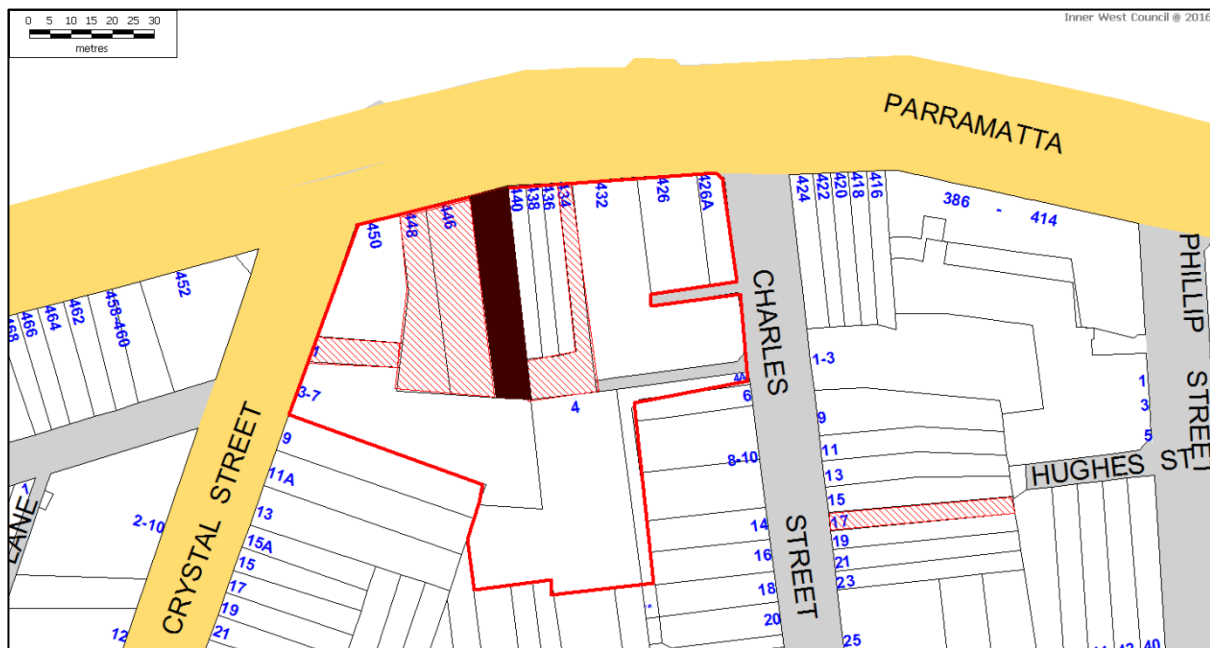



 <h1>INNER WEST COUNCIL</h1>	
<b>DEVELOPMENT ASSESSMENT REPORT</b>	
<b>Application No.</b>	201600094
<b>Address</b>	442 Parramatta Road, Petersham
<b>Proposal</b>	To demolish the existing improvements and construct a 4 part 5 storey mixed use development containing a ground floor commercial tenancy and 21 boarding rooms (including a manager's room) on the upper floors with associated parking.
<b>Date of Lodgement</b>	9 March 2016
<b>Applicant</b>	Admark Investment Pty Ltd
<b>Owner</b>	Admark Investment Pty Ltd
<b>Number of Submissions</b>	Original proposal – 12 plus a petition containing 63 signatures Amended proposal – 3
<b>Value of works</b>	\$1,820,000
<b>Reason for determination at Planning Panel</b>	The extent of the departure from the building height and FSR development standards exceeds staff delegation.
<b>Main Issues</b>	<ul style="list-style-type: none"> <li>• Clause 4.6 variations for building height and FSR</li> <li>• Car parking non-compliance</li> </ul>
<b>Recommendation</b>	Deferred commencement consent



Subject Site:		Objectors:	 (most submissions were outside map area)
Notified Area:			

## 1. Executive Summary

This report concerns an application to demolish the existing improvements and construct a 4 part 5 storey mixed use development containing a ground floor commercial tenancy and 21 boarding rooms (including a manager's room) on the upper floors with associated parking. The original application was notified in accordance with Council's notification policy and 12 submissions plus a petition containing 63 signatures was received. Re-notification of the amended proposal attracted 3 submissions.

The development has a maximum height of approximately 19.4 metres (lift overrun) or 38.5% which exceeds the 14 metre building height development standard prescribed under Clause 4.3 of Marrickville Local Environmental Plan 2011 (MLEP 2011). The development also results in a departure of approximately 64.8m<sup>2</sup> or 10.4% from the floor space ratio (FSR) development standard contained in Clause 4.4 of MLEP 2011.

The application was accompanied by written submissions in relation to the contravention of the development standards in accordance with Clause 4.6 (Exceptions to Development Standards) of MLEP 2011. The non-compliant building height and FSR are considered acceptable in the context of Council's recent approval of a similar non-compliant development on the adjoining site to the west at 446-448 Parramatta Road, Petersham.

The application is considered suitable for the issue of a deferred commencement consent.

## 2. Proposal

Approval is sought to demolish the existing improvements and construct a 4 part 5 storey mixed use development containing a ground floor commercial tenancy and 21 boarding rooms (including a manager's room) on the upper floors with associated parking.

The proposal is further described as follows:

### Ground Floor

- Retention of the front façade;
- New 74m<sup>2</sup> commercial tenancy;
- Separate commercial/residential entries; and
- Lift and fire stairs.

### Level 1

- Retention of the front façade;
- Void over commercial space below;
- 1 car parking space, 5 motorcycle parking spaces and waste storage facilities at the rear;
- 15 bicycle racks;
- 3 boarding rooms;
- Managers room (room 1.04) and associated 8m<sup>2</sup> private open space area;
- Lift and fire stairs; and
- Communal open space throughout the centre of the site.

### Level 2

- 6 boarding rooms; and
- Lift and fire stairs.

Level 3

- 5 boarding rooms;
- Common room; and
- Lift and fire stairs.

Level 4

- 6 boarding rooms; and
- Lift and fire stairs.

Level 5

- 45m<sup>2</sup> outdoor common area; and
- Lift and fire stairs.

The proposal seeks to have a total capacity for 25 lodgers plus a boarding house manager.

Amended plans were submitted during the assessment of the application in response to concerns raised by Council officers. In summary, the following changes were made:

- Deletion of a storey and modified building setbacks;
- Re-location of the pedestrian walkway linking the front and rear blocks to the eastern boundary;
- Additional separation in the centre of the site between the two blocks;
- Re-location of the communal room;
- Provision of balconies to the boarding rooms facing the right of way to improve amenity to the south-facing boarding rooms;
- Re-location of waste facilities;
- Various changes to the architectural expression of the building and the external colours and finishes; and
- Increased floor to ceiling heights.

### 3. Site Description

The site comprises Lot 1 in DP 60786 and is more commonly referred to as 442 Parramatta Road, Petersham. The site has a frontage to Parramatta Road of 9.18 metres and an overall area of approximately 425m<sup>2</sup>. There is a right of way at the rear of the site, enabling access to Crystal Street. The site currently accommodates an existing 1 part 2 storey building. The rear of the site is comprised of hard paving/concrete. The site is located within the Parramatta Road Commercial Precinct Heritage Conservation Area (HCA 5) as identified in Marrickville Local Environmental Plan 2011.

Adjoining the site to the west is 446 Parramatta Road which currently accommodates a 2 storey brick building. To the east is 438-440 Parramatta Road which contains a 2 storey building with detached structure at the rear. Most development on the northern side of Parramatta Road is predominately 2 storey with some 3 storey mixed use buildings.

### 4. Background

#### 4(a) Site history

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

**Subject Site**

Application	Proposal	Decision & Date
Determination No.1978	To use the premises for the purpose of confectionary manufacture.	Approval 2 March 1959
Determination No.7849	To use the ground floor of an existing commercial building as a loan office.	Approval 27 February 1980
DA201600272	To fit-out and use the ground floor shop as a gym operating between the hours of 6.00am and 10.00pm daily and erect associated signage.	Approval 4 July 2016

**Surrounding properties**

Application	Proposal	Decision & Date
Determination No. 201500260	To demolish the existing improvements and construct a 4 part 5 storey mixed use development with 2 ground floor commercial tenancies, 27 dwellings on the upper floors and 2 basement car parking levels at 446 – 448 Parramatta Road, Petersham.	Approval 9 December 2015

**4(b) Application history**

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

Date	Discussion / Letter/ Additional Information
9 March 2016	Application submitted to Council.
24 March 2016	Application notified to surrounding properties.
6 June 2016	Council sent the applicant a request for additional information.
8 July 2016	The applicant submitted amended plans in response to concerns raised by Council officers.
25 August 2016	A meeting was held between the applicant, architect and Council. Council advised that the amended plans were unsatisfactory and further design refinements were required.
2 September 2016	The applicant submitted further amended plans.
13 September 2016	The amended plans were re-notified to surrounding properties and previous submitters.

**5. Assessment**

The following is a summary of the assessment of the application in accordance with Section 79C 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 (Infrastructure) 2007
- State Environmental Planning Policy (Affordable Rental Housing) 2009

The following provides further discussion of the relevant issues:

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

SEPP 55 provides planning guidelines for remediation of contaminated land while Part 2.24 of MDCP 2011 also provides controls and guidelines for remediation works.

A Preliminary Site Investigation was submitted with the application. The site investigation concluded the following:

- The site has been used for a mixture of commercial and residential purposes;
- The sites in proximity have not been reported as being subject to regulation in relation to environmental impacts, as documented in the NSW EPA/OEH registers;
- There is potential for fill material of an unknown origin which may contain contaminants;
- The site and surrounding areas were free of statutory notices issued by the EPA under the Contaminated Land Management Act 1997 and the Protection of the Environment Operations Act 1997;
- A metal cover indicative of an underground storage tank (UST) was identified at the adjoining property;
- Prior to demolition of current buildings, a hazardous materials survey (HAZMAT) is required to determine whether the building at the site contains asbestos, lead paint and or any other hazardous material; and
- It is concluded that there are potential contamination sources evident. However, there is no available evidence to suggest that the site cannot be made suitable for the proposed development. A soil and groundwater sampling program (Detailed Site Investigation), as well as a hazardous materials survey are recommended. The DSI is recommended once existing structures are demolished and removed.

The application was referred to Council's Environmental Services who provided the following comments:

*"Deferred commencement conditions are included in the recommendation requiring a Staged Detailed Site Contamination Investigation and associated RAP (should the Detailed Site Investigation require it) to be submitted to Council's satisfaction; as well as a Hazardous Materials Survey as recommended in the PSI. It is likely that the site can be made suitable for the proposed development provided that investigations and remediation (if required) are undertaken prior to construction.*

*Various conditions are recommended which relate to contamination and the application of Clause 7 of SEPP 55 for the proposal."*

It is noted that Council's Environmental Services Section have recommended a deferred commencement so that the parts of the site accessible for investigation can be undertaken upfront. The applicant's PSI recommends that the Stage 2 investigation be undertaken after all structures are demolished on site.

Given the conclusions drawn in the applicant's Preliminary Site Investigation, the nature of the development having minimal excavation (generally footings only) and the high level of

certainty around the ability to remediate the site (if necessary), the application is considered to be acceptable subject to compliance with the conditions recommended by Council's Environmental Services. Council is satisfied "that the land will be remediated before the land is used" in accordance with Clause 7(1)(v) of SEPP 55.

#### 5(a)(ii) State Environmental Planning Policy (Infrastructure) 2007

##### *Clause 101 – Development with a frontage to classified road*

The site has a frontage to Parramatta Road which is a classified road.

Vehicular access to the property is provided at the rear of the site via a right of carriageway across 1 Crystal Street and as such is provided by a road other than the classified road. The development would not affect the safety, efficiency and ongoing operation of the classified road.

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

The applicant submitted a Noise Assessment Report with the application that demonstrates that the development will comply with the LAeq levels (noise levels) stipulated in Clause 102 of the SEPP.

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

##### (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))

Under MLEP 2011, the maximum floor space ratio (FSR) permitted for any form of residential accommodation permitted on the land is 1.5:1. Whilst the site does not contain a heritage item that is identified in an Environmental Planning Instrument, interim heritage order, or the State Heritage Register, as residential flat buildings are not permitted on the land an additional FSR of 0.5:1 under Clause 29(1)(c)(i) would not apply to the development. Consequently the maximum allowable FSR for the site for a boarding house development under the Affordable Rental Housing SEPP would be 1.5:1.

The development has a gross floor area (GFA) of approximately 702.3m<sup>2</sup> which would result in a FSR of 1.65:1. The boarding house therefore exceeds the density provisions prescribed by the Affordable Rental Housing SEPP by 66.3m<sup>2</sup> or 10.4%.

The non-compliant FSR of the development is supported. This is discussed later in this report under the heading "Marrickville Local Environmental Plan 2011".

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

A maximum building height of 14 metres applies to the site as indicated on the Height of Buildings Map that accompanies MLEP 2011. The proposed development has a maximum building height of approximately 19.4 metres which exceeds the maximum building height permitted under the Affordable Rental Housing SEPP by 38.5%.

This is discussed in detail later in this report under the heading "Marrickville Local Environmental Plan 2011".

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

The proposal does not include any landscaping treatment of the front setback area. No concerns are raised in this regard as the site is located within the Parramatta Road commercial precinct which requires nil setbacks to the street frontage.

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

The proposed development includes a common room on Level 3 which would receive a minimum of 3 hours direct sunlight between 9.00am and 3.00pm in mid-winter.

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

The proposed development provides compliant private open space areas for both lodgers and the boarding house manager.

The boarding house manager's room on level 1 (room 1.04) is provided with an 8m<sup>2</sup> private open space area. Lodgers are provided with a large deep soil landscaped area in the centre of the site on level 1. In addition, there is also a 45m<sup>2</sup> communal open space area provided on level 5. The lift is proposed to service this level, making the space accessible for all users.

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

The property is located in an accessible area being within 400 metres walking distance to bus stops used by a regular bus service. The boarding house component of the development is required to provide 4 car parking spaces. The development provides 1 car parking space. However, it is recommended that this space be allocated to the commercial tenancy. As such, the car parking variation under the ARH SEPP is a shortfall of 4 spaces.

The applicant submitted a Traffic and Parking Impact Assessment Report which supports the non-compliance for the following reasons:

- Being within a locality (Parking Area 2), the proposed parking provision is consistent with Council's aims of constraining parking in commercial centres with good access to public transport. With the added benefit of car sharing options, this is the case with the location of the subject site. Further to this, this type of development is conducive to the target demographic having very low or no car ownership. Making a trip in a private vehicle is impractical in many cases considering the subject site's proximity to various shops, public transport options, and educational institutions.
- The development provides approximately 3 times more bicycle spaces than required by the Affordable Housing SEPP.
- The site is adjacent to a Council car park to the rear. Council has confirmed that there are strategic plans for possible expansion and upgrading of the rear car park that is accessed from Charles Street. Council's strategic planning has not ruled out connecting the right of way all the way through to Crystal Street, giving the subject site possible future access to the car park. If this is the case, it assists the small amount of required retail component for parking. Also the peak use of this car park during business hours is outside of the peak use for residents.
- There is also a public car park in Hay Street within 100 metres north of the site that is open 24 hours a day seven days a week. It is restricted to 2 hours parking between standard Monday to Friday and Saturday morning business hours and is unrestricted

outside of this time. The peak use of this car park during business hours is also outside of the peak use for residents.

- The existing site constraint of being a long narrow lot, with the width ranging between 7.91m to 9.18m, makes the provision of parking in accordance with the requirements of AS/NZS 2890.1 not possible with a single rear entry/exit. AS/NZS 2890.1 requires 5.4 metre long parking spaces with 5.8 metre wide aisle widths, which equates to a total width of 11.2 metres. Otherwise if parking were to be parallel or angled there also be no room internally for a turn-around area, which would mean vehicles would have to either enter or exit in a forward direction from or onto Parramatta Road, requiring a new vehicle crossing and RMS approval which will be unlikely.
- Extra parking provided to the proposed development would increase the potential of traffic conflicts in the right of way with other users.
- In the Petersham area within 1km walking distance of the subject site, there are 12 GoGet car sharing pods that park at least one car share vehicle. The closest car share spots are 100 metres north on Balmain Road and Hay Street.
- On-street parking is unlikely to be affected as all of the adjacent streets to the subject site's block have restricted parking, aside from a tiny section on Margaret Street near the intersection of Crystal Street.
- Most inner city council's through their DCP's look to restrict the maximum number of car parking spaces to be provided for development to minimise the use of private vehicles in their CBD's and to encourage the use of public transport, pedestrian and cycling access and facilities. As the proposed development is located in the Petersham Commercial Precinct along one of the busiest roads in Sydney, with the benefit of various reliable transport options such as bus, rail and car share, this concept is applicable for this proposal.
- Strategic plans for the Parramatta Road corridor would solidify the future viability of this development, as would future expansion of car share services.

### Comment

The above justification is considered to be reasonable. The extent of the variation, being 4 spaces, is not considered to be significant given the location of the development and the nature of the specific use. As noted in the applicant's justification above, it is confirmed that two of the objectives of the B2 – Local Centre zone in MLEP 2011 are:

1. *To maximise public transport patronage and encourage walking and cycling; and*
2. *To constrain parking and reduce car use.*

Having regard to the above, the variation to car parking is considered acceptable in this instance.

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

All rooms within the boarding house comply with the minimum accommodation size requirements of the Affordable Rental Housing SEPP. The 12m<sup>2</sup> and 13m<sup>2</sup> boarding rooms are required to be single occupancy, whilst the 16m<sup>2</sup> rooms can accommodate 2 lodgers. A condition of consent has been incorporated into the recommendation to confirm how many lodgers are permitted in each room.

### (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.*

The development includes a 30m<sup>2</sup> communal living room at the front of the building on level 3. In addition to this, there is a 45m<sup>2</sup> outdoor common area proposed on level 5 and a large landscaped area in the centre of the site on level 1 and therefore complies with the requirements for a communal living room.

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

The development complies with this requirement.

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

No boarding rooms are proposed to be occupied by more than 2 adult lodgers.

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

Each boarding rooms is provided with bathroom and kitchen facilities that are considered to be adequate.

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

The proposed boarding house has a capacity of 25 lodgers and provides a room for a boarding house manager (room 1.04).

- (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.*

No part of the ground floor that fronts a street (Parramatta Road) is proposed to be used for residential purposes.

- (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.*

The development provides a compliant number of motorcycle and bicycle parking spaces.

(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 development is permissible in the zone and compatible with the mixed use character of the area. The development allows for the retention and conservation of the existing building façade which is considered to contribute to the character of the Parramatta Road Commercial Precinct Heritage Conservation Area (HCA 5) in which the site is located. This will have a positive impact on the aesthetic and historical significance of the Conservation Area.

The new additions on the upper levels at the front of the building are setback approximately 6 metres from the parapet of the facade and incorporate a contemporary addition. The additions are subservient to the principal streetscape element and do not compete with the scale, details or motifs of the original building.

The proposed development is considered to satisfy the character test within clause 30A of the ARH SEPP.

5(a)(iv) 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 – Land Use Table and Zone Objectives
- 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 6.2 – Earthworks
- Clause 6.5 – Development in Areas Subject to Aircraft Noise
- Clause 6.15 – Location of boarding houses in business zones

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

Standard (maximum)	Proposal	% of non-compliance	Compliance
<b>Floor Space Ratio</b> Required: [1.5:1] [637.5m <sup>2</sup> ]	1.65:1 702.3m <sup>2</sup>	10.42%	No
<b>Height of Building</b> 14 metres	19.4 metres	38.5%	No

(xix) Aims of the Plan (Clause 1.2)

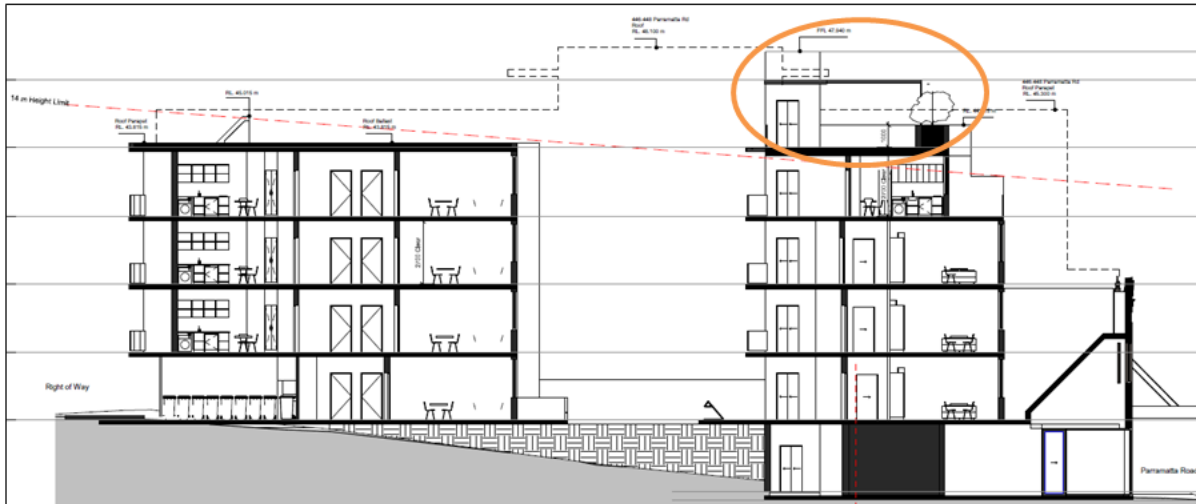
The proposed development is considered to achieve the aims of the plan. It is noted that Clause 1.2(2)(h) of MLEP 2011 seeks to promote a high standard of design. In this regard, the application was referred to Council’s Architectural Excellence Panel (AEP) who recommended significant design changes aimed at reducing bulk, improving the amenity of the boarding rooms and promoting a development that is sympathetic to its context, whilst enabling some level of intensification on the site. The applicant has responded to the AEP recommendations, submitting amended plans that incorporate the necessary changes. It is noted that the AEP recommend the imposition of a condition of consent to ensure that two to three shades or colours are provided to the original façade to highlight architectural features. A condition to this effect has been incorporated into the recommendation.

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

The site is zoned B2 - Local Centre under the provisions of MLEP 2011. The development is permissible with Council's consent under the zoning provisions applying to the land and is considered acceptable having regard to the objectives of the B2 - Local Centre zone.

(xxi) 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 application was amended to comply with the height limit at the rear through the deletion of a storey. However, the development has a maximum building height (the lift overrun) of approximately 19.4 metres at the northern end of the building which exceeds the height development standard by 5.4 metres. The extent of the building height breach is depicted below:



*Image 1 – Proposed building height breach shown circled. The black dotted line depicts the envelope of the approved building at No.446 – 448 Parramatta Road, also non-compliant with the height development standard.*

A written request, in relation to the development's non-compliance with the building height development standard in accordance with Clause 4.6 (Exception to Development Standards) of MLEP 2011, was submitted with the application. The applicant considers compliance with the height development standard to be unreasonable and unnecessary in this instance and nominates sufficient environmental planning grounds to justify the variation. These reasons are summarised as follows:

- Council's decision on the development application at 446-448 Parramatta Road has the effect of establishing a new paradigm, at least for the immediate area. The Council Officer's report on the application noted that approval of that development would generate a need to revise statutory controls. The proposal is lower, but essentially of the same general height.
- The erection of buildings of 5 storeys or more has occurred frequently, both in the vicinity of the site and elsewhere in the Council area. The vast majority of the former Marrickville Council area has height limits of 14 metres or less. Examples cited in the application to vary the height standard in the approved development at 446-448 Parramatta Road, include the corner of Phillip and Parramatta Road, and 119- 123 Parramatta Road. The point is that buildings of this scale are becoming normal in the typical 1-3 storey existing scale of most of Marrickville. There is no apparent reason why the subject site should not enjoy similar flexibility with height standards as other sites, given the particular site circumstances.
- The particular site circumstances mean that additional building height has no implications for any sensitive land. Shadows do not impact any residential land. The Parramatta Road context exhibits numerous examples of buildings of similar height. The design precludes overlooking of any residential or other sensitive land.

- The planning controls are clearly intended to foster change within the zone. The site shape dictates an elongated building form, and the proposed boarding house (or any other residential use requires modulated buildings to realise the floor space potential and to provide separation, natural light and ventilation to each building module. This in turn requires taller building elements.
- The objectives of the standard, to the extent they are related to Council's decision on the adjoining development, are satisfied.
- The proposal maintains the existing building height at the street alignment with the non-complying element setback by an average of 6 metres. This maintains the reasonably consistent building height at the frontage, which would be the principle streetscape view.

The environmental planning grounds that justify contravening the building height development standard include-

- The non-compliance in part arises from the proposal being the product of the interplay of a number of environmental planning principles in the particular set of circumstances, as discussed above.
- The proposal otherwise satisfies local planning objectives on a site that has the particular characteristics that sustain the proposed development in a manner that has minimal implications for other land or the public domain.
- There are no material planning consequences that arise, consistent with the planning objectives for the zone and the standard.
- Variation of the standard in these particular circumstances would have no apparent bearing on the application of the standard in other situations, except to the extent that a general review of standards may emerge from Council's decisions to date.



*Image 2 – Massing diagram prepared by the applicant*



Image 3 – Parramatta Road streetscape elevation prepared by the applicant

Strict compliance with the LEP height standard is unnecessary and unreasonable in the particular circumstances of the case. The proposed variation to this control is justified in the circumstances for the reasons set out above. It is considered that there are sufficient environmental planning grounds as to why the height development standard should be varied in this particular circumstance based on the outcomes of planning law precedents such as those contained in *Wehbe v Pittwater Council [2007] NSWLEC827*, *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC90* and *Moskovich v Waverley Council [2016]*.

Variation of the standard in the circumstances would be consistent with the objects of the Act, in that it would facilitate the reasonable development of the land for a socially worthwhile purpose in a manner which avoids conflicts with other land.

There is no matter of state or regional planning significance which flows from the non-compliance. There is no demonstrable public interest in strictly maintaining the planning controls in the particular circumstances.

Further to the applicant's justification above, the following comments are made:

Determination No. 201500260, dated 9 December 2015, approved an application to demolish the existing improvements and construct a 4 part 5 storey mixed use development with 2 ground floor commercial tenancies, 27 dwellings on the upper floors and 2 basement car parking levels at 446 – 448 Parramatta Road, Petersham.

The Officer's report presented to the former Marrickville Council Development Assessment Committee (DAC) concerning this application noted that *"approval of the amended proposal may constitute abandonment of the building height standard set by Council in MLEP 2011 and would consequently set a precedent for other applications and future development"*.

In view of the abovementioned approval on the adjoining site to the west, it is considered that strict enforcement of the building height development standard would result in an inconsistent streetscape outcome, as viewed from the public domain. Accordingly, there is no public benefit in maintaining the development standard. The applicant has prepared the following massing diagram and streetscape montage to demonstrate that the proposed development would be generally consistent with the appearance, form and scale of the adjoining approved development, despite the building height non-compliance.

(xxii) 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 FSR of the proposed development has

been calculated as 1.65:1. This equates to a gross floor area of 702.3m<sup>2</sup> and represents a non-compliance of approximately 64.8m<sup>2</sup>.

These figures are inclusive of parts of the corridor circulation space in the rear block which, in Council's view, is considered to constitute gross floor area.

A written request, in relation to the development's non-compliance with the building height development standard in accordance with Clause 4.6 (Exception to Development Standards) of MLEP 2011, was submitted with the application. The applicant considers compliance with the FSR development standard to be unreasonable and unnecessary in this instance and nominates sufficient environmental planning grounds to justify the variation. These reasons are summarised as follows:

- The non-compliance is not significant.
- Council's decision on the development application at 446-448 Parramatta Road has the effect of establishing a new benchmark, at least for the immediate area. The Council Officer's report on the application noted that approval of that development would generate a need to revise statutory controls. The proposal has a substantially lower FSR than that approved on the adjoining site (2.2:1).
- The planning controls are clearly intended to foster change within the zone. The non-compliance with the FSR control has no major implications for building form.
- The objectives of the standard, to the extent they are related to Council's decision on the adjoining development, are satisfied.
- Strict compliance with the FSR standard is unnecessary and unreasonable in the particular circumstances of the case. The proposed variation to this control is justified in the circumstances for the reasons set out above. Variation of the standard in the circumstances would be consistent with the Objects of the Act, in that it would facilitate the reasonable development of the land for a socially worthwhile purpose in a manner which avoids conflicts with other land.
- There is no matter of state or regional planning significance which flows from the non-compliance.
- There is no demonstrable public interest in strictly maintaining the planning controls in the particular circumstances and given the difference is minor.

Council's recent determination of significant variations from the prescribed building height and FSR development standards on the adjoining site to the west effectively dictate abandonment from the statutory development standards in the vicinity of the site.

The justification provided in the applicant's written submission is considered to be well founded and worthy of support. It is considered that there are sufficient environmental planning grounds as to why the FSR development standard should be varied in this particular circumstance based on the outcomes of planning law precedents such as those contained in *Wehbe v Pittwater Council [2007] NSWLEC827*, *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC90* and *Moskovich v Waverley Council [2016]*.

#### (xxiii) Heritage Conservation (Clause 5.10)

The site is located within a Heritage Conservation Area under MLEP 2011 (Heritage Conservation Area C5 – Parramatta Road Commercial Precinct). The site also adjoins the Clarence Hotel which is identified as a local heritage item in Schedule 5 of MLEP 2011 (Item I210). A Statement of Heritage Impact was submitted with the application in accordance with Clause 5.10(5) of MLEP 2011. The application was referred to Council's Heritage & Urban Design Advisor who raised no objection to the amended proposal.

The design solutions proposed and conservation strategy presented are supported as they ensure that the existing façade is retained thereby contributing positively to the conservation area and the new additions behind the existing façade incorporate appreciable front setbacks to ensure that they do not unreasonably detract from the heritage significance of the façade. The proposal therefore complies with the provisions of Clause 5.10 of MLEP 2011 and Part 8 of MDCP 2011.

(xxiv) Earthworks (Clause 6.2)

The development does not involve any significant excavation works. The proposal is considered satisfactory in this regard.

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

The development would need to be noise attenuated in accordance with AS2021:2000. An Acoustic Report was submitted with the application which details that the development could be noise attenuated from aircraft noise to meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS2021:2000.

Conditions are included in the recommendation to ensure that the requirements recommended within the Acoustic Report are incorporated into the development.

(xxvi) Location of Boarding Houses in Business Zones (Clause 6.15)

The site is located within a B2 – Local Centre zone under MLEP 2011. No part of the boarding house is located at street level (Parramatta Road) in accordance with the requirements of Clause 6.15.

## 5(b) Draft Environmental Planning Instruments

There are no relevant Draft Environmental Planning Instruments.

## 5(c) Development Control Plans

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

Part	Compliance
<b>Part 2 – GENERIC PROVISIONS</b>	
Part A2.6 – Plan of Management	Yes
Part 2.1 – Urban Design	Yes
Part 2.3 – Site and Context Analysis	Yes
Part 2.5 – Equity of Access and Mobility	No – refer to discussion below
Part 2.6 – Visual and Acoustic Privacy	Yes
Part 2.7 – Solar Access and Overshadowing	Yes
Part 2.8 – Social Impact Assessment	Yes
Part 2.9 – Community Safety	Yes
Part 2.10 – Parking	Yes (commercial component only)
Part 2.16 – Energy Efficiency	Yes – conditions imposed
Part 2.18 – Landscaping and Open Space	Yes – inclusive of open space on levels 1 and 5



Part 2.21 – Site Facilities and Waste Management	No – refer to discussion below
<b>Part 4.3 – BOARDING HOUSES</b>	
Part 4.3 – Boarding Houses <ul style="list-style-type: none"> <li>• Character and amenity of the local area</li> <li>• Boarding house capacity</li> <li>• Location</li> <li>• Management</li> <li>• Boarding Rooms</li> <li>• Communal rooms and facilities</li> <li>• Communal laundry</li> <li>• Landscaped area and common open space</li> </ul>	Generally compliant with the exception of communal rooms/facilities and communal open space. Refer to discussion below.
<b>Part 5 – COMMERCIAL &amp; MIXED USE DEVELOPMENT</b>	
Part 5.1.3 – Building Form <ul style="list-style-type: none"> <li>• Massing and Setbacks</li> <li>• Depth</li> <li>• Building Separation</li> </ul>	No – does not comply with massing and setbacks. Refer to discussion below.
Part 5.1.4 – Building Detail <ul style="list-style-type: none"> <li>• Building frontages</li> <li>• Active street frontage uses and shopfront design</li> </ul>	Yes
Part 5.1.5 – Building use <ul style="list-style-type: none"> <li>• Mixed use development</li> <li>• Vehicle access, parking, loading and services</li> </ul>	Yes
Part 5.3 – Commercial/Light Industrial/Residential Interface <ul style="list-style-type: none"> <li>• Plan of Management</li> <li>• Noise and vibration generation</li> <li>• Environmental protection</li> <li>• Hours of operation</li> </ul>	Yes – conditions imposed
<b>Part 8 - HERITAGE</b>	
Part 8.2.7 – Parramatta Road Commercial Precinct Heritage Conservation Area – HCA 5	Yes
<b>Part 9 – STRATEGIC CONTEXT</b>	
Part 9.35 – Parramatta Road (Commercial Precinct 35)	Yes

The following provides discussion of the non-compliant aspects of the development:

#### Part 2.5 – Equity of Access and Mobility

The proposal generally complies with the requirements within Part 2.5 of MDCP 2011 with the exception of the provision of accessible car parking spaces. The proposed development is required to provide 2 accessible car parking spaces on-site and but does not provide any. The car parking variation is supported for the reasons previously discussed within the report (see Part 5a(i)(f) Parking (Clause 29(2)(e))).

#### Part 2.10 – Car Parking and Part 5.16 – Vehicle Access, parking, loading and services

The commercial component of the development is required to provide 1 car parking space.



The MDCP 2011 controls concerning car parking for the boarding house component are superseded by the ARH SEPP requirements and this matter has been discussed previously in this report.

The single car parking space provided is recommended to be allocated to the commercial tenancy. The size of the car space exceeds the Australian Standard requirements for width and it is considered capable of accommodating some loading/unloading for the commercial tenancy. This is of particular importance given the sites location and the kerbside restrictions at the front of the site on Parramatta Road.

#### Part 2.21 – Site Facilities and Waste Management

The development is over 4 storeys in height and is therefore required to provide a waste chute in accordance with Control C24 within Part 2.21.11 of MDCP 2011. Due to the location of the lift core, the common corridors, the waste storage area at the rear and the fall of the land, there are various difficulties in achieving this requirement.

The waste management strategy has been further refined in response to concerns by Council and it is considered reasonable that in this instance, occupants of the boarding house take their rubbish to the dedicated waste storage area at the rear of the site in the absence of a chute facility.

#### Part 4.3.3.6 – Communal rooms and facilities

Control C23 requires smaller, more intimate communal living rooms on each floor in a multi-storey boarding house that have a capacity of more than 5 residents and multiple floors.

The proposed development contains a 30m<sup>2</sup> communal room at the front of the building on level 3. This communal room faces north and therefore achieves a high level of amenity, receiving at least 3 hours of solar access between 9am and 3pm on June 21<sup>st</sup>. Outdoor communal areas are also proposed in the centre of the site on level 1 and on the roof terrace on level 5. The development does not include other smaller, more intimate communal living rooms on the remaining floors, contrary to the DCP requirement. All of the proposed boarding rooms are generously sized, some of which also contain private balconies. The size of the common room exceeds the guidelines within MDCP 2011 (i.e. – 1m<sup>2</sup> per lodger) and provides an opportunity for social recreation within the boarding house, as do the outdoor communal areas proposed in two separate locations within the development.

In view of the above, the proposed development is considered to satisfy the planning objectives within Part 4.3.3.6 of MDCP 2011 which require that communal areas are designed to facilitate effective communal living and social cohesion and that boarding house residents have access to a variety of spaces that provide relief from the confined space of their room.

#### Part 5.1.3 – Building Form

##### *Part 5.1.3.3 Massing and Setbacks*

The site adjoins a vehicular right of way at the rear. Accordingly, for the purposes of rear massing, Control C13(i) is applied which states “Where the rear boundary adjoins a lane” as opposed to a common boundary between properties.

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.

The development, being a 4 storey form at the rear, does not comply with this requirement. This non-compliance is supported for the following reasons:

- To ensure uniformity in the built form, the rear massing and setbacks along the rear elevation are generally consistent with that of the approved mixed use development at 446-448 Parramatta Road. Strict compliance with the rear massing control would result in a disjointed built form outcome, having regard to the scale of the approved development on the neighbouring site;
- Control C13 (ii) enables building envelopes to exceed the controls 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. In the circumstances of this development, the site adjoins a right of way at the rear and beyond that, is land identified as being Reserved for Acquisition adjacent to the Council car park in accordance with Clause 5.1 of MLEP 2011 (see Image 4 below). It is therefore anticipated that there will be no re-development directly adjacent at the rear within the acquisition area, limiting the likelihood of any interface concerns as a result of the non-compliance; and



Image 4: Yellow area at the rear of the subject site indicates Land Reserved for Acquisition directly at the rear of the subject allotment which is dotted in red

- The submitted shadow diagrams indicate that there will be no unreasonable loss of solar access for surrounding properties. The majority of additional overshadowing cast from the rear non-compliant portion is across the right of way area, the rear of the allotment at No.3-7 Crystal Street and across the Council car park.

#### 5(d) The Likely Impacts

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

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

The site is zoned B2 – Local Centre and the LEP anticipates the type of land uses that are proposed. 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 advertised, an on-site notice displayed on the property and residents/property owners in the vicinity of the property were notified of the development in accordance with Council's policy.

A total of 12 submissions plus a petition containing 63 signatures were received.

The amended plans were re-notified and 3 submissions were received.

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

- Non-compliant building height – see Section 5(a)(iv)
- Non-compliant FSR – see Section 5(a)(iv)
- A second common room is required – see Section 5(c)
- Car parking non-compliance – see Section 5(a)(iii)
- Heritage impacts – see Section 5(a)(iii)(Character test) and 5(a)(iv)
- Loading space for the commercial component – see Section 5(c)

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

**Issue:** *Social impacts which have not been adequately addressed. Boarding houses frequently house people who are marginalised because of drug and alcohol dependency, mental or physical illness, or unemployment. Council should consider whether housing such a large number of people from this population in the one area is a desirable proposition.*

**Comment:** The application was supported by a detailed Social Impact Statement which asserts that there is no 'typical' boarding house resident and indicates that boarding houses attract people from many different sectors of society. The report is considered to be comprehensive and sufficiently addresses the likely social impacts of the development, including: accommodation, health and wellbeing of the local community, safety and security and values and expression. This report supports the proposal subject to on-going compliance with the Plan of Management.

Boarding houses are a permissible land use within the zone and it is inappropriate to reject the proposal on the perception that boarding houses attract marginalised people.

**Issue:** *Residents of the surrounding area have not been appropriately notified of the development proposal.*

**Comment:** The original notification did not include letter notification to the properties at 1 and 3 -7 Charles Street. This was rectified and these properties were notified by mail.

The extent of properties notified for this proposal is considered to be appropriate and is consistent with Council's notification policy.

Issue: *There must be sunlight for 65% of dwellings*

Comment: The information submitted with amended proposal demonstrates that 75% of boarding rooms within the development will receive a minimum of 2 hours solar access between 9am and 3pm on June 21.

Issue: *Separation between habitable rooms*

Comment: The application has been amended to provide 11.2 metres separation in the centre of the site. Given that there are no habitable rooms or balconies directly facing other habitable rooms or balconies in the centre of the site, this separation distance is considered to be sufficient and achieves the intention of the control.

Issue: *Insufficient shadow diagrams*

Comment: Council is satisfied that the shadow diagrams provided are sufficient to assess this aspect of the proposed development.

Issue: The manager's room should be located on the same level as the indoor and outdoor communal spaces so it can be properly managed.

Comment: The manager's room is located on level 1, directly adjacent to the landscaped common open space area in the centre on the site. It is acknowledged that the indoor common room is located on level 3 and there is a rooftop communal open space area.

Locating the manager's room next to the indoor common room (for example – room 3.01) is not supported because it would not enable compliance with the ARH SEPP provisions for manager's private open space to be provided adjacent to that accommodation, noting that balconies facing Parramatta Road have intentionally been minimised on lower levels due to amenity concerns (traffic noise, pollution etc).

Issue: *The lift core protrudes beyond the top floor, causing visual impact from Parramatta Road.*

Comment: The lift overrun would be visible, to varying extents, from Parramatta Road. Nevertheless, the amended plans re-locate the lift to a less dominant location further inward into the centre site. The likely visual impact of this structure is not considered to warrant further plan amendment or outright refusal of the application.

Issue: *Safety concerns due to increased use of the Right of Way*

Comment: The development is not anticipated to significantly intensify the use of the right of way given that 1 car parking space is proposed and the principal entrance to the boarding house component is from Parramatta Road.

Issue: *Encroachment on the Right of Way*

Comment: The rear alignment of the building is setback from the Right of Way.

Issue: *Risk of damage to adjoining properties during construction*

Comment: Suitable conditions of consent have been incorporated into the recommendation addressing this concern.

Issue: *The 6 metre front setback is inconsistent with the advice given by Council for the redevelopment of 446-448 Parramatta Road.*

Comment: The proposal involves the retention of the contributory façade. In such circumstances, Council's DCP adopts a 6 metre front setback for new works proposed behind the façade. This approach has been adopted in this case and supported by Council's Architectural Excellence Panel. In addition, it is noted that the redevelopment of the adjoining site did not include the retention of the front façade.

Issue: *BCA compliance is questioned in relation to the glass louvres proposed*

Comment: The application was accompanied by a BCA compliance report which concludes that the development is capable of complying with the BCA but some alternative solutions will be required.

### 5(g) The Public Interest

The proposal is not contrary to the public interest, subject to ongoing compliance with the Plan of Management for the boarding house component of the development.

## 6 Referrals

### 6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed throughout this report.

- Architectural Excellence Panel
- Heritage and Urban Design Advisor
- Development Engineer
- Environmental Services
- Waste Management

### 6(b) External

The application was referred to the Marrickville Heritage Society for comment. No response was received.

## 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 \$252,420.79 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 involves breaches to the development standards prescribed by Marrickville Local Environmental Plan 2011. The variation to building height and FSR are considered acceptable in the specific circumstances of this site having particular regard to Council's recent approval of a mixed use development on the adjoining site to the west. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is considered suitable for the issue of a deferred commencement consent.

## 9. Recommendation

That Council, as the consent authority pursuant to S80 of the Environmental Planning and Assessment Act 1979, grant a deferred commencement consent to Development Application DA201600094 for the demolition of the existing improvements and construction a 4 part 5 storey mixed use development containing a ground floor commercial tenancy and 21 boarding rooms (including a manager's room) on the upper floors with associated parking at No.442 Parramatta Road, Petersham subject to the conditions listed in Attachment A below.

## Attachment A – Recommended conditions of consent

### PART A – DEFERRED COMMENCEMENT CONSENT

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

1. A Detailed Site Investigation is required to be undertaken for areas of the site that are accessible for investigation, notably the hardstand areas at the rear of the site. Should remediation works be required, a Remediation Action Plan must accompany the Detailed Site Investigation. The investigation must consider the recommendations and limitations of the Preliminary Site Investigation, Reference No. E22717 AA\_Rev0, prepared by Environmental Investigations Australia Pty Ltd, dated 3 March 2016; as well as the potential impact of the nearby active service station as a potential contamination source. These reports shall be submitted to the satisfaction of Council and comply with the NSW Environmental Protection Authority's *Guidelines for Consultants Reporting on Contaminated Sites 2011*.
2. A hazardous materials survey (HAZMAT) shall be conducted and submitted to the satisfaction of Council. This should address potential sources of contamination of existing site structures as per the recommendations in the Preliminary Site Investigation, Reference No. E22717 AA\_Rev0, prepared by Environmental Investigations Australia Pty Ltd, dated 3 March 2016. Any recommendations of this assessment shall be acted upon.
3. The submitted boarding house Plan of Management being amended to reflect the requirements of condition 3 within Part B – Conditions of Consent. The amended Plan of Management shall be submitted to and approved by Council.

### PART B – CONDITIONS OF CONSENT

Once operative the consent is subject to the following conditions:

#### **GENERAL**

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

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by	Date Submitted
DA.040, Rev C	Demolition Plan	16.07.07	Nordon Jago	02.09.2016
DA.100, Rev F	Ground and Level 1 Plans	16.09.01	Nordon Jago	02.09.2016
DA.101, Rev F	Levels 2,3 & 4 Plans	16.09.01	Nordon Jago	02.09.2016
DA.102, Rev F	Level 5 and Roof Plans	16.09.01	Nordon Jago	02.09.2016
DA.200, Rev F	Sections	16.09.01	Nordon Jago	02.09.2016
DA.300, Rev E	Elevations	16.09.01	Nordon Jago	02.09.2016
DA.301, Rev E	Elevations	16.09.01	Nordon Jago	02.09.2016
Reference No:	Acoustic Report	26.02.2016	Acoustic Noise &	09.03.2016

2016-099			Vibration Solutions P/L		
Report AA_Rev0	E22717	Preliminary Site Investigation 442 Parramatta Road, Petersham NSW	13.10.15	Environmental Investigations Australia	09.03.2016
-		Appendix B: Plan of Management (within Statement of Environmental Effects)	March 2016	Mike George Planning	09.03.2016

and details submitted to Council on 9 March 2016 and 2 September 2016 with the application for development consent and as amended by the matters referred to in Part A of this Determination and the following conditions.

2. Where any plans and/or information forming part of a construction certificate issued in relation to this consent are inconsistent with:
  - (c) the plans and/or information approved under this consent; or
  - (d) any relevant requirements of this consent,

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

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

3. The 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 following conditions;
  - b) A copy of the Plan of Management and House Rules must be annexed to each and every tenancy/occupation agreement for a room;
  - c) A copy of the approved Plan of Management and House Rules must be clearly displayed within every common room in the building at all times;
  - d) The Plan of Management must not be amended without the prior consent of Council;
  - e) All tenancy/occupation agreements for rooms within the premises must be for a minimum period of three (3) months;
  - f) The premises must be used exclusively as a boarding house containing a maximum total of 20 lodger's rooms and 1 on-site manager's rooms;
  - g) Not more than 2 lodgers are permitted in boarding rooms 1.01, 1.02, 2.01, 2.02 and 3.01. Not more than 1 lodger is permitted in boarding rooms 1.03, 2.03, 2.04, 2.05, 2.06, 3.02, 3.03, 3.04, 3.05, 4.01, 4.02, 4.03, 4.04, 4.05 and 4.06. The total allowable maximum number of lodgers is therefore 25;
  - 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.
4. Upon completion of demolition activities, the remainder of the site not covered by the Stage 1 Detailed Site Investigation and Remedial Action Plan (if relevant) shall be subject to a Stage 2 Detailed Site Investigation, and if necessary a Remedial Action Plan according to the NSW Environmental Protection Authority's *Guidelines for Consultants Reporting on Contaminated Sites 2011*. If required, proposed Environmental Management Plan, and a Groundwater Management Plan, must be provided to Council to before the lodging of a Construction Certificate.
  5. 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.
  6. 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.
  7. The ongoing use of the ground floor commercial tenancy 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 shop fronts;
    - 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 that is carried out from the rear of the site must be done so 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.
  8. A total of 1 off-street car parking space must be provided, 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 space must be allocated to the commercial tenancy.
  9. A minimum of 15 off-street bicycle storage spaces must be provided 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.
  10. A minimum of 5 off-street motorcycle parking spaces must be provided, 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.
  11. A minimum of 5 accessible bedrooms must be provided in accordance with Part 2.5 of Marrickville Development Control Plan 2011 - Equity of Access and Mobility.

12. No injury must be caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, particulate matter, the exposure to view of any unsightly matter or otherwise.
13. The use of any plant and equipment must not give rise to:
  - a) transmission of unacceptable vibration to any place of different occupancy;
  - b) a sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The source noise level must be assessed as an LAeq,15min and adjusted in accordance with Environment Protection Authority guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content as described in the NSW Environment Protection Authority's Environmental Noise Control Manual and Industrial Noise Policy 2000 and The Protection of the Environment Operations Act 1997 (NSW).
14. 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).
15. 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.
16. 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.
17. Domestic waste bins from the boarding house must be presented on Crystal Street for collection. The domestic waste bins are not to be placed in the road frontage until after 7.00pm on the day prior to collection and are to be returned to their storage location within the building within two (2) hours of the bins being collected by Council. Waste from the commercial tenancy must be collected via a private contractor.
18. 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 so as to be easily removed if required in future. 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 the RTA to do so. All works shall be at no cost to Council or the RTA.
19. Owners and occupants of the proposed building shall not be eligible for 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.
20. All stormwater drainage being designed in accordance with the provisions of the 1987 Australian Rainfall and Runoff (A.R.R.), Australian Standard AS3500.3-2003 'Stormwater Drainage-Acceptable Solutions' 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 water may be stored separately on site and reused for the watering of landscaped areas.
23. All building work must be carried out in accordance with the provisions of the National Construction Code (Building Code of Australia).

### **BEFORE COMMENCING BUILDING WORK**

**For the purpose of interpreting this consent, a Principal Certifying Authority (PCA) means a principal certifying authority appointed under Section 109E(1) of the Environmental Planning and Assessment Act 1979. Pursuant to Section 109E(3) of the Act, the PCA is principally responsible for ensuring that the works are carried out in accordance with the approved plans, conditions of consent and the provisions of the National Construction Code (Building Code of Australia).**

24. No building work must commence until:
  - a) A PCA has been appointed. Where an Accredited Certifier is the appointed, Council must be notified within 2 days of the appointment; and
  - b) A minimum of 2 days written notice must be given to Council of the intention to commence work.
25. 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.
26. 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.

27. 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.

28. 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.
  29. All services in the building being demolished must be disconnected in accordance with the requirements of the responsible authorities before work commences.
  30. 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.
  31. A waste management plan must be prepared in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and submitted to and accepted by the PCA before work commences.
  32. 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.
  33. 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'.
  34. 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.
35. 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 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 440 and 446 Parramatta Road, Petersham, 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.

36. 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.
37. The person acting on this consent shall apply as required for all necessary permits including crane permits, road opening permits, hoarding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the Local Government Act, 1993 or Section 138 of the Roads Act, 1993.
38. Where it is proposed to carry out works in public roads or Council controlled lands, a road opening permit shall be obtained from Council before the carrying out of any works in public roads or Council controlled lands. Restorations shall be in accordance with Marrickville Council's Restorations Code. Failure to obtain a road opening permit for any such works will incur an additional charge for unauthorised works as noted in Council's adopted fees and charges.
39. The person acting on this consent shall provide details of the means to secure the site and to protect the public from the construction works. Where the means of securing the site involves the erection of fencing or a hoarding on Council's footpath or road reserve the person acting on this consent shall submit a hoarding application and pay all relevant fees before commencement of works.
40. 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 proposed truck parking areas, construction zones, crane usage, truck routes etc.
41. The person acting on this consent shall submit a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before commencement of works.
42. 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.

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

**For the purpose of interpreting this consent the Certifying Authority (Council or an Accredited Certifier) is that person appointed to issue a Construction Certificate.**

#### Section 94 Contribution

43. a) This condition is imposed in accordance with Section 94 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 \$252,420.79 indexed in accordance with Marrickville Section 94/94A Contributions Plan 2014 ("CP").

The above contribution is the contribution applicable as at 11 October 2016.

**\*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. DC001622)**

- 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	\$28,775.00
Plan Administration	\$4,949.46
Recreation Facilities	\$219,038.83
Traffic Facilities	\$-342.51

- d) A copy of the CP can be inspected at Council's offices at 2-14 Fisher Street, Petersham or online at <http://www.marrickville.nsw.gov.au>.
- e) The contribution must be paid either in **cash, by unendorsed bank cheque (from an Australian Bank only), via EFTPOS (Debit only) or credit card\***.

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

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

44. A report must be provided from a suitably qualified engineer specifying the methods and actions required to ensure structural stability of the façade during demolition and construction. A copy of the report must be provided to the satisfaction of the Certifying Authority before the issue of a Construction Certificate.
45. Two to three shades or colours must be provided to the original façade to highlight architectural features. The colour scheme proposed to the original façade should be sympathetic to the materials and finishes proposed to the new building. An amended schedule of finishes and elevations shall be submitted to and approved by Council's Heritage and Urban Design Advisor before to the issue of a Construction Certificate.
46. The schedule of finishes shown on drawing DA.300E must be amended to ensure accuracy. Code P4 to the South and North Elevations must be amended to P6 on the walls where Rusted Crimson is proposed. An amended schedule of finishes shall be submitted to and approved by Council's Heritage and Urban Design Advisor before the issue of a Construction Certificate.
47. The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and if any requirements need to be met. Plans will be appropriately stamped.  
Please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) for:
- Quick Check agents details - see Plumbing, building and developing then Quick Check agents and
  - Guidelines for Building Over/Adjacent to Sydney Water Assets – see Plumbing, building and developing then Plan submissions
- or telephone 13 20 92.

- The stamped plans must be submitted to Certifying Authority satisfaction before the issue of a Construction Certificate.
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. 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.
  50. 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.
  51. Insulation, having a minimum R3.0 rating, must be provided to the ceiling or roofs in accordance with details to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate.
  52. Fixtures for bathroom and kitchen taps, showerheads, dishwashers and toilet cisterns must have a minimum 3 Star WELS rating.  
**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).**
  53. New or replacement toilets must have a minimum 3 Star WELS rating and be 6/3 litre dual flush or more efficient.  
**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).**
  54. Noise attenuation measures must be incorporated into the development complying with Australian Standard 2021:2000, 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 to be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate together with certification by a suitably qualified acoustical engineer that the proposed noise attenuation measures satisfy the requirements of Australian Standard 2021:2000, 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".
  55. Before the issue of a Construction Certificate an amended plan must be submitted to the Certifying Authority's satisfaction addressing the requirements of The Disability (Access to Premises – buildings) Standards 2010 (the Premises Standards).
  56. The existing right of way off Crystal Street is gated with the gate being closed after hours. The gated access arrangement shall be reconfigured so that the gate is relocated a minimum 6m from the Crystal Street boundary and the gate shall be operated automatically via remote control at all hours. Plans detailing compliance with the above requirements shall be submitted to and be approved by Council before the issue of a Construction Certificate.

57. The person acting on this consent shall provide to Council a bond in the amount of \$9,784.80 and pay the related Section 138 (Roads Act) inspection fee of \$206.00 (GST inclusive) before the issue of a Construction Certificate to ensure the proper completion of the footpath and/or vehicular crossing works required as a result of this development.
58. Before the issue of a Construction Certificate the owner or builder shall sign a written undertaking that they shall be responsible for the full cost of repairs to footpath, kerb and gutter, or other Council property damaged as a result of construction of the proposed development. Council may utilise part or all of any Building Security Deposit (B.S.D.) or recover in any court of competent jurisdiction, any costs to Council for such repairs.
59. 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.
60. 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:
- i. 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, the Draft Marrickville Public Domain Design Guide or Council's standard plans and specification in place for Parramatta Road at the time the works are undertaken;
  - ii. The construction of heavy duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site; and
  - iii. Alignment levels to be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations.

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 prior to the issue of an Occupation Certificate.

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

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

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

## **SITE WORKS**

62. If during site works there are significant unexpected occurrences, site works shall immediately cease. An environmental consultant shall be engaged to assess the site and determine if remediation is required in accordance with the NSW Environmental



Protection Authority's *Guidelines for Consultants Reporting on Contaminated Sites 2011*. Any unexpected occurrences and management plans to address these must be reported to and approved by Council. Note that Council may request that a NSW EPA Accredited Site Auditor review any proposed remedial actions.

63. Any water (including water from excavations) shall be discharged to sewer, with the appropriate licence to be obtained; or disposed off-site to a suitably licensed facility. Alternatively, any water to be discharged to Council's stormwater system shall comply with the ANZECC Guidelines for Marine and Freshwater Quality for Protection of Aquatic Ecosystems (95% protection level for marine ecosystems).
64. Any contaminated soil excavated from the site is to be classified in accordance with the NSW Environmental Protection Authority's *Waste Classification Guidelines 2014* and being carried out in accordance with the requirements of the NSW Environmental Protection Authority.
65. All roof and surface stormwater from the site 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 Council controlled stormwater drainage system in accordance with the requirements of Marrickville Council Stormwater and On Site Detention Code.
66. The site stormwater drainage shall be constructed in accordance with Hydraulic Plan Drawing No. 2016099 H1 (Rev1) dated 26/2/16 submitted by ANA Civil Pty Ltd.
67. All demolition, construction and associated work necessary for the carrying out of the development must be restricted to between the hours of 7.00am to 5.30pm Mondays to Saturdays, excluding Public Holidays. Notwithstanding the above, no work must be carried out on any Saturday that falls adjacent to a Public Holiday.

All trucks and vehicles associated with the construction, including those delivering to or removing material from the site, must only have access to the site during the hours referred to in this condition. No waste collection skips, spoil, excavation or demolition material from the site or building materials associated with the construction of the development must be deposited on the public road, footpath, public place or Council owned property without Council's approval, having first been obtained. The developer is responsible to ensure that all contractors associated with the development are fully aware of these requirements.

68. Notwithstanding the above condition, all remediation works must be restricted to between the hours of 7.00am and 6.00pm Mondays to Fridays and 8.00am to 1.00pm Saturdays with no works being carried out on Sundays and Public Holidays or any Saturday that falls adjacent to a Public Holiday..
69. The area surrounding the building work must be reinstated to Council's satisfaction upon completion of the work.  
Reason: To ensure that the area surrounding the building work is satisfactorily reinstated.
70. 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'.

71. 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.
72. 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.

73. If the development involves an excavation that extends below the level of the base of the footings of a building on the adjoining allotments, including a public place such as a footway and roadway, the person acting on the consent, at their own expense must:
- a) protect and support the adjoining premises from possible damage from the excavation, and

- b) where necessary, underpin the adjoining premises to prevent any such damage. Where the proposed underpinning works are not "exempt development", all required consents must be obtained prior to the required works commencing; and
- c) at least 7 days' notice must be given to the owners of the adjoining land of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

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

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

- 74. All vehicles carrying materials to, or from the site must have their loads covered with tarpaulins or similar covers.
- 75. 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.
- 76. 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.

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

- 77. 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.
- 78. 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.

79. The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:
- a) Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
  - b) Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).

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

80. 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.
81. The landscaping of the site must be carried out before the issue of an Occupation Certificate (whether an interim or final Occupation Certificate) in accordance with the approved details and must be maintained at all times to Council's satisfaction.
82. 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 2021:2000, 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.
83. Before the issue of an Occupation Certificate, a street number and identifier of separate occupancies (if applicable) must be clearly displayed in a readily visible location (numbers having a height of not less than 75mm). If any new street numbers or change to street numbers (this includes unit and shop numbers) are required they must have the prior approval of council before being displayed.

Reason: To ensure that the building is easily identifiable.

84. 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 the Occupation Certificate. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".
85. 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.
86. No 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.
87. 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.
88. Heavy duty concrete vehicle crossings, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" shall be constructed at the vehicular access locations before the issue of the Occupation Certificate and at no cost to Council.
89. Before the issue of the Occupation Certificate written verification from a suitably qualified competent person, stating that all stormwater drainage and quality measures have been constructed in accordance with the approved plans shall be submitted to and accepted by Council. The Certificate shall also state that no dry-weather flows of seepage or groundwater have been connected to any kerb outlets. 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.
90. 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 Civil 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.
91. Upon the completion of any remediation works stated in the RAP (if required), the person acting on this consent must submit to Council a Validation and Monitoring Report demonstrating compliance with contamination conditions in this consent and suitability of the site for the proposed development. The report is to be prepared in accordance with the NSW Environment Protection Authority's *Guidelines for Consultants Reporting on Contaminated Sites 2011*. Note that Council may request the applicant to engage a NSW EPA Accredited Site Auditor to provide a Site Audit Statement to certify site suitability.

Reason: To ensure compliance with SEPP 55.

**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 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments 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 <a href="http://www.sydneywater.com.au">www.sydneywater.com.au</a>
Waste Service - SITA Environmental Solutions	1300 651 116 <a href="http://www.wasteservice.nsw.gov.au">www.wasteservice.nsw.gov.au</a>
Water Efficiency Labelling and Standards (WELS)	<a href="http://www.waterrating.gov.au">www.waterrating.gov.au</a>
WorkCover Authority of NSW	13 10 50 <a href="http://www.workcover.nsw.gov.au">www.workcover.nsw.gov.au</a> Enquiries relating to work safety and asbestos removal and disposal.

- B. THAT** those individual persons who lodged submissions and the head petitioner in respect to the proposal be advised of the Council's determination of the application.
- C. THAT** the Department of Planning and Environment be advised, as part of the quarterly review of the monitoring of Clause 4.6 of Marrickville Local Environmental Plan 2011 - Exceptions to Development Standards, that Council has agreed to the variation of the following development standards:

<u>Premises:</u>	442 Parramatta Road, Petersham
<u>Applicant:</u>	Admark Investment Pty Ltd
<u>Proposal:</u>	To demolish existing improvements and construct a 4 part 5 storey mixed use development containing a ground floor commercial tenancy and 21 boarding rooms (including a managers room) on the upper floors with associated parking
<u>Determination:</u>	Deferred Commencement Consent
<u>DA No:</u>	201600094
<u>Lot and DP:</u>	Lot 1 DP 60786
<u>Category of Development:</u>	9
<u>Environmental Planning Instrument:</u>	Marrickville Local Environmental Plan 2011
<u>Zoning of Land:</u>	B2 - Local Centre
<u>Development Standard(s) varied:</u>	Clause 4.3 – Height of Buildings Clause 4.4 – Floor space ratio
<u>Justification of variation:</u>	The proposal is appropriate given the adjoining site context and recent approval granted for the adjoining site to the west which was approved with large height and FSR variations. The development results in no unreasonable impacts for adjoining properties and/or the streetscape.
<u>Extent of variation:</u>	Height – 5.4 metres (38.5%)

Concurring Authority: FSR – 64.8m<sup>2</sup> (10.4%)  
Inner West Planning Panel under assumed  
concurrence of the Secretary Department of Planning  
and Environment.

Date of Determination:



Attachment B – Plans of proposed development



D.U. Group		Area	Area
DA 1000	10	10.00	10.00
DA 1001	10	10.00	10.00
DA 1002	10	10.00	10.00
DA 1003	10	10.00	10.00
DA 1004	10	10.00	10.00
DA 1005	10	10.00	10.00
DA 1006	10	10.00	10.00
DA 1007	10	10.00	10.00
DA 1008	10	10.00	10.00
DA 1009	10	10.00	10.00
DA 1010	10	10.00	10.00
DA 1011	10	10.00	10.00
DA 1012	10	10.00	10.00
DA 1013	10	10.00	10.00
DA 1014	10	10.00	10.00
DA 1015	10	10.00	10.00
DA 1016	10	10.00	10.00
DA 1017	10	10.00	10.00
DA 1018	10	10.00	10.00
DA 1019	10	10.00	10.00
DA 1020	10	10.00	10.00
DA 1021	10	10.00	10.00
DA 1022	10	10.00	10.00
DA 1023	10	10.00	10.00
DA 1024	10	10.00	10.00
DA 1025	10	10.00	10.00
DA 1026	10	10.00	10.00
DA 1027	10	10.00	10.00
DA 1028	10	10.00	10.00
DA 1029	10	10.00	10.00
DA 1030	10	10.00	10.00
DA 1031	10	10.00	10.00
DA 1032	10	10.00	10.00
DA 1033	10	10.00	10.00
DA 1034	10	10.00	10.00
DA 1035	10	10.00	10.00
DA 1036	10	10.00	10.00
DA 1037	10	10.00	10.00
DA 1038	10	10.00	10.00
DA 1039	10	10.00	10.00
DA 1040	10	10.00	10.00
DA 1041	10	10.00	10.00
DA 1042	10	10.00	10.00
DA 1043	10	10.00	10.00
DA 1044	10	10.00	10.00
DA 1045	10	10.00	10.00
DA 1046	10	10.00	10.00
DA 1047	10	10.00	10.00
DA 1048	10	10.00	10.00
DA 1049	10	10.00	10.00
DA 1050	10	10.00	10.00
DA 1051	10	10.00	10.00
DA 1052	10	10.00	10.00
DA 1053	10	10.00	10.00
DA 1054	10	10.00	10.00
DA 1055	10	10.00	10.00
DA 1056	10	10.00	10.00
DA 1057	10	10.00	10.00
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Aerial Photo  
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Site Map  
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PROPOSED BOARDING HOUSE - 442 PARRAMATTA RD. PETERSHAM		DA 0000 D
DATE	1/11	
SCALE	1:1	
PROJECT		

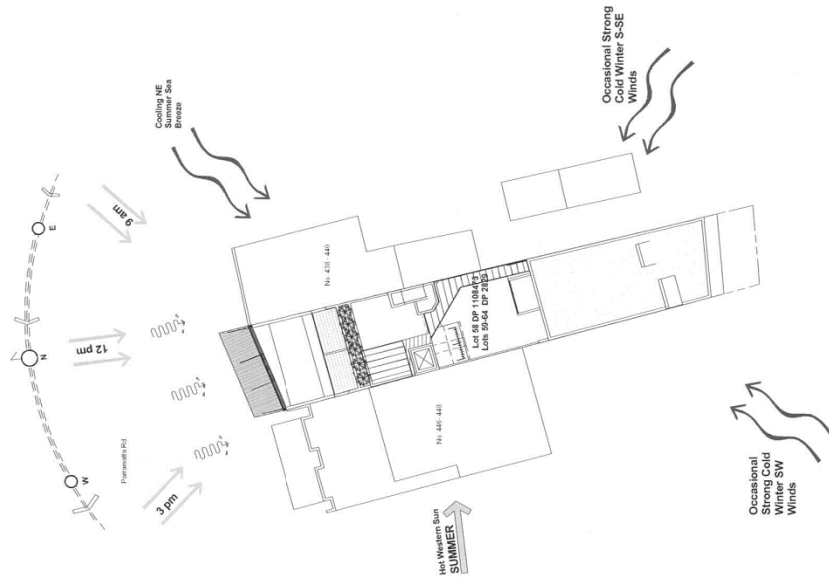
NOT For Construction

Cover

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Proposed Boarding House - 442 Parramatta Rd. PETERSHAM  
 TITLE  
 Site Analysis Plan  
 DA 020 C

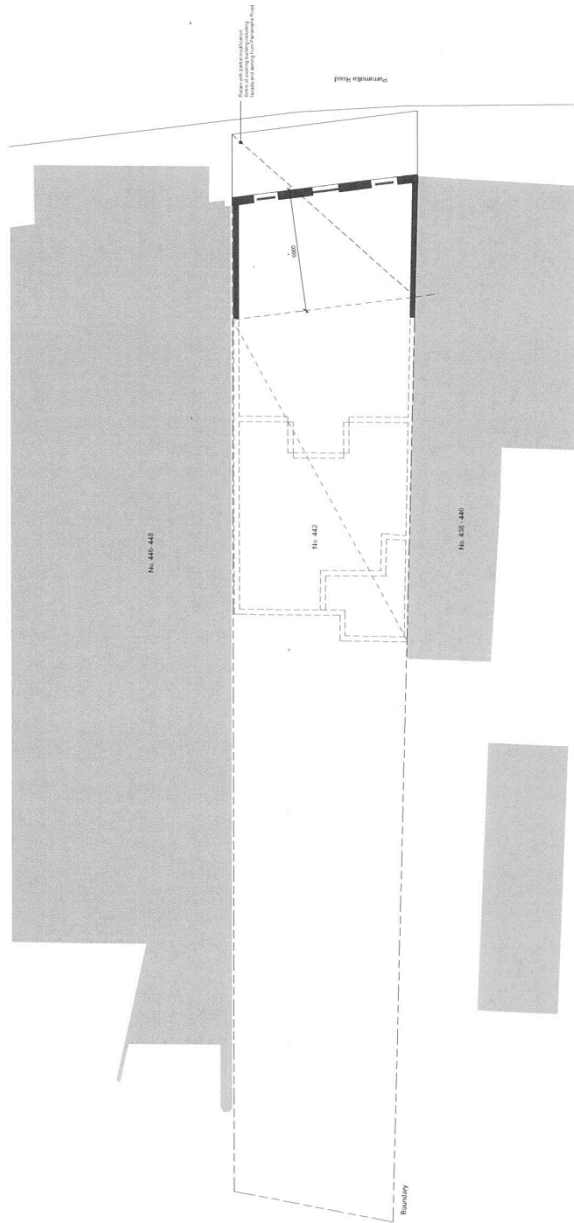


NOT For Construction

DEVELOPMENT APPLICATION	
NO.	DESCRIPTION
1	Site Analysis
2	Site Plan
3	Site Elevation
4	Site Section
5	Site Photographs
6	Site Survey
7	Site Access
8	Site Services
9	Site Security
10	Site Safety
11	Site Sustainability
12	Site Social
13	Site Cultural
14	Site Heritage
15	Site Environmental
16	Site Visual
17	Site Acoustic
18	Site Air Quality
19	Site Water
20	Site Energy
21	Site Climate
22	Site Health
23	Site Wellbeing
24	Site Quality of Life
25	Site Resilience
26	Site Adaptability
27	Site Inclusivity
28	Site Equity
29	Site Justice
30	Site Democracy

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DA Approved  
 Check the status of the DA  
 Check the status of the DA

Proposed Boarding House - 442 Parramatta Rd, PETERSHAM  
 DEMOLITION PLAN  
 DA.040C



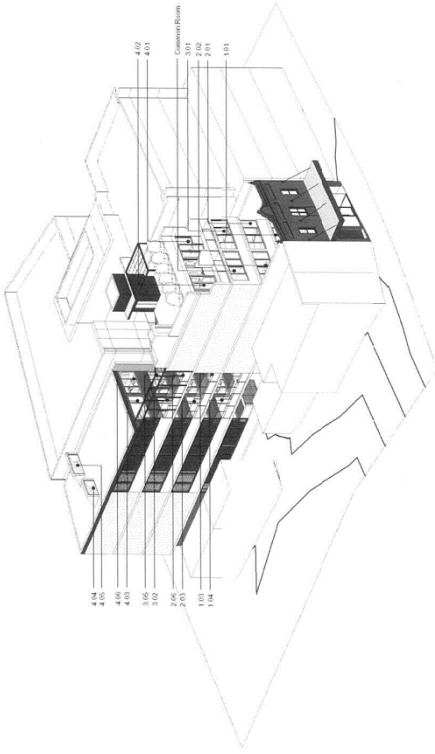
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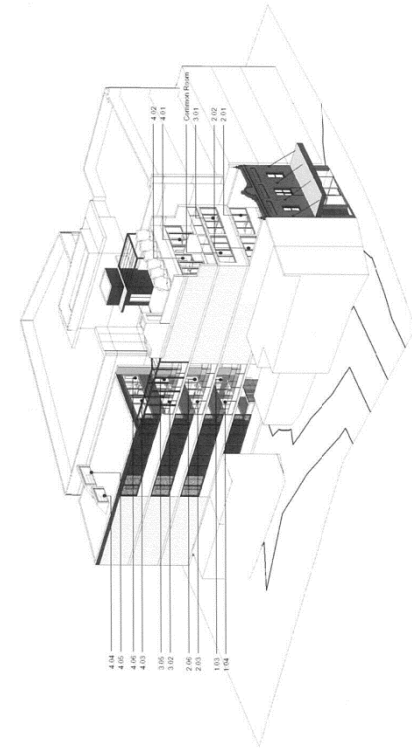
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6	Demolition of existing boarding house
7	Demolition of existing boarding house
8	Demolition of existing boarding house
9	Demolition of existing boarding house
10	Demolition of existing boarding house

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 ARCHITECTS  
 1/111 MARKET STREET, SYDNEY NSW 2000  
 TEL: (02) 9250 1111  
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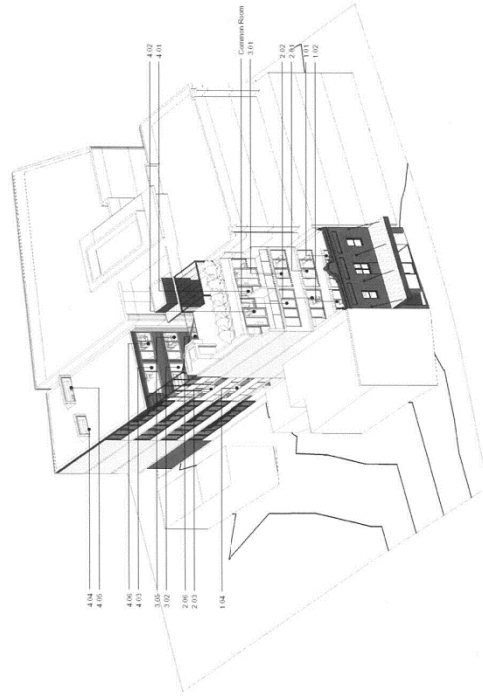




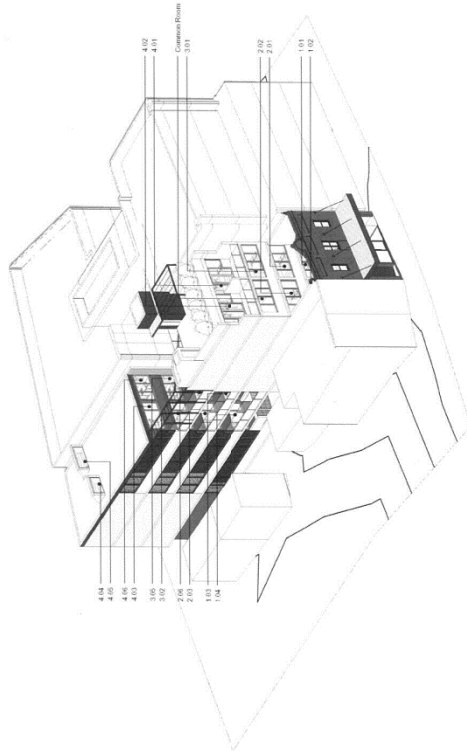
9h30



9h00



11h00



10h00

Proposed Boarding House - 442 Parramatta Rd. PETERSHAM  
 City of Parramatta  
 DATE: 20/07/20  
 SCALE: A1/B  
 DRAWING: DA.051/B

NOT For Construction

DEVELOPMENT APPLICATION

DA No.	DA.051/B
Project Name	Proposed Boarding House - 442 Parramatta Rd. PETERSHAM
Applicant	
Prepared by	
Checked by	
Approved by	
Date	

**NORDON · JAGO**  
 ARCHITECTS  
 1/117 PARRAMATTA ROAD, SYDNEY NSW 1585  
 PH: (02) 9550 6600  
 WWW.NORDONJAGO.COM.AU









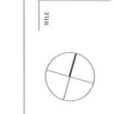


1 Level 2  
1:100

2 Level 3  
1:100

3 Level 4  
1:100

Proposed Boarding House - 442 Parramatta Rd. PETERSHAM  
 ARCHITECTS  
 DATE: 11/12  
 SCALE: A1:10  
 PROJECT: DA 101 F

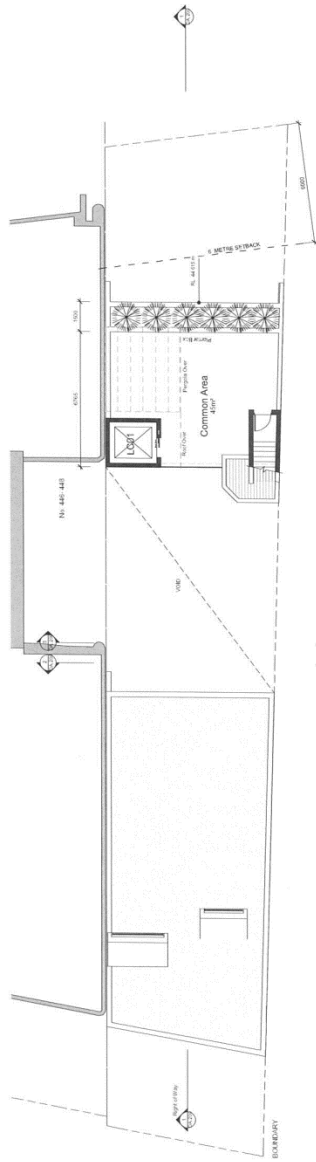


NOT For Construction

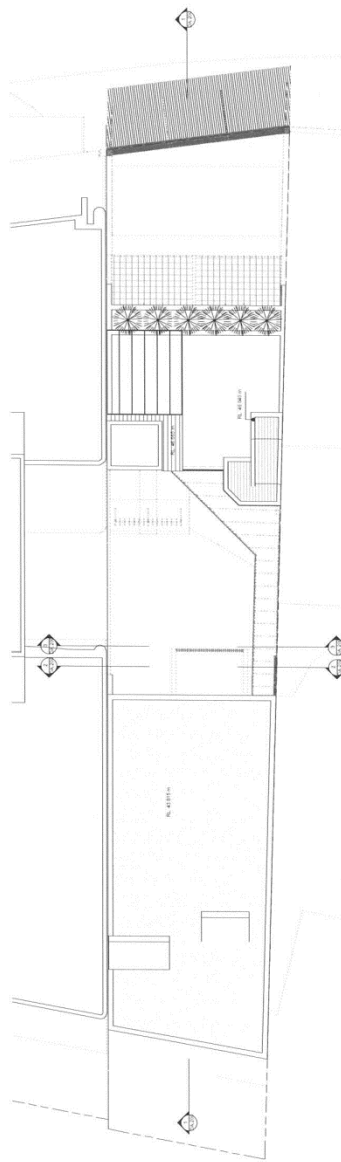
DEVELOPMENT APPLICATION

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9	11/12	PRELIMINARY DEVELOPMENT APPLICATION
10	11/12	PRELIMINARY DEVELOPMENT APPLICATION

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 PH: (02) 9550 1111  
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1 Level 5  
1:100



2 Roof level  
1:100

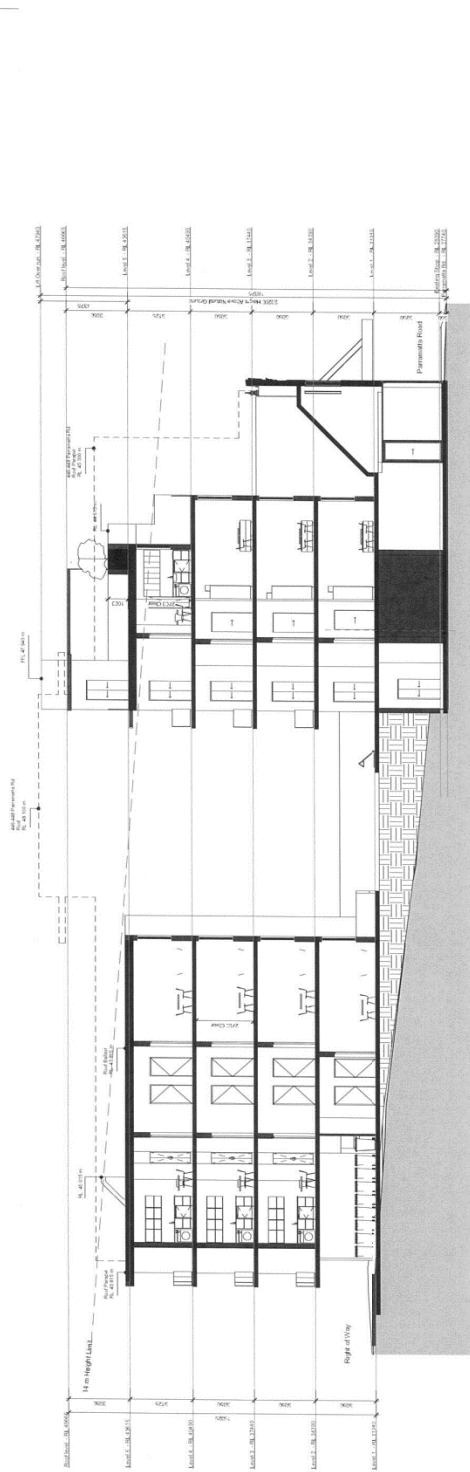
Proposed Boarding House - 442 Parramatta Rd, PETERSHAM  
 TITLE  
 Level 5 & Roof Plans  
 DA-102 F



NOT For Construction

DEVELOPMENT APPLICATION	
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2	Level 4 & Roof Plans
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4	Level 2 & Roof Plans
5	Level 1 & Roof Plans
6	Level 0 & Roof Plans
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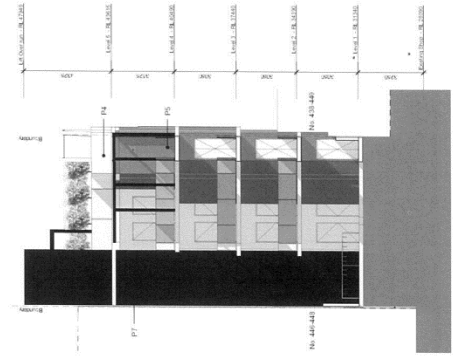
**NORDON JAGO**  
 ARCHITECTS  
 118 PARRAMATTA ROAD, SYDNEY NSW 2150. PHONE: 02 9550 1000. FAX: 02 9550 1001  
 11/111 PARRAMATTA ROAD, SYDNEY NSW 2150. PHONE: 02 9550 1000. FAX: 02 9550 1001  
 11/111 PARRAMATTA ROAD, SYDNEY NSW 2150. PHONE: 02 9550 1000. FAX: 02 9550 1001



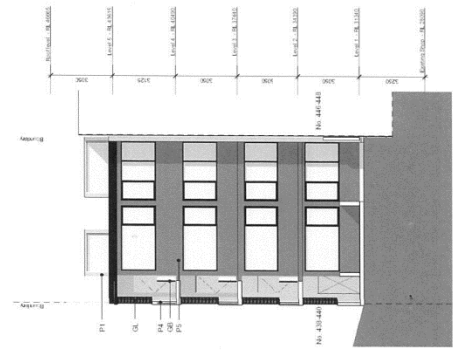
Section North/South  
1/100



Shop Perspective



Courtyard South  
1/100



Courtyard North  
1/100

Proposed Boarding House - 442 Parramatta Rd. PETERSHAM

DATE:	11/06/2018
SCALE:	A3/B
PROJECT:	DA-200 F

Sections

TITLE:	Sections
--------	----------

NOT For Construction

DATE:	11/06/2018
SCALE:	A3/B
PROJECT:	DA-200 F

DEVELOPMENT APPLICATION

NO.	2018/00000000
DATE	11/06/2018
SCALE	A3/B
PROJECT	DA-200 F

**NORDON · JAGO**  
ARCHITECTS

158 PARRAMATTA ROAD, SYDNEY NSW 2150  
 158 PARRAMATTA ROAD, SYDNEY NSW 2150  
 158 PARRAMATTA ROAD, SYDNEY NSW 2150

**South Elevation**  
1:100

**North Elevation**  
1:100

**East Elevation**  
1:100

**Material Palette:**

- P1 Concrete masonry
- P2 Brickwork
- P3 Concrete
- P4 Glass windows
- P5 Glass doors
- P6 Metal cladding
- P7 Metal roof
- P8 Metal gutters
- P9 Metal downpipes
- P10 Metal fascias
- P11 Metal soffits
- P12 Metal eaves
- P13 Metal fascias
- P14 Metal soffits
- P15 Metal eaves
- P16 Metal fascias
- P17 Metal soffits
- P18 Metal eaves
- P19 Metal fascias
- P20 Metal soffits
- P21 Metal eaves
- P22 Metal fascias
- P23 Metal soffits
- P24 Metal eaves
- P25 Metal fascias
- P26 Metal soffits
- P27 Metal eaves
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- P30 Metal eaves
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- P95 Metal soffits
- P96 Metal eaves
- P97 Metal fascias
- P98 Metal soffits
- P99 Metal eaves
- P100 Metal fascias

**Site Plan:** Shows building footprint, setbacks, and street names Parramatta Road and Nga-a-Vaiwi.

**Proposed Elevations**

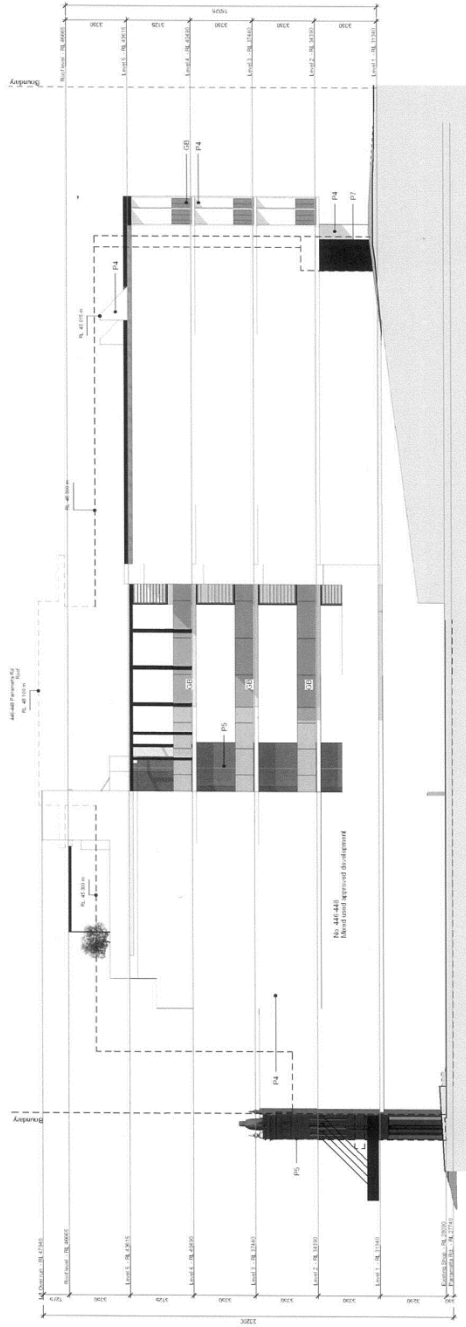
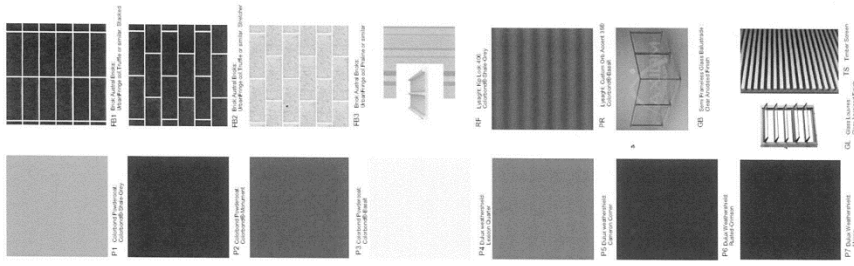
**NOT For Construction**

**DEVELOPMENT APPLICATION**

**NORDON · JAGO ARCHITECTS**

**Proposed Boarding House - 442 Parramatta Rd. PETERSHAM**

**DA-300 E**



West Elevation  
1:50

Proposed Boarding House - 442 Parramatta Rd. PETERSHAM  
 CLIENT: ARCHITECTURE  
 DATE: 10/10/2018  
 SCALE: 1:50  
 DRAWING: DA 301 E

Proposed Elevations

NOT For Construction

**DEVELOPMENT APPLICATION**

**NORDON · JAGO**  
 ARCHITECTS

10/10/2018  
 442 Parramatta Rd, Petersham, NSW 2015  
 DA 301 E

1:50