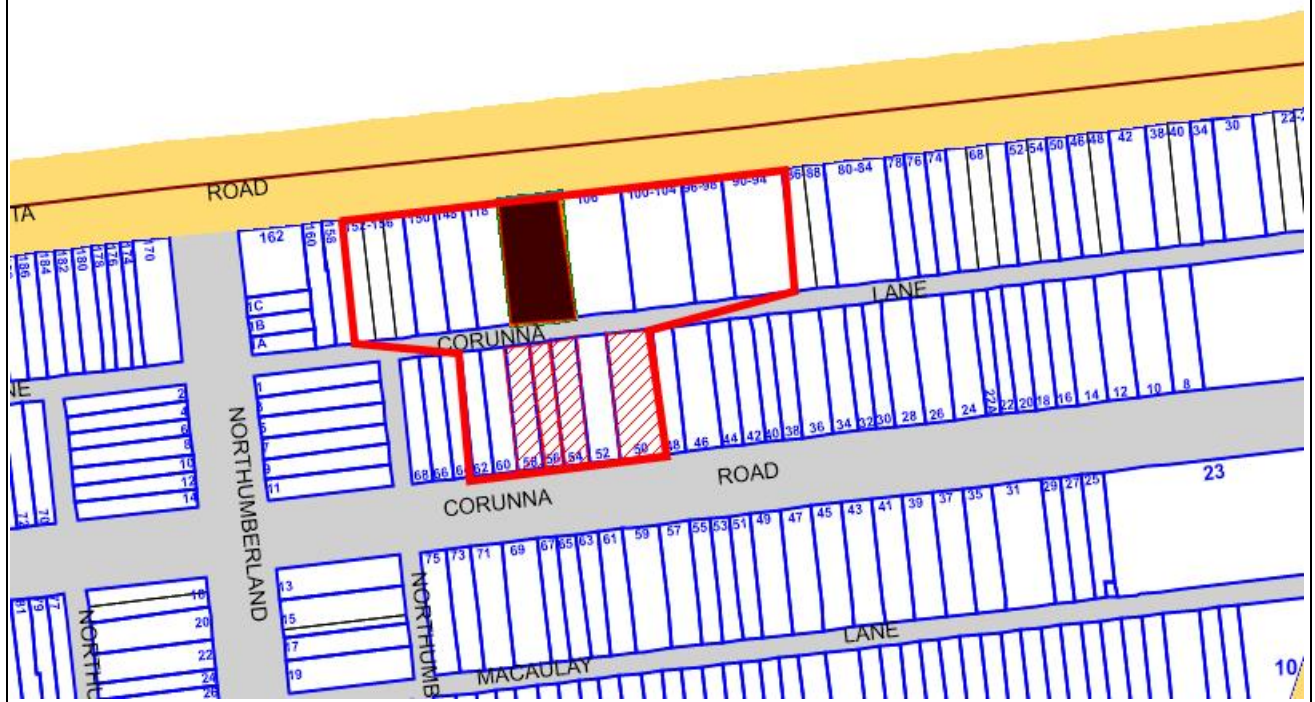




DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	DA201800055
<b>Address</b>	112-116 Parramatta Road, Stanmore
<b>Proposal</b>	To demolish existing improvements and construct a 5 storey mixed use building containing a shop and 35 boarding rooms including a managers room with associated car parking.
<b>Date of Lodgement</b>	31 May 2018
<b>Applicant</b>	Environa Studio
<b>Owner</b>	Angela Lepouris and Claude Cipolla
<b>Number of Submissions</b>	5
<b>Value of works</b>	\$5,458,085.00
<b>Reason for determination at Planning Panel</b>	Departure from Building Height and FSR development standards exceed officer delegation
<b>Main Issues</b>	Car parking
<b>Recommendation</b>	Consent subject to conditions
<b>Attachment A</b>	Recommended Conditions of consent
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Plan of Management
<b>Attachment D</b>	Clause 4.6 Variation



<b>Subject Site:</b>		<b>Objectors:</b>	
<b>Notified Area:</b>		All other objectors outside of map area	

## 1. Executive Summary

This report is an assessment of the application submitted to Council to demolish existing improvements and construct a 5 storey mixed use building containing a shop and 35 room boarding house (including 1 manager's room) with associated car parking at 112-116 Parramatta Road, Stanmore. The application was notified to surrounding properties and 5 submissions were received.

The main issue that has arisen from the application relates to car parking. The proposal seeks a variation to the building height and floor space ratio development standards by 15.6% and 13.7% respectively.

Overall the proposal is considered acceptable given the development would result in a high quality architectural built form which conforms to the desired future character under the precinct controls for the area and therefore the application is recommended for approval.

## 2. Proposal

To demolish existing improvements and construct a 5 storey mixed use building containing a commercial premises on the first floor and 34 boarding rooms, plus 1 managers room above with associated car parking at 112-116 Parramatta Road, Stanmore.

The development is split into a northern and southern core from levels 3-5 separated by a central landscaped courtyard above levels 1 and 2 below. The 34 double boarding rooms would allow a maximum of 68 lodgers and additional room is provided on level 5 of the northern building for 1 boarding house manager.

Details of the proposed works are provided on a level by level basis as follows:

### Level 1 (partial basement)

- 138sqm commercial tenancy
- Commercial bin room
- Residential Entry
- Lift to upper floors
- 7 parking spaces (1 accessible) accessed via ramp from south-eastern corner of the site
- 4 motorcycle spaces
- 4 bicycle spaces
- Loading bay
- Services and fire stairs
- OSD Tank
- Fire Booster

### Level 2

- 7 parking spaces ( 2 accessible) accessed via roller door in south-western corner of the site
- Bin storage room with waste chute splitter system
- Interim bin storage room with access from Corunna Lane
- 3 motorcycle spaces
- 15 bicycle spaces
- Communal Laundry
- 5 x double lodger boarding rooms fronting Parramatta Road

### Level 3

- 7 x double lodger rooms (2 of which are accessible) in northern core
- Landscaped central courtyard
- 5 x double lodger rooms in southern core
- Accessible ramp from northern core to southern core
- Garbage chute

#### Level 4

- 7 x double lodger rooms (2 of which are accessible) in northern core
- 5 x double lodger rooms in southern core (1 of which is accessible)
- Accessible ramp from northern core to southern core
- Garbage chute

#### Level 5

- 23sqm communal room (northern core)
- 68sqm communal terrace and garden (northern core)
- Managers room and private terrace (northern core)
- 5 x double lodger rooms in southern core (1 of which is accessible)
- Accessible ramp from northern core to southern core
- Garbage chute

### **3. Site Description**

The subject site is located on the southern side of Parramatta Road between Bridge Road and Northumberland Avenue, Stanmore. The site legally consists of 3 allotments and is generally rectangular shaped with a total area of 670.4sqm and is legally described as Lots 2, 3, and 4, Section E1, in Deposited Plan 3475. The site has a frontage to Parramatta Road of 18.29 metres, a secondary frontage of 18.29 metres to Corunna Lane and a depth of between 34.645 and 36.67 metres. The property has a significant fall from south to north of approximately 2.5 metres.

The site supports a multi-level brick commercial building with vehicular access obtained from Corunna Lane.

The adjoining property at No.118 Parramatta Road contains a 2 storey brick commercial building. The adjoining property at No.106 Parramatta Road contains a 3 storey commercial building.

The surrounding context of the site is predominantly commercial and mixed use commercial/residential developments along Parramatta Road with single and two storey dwelling houses located to the south on the opposite side of Corunna Lane.



*Image 1: Front elevation of existing building on the site (Parramatta Road)*



*Image 2: Rear elevation of existing building on the site (Corunna Lane)*

## 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
DA201200069	To carry out alterations to the premises and use the first floor level of the premises as an indoor recreational facility and to erect associated signage	Approved 2 May 2012

#### Surrounding properties

Application	Proposal	Decision & Date
DA201500489	To fit-out and use the first floor of the premises as creative studios with the ground floor at 118 Parramatta Road	Approved 18 December 2015
DA199901820	Application to strata subdivide 1 lot into 2 lots at 106-110 Parramatta Road, Stanmore	Approved 27 October 1999
DA201500422	To demolish existing improvements and construct a (5 storey) mixed use development with commercial tenancies on the ground floor level and dwellings on the upper floors and associated car parking at 80-84 Parramatta Road, Stanmore	Deferred Commencement Consent issued 11 February 2016
DA201300457	To demolish the existing improvements and construct a four storey mixed use development comprising 2 commercial tenancies, parking and waste storage on the ground floor with the upper levels containing a 33 boarding room boarding house including a manager's room at 30-34 Parramatta Road, Stanmore	Deferred Commencement Consent issued 10 December 2014

#### 4(b) Application history

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

Date	Discussion / Letter/ Additional Information
21 May 2018	Request for additional information sent to applicant with regard to AEP comments, FSR, Height of Building, bulk and massing, boarding room layout, waste management, privacy – deletion of rear balconies on levels 4 and 5, landscape plan, contamination and BASIX certificate.
28 June 2018	Draft amended plans submitted to Council for comment
26 July 2018	Request for further additional information with regard to draft revisions submitted addressing Council's letter of 21.5.18
22 August 2018	Full set of amended plans and updated documentation submitted
18 October 2018	Request for additional information regarding vehicular access, plan detailing, fire booster screening, plan of management, landscaping and waste management
6 November 2018	Amended plans and supporting documents submitted.
15 November 2018	Request for additional information regarding refinement of landscape plans, adjustment to FSR and Clause 4.6 to include bin storage and other minor modifications.
20 November 2018	Amended plans submitted.

### 5. Assessment

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

#### 5(a) Environmental Planning Instruments

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

- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy No 64 – Advertising and Signage
- State Environmental Planning Policy (Affordable Rental Housing) 2009
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- Marrickville Local Environment Plan 2011

The following provides further discussion of the relevant issues:

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

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) provides planning guidelines for remediation of contaminated land. MDCP 2011 provides controls and guidelines for remediation works. SEPP 55 requires that remediation works must be carried out in accordance with a Remediation Action Plan (RAP) as approved by the consent authority and any guidelines enforced under the Contaminated Land Management Act 1997.

The site has been used in the past for commercial activities which could have potentially contaminated the site.

A Preliminary Site Investigation (PSI) and Detailed Site Investigation (DSI) have been provided to address the management of contaminated groundwater onsite and the treatment and/or disposal of any contaminated soils and contamination issues prior to determination. The application was referred to Council's Environmental Protection Officer who reviewed the proposal including the PSI and DSI submitted for the proposed development. The submitted documents have been reviewed and demonstrate that the site is suitable for the proposed use subject to implementation of the recommended data gap closures which include additional soil profiling and assessment of groundwater quality. To ensure that these works are undertaken, conditions are included in the recommendation requiring the works to be carried out in accordance with Clause 7 of SEPP 55.

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

A BASIX Certificate was submitted with additional information during the assessment of the application at the request of Council. The BASIX certificate outlines compliance for the self-contained boarding rooms. Appropriate conditions are included in the recommendation to ensure the BASIX Certificate commitments are implemented into the development.

### **5(a)(iii) State Environmental Planning Policy (Infrastructure) 2007**

#### *Development with frontage to classified road (Clause 101)*

The site has a frontage to Parramatta Road, a classified road. Under Clause 101 (2) of State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure) the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that the efficiency and operation of the classified road will not be adversely affected by the development.

The site has rear lane access to Corunna Lane, and as such vehicular access to the site is provided by a road, other than the classified road, thereby maintaining the efficiency and operation of the classified road.

The development will introduce persons residing at the site which would be sensitive to traffic noise and vehicle emissions. The provision of balconies to the street provides a buffer to Parramatta Road for the northern core units and the provision of two separate cores locates a number of the boarding rooms away from the classified road in the southern core.

The application is considered to be acceptable with regard to Clause 101 of the Infrastructure SEPP.

#### *Impact of road noise or vibration on non-road development (Clause 102)*

Clause 102 of the SEPP Infrastructure relates to the impact of road noise or vibration on non-road development on land in or adjacent to a road corridor or any other road with an annual average daily traffic volume of more than 40,000 vehicle. Under that clause, a development for the purpose of a building for residential use requires that appropriate measures are incorporated into such developments to ensure that certain noise levels are not exceeded.

Parramatta Road has an annual average daily traffic volume of more than 40,000 vehicles. The applicant submitted a Noise Assessment Report with the application that includes measure for construction to ensure compliance with the LAeq levels stipulated in Clause 102 of the SEPP. Conditions are included in the recommendation accordingly.

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

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

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

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

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

The land is zoned B4 – Mixed Use under the zoning provisions of MLEP 2011. A boarding house is permissible with the consent from Council.

Under MLEP 2011, the maximum floor space ratio (FSR) permitted for any form of residential accommodation permitted on the land is 1.5:1. Residential flat buildings are not permitted on the land therefore the additional FSR of 0.5:1 under Clause 29(1)(c)(i) of the ARH SEPP would not apply to the development. Consequently the maximum allowable FSR for the site for a boarding house development under the ARH SEPP would be 1.5:1.

The development has a gross floor area (GFA) of approximately 1137sqm and the site has an area of approximately 670.4sqm which would result in a FSR of 1.7:1. The boarding house therefore does not comply with the maximum density provisions prescribed by MLEP 2011 or the Affordable Rental Housing SEPP.

A written request, in relation to the development's non-compliance with the Floor Space Ratio development standard in accordance with Clause 4.6 (Exception to Development Standards) of MLEP 2011, was submitted with the application. The submission is discussed later in this report under the heading "Exceptions to Development Standards (Clause 4.6)".

*(b) Building Height (Clause 29(2)(a)) "If the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land."*

A maximum building height of 14 metres applies to the site as indicated on the Height of Buildings Map that accompanies MLEP 2011. The development has a maximum building height of approximately 16.189 metres which does not comply with the maximum building height permitted under the Affordable Rental Housing SEPP.



A written request, in relation to the development's non-compliance with the FSR development standard in accordance with Clause 4.6 (Exception to Development Standards) of MLEP 2011, was submitted with the application. The submission is discussed later in this report under the heading "Exceptions to Development Standards (Clause 4.6)".

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

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

The typical streetscape character of development in this part of Parramatta Road is a nil front boundary setback and shop-top housing above commercial development. The proposed commercial shopfront is compatible with the desired future character dictated by the zoning of the land and precinct controls which seek to ensure the provision of an active commercial frontage to new buildings facing onto streets to create a vibrant and safe streetscape. The lack of landscape treatment in the front setback is therefore acceptable.

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

*"Where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9.00am and 3.0pm in mid-winter."*

Both the communal living room and the communal terrace located off communal living room 1 will receive more than the prescribed 3 hours direct sunlight between 9.00am and 3.00pm in mid-winter.

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

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

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

A 33sqm communal terrace and adjacent 35sqm communal landscaped garden is proposed to be located on level 5 with direct access from the communal living room. A 13sqm private terrace and adjacent 21sqm landscaped area is also located with direct access from the designated managers room on level 5 on the northern building.

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

- (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 development proposes 34 boarding rooms and 1 manager's room requiring 17 spaces for lodgers and 1 parking space for the boarding house manager.

During the assessment of the application, the ARHSEPP was amended to increase the required number of car parking spaces for boarding houses as outlined above. The applicable parking rate to the development at the time of lodgement was 0.2 parking spaces per boarding house room as the development is located in an "accessible area" within the definition of the term set out in the SEPP. The previous parking rate generated a requirement for 7 spaces and 1 space for the manager.

The development proposes a total of 14 car parking spaces, whereby 7 of these spaces are provided on level 1 and 7 spaces are proposed on level 2. A total of 3 parking spaces are proposed to be accessible as required by Part 2.5 of Marrickville Development Control Plan 2011 (MDCP 2011). The development is also required by MDCP 2011 to provide 1 car parking space for the commercial tenancy. This results in a proposed break down of the car parking allocation as follows:

- 1 x manager space
- 12 x lodger spaces (3 of which are accessible)
- 1 x commercial tenancy space

The development results in a shortfall of 5 spaces for lodgers when assessed against the revised provisions of Clause 29 (2) (e) of the ARHSEPP. However, when assessed against Part 2.10 of MDCP 2011 and the superseded ARHSEPP provisions, both require 0.2 spaces per lodger room and 1 for the boarding house manager. The development exceeds the requirements of this rate by 5 spaces.

The shortfall of 5 car parking spaces required by the revised ARHSEPP is considered justified, given the application complied with the parking rate at the time of lodgement, the proposal complies with the car parking provisions of Council's DCP , and the site is located in a highly accessible area along Parramatta Road which has access to regular bus services.

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

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

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

All rooms within the boarding house comply with the minimum accommodation size requirements of the Affordable Rental Housing SEPP.

(ii) Standards for Boarding Houses (Clause 30)

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

- (a) *a boarding house has 5 or more boarding rooms, at least one communal living room will be provided.*  
1 communal room is provided within the development.
- (b) *no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres.*  
None of the boarding rooms would exceed 25sqm in area when excluding the bathrooms and kitchens contained within the rooms.
- (c) *no boarding room will be occupied by more than 2 adult lodgers.*

All boarding rooms are proposed to be double lodger rooms, not containing more than 2 occupants.

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

All boarding rooms are proposed to have adequate kitchen and bathroom facilities within the individual rooms.

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

A managers' room is proposed and located on the fifth floor as identified on the plans.

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

The proposal is located in a B4 – Mixed Use Zone and the ground floor of the development is proposed contain a commercial premises as required by the zone. No residential accommodation is proposed to be provided on the ground floor level.

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

7 motorcycle and 19 bicycle spaces are proposed which complies with the above requirements.

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

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

The surrounding area is characterised by shop top housing and commercial developments with rear lane access provided by Corunna Lane. The properties on the southern side of Corunna Lane are mainly dwelling houses. The proposed 5 storey mixed use development is considered compatible with the character and design of the area, bringing a high quality contemporary building into the Parramatta Road streetscape which is consistent in form and architectural style to similar recently approved or constructed buildings and sympathetic to historic developments along Parramatta Road. The form picks up cues from the streetscape and is consistent with the built form controls in MDCP 2011 in that level 5 is setback from the street front, with the lower 4 floors becoming the dominant element in the streetscape. The retention of a central courtyard separating the front and rear buildings is consistent with the recently constructed residential flat building at No.80-84 Parramatta Road.

Overall the development will be compatible with the design and character of the existing streetscape and the desired future character which is for developments of a similar size and scale adjoining the site along Parramatta Road.

### **5(a)(v)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 4.6 - Exceptions to development standards
- Clause 5.10 - Heritage conservation
- Clause 6.10 - Acid sulfate soils
- Clause 6.2 - Earthworks
- Clause 6.15 - Location of boarding houses in business zones

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

Standard (maximum)	Proposal	% of non compliance	Compliances
<b>Floor Space Ratio</b> Maximum: 1.5:1 1005.6m <sup>2</sup>	1.7:1 1137m <sup>2</sup>	13.7%	No
<b>Height of Building</b> Required: 14m	Varying up to 16.189m	15.6%	No

The following provides further discussion of the relevant issues:

(i) Aims of the Plan

MLEP 2011 identifies aims of the plan. The proposal is considered consistent with the aims for the following reasons;

- The proposal supports the efficient use of land, adds to the vitalisation of the centre, and provides an appropriate mix of uses, i.e., both commercial and residential;
- Increases residential and employment densities in an appropriate location near public transport;
- Facilitates new business and employment through the provision of commercial floor area,
- Promotes sustainable transport with reduced car use and increase use of public transport, walking and cycling, and
- Promotes a high standard of design in the private and public domain.

In order to ensure the proposal complies with Clause 1(2)(h) of MLEP 2011 which requires a development to promote a high standard of design in the private and public domain, the application was referred to Council's Architectural Excellence Panel.

Council's Architectural Excellence Panel reviewed the proposed development with recommendations provided to the applicant with regard to improvements to the solar access and natural ventilation to the two buildings, ground floor setback, improvements to the façade detailing, materials and finishes and further design and functionality changes to central courtyard staircases. Amended plans were submitted which addressed these recommendations.

It is considered that the proposal presents as a high quality architectural outcome for the site in terms of bulk, scale and amenity for the future occupants which is in line with the desired future character for the area. The use of high-quality materials, good articulation and distribution of form meets the criteria of Clause 1.2 of MLEP 2011 which strives for developments to achieve a high standard of design in the private and public domain.

(ii) Height (Clause 4.3)

A maximum building height of 14 metres applies to the site as indicated on the Height of Buildings Map that accompanies MLEP 2011. The development has a maximum building height of 16.189 metres which does not comply with the height development standard.

A written request, in relation to the development's non-compliance with the Height of Building development standard in accordance with Clause 4.6 (Exception to Development Standards) of MLEP 2011, was submitted with the application. The submission is discussed later in this report under the heading "Exceptions to Development Standards (Clause 4.6)". (it should just be here. The Clause 4.6 is just the mechanism to argue a variation to this development standard.)

(iii) Floor Space Ratio (Clause 4.4)

A maximum floor space ratio (FSR) of 1.5:1 applies to the site as indicated on the Floor Space Ratio Map that accompanies MLEP 2011.

The development has a gross floor area (GFA) of 1137sqm which equates to a FSR of 1.7:1 on the 670.4sqm site which does not comply with the FSR development standard.

A written request, in relation to the development's non-compliance with the FSR development standard in accordance with Clause 4.6 (Exception to Development Standards) of MLEP 2011, was submitted with the application. The submission is discussed later in this report under the heading "Exceptions to Development Standards (Clause 4.6)".

(iv) Exceptions to Development Standards (Clause 4.6)

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

- Height of Building
- Floor Space Ratio

*Height of Building*

The applicant seeks a variation to the height of building development standard under Clause 4.3 of the MLEP 201 by 15.6% (2.189metres).

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 or 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 applicable local environmental plan below.

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of the applicable local environmental plan justifying the proposed contravention of the development standard which is summarised as follows:

- The majority of the building has been designed to comply with the height standard. The exceedance of the height control only relates to the lift overrun, a small portion of Level 5 and the roof over the external spaces on Level 5. (see image 3 below)



*Image 3: Yellow Shaded area demonstrating extent of non-compliance on level 5 and lift-overrun in section.*

- The non-compliant area of the building is limited in size and is setback from the front and rear boundaries so that the non-conforming part of the building does not contribute to excessive visual bulk when viewed from the street or the surrounding properties.
- The proposed building height is entirely consistent with the height of other developments approved in the vicinity of the site and in the planning precinct. In this regard the development will be visually compatible with the surrounding developments and proposed variation will not result in any unreasonable impacts on the streetscape.
- The proposed variation to the height standard does not result in any unreasonable impacts on the amenity of the surrounding properties.
- The proposed development consistent with the MLEP 2011 objectives for building height.
- The proposed development is consistent with the objectives of the B4 Mixed Use zone.
- The proposed building height responds to the heights of the surrounding development and provides an appropriate height transition which responds to the local topography as detailed above.

- Council has applied considerable flexibility when applying the height of buildings standard under the current and former planning controls. Variations to the development standard have been approved for several developments on the southern side of Parramatta Road. Given the proposed variation is consistent with other variations granted by Council and in the absence of any unreasonable impacts arising from the variation, compliance with the standard is unnecessary and unreasonable. (see image 4 below)



Image 4: 90-94 Parramatta Road, 96-98 Parramatta Road & 100-104 Parramatta Road (left to right)

- The proposed variation to the height of buildings standard does not result in any adverse heritage impacts. The heritage impact assessment prepared by Matt Devine and Co concludes that the proposed development will not impact on the existing character or heritage significance of either the Annandale Farm HCA or the Annandale HCA.

The applicant's written rationale adequately demonstrates compliance with the development standard is 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 B4 Zone, in accordance with Clause 4.6(4)(a)(ii) of the applicable Local Environmental Plan for the following reasons:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To support the renewal of specific areas by providing for a broad range of services and employment uses in development which display good design.*

- *To promote commercial uses by limiting housing.*
- *To enable a purpose built dwelling house to be used in certain circumstances as a dwelling house.*
- *To constrain parking and restrict car use.*

The combination of land uses proposed is permitted with consent and has been approved in other locations along Parramatta Road. The proposed ground floor retail use and nil setback to the shop fronts maintains the existing use and pattern of ground floor development with frontage to Parramatta Road.

Car parking is limited on the site and given the frequency of public transport services in close proximity to the site, public transport use is likely to be the most efficient form of transport available to future residents.

For the reasons given the proposal is considered to be consistent with the objectives of the B4 zone.

It is considered the development is in the public interest because it is consistent with the objectives of the Height of Building development standard, in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

- The variation proposed to the height of buildings standard does not result in an adverse impact on the desired future character of the streetscape having regard to the minor nature of the variation and the setback of the non-complying elements from the northern edge of the development and the setback from both street fronts.
- The built form would be generally consistent with the built form controls for the precinct
- The subject development would achieve excellent solar access and natural ventilation to majority of the boarding rooms.
- The adjoining developments would continue to receive satisfactory exposure to the sky and sunlight.
- The building would provide an appropriate transition from Parramatta Road to Corunna Lane in accordance with the built form controls and would be consistent with recent approvals along Parramatta Road.

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning. Council may assume the concurrence of the Director-General under the Planning Circular PS 18-003 issued in February 2018 in accordance with Clause 4.6(4)(b) of the applicable local environmental plan.

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 Environment Plan 2011. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the height of building standard and it is recommended the Clause 4.6 exception be granted.

#### *Floor Space Ratio*

The applicant seeks a variation to the floor space ratio development standard under Clause 4.4 of the Marrickville Local Environment Plan 2011 by 13.7% (131.4sqm).

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 applicable local environmental plan below.

A written request has been submitted to Council in accordance with Clause 4.6(4)(a)(i) of the applicable local environmental plan justifying the proposed contravention of the development standard which is summarised as follows:

- The development is consistent with the emerging character of the locality having regard to the size and scale of the buildings at 80-84 Parramatta Road, 90-94 Parramatta Road, 96-98 Parramatta Road and 100-104 Parramatta Road, 113-117 Parramatta Road, 119-125 Parramatta Road and 139-143 Parramatta Road.
- Council has applied considerable flexibility when applying the FSR standard under the current and former planning controls. Variations to the development standard have been approved for several developments on the southern side of Parramatta Road in close proximity to the proposed development, most recently a 557.2 square metre or 55.3% variation was approved for the residential flat building at No.80-84 Parramatta Road which is in the visual catchment of the site.
- The proposed development consistent with the MLEP objectives for floor space ratio.
- The proposed development is consistent with the objectives of the B4 Mixed Use zone.
- The proposed development complies with the objectives of the maximum building height control. The scale of the building is therefore appropriate notwithstanding the proposed variation to the floor space ratio development standard.
- The proposed variation to the floor space ratio standard will not result in any unreasonable amenity impact to the surrounding properties in terms of shadowing.
- The proposed variation to the floor space ratio standard does not result in any adverse heritage impacts. The heritage impact assessment prepared by Matt Devine and Co concludes that the proposed development will not impact on the existing character or heritage significance of either the Annandale Farm HCA or the Annandale HCA.

The applicant's written rationale adequately demonstrates that compliance with the development standard is 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 B4 Zone, in accordance with Clause 4.6(4)(a)(ii) of the applicable local environmental plan for the following reasons:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To support the renewal of specific areas by providing for a broad range of services and employment uses in development which display good design.*
- *To promote commercial uses by limiting housing.*
- *To enable a purpose built dwelling house to be used in certain circumstances as a dwelling house.*
- *To constrain parking and restrict car use.*

The combination of land uses proposed is permitted with consent and has been approved in other locations along Parramatta Road. The proposed ground floor retail use and nil setback to the shop front maintains the existing use and pattern of ground floor development with frontage to Parramatta Road.

Car parking is limited on the site and given the frequency of public transport services in close proximity to the site, public transport use is likely to be the most efficient form of transport available to future residents.

For the reasons given the proposal is considered to be consistent with the objectives of the B4 zone.

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 applicable local environmental plan for the following reasons:

- The variation does not result in any unreasonable impacts on the amenity of the surrounding residential properties or the streetscape of Parramatta Road. Accordingly, there is no reason why there should not be flexibility in applying the development standard.
- The proposal allows for the most economic use of the site in an area which is well served by public transport, provides floor space for employment generating uses, is close to employment opportunities and is in close proximity to education and recreational facilities. Modifications to the development to achieve compliance with the standard would reduce the consistency and compatibility of the built form with the emerging character of the street.

The contravention of the development standard does not raise any matter of significance for State and Regional Environmental Planning. Council may assume the concurrence of the Director-General under the Planning Circular PS 18-003 issued in February 2018 in accordance with Clause 4.6(4)(b) of the applicable local environmental plan.

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 Environment Plan 2011. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the Floor Space Ratio development standard and it is recommended the Clause 4.6 exception be granted.

(v) Heritage Conservation (Clause 5.10)

The site is not a heritage listed item or in a heritage conservation area, however it does share a rear boundary with Corunna Lane, to which the opposite side of the lane is the boundary of the Annandale Farm Heritage Conservation Area (C6) under Clause 5.10 of MLEP 2011. The opposite side of Parramatta Road is also located within the Annandale Heritage Conservation Area (C1) under the Leichhardt Local Environment Plan 2013.

The site is separated from the conservation areas by both Corunna Road (HCA6- MLEP 2011) and Parramatta Road (HCA1 – LLEP2013) and would not result in any detrimental environmental or amenity impacts on the heritage conservation areas. The development satisfies Clause 5.10 of MLEP 2011 and Part 8 of MDCP 2011.

Location of Boarding Houses in Business Zones (Clause 6.15)

The site is located within a B4 – Mixed Use zone under MLEP 2011. No part of the boarding house is located at street level in accordance with Clause 6.15, thereby satisfying this criteria.

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

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

The amended provisions contained in the Draft LEP Amendment contains an additional Clause in the LEP to be known as Clause 6.19 – Design Excellence which aims to deliver the highest standard of architectural, urban and landscape design in the LGA. The clause would be applicable to the development site. The quality of the proposed design has been assessed under Clause 1.2 of MLEP 2011 as part of this assessment and is considered acceptable.

Accordingly, the development is considered acceptable having regard to the provisions of the Draft LEP Amendment.

5(c) Marrickville Development Control Plan 2011

The application has been assessed and the following provides a summary of the relevant provisions of MDCP 2011.

Part of MDCP 2011	Compliance
Part A.26- Plan of Management (PoM)	Yes – see discussion
Part 2.1 – Urban Design	Yes
Part 2.3 – Site and Context Analysis	Yes
Part 2.5 – Equity of Access and Mobility	Yes – see discussion
Part 2.6 – Acoustic and Visual Privacy	Yes – see discussion
Part 2.7 – Solar Access and Overshadowing	Yes – see discussion
Part 2.8 – Social Impact	Yes – see discussion
Part 2.9 – Community Safety	Yes – see discussion
Part 2.10 – Parking	Yes – see detailed discussion under Part 5 (a)(iv)(i)(f) of report
Part 2.16 – Energy Efficiency	Yes
Part 2.17 – Water Sensitive Urban Design	Yes
Part 2.18 – Landscaping and Open Space	Yes see discussion
Part 2.20 – Tree Management	Yes

Part 2.21 – Site Facilities and Waste Management	Yes – see discussion
Part 2.24 – Contaminated Land	Yes
Part 2.25 – Stormwater Management	Yes
Part 4.3 – Boarding Houses	Yes – see discussion
Part 5 – Commercial and Mixed Use Development	Yes – see discussion
Part 9 – Strategic Context	Yes – see discussion

The following provides discussion of the relevant issues:

**PART A.2 - INFORMATION TO BE SUBMITTED WITH A DEVELOPMENT APPLICATION**

Part A.2.6 of MDCP 2011 requires a Plan of Management (PoM) to be submitted with applications for a boarding house describing how the ongoing operation of the premises would be managed in the most efficient manner and to reduce any adverse impacts upon the amenity of surrounding properties.

A PoM was submitted with the application which provided details regarding the following matters:

- Purpose - plan of management;
- Occupancy agreement;
- House rules;
- Occupancy rates;
- Occupant register;
- Parking procedures;
- Amenity for tenants and adjoining properties;
- Visitor policy;
- Waste management and collection;
- Cleaning procedures;
- Security;
- Accessibility;
- Fire safety;
- Emergency evacuation procedures;
- Internal signage;
- Complaint Handling;
- Staff Training; and
- Review of this Plan of Management.
- (does it include eligibility criteria ie. Who will be living there/ what target market/ income level?)

During the assessment process the PoM was required to be updated to reflect certain elements of the development. Overall the PoM outlines appropriate measures to help ensure an appropriate level of amenity is provided to the future occupants and adjoining properties. Conditions of consent are to be included in any consent requiring compliance with the PoM at all times.

**PART 2 - GENERIC PROVISIONS**

(i) Equity of Access and Mobility (Part 2.5)

Part 2.5 of MDCP 2011 requires consideration to be given to equity of access and mobility before granting development consent. The table below summarises the minimum access requirements with regard to accessible facilities, dwelling and parking requirements as prescribed by Part 2.5.10 of MDCP 2011 and the proposal’s compliance with those requirements:

Control	Standard	Required	Proposed	Complies?
Accessible Rooms	1 accessible room for every 5 boarding rooms or part thereof	7 accessible rooms	7 accessible rooms	Yes
Access and Mobility	Access for all persons through the principal entrance and access to any shared laundries, kitchens, sanitary and other common facilities	All areas of the proposed development accessible by persons with a disability	All areas and shared facilities accessible by persons with a disability	Yes
Accessible Car Parking	1 accessible parking space for every 10 bedrooms	3 spaces for 34 boarding rooms*	3 accessible car parking spaces	Yes

*Table 2: Equity of Access and Mobility Compliance Table*

As outlined in table 2, the development complies with the accessibility requirements of Part 2.5 of MDCP 2011. Rooms 6, 12, 18, 24, 29, 34 and the manager’s room are nominated on the plans as being accessible.

The plans provided indicate the provision of 3 accessible car parking spaces which are considered sufficient satisfying the requirements of part 2.5 of MDCP 2011.

(ii) Visual and Acoustic Privacy (Part 2.6)

Part 2.6 of MDCP 2011 contains objectives and controls relating to acoustic and visual privacy.

The development is not considered to result in any adverse privacy impacts.

Northern Elevation

The northern elevation is the front elevation of the building and faces Parramatta Road. All balconies facing the street contain side walls and overlook Parramatta Road therefore no privacy impacts would occur. The communal terrace and communal open space are located in the north building away from the lower density residential dwellings to the south of the site. The acoustic privacy of the communal areas would be managed by the on-site manager also located on level 5 adjacent to the rooms. Furthermore, the PoM submitted with the application indicates that the terrace would be restricted to use between 8.00am and 9.00pm

and communal room between 6.00am and 10.00pm, thereby providing appropriate acoustic amenity for adjoining properties.

#### Eastern & Western Elevations

The side elevation of the development does not contain any windows, and therefore there is no direct overlooking of adjoining properties.

#### Southern Elevation

The southern elevation is the rear elevation of the building and faces Corunna Lane. 3 levels of boarding rooms have windows facing the laneway. All windows are setback a minimum of 3.5 metres from the rear boundary and provide light and ventilation to the bathrooms and kitchenettes of the rooms. These windows are of a modest nature and are not the principal source of light or ventilation given multiple windows have been provided to these rooms on the northern elevation. The windows are not considered to result in any privacy impacts given their size and setback.

Level 3 of the boarding house (first floor when facing the rear lane) contains 5 boarding rooms with outdoor private terraces facing the laneway. Door access to the terraces is provided from the kitchenettes of the rooms. The terraces have a 1 metre setback to the rear boundary. It is also noted that a 1.1metre high and 1 metre deep planter box is proposed to be located along the length of the boundary. The planter box contains a row of 12 blueberry ash native trees for screen planting which mature at a height of 8-10 metres, however given the planter size constraints; these would mature lower than this height. However upon establishment, these trees would provide a high level of privacy between the site and adjoining properties along Corunna Lane. A horizontal slat to BCA compliance is also proposed on top of the face brick base wall to the terraces for safety. Overall it is not considered that the southern elevation would result in significant detrimental privacy impacts to the adjoining properties along Corunna Lane.

#### Internal Privacy

The two building cores have a minimum separation of 8 metres. The balconies for the units facing the internal courtyards all have solid off-form concrete balustrades to reduce privacy impacts. These are only directly opposed in one section, at the eastern side, and as planting in the courtyard below matures, internal privacy impacts will be further reduced.

Overall, it is considered that the layout and design of the development would ensure that the visual and acoustic privacy currently enjoyed by residents of adjoining residential properties is protected. The development would maintain a high level of acoustic and visual privacy for the surrounding residential properties and ensure a high level of acoustic and visual privacy for future occupants of the development itself.

#### (iii) Solar Access and Overshadowing (Part 2.7)

##### *Overshadowing*

Control C2 of MDCP 2011 prescribes the following overshadowing controls for new development:

*“Direct solar access to windows of principal living areas and principal areas of open space of nearby residential accommodation must:*

*i. Not be reduced to less than two hours between 9.00am and 3.00pm on 21 June;*

- ii. *Not be further reduced where less than two hours of sunlight is currently available on 21 June; however, if the development proposal results in a further decrease in sunlight available on 21 June, Council will consider:*
- a. *Development potential of a site;*
  - b. *The particular circumstances of the neighbouring site, for example, the proximity of residential accommodation on a neighbouring property to the boundary, the resultant proximity of windows to the boundary, and whether this makes compliance difficult;*
  - c. *Any exceptional circumstances of the subject site such as heritage, built form or topography; and*
  - d. *Whether the sunlight available in March and September is significantly reduced to impact the functioning of principal living areas and the principal areas of open space. To ensure compliance with this control, separate shadow diagrams for the March to September period must be submitted in accordance with the requirements of C1;*

*Where less than two hours of sunlight is currently available on 21 June and the proposal is not reducing it any further, Council will still consider the merits of the case having regard to the above criteria described in points a to d.”*

The shadow diagrams submitted for the proposal illustrate the extent of overshadowing on adjacent residential properties to the south of the site. The adjoining properties on the opposite side of Corunna Lane, namely No.54 and No.56 Corruna Road would be the most impacted as a result of the development. The private open space of these properties, including vehicular access is provided at the rear opposite the subject site. The existing private open space of these properties are already severely overshadowed on 21 June due to the location and orientation of the sites, structures on their own and adjoining properties and the considerably higher scale of development adjoining the laneway and fronting Parramatta Road.

The development will result in a reduction of solar access on 21 June to 2 most affected properties outlined above, however will not result in any increased overshadowing impacts to these properties in March/September or December. The southern elevation wall of the south building of the proposed development would be 1.5-2 metres below the 14metre height limit, therefore the overshadowing impacts are not considered unreasonable.

The development still meets the objectives of Part 2.7 of MDCP 2011 and would still result in an acceptable level of amenity to the adjoining properties.

#### *Solar Access*

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

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

The plans and shadow diagrams submitted with the application illustrate that 70% of the rooms have a window or glazed sliding doors facing north or east. Overall the development is considered to achieve good solar amenity to a large percentage of the boarding rooms.

(iv) Social Impact (Part 2.8)

Part 2.8 of MDCP 2011 requires that development for the purpose of boarding houses with capacity to accommodate 20 or more residents require a Social Impact Statement (SIS). A Social Impact Statement was prepared by ASquare Planning and submitted with the application.

The SIS outlines a general overview of the community profile through assessment of NSW Planning and Development, Council and ABS reports and data for the area. The SIS identifies that there is a high demand for single and 2 person households up until 2036 and that the provision of more boarding house accommodation is a key objective of the Inner West Affordable Housing Strategy 2016. The SIS outlines that the impacts of the development are likely to be limited to minor changes in the demographic characteristics of the residents in the area and short term amenity impacts during demolition during construction.

The SIS outlines that the design of the development is key to its minimal impact on the area, with limited openings on the north and south elevations, appropriate screening and setbacks, the location of communal areas away from the lower density zone to the rear and use of planter boxes for improved visual privacy. It also describes that the PoM restricts the use of the outdoor areas and hours when guests are permitted to ensure noise is kept to a minimum. The SIS assesses that the development is designed to comply with the CPTED principles which is discussed in detail in the next point of the report. Overall the report concludes that the design would ensure a sense of ownership and belonging for residents.

Notwithstanding this, it is considered that development would not result in any detrimental social impacts when properly managed in line with the PoM submitted. Overall the development would provide an increase in variety of housing types in the locality and in the vitality of the commercial centre through the provision of new development which is considered to result in a positive social impact to the area.

(v) Community Safety (Part 2.9)

Part 2.9 of MDCP 2011 contains objectives and controls relating to community safety. Those controls are based on the Crime Prevention Through Environmental Design principles including Surveillance, Access Control, Territorial Reinforcement and Space Management and Maintenance. The development is acceptable having regard to the provisions in the following ways:

- The provision of balconies off many of the boarding rooms fronting Parramatta Road would allow overlooking of the street;
- The commercial tenancy fronting Parramatta Road encourages active surveillance;
- Access to the building would be controlled by a security management system;
- Regular maintenance of communal areas ensures a sense of ownership;
- The materials and finishes of the development would be hard-wearing requiring low maintenance; and
- The communal room and communal terrace and balconies of the boarding house overlook Parramatta Road, along with the windows of the southern boarding rooms on level 3 which would provide the perception of passive surveillance to the rear lane.



(vi) Landscaping and Open Spaces (Part 2.18)

Part 2.18 of MDCP 2011 does not prescribe landscaped area requirements for a boarding house. The proposal provides a large 8 metre wide central core between the two buildings containing landscaping. Similarly, planter boxes are also proposed on all levels, with more substantial ones on the southern rear level 3 terraces and on the northern front communal terrace areas.

The application was referred to Council's Landscape Technical Advisor who requested some amendments to increase the range of native species and soil depth. Amended plans were submitted and reviewed. The amended landscape plans are considered to provide a substantial level of landscaping to a mixed-use development improving the amenity for the future occupants of the site. A condition is included in the recommendation requiring the implementation of a maintenance schedule for these landscaped areas to ensure their longevity and on-going upkeep.

The proposal is considered acceptable with regard to the provisions of Part 2.18 of MDCP 2011.

(vii) Site Facilities and Waste Management (Part 2.21)

*2.21.2.1 Recycling and Waste Management Plan*

A Recycling and Waste Management Plan (RWMP) in accordance with Council's requirements was submitted with the application and is considered to be adequate.

*2.21.2.5 Residential Waste*

A minimum of 7 x 240 litre recycling, 7 x 240 litre general waste bins are required to be provided for the development.

A garbage chute is proposed in the northern building with access on each level of the building. The chute contains a chute splitter system which diverts recycling to the appropriate bin below in the garage room. An interim storage area is also provided and located on Corunna Lane with external door access for collection. The interim storage area is capable of holding up to 16 x 240 litre bins when stacked which is considered easily serviced by Council's Resource Recovery Services.

The WMP identifies that it is the manager's responsibility to ensure that common area bins are emptied, and waste transferred to the bin storage room. It is also noted that green waste would be taken by the contractors engaged to maintain the areas.

The proposal is considered acceptable with regard to Part 2.21.2.5 of MDCP 2011 and is supported.

*2.21.2.6 Commercial Waste*

A separate commercial waste room is provided on level 1 which provides for 4 general waste and 4 recycling bins. As no specific use is proposed for the 138sqm commercial space on the ground floor it is difficult to determine the waste requirements. However given the size of the tenancy it is considered that the commercial waste storage room size is more than adequate. It would be the responsibility of the future operator to lodge an application for the use which would include consideration of waste removal which would be required to be by a private contractor.

**PART 4 - RESIDENTIAL DEVELOPMENT**

Development applications for boarding houses in B4 Zone are assessed in accordance with the relevant controls in in Part 4.3 of MDCP 2011.

**Part 4.3 – Boarding Houses**(i) Character and Amenity of the Local Area (Part 4.3.3.1)

As discussed in Section 5 (a) (iii) of this report under the provisions of Clause 30A of the ARH SEPP, applications for new boarding houses must satisfy a local character test which seeks to ensure developments proposed under the SEPP are consistent with the built forms and desired future character of the area. The development is compatible with the desired future character of the local area and ensures there are no significant impacts on the amenity of the local area.

(ii) Boarding Rooms (Part 4.3.3.5)

<b>Room type and facility</b>	<b>Minimum Requirement</b>	<b>Complies?</b>
<b>C9</b> Minimum area 1 person room	12sqm GFA*	N/A – no single rooms proposed
<b>C10</b> Minimum area 2 person room	16sqm GFA*	Yes
<b>C11</b> Maximum room size	25sqm GFA*	Yes
<b>C12</b> Calculation of room size	*The areas referred to in Controls C9 – C11 inclusive exclude kitchenettes (excluding circulation space), bathrooms and corridors.	No, discussed below
<b>C13</b> Minimum room ceiling height	2,700mm	Yes
<b>C14</b> Occupation of share rooms – per room	Maximum of 2 adults	Yes
<b>C15</b> Fit out room only	Rooms must be able to accommodate: <ul style="list-style-type: none"> <li>• Bed/s for the potential number of occupants,</li> <li>• Enclosed and open storage for clothes, linen and personal items,</li> <li>• At least one easy chair and a desk with chair,</li> <li>• Plus safe and convenient circulation space.</li> </ul>	Yes
<b>C16</b> Area of self-contained facilities	<ul style="list-style-type: none"> <li>• Maximum of 5sqm for a kitchenette;</li> <li>• A kitchenette is not to be located along the wall of a corridor; and</li> </ul>	No – Kitchenettes have been located in corridors in some

	<ul style="list-style-type: none"> <li>Minimum 3sqm and maximum 4sqm for en-suite bathroom.</li> </ul>	rooms
<b>C17</b> Energy efficiency & internal climate	<ul style="list-style-type: none"> <li>All habitable rooms are to have access to natural ventilation through an external window;</li> <li>Natural light is to be available from an external window or from a light well – not from a skylight;</li> <li>Light and air from an internal courtyard is acceptable if the courtyard is an adequate size</li> </ul>	Yes
<b>C18</b> Private open space	<ul style="list-style-type: none"> <li>Maximum area 6sqm; and</li> <li>Minimum dimension 2 metres</li> </ul> <p><b>NB</b> private open space is not a requirement but may be provided in a courtyard or balcony that adjoins a room</p>	Yes

*Table 3: Part 4.3 MDCP 2011 Compliance Table*

(iii) Calculation of Room Size (Part 4.3.3.5)

As outlined in Table 3 above, the development does not comply with Control C12 which requires the area of the boarding rooms to exclude kitchenettes (excluding circulation space), bathrooms and corridors. A large proportion of boarding rooms have the kitchens located in corridors and has included the corridors and circulation space adjacent to the kitchenettes in the calculation of the minimum room size.

The SEPPARH is silent on the requirement to include or exclude circulation space adjacent to a kitchenette and corridors from the room size calculation. In this instance the amended plans submitted as part of the proposal did result in a number of the boarding rooms having their kitchenettes relocated away from the corridor entry, particularly in the southern core of the levels 3-5.

The applicant contends that the SEPP doesn't specify the requirement to exclude corridors or a 1 metre wide circulation area adjacent to the kitchenette therefore it is not required. Council does not accept this argument as the SEPP makes its exclusions express and therefore exhaustive. However, in this instance it is considered that the overall development results in a high level of solar access and ventilation to majority of boarding rooms, with excellent communal open space and high quality landscaping and materials and finishes, therefore the overall amenity for the future occupants would be alleviated with regard to the compliance with the requirements of Control C12 and is considered acceptable.

(iv) Communal Rooms and Facilities (Part 4.3.3.6)

The development accommodates 34 boarding rooms (68 lodgers) and a communal living area and communal terrace and garden with a total area of 23sqm and 68sqm respectively.

A communal living room is required to accommodate at least 50% of residents at capacity (as a guide 2sqm per resident). The proposed communal living rooms have the capacity for only 34% of the lodgers in the development which does not comply. However, the extensive open space would allow accommodation of 100% of the lodgers alone.

The communal room has been designed to be accessible directly from the common open space of the development and would receive in excess of 3 hours of solar access in mid-winter. Both the communal living room and communal open space are well designed and provide a high level of amenity, accessibility and capacity for the development.

The development satisfies the requirements of Part 4.3.3.6.

(v) Communal Laundry (Part 4.3.3.7)

A communal laundry is shown on level 2 of the development, although the layout does not explicitly show how many washing machines and dryers would be provided. A condition of consent is recommended requiring a minimum of 4 washing machines and dryers be provided and maintained for the development.

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

The common open space area would receive a minimum 3 hours direct sunlight over more than 50% of the area between the hours of 9.00am and 3.00pm mid-winter. As discussed earlier in this report, a significant amount of landscaping is provided with adequate soil depth to allow plant growth on level 3 and the communal garden on level 5 of the development, with smaller planters on all levels of the development. The common open space is considered acceptable.

## **PART 5 - COMMERCIAL AND MIXED USE DEVELOPMENT**

Part 5.1.3.3 contains massing and setback controls for commercial and mixed-use developments.

### **General Commercial and Mixed Use Development Controls**

(i) Infill development (Part 5.1.2.4)

The development is an infill development. Part 5.1.2.4 includes the following details in relation to infill development:

*“Infill development within an existing urban context should be unambiguously identifiable as new development. This usually means the development can be clearly recognisable as contemporary in design to the time it is built and not a replication of buildings of earlier periods and styles. It should, however, complement the surrounding buildings and the predominant character of the particular commercial centre context such that it integrates with and makes a positive contribution to the broader commercial centre streetscape.”*

The proposed building is highly contemporary in terms of architectural form and materials and finishes. The proposal picks up cues from other developments particularly the recently completed development at 80-84 Parramatta Road in the streetscape including the scale, setbacks and the separation between the northern and southern core.

Building form (Part 5.1.3)(i) Massing and Setbacks (Part 5.1.3.3)

Part 5.1.3.3 contains massing and setback controls for commercial and mixed use developments.

*Front Massing*

The proposed development has a street wall height of 4 storeys and 12.39 metres on the western side of the northern boundary and 12.89 metres on the eastern side of the northern boundary. The controls contained within Part 5.1.3.3 of MDCP 2011 requires a maximum height at streetfront of 12 metres and 3 storeys.

A variation to the 12 metre and three storey street wall height control was approved for the development at 80-84 Parramatta Road under DA2001500422. This development has a four-storey street wall height and street wall height of approximately 12.9 metres.

The development approvals for No.100 Parramatta Road (BA847/97) and 113-117 Parramatta Road (DA201600538) also have a four and five storey street wall height respectively. Overall the front massing including the nil front boundary setback proposed is appropriate within the context of existing and approved developments in the vicinity of the site and would ensure maintenance of a consistent streetscape to Parramatta Road.

*Upper Level Massing*

Controls C11 and C12 of Part 5.1.3.3 of MDCP 2011 specifies that the upper levels above the street front portion of the site are required to be setback a minimum of 6 metres. The proposed development is setback 8.6 metres to the covered terrace and 10 metres to the front elevation wall on level 5 demonstrating compliance.

*Rear massing*

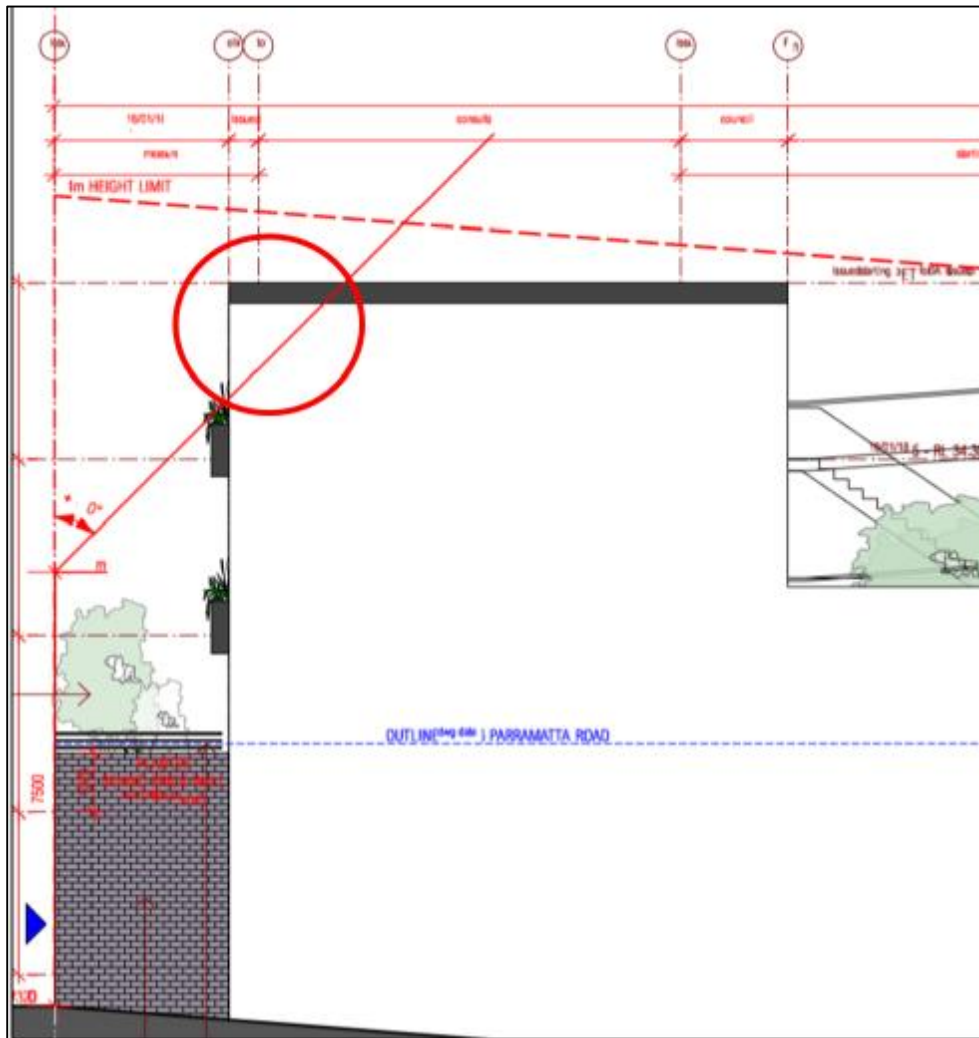
Control C13 of Part 5.1.3.3 of MDCP 2011 specifies the following control for rear massing:

***“C13****Where the rear boundary adjoins a lane:*

- i. The rear building envelope must be contained within the combination of the rear boundary plane and a 45 degree sloping plane from a point 7.5 metres vertically above the lane ground level, measured at the rear boundary, and contain a maximum of two storeys on the rear most building plane;*
- ii. Notwithstanding point i., building envelopes may exceed the above building envelope control where it can be demonstrated that any rear massing that penetrates above the envelope control will not cause significant visual bulk or amenity impacts on neighbouring properties to the rear;*
- iii. The rear building envelope must contribute positively to the visual amenity of the laneway, and encourage rear lane activation through measures such as providing appropriate lighting and opportunities for passive surveillance.”*

The rear massing is consistent with the existing streetscape rear boundary setback and a 45 degree sloping plane from a point 7.5 metres vertically above the ground level with the exception of the southern corner of level 5 shown in Image 5 below. The minor intrusion into the sloping plane is proposed at level 5 at the southern-most corner of the building. In this instance the slight variation is considered acceptable as it results in a consistent rear alignment of the upper levels, rather than a setback for level 5 which would result in a tiered ‘wedding cake’ effect and an inconsistent roof form. The variation does not result in any

privacy or amenity impacts as these boarding room windows service the bathrooms and kitchenette area of the rooms. There are no balconies proposed on levels 4 or 5 of the laneway elevation. Similarly, compliance with the rear massing controls would not result in reduced solar access given the setback of the level to the boundary.



*Image 5: Eastern Side Elevation Showing maximum encroachment into rear massing controls*

(ii) Building Depth (Part 5.1.3.4)

Part 5.1.3.4 of MDCP 2011 specifies a maximum building depth of 22 metres (external) and 18 metres (internal plan) and minimum depth of 10 metres for residential developments. The northern part of the building has a depth of approximately 13.88 metres from glass line to glass line over Levels 2-5. The boarding rooms on the southern side of the building have a depth of 7.8 metres. Whilst not strictly complying with the minimum depth, given the proposal is for boarding rooms which are only required to be a maximum of 25sqm in size, the reduced building depth would not result in compromised amenity and allows a smaller core of built form to be located at the rear of the site adjoining the lower density zone.

Building Separation (Part 5.1.3.5)

Part 5.1.3.5 of MDCP 2011 specifies controls for building separation. The proposed building is to be built with a nil boundary setback on the side elevations which is consistent with the street, as a result no windows or balconies face the side boundaries. The rear of the site contains boarding rooms facing Corunna Lane. The building is setback a minimum of 3 metres to the rear boundary, combined with the 6 metre wide laneway, thereby providing a 9 metre buffer to the adjoining rear boundaries, which is considered acceptable.

(iii) Building Detail (Part 5.1.4)

## (i) Building Frontages (Part 5.1.4.1)

It is considered that the street front portion of the development is appropriately massed at 4 storeys to Parramatta Road. The provision of a large setback for level 5 ensures the upper level is recessive in appearance, if visible at all. The use of face brick as a vertical element and off-form concrete on the side balconies reinforces the lower levels as being the leading element of the development. The side walls of the development are proposed to be off-form concrete which is a self-finishing and long-lasting material until such time that redevelopment of the adjoining property occurs.

As discussed in Section 5 (c) of this report, the application has been assessed by Council's Architectural Excellence Panel (AEP) throughout the DA process and is considered both by the panel and by Council to result in a high-quality architectural form and materiality which conforms to the building detail controls of Part 5.1.4.1 of MDCP 2011.

(iv) Active street frontage uses and shopfront design (Part 5.1.4.2)

Part 5.1.4.2 of MDCP 2011 specifies controls for active street frontage uses and shopfront design. The proposal is considered to comply with these provisions for the following reasons;

- The shopfront design is consistent with the contemporary infill development design as a whole, giving consideration to the streetscape context;
- The new shopfront is consistent with the width and height proportions of the existing shopfronts evident within the streetscape and surrounding commercial precinct;
- The shop has floor levels that relate to the footpath level; and
- The shopfront provides visual transparency and direct access between the footpath and the shop.

The proposed commercial tenancy on the ground floor is consistent with the precinct controls and desired future character of the commercial centre on Parramatta Road by providing a consistent commercial frontage. The shopfront and adjacent residential entry are comprised of a glass double doors and large square frame windows with parking and waste collection located along the laneway removing these elements from the street front. The development would provide a transparent and directly accessible entry to both the residential and commercial component of the development. Overall the proposal is generally compliant with the active street and shopfront controls.

(v) Building Use (Part 5.1.5)

(i) Mixed use development (Part 5.1.5.1)

The commercial tenancy proposed is 138sqm in area and has a frontage to Parramatta Road. The floor level of the tenancy is consistent with the footpath adjacent and it is considered that the development would provide for an active street front and adequate transition into the adjacent residential zone at the southern boundary of the development along Corunna Lane. A loading bay (7metres x 3.4 metres) is provided on level 1 of the basement parking to ensure that access is provided off the street for loading and unloading for use by the commercial tenancy.

**PART 9 - STRATEGIC CONTEXT**

The site is located in the Parramatta Road (Commercial Precinct 35) under MDCP 2011. The proposal meets the desired future character of the precinct for the following reasons:

- The development maintains a strong definition to the street with the nil setbacks;
- The scale, form, proportion and siting respects the existing traditional buildings in the streetscape and is consistent with new built form emerging along the corridor;
- The development would maintain an active street frontage;
- The development would not result in any detrimental amenity or environmental impacts to adjoining properties;
- The proposal is considered a good urban design outcome with strong architectural form and high-quality materials and finishes; and
- The development has regard to the noise and pollution generated by traffic volumes along Parramatta Road.
- 

5(d) **The Likely Impacts**

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

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

The site is zoned B4- Mixed Use, provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(f) **Any submissions**

The application was notified in accordance with Marrickville Development Control Plan 2011 for a period of 14 days to surrounding properties. A total of 5 submissions were received.

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

1. Not in keeping with desired future character & Streetscape – see sections 5(a)(iv)(iii) and 5(c) (Part 9)
2. Car parking and traffic- see section 5(a)(iv)(f)
3. Height and number of storeys – see section 5(a)(iv)(i)(b) and 5(a)(v)(ii) and 5(a)(v)(iv)
4. Bulk, scale & massing – see section 5(c)(Part 5 controls)
5. Overshadowing and Solar Access – see section 5(c)(part 2.7) (iii)
6. Architectural design and building aesthetic – see section 5 (a) (v) (i)
7. Visual and Acoustic Privacy – see section 5(c) (part 2.6) (ii)
8. Setbacks – see section 5(c)(part 5 (b) (iii)



9. Suitability of development – see section 5 (e)
10. Waste Management – see section 5 (c) (Part 2.21)(vii)
11. Social Impact Assessment – see section 5 (c) (Part 2.8) (iv)
12. Community Safety/CPTED – see section 5 (c) (Part 2.9) (v)
13. Clarification of Proposed use – see section 2

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

Issue: Clarification of the proposed address of the building

Comment: The site is commonly known as 112-114, 112-116 and also 112-118 Parramatta Road on various documentation. The site is legally known as Lots 2, 3, and 4 in Section E1 in Deposited Plan 3475.

Issue: Loss of indoor recreation tenancy

Comment: The proposed development is permissible in the zone. The site will maintain a commercial tenancy with a size of 138sqm and the redevelopment of the site does not preclude the provision of an indoor recreation facility in the future subject to approval, as the use in question remains permissible in the zone.

Issue: Construction Noise

Comment: Conditions are included in the recommendation restricting the construction hours to standard construction hours, with further restrictions in place for noise that is in excess of 75 db(A).

Issue: Increase in anti-social behaviour as a result of the development

Comment: Boarding houses are a permissible use under the B4- Mixed Use Zone applying to the site. The nature of the future occupants is not a valid consideration as part of the assessment of the application. It is however noted that a Plan of Management was submitted and assessed as part of the application and is required to be adhered to by the future occupants.

## 5(g) The Public Interest

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

## 6 Referrals

## 6(a) Internal

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

- Development Engineer
- Landscaping
- Architectural Excellence Panel
- Waste Management
- Environmental Health

## 6(b) External

The application was not required to be referred to any external officers or agencies.

## 7. Section 94 Contributions

Section 94 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 \$592,182.94 would be required for the development under Marrickville Section 94/94A 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 Environment Plan 2011 and Marrickville Development Control Plan 2011. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is considered suitable for approval subject to the imposition of appropriate conditions.

## 9. Recommendation

- A. That the Inner West Local Planning Panel approve a variation to the Height development standard prescribed by Clause 4.3 of Marrickville Local Environmental Plan 2011 and the Floor Space Ratio development standard prescribed by clause 4.4 of Marrickville Local Environmental Plan 2011, as it is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6 of that Plan, and the proposed development would be in the public interest because it is consistent with the objectives of that particular standard and objectives for development within the zone

- B. That Council, as the consent authority pursuant to s80 of the Environmental Planning and Assessment Act 1979, grant consent to Development Application No: 201800055 for the demolition of existing improvements and construction of a 5 storey mixed use building containing a commercial premise and 34 boarding rooms and 1 managers room with associated car parking at No.112-116 Parramatta Road, Stanmore subject to the conditions listed in Attachment A below.

## Attachment A – Recommended conditions of consent

## Attachment A – Recommended conditions of consent

GENERAL

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by	Date Submitted
Drawing 001, Revision 0	Photomontage	16.11.18	Environa Studio	20.11.18
Drawing 030, Revision 0	Site Plan	16.11.18	Environa Studio	20.11.18
Drawing 101, Revision 0	Level 1	16.11.18	Environa Studio	20.11.18
Drawing 102, Revision 0	Level 2	16.11.18	Environa Studio	20.11.18
Drawing 103, Revision 0	Level 3	16.11.18	Environa Studio	20.11.18
Drawing 104, Revision 0	Level 4	16.11.18	Environa Studio	20.11.18
Drawing 105, Revision 0	Level 5	16.11.18	Environa Studio	20.11.18
Drawing 110, Revision 0	Roof Level	16.11.18	Environa Studio	20.11.18
Drawing 120, Revision 0	Section AA	16.11.18	Environa Studio	20.11.18
Drawing 121, Revision 0	Section BB	16.11.18	Environa Studio	20.11.18
Drawing 122, Revision 0	Section CC	16.11.18	Environa Studio	20.11.18
Drawing 130, Revision 0	North Elevation	16.11.18	Environa Studio	20.11.18
Drawing 131, Revision 0	South Elevation	16.11.18	Environa Studio	20.11.18
Drawing 132, Revision 0	East Elevation	16.11.18	Environa Studio	20.11.18
Drawing 133, Revision 0	West Elevation	16.11.18	Environa Studio	20.11.18
Drawing 134, Revision 0	North Internal Elevation	16.11.18	Environa Studio	20.11.18
Drawing 135, Revision 0	South Internal Elevation	16.11.18	Environa Studio	20.11.18
Drawing 210, Revision N	Material + Finishes	16.11.18	Environa Studio	20.11.18
Drawing 211, Revision N	Terms & Abbreviations	16.11.18	Environa Studio	20.11.18
Drawing 220, revision 0	Waste Management Plan	16.11.18	Environa Studio	20.11.18
Drawings 901 & 902, Revision 0	3D Perspectives	16.11.18	Environa Studio	20.11.18
	Plan of Management	November 2018	aSquare Planning	6.11.2018
Report No.17020, Revision C	Operational Plan of Management	1.11.2018	Elephants Foot	6.11.2018
LPDA 18-151/1-4 (4 sheets)	Landscape Plans	October 2017	Conzept Landscape	20.11.18

2219/3, Issue A	DA Acoustic Report	2.2.18	Architects West & Ass Pty Ltd	8.2.18
GO170724, Drawings C1-C8, Issue C	Stormwater Plans	2.2.18	ACOR Consultants Pty Ltd	8.2.18
E23626.E02_Rev 0	Detailed Site Investigation	24.7.18	Ei Australia	22.8.18
895971M_03	BASIX Certificate	21.8.18	Efficient Living Pty Ltd	22.8.18

and details submitted to Council on 8 February 2018, 22 August 2018 and 6 November 2018 with the application for development consent and as amended by

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

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

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

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

3. In order to ensure the architectural and urban design excellence of the development is retained:
- i) The design architect is to have direct involvement in the design documentation, contract documentation and construction strategies of the project;
  - ii) The design architect is to have full access to the site and is to be authorised by the applicant to respond directly to the consent authority where information or clarification is required in the resolution of design issues throughout the life of the project;
  - iii) Evidence of the design architect's commission is to be provided to the Council prior to the release of the construction certificate.
  - iv) The design architect of the project is not to be changed without prior notice and approval of the Council.
4. The materials and finishes of the building constructed pursuant to this consent must be strictly in accordance with the materials and finishes identified in Drawing Nos. 130-135 Revision 0 and 210, Revision N dated 20.11.2018, prepared by Environa Studio. No changes may be made to these drawings except by way of an application under section 4.55 of the *Environmental Planning and Assessment Act 1979*.
5. The use of the premises as a boarding house must comply at all times with the following:
- a) The use must comply at all times with the Plan of Management referred to in condition 1 above and as amended by the conditions in this Determination;
  - b) A copy of the Plan of Management and House Rules must be annexed to each and every tenancy/occupation agreement for a room;
  - c) A copy of the approved Plan of Management and House Rules must be clearly displayed within every common room in the building at all times;
  - d) The Plan of Management must not to be amended without the prior consent of Council;
  - e) All tenancy/occupation agreements for rooms within the premises must be for a minimum period of three (3) months;

- f) The premises must be used exclusively as a boarding house containing a maximum total of 34 lodger's rooms and 1 on-site manager's rooms with not more than 68 adult lodgers and 1 adult on-site managers residing in the premises at any one time;
  - 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.
6. All rooms within the boarding house must be connected to a centralised electricity, water and gas (if installed) service and room tariffs must not include a separate charge for those services. These services must be located within the internal area of the unit/dwelling and not on any balcony or terrace.
7. Separate Development Consent or Complying Development Certificate must be obtained for the use of the ground floor shops/commercial suites prior to the occupation of that part of the premises.  
Reason: To advise the applicant of the necessity of obtaining Council approval for the use of the shops/commercial suites prior to their occupation.
8. The ongoing use of the ground floor commercial tenancies complying with the following requirements at all times:
- a) The areas to be used as shops must be restricted to the ground floor commercial tenancies;
  - b) The shop window display areas must be maintained at all times with no roller shutters being installed across the shopfronts;
  - c) The hours of operation are restricted to between the hours of 7.00am to 7.00pm Monday to Saturday and not at any time on Sundays or public holidays;
  - d) All loading and unloading in connection with the use must be carried out wholly within the property from the dedicated loading space on level 1 of the site, during the approved hours of operation and in such a manner so as to not cause an inconvenience to the public;
  - e) No storage of goods or equipment external to any building on the site is permitted; and
  - f) No signs or goods must be displayed for sale or stored on the footpath in front of the premises at any time without the prior approval of Council.
- Reason: To ensure that the commercial uses are confined to the ground floor shop areas, to preserve the streetscape and character of the area and to ensure that the operation of the premises does not interfere with the amenity of the locality.
9. A minimum of 7 adaptable boarding rooms (excluding the manager's room) must be provided in accordance with Part 2.5 of Marrickville Development Control Plan 2011 - Equity of Access and Mobility.  
Reason: To make reasonable provision in the development to provide residential accommodation suitable for people with a disability.
10. A total of 14 off-street car parking spaces must be provided, paved, line marked and must be maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 - Parking prior to the commencement of the use. The car parking spaces must be allocated as follows:
- a) 12 car parking spaces being provided for lodgers, with 3 of these being provided for persons with a disability and marked as disabled car parking spaces;
  - b) 1 car parking space being provided for on-site manager; and
  - c) 1 car parking space being provided for the commercial tenancy staff.

All parking spaces and turning area thereto must be provided in accordance with the design requirements set out within Part 2.10 of Marrickville Development Control Plan 2011 - Parking, and must be used exclusively for parking and not for storage or any other purpose. A sign legible from the street must be permanently displayed to indicate that visitor parking is available on site.

11. A minimum of 7 off-street bicycle storage spaces must be provided, paved, line marked and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 - Parking prior to the commencement of the use.
12. A minimum of 7 off-street motorcycle parking spaces must be provided, paved, line marked and maintained at all times in accordance with the standards contained within Part 2.10 of Marrickville Development Control Plan 2011 - Parking prior to the commencement of the use.
13. No injury must be caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, vapours, odours, dust, particular matter, or other impurities which are a nuisance or injurious or dangerous or prejudicial to health, the exposure to view of any unsightly matter or otherwise.
14. The use of the premises, including any plant and equipment, must not give rise to:
  - a) transmission of unacceptable vibration to any place of different occupancy;
  - b) a sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The source noise level shall be assessed as an LAeq,15min and adjusted in accordance with Environment Protection Authority guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content as described in the NSW Environment Protection Authority's Environmental Noise Control Manual and Industrial Noise Policy 2000 and The Protection of the Environment Operations Act 1997 (NSW).
15. Noise and vibration from the use and operation of any plant and equipment and/or building services associated with the premises must not give rise to 'offensive noise' as defined by The Protection of the Environment Operations Act 1997 (NSW). In this regard the roller door to the car parking entry is to be selected, installed and maintained to ensure their operation does not adversely impact on the amenity of the surrounding neighbourhood.
16. Separate Development Consent or Complying Development Certificate must be obtained prior to the erection of any advertisements or advertising structures. The shop windows must not be painted with advertisements and no flashing lights are to be installed on the premises.
17. 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.
18. All building work must be carried out in accordance with the provisions of the National Construction Code (Building Code of Australia).
19. Owners and occupants of the proposed building shall not be eligible to obtain parking permits under any existing or future resident parking scheme for the area. The person acting on this consent shall advise any purchaser or prospective tenant of this condition. In addition the by-laws of any future residential strata plans created for the property shall reflect this restriction.
20. All stormwater drainage being designed in accordance with the provisions of the Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2015 'Stormwater Drainage' and Marrickville Council Stormwater and On Site Detention Code. Pipe and channel drainage systems shall be designed to cater for the twenty (20) year Average Recurrence Interval (A.R.I.) storm in the case of low and medium residential developments, the twenty (20) year A.R.I. storm in the case of high density residential development and commercial and/or

industrial developments and the fifty (50) year A.R.I. storm in the case of heavy industry. In all cases the major event surface flow paths shall be designed to cater for the one hundred (100) year A.R.I. storm.

21. Should the proposed development require the provision of an electrical substation, such associated infrastructure shall be incorporated wholly within the development site. Before proceeding with your development further, you are directed to contact Ausgrid directly with regard to the possible provision of such an installation on the property.
22. Dry-weather flows of any seepage water including seepage from landscaped areas will not be permitted through kerb outlets and must be connected directly to a Council stormwater system. Alternatively the basement or any below ground structure shall be design to be "tanked" preventing the ingress of seepage or groundwater.

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

23. No work must commence until:
  - a) A PCA has been appointed. Where an Accredited Certifier is the appointed, Council shall be notified within 2 days of the appointment; and
  - b) A minimum of 2 days written notice given to Council of the intention to commence work.
24. A Construction Certificate must be obtained before commencing building work. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures.
25. Sanitary facilities must be provided at or in the vicinity of the work site in accordance with the WorkCover Authority of NSW, Code of Practice 'Amenities for Construction'. Each toilet must be connected to the sewer, septic or portable chemical toilet before work commences.  
  
Facilities must be located so that they will not cause a nuisance.
26. All demolition work must:
  - a) Be carried out in accordance with the requirements of Australian Standard AS 2601 'The demolition of structures' and the Occupational Health and Safety Act and Regulations; and
  - b) Where asbestos is to be removed it must be done in accordance with the requirements of the WorkCover Authority of NSW and disposed of in accordance with requirements of the Department of Environment, Climate Change and Water.
27. Where any loading, unloading or construction is to occur from a public place, Council's Infrastructure Services Division must be contacted to determine if any permits or traffic management plans are required to be obtained from Council before work commences.
28. All services in the building being demolished must be disconnected in accordance with the requirements of the responsible authorities before work commences.
29. The site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property, before work commences.
30. A rigid and durable sign must be erected in a prominent position on the site, before work commences. The sign must be maintained at all times until all work has been completed. The sign is to include:
  - a) The name, address and telephone number of the PCA;



- b) A telephone number on which Principal Contractor (if any) can be contacted outside working hours; and
  - c) A statement advising: 'Unauthorised Entry To The Work Site Is Prohibited'.
31. A Soil and Water Management Plan must be prepared in accordance with Landcom Soils and Construction, Volume 1, Managing Urban Stormwater (Particular reference is made to Chapter 9, "Urban Construction Sites") and submitted to and accepted by the PCA. A copy of this document must be submitted to and accepted by PCA before work commences. The plan must indicate:
- a) Where the builder's materials and waste are to be stored;
  - b) Where the sediment fences are to be installed on the site;
  - c) What facilities are to be provided to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way; and
  - d) How access to the site will be provided.

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

32. The person acting on this consent is responsible for arranging and meeting the cost of dilapidation reports prepared by a suitably qualified person. The reports are to include colour photographs and must be submitted to the Certifying Authority's satisfaction, with a colour copy being provided to Council and the respective property owner(s) of the identified properties, before work commences, on the buildings on the adjoining properties at No.106 Parramatta Road and No.118 Parramatta Road, if the consent of the adjoining property owner(s) can be obtained. In the event that the consent of the adjoining property owner(s) cannot be obtained copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the PCA before work commences.
33. Before commencing works the person acting on this consent must provide a contact number for a designated person to be available during the demolition and construction for residents to contact regarding breaches of consent or problems relating to the construction.  
Reason: To provide a person that residents can contact.
34. Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent shall 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 verandah over footpath
  - h) Partial or full road closure
  - i) Installation or replacement of private stormwater drain, utility service or water supply

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities.

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity

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

36. The person acting on this consent shall 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. Additionally an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property, where necessary.

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

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

37. A detailed Traffic Management Plan to cater for construction traffic shall be submitted to and approved by Council before commencement of works. Details shall include haulage routes, estimated number of vehicle movements, truck parking areas, work zones, crane usage, etc., related to demolition/construction activities.
38. Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands shall 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.
39. If a new street number or a change to the street number (this includes unit and shop numbers) is required, a separate application must be made to and approved by council prior to that street number being displayed.  
Reason: To ensure that the building is easily identifiable.

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

40. The separate lots comprising the development must be consolidated into one lot and under one title and registered at the NSW Department of Lands before the issue of a Construction Certificate.
41. Amended Plans demonstrating the following are required to be submitted to Council's satisfaction prior to the Issue of a Construction Certificate:
- a) Identification of the ground floor front elevation material as being face brick not render;
  - b) Identification on the elevation plans that the walls are off-form concrete in a natural colour and not painted; and
  - c) Notation on the plans for the laundry on level 2 to contain a minimum of 4 washing machines and 4 dryers.
42. a) This condition is imposed in accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979.
- b) Before the \*issue of a Construction Certificate, the Council must be paid a monetary contribution of \$592,182.94 indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014 ("CP").

The above contribution is the contribution applicable as at 26 November 2018.

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

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

**(CONTRIBUTION PAYMENT REFERENCE NO. DC002479)**

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

Community Facilities	572,743.08
Plan Administration	\$11,511.84
Recreation Facilities	\$522,237.28
Traffic Facilities	\$-14,409.27

d) A copy of the CP can be inspected at Council's offices at 2-14 Fisher Street, Petersham or online at <http://www.marrickville.nsw.gov.au>.

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

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

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

**NOTE:** The required payment is based on the estimated cost of building and construction works and the long service levy rate, set by the Long Service Payments Corporation. The rate set by the Long Service Payments Corporation is currently of 0.35% of the cost of the building and construction work.

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

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

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

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

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

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

- (i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.
  - (ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.
46. All plumbing and ductwork including stormwater downpipes must be concealed within the outer walls of the building so they are not visible. Plans and elevations detailing the method of concealment must be submitted to and approved by Council before the issue of a Construction Certificate. Any variation to this requirement requires Council approval.
47. Before the issue of a Construction Certificate, a landscaping maintenance schedule prepared by a qualified landscape architect to be submitted to the satisfaction of the Certifying Authority.
48. Letterboxes and mail collection facilities must be provided and adequately protected in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.
49. Lighting details of the pedestrian areas, parking areas and all entrances must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.
50. Adequate outdoor clothes drying areas must be provided for the development in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.
51. Plans fully reflecting the selected commitments listed in BASIX Certificate submitted with the application for development consent must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.

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

52. Noise attenuation measures must be incorporated into the development complying with Australian Standard 2021:2015, State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines" in relation to interior design sound levels and in accordance with details being submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate together with certification by a suitably qualified acoustical engineer that the proposed noise attenuation measures satisfy the requirements of Australian Standard 2021:2015, State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines".
53. Details of an anti graffiti treatment to the Corunna Lane elevation of the development must be submitted to and approved by the Certifying Authority before the issue of a Construction Certificate.
54. Prior to the commencement of demolition works or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee must be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the

works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit	\$24,800.50
Inspection fee	\$461.30

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

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

- 55. The proposed awning shall be of cantilever type and be set back at least 600mm from the kerb line. The proposed awning shall be designed as a light weight structure so that it can be easily removed if required in future. No Concrete awnings will be permitted. The awning shall include pedestrian lighting (Category P3-AS1158) and shall be maintained and owned by the property owner(s). The owner shall maintain, modify or remove the structure at any time if given notification by Council or RMS to do so. All works shall be at no cost to Council or RMS. Amended plans must be submitted to and approved by Council before the issue of a Construction Certificate.
- 56. The stormwater drainage plans GO170724-C1 to GO170724-C5 (Rev C) by ACOR Consultants P/L shall be amended and/or additional information provided as follows;
  - i. Details of the 1 in 100 year overflow routes in case of failure/blockage of the drainage system shall be provided in particular at all open courtyard areas. Where an overland flow path cannot be provided then the drainage system draining these areas shall be designed for a 1 in 100 year storm.
  - ii. The stormwater and architectural plans must be amended to provide a step between the internal floor levels and the external finished surface of the adjacent courtyards/open spaces in accordance with the requirements of Clause 3.1.2.3 "Surface water drainage" of the BCA;
  - iii. The stormwater outlet shall connect directly to Council's drainage system in Parramatta Road via a new pit. Details of such connection shall include the pit design, a long section of the outlet pipe and details of all utility services;
  - iv. Details of stormwater re-use in accordance with the deemed to comply requirements of Part 2.17 (WSUD) of Marrickville Development Control Plan 2011;
  - v. Connection of the rainwater tank to toilets, laundry and external taps for irrigation;

- vi. The BASIX Certificate shall be amended to reflect the above water re-use measures; and
- vii. Dry-weather flows of any seepage water including seepage from landscaped areas will not be permitted through kerb outlets and must be connected directly to a Council stormwater system. Alternatively the basement shall be fully "tanked" so as not to allow the ingress of seepage or groundwater.

The above additional information shall be submitted to and approved by Council before the issue of a Construction Certificate.

57. The vehicular access and associated vehicle standing areas shall be designed in accordance with Australian Standard AS/NZS 2890.1-2004 Parking Facilities: Off-street car parking, Australian Standard AS 2890.2-2002 Parking Facilities: Commercial vehicle facilities, AS/NZS 2890.6-2009 Parking facilities: Off-street parking for people with disabilities so that:-

- a) Minimum Headroom of 2.2m must be provided at both sides of each vehicular access locations.

Details of compliance with the above requirement and certification by a Traffic Engineer shall be submitted to Council before the issue of a Construction Certificate.

58. In order to provide satisfactory vehicular and pedestrian access, drainage, landscaping and aesthetic improvements to the public domain adjacent to the site, the following works shall be undertaken at no cost to Council:

- a) The public domain along all frontages of the site inclusive of footpath paving, kerb, street trees, landscaping, street furniture, etc. shall be reconstructed and upgraded in accordance with the Street Tree Masterplan and the Marrickville Public Domain Design Guide;
- b) The construction of heavy duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site. Long sections shall be provided along each outer edge of the vehicle access at a 1 in 20 scale;
- c) New kerb and gutter along the frontage of the site. The kerb type (concrete or stone) shall be consistent with the majority of kerb type at this location. Council may be able to assist with the supply of stone if required. Please contact Council's Infrastructure Services Division on 9335 2000; and
- d) Cross sections are to be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations. Note, the cross fall of the footpath shall be set at 2.5%. These sections will set the alignment levels at the boundary. Cross sections must include existing and design levels for back of footpath; top of kerb; kerb invert; kerb lip; road level 1m from kerb lip and road centre line.
- e) Detailed connection design including pit details of the direct connection into Council's Stormwater system.

Full detailed construction plans and specifications shall be submitted to Council for approval under Section 138 of the Roads Act 1993 before the issue of a Construction Certificate with all works completed before to the issue of an Occupation Certificate.

59. An Asbestos Survey prepared by a suitably qualified Occupational Hygienist shall be prepared for the premises. The Survey is to incorporate appropriate Asbestos removal and disposal methods in accordance with the requirements of WorkCover NSW, NSW Environmental Planning and Assessment Amendment (Asbestos) Regulation 2009 and NSW Environment Protection Authority, Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)] and conditions of this consent.

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

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

**SITE WORKS**

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

- a) 7:00 am to 6:00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and
- c) at no time on Sundays or public holidays.

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

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

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

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

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

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

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

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

61. During any construction works and activities, no injury must be caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, vapours, odours, dust, particular matter, or other impurities which are a nuisance or injurious or dangerous or prejudicial to health, the exposure to view of any unsightly matter or otherwise.
62. The area surrounding the building work must be reinstated to Council's satisfaction upon completion of the work.
63. The placing of any materials on Council's footpath or roadway is prohibited, without the consent of Council. The placement of waste storage containers in a public place requires Council approval and must comply with Council's Policy - 'Placement of Waste Storage Containers in a Public Place'.
64. All demolition work must be carried out in accordance with the following:
  - a) compliance with the requirements of Australian Standard AS 2601 'The demolition of structures' with specific reference to health and safety of the public, health and safety

of the site personnel, protection of adjoining buildings and protection of the immediate environment;

- b) all works involving the demolition, removal, transport and disposal of asbestos cement must be carried out in accordance with the 'Worksafe Code of Practice for Removal of Asbestos' and the requirements of the WorkCover Authority of NSW and the Department of Environment, Climate Change and Water;
  - c) all building materials arising from the demolition must be disposed of in an approved manner in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and any applicable requirements of the Department of Environment, Climate Change and Water;
  - d) sanitary drainage, stormwater drainage, water, electricity and telecommunications must be disconnected in accordance with the requirements of the responsible authorities;
  - e) the generation of dust and noise on the site must be controlled;
  - f) the site must be secured to prohibit unauthorised entry;
  - g) suitable provision must be made to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way;
  - h) all trucks and vehicles associated with the demolition, including those delivering to or removing material from the site, must only have access to the site during work hours nominated by Council and all loads must be covered;
  - i) all vehicles taking materials from the site must be loaded wholly within the property unless otherwise permitted by Council;
  - j) no waste collection skips, spoil, excavation or demolition material from the site must be deposited on the public road, footpath, public place or Council owned property without the approval of Council; and
  - k) the person acting on this consent must ensure that all contractors and sub-contractors associated with the demolition are fully aware of these requirements.
65. The works are required to be inspected at critical stages of construction, by the PCA or if the PCA agrees, by another certifying authority. The last inspection can only be carried out by the PCA. The critical stages of construction are:
- a) At the commencement of the building work;
  - b) For Class 2, 3 and 4 buildings, prior to covering waterproofing in any wet areas (a minimum of 10% of wet areas within a building);
  - c) Prior to covering any stormwater drainage connections, and after the building work has been completed and prior to any occupation certificate being issued in relation to the building; and
  - d) After the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

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

66. If it is necessary to excavate below the level of the base of the footings of a building on the adjoining allotments, including a public place such as footways and roadways, the person acting on this consent must ensure:
- a) At least 7 days' notice is given to the owners of the adjoining land of the intention to excavate below the base of the footings. The notice is to include complete details of the work; and
  - b) That any building is preserved and protected from damage.

Where a dilapidation report has not been prepared on any building adjacent to the excavation, the person acting on this consent is responsible for arranging and meeting the cost of a dilapidation report prepared by a suitably qualified person. The report is to be submitted to and accepted by the PCA before works continue on site, if the consent of the adjoining property owner can be obtained. Copies of all letter/s that have been sent via registered mail to the adjoining property owner and copies of any responses received must be forwarded to the PCA before work commences.



67. All vehicles carrying materials to, or from the site must have their loads covered with tarpaulins or similar covers.
68. Satisfactory methods and/or devices must be employed on the site to prevent the tracking of mud/dirt onto the surrounding streets from vehicles leaving the site.
69. A certificate of survey from a registered land surveyor must be submitted to the PCA upon excavation of the footings and before the pouring of the concrete to verify that the structure will not encroach on the allotment boundaries.
70. A clear unobstructed path of travel of not less than 1,000mm must be provided to all exits and paths of travel to exits.
71. Fixtures for bathroom and kitchen taps, showerheads, dishwashers, toilet cisterns and urinals must have a minimum 3 Star WELS rating for the commercial tenancy.  
NOTE: Information on the star rating scheme, and all 'star' rated products are available to view at the Water Efficiency Labelling and Standards (WELS) website: [www.waterrating.gov.au](http://www.waterrating.gov.au).
72. New or replacement toilets must have a minimum 3 Star WELS rating and being 6/3 litre dual flush or more efficient for the commercial tenancy.  
NOTE: Information on the star rating scheme, and all 'star' rated products are available to view at the Water Efficiency Labelling and Standards (WELS) website: [www.waterrating.gov.au](http://www.waterrating.gov.au).
73. Alignment levels for the site at all pedestrian and vehicular access locations shall match the levels detailed in the approved public domain plan
74. To provide for adequate site drainage all roof and surface stormwater from the site and any catchment external to the site that presently drains to it, shall be collected in a system of pits and pipelines/channels and major storm event surface flow paths and being discharged to a stormwater drainage system in accordance with the requirements of Marrickville Council Stormwater and On Site Detention Code. Please note any stormwater outlets through sandstone kerbs must be carefully core drilled.
75. No activities, storage or disposal of materials must take place beneath the canopy of any tree protected under Part 2.20 of Marrickville Development Control Plan 2011 - Tree Management at any time.
76. All builders' refuse, spoil and/or material unsuitable for use in landscape areas must be removed from the site on completion of the building works.
77. Any new information revealed during development works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority

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

78. You must obtain an Occupation Certificate from your PCA before you occupy or use the building. The PCA must notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within 2 days of the date of the Certificate being determined:
  - a) A copy of the determination;
  - b) Copies of any documents that were lodged with the Occupation Certificate application;
  - c) A copy of Occupation Certificate, if it was issued;
  - d) A copy of the record of all critical stage inspections and any other inspection required by the PCA;

- e) A copy of any missed inspections; and
  - f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.
79. Occupation of the building must not be permitted until such time as:
- a) All preconditions to the issue of an Occupation Certificate specified in this development consent have been met;
  - b) The building owner obtains a Final Fire Safety Certificate certifying that the fire safety measures have been installed in the building and perform to the performance standards listed in the Fire Safety Schedule; and
  - c) An Occupation Certificate has been issued.
80. The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:
- a) Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
  - b) Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

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

81. The Section 73 Certificate must be submitted to the Principal Certifying Authority before the issue of an Occupation Certificate.
- a) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Make early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.
  - b) Application must be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Providers > Lists or telephone 13 20 92.
82. The landscaping of the site must be carried out prior to occupation or use of the premises in accordance with the approved details and must be maintained at all times to Council's satisfaction.
83. The Certifying Authority must be satisfied that each of the commitments listed in BASIX Certificate referred to in this Determination have been fulfilled before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate).
84. The Certifying Authority must apply to the Director-General for a BASIX Completion Receipt within 2 days of the issue of a final Occupation Certificate. Completion Receipts can be applied for at [www.basix.nsw.gov.au](http://www.basix.nsw.gov.au).
85. a) Upon completion of the required noise attenuation measures referred to in the "Before the Issue of a Construction Certificate" Section of this Determination and before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate), a report must be prepared and submitted to the Certifying Authority's satisfaction by an accredited Acoustics Consultant, certifying that the final construction meets Australian Standard 2021:2015, State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines" as set down in the subject condition of this consent. Such report must include external and internal noise levels to ensure that the external noise levels during

the test are representative of the typical maximum levels that may occur at this development; and

- b) Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures must be carried out and a further certificate must be prepared and submitted to Council in accordance with the requirements as set down in Part a) of this condition.

Reason: To reduce noise levels within the dwellings from aircraft and rail noise and to ensure that the noise attenuation measures incorporated into the dwellings satisfactorily comply with the relevant sections of Australian Standard 2021:2015, State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines".

86. All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development shall be completed before the issue of an Occupation Certificate. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".
87. Heavy duty concrete vehicle crossings, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" must be constructed at the vehicular access locations before the issue of the Occupation Certificate and at no cost to Council.
88. All redundant vehicular crossings to the site shall be removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" before the issue of the Occupation Certificate and at no cost to Council. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb shall also be in stone.
89. Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever shall not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed before the issue of the Occupation Certificate.
90. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.
91. The existing stone kerb adjacent to the site is of local heritage value and is to be preserved at no cost to Council. Any damage to the stone kerb will require the replacement of the damaged individual stone units before the issue of the Occupation Certificate. Please note any stormwater outlets through sandstone kerbs must be carefully core drilled. Non-compliance with this condition will result in loss of your security deposit.
92. The existing damaged or otherwise defective kerb and gutter, footpath and/or road pavement adjacent to the site shall be restored in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications", at no cost to Council and before the issue of the Occupation Certificate.
93. Before the issue of the Occupation Certificate written verification from a suitably qualified competent person, stating that all stormwater drainage and re-use have been constructed in accordance with the approved plans shall be submitted to and accepted by Council. In

addition, full works-as-executed plans, prepared and signed by a registered surveyor, shall be submitted to Council. These plans must include levels for all drainage structures, buildings (including floor levels), finished ground levels and pavement surface levels.

94. A second Dilapidation Report addressing the public infrastructure identified in the pre-work Dilapidation Report including a photographic survey and structural condition must be submitted after the completion of works. A copy of this Dilapidation Report must be lodged with Council and the Principal Certifying Authority before to the issue of an Occupation Certificate. Any damage identified in the Dilapidation Report must be fully rectified by the applicant or owner at no cost to Council before to the issue of an Occupation Certificate.
95. Prior to issue of the Occupation Certificate the person acting on this consent shall obtain from Council a compliance Certificate(s) stating that all Road, Footpath and Public Domain Works on Council property required to be undertaken as a result of this development have been completed satisfactorily and in accordance with Council approved plans and specifications.
96. The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Construction of Vehicle Crossing and Public Domain Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.
97. The existing whiteway lighting scheme and any existing meter box being maintained and incorporated into the design of the development. Any defects (including the need to install a "special small service") in the system shall be repaired at no cost to Council and before the issue of the Occupation Certificate.  
Reason: To ensure adequate lighting is provided for pedestrians adjacent to the site.
98. Any soil proposed to be disposed off site must be classified, removed and disposed of in accordance with the EPA Environmental Guidelines; Assessment, Classification and Management of Liquid and Non-Liquid Wastes 1999 and the Protection of the Environmental Operations Act 1997.

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

99. An Management Plan (EMP) shall be prepared for the approved development. The plan shall be prepared by a suitably qualified person and shall be to the satisfaction of Council and shall address:

Risk assessment of all Environmental Aspects and impacts to site and other potentially impacted properties

The impacts must at minimum consider the following areas:

Hazardous Substances, Water, Air, Noise, Vibration, Waste & Litter, Community, Land, Environmental Protection objectives and control strategies Environmental conditions using measurable indicators and standards, Emergency Response Plan, Environmental monitoring and reporting plan

The plan must be submitted to Council and correspondence obtained stating that the plan satisfies the condition obtained by Council, prior to the release of an Occupation Certificate.

#### ADVISORY NOTES

- The Disability Discrimination Act 1992 (Commonwealth) and the Anti-Discrimination Act 1977 (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.
- A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out.
- The approved plans must be submitted to the Customer Centre of any office of Sydney Water before the commencement of any work to ensure that the proposed work meets the requirements of Sydney Water. Failure to submit these plans before commencing work may result in the demolition of the structure if found not to comply with the requirements of Sydney Water.
- The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for 'Construction of a Vehicular Crossing & Civil Works' form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, before commencement of works.
- Any natural light or ventilation gained by windows within 900mm of the boundary will not be taken into consideration in the event that the adjoining property owner makes application to Council to carry out building works on their property. The window has been consented to on the basis that alternative sources of light and ventilation are available to the room.
- Contact "Dial Before You Dig" before commencing any building activity on the site.
- Useful Contacts

BASIX Information	☎ 1300 650 908 weekdays 2:00pm - 5:00pm <a href="http://www.basix.nsw.gov.au">www.basix.nsw.gov.au</a>
Department of Fair Trading	☎ 13 32 20 <a href="http://www.fairtrading.nsw.gov.au">www.fairtrading.nsw.gov.au</a> Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Before You Dig	☎ 1100 <a href="http://www.dialbeforeyoudig.com.au">www.dialbeforeyoudig.com.au</a>
Landcom	☎ 9841 8860 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	☎ 131441 <a href="http://www.lspc.nsw.gov.au">www.lspc.nsw.gov.au</a>
NSW Food Authority	☎ 1300 552 406 <a href="http://www.foodnotify.nsw.gov.au">www.foodnotify.nsw.gov.au</a>
NSW Government	<a href="http://www.nsw.gov.au/fibro">www.nsw.gov.au/fibro</a> <a href="http://www.diySAFE.nsw.gov.au">www.diySAFE.nsw.gov.au</a> Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	☎ 131 555 <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a>
Sydney Water	☎ 13 20 92

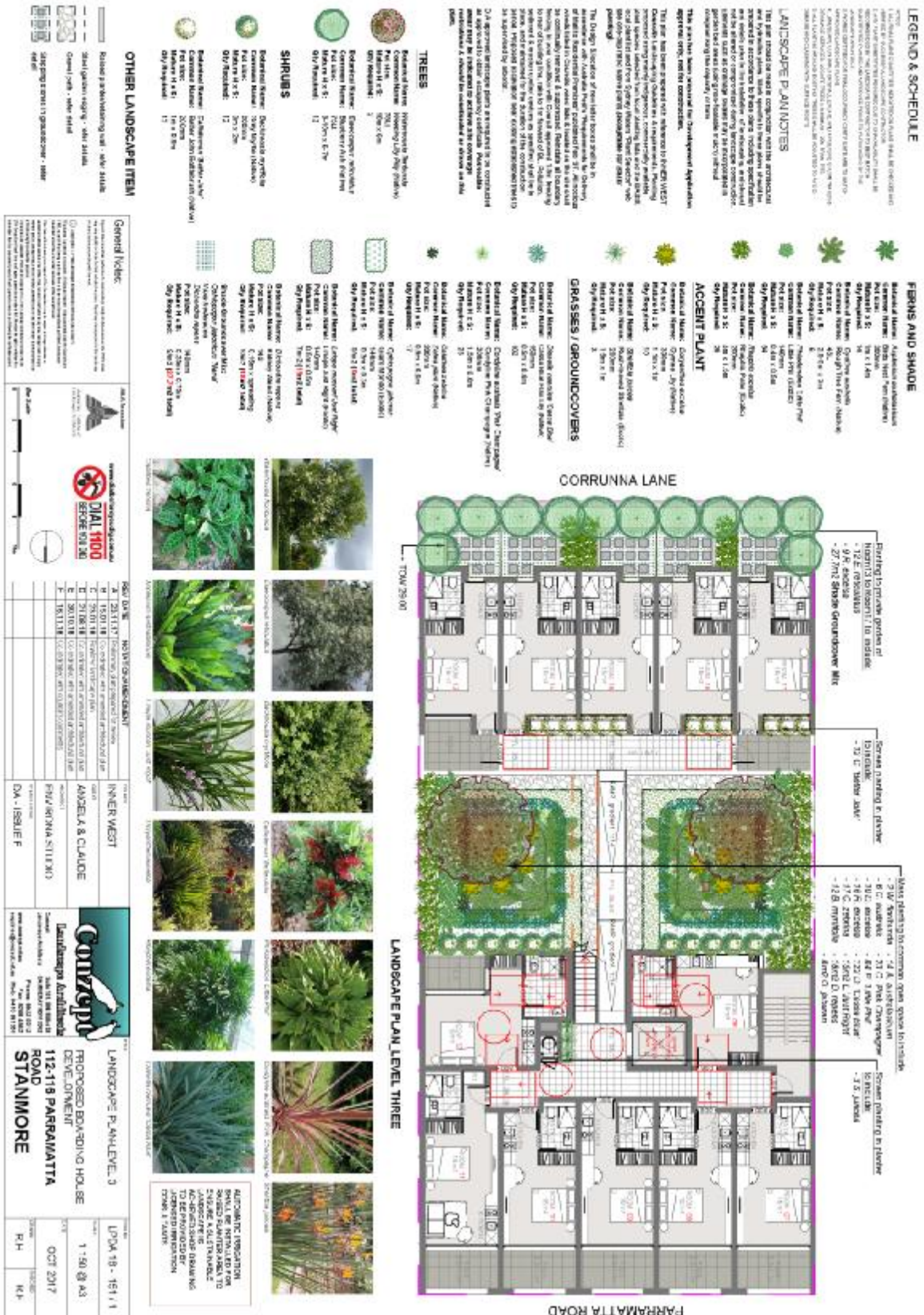
[www.sydneywater.com.au](http://www.sydneywater.com.au)

Waste Service - SITA ☎ 1300 651 116  
Environmental Solutions [www.wasteservice.nsw.gov.au](http://www.wasteservice.nsw.gov.au)

Water Efficiency Labelling and Standards (WELS) [www.waterrating.gov.au](http://www.waterrating.gov.au)

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

Attachment B – Plans of proposed development

















development application

Project: BOARDING HOUSE  
 Client: ANGELA LEPOUNIS – CLAUDE CIPOLLA  
 Site: 112 - 115 PARFAMATTA ROAD, STAMMORE  
 Stage: DEVELOPMENT APPLICATION  
 Date: 19-Nov-18

DWG	DESCRIPTION	STATUS
15/1	LANDSCAPE PLAN - ELEVATION - LEVEL 2 - 3	I
15/2	LANDSCAPE PLAN - ELEVATION - LEVEL 4	I
15/3	LANDSCAPE PLAN - LEVEL 5	I
15/4	LANDSCAPE - DETAILS	I
<b>PROVINCIAL ENGINEER</b>		
C1	CONCRETE E. NOTE	D
C2	STRUCTURAL WORKING OF F. PAN - LEVEL 1	D
C3	STRUCTURAL WORKING OF F. PAN - LEVEL 2	D
C4	STRUCTURAL WORKING OF F. PAN - LEVEL 3	D
C5	STRUCTURAL WORKING OF F. PAN - LEVEL 4	D
C6	STRUCTURAL WORKING OF F. PAN - LEVEL 5	D
C7	CONCRETE ELEVATION CONTROL PLAN	D
C8	CONCRETE ELEVATION CONTROL PLAN DETAIL	D
<b>REGISTERED</b>		
13/01	GENERAL SKETCH	A
13/02	GENERAL SKETCH - SECTIONAL ELEVATION	A

DRAWING	DESCRIPTION	STATUS
001	PRELIMINARY SUBMITTAL	0
002	PRELIMINARY SUBMITTAL	0
003	PRELIMINARY SUBMITTAL	0
004	PRELIMINARY SUBMITTAL	0
005	PRELIMINARY SUBMITTAL	0
006	PRELIMINARY SUBMITTAL	0
007	PRELIMINARY SUBMITTAL	0
008	PRELIMINARY SUBMITTAL	0
009	PRELIMINARY SUBMITTAL	0
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01 PHOTOMONTAGE  
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<p>envi/rona studio 254-486-8128 ext. 2010 1100 UNIVERSITY BLVD. #100 ANN ARBOR MI 48106-1000</p>		<p>PROJECT KANSAS PARK ANGELA LENOIR CLAUDIA CIRIACI</p>	<p>LOCATION 112-118 PEARSONVILLE ROAD ANN ARBOR</p>	<p>OWNER PHOTOMONTAGE CHRYSLER</p>	<p>DATE 04/11/18</p>	<p>PROJECT NO. 001</p>																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																	

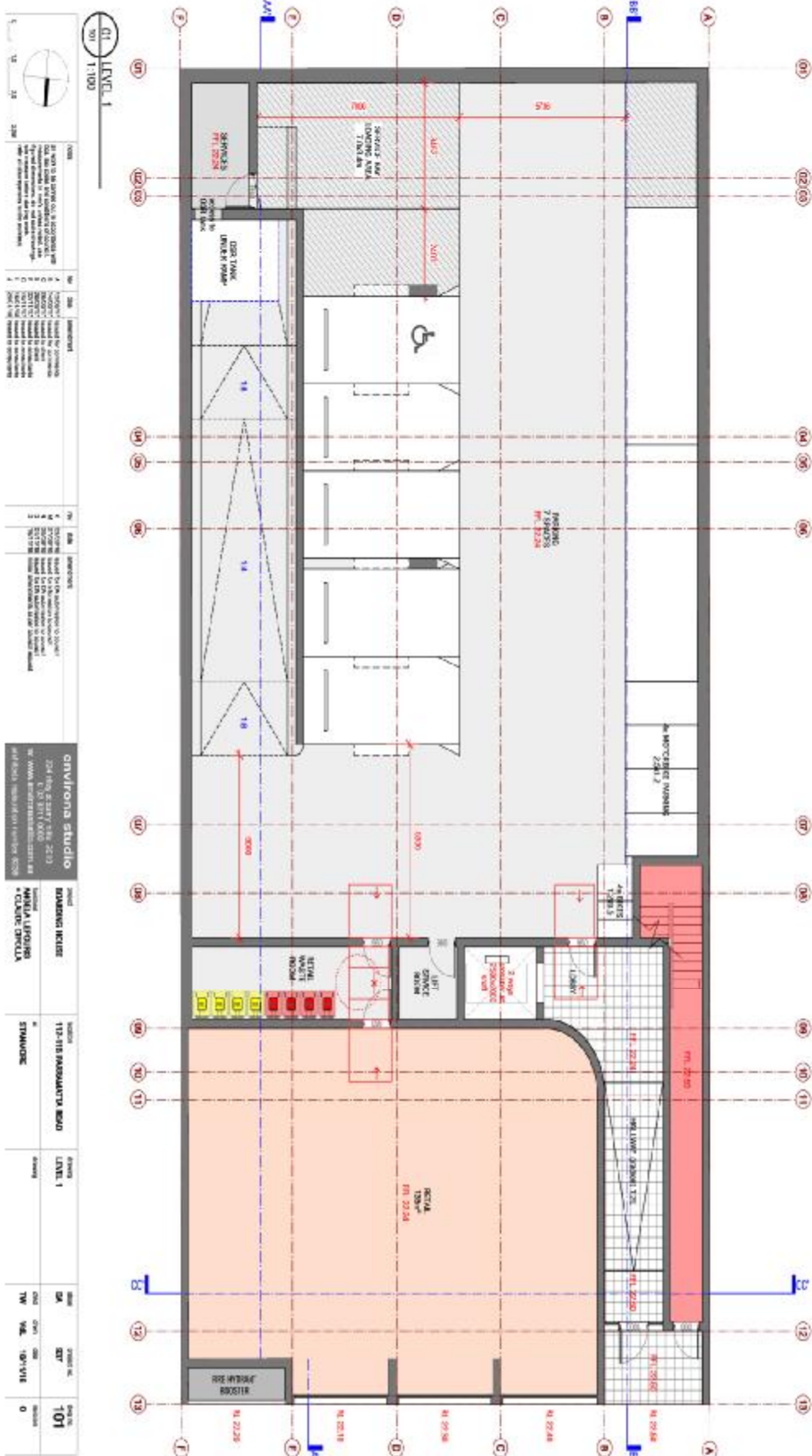


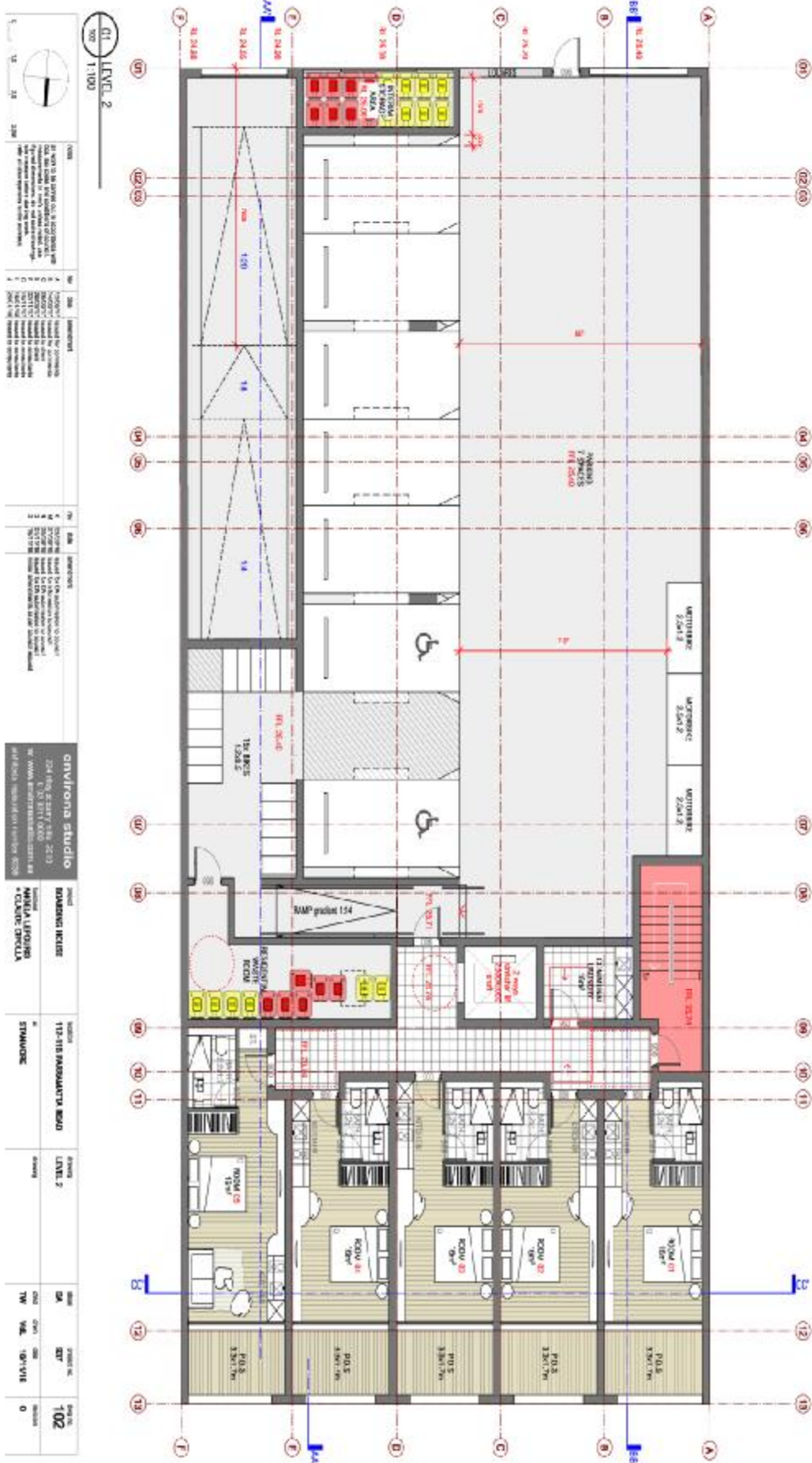


<p><b>NOTES:</b></p> <p>1. THIS PLAN IS TO BE USED IN CONNECTION WITH THE PROPOSED DEVELOPMENT APPLICATION FOR THE PROPOSED DEVELOPMENT OF THE SITE. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE LOCAL COUNCIL AND THE STATE GOVERNMENT. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE LOCAL COUNCIL AND THE STATE GOVERNMENT.</p>	<p><b>LEGEND:</b></p> <p>A. EXISTING BUILDING FOOTPRINT</p> <p>B. EXISTING DRIVEWAY</p> <p>C. EXISTING DRIVEWAY</p> <p>D. EXISTING DRIVEWAY</p> <p>E. EXISTING DRIVEWAY</p> <p>F. EXISTING DRIVEWAY</p>
<p><b>PROPOSED DEVELOPMENT:</b></p> <p>1. EXISTING BUILDING FOOTPRINT</p> <p>2. EXISTING DRIVEWAY</p> <p>3. EXISTING DRIVEWAY</p> <p>4. EXISTING DRIVEWAY</p> <p>5. EXISTING DRIVEWAY</p> <p>6. EXISTING DRIVEWAY</p>	<p><b>PROPOSED DEVELOPMENT:</b></p> <p>1. EXISTING BUILDING FOOTPRINT</p> <p>2. EXISTING DRIVEWAY</p> <p>3. EXISTING DRIVEWAY</p> <p>4. EXISTING DRIVEWAY</p> <p>5. EXISTING DRIVEWAY</p> <p>6. EXISTING DRIVEWAY</p>
<p><b>environment studio</b></p> <p>204 High Street, Suite 101, 2010                  Tel: 02 9511 0331                  M: 0422 222 222                  www.environmentstudio.com.au</p>	
<p><b>PROJECT:</b></p> <p>REDEVELOPMENT OF                  ANTELOPE APARTMENTS                  - CLARE STREET</p>	<p><b>ADDRESS:</b></p> <p>123-118 PARHAMPTON ROAD</p>
<p><b>CLIENT:</b></p> <p>STANWELL</p>	<p><b>DATE:</b></p> <p>21/11/2024</p>
<p><b>SCALE:</b></p> <p>1:100</p>	<p><b>PROJECT NO.:</b></p> <p>030</p>

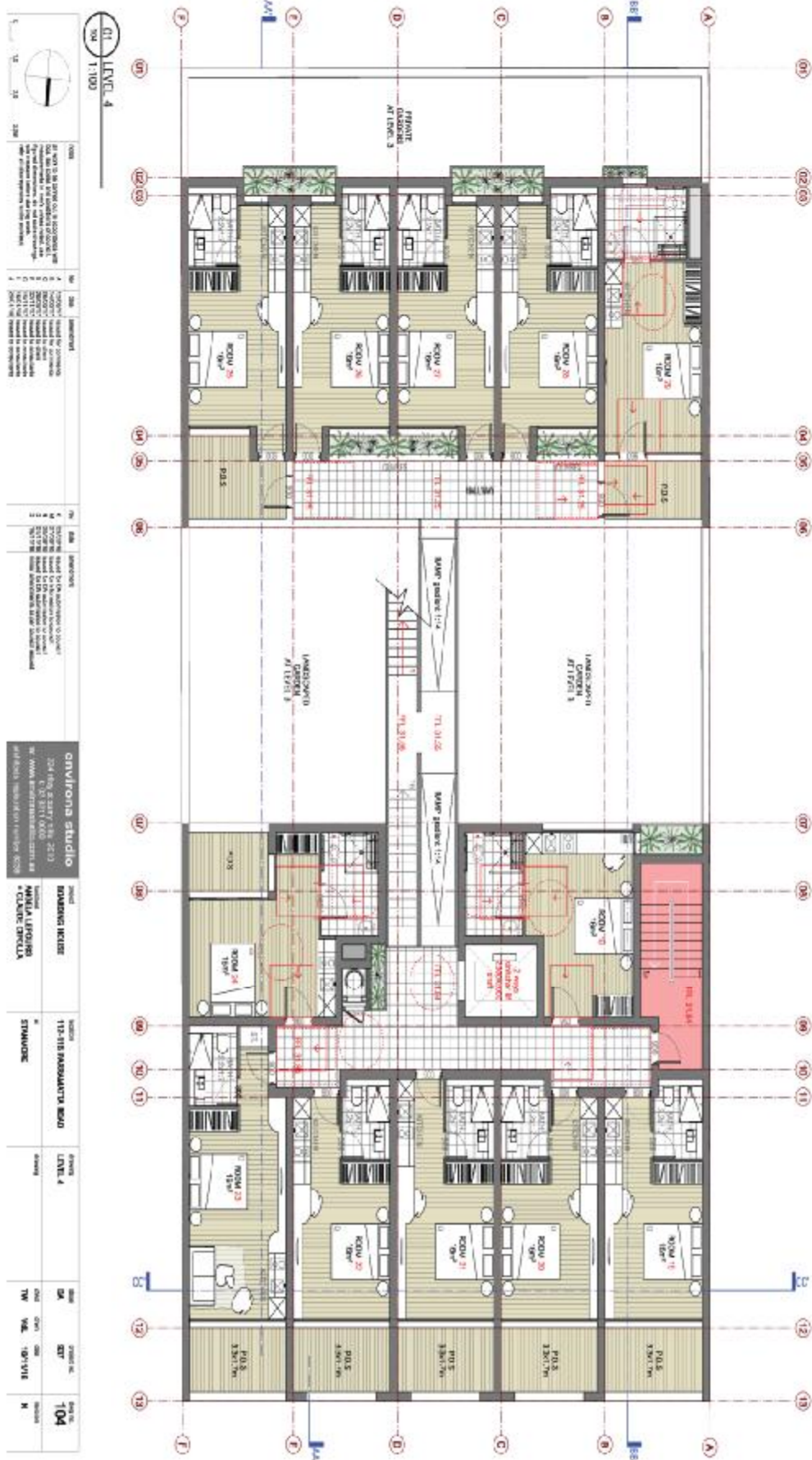


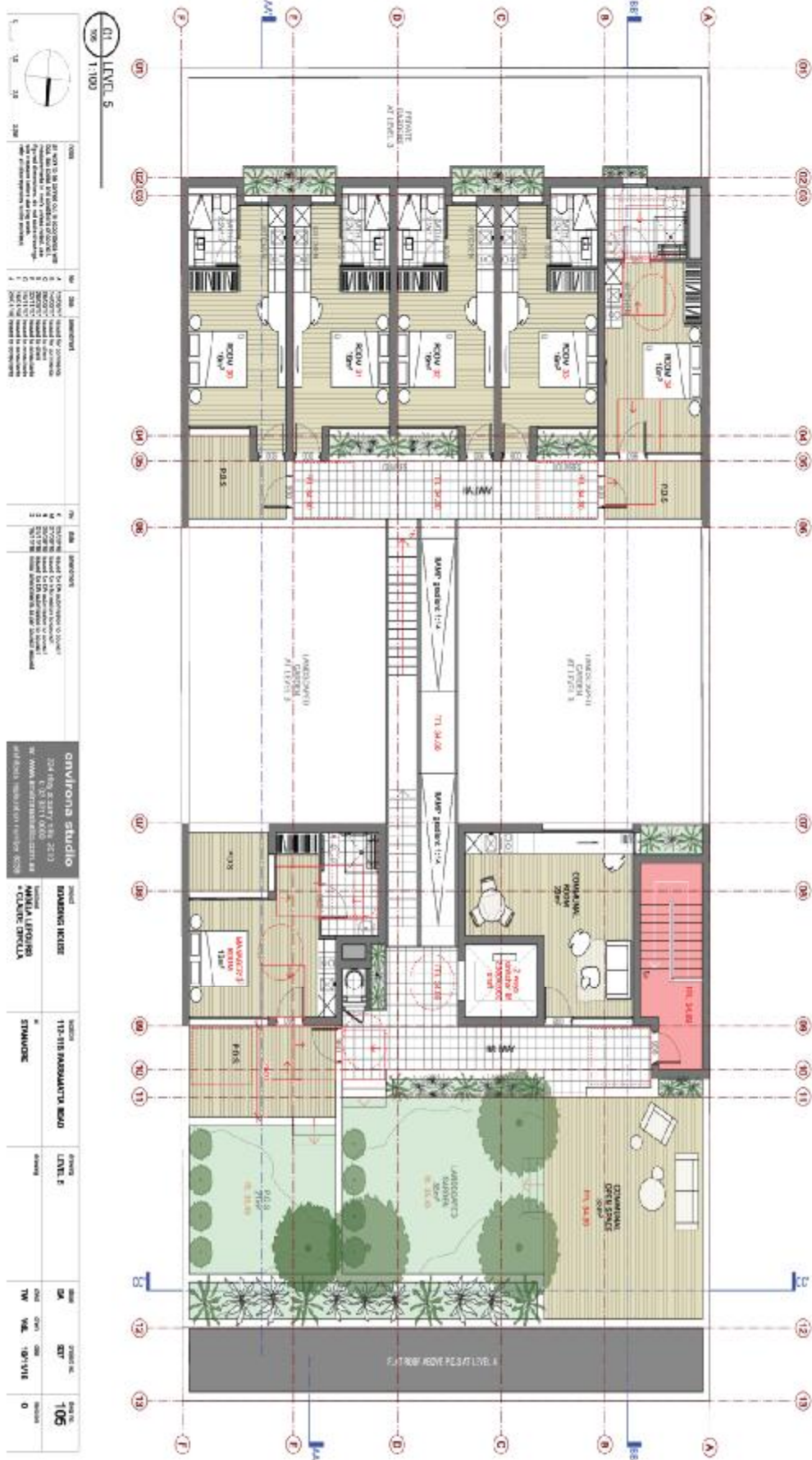
01 SITE PLAN  
 21/11/2024

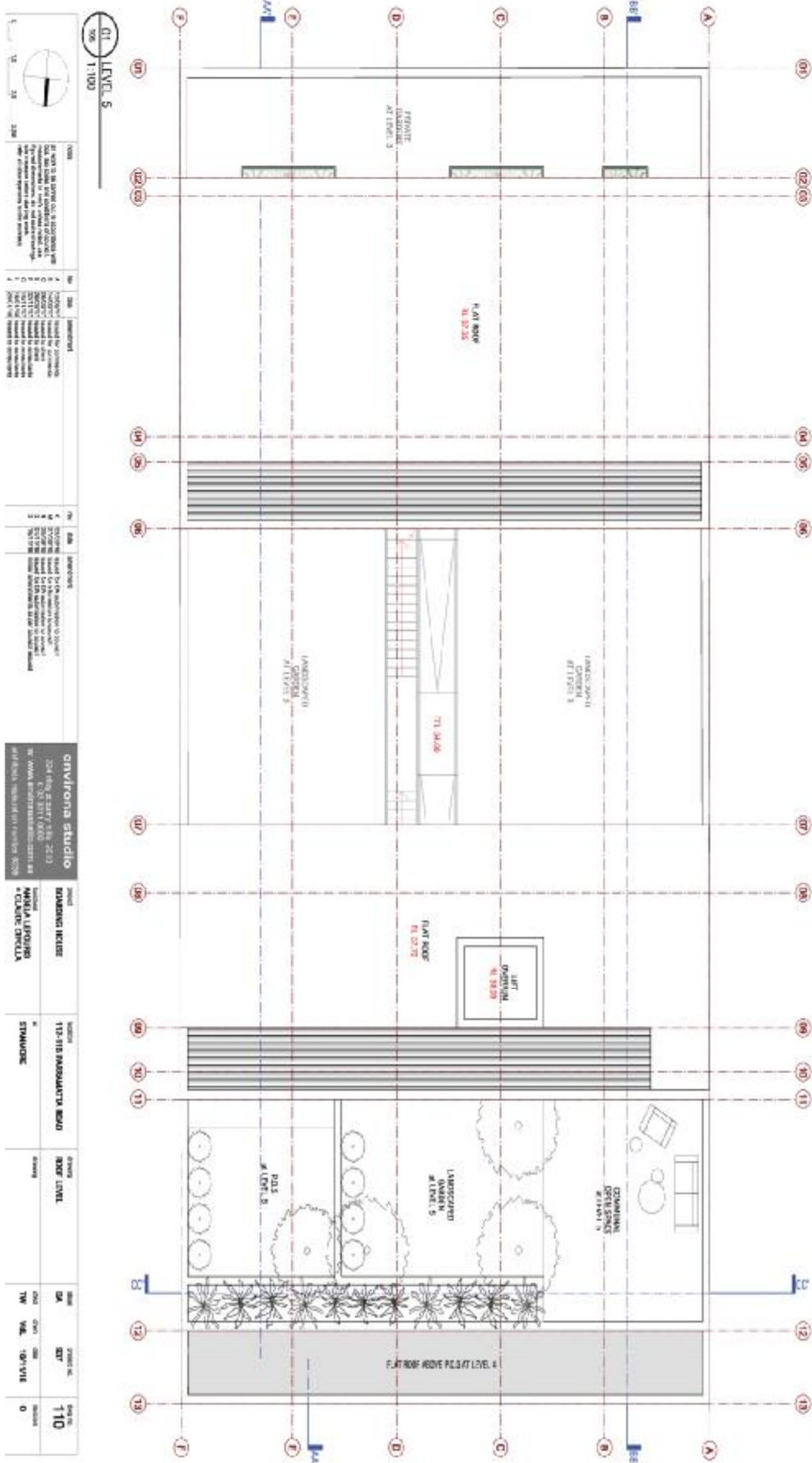




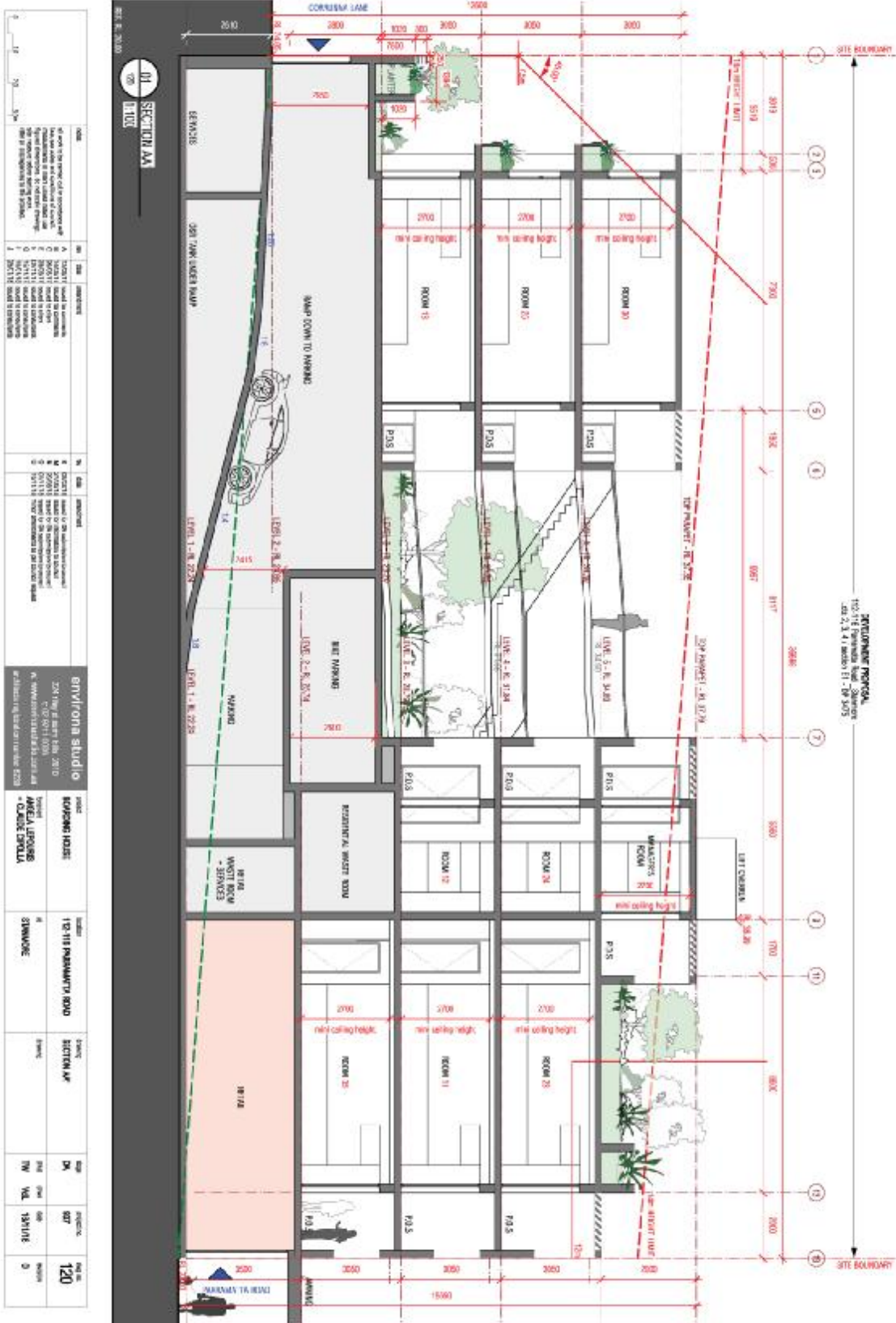




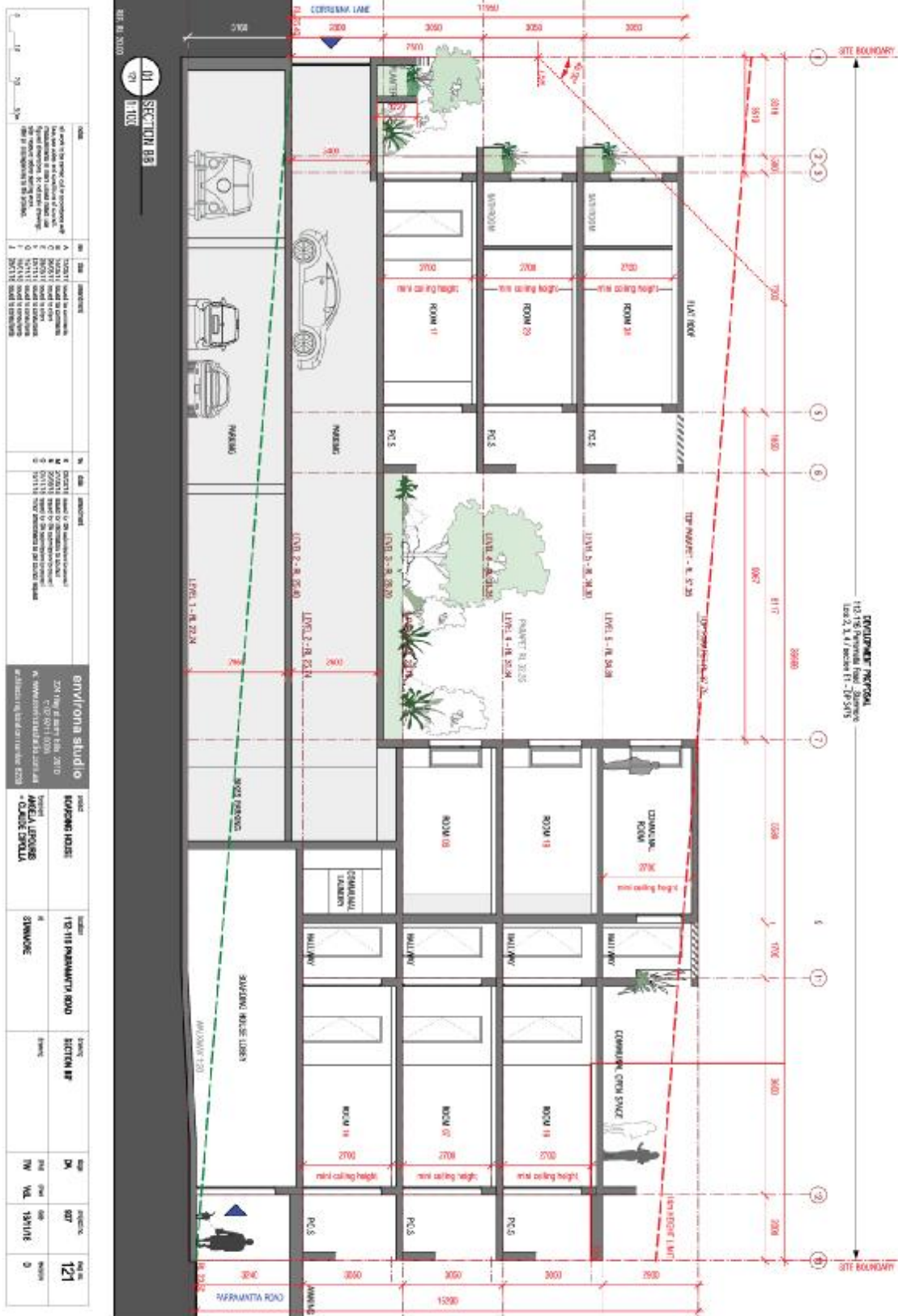




<b>DATE:</b> 10/11/2023	<b>SCALE:</b> 1:100	<b>PROJECT:</b> 110-112 PASADENA ROAD STAMBOURG	<b>CLIENT:</b> 110-112 PASADENA ROAD STAMBOURG
<b>DESIGNER:</b> ENVIRONMENTAL STUDIO	<b>ARCHITECT:</b> ENVIRONMENTAL STUDIO	<b>ENGINEER:</b> ENVIRONMENTAL STUDIO	<b>CONTRACTOR:</b> ENVIRONMENTAL STUDIO
<b>PROJECT NO.:</b> 110	<b>DATE:</b> 10/11/2023	<b>SCALE:</b> 1:100	<b>PROJECT NO.:</b> 110
<b>PROJECT NO.:</b> 110	<b>DATE:</b> 10/11/2023	<b>SCALE:</b> 1:100	<b>PROJECT NO.:</b> 110























		MATERIAL + FINISHES	
EXTERNAL ITEMS	MATERIAL	COLOR CODE (NAME)	
 EXTERNAL WALLS	CONCRETE	OFF FORM CONCRETE	
 EXTERNAL WALLS	MASONRY with stone	BLENDED TONE DUSTY MASONRY	
 EXTERNAL WALLS	BRICKWORK	APERT, 'SPRINKLE' AND	
 CONCRETE MASON FINISHES	ALUMINIUM	'TONGUE'	
 LATHES	ALUMINIUM	'TONGUE'	
EXTERNAL ITEMS	MATERIAL	COLOR CODE (NAME)	
 BRICKWORK	MASONRY	'TONGUE' AND 'DUSTY MASONRY'	
 BRICKWORK	METAL	'TONGUE'	
 BRICKWORK	GLASS	'TONE'	
 EXTERNAL FINISH DUSTY MASONRY DUSTY BRICK	CONCRETE DUSTY MASONRY	'TONGUE' AND 'DUSTY MASONRY'	
 EXTERNAL FINISH DUSTY MASONRY DUSTY BRICK	CONCRETE DUSTY MASONRY	'TONGUE' AND 'DUSTY MASONRY'	

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 + CLAUDE SPULLA

15-111 INDEPENDENT ROAD  
 SYDNEY

MATERIAL + FINISHES

24 507  
 210





01 3D PERSPECTIVES sheet 1  
001 NTS



VIEW FROM RASMUSSEN ROAD



VIEW FROM RASMUSSEN ROAD



VIEW FROM RASMUSSEN ROAD



VIEW FROM RASMUSSEN ROAD

NO.	DATE	DESCRIPTION	BY	CHECKED
1	2023/11/15	Issue for public consultation	AM	AM
2	2023/11/15	Issue for public consultation	AM	AM
3	2023/11/15	Issue for public consultation	AM	AM
4	2023/11/15	Issue for public consultation	AM	AM
5	2023/11/15	Issue for public consultation	AM	AM
6	2023/11/15	Issue for public consultation	AM	AM
7	2023/11/15	Issue for public consultation	AM	AM
8	2023/11/15	Issue for public consultation	AM	AM
9	2023/11/15	Issue for public consultation	AM	AM
10	2023/11/15	Issue for public consultation	AM	AM

<p>enviro/ona studio 205/1100 Sturt Street, Sturt Melbourne VIC 3000 Tel: 03 9011 0300 www.enviroona.com.au</p>		<p>PROJECT NAME RASMUSSEN ROAD 113-115 RASMUSSEN ROAD</p>	<p>CLIENT STANWAGE</p>	<p>DATE 20/11/2023</p>	<p>SCALE 1:100</p>	<p>PROJECT NO. 901</p>
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<p>01 SHADOW DIAGRAMS sheet 2 9/11 M/S</p>	<p>DATE: 17/01/2018</p> <p>BY: [Signature]</p> <p>SCALE: 1:100</p> <p>PROJECT: 18/118 PASADENA RD</p> <p>CLIENT: ANJELA LITVINSKI</p> <p>ADDRESS: 18/118 PASADENA RD</p> <p>LOT: 1</p> <p>AREA: 1,118 sqm</p> <p>PERMIT NO: 911</p>	<p>enviro/na studio 205 High St, East Hill, 2010 T: 02 9551 0300 M: 0438 500 000 E: info@envirostudio.com.au</p>	<p>PROJECT: ANJELA LITVINSKI * CLARE SPULLA</p>	<p>18/118 PASADENA RD</p>	<p>18/118 PASADENA RD</p>	<p>18/118 PASADENA RD</p>	<p>18/118 PASADENA RD</p>	<p>18/118 PASADENA RD</p>	<p>18/118 PASADENA RD</p>
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<p>0 10 20 30 40 50</p> <p>Scale: 1:100</p> <p>North</p>	<p>01 SOLAR ACCESS STUDY - SHEET 1</p> <p>DATE: 15/03/2018</p> <p>PROJECT: 913</p> <p>CLIENT: 913</p> <p>PREPARED BY: 913</p> <p>CHECKED BY: 913</p> <p>DATE: 15/03/2018</p>
<p>01 SOLAR ACCESS STUDY - SHEET 1</p> <p>DATE: 15/03/2018</p> <p>PROJECT: 913</p> <p>CLIENT: 913</p> <p>PREPARED BY: 913</p> <p>CHECKED BY: 913</p> <p>DATE: 15/03/2018</p>	<p>01 SOLAR ACCESS STUDY - SHEET 1</p> <p>DATE: 15/03/2018</p> <p>PROJECT: 913</p> <p>CLIENT: 913</p> <p>PREPARED BY: 913</p> <p>CHECKED BY: 913</p> <p>DATE: 15/03/2018</p>
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Attachment C – Plan of Management

**Plan of Management**  
**for the operation of a**  
**Boarding House**  
**at**  
**112-116 Parramatta Road, Stanmore**

November 2018



## CONTENTS

1. PURPOSE OF PLAN.....	1
2. STAFFING ARRANGEMENTS.....	1
3. OCCUPANCY AGREEMENT.....	2
4. HOUSE RULES.....	2
5. OCCUPANCY RATES FOR EACH BEDROOM.....	3
6. REGISTER OF OCCUPANTS.....	3
7. PARKING.....	3
8. AMENITY OF TENANTS.....	4
9. AMENITY OF NEIGHBOURHOOD.....	5
10. VISITOR POLICY.....	5
11. WASTE MANAGEMENT.....	6
12. CLEANING OF PREMISES.....	6
13. SECURITY.....	6
14. ACCESSIBILITY.....	7
15. FIRE SAFETY.....	7
16. EMERGENCY EVACUATION PROCEDURES.....	7
17. INTERNAL SIGNAGE.....	8
18. HANDLING OF COMPLAINTS.....	8
19. STAFF TRAINING.....	9
20. REVIEW OF PLAN OF MANAGEMENT.....	9
HOUSE RULES.....	10



## 1. PURPOSE OF PLAN

This Plan of Management forms part of the development consent for the proposed Boarding House at 112-116 Parramatta Road, Stanmore.

The primary purpose of this Plan of Management is to ensure the boarding house maintains a high level of amenity for neighbouring properties and for all residents. To achieve these outcomes the following matters are included:

- General site management
- Amenity of occupants
- Amenity of adjoining neighbours
- House rules
- Fire safety of the premises including emergency management and evacuation
- Occupational Health and Safety
- Internal and external cleanliness and appearance, including communal areas and individual units
- Complaints register

The primary responsibility for enforcing the requirements of this Plan of Management and the associated development consent is the Boarding House Manager (the Manager). The Manager is responsible for the operation of the boarding house.

The Manager must ensure that all residents and staff are made familiar with, understand and abide by this Plan of Management.

## 2. STAFFING ARRANGEMENTS

Staffing arrangements are as follows:

Off site Manager: xxxx

Landline: xxx

24 hour contact by mobile phone xxx or email xxxx

The Manager shall be contactable 24 hours per day, 7 days per week.

All residents, and the Council, must be notified immediately of any change of Manager or any temporary arrangements during periods of absence of the permanent Manager.

These contact details are to be displayed in a prominent location near the front entry so that they are clearly visible to members of the public at all times.



These contact details must be kept up to date, inclusive of any temporary arrangements and temporary contact details.

The Manager will be responsible for the operation, administration, cleanliness and fire safety of the premises, including compliance with the conditions of both the Plan of Management and the Development Consent for the boarding house.

### **3. OCCUPANCY AGREEMENT**

All residents must receive and sign an Occupancy Agreement, which complies with the Occupancy Principles set out in the NSW Boarding Houses Act 2012 or whichever legislative provisions apply at the time of commencing residency. The Occupancy Agreement is to be for a minimum term of 3 months. Copies of the signed Occupancy Agreements must be kept by the Manager.

At no time is any room to be advertised as or made available for short stay accommodation such as that associated with backpacker hostels, motels, hotels or the like.

Upon signing an Occupancy Agreement each tenant is to be provided with a printed copy of the following publications:

- (a) Guide to NSW Services for International Students (NSW Community Relations Commission)
- (b) Crime Stoppers Fact Sheets (NSW Police) in English, Chinese and Korean languages.
- (c) The Boarders & Lodgers Legal Information Kit (Redfern Legal Centre)
- (d) Fact Sheet 14 – Boarders and Lodgers (Tenants Union of NSW)
- (e) A copy of the Plan of Management

A copy of the Occupancy Agreement will be held by the boarding house operator to verify that the material has been issued.

The publications and factsheets will be updated every 12 months and where not available similar information will be provided.

### **4. HOUSE RULES**

House Rules for residents (resident and guest behaviour, activities, noise, visitor policy, use of alcohol and drugs and any other relevant rules) are



attached to this Plan of Management and will be displayed on the public notice board and within each individual room.

## 5. OCCUPANCY RATES FOR EACH BEDROOM

The occupancy rates for each room, room furnishings, communal areas and facilities and access and facilities for people with a disability are illustrated in the attached plans (see attached floor plan).

The maximum capacity of each room is to be strictly observed: comprising of 34 double boarding rooms. The maximum number of residents shall be 68.

## 6. REGISTER OF OCCUPANTS

An up to date accommodation register is to be kept by the Manager at all times and provided to Council's officers upon request. The register must include the following:

- Residents' details, including names and contact number(s)
- Length of stay.

## 7. PARKING

Parking spaces are provided for bicycle, motorcycle and car parking as follows:

- 19 bicycle spaces
- 7 motorbike spaces
- 12 car spaces (including 2 accessible spaces)

These spaces are available for use only by the residents and any person authorised by the manager.

The rules for the use of the parking spaces are set out below.

### Nineteen bicycle spaces

1. These spaces are provided on Level 1 and Level 2.
2. None of the spaces are allocated to any individual room.
3. Bicycles stored in this area must be locked.
4. Care must be taken when parking bicycles and leaving the space so that other bicycles are not damaged.
5. Use of these spaces is limited to one bicycle per resident.



**Seven motorbike spaces**

1. These spaces are provided on Level 1 and Level 2.
2. None of the spaces are allocated to any individual room.
3. Motorbikes stored in this area must be locked.
4. Care must be taken when parking motorbikes and leaving the space so that other motorbikes are not damaged.
5. Use of these spaces is limited to one motorcycle per resident.

**Twelve car spaces**

1. Subject to these rules, the 12 car spaces are to be allocated by the manager for use by 12 residents.
2. None of the spaces are allocated to any individual room on a permanent basis.
3. Use of these spaces is limited to one vehicle per resident.

Use of two car spaces for disabled parking

1. If at any time a resident with a vehicle holds a current disabled parking permit then one space shall be reserved solely for use by that resident.
2. The manager will notify other residents should this situation arise.

**8. AMENITY OF TENANTS**

All rooms are un-furnished unless furniture is requested by tenants as part of their rental agreements. All rooms include built-in wardrobes.

All rooms include kitchens, including cook tops and bar fridge. Microwaves, kettles, toasters etc may be requested by tenants as part of their rental agreements.

All rooms include a private bathroom.

Washing machines and dryers are provided in the communal laundry on Level 5.

Each room will be supplied with an information folder containing the Manager's details and contact number and emergency contact numbers for essential services such as fire, ambulance, police and utilities such as gas and electricity.

Some outdoor furniture is provided for common use.



A landline is available in the common room. This can be used for free emergency phone calls.

## **9. AMENITY OF NEIGHBOURHOOD**

All residents, visitors and the Manager shall consider the amenity of the neighbours and shall take all reasonable measures to ensure their conduct does not impact adversely on the surrounding area.

A noise curfew applies to both indoor and outdoor areas, being no loud noise or other activities after 9:00pm and before 8:00am.

The use of the outdoor communal areas are restricted to between 8:00am and 9pm, 7 days a week.

Smoking is not permitted within the building at any time.

The Manager reserves the right to terminate the lodging of any guests and vacate his/her room for violation of the House Rules.

Any complaints from neighbours shall be formally noted in a complaints register, which shall be held by the Manager and made publically available upon request. All complaints shall be investigated fully by the Manager and rectified as reasonably necessary. This may include the termination of the lodging of any resident and vacation of his/her room for violation of the House Rules leading to a verified neighbour complaint.

## **10. VISITOR POLICY**

Residents may entertain visitors in their room. Visitors must obey the House Rules and leave the premises by 10pm.

Any resident inviting visitors to the premises must accept full responsibility for them and their behaviour. In the event of any serious misconduct by the visitor of a resident, the resident may also be asked to leave the premises and be asked to pay for damages if required.

Visitors are not permitted in the common room or to use common facilities.

The entertainment of visitors is to be limited to the resident's room.



## 11. WASTE MANAGEMENT

Details regarding waste minimisation, recycling and collection arrangements, including the servicing of sharps and sanitary napkin receptacles are included in the waste management plan and include the following:

- General waste and recycle bins are provided in the garbage room.
- Separate bins are provided in the communal bathroom for sanitary napkin disposal.
- Residents are required to clean their rooms and to put sorted waste into the common rubbish and recycling bins (room service can be arranged by request at cost).

The manager will provide assistance with accessing waste facilities, as required.

## 12. CLEANING OF PREMISES

All common areas will be regularly cleaned with a minimum of three professional cleaning services on weekly basis. Pest and vermin control is undertaken every 6 months.

## 13. SECURITY

CCTV and perimeter sensor lights are installed within and outside of the building to ensure appropriate surveillance and security.

CCTV cameras are installed to monitor front entrance, common room and backyard.

Sensor lights are installed outside the building to light up the front entrance and communal open space areas with sensor of daylight and motion.

All doors are security locked.

All residents to have their own keys to their individual units.

Keys for security entrance doors are to be made available to essential services such as fire brigade in case of emergency.

A landline is available in the common room for emergency phone calls.



#### **14. ACCESSIBILITY**

An intercom is installed at the front entrance to the site with a sign that contains the contact details of the site manager in order to enable disabled access and loading and unloading.

#### **15. FIRE SAFETY**

The Manager is to be responsible for the maintenance and fire safety of the building

A copy of the annual fire safety statement and current fire safety schedule for the premises must be prominently displayed in the reception area

A floor plan must be permanently fixed to the inside of the door of each residential room to indicate the available emergency egress routes from each room.

Residents must familiarise themselves with the fire safety and evacuation procedures located in the reception area and back of room doors, location of fire blankets and fire extinguishers.

#### **16. EMERGENCY EVACUATION PROCEDURES**

An Emergency Management and Evacuation Plan to include events including flooding is to be prepared for the building and approved by the Principal Certifying Authority prior to the issue of the Occupation Certificate and is to be attached to this Plan of Management. Staff shall be trained in relation to the operation of the approved Emergency Management and Evacuation Plan.

A floor plan must be permanently fixed to the inside of the door of each residential room to indicate the available emergency egress routes from each room.

Evacuation shall take place to an assembly point.

A landline is available for emergency phone calls.

In an emergency dial 000.



## 17. INTERNAL SIGNAGE

The following internal signage will be provided on site in a prominent communal area:

- Name and contact number of Manager
- Emergency contacts for essential services
- House Rules
- Copy of the annual fire safety statement and current fire safety schedule

Floor plans will be provided to the inside of each door to indicate the available emergency egress routes from the respective bedroom.

A floor plan must be permanently fixed to the inside of the door of each residential room to indicate the available emergency egress routes from each room.

## 18. HANDLING OF COMPLAINTS

A Complaints Register will be maintained by the Manager, which includes the following information:

- Complaint date and time
- Name, address and contact details of person making the complaint
- Nature of complaint
- Action undertaken by premises to resolve the complaint
- Follow up and outcome.

The Manager is to maintain a complaints register of both public (external) and occupant (internal) complaints.

The register will contain forms to be completed by the Manager, occupants and/or complainants. The form is to record the name, addresses, phone number and date of any person making a complaint and the details of the complaint. Only complaints where all the above information is given are to be recorded in the register.

The Manager (or, where appropriate, the owner) will respond to a complaint whether written or oral within 24 hours by telephone and provide the reference number of the complaint.

The Manager will respond within 7 days to a complaint in writing. Should more than 7 days be required to respond to the complaint, the Manager will advise the complainant of why additional time is required to address the issue and provide an approximate time frame to enable a response.





## PLAN OF MANAGEMENT

112-116 Parramatta Road, Stanmore

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The complainant may request a meeting with the Manager to discuss the issue. The Manager will keep minutes of any such meeting and attach these minutes to the Complaint Register.

Incident Reports can be lodged by any person relating to an incident, crime, or nuisance associated with the premises. An Incident Report form will be made available by the Manager upon request. Incident Reports will be lodged with the Manager and actioned in accordance with the procedure outlined above.

**19. STAFF TRAINING**

Details of training and induction procedures to ensure that staff are aware of the provisions and requirements of the Plan of Management and emergency procedures are to be maintained.

**20. REVIEW OF PLAN OF MANAGEMENT**

The Plan of Management will be reviewed on an annual basis and completed prior to 30 June of each year.

The Manager is responsible for overseeing each annual review and amending the Plan of Management as necessary.

The Plan of Management (including House Rules) may be varied from time to time by the Council, on the application of the owner/Manager, without the need for formal modification of the development consent.

Once modified, the Manager is to provide an updated copy of the Plan of Management to all occupants.

Date –

Attached: House Rules  
Floor Plans



## HOUSE RULES

1. Alcohol - Alcohol is prohibited from being consumed in the public areas fronting the boarding house.
2. Smoking - Smoking is not permitted inside any part of the boarding house.
3. Guests - Residents must make sure their guests are aware of, and follow, the House Rules. No guests are allowed into the boarding house before 7:00am and after 10:00pm.
4. Security - The front door of the premises is to be locked at all times. No one is to be let into the premises who has no legitimate reason to be there.
5. Outdoor communal area - The use of the outdoor communal area is restricted to between 8:00am and 9:00pm, 7 days a week.
6. Indoor communal area - The indoor communal areas will be available for use of occupants at all times between 6:00am and 10:00pm, 7 days a week.
7. Maintenance of rooms - Residents must maintain their rooms:
  - a. in a clean manner
  - b. in a way which does not interfere with the reasonable comfort of other residents
  - c. in a way which does not create a fire or health hazard.
8. Residents must not intentionally or recklessly damage or destroy any part of their rooms or a facility of the boarding house.

Attachment D – Clause 4.6 Variations

APPENDIX A

REQUEST TO VARY HEIGHT OF BUILDINGS  
DEVELOPMENT STANDARD

A

Sutherland & Associates Planning Pty Ltd

Statement of Environmental Effects 112-116 Parramatta Road, Elizabeth

**REQUEST FOR AN EXCEPTION TO THE HEIGHT OF BUILDINGS DEVELOPMENT STANDARD**

**Introduction**

The request for an exception to the development standard is contained in the request of the height of buildings development standard contained within Clause 4.8 of the Manly Local Environmental Plan 2013 (LEP). The request is made in respect of the proposed development and modification of a residential flat development complying with the following: 17 vehicles, 138 square metres of new floor space and a 34 square metre carport from the north for the building located at 112-116 Parramatta Road, Manly.

**Clause 4.8 Exception to development standards**

Clause 4.8(2) of the LEP provides that development consent may be granted for development even though the development would contravene a development standard imposed by the LEP, or any other environmental planning instrument.

However, clause 4.8(3) states that development consent may not be granted for development that contravenes a development standard unless the contravention has been considered and approved for the applicant, the results of which are a determination of the development standard to be demonstrated:

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

In accordance with clause 4.8(3) the applicant requests that the height of buildings development standard be varied:

**Development Standard to be varied**

In accordance with clause 4.8 Height of Buildings, the height of a building on any land shall not exceed the maximum height shown for the land on the Height of Buildings Map. The maximum height shown for the site is 14 metres as shown in Figure 1:



**Figure 1:**  
Extract from the MLDP  
Height of Buildings Map

Statement of Environmental Effects – 112-116 Parramatta Road, Manly

Building height (or height of building) is defined in the Dictionary of the MLEP as:

- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
  - (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,
- including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

**Extent of Variation to the Development Standard**

Given the ground level at Corinne Lane is effectively one storey higher than the ground level of Paramatta Road, and the existing ground level is highly modified to accommodate floor levels which relate to both Paramatta Road and Corinne Lane, the existing slab levels do not represent a meaningful representation of the existing ground level. Therefore in order to determine a meaningful ground level for the calculation of the height of the building, which bears a closer relationship to the overall topography of the site and its context, it is reasonable to calculate the existing ground level as the level extrapolated across the site taken from the ground level at Corinne Lane to the ground level at Paramatta Road. This is consistent with the approach taken in *Bellar v Council of the City of Sydney* [2014] NSWLEC 1070.

Based on an extrapolated ground level the development requires a minor variation to the MLEP height of buildings development standard as the lift core exceeds the 14-metre height control by 1.995 metres on the southern side to 2.189 metres on the northern side as shown in Figure 2. The northern edge of the roof over Level 5 on the northern side of the courtyard exceeds the height limit by up to 630mm on the western side of Level 5 to 1.141 metres on the eastern side of Level 5 as shown in Figures 3 and 4 respectively.

**Figure 2:**

Extract from Northern Elevation showing the lift overrun non-compliance (measured from natural ground level below).



Statement of Environmental Effects 112 - 15 Paramatta Road, Glenmore



Figure 3:

Extract from the West Elevation showing the Level 5 roof non-compliance (measured from natural ground level below)

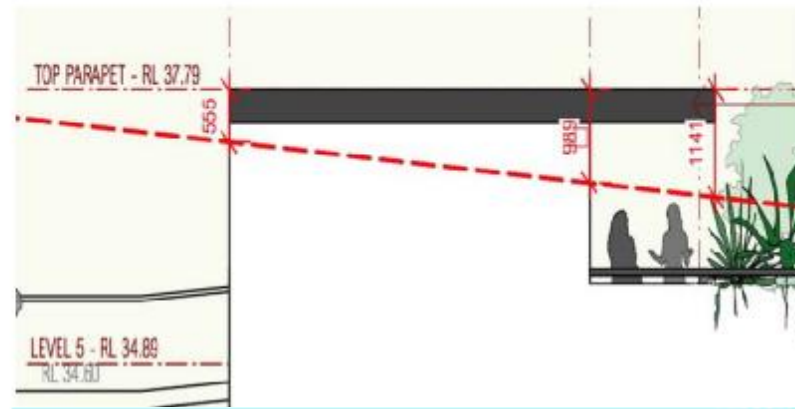


Figure 4:

Extract from the East Elevation showing the Level 5 roof non-compliance (measured from natural ground level below)

Clause 4.6(3)(a) Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Historically the most commonly invoked way to establish that a development standard was unreasonable or unnecessary was satisfaction of the first test of the five set out in *Webbe v Pittwater Council* [2007] NSWLEC 827 which requires that the objectives of the standard are achieved notwithstanding the non-compliance with the standard. This request addresses the five-part test described in *Webbe v Pittwater Council* [2007] NSWLEC 827, followed by a concluding position which demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.

1. the objectives of the standard are achieved notwithstanding non-compliance with the standard;

Statement of Environmental Effects - 112-116 Parramatta Road, Cinnamon

The specific objectives of the building height development standard, as specified in clause 4.3 of the MUE are listed below. A comment on the proposed development with respect to each objective is also provided.

**(a) To establish the maximum height of buildings.**

The development allowed could exceed maximum height of buildings provided Clause 4.3 of the MUE provided flexibility in applying the maximum height of buildings standard where compliance with the standard is unreasonable or unnecessary in the circumstances. There are a limited number of planning grounds on which the development can be justified.

**(b) To ensure building height is consistent with the desired future character of the area.**

The majority of the building complies with the 14-metre height standard. The non-complying area of the building is limited in size and is setback from the front and rear boundaries so that the non-complying part of the building does not contribute to excessive visual bulk when viewed from the street or the surrounding properties. The development has a street wall height of 12.39-12.65 metres, which sits below the 14-metre height standard and is consistent with other development in the vicinity of the site including 80-84 Parramatta Road and 100 Parramatta Road (refer to images below).

The overall height of the proposed development is appropriate having regard to the heights of other developments on the southern side of Parramatta Road between Northumberland Avenue and Bridge Road. A 1.35 metre variation was proposed for the development at 80-84 Parramatta Road. With an increase to the floor to ceiling heights required by Council, the variation that was approved was in the order of 2.05 metres.

Council has also approved variations to the height of buildings standard on the southern side of Parramatta Road, close to the site including 113-117 Parramatta Road (16.24 metres), 119 -125 Parramatta Road and 139-143 Parramatta Road. Whilst these sites may not be within the immediate visual catchment of the site they are within the strategic context of the site (as determined by Council) as they are located within the Parramatta Road Planning Precinct (Commercial Precinct 35) as is the subject site.

**Figure 5:**  
80-84 Parramatta Road. Source: Google Street View 2018





Figure 6:

90-94 Paramatta Road, 96-98 Paramatta Road & 100-104 Paramatta Road (left to right).  
Source: Google Street View 2018



Figure 7:

113-117 Paramatta Road (identified in red) and 119-125 Paramatta Road (right).  
Source: Council Assessment Report for DA201300571 originally prepared by Architects

(c) to ensure buildings and public areas continue to receive satisfactory exposure to the sky and sunlight.

Statement of Environmental Effects - 112-116 Paramatta Road, Star more



the adjoining properties, where separate access to the site and a right of way is proposed. The above diagrams prepared by Sutherland & Associates Pty Ltd demonstrate that the adjoining properties will continue to receive a reasonable level of solar access on 21 June.

4.10.11 The proposed height of the building is a proportionate and appropriate scale in relation to the site, form and surrounding context.

The height of the development is consistent with the height of development which can be expected in the locality.

The height of the development is consistent with the height of development which can be expected in the locality.

- The height of the development is consistent with the height of development which can be expected in the locality.
- The height of the development is consistent with the height of development which can be expected in the locality.

The height of the development does not, as it is not an adverse impact on the surrounding area, constitute an unreasonable or unjustified departure from the height of development which can be expected in the locality and the setback of the non-complying element from the northern edge of the development and the setback from the street.

2. the underlying objective or purposes of the standard is not relevant to the development and therefore compliance is unnecessary;

The underlying objective or purposes of the height control standard of the proposed development is not relevant to the development and therefore compliance is unnecessary.

3. the underlying object of purpose would be released or waived if a control area was required and therefore compliance is unreasonable;

The underlying objective or purposes of the height control standard of the proposed development is not relevant to the development and therefore compliance is unnecessary.

The underlying objective or purposes of the height control standard of the proposed development is not relevant to the development and therefore compliance is unnecessary.

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;

Council has historically adopted an extremely flexible approach to the implementation of the height of building control. Often very little justification has been provided by Council for variations to the standard. Given the proposed variations are consistent with other variations granted by Council and in

The absence of any unreasonable impacts arising from the variation exceeds the off the standard is unreasonable and excessive.

- 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 this standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone

The proposed variation will not be unreasonable and excessive.

8.1.1. Compliance with the Building Height Control in a Community Centre Zone does not result in unreasonable impacts.

- The proposed variation is consistent with the LEP objectives for building height and amenity.
- The proposed variation is consistent with the objectives of the B4 Mixed Use zone.
- The proposed building height exceeds the height of the surrounding development and provides an appropriate height for a building in response to the local topography at B4 Mixed Use zone.
- The proposed building height complies with the height of the surrounding development in the vicinity of the surrounding properties.
- Council has approved variations to the height of buildings standard under the LEP and the planning controls in relation to the development standard has been approved for several developments on the eastern side of Parkmore Road. Does the proposed variation in relation to the height of buildings standard by Council result in any unreasonable impacts arising from the variation. Compliance with the standard is unnecessary and unreasonable.
- The proposed variation to the height of buildings standard does not result in any adverse heritage impacts. The heritage impact assessment prepared by Paul Levine will consider all of the previous development of the site and the surrounding area and will take into account the heritage significance of the site. The variation to the height of buildings standard is not unreasonable.

Given the B4 Mixed Use zone is a suitable environmental zoning for the site, compliance with the standard is not unreasonable and excessive.

The height of the building does not exceed the height of the surrounding development. The proposed building height complies with the height of the surrounding development and provides an appropriate height for a building in response to the local topography at B4 Mixed Use zone. The proposed variation to the height of buildings standard by Council is not unreasonable and excessive.

As discussed previously in the clause 4.6 request the proposed building height is only consistent with the height of other developments approved in the vicinity of the site and in the planning precinct. In this regard the development will be visually compatible with the surrounding developments and proposed variation will not result in any unreasonable impacts on the streetscape. In addition the part of the building that exceeds the height limit is setback from the street wall and therefore the visual impact of the variation will be limited.

The proposed variation to the height standard does not result in any unreasonable impacts on the amenity of the surrounding properties. The portion of the building that exceeds the height standard does not result in any unreasonable impacts on the solar access available to the surrounding properties nor does it result in unacceptable privacy impacts. The variation does not result in any unreasonable loss of views from the surrounding properties.

The proposed variation to the height of buildings standard does not result in any adverse heritage impacts. The heritage impact assessment prepared by ERM (2016) concludes that the proposed development will not impact on the existing character or heritage significance of either the Amisfield Farm LGA or the Amisfield CA.

Compliance with the standard would ensure the suitability of shorelands adjoining the accessible location without cause of greater consideration to local growth of the height character of the street.

Clause 4.1(1)(c) (General Outlets) states that the proposal must have adequately addressed the matters required to be determined by clause 4.1(1).

Clause 4.1(2)(d) states that coverage of concerns that are not subject to development standards as a development standard does not constitute compliance with the development standard. The proposed development complies with the requirements of the development standard as stated in clause 4.1(1).

These matters are comprehensively addressed above in this earlier report with reference to the relevant clauses in Wulfsberg (Local Council 2009) based on B4 Mixed Use Zone and the objectives of the development standard (a unimpaired or increased) in the circumstances of the case. In addition, the development of a waterfront planning proposal provided with reference to the matters above to the relevant areas will be a fully compliant development standard.

Clause 4.1(3) (Development Standard) states that the proposal is in the public interest, because it is consistent with the zone and development standard objectives.

Clause 4.1(4)(b) states that development consent must not be granted for development that contravenes a development standard, but may be granted if it is a proposed development that is a development standard because it is consistent with the objectives of the development standard and the objectives for the development within the zone. In this case, the proposed development is a development standard.

With regard to the use of a development standard, the proposed development is a development standard because it is a proposed development, which is a development standard, and the proposed development is a development standard.

**Compliance of the Development Standard**

The proposed development is consistent with the objectives of the development standard, as stated in clause 4.1(1)(c) of the development standard.

**Objectives of the Zone**

Clause 4.1(1)(b) (General Outlets) states that the proposal must have adequately addressed the matters required to be determined by clause 4.1(1). The objectives of the zone are:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To support the renewal of specific areas by providing for a broad range of services and employment uses in development which display good design.
- To promote commercial uses by limiting housing.
- To enable a purpose built dwelling house to be used in certain circumstances as a dwelling house.

- To constrain parking and restrict car use.

The combination of land uses proposed is permitted with consent and has been approved in other locations along Parramatta Road. The proposed ground floor retail use and nil setback to the shop fronts maintains the existing use and pattern of ground floor development with frontage to Parramatta Road.

Car parking is limited on the site and given the frequency of public transport services in close proximity to the site, public transport use is likely to be the most efficient form of transport available to future residents.

For the reasons given the proposal is considered to be consistent with the objectives of the B4 zone.

**Objectives of Clause 4.6**

The specific objectives of Clause 4.6 are:

- (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.

The proposal generally complies with the height of buildings standard. Only minor variations are proposed for the lift over-run and a small part of Level 5 on the northern side of the internal courtyard. The variation to the height of buildings standard (under both the existing and former controls) for many existing and essentially all new developments in Precinct 35 (east of the HCA) shows that the emerging character of the precinct is of a greater scale and density than is reflected in the applicable development standards.

The variation to the height of buildings standard will therefore deliver a scale of development on the site which is compatible with development in the street and locality generally.

The development application has therefore demonstrated that it is appropriate in this circumstance to provide flexibility in the application of the height of buildings development standard because it will allow for a form of development which is consistent with the five storey developments in the vicinity of the site.

**Conclusion**

The proposed variation to the height of buildings development standard contained within clause 4.3 of the MLEP has been found to be reasonable and appropriate in the circumstances of the case. In addition there are sufficient environmental planning grounds to justify the variation. In this regard it is reasonable and appropriate to vary the height of buildings development standard to the extent proposed.

SUTHERLAND & ASSOCIATES PLANNING

APPENDIX B

REQUEST TO VARY THE FLOOR SPACE RATIO  
DEVELOPMENT STANDARD

B

Sutherland & Associates Planning

## REQUEST FOR AN EXCEPTION TO THE FLOOR SPACE RATIO DEVELOPMENT STANDARD

### Introduction

This request for an exception to a development standard is submitted in respect of the floor space ratio development standard contained within Clause 4.4 of the Marickville Local Environmental Plan 2011 (MLEP). The request relates to an application for demolition works and reconstruction of a predominately four storey mixed use development comprising car parking for 14 vehicles, 138 square metres of retail floor space and a 34 room boarding house (plus one room for the boarding house manager) at 112-116 Parramatta Road, Stanmore.

### Clause 4.6 Exceptions to development standards

Clause 4.6(2) of the MLEP provides that development consent may be granted for development even though the development would contravene a development standard imposed by the MLEP, or any other environmental planning instrument.

However, clause 4.6(3) states that 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) there are sufficient environmental planning grounds to justify contravening the development standard.

In accordance with clause 4.6(3) the applicant requests that the floor space ratio standard be varied.

### Development Standard to be varied

Clause 4.4(2) of the MLEP provides that the maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map. The site is within area 'S1' on the Floor Space Ratio Map and accordingly a F&S of 1.5:1 applies to the site as shown in Figure 1.

### Extent of variation to the Development Standard

The site has an area of 670.4 square metres and therefore the maximum gross floor area permitted on the site is 1,005.6 square metres. The proposed development has a gross floor area of 1,144 square metres which equates to a floor space ratio of 1.706:1. A variation of 138.4 square metres is therefore proposed (13.8%).

Figure 1:

Extract from the MLEP  
Floor Space Ratio Map



Clause 4.6(3)(a) Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Historically the most commonly invoked way to establish that a development standard was unreasonable or unnecessary was satisfaction of the first test of the five set out in *Wahbe v Pittwater Council* [2007] NSWLEC 827 which requires that the objectives of the standard are achieved notwithstanding the non-compliance with the standard.

The Land and Environment Court judgement in *Four2Five Pty Ltd v Ashfield Council* [2016] NSWLEC 90 indicates that additional ways of establishing that compliance is unreasonable or unnecessary may be necessary beyond consistency with the standard and zone objectives. For completeness, this request addresses the five-part test described in *Wahbe v Pittwater Council* [2007] NSWLEC 827, followed by a concluding position which demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.

**1. the objectives of the standard are achieved notwithstanding non-compliance with the standard;**

The specific objectives of the floor space ratio development standard, as specified in clause 4.4 of the MLEP are identified below. A comment on the proposal's consistency with each objective is also provided.

(a) to establish the maximum floor space ratio,

The development standard establishes the maximum floor space ratio for the site. Clause 4.6 of the MLEP provides flexibility in applying the maximum floor space ratio standard where compliance with the standard is unreasonable or unnecessary in the circumstances, there are sufficient environmental planning grounds and whether the development is in the public interest.

(b) to control building density and bulk in relation to the site area in order to achieve the desired future character for different areas,

Statement of Environmental Effects – 112-118 Parramatta Road, Stanmore

The bulk and scale of the proposed development is appropriate notwithstanding a variation is proposed to the floor space ratio development standard as the proposal adheres consistently with the character of development in the vicinity of the site.

The density, scale and massing of the building is consistent with the development on the southern side of Paramatta Road between Northumberland Avenue and Bridge Road including:

- 80-84 Paramatta Road. This application was approved with a variation to the floor space ratio standard of 50.72 square metres or 25.3%
- 90-94 Paramatta Road
- 96-98 Paramatta Road
- 100-104 Paramatta Road

Council has also approved developments on Paramatta Road (within the Paramatta Road Planning Precinct (Commercial Precinct 35) with a greater density than is proposed including:

- 113-117 Paramatta Road (DA201300571). This application was approved with an FSR of 2.58:1 and therefore varied the FSR development standard by 72%.
- 119-125 Paramatta Road (DA200700518) was approved with an FSR of 2.29:1 under the former planning controls which permitted a maximum FSR of 2:1. This is a variation of 29%.
- 139-143 Paramatta Road (DA200300262) was approved under the former planning controls with an FSR of 2.29:1 (Block A) and 1.66:1 (Block B).

Statement of Environmental Effects: 112-116 Paramatta Road, Stanmore

Figure 2:

80-84 Paramatta Road. Source: Google Street View 2018.







Figure 3:

90-94 Paramatta Road, 95-99 Paramatta Road & 100-104 Paramatta Road (left to right).  
Source: Google Street View 2018



Figure 4:

113-117 Paramatta Road (identified in red) and 110-105 Paramatta Road (right).  
Source: Council Assessment Report DA201500571 originally prepared by Architects

The variation to the floor space ratio standard (under both the existing and former controls) for many existing and essentially all new developments in the Precinct shows that the emerging character of the precinct is of a greater scale and density than is reflected in the applicable development standards.

The subject site is adjacent to two Heritage Conservation Areas. The assessment of the proposed development's impact on the adjacent Heritage Conservation Areas, prepared by Viat, Cavine & Co concludes that the proposed development will not impact on the existing character or heritage significance of either the Annandale Farm HCA or the Annandale HCA.

- (c) to minimise adverse environmental impacts on adjoining properties and the public domain.

The development will not result in any unreasonable poor access or privacy impacts on any residential properties, notwithstanding the proposed variation to the floor space ratio control.

The proposal significantly improves the relationship of the site with the public domain, providing active ground floor uses, a visually interesting facade and passive surveillance of the public domain throughout the day and night.

The objectives for the floor space ratio control for mixed use development specified in Section 5.1.3 of the Marrickville Development Control Plan (MDCP) are:

01. To ensure the density of development is compatible with the future desired character of the relevant commercial centre.
02. To ensure the density of development is appropriate to the contextual constraints of the site.

The minor variation to the floor space permitted does not prevent the development from achieving consistency with the emerging character of the B4 zone or the Parramatta Road Planning Precinct (Commercial Precinct 35). The scale and massing of the building is consistent with the development on the southern side of Parramatta Road between Northumberland Avenue and Bridge Road including:

- 80-84 Parramatta Road. This application was approved with a variation to the floor space ratio standard of 557.2 square metres or 55.3%.
- 90-94 Parramatta Road
- 95-98 Parramatta Road
- 100-104 Parramatta Road

Council has also approved variations to the standard for other developments on Parramatta Road including:

- 110-117 Parramatta Road (DA201300571). This application was approved with an FSR of 2.65:1 and therefore varied the FSR development standard by 72%.
- 119-125 Parramatta Road (DA200700516) was approved with an FSR of 2.29:1 under the former planning controls which permitted a maximum FSR of 2:1.
- 139-143 Parramatta Road (DA200900262) was approved under the former planning controls with an FSR of 2.29:1 (Block A) and 1.66:1 (Block B).

The development also includes a mix of uses and maintains an active ground floor frontage to Parramatta Road consistent with the desired character of the D4 Mixed Use zone.

There are no specific contextual constraints which would warrant the consent authority requiring a reduced floor space ratio on the site.



- 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 would be unreasonable or unnecessary. That is, the particular piece of land should not have been included in the particular zone

the proposed zoning of the land is reasonable and appropriate

4. In compliance with the requirements of development standard 4.1.1, the proposed zoning is also unreasonable and unnecessary as it applies to the particular piece of land.

- The proposed development is consistent with the LEP objectives for the particular piece of land.
- The proposed development is compatible with the objectives of the DEU development standard.
- The proposed development is consistent with the objectives of the DEU development standard. The proposed development is consistent with the objectives of the DEU development standard. The proposed development is consistent with the objectives of the DEU development standard.
- The proposed development is consistent with the objectives of the DEU development standard.
- The proposed development is consistent with the objectives of the DEU development standard.
- Council has applied considerable time and effort in applying the LEP objectives under the current and former planning schemes. Variations to the development standard have been also made for certain provisions of the LEP and from various Councils. Council is also aware of the proposed development. Over the proposed variation is consistent with the variations (partly by Council and partly by other Councils) and the objectives of the DEU development standard. It is necessary and unreasonable.
- The proposed variation to the development standard will not result in any unreasonable impacts. The proposed variation to the development standard will not result in any unreasonable impacts.
- The proposed variation to the development standard does not result in any unreasonable impacts. The proposed variation to the development standard does not result in any unreasonable impacts. The proposed variation to the development standard does not result in any unreasonable impacts.

Clause 4.6(4)(c) of the Environmental Effects Planning (Local Government) Regulation 2017 requires the development standard.

The proposed development is consistent with the objectives of the DEU development standard. The proposed development is consistent with the objectives of the DEU development standard. The proposed development is consistent with the objectives of the DEU development standard.

Compliance with the standard would reduce the availability of affordable housing in an accessible location without delivering greater consistency or compatibility with the emerging character of the street.

Clause 4.6(4)(d) consent authority satisfied that the written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

Clause 4.6(4)(a)(i) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

These matters are comprehensively addressed above in this written request with reference to the five part test described in *Welch v Pittwater Council* [2007] NSWLEC 827 for consideration of whether compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. In addition, the establishment of environmental planning grounds is provided, with reference to the matters specific to the proposal and site, sufficient to justify contravening the development standard.

Clause 4.6(4)(a)(ii) consent authority satisfied that the proposal is in the public interest because it is consistent with the zone and development standard objectives.

Clause 4.6(4)(a)(ii) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that 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.

**Objective of the Development Standard**

The proposal's consistency with the objectives of the development standard have been addressed in detail in this clause 4.6 request.

**Objectives of the Zone**

The objectives of the B4 Mixed Use Zone are:

- To provide a mixture of compatible land uses;
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling;
- To support the renewal of specific areas by providing for a broad range of services and employment uses in development which display good design;
- To promote commercial uses by limiting housing;
- To enable a purpose built dwelling house to be used in certain circumstances as a dwelling house;
- To constrain parking and restrict car use.

The combination of land uses proposed is permitted with consent and has been approved in other locations along Parramatta Road. The proposed ground floor retail use and nil setback to the shop front maintains the existing use and pattern of ground floor development with frontage to Parramatta Road.

Car parking is limited on the site and given the frequency of public transport services in close proximity to the site, public transport use is likely to be the most efficient form of transport available to future residents.

For the reasons given the proposal is considered to be consistent with the objectives of the B4 zone.

**Objectives of Clause 4.6**

The specific objectives of Clause 4.6 are:

Statement of Environmental Effects 112-116 Parramatta Road, Parramatta

(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.

As demonstrated above, the proposal is consistent with the objectives of the zone and the objectives of the floor space ratio standard notwithstanding a variation is proposed to the maximum floor space ratio permitted on the site. Further, the variation does not result in any unreasonable impacts on the amenity of the surrounding residential properties or the streetscape of Panamatta Road. Accordingly, there is no reason why there should not be flexibility in applying the development standard.

The proposal allows for the most economic use of the site in an area which is well served by public transport, provides floor space for employment generating uses, is close to employment opportunities and is in close proximity to education and recreational facilities. Modifications to the development to achieve compliance with the standard would reduce the availability of affordable housing in an accessible location without delivering greater consistency or compatibility with the emerging character of the street.

Accordingly, it is considered that the consent authority can be satisfied that the proposal meets objective 1(c) of Clause 4.6 in that allowing flexibility in relation to the floor space ratio development standard will achieve a better planning outcome in this instance.

**Conclusion**

The proposed variation to the floor space ratio development standard contained within clause 4.4 of Manickville Local Environmental Plan 2011 has been found to be reasonable and necessary in the circumstances of the case. In addition there are sufficient environmental planning grounds to justify the variation. In this regard it is reasonable and appropriate to vary the floor space ratio development standard to the extent proposed.

Statement of Environmental Effects - 112-116 Panamatta Road, Stanmore