises Code

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.

National Construction Code (Building Code of Australia)

A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code.

Amenity Impacts General

The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

Fire Safety Certificate

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 Statement for each of the Fire Safety Measures listed in the Schedule. The Annual Fire Safety Statement must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.

Boarding House – Registration with Fair Trading

Boarding houses with two or more residents who have additional needs or five or more residents who do not have additional needs are required to register with the Department of Fair Trading.

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 Prior to You Dig	1100 www.dialprior toyoudig.com.au
Landcom	9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments 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.diysafe.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	1300 651 116	
Environmental Solutions		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.

Dividing Fences Act

The person acting on this consent must comply with the requirements of the *Dividing Fences Act 1991* in respect to the alterations and additions to the boundary fences.

REASONS FOR REFUSAL

Attachment B – Plans of proposed development

CONFORMANCE STATEMENTS

1. THIS PLAN COMPLIES WITH THE REQUIREMENTS OF THE DEVELOPMENT CONTROL PLAN (DCP) AND THE LOCAL GOVERNMENT ACT 1995.

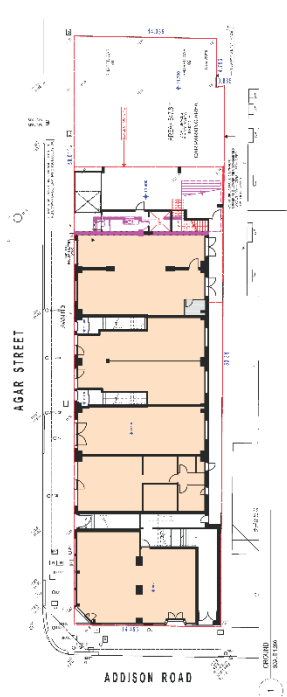
2. THIS PLAN COMPLIES WITH THE REQUIREMENTS OF THE DEVELOPMENT CONTROL PLAN (DCP) AND THE LOCAL GOVERNMENT ACT 1995.

3. THIS PLAN COMPLIES WITH THE REQUIREMENTS OF THE DEVELOPMENT CONTROL PLAN (DCP) AND THE LOCAL GOVERNMENT ACT 1995.

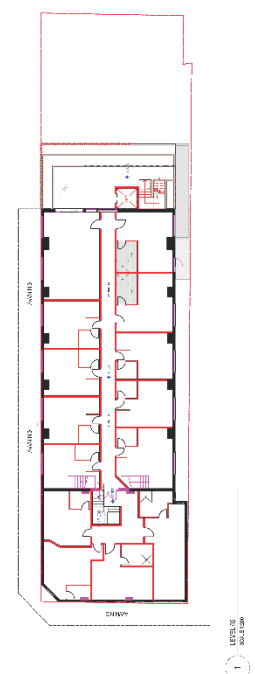
4. THIS PLAN COMPLIES WITH THE REQUIREMENTS OF THE DEVELOPMENT CONTROL PLAN (DCP) AND THE LOCAL GOVERNMENT ACT 1995.

5. THIS PLAN COMPLIES WITH THE REQUIREMENTS OF THE DEVELOPMENT CONTROL PLAN (DCP) AND THE LOCAL GOVERNMENT ACT 1995.

6. THIS PLAN COMPLIES WITH THE REQUIREMENTS OF THE DEVELOPMENT CONTROL PLAN (DCP) AND THE LOCAL GOVERNMENT ACT 1995.



= TO BE DEMOLISHED
 = TO BE DEMOLISHED
 = PROPOSED
 = PROPOSED



1. SITE LOCATION MAP
 2. SITE PLAN
 3. DEMOLITION PLAN
 4. PROPOSED BOARDING HOUSE
 5. EXISTING BUILDING
 6. DEMOLITION PLAN

URBAN LINK
 1. 100% COMPLIANT WITH THE REQUIREMENTS OF THE DEVELOPMENT CONTROL PLAN (DCP) AND THE LOCAL GOVERNMENT ACT 1995.
 2. 100% COMPLIANT WITH THE REQUIREMENTS OF THE DEVELOPMENT CONTROL PLAN (DCP) AND THE LOCAL GOVERNMENT ACT 1995.
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 6. 100% COMPLIANT WITH THE REQUIREMENTS OF THE DEVELOPMENT CONTROL PLAN (DCP) AND THE LOCAL GOVERNMENT ACT 1995.

SITE DEMOLITION PLANS
 SCALE: 1:200 (AS SHOWN)
 DATE: 14/06/2024
 DRAWN BY: DAVID B

REVISIONS - LEFT SIDE

1. 20/01/2024: REVISED TO REFLECT CHANGES TO THE PROPOSED BOARDING HOUSE PLAN.

2. 20/01/2024: REVISED TO REFLECT CHANGES TO THE PROPOSED BOARDING HOUSE PLAN.

3. 20/01/2024: REVISED TO REFLECT CHANGES TO THE PROPOSED BOARDING HOUSE PLAN.

4. 20/01/2024: REVISED TO REFLECT CHANGES TO THE PROPOSED BOARDING HOUSE PLAN.

5. 20/01/2024: REVISED TO REFLECT CHANGES TO THE PROPOSED BOARDING HOUSE PLAN.

6. 20/01/2024: REVISED TO REFLECT CHANGES TO THE PROPOSED BOARDING HOUSE PLAN.

7. 20/01/2024: REVISED TO REFLECT CHANGES TO THE PROPOSED BOARDING HOUSE PLAN.

8. 20/01/2024: REVISED TO REFLECT CHANGES TO THE PROPOSED BOARDING HOUSE PLAN.

9. 20/01/2024: REVISED TO REFLECT CHANGES TO THE PROPOSED BOARDING HOUSE PLAN.

10. 20/01/2024: REVISED TO REFLECT CHANGES TO THE PROPOSED BOARDING HOUSE PLAN.



LEVEL 01

1:100

█ = PROPOSED

1. PROJECT NUMBER: 2024/0001
 2. DATE: 20/01/2024
 3. DRAWN BY: [Name]
 4. CHECKED BY: [Name]

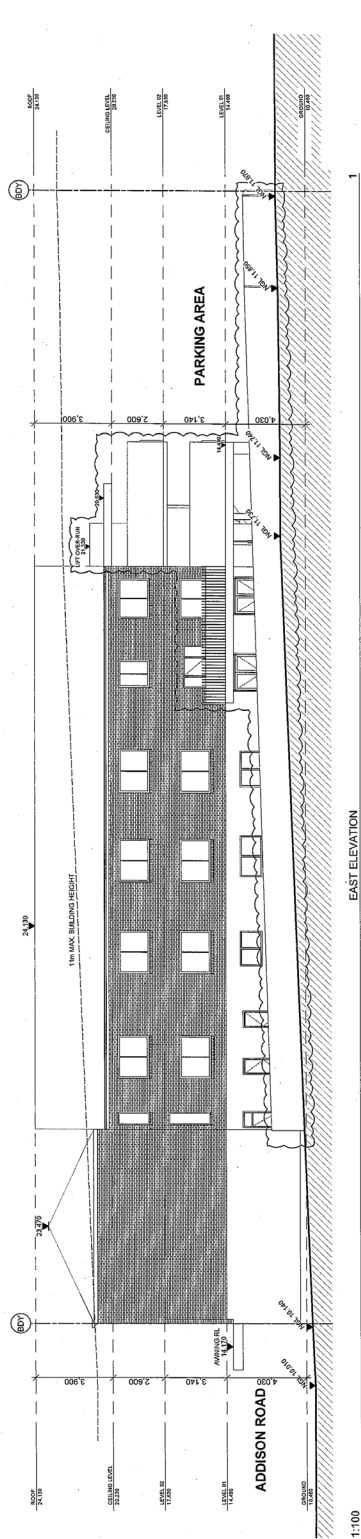
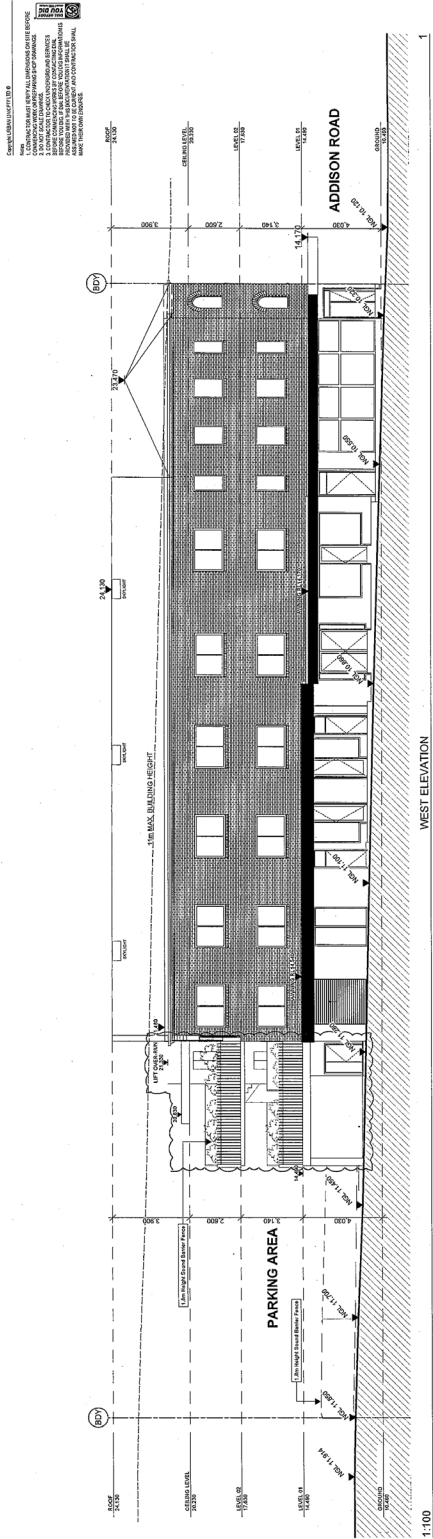
**PROPOSED BOARDING HOUSE
 IN EXISTING BUILDING**

URBAN LINK
 URBAN LINK ARCHITECTURE & INTERIOR DESIGN
 1/100 JAMES ST, SYDNEY NSW 2000
 PH: 02 9550 1234
 WWW.URBANLINK.COM.AU

DATE: 20/01/2024
 DRAWN BY: [Name]
 CHECKED BY: [Name]

**FLOOR PLANS
 LEVEL 01 PLAN**

1:100
 DEVELOPMENT APPLICATION
 2024/0001



URBAN LINK
 URBAN LINK ARCHITECTURE
 11 ELSANDER AVENUE
 WARRIMUNDEE NSW 2570
 Phone: 02 4321 2111
 Email: info@urbanlink.com.au
 www.urbanlink.com.au

PROPOSED BOARDING HOUSE
 11 ELSANDER AVENUE
 WARRIMUNDEE NSW 2570

Scale: 1:100
 Date: 2021-04
 Drawing No: DA-201
 Revision: B

ELEVATIONS
 WEST & EAST ELEVATIONS

WINDOWS TO BE REPLACED
 AS PER ACOUSTIC REPORT
 SPECS.

Attachment C- Clause 4.6 Exception to Development Standards



AMENDED CLAUSE 4.6 VARIATION STATEMENT

MAXIMUM FLOOR SPACE RATIO – CLAUSE 4.4 OF MARRICKVILLE LEP
2011

Alterations and additions to the existing building and adaptive reuse of the upper levels for a boarding house with at-grade parking

117 Addison Road
MARRICKVILLE

Prepared for: Foorohoneone Pty Ltd



PLANNING
I N G E N U I T Y

Ref. M210137
DATE: 1 March 2022





Amended Clause 4.6 Variation Statement – Floor Space Ratio (Clause 4.4)

1. INTRODUCTION

This Clause 4.6 Variation Statement is prepared in the interests of abundant caution. There are conflicting authorities in the Land & Environment Court in relation to this matter.

Arguably, by reason of cl 8 of SEPP ARH, the provisions of SEPP ARH prevail to the extent of any consistency between SEPP ARH and the provisions of MLEP. That is consistent with the line of authority provided in the judgments of Moore J and Smithson C in *193 Liverpool Road Pty Ltd v Inner West Council* [2017] NSWLEC 13 and *Maham Group Pty Ltd v Blacktown City Council* [2019] NSWLEC 1168, respectively, in that the provisions of SEPP ARH, including those in cl 29(4), provide a source of power for a consent authority to consent a boarding house development, such as is proposed by the Applicant, whether or not the development complies with the standards set out in subclause (1) or (2) of cl 29. Those standards include, under cl 29(1)(c), floor space ratio. An alternative interpretation of cl 29(4) of SEPP ARH is set out by Gray C in *Parker Logan Pty Ltd v Inner West Council* [2018] NSWLEC 1339.

Due to the case law perhaps not being settled on this issue, we provide this Clause 4.6 Variation Statement to remove any potential jurisdictional hurdle to approval.

2. FSR DEVELOPMENT STANDARD

Clause 4.4 of MLEP 2011 prescribes the maximum Floor Space Ratio (FSR) for the site and refers to the Floor Space Ratio Map. The relevant map (sheet FSR_003) indicates that the maximum FSR permitted at the subject site is 1.2:1 (GFA of 1,017.36m²).

The floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area. Gross floor area is defined to mean:

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- (a) *the area of a mezzanine, and*
- (b) *habitable rooms in a basement or an attic, and*
- (c) *any shop, auditorium, cinema, and the like, in a basement or attic,*

but excludes—

- (d) *any area for common vertical circulation, such as lifts and stairs, and*
- (e) *any basement—*
 - (i) *storage, and*
 - (ii) *vehicular access, loading areas, garbage and services, and*
- (f) *plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and*
- (g) *car parking to meet any requirements of the consent authority (including access to that car parking), and*
- (h) *any space used for the loading or unloading of goods (including access to it), and*
- (i) *terraces and balconies with outer walls less than 1.4 metres high, and*
- (j) *voids above a floor at the level of a storey or storey above.*





3. PROPOSED FSR VARIATION

Council contends that the bonus FSR afforded by Clause 29(1)(c)(i) of ARHSEPP does not apply to the subject site and is therefore a matter for legal submission. Therefore, the MLEP 2011 FSR of 1.2:1 applies to the proposal and allows a maximum GFA of 1,017.36m², based on a site area of 847.8m².

The amended proposed development will provide 1,374m² of GFA, equating to an FSR of 1.62:1. This is non-compliant with the FSR development standard under Clause 4.4 the MLEP 2011 by 356.64m² or 35%. As such and on a precautionary basis, to avoid doubt a Clause 4.6 Variation Statement has been prepared on the basis that the bonus FSR (under the ARHSEPP) does not apply.

The FSR requirement under Clause 4.4 is a "development standard" to which exceptions can be granted pursuant to Clause 4.6 of the LEP.

4. OBJECTIVES AND PROVISIONS OF CLAUSE 4.6

The objectives and provisions of Clause 4.6 are as follows:

4.6 Exceptions to development standards

(1) *The objectives of this clause are as follows—*

(a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

(b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*

(a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

(b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

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

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

(i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

(ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

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

(5) *In deciding whether to grant concurrence, the Planning Secretary must consider—*

(a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*

(b) *the public benefit of maintaining the development standard, and*



(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note— When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4,

(ca) clause 6.9, 6.17 or 6.18,

(cb) clause 6.21(4).

It is noted that Clause 4.4 is not "expressly excluded" from the operation of Clause 4.6.

Objective 1(a) of Clause 4.6 is satisfied by the discretion granted to a consent authority by virtue of Subclause 4.6(2) and the limitations to that discretion contained in subclauses (3) to (8). This submission will address the requirements of Subclauses 4.6(3) & (4) in order to demonstrate to the consent authority that the exception sought is consistent with the exercise of "an appropriate degree of flexibility" in applying the development standard, and is therefore consistent with objective 1(a). In this regard, the extent of the discretion afforded by Subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in, Subclause 4.6(6).

It is hereby requested that a variation to this development standard be granted pursuant to Clause 4.6 so as to permit a maximum FSR of 1.62:1.

5. THAT COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE (CLAUSE 4.6(3)(a))

In *Wehbe v Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. This list is not exhaustive. It states, inter alia:

"An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the

development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard."

The judgement goes on to state that:

"The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)."

Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

Relevantly, in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118* (paragraph 16), Preston CJ makes reference to *Wehbe* and states:

"...Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary."

Clause 4.6(3)(a) requires that the written request to vary a development standard demonstrate that compliance with the development standard is unnecessary or unreasonable in the circumstances of the case. Requiring strict compliance with the standard is unreasonable or unnecessary because:

- the development is consistent with the standard and zone objectives, even with the proposed variation (refer to Section 7 below);
- there are no additional significant adverse impacts arising from the proposed non-compliance; and
- important planning goals are achieved by the approval of the variation.

On this basis, the requirements of Clause 4.6(3)(a) are satisfied.

Notably, under Clause 4.6(4)(a)(ii) a consent authority must now be satisfied that the contravention of a development standard will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. Clause 4.6(4)(a)(ii) is addressed in this submission.



6. SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS (CLAUSE 4.6(3)(b))

The assessment of this numerical non-compliance is also guided by the decisions of the NSW LEC in *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90* and *Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248* whereby Justice Pain ratified the original decision of Commissioner Pearson. The following planning grounds are submitted to justify contravening the maximum FSR:

1. The proposal utilises the existing building envelope that has been in situ for more than 100 years. The proposed GFA – which contravenes the FSR standard under the MLEP – is contained wholly within the existing building envelope, with no additional GFA proposed through additions to the building. Therefore, the proposed density is entirely consistent with the existing building on site and remains characteristic of the subject site and streetscape. Requiring the removal of 356.64m² of GFA in order to comply with the MLEP FSR standard would result in partial demolition and ‘opening up’ of the existing building which would not only be unreasonably costly but would also have a negative impact on the aesthetic appearance of the building and wider locality. As such, there are no public benefits in insisting on strict compliance with the MLEP FSR development standard.
2. Given that the proposal utilises the existing building envelope, the development provides for an appropriate scale and form that reflects the established and desired future character for development at the site and within the locality. The additional FSR that breaches the MLEP standard will not be readily perceptible from the public domain or surrounding properties, as it is contained wholly within the existing building envelope, which ensures an acceptable design and planning outcome as viewed from the public domain. Importantly, the additional GFA does not adversely change the character of the development in terms of streetscape nor does it bring with it a form of development on the site that is incompatible with the existing or desired future character of the locality.
3. In accordance with the above and when considering the urban design and architectural character of the proposal, the FSR breach enables the retention of the existing building that is a ‘period building’ located on a prominent corner lot within this part of Marrickville. There are public clear benefits in retaining and restoring this existing building rather than demolishing it and redeveloping the site to provide a new FSR compliant development. The improved urban design outcome, which in part can be attributed to the FSR non-compliance, will result in a significant improvement to the character of the locality and should therefore be given weight in considering the variation.
4. The upper levels of the existing building are currently largely vacant and have fallen into disrepair. The proposed FSR variation enables a financially viable development to proceed on site that sympathetically adaptively reuses the existing building. The proposed boarding house use is compatible with the locality and is ideally located in an accessible area to provide future occupants with convenient access to shops, services and public transport. Furthermore, the development will increase housing choice in the locality, by providing an uplift in smaller residential accommodation that is highly sought after in Marrickville.
5. It is considered that there is an absence of any significant material impacts of the proposed non-compliance on the amenity of the environmental values of the locality, the amenity of future building occupants and on area character. Specifically, the extent of non-compliance with the FSR development standard:
 - a. The FSR breach creates no significant additional overshadowing when compared to the existing building on site given that the proposal utilises the existing building envelope, with minor ‘lightweight’ additions at the rear. Consequently, shadows cast from the development are almost identical to those from the existing building and will not give rise to any unreasonable additional adverse overshadowing of neighbouring properties. As such and when considering the overshadowing against the backdrop of the existing building, the extent of overshadowing created by the additional FSR is insignificant or nil;
 - b. The FSR breach does not result in any significant additional privacy impacts. That is, the proposal utilises the existing building has been designed to ensure all primary living areas are orientated to look over the adjacent street frontages and or incorporate privacy treatments (window placement and design or privacy screens) to ensure that overlooking is minimised as far as practicable. When considered against the backdrop of the existing building on site, the extent of privacy impacts created by the additional FSR is considered to be insignificant or nil; and



- c. The additional FSR does not create any significant additional view loss because no significant views are enjoyed across the subject site currently.
6. The proposed development meets the objectives of the development standard and meets the objectives of the B1 Neighbourhood Centre zone (as further detailed in Section 7 below);
7. The social benefits of providing additional boarding accommodation, including adaptable rooms, within a highly sought after location should be given substantial weight in the consideration of the variation request. The proposed development achieves an environmental planning outcome by providing additional affordable housing without having an adverse impact on the amenity of adjoining properties and being compatible with the character and built form of the locality.
8. The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:
 - a. The proposal promotes the orderly and economic use and development of land through the redevelopment of an underutilised building for compatible residential uses (1.3(c));
 - b. The proposed development promotes the delivery and maintenance of affordable housing (1.3(d)); and
 - c. The proposed developed promotes good design and amenity of the built environment through a well-considered design which is responsive to its setting and context, retaining an existing 'period building' of significant architectural merit (1.3(g)).
9. The proposed development meets the aims stipulated in Clause 3 of the ARH SEPP.

The above environmental planning grounds are not general propositions and are unique circumstances to the proposed development. Despite non-compliance, the proposal seeks to achieve a high level of external and internal amenity for the development without any unreasonable adverse impacts to the amenity of neighbouring properties or streetscape character of the site. Importantly, the non-compliant FSR is a result of a utilising the existing building envelope which ensures that the non-compliance will not result in a built form which is incompatible with what is envisaged on the subject site and the wider locality. Insistence on compliance with the FSR control will result in the partial demolition of the existing 'period building' and the removal of a number of boarding rooms which will reduce affordable housing within close proximity to numerous land uses and public transport and is a disproportionate outcome given the impacts of the proposal.

It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

86. The second way is in an error because it finds no basis in cl 4.6. Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development. This test is also inconsistent with objective (d) of the height development standard in cl 4.3(1) of minimising the impacts of new development on adjoining or nearby properties from disruption of views or visual intrusion. Compliance with the height development standard might be unreasonable or unnecessary if the non-compliant development achieves this objective of minimising view loss or visual intrusion. It is not necessary, contrary to what the Commissioner held, that the non-compliant development have no view loss or less view loss than a compliant development.

87. The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.





As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development. At the very least, there are sufficient environmental planning grounds to justify contravening the development standard.

7. CLAUSE 4.6(4)(a)

Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* details how Clause 4.6(4)(a) needs to be addressed (paragraphs 15 and 26 are rephrased below):

The first opinion of satisfaction, in clause 4.6(4)(a)(i), is that a written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by clause 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)). This written request has addressed Clause 4.6(3)(a) in Section 4 above (and furthermore in terms of meeting the objectives of the development standard, this is addressed in 7a below). Clause 4.6(3)(b) is addressed in Section 5 above.

The second opinion of satisfaction, in clause 4.6(4)(a)(ii), is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out. The second opinion of satisfaction under cl 4.6(4)(a)(ii) differs from the first opinion of satisfaction under clause 4.6(4)(a)(i) in that the consent authority, or the Court on appeal, must be directly satisfied about the matter in clause 4.6(4)(a)(ii), not indirectly satisfied that the applicant's written request has adequately addressed the matter in clause 4.6(4)(a)(ii). The matters in Clause 4.6(4)(a)(ii) are addressed in Section 8 below.

8. THE PROPOSED DEVELOPMENT WILL BE IN THE PUBLIC INTEREST BECAUSE IT IS CONSISTENT WITH THE OBJECTIVES OF THE PARTICULAR STANDARD AND THE OBJECTIVES FOR DEVELOPMENT WITHIN THE ZONE IN WHICH THE DEVELOPMENT IS PROPOSED TO BE CARRIED OUT (CLAUSE 4.6(4)(a)(ii))

Objectives of Development Standard

The objectives and relevant provisions of clause 4.4 of MLEP 2011 are as follows, inter alia:

- (a) to establish the maximum floor space ratio,
- (b) to control building density and bulk in relation to the site area in order to achieve the desired future character for different areas,
- (c) to minimise adverse environmental impacts on adjoining properties and the public domain.

In order to address the requirements of Subclause 4.6(4)(a)(ii), the objectives of Clause 4.4 are addressed in turn below.

Objective (a): "to establish the maximum floor space ratio"

This objective articulates the ultimate function of the floor space ratio development standard. As previously described, the maximum floor space ratio permitted on the subject site is 1.2:1 and the maximum FSR of the proposal is 1.62:1. The proposal contravenes the standard, which has prompted the preparation of this written variation request. Despite the nature and scale of development proposed by this Development Application, Clause 4.4 achieves the objective of establishing a maximum floor space ratio for the site, using the floor space ratio Map as a mechanism to do so. This written request identifies the extent of variation proposed and explains why the variation is acceptable in the circumstances.





Objective (b): “to ensure that the size and scale of development is compatible with the desired future character of the locality”

It is noted that objective (b) refers to being “compatible” with adjoining development. It is well established that “compatible” does not promote “sameness” in built form but rather requires that development fits comfortably with its urban context. Of relevance to this assessment are the comments of Roseth SC in *Project Venture Developments Pty Ltd v Pittwater Council* [2005] NSWLEC 191:

“22 There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.”

In accordance with the objective, the subject site is located within the “Newington Precinct (Precinct 9)” under Section 9 of the Marrickville DCP 2011. The desired future character of the area is detailed in Section 9.9.2 of the DCP and states:

1. To protect and preserve contributory and period buildings within the precinct and require their sympathetic alteration or restoration.
2. To protect the identified Heritage Items within the precinct.
3. To maintain distinctly single storey streetscapes that exist within the precinct.
4. To protect groups or runs of buildings which retain their original built form including roof forms, original detailing and finishes.
5. To protect significant streetscapes and/or public domain elements within the precinct including landscaping, fencing, open space, sandstone kerbing and guttering, views and vistas and prevailing subdivision patterns.
6. To preserve the predominantly low density residential character of the precinct.
7. To support pedestrian and cyclist access, activity and amenity including maintaining and enhancing the public domain quality.
8. To ensure that the provision and location of off-street car parking does not adversely impact the amenity of the precinct.
9. To protect the identified values of the Petersham South (Norwood Estate) Heritage Conservation Area, Norwood Park Estate Heritage Conservation Area and the Llewellyn Estate Heritage Conservation Area.

The proposal is consistent with the above objectives as outlined in further detail below. Importantly, it is considered that the proposal has been designed to ensure compatibility with locality despite the proposed FSR non-compliance and is considered to be sympathetic to the desired future character of the locality by retaining an existing period building and enhancing its aesthetic appearance.

In accordance with the above, the proposal directly responds to the objectives set by the “Newington Precinct” in the DCP, as follows:

1. The proposal will restore and revitalise the existing period building, ensuring the distinct built form is not lost. The existing building has been in situ for over 100 years and is located on a ‘gateway’ corner site within the precinct, making a positive and valuable contribution to the character of the streetscape and broader townscape. The proposal will restore the building, where the upper levels have been largely vacant for some time and have fallen into a state of disrepair. Utilising the existing building envelope, the proposal will ‘fill in the gaps’ on the first and second floors, with no outward extension beyond the existing





building envelope that includes new floor space. This adaptive reuse of the existing building gives rise to the FSR non-compliance. The proposed works will include replacement windows and doors, and the addition of new balconies and access to the rear, which will enhance the overall appearance of the existing building. This is considered a significantly better planning and urban design outcome than demolishing the existing building and replacing it with a modern multi-level building on the site.

2. This objective is not relevant as there are no heritage items on the site or within the immediate vicinity of the site.
3. This objective is not relevant as the existing building is three storeys in height and located on a street where buildings are a mixture of heights. The proposal will not increase the maximum height of the existing building.
4. This objective is not relevant as the existing building is not located within a group or run of buildings. Nonetheless, as outlined above, the building has significant architectural merit and the proposal will ensure a sympathetic adaptive reuse of the upper levels. The proposal will maintain the existing original roof form and will carefully restore the external features of the building such as windows and doors. This will enhance the aesthetic of the building.
5. The proposed works will not significantly impact upon the streetscape or public domain elements within the precinct. The proposal utilises the existing building envelope and therefore, will not increase the scale of the existing built form on site. Alterations and additions will be lightweight and will not add undue bulk to the building when viewed within the streetscape or from neighbouring properties. Accordingly, the development will make a positive contribution to the streetscape by making aesthetic improvements to the existing period building.
6. The site is located in the B1 Neighbourhood Centre zone and Addison Road is characterised by a mixture of commercial, residential and mixed use buildings of varying scales and typologies. Therefore, the existing site doesn't have a low density residential character. However, land adjoining to the north and west is located within the R2 Low Density Residential zone. Nonetheless, the proposed development generally utilises the existing building envelope that has been in situ for some time, with no increases its scale or visual bulk. The proposed use is permitted with consent on the site and will not give rise to any undue impacts on the character or amenity of the adjoining low density areas. As such, the proposal will not prejudice the low density residential character of the precinct.
7. The proposal will adaptively reuse the vacant upper levels of the existing building for a boarding house. The building is located in an "accessible location" within in the meaning of the SEPP ARH, being adjacent to frequently serviced bus stops on Addison Road. Introduction of boarding rooms on the site will promote the use of public and active transport, given the convenient access from the site to various shops and services in the locality, surrounding suburbs, and the wider Greater Sydney region. In addition, the proposal includes 16 bicycle parking spaces to further promote the use of active transport for future residents.
8. The existing building includes a rear yard that is currently underutilised and has fallen into a state of disrepair. Off-street car parking, including car share for the development will be located within this reconfigured space. The car parking area will utilise an existing vehicle crossover form Agar Street and new boundary fencing will be installed to ensure that the car parking areas is not highly visible from the public domain or surrounding properties. Accordingly, the proposed off-street parking will not adversely impact the amenity of neighbouring properties or the wider precinct.

9. This objective is not relevant as the subject site is not in the vicinity of the Petersham South (Norwood Estate) Heritage Conservation Area, Norwood Park Estate Heritage Conservation Area and the Llewellyn Estate Heritage Conservation Area, and therefore does not prejudice the identified values of those areas.

Therefore objective (b) is achieved.

Objective (c): “to minimise adverse environmental impacts on adjoining properties and the public domain.”

The proposal has minimised adverse environmental impacts on the adjoining properties and the public domain. In building envelope terms, the proposal utilises the existing building envelope that have been in situ for some time. The additional floor space, beyond the control, can be appreciated as being “internalised” on the site, within the existing building envelope. Furthermore and when viewed from the neighbouring properties, the proposed development will maintain the existing and appropriate visual and physical separation thus mitigating any potential sense of enclosure from then proposal.

In terms of privacy, the FSR non-compliance does not result in any adverse additional privacy impacts beyond what is existing and anticipated on-site. That is, the proposal utilises the existing building envelope which is articulated and orientated to the street frontages, or uses existing openings to the east or rear (north). The building setback from the new rear balcony northern boundary adjoining the adjacent R2 Low Density Residential zone is 12.7m, with an additional 3.2m (15.9m in total) to the nearest habitable window of No. 1 Agar Street to the north. Cross-views towards habitable rooms within No. 113 Addison Road adjoining to the east will be oblique from rooms and the rear balconies, due to the provision of acoustic/privacy screening, raised planters surrounding communal open space and existing window placements.

With regards to overshadowing, the proposed FSR breach will not result in any significant increase in scale or bulk of the existing building form. Therefore, the level of overshadowing will be comparable to the existing built form. That is, any additional overshadowing from new alterations to the building will have a negligible impact on existing levels of solar access enjoyed by neighbouring properties. This is demonstrated in the shadow diagrams submitted with the architectural plans which confirm that the proposal will not result in any significant additional overshadowing to the neighbouring properties beyond the existing building.

In terms of views, the area of non-compliance will not result in any significant additional view loss compared with the existing building, which will not be significantly altered. No significant views are enjoyed across the subject site (as is existing) and the proposal utilised the existing building envelope and therefore any potential loss of views or outlook is considered to be entirely reasonable and comparable to the existing building.

Therefore objective (c) is achieved.

Objectives of the Zone

Clause 4.6(4)(a)(ii) requires that the consent authority be satisfied that the development is in the public interest because it is consistent with relevant zone objectives. The objectives of Zone B1 Neighbourhood Centre, and a response as to how the proposal meets the objective is provided below.

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To provide for housing attached to permissible non-residential uses in development of a type and scale compatible with the surrounding neighbourhood.*
- *To provide for spaces, at street level, which are of a size and configuration suitable for land uses which generate active street-fronts.*
- *To enable a purpose built dwelling house to be used in certain circumstances as a dwelling house.*

The proposed development is consistent with the zone objectives for the following reasons:



- The boarding house is located within an existing building which contains ground floor commercial uses with the upper levels being vacant. The application will retain the ground floor commercial uses, providing the boarding house within the existing underutilised upper levels.
- The proposed boarding house will encourage housing affordability and diversity and will provide a high amenity for residents in a highly accessible location.
- The proposed boarding house allows for the revitalisation of the currently vacant upper levels which in turn provides benefits to the community in that it activates previously disused space. Further benefits are realised by reutilising the existing building which is significantly more sustainable than demolishing the building and constructing an entirely new development on the site.
- Existing small scale retail uses will be retained at ground level and activate both street.
- The development has been designed to provide a mixture of compatible residential and existing retail uses that will not prejudice the amenity of the locality or surrounding neighbouring properties.

As such, the proposed boarding house will encourage housing affordability and diversity and will provide a high amenity for residents in a highly accessible location. In addition, the proposed boarding house allows for the revitalisation of the existing underutilised site, which will in turn provide benefits to the streetscape and broader Marrickville community.

9. THE CONCURRENCE OF THE SECRETARY HAS BEEN OBTAINED (CLAUSE 4.6(4)(b))

The second precondition in cl 4.6(4) that must be satisfied before the consent authority can exercise the power to grant development consent for development that contravenes the development standard is that the concurrence of the Secretary (of the Department of Planning and the Environment) has been obtained (cl 4.6(4)(b)). Under cl 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice, attached to the Planning Circular PS 20-002 issued on 5 May 2020, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6, subject to the conditions in the table in the notice.

10. WHETHER CONTRAVENTION OF THE DEVELOPMENT STANDARD RAISES ANY MATTER OF SIGNIFICANCE FOR STATE OR REGIONAL ENVIRONMENTAL PLANNING (CLAUSE 4.6(5)(a))

Contravention of the FSR development standard proposed by this application does not raise any matter of significance for State or regional environmental planning.

11. THE PUBLIC BENEFIT OF MAINTAINING THE DEVELOPMENT STANDARD (CLAUSE 4.6(5)(b))

As detailed in this submission there are no unreasonable impacts that will result from the proposed variation to the maximum FSR. As such there is no public benefit in maintaining strict compliance with the development standard. Whilst the proposed FSR exceeds the maximum permitted on the site, the proposed development is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out. It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest.

12. CONCLUSION

This written request has been prepared in relation to the proposed variation to the FSR development standard contained in Clause 4.4 of MLEP 2011. Having regard to all of the above, it is our opinion that compliance with the maximum FSR standard is unreasonable and unnecessary in the circumstances of this case as the development meets the objectives of that standard and the zone objectives. The proposal has also demonstrated sufficient environmental planning grounds to support the breach.

Therefore, insistence upon strict compliance with that standard would be unreasonable. On this basis, the requirements of Clause 4.6(3) are satisfied and the variation is acceptable in the circumstances.





Attachment D – Plan of Management



Operational Plan of Management (Incorporating the House Rules)

for a Boarding House at
No 117 Addison Road, Marrickville
March 2022



PLANNING INGENUITY

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Document Set ID: 35943174

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1. THE PREMISES

This plan of management ("Plan") relates to the boarding house at 117 Addison Road, Marrickville ("Premises").

2. OBJECTIVES

The objectives of this Plan are to:

- (a) ensure that the premises are managed to ensure an acceptable level of amenity and accommodation to meet the needs of both boarders, owners and neighbours;
- (b) provide operational guidelines and "house rules" with regard to use of indoor and outdoor communal areas;
- (c) ensure the appropriate level of fire safety on the premises;
- (d) make available to all relevant persons including the community and regulatory authorities ("Stakeholders") a written record of the management practices and procedures which will be applied in the management and operation of the Premises;
- (e) provide a mechanism by which the management practices and procedures can be assessed and improved on an ongoing basis to provide an acceptable outcome to all Stakeholders;
- (f) minimise and where possible eliminate antisocial behaviour of boarders both within the Premises and in the vicinity of the Premises;
- (g) ensure that the operation of the Premises does not unreasonably impact upon or detract from the amenity of the surrounding residences and the neighbourhood.

Where there is any conflict between the provisions of this Plan and the objectives the conflict will be resolved in a way which best gives effect to the objectives.

A copy of this Plan will be provided to each boarder, kept in a readily accessible place within common property on the Premises, will be provided to all persons involved in the operation and management of the Premises and made available for inspection by any other Stakeholder upon request.

3. ACCOMMODATION

The boarding house will accommodate a maximum of 46 residents plus an on-site manager in 25 rooms (4 x single room and 21 double rooms) and 1 on-site manager's room.

Two communal living rooms and areas of communal outdoor open space are provided. Five (5) motorcycle and sixteen (16) bicycle spaces are provided for the residents. Seven (7) car parking spaces are provided, including two (2) accessible spaces and two (2) car share spaces.

Rooms will be furnished with the following items:

- One bed each with a base, a waterproof mattress and a mattress protector
- Wardrobe
- Mirror
- Desk and chair/s
- A night light or other approved illumination device
- Waste Container
- A dead latch on the door
- Blinds or similar privacy device





- Phone line and Internet

Kitchenettes in rooms will include:

- Sink with running hot and cold water
- Microwave
- Cooktops
- Lockable storage cupboard for dry goods
- Bar fridge
- Bench top space
- Combined washer / dryer

Bathrooms in individual rooms will include:

- Shower with hot and cold running water
- Washbasin with hot and cold running water
- Mirror cabinet
- Toilet

Common Areas

The common outdoor areas are only used between the hours of 7.00am and 10.00pm.

The communal living areas will include furniture for use by lodgers.

All common areas, including corridors, the stairwells, and entrance lobbies will be cleaned by a professional contractor at least once per week.

Fire Safety

A Fire Emergency Strategy that includes an evacuation plan, fire blanket and fire extinguisher locations will be developed and displayed in prominent locations.

All rooms will contain an evacuation plan, fire blanket and extinguisher.

Annual inspection and certification of fire safety equipment will be carried out by a fire safety specialist. A copy of the annual fire safety compliance statement shall be displayed on the notice board in the ground floor lobby.

4. MANAGEMENT

All boarders are to take responsibility for the cleanliness, fire safety and daily operation of the premises. The owners of the boarding house shall appoint commercial services to clean and maintain common interior and exterior spaces.

The owners of the boarding house will be responsible for boarder selection and administration relating to the building and its operation and maintenance.

The contact details of the owner or the owner's representative will be displayed at the front of the building. Adjoining neighbours will be given a copy of these details. This will ensure ongoing communication with adjacent property owners and boarders aimed at identifying and addressing matters of concerns.

A notice board located in the ground floor lobby will notify boarders of revisions to the House Rules, any matters of concern with neighbours, garbage and recycling collection and scheduled maintenance.





All occupants will be given the owner's (or nominated agent's) and managers contact details.

Onsite manager responsibilities

Generally, the owner or owner's agent has the following responsibilities:

- Receiving complaints and complaint resolution;
- Recording and responding appropriately to misdemeanours and disturbances;
- To ensure the garbage and recycling is collected by a commercial contract or every week;
- Scheduling maintenance and repairs; and
- Enforcing the House Rules.

A live-in onsite manager will be responsible for the operation of the boarding house. In the case of leave taken by the onsite manager a temporary onsite manager will be provided by the owner or owner's agent.

Specifically, the onsite manager's responsibilities include:

- Ensuring that the maximum number of boarders residing in the boarding house, including the maximum number of boarders permitted to reside in each room is not exceeded.
- Ensuring that there is a record of all boarders' details including name, room number, length of stay, bond, tariffs, payments and receipts.
- Supplying boarders with a key to their individual room, entrance doors, security gates, accessible drying area and common areas of the building upon signing a lease agreement.
- Supplying the fire brigade with a key to the security entrance door in case of emergency.
- Ensuring boarders have read or understood the house rules prior to signing the lease agreement with particular emphasis on non-smoking, noise, cleanliness and fire evacuation procedures.
- Ensuring that the house rules, the manager's contact phone number and emergency services phone numbers are fixed to the inside face of entry doors to all rooms, including the common living area.
- Ensuring all boarders are familiar with the fire safety procedures including location of fire extinguishers, evacuation procedures and assembly areas.
- Ensuring that all entry doors to rooms have an evacuation plan fixed to the inside face.
- Maintaining a fire safety plan including details such as the location and number of fire extinguishers, smoke alarms, emergency lighting and records of maintenance.
- Ensuring fire safety inspections are undertaken annually.
- Ensuring all fire safety equipment is working on a regular basis.
- Ensuring the premises is kept in a clean and tidy condition including all common areas.
- Ensuring waste and recycling bins are placed on the footpath for collection and returned.
- Ensuring rubbish such as furniture and household items not able to fit within the allocated bins is removed from site by a private contractor at the boarder's expense.
- Ensuring all individual rooms are provided with a waste disposal bin.
- Ensuring all waste and recyclable bins including bin storage areas are kept clean.
- Ensuring noise emanating from the premises does not unreasonably impact upon neighbours.
- Ensuring that good relations are maintained with neighbours.
- Ensuring that onsite manager's contact details are provided to the boarders, owners or body corporate of neighbouring properties and to the council.
- Ensuring the common outdoor area is only used between the hours of 7.00am and 10.00pm.
- Maintaining a complaints register and an incident report register.



- Ensuring furniture and fittings are maintained in good working order.
- Ensuring rooms are cleaned prior to releasing to a new boarder and that a cleaning service is available to boarders.

5. BOARDER ELIGIBILITY REQUIREMENTS

Rental and employment history background checks will be undertaken for all potential boarders upon application (as allowable under the *Boarding Houses Act 2012*).

Each boarder will be required to sign a Tenancy Agreement, which complies with the New South Wales *Boarding Houses Act 2012*. This agreement will be explained in detail to each boarder prior to signing to ensure that each boarder fully understands their rights and responsibilities under the agreement. This will include information on ending tenancies in line with the *Boarding Houses Act 2012*. Following this the boarder will be asked to sign the lease to show that they agree to the terms and conditions contained within the lease. A Housing Manager will also sign the lease and a copy will be given to the boarder. The Tenancy Agreement, once signed by both parties becomes a legally binding document.

The minimum length of stay is 3 months. No more than 1 adult allowed per single room and 2 adults allowed per double room.

Induction Programme

As part of the boarder induction programme the manager will:

- Ensure boarders have read and understood the house rules;
- Ensure boarders are aware of preferred lease length and conditions under which a tenancy agreement may be terminated (including a schedule of breaches and timing termination); and
- Ensure boarders are aware of their responsibility to maintain a good relationship with adjoining neighbours.

6. HOUSE RULES

A set of House Rules will be enforced. All Boarders are required to comply with the House Rules throughout the duration of their stay. Guest behaviour is controlled through the establishment of House Rules.

Any boarder failing to observe the rules in any cases of serious misconduct will be dealt with by the owner or owner's agent who may require a boarder to leave the premises. Examples of serious misconduct include, but are not limited to drug or alcohol abuse, sexual, racial or religious discrimination or harassment, theft or violence.

The House Rules, owners or owner's agent's contact details and emergency contact details will displayed within each boarders room.

A copy of the House Rules is below:

1. Occupation rate

A maximum of one person may occupy a single room, and a maximum of two people may occupy a double room. Any change in occupancy is to be notified to the manager.

2. Smoking

Smoking is not permitted in any room or any indoor common areas.



3. Alcohol

The consumption of alcohol must occur in a responsible manner. There is to be no consumption of alcohol in any common areas including the indoor/outdoor communal living areas without the express permission of management. Management reserves the right to terminate a lease agreement if there is alcohol abuse on the premises.

4. Illegal Substances

Illegal substances are not permitted on the premises. Any boarder found to be supplying or in possession of illegal substances will have their lease agreement terminated and the matter referred to the police.

5. Noise

At all times boarders are to consider the amenity of other boarders and neighbours when participating in any activity that generates noise. Management will monitor all activities in accordance with the house rules and government regulations concerning noise emission. Excessive noise or unruly behaviour will not be tolerated and may result in the termination of the boarder's lease agreement.

6. Visitor Policy

No visitors are permitted on the premises after 10pm or before 7am. No keys are to be provided to visitors without the express permission of management.

7. Hours of Use of Areas

To minimise noise disturbance to neighbours and residents the outdoor communal areas will not be used between the hours of 10pm and 7am seven days. This will be enforced by the boarding house manager. Signage will be displayed within the areas and direct access via the door from the communal living area will be locked.

8. Pets

No pets of any kind are permitted on the premises without the written approval of management.

9. Hygiene

Individual rooms, common areas and facilities are to be kept in a clean and hygienic state at all times. Residents are to maintain their rooms in a clean and tidy manner and place their waste in the respective waste and recycling bins.

10. Inspections

Rooms are to be made available for inspection upon notice from management.

11. Parking

There is provision for seven (7) car parking spaces, including two (2) accessible spaces and two (2) car share spaces. Five (5) motorcycle and sixteen (16) bicycle spaces are provided for the residents. Access to the parking area at the ground level is via a driveway from Agar Street. Residents' access is via stairs and a lift at the rear of the building.

The operation and management of car share spaces is dealt with in Section 7 below.





Boarders must only park their vehicle in the place allocated to them. Access to on-site parking will form part of an agreement at registration of individual tenants in order that conflict over ad hoc use of spaces is avoided. It is the responsibility of bicycle owners to secure their bicycle to the racks provided.

12. Theft

Management is not responsible for the theft of any belongings from the premises. Please keep your room door locked at all times to prevent theft. Should you have had articles stolen on the premises please advise management. Incidents of theft will require an incident report to be filled out and the police notified. Boarders caught stealing will have their lease agreements terminated.

13. Fire precautions

No smoking is permitted in rooms.

In the case of fire follow the fire safety procedures as indicated on the fire safety evacuation plan.

Generally this procedure is as follows:

- Alert the manager if you see smoke or flame.
- If possible evacuate the building via the exit stairs.
- Remain at the assembly area until directed otherwise.
- If unable to evacuate the building stay in your room and signal your presence from a window.

14. Mail

Boarders will have an allocated mail box corresponding to their room number. They will be issued with a key to access the mailbox. Keys will be the responsibility of the boarder. If a mailbox key is lost and needs to be replaced the boarder will be charged the cost of replacing the key or replacing the lock.

15. Unruly Behaviour

Unruly behaviour that is likely to offend or cause nuisance to other boarders or neighbours will not be tolerated. Management reserves the right to terminate a boarder's lease agreement should the boarder not comply with the house rules.

16. Balconies

Balconies are to be kept clean and tidy at all times. The hanging of clothes, towels or any other item from balcony balustrades is not permitted.

7. CAR SHARE

Two car spaces (No. 4 and 7) are designated as car share spaces. Each space will accommodate a small car that is owned and maintained by the boarding house operator. The vehicles will be maintained and insured in accordance with the relevant NSW legislation.

The spaces will be available 24 hours a day and will be for the use of boarding lodgers and managers only. It will not be for the use of general public.

The scheme will be managed and operated by the boarding house manager, who will take bookings and payment from lodgers. Boarders will be required to provide proof of drivers licence prior to booking a car share vehicle.

The car share rental rates will be set by the boarding house operator and will be provided to each lodger upon commencement of their lease. All boarders will be notified when the car share rental rates are amended.





8. COMMUNITY LIAISON

In order to engage with stakeholders and continually refine operations of the facility, the owner or owner's agents will make provisions for regular contact and discussions with a community liaison officer from Inner West Council, NSW Police Local Area Command, Housing NSW local office and neighbours as necessary.

9. COMPLAINTS MANAGEMENT

An "Incident" includes:

- any breach of this Plan; or
- any complaint by any person about the operation of the Boarding House or conduct of persons on the premises; or
- any event that may cause alarm or concern to residents or persons passing or in the vicinity of the Boarding House as a result of the conduct or act of any person identifiable as a boarder or visitor of the premises at that time.

The live-in manager must maintain a "Complaints Book" recording details of any Incident that occurs including the time of the Incident, a detailed description of the Incident and any actions taken by the management of the premises in response to the Incident. All complaints must include the details of the person reporting the incident including a contact phone number so that management may follow up any complaint. The option will be given to a complainant as to whether a complaint is confidential or non-confidential.

The Complaints Book must be updated within 24 hours of any Incident. The owner/operator must review and acknowledge in writing all entries made in the Complaints Book.

The Complaints Book must be made available to Council officers or the NSW Police for inspection upon request.

Complaints must remain in the Complaints Book for a minimum period of two years from the date of reporting.

The live-in manager shall be available at all times to deal with any Incident as to the operation and management of the premises. Any such Incident shall be dealt with as soon as possible.

If an Incident relates to noise, the live-in manager must:

- take all reasonable steps to stop or reduce the source of the noise to prevent future occurrences.
- attempt to rectify the situation immediately.
- contact the individual who reported the Incident to verify that the problem has been addressed.

The owner/operator must review the Complaints Book regularly and where appropriate amend this Plan or any House Rules so as to eliminate the possibility of the Incident recurring or to minimise the impacts of the incident should it recur.

