



84 Park Road, Homebush
Demolition of existing structures and
construction of a mixed use development

Submitted to Strathfield Council
on behalf of Mr R Alam

Date: 6 July, 2020
Prepared by: Rod Logan

DEVELOPMENT APPLICATION

Statement of Environmental Effects



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1. Introduction & Background

This Statement of Environmental Effects accompanies a Development Application to Strathfield Council seeking consent for the demolition of the existing structures on the site for the purpose of the construction of an eight (8) storey mixed use development comprising of ground floor commercial and boarding rooms above at 84 Park Road, Homebush.

A pre DA submission has previously been made to Council with a pre DA meeting held with Officers on 12 November 2019. That submission was also considered by the Design Review Panel on 20 November 2019. The current submission has been revised to take into account the comments from the Panel and Council Officers. In 2015, the site was also previously granted development consent, in conjunction with the adjoining site at 86 Park Rd, for a mixed use development including commercial suites and 24 residential units. Due to divergent commercial interests that site amalgamation and redevelopment did not proceed.

The current boarding house proposal will comprise of forty-two (42) boarding rooms while an independent room proposed to house the on-site manager is also provided. The rooms are nominated as fourteen (14) single rooms and twenty-eight (28) double rooms inclusive of five (5) 'accessible' rooms. The boarding house is capable of being accommodated by a maximum of seventy (70) boarders while communal facilities such as the common living room and communal open space are located at first floor level. A further communal terrace is provided on the uppermost building level. Each of the proposed boarding rooms will contain bathroom, kitchen and laundry facilities while parking for thirteen (23) vehicles, nine (9) motorcycles and nine (9) bicycles is provided across two (2) levels. The proposal will provide for a high quality development in a well serviced location in close proximity to public transport and numerous community facilities.

This SEE has been prepared pursuant to Section 4.12 of the Environmental Planning and Assessment Act, 1979 and Clause 50 of the Environmental Planning and Assessment Regulation, 2000. The purpose of this SEE is to:

- *describe the proposed development and its context;*
- *assess the proposal against the applicable planning controls and guidelines; and*
- *assess the potential environmental impacts and mitigation measures.*

In terms of the boarding house, this will be a registrable general boarding house under the Boarding Houses Act 2012.

The proposal does not include any regulated assisted boarding house component. It will not be seeking licensing to service age related frailty; a mental illness and/or any intellectual, psychiatric, sensory or physical disability, or need to support or supervise daily tasks or provide personal care such as showering, preparing meals or managing medication. There will be provision for five (5) accessible boarding rooms; however, occupants will not be offered or provided with any formal assistance.

In our opinion, the proposed development satisfies the relevant objectives of the B4 - Mixed Use Zone, complies with the relevant development standards outlined in the AHSEPP and is generally consistent with the local planning controls. Importantly, the development responds appropriately to the emerging character of the surrounding locality where it aims to address the need for more alternative accommodation options.

As important, the proposal is also considered unlikely to result in adverse impacts on surrounding development or the locality generally.

This application also includes an Operational Plan of Management (PoM) which aims to ensure that the boarding house will be operated in a manner that ensures the safety of residents, provides a comfortable and harmonious environment for residents, will not result in unacceptable impacts to neighbouring residents, and ensure that the building and site will be properly maintained.

The Statement has been prepared having regard to the following documentation:

Document	Prepared by
Architectural Drawings	ZTA Architects
Landscape Plans	UGD Consulting
Site Investigation	Construction Sciences Pty Ltd
Waste Management Plan	ZTA Architects
Traffic and Parking Report	Traffic Solutions Pty Ltd
Acoustic Assessment	Acoustic, Vibration & Noise Pty Ltd
Stormwater and Engineering Plans	AKT Engineering & Consulting Pty Ltd
BASIX	AKT Engineering & Consulting Pty Ltd
BCA and Access Reports	Access-I Pty Ltd

2. Site Analysis and Context

Locality

The subject site is located approximately 10.1 km south-east of Parramatta CBD and 13.6 km west of Sydney's CBD. The site is located in the Local Government Area of Parramatta. Figure 1 below provides an appreciation of the location of the site within its context.

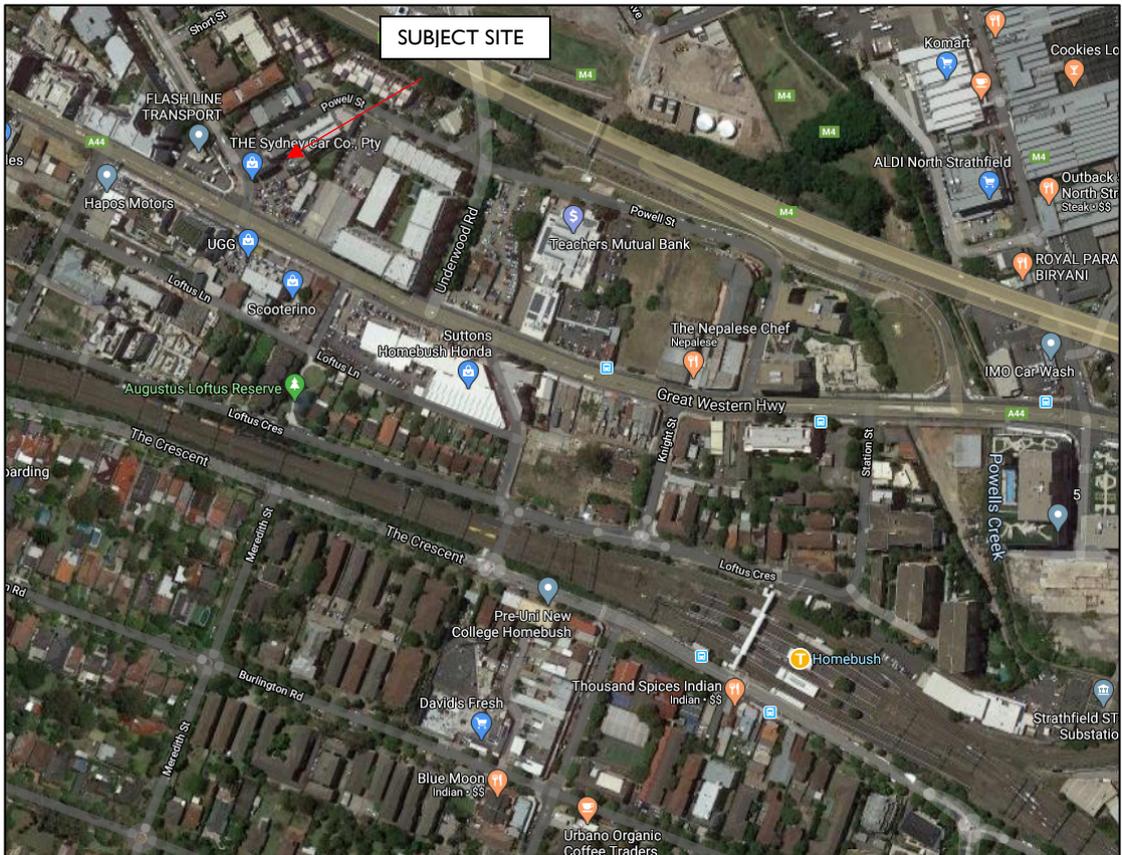


Figure 1: Locality map Source: Google Maps

Site Description and Existing Built Form

The subject site is located on the north- eastern side of Park Road where it is legally described as Lot B of DP 958679 (84 Park Road, Homebush). The site presents a frontage width to Park Road of 13.41m, respective north-western and south-eastern boundary depths of 40.235m and overall site area of 539.6m². A detailed survey has been submitted with the development application that indicates boundary lengths, site area and the location of existing structures on the allotment.

The site comprises of an existing single storey fibro shop inclusive of detached brick garage and awning. A right of carriageway is located adjoins the site to the north-east enabling vehicular access and site servicing to be provided directly from Powell Street. There are no other significant features or site constraints that impose any restriction on the proposed development. Figures 2 through to 6 below provide a clearer appreciation of the current built form and characteristics of the land.



Figure 2- The subject site as it presents to Park Road



Figure 3- As previous

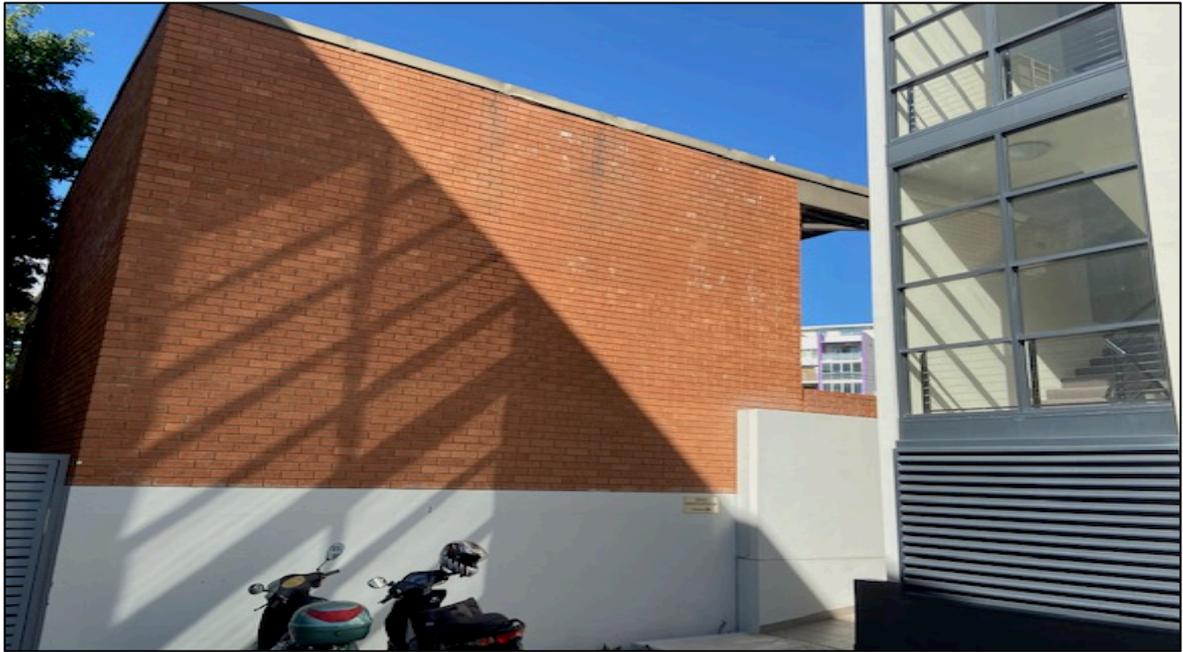


Figure 4 – The existing brick outbuilding at the rear of the subject site



Figure 5- The existing awning located at the rear of the site

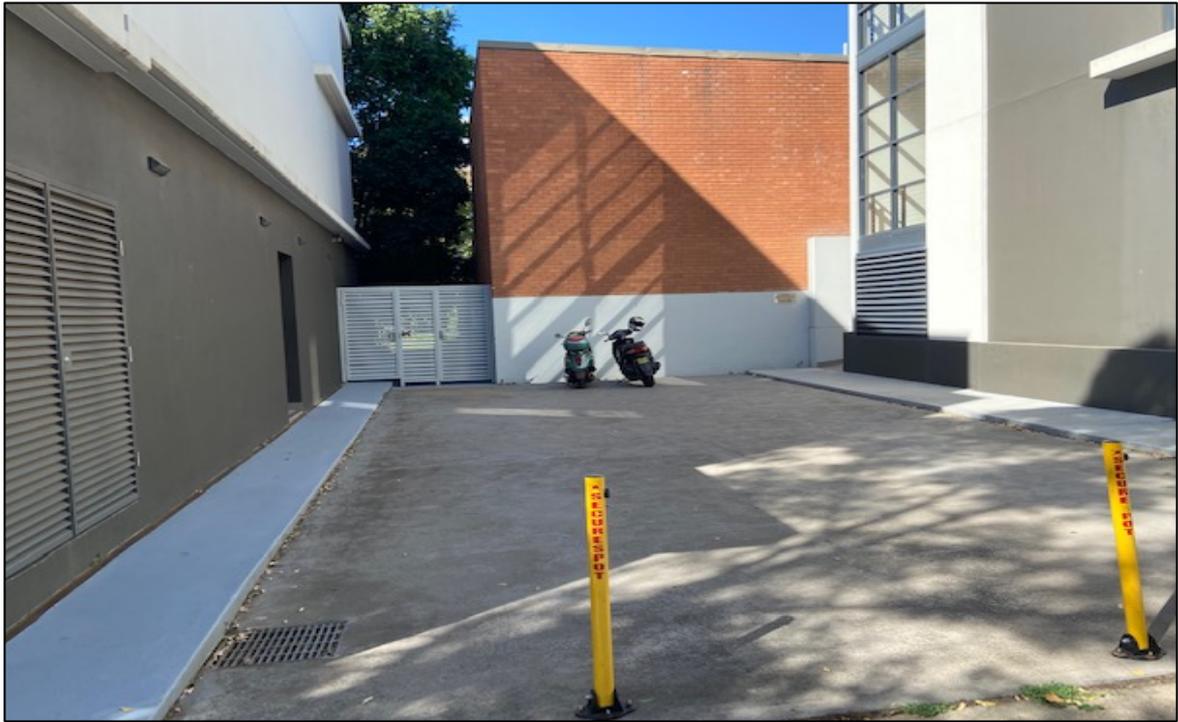


Figure 6 - The right of carriageway located off Powell Street servicing the subject site

Existing Character and Context

The site is located in a strategic location forming part of the Parramatta Road Corridor in notable proximity to the Homebush Railway Station. Furthermore, the site has optimal access to local services and facilities including shopping centres, professional and health services, and places of leisure.

Proximity to public transport, services and facilities enhances the status of the site as a desirable location for higher density residential accommodation, particularly more affordable forms of housing.

Land use composition in the immediate locality is considerably varied as is expected within a location where there is an interface of various zones that permit a broad combination of land uses. Residential accommodation exists in a variety of forms, including three (3) storey residential flat buildings interspersed with nine (9) storey mixed use development. Commercial and retail premises are also commonly identified within the defining context.

The built form in the locality is experiencing a transition towards higher density development and a number of new high-density residential flat buildings are emerging.

The neighbourhood itself has a high level of amenity in terms of access to a variety of services and facilities, good access to public transport and minimal environmental constraints. A detailed site analysis has been prepared and is included with the architectural plans submitted under separate cover. The site and general built form context along Parramatta Rd are shown in the following photos:





5. The Proposed Development

The proposed development is for the construction of an eight (8) storey mixed use development comprising of ground floor commercial and boarding rooms above at 84 Park Road, Homebush.

The boarding house will comprise of forty-two (42) boarding rooms while an independent room proposed to house the on-site manager is also provided. The rooms are nominated as fourteen (14) single rooms and twenty-eight (28) double rooms inclusive of five (5) 'accessible' rooms. The boarding house is capable of being accommodated by a maximum of seventy (70) boarders while communal facilities such as the common living room and communal open space are located at first floor level. A further communal terrace is provided on the uppermost building level. Each of the proposed boarding rooms will contain bathroom, kitchen and laundry facilities while parking for twenty-three (23) vehicles, nine (9) motorcycles and nine (9) bicycles is provided across two (2) levels.

The proposed development is further described as follows:

Basement Floor Plan

- Parking for eighteen (18) vehicles in a two tier stacked form;
- Six (6) motorcycle spaces;
- Five (5) bicycle spaces;
- Car lift providing basement access; and
- Lift and stair access to the levels above.

An extract of the proposed basement level is reproduced below for reference:

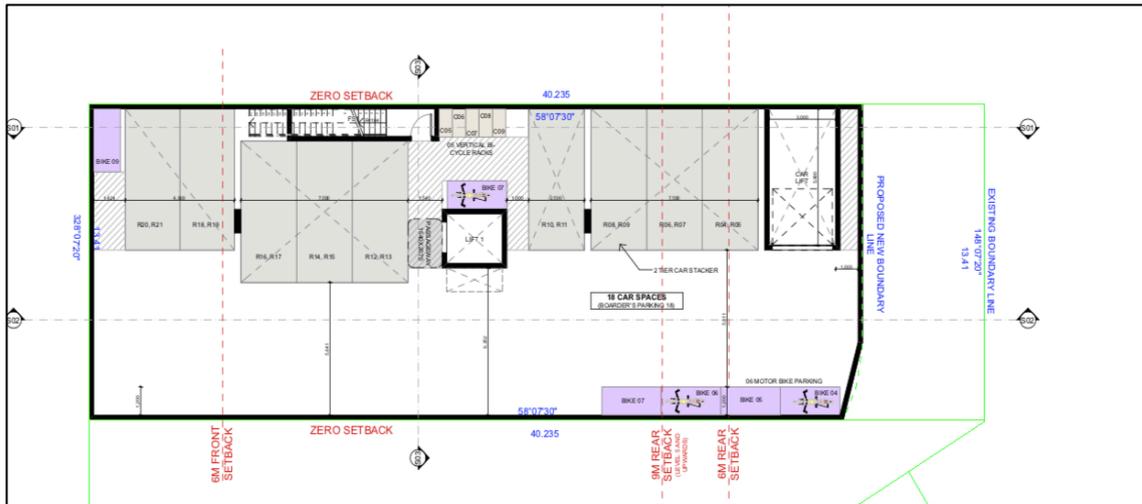


Figure 7: Basement Floor Plan Source: ZTA Group

Ground Floor Plan

- The provision of five (5) parking spaces allocated as the building’s accessible spaces, designated space for the on-site manager and two tier car stacker;
- Three (3) motorcycle spaces;
- Four (4) bicycle spaces;
- Commercial tenancy fronting Park Road;
- Waste room;
- Building services;
- Car-lift providing access to the level below;
- Lift and stair access.

An extract of the proposed ground floor level is reproduced below for reference:

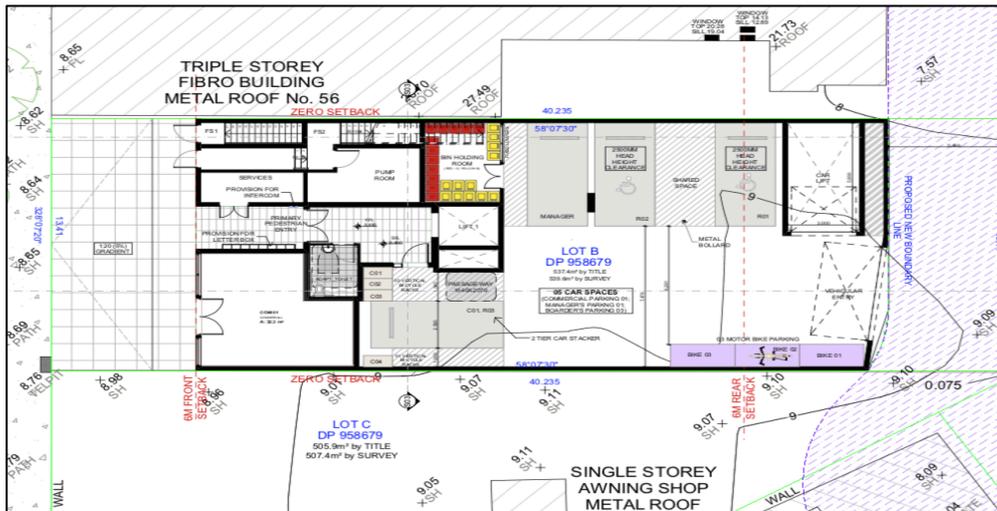


Figure 8: Ground Floor Plan Source: ZTA Group

Level I Plan

- The provision of five (5) boarding rooms comprising of two single rooms and three double rooms;
- A designated managers room with ancillary POS;
- Communal living area extending onto a communal terrace; and
- Lift and stair access.

An extract of the proposed Level I plan is reproduced below for reference:

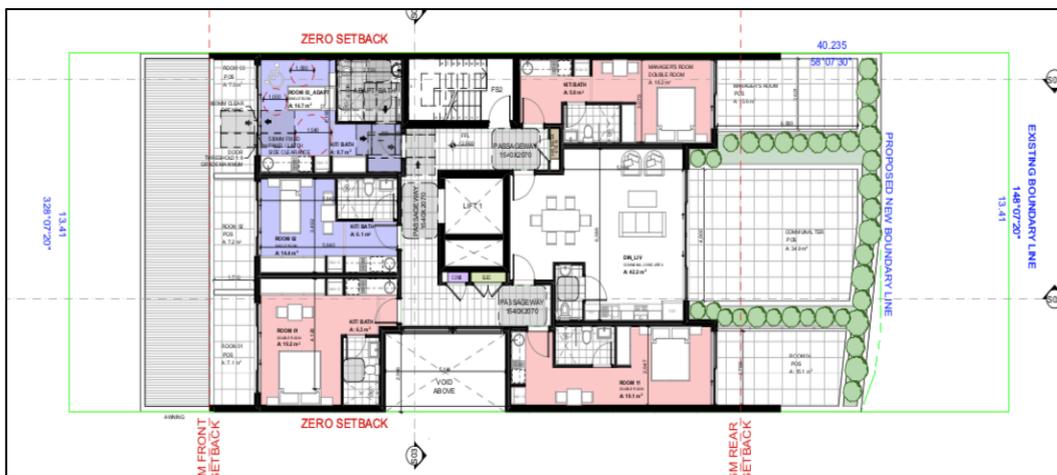


Figure 9: Level I Floor Plan Source: ZTA Group

Level 2-6 Plan

- The provision of seven (7) boarding rooms comprising of two single rooms and five double rooms; and
- Lift and stair access.

An extract of the proposed Levels 2- 6 is reproduced below for reference:



Figure 10: Level 2-6 Floor Plan Source: ZTA Group

Level 7 Plan

- The provision of three (3) boarding rooms comprising of two single rooms and a double room;
- Communal Terrace; and
- Lift and stair access.

An extract of the proposed Level 7 is reproduced below for reference:

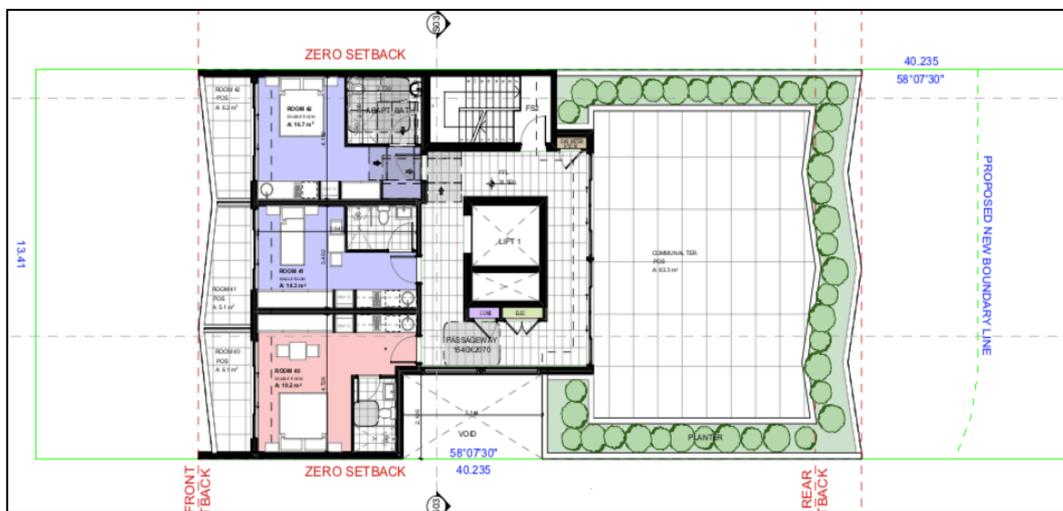


Figure 11: Level 7 Floor Plan Source: ZTA Group

Gross Floor Area

The proposal will have a Gross Floor Area (GFA) of 1343.50sqm, generating a Floor Space Ratio (FSR) of 2.5:1. This FSR comprises of both the 2:1 base FSR rate available under the SLEP 2012 and the 0.5:1 bonus FSR afforded under the ARHSEPP provisions.

Building Height

The development incorporates a maximum height limit of 26.48m

Materials

A schedule of materials has been separately submitted (refer to Architectural Drawings prepared by ZTA Group).

Common Areas and Communal Open Space

At first floor level, the proposal includes the provision of a 42.2sqm communal living area that extends onto a 34.9m² communal terrace. A secondary communal terrace is provided on the uppermost building level comprising of an area of 83.3m². This provision of communal and private open space is consistent with the requirements of ARHSEPP and will be separately discussed later in this report.

Access and Parking

Vehicular access to the site will be provided via a right of way located along the rear north-eastern boundary with access from Powell Street. Parking is provided over two levels for twenty-three (23) vehicles, nine (9) motorcycles and nine (9) bicycles.

Adequate maneuvering areas have been provided ensuring that access to the parking spaces complies with the Australian Standards and allows for vehicles to enter and exit the site in a forward direction. Refer to the accompanying Traffic & Parking Assessment Report prepared by Traffic Solutions for further information on this aspect of the proposal.

6. S4.15 Environmental Planning Assessment

The following section describes the proposed development's compliance with any relevant statutory and non-statutory policy and addresses the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.

6.1 S4.15 (a) (i) State Environmental Planning Policies

6.1.1 SEPP No 55 – Remediation of Land

The purpose of State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55) is to ensure that land which is contaminated is identified and appropriately remediated so as to be suitable for the proposed development.

Clause 7 of SEPP 55 states:

- (1) *A consent authority must not consent to the carrying out of any development on land unless:*
- (a) *it has considered whether the land is contaminated, and*
 - (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”*

The site has been subject to a Preliminary Site Investigation. That review makes the following conclusions:

- > Minor contamination that may be present in the site soils will likely be removed during the excavation of the basement across the site;
- > The site is suitable, from a contamination perspective, for the proposed residential land use (with basement car parking) with minimal access to soils.

The report then makes the following recommendations:

- > A post-demolition contamination assessment be undertaken to assess the contamination status within the building footprint and sealed areas, to manage potential risks to construction workers; and

> A hazardous materials survey of the buildings onsite may be conducted, prior to demolition.

Suitable conditions of development consent could therefore be applied to ensure that the extent of those remediation works are determined, in terms of the extent and the nature of all possibly hazardous material on site, and appropriate methods of removal, subsequent to the grant of approval and prior to construction of the development.

In view of the above and having regard to the provisions of SEPP No 55, it can be concluded that, subject to appropriate site remediation, the land can be made suitable for the proposed use.

6.1.2 SEPP – (Affordable Rental Housing) 2009

The SEPP Affordable Rental Housing (ARHSEPP) came into force on 31 July 2009 and, in accordance with Clauses 25-28, the SEPP applies to the proposed development and the subject site. It contains a number of standards that apply to boarding houses, as well as matters that - if complied with - cannot be used as reasons for refusal. It is noted that the ARHSEPP relies on Standard Instrument template zonings and that the B4-Mixed Use Zone is a general residential zoning where boarding houses are a permissible form of development with consent.

Clause 27 of the SEPP confirms that Division 3 of the SEPP relates to boarding houses. Boarding houses are defined within the SEPP by reference to the definition under the Standard Instrument (LEP) Order 2006 which is as follows:

boarding house means a building that:

- (a) is wholly or partly let in lodgings, and
- (b) provides lodgers with a principal place of residence for 3 months or more, and
- (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
- (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers, but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

The proposed development falls within this definition, and as such, the SEPP applies to the proposed development. Clauses 27(2) and 27(3) do not apply to this development given that the subject site is located in the B4- Mixed Use Zone. Clause 28 applies to the development of a boarding house in the aforementioned zone. The proposed use of the site for a 'boarding house' is permissible with consent under the SEPP Affordable

Rental Housing. The proposed use of the site for a ‘boarding house’ is also permissible with consent under the SLEP 2012.

Clause 29 of the SEPP contains standards that cannot be used to refuse consent for ‘boarding house’ development while Clause 30 provides further detail regarding the need to satisfy a number of specific design controls so as to be to the satisfaction of the consent authority.

Clause 30AA of the SEPP is a recently introduced clause that serves to limit the number of boarding rooms within a boarding house within the R2 Zone to twelve (12). This clause is not applicable to this development. Clause 30A requires that the consent authority give appropriate consideration to the compatibility of the development with the character of the local area. Consideration of whether the design of the development is compatible with the character of the local area is assessed below this compliance table.

The extent to which the proposed development satisfies the relevant standards of the ARHSEPP are detailed in the table below:

SEPP Provisions	Complies/Comments ✓/X
Cl.29 – STANDARDS THAT CANNOT BE USED TO REFUSE CONSENT	
(1)(c) Density and Scale	<p style="text-align: center;">✓</p> <p>The proposal generates a gross floor area 1343sqm, which results in a Floor Space Ratio (FSR) of 2.5:1. This FSR comprises of both the 2:1 base FSR rate and the 0.5:1 bonus FSR enabled under the ARHSEPP provisions.</p> <p>If the density and scale of the buildings when expressed as a floor space ratio are not more than the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less.</p> <p>The existing maximum floor space ratio for any form of residential accommodation permitted on the land is 2:1 under the provisions of Strathfield LEP 2012. Including the 0.5:1 bonus, a floor space ratio of 2.5:1 applies.</p>

	<p><u>Note:</u> The 0.5:1 bonus applies in this case, as the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register.</p>	
<p>(2)(a) Building Height</p>	<p>If the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land.</p> <p>The maximum building height under SLEP 2012 is 22m.</p>	<p style="text-align: center;">x</p> <p>The building will incorporate a maximum height of 26.48m that fails to comply with the height standard. A Clause 4.6 Variation to the development standard accompanies this application.</p>
<p>(2)(b) Landscaped Area</p>	<p>If the landscape treatment of the front setback area is compatible with the streetscape in which the building is located.</p>	<p style="text-align: center;">✓</p> <p>The urban form in the locality is transitioning towards higher density development as a result of the land use zonings and a strong push for urban infill. Applicable development standards and planning controls envisage built form of the type proposed. The proposal complies with building setback controls which largely preclude large landscaping areas. The landscaped treatment is relative to existing landscape treatments in the streetscape.</p>

(2)(c) Solar Access	Where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.	<p style="text-align: center;">✓</p> <p>The communal living room at first floor level will receive 3 hours direct sunlight during the prescribed time period.</p>
(2)(d) Private Open Space	<p>If at least one private open space area (other than the front setback area) of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers.</p> <p>If at least one private open space area (other than the front setback area) of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to accommodation provided on site for a boarding house manager.</p>	<p style="text-align: center;">✓</p> <p>A 34.9m² communal terrace is provided at first floor level while a secondary communal terrace is provided on the uppermost building level comprising of an area of 83.3m²</p> <p>Private open space for the use of the boarding house manager is provided adjacent to the manager's room also at first floor level. This private open space has an area of 15.6m² and a minimum dimension of 2.6m.</p>
(2)(e) Parking	<p>If at least 0.5 parking spaces are provided for each boarding room.</p> <p>If not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site.</p>	<p style="text-align: center;">✓</p> <p>The proposal provides a total of twenty-three (23) vehicles.</p> <p>One car parking space has been allocated specifically for use by the resident manager.</p>
(2)(f) Accommodation Size	<p>If each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least 12 square metres in the case of a boarding room intended to be used by a single lodger, or</p> <p>(ii) 16 square metres in any other case.</p>	<p style="text-align: center;">✓</p> <p>All rooms comply with the requirements. Refer to the boarding room area plan forming part of the architectural plan detail set prepared by ZTA group.</p>

CI.30 - STANDARDS FOR BOARDING HOUSES		
(I)(a) Communal Room	If a boarding house has 5 or more boarding rooms, at least one communal living room will be provided.	✓ A communal living room is provided at first floor level.
(I)(b) Room Size	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 largest boarding room (excluding bathroom and kitchen) is 22sqm. (Room 31)
(I)(c) Number of Lodgers	No boarding room will be occupied by more than 2 adult lodgers.	✓ No more than 2 lodgers are proposed for any room.
(I)(d) Bathroom and Kitchen Facilities	Adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger.	✓ All boarding rooms are provided with private kitchenettes and bathrooms.
(I)(e) Manager Accommodation	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.	✓ Residential accommodation in the form of a room (including kitchenette and bathroom) is provided at first floor level for a boarding house manager.
(I)(h) Bicycle and Motorcycle Parking	At least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	✓ Nine (9) spaces are allocated for motorcycles and nine (9) for bicycles.
CI.30A – CHARACTER OF LOCAL AREA		
	The design of the development is compatible with the character of the local area.	✓ The proposed boarding house is situated within a mixed use zone presenting as a building of a bulk and scale that is commensurate

	with what is expected with the redevelopment of the site and adjoining properties. (Refer to the further discussion below this table)
CI. 52 – NO SUBDIVISION OF BOARDING HOUSES	
A consent authority must not grant consent to the strata subdivision or community title subdivision of a boarding house.	 Neither strata nor community title subdivision have been sought as part of this application.

Clause 30A – Character of Local Area

Clause 30A of the SEPP requires consideration as to whether the design of the development is compatible with the character of the local area. The ‘character’ of an area is defined by the physical appearance of a locality (building height, setbacks, landscaping, land use, vehicle access points, orientation etc.) and also by the reasonableness of impacts created by new development on surrounding property.

In our view, “compatible” does not promote “sameness” in built form but rather requires that development fits comfortably with its urban context. Of relevance to this assessment are the comments of Roseth SC in *Project Venture Developments Pty Ltd v Pittwater Council* [2005] NSWLEC 191:

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

The above Principle calls on the assessment to consider if the physical impacts of a proposal are acceptable and also if the proposal’s appearance is in harmony with the buildings around it and the character of the street.

The application documentation and the discussion contained within this Statement demonstrates that the **physical impacts** of the proposal are acceptable. Specifically, the proposal complies with the major determinants of bulk and scale notwithstanding the breaching height which as detailed in the Clause 4.6 Variation request provided,

remains acceptable for the land given that numerous site specific environmental planning grounds provided that serve to justify the breach.

The development adopts a sensible configuration and incorporates appropriate mitigation measures to ensure any privacy and overshadowing impacts are limited. In relation to acoustic impacts, potentially noise-generating spaces such as the outdoor communal terraces at the first and uppermost building level are oriented away from any potentially sensitive receivers while being treated with landscape screening along the critical perimeters.

Subject to appropriate management of the boarding house as supported by a Plan of Management, the proposal will have no significant adverse impact on acoustic privacy.

Solar access diagrams indicate that shadow will be cast predominately over the public roadway (Park Road) to the south and not to any significant degree on the residential property on the north-east.

It is considered that the appearance of the boarding house, although different to existing development in the locality, is in harmony or compatible with the emerging character of the street and the broader area, as envisaged by the relevant building envelope controls. Specifically, the development provides a building mass and floor space distribution considered appropriate in this context.

The desired future character for this particular context encourages an evolution towards higher density development with heights and setbacks that reflect a high density urban environment and scale. The building configuration is consistent with the desired future character without impacting upon adjoining existing character areas.

The proposed boarding house development, if approved, will be consistent in land use to the surrounding development.

It is not appropriate to test the compatibility of the development against only the existing character of the area as that character will undoubtedly evolve as sites are redeveloped in accordance with planning controls. Instead, the consent authority must also consider if the development is compatible with the desired character of the locality, as envisaged by the suite of planning controls in place and, pertinently, the objectives of B4 Mixed Use Zone. The proposal is consistent with the objectives of the land use zone in that it will provide an alternative housing type within a mixed use setting.

For this reason, and the reasons stated above, the design of the building is considered to be compatible with the emerging character of the local area and therefore in satisfaction of the requirement of the ARHSEPP in its requirement for the character of the local area to be respected.

6.1.3 SEPP (Building Sustainability Index) 2004.

This proposal is for boarding house rooms that can be independently occupied and in accordance with the provisions of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, a BASIX Certificate has been prepared and submitted with the application. The proposed development satisfies the requirements of the certificate in terms of water management and use, thermal comfort and energy efficiency.

6.1.4 SEPP (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)

The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) regulates the clearing of native vegetation on urban land and land zoned for environmental conservation/management that does not require development consent.

The Vegetation SEPP applies to the clearing of:

1. Native vegetation above the Biodiversity Offset Scheme (BOS) threshold where a proponent will require an approval from the Native Vegetation Panel established under the *Local Land Services Amendment Act 2016*; and
2. Vegetation below the BOS threshold where a proponent will require a permit from Council if that vegetation is identified in the council's development control plan (DCP).

The Vegetation SEPP repeals clause 5.9 and 5.9AA of the *Standard Instrument - Principal Local Environmental Plan*, with regulation of the clearing of vegetation (including native vegetation) below the BOS threshold being through any applicable DCP.

There are no existing trees on the site of contributory value. In this regard the principles of the SEPP and relevant DCP provisions are considered to be satisfied.

6.1.5 State Environmental Planning Policy (Infrastructure) 2007

Clause 101 - Development with frontage to classified road

This clause applies to development with frontage to a classified road. In this regard, Park Road is not identified as a Classified Road and therefore, this provisions of this clause do not apply to this development.

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

Clause 102 of the ISEPP applies noise criteria to residential development adjacent to the road corridor for a freeway, a tollway or a transit way or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of the RMS) and that the consent authority considers is likely to be adversely affected by road noise or vibration.

The Great Western Highway (Parramatta Road) is located to the south of the site within notable proximity. In the interest of abundant caution, the provisions of Clause 102 of the SEPP have been considered and an Acoustic Assessment prepared by Acoustic, Vibration and Noise Pty Ltd accompanies this application. This assessment provides specific recommendations in relation to the required acoustic measures and or treatments required to be implemented so as to satisfy the provisions of this clause. By way of summary, this report concludes the following:

“The construction of the proposed development at No. 84 Park Road, Homebush if carried out as recommended in the plans and specifications and including the acoustic recommendations in this report, will meet the required noise reduction levels as required in Clause 102 of the State Environmental Planning Policy – (Infrastructure) 2007, NSW Road Noise Policy, Australian/New Zealand Standard AS/NZS 2107 ‘Acoustics – Recommended Design Sound Levels and Reverberation Times’ and Strathfield Municipal Council Conditions/Requirements. In additions, noise breakout from the mechanical plant will comply with the NSW Noise Policy for Industry; Noise breakout from the Communal areas will comply with the Noise Guide for Local Government (Background noise level + 5)”.

Relevant consent conditions can be imposed in line with the recommendations detailed within the Acoustic Report. Having consideration to the discussion carried out above, the proposed development is considered to satisfy the relevant provisions under Clause 102 of the Infrastructure SEPP.

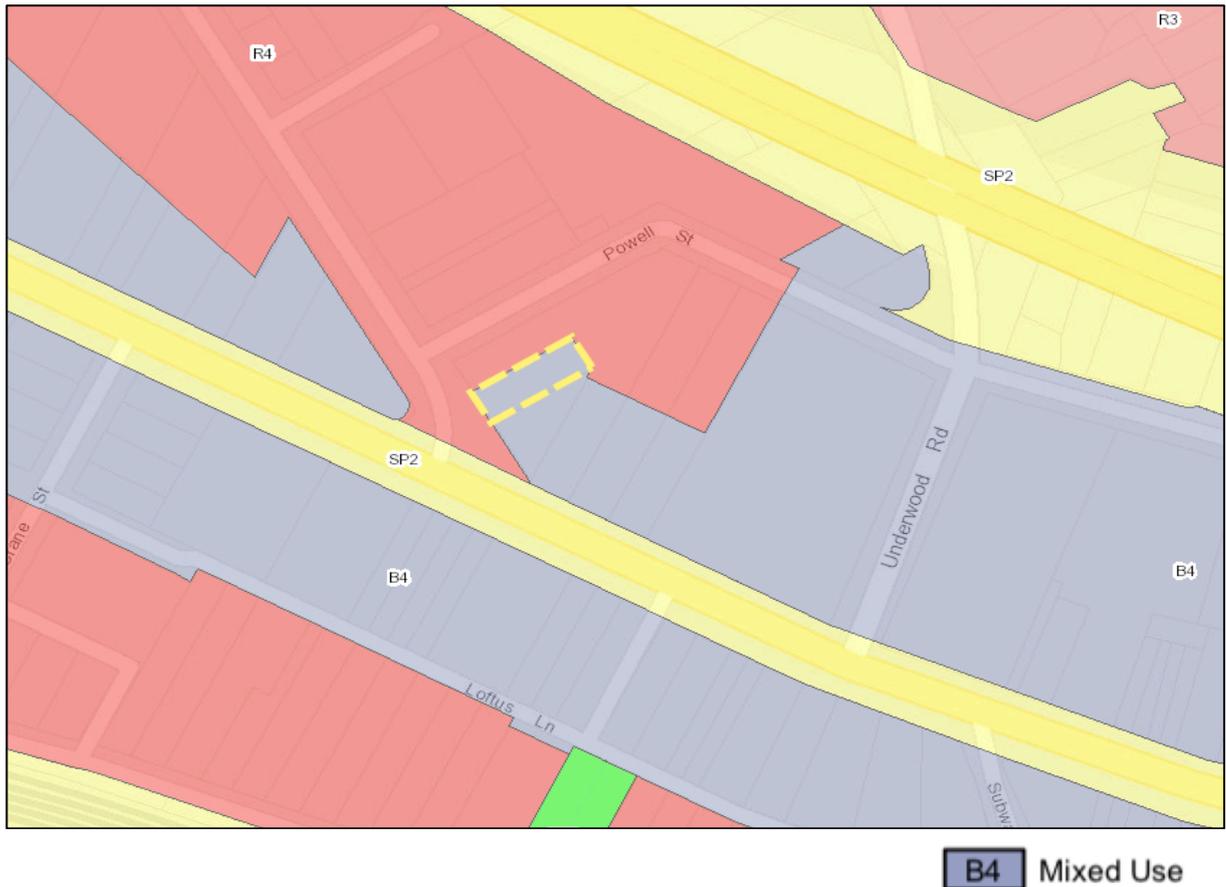
Clause 104 - Traffic generating development

Clause 104 does not apply to the proposal as it is not of a type nominated in Schedule 3 of the Infrastructure SEPP and therefore, the application does not need to be referred to the NSW Roads & Maritime Services (RMS).

6.2 S4.15 (a) (i) Local Planning Instrument

6.2.1 Strathfield Local Environmental Plan 2012

The Strathfield Local Environmental Plan 2011 (SLEP 2012) applies to the subject site which is identified as being within Zone B4 -Mixed Use. The proposed development is best characterised as a mixed use development comprising of a “commercial premises” and “boarding house” which is permissible with the consent of Council in the B4 – Mixed Use Zone.



The objectives of the B4 Mixed Use Zone are as follows:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To facilitate mixed use urban growth around railway stations and transport nodes and corridors, commercial centres and open space.
- To provide local and regional employment and live and work opportunities.

The proposed development is consistent with the objectives of the zone.

A summary of our assessment of the proposed development against the LEP provisions is detailed below. Some clauses within the LEP have been deliberately omitted because they are not applicable to the proposed development.

Part 4 – Principal Development Standards

Relevant Clause and Standard	Proposed Development	✓/X
<p>4.3 Height</p> <p>The proposed development is subject to the provisions of Clause 4.3, which as indicated on the associated “Height of Buildings” Map a permitted height of 22m.</p>	<p>The proposed development will comprise of a maximum height of 26.48m.</p> <p>A cl 4.6 variation is requested – see Annexures.</p>	<p>X</p>
<p>4.3A Exceptions to height of buildings (Parramatta Road Corridor)</p> <p>Despite clause 4.3, the height of a building on land in “Area 1” identified on the Height of Buildings Map that comprises a key site shown in Column 1 of the Table to this clause and is identified as a key site on the Key Sites Map is not to exceed the maximum height shown opposite in Column 2 which in this case equates to 29m</p>	<p>While the subject site is identified on the Key Sites Map (25), it does not comprise of a key site given that consolidation has not been achieved.</p>	<p>N/A</p>
<p>4.4 Floor Space Ratio</p> <p>The development is subject to the provisions of Clause 4.4 which, as indicated on the associated “Floor Space Ratio Map”, limits the floor space ratio for buildings on the subject site to 2:1,</p>	<p>The proposal generates a gross floor area 1343sqm, which results in a Floor Space Ratio (FSR) of 2.5:1. This FSR comprises of both the 2:1 base FSR rate and the 0.5:1 bonus FSR enabled under the ARHSEPP provisions</p>	<p>✓</p>

<p>4.3A Exceptions to floor space ratio (Parramatta Road Corridor)</p> <p>Despite clause 4.4, the floor space ratio of a building on land in “Area I” identified on the Floor Space Ratio Map that comprises a key site shown in Column 1 of the Table to this clause and is identified as a key site on the Key Sites Map is not to exceed the floor space ratio shown opposite in Column 2 which in this case equates to 3.15:1.</p>	<p>While the subject site is identified on the Key Sites Map (25), it does not comprise of a key site given that consolidation has not been achieved.</p>	<p>N/A</p>
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Part 5 – Miscellaneous Provisions

Relevant Clause	Proposed Development	Compliance
<p>5.10 Heritage Conservation</p> <p>The objectives of this clause are as follows:</p> <ul style="list-style-type: none"> • to conserve the environmental heritage of Parramatta, • to conserve the heritage significance of heritage items and heritage conservation areas, • to conserve archaeological sites, • to conserve Aboriginal objects and Aboriginal places of heritage significance. 	<p>The subject site is not listed as a heritage item in Schedule 5 and is not within a Heritage Conservation Area. A heritage item is located in notable proximity to the site being the Spanish Mission house and garden (128) located at 80 Park Road (formerly 80 Wentworth Road).</p> <p>Given that the approved and constructed development located at 82 Park Road is located between the subject site and the item, no visual implications to or from the item are likely to result from the proposed development.</p>	<p style="text-align: center;"></p>

Part 6 – Additional Local Provisions

Relevant Clause	Proposed Development	Compliance
<p>6.1 Acid Sulfate Soils</p> <p>The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.</p>	<p>The subject site is identified as being affected by Class 5 Acid Sulfate Soils on the ASS Planning Map. In response, the proposed works are not anticipated to result in the lowering of the watertable on nearby Class 2 land.</p>	<p style="text-align: center;">✓</p>
<p>6.2 Earthworks</p> <p>The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p>	<p>The extent of earthworks proposed is the result of providing the requisite amount of parking anticipated to be generated by the development within a basement.</p> <p>Any excavated material is understood to be virgin material and highly unlikely to be contaminated given the long standing use of the site for residential purposes. It is anticipated that standard conditions of consent will be imposed in relation to land contamination and disposal of excavated material.</p> <p>Where proposed earthworks occur within or close to the zone of influence of neighbouring structures, specific excavation and earth retention methods will be implemented to ensure structural integrity of adjacent buildings is not compromised.</p> <p>It is considered unlikely that the site contains relics or any items of historic significance. Should any such item be encountered during site preparation works, excavation will cease immediately and the appropriate government authority notified. It is</p>	<p style="text-align: center;">✓</p>

Relevant Clause	Proposed Development	Compliance
	<p>anticipated that a standard condition of consent will be imposed in this respect.</p> <p>Sediment and erosion controls will be installed and maintained for the duration of the site preparation and construction phases to ensure there is no risk of sediment laden water leaving the site and entering council's drainage infrastructure.</p> <p>Excavation techniques which focus on minimising disturbance resulting from noise and vibration transmission will be implemented.</p> <p>In summary, the proposal will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p>	
<p>6.3 Flood Planning</p> <p>The objectives of this clause are as follows to minimise the flood risk to life and property associated with the use of land to allow development on land that is compatible with the land's flood hazard and to avoid significant adverse impacts on flood behaviour and the environment.</p>	<p>The subject site has not been identified as being flood affected.</p>	<p>N/A</p>
<p>6.4 Essential Services</p> <p>Development consent must not be granted for development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—</p>	<p>All services are available to the land.</p>	<p>✓</p>

Relevant Clause	Proposed Development	Compliance
(a) the supply of water, (b) the supply of electricity, (c) the disposal and management of sewage, (d) the disposal and recycling of waste, (e) stormwater drainage or on-site conservation, (f) suitable vehicular access.		
<p>6.9 Additional provisions for development in the Parramatta Road Corridor</p> <p>Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that the development will contribute to—</p> <p>(a) the general mix of residential and non residential land uses in the area, and (b) the vertical and horizontal integration of land uses in the area.</p>	<p>The proposal provides a mix of both commercial and residential uses in the form of a boarding house.</p>	

6.3 S4.15 (a) (ii) Draft Environmental Planning Instruments

6.3.1 Environment SEPP

The planning provisions for waterways, catchments, world heritage and urban bushland are currently contained in several State Environmental Planning Policies (SEPPs); the Standard Instrument – Principal Local Environmental Plan (Standard Instrument); and in Ministerial Directions for plan making issued under the Environmental Planning and Assessment Act 1979.

An ‘Explanation of Intended Effect for the SEPP (Environment)’ was publicly notified between 31 October 2017 to 31 January 2018. The SEPP (Environment) will integrate provisions from seven (7) existing SEPPs relating to catchments, waterways, urban

bushland and world heritage and reduce the complexity of and streamline the planning system.

The proposed SEPP (Environment) will:

- Encourage the proper management, development and conservation of natural resources and the protection of the environment,
- Enable growth that maintains and enhances the health and integrity of our natural and cultural heritage,,
- Streamline development assessment by identifying and considering environmental values and constraints at the earliest possible stage in the development decision making process,
- Promote ecologically sustainable development that supports a balanced approach to the use of land and natural resources, and provides for long term environmental, economic and social well-being,

Based on the information of the 'Explanation of Intended Effect of the SEPP (Environment)', it is considered that the proposal is consistent with the proposed planning instrument.

6.3.2 Draft Remediation of Land SEPP

The Remediation of Land SEPP was on public exhibition until 31 March 2018 and is a review of SEPP No. 55 – Remediation of Land which, along with the *Managing Contaminated Land Planning Guidelines*, has been in place for almost 20 years. Both documents needed to be updated to respond to changes in federal and state legislation and policy and to reflect new land remediation practices.

The proposed SEPP aims for the better management of remediation works by aligning the need for development consent with the scale, complexity and risks associated with the proposed works and will:

- *provide a state-wide planning framework for the remediation of land,*
- *require consent authorities to consider the potential for land to be contaminated when determining development applications,*
- *clearly list the remediation works that require development consent, and*
- *introduce certification and operational requirements for remediation works that can be undertaken without development consent.*

Based on the information of the 'Explanation of Intended Effect of the SEPP - Remediation of Land 2018', it is considered that the proposal is consistent with the proposed planning instrument.

6.4 S4.15 (a) (iii) Development Control Plan

6.4.1 Strathfield Development Control Plan 2012

Strathfield Council's Consolidated Development Control Plan (SCDCP) 2005 was adopted by Council on 4 April 2006 and came into force on 3 May 2006. The SCDCP 2005 is a comprehensive document that contains multiple parts to address different land uses and development matters.

There are no controls within the DCP that relate specifically to boarding houses and consequently the controls under the SEPP (Affordable Rental Housing) 2009 and where applicable the Strathfield LEP 2012, establish the built form controls relevant to this type of development.

With regards to the Strathfield Development Control Plan No 20 (Parramatta Road Corridor Area), the proposal is not inconsistent with the nature, form and scale envisaged for mixed-use development. Furthermore, the proposal is deemed appropriate for the site and compatible with the natural and built environment,

Furthermore, the sites location in notable proximity to Homebush Station will ensure that public transport use is optimised.

6.5 S4.15 1(a)(iiia) – Any Planning Agreement entered into under S7.4

There are no planning agreements entered into or any draft agreement offered to enter into under S7.4 which affect the development.

6.6 S4.15 1(a)(iv) Prescribed Matters under the Regulations

Clause 92(1)(b): Demolition

Clause 92(1)(b) of the Environmental Planning and Assessment Regulation, 2000 (the Regulations) prescribes that the provisions of Australian Standard AS2601:2001 - The Demolition of Structures are to be taken into consideration, pursuant to Section 4.15(1A)(iv) of the Act, in the case of a development application for the demolition of a building. The application seeks consent for the demolition of all existing structures from the site. Suitable conditions of consent can be attached to regulate that work.

7. S4.15 EP & A Act 1979 Planning Assessment

7.1 Assessment of Natural Environmental Impact – S4.15(1)(b)

Topography and Scenic Impacts

The proposal requires excavation to accommodate the proposed basement parking level as anticipated at the site and for future development within the surrounding B4-Mixed Use and R4-High Density Zones. The building footprint represents an efficient use of the site for the provision of required on-site parking that does not dominate the streetscape appearance.

The proposed building is of a scale anticipated by the current planning controls to facilitate a future higher density residential neighbourhood. The building is well articulated with architectural features to break up the building mass and reduce the visual bulk. The potential visual impacts on the streetscape will therefore be typical for areas undergoing transition. The building will not visually dominate the anticipated future streetscape and development character of the locality as surrounding properties undergo redevelopment to higher densities.

In terms of scenic impacts, the site is not considered to be within an area where there are any specific or particular scenic qualities. The proposal is of contemporary aesthetic and addresses the street through clearly defined entrance points and frontage works both of which will not result in any adverse scenic impacts.

Accordingly, the impacts of the proposed development on the topography of the locality and its scenic impact are considered to be acceptable, in character and responsive to the locality.

Micro-Climate Impacts

The proposed development is unlikely to result in any adverse effects to the micro-climate in the locality.

Water and Air Quality Impacts

The proposed development is considered unlikely to result in any adverse effects on the locality in terms of water and air quality. Excavation is proposed and appropriate measures are to be undertaken in respect of the management of stormwater and runoff both through the construction phase and ongoing use of the site. The proposed development will be connected to the sewer and the use of the site is not likely to generate any unusual liquid waste, odour or fumes.

The Waste Management Plan that accompanies the application adequately demonstrates that the development can be managed to minimise impacts. The proposal is therefore considered acceptable in this regard.

7.2 Assessment of Built Environmental Impact – S4.15(1)(b)

The development incorporates basement parking that has been designed to be generally concealed below the existing ground level. The design of the building ensures functional internal layouts for each boarding room thereby taking advantage of available solar access and cross ventilation.

Aural and Visual Privacy Impact

The proposal is not likely to result in any significant adverse visual or acoustic privacy impacts. In terms of visual privacy, the design aims to maintain visual privacy to adjoining properties and within the proposed development and the proposal is not considered to have potential for any significant adverse impact on surrounding neighbours. The proposal is therefore considered appropriate in terms of possible visual and acoustic privacy impacts.

The general topography of the site and proposed building height, it is not anticipated that any significant impacts will arise and the proposal is considered appropriate in that regard.

Impact on Sunlight

In order to assess the impact of the proposed development in terms of overshadowing, shadow diagrams have been prepared. These diagrams are included in the architectural set and indicate that the proposed development will not cast any unreasonable level of shadowing over neighbouring properties given the majority of additional shadow will fall over the street network along Park road.

External Appearance and Design

The proposed development is contemporary in form with a variety of appropriate material and finishes as indicated on the submitted material schedule prepared by ZTA.

The development successfully addresses the street frontage with a clearly identified main entrance to the building off Park Road.

The proposed development provides a well resolved and articulated facade through the use of a range of vertical and horizontal treatments. A combination of balustrades and vertical timber finish screens provide visual interest and assist with modulation of the street façades.

Whilst the density of the site will increase in accordance with the desired future character under the SLEP and SDCP, the distribution of building mass, material details and general appearance of the building is considered to be well balanced and consistent with the desired future development of the site. Overall, the proposed development represents a properly proportioned development that will enhance the streetscape.

Views

There are currently no significant primary or secondary views enjoyed across the site from any adjoining property. Accordingly, the proposed development is unlikely to result in any loss of aspect or views enjoyed by surrounding properties.

Site Consolidation

The site is nominated as forming part of a Key Site on Parramatta Rd and bonus height and FSR provisions are available on site consolidation with Nos 86 Park Rd & 129 Parramatta Rd. Attempts have been made to consolidate the subject site with those adjoining sites through site acquisition. The proponent of this development has made a 'reasonable offer' to both adjoining land owners in accordance with the Land and Environment Court Planning Principles. The offers were made as determined by land value assessment undertaken by two independent valuers and submitted to those

adjacent land owners. No responses have been received from those land owners to the offer to purchase. Full documentation of the valuation and offer process have been submitted under separate cover to this Statement.

It should be noted that there is no restriction on development of the individual sites subject to the Key Site nomination. There is no minimum lot width or lot area requirement that must be satisfied prior to development and no adjoining site is therefore isolated from independent redevelopment. Failure to consolidate the sites has relevance only in that there is a failure to take advantage of the bonus provisions available under the SLEP. Despite this an assessment of the proposal against the relevant Land and Environment Court Planning Principles on site isolation is provided below:

Principle	Comment
<p>Where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application. [Melissa Grech v Auburn Council [2004] NSWLEC 40]</p>	<p>Formal offers to purchase the adjoining sites were provided prior to the lodgement of this development application. The first principle is satisfied in this respect.</p>
<p>Where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property. [Melissa Grech v Auburn Council [2004] NSWLEC 40]</p>	<p>As noted in the documentation separately provided reasonable offers have been made based on recent valuations, including an assessment of the value added bonus provision available for full site consolidation.</p> <p>In this regard, the second principle is considered to be satisfied noting that isolation is more specific to the subject land and not that of the neighbouring sites.</p>

<p>The level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or unreasonable, any relevant planning requirements and the provisions of s 79C of the Environmental Planning and Assessment Act 1979. [Melissa Grech v Auburn Council [2004] NSWLEC 40]</p>	<p>As stated above, it has been established that formal offers were made to the owners of the adjoining sites reflective of and in excess of the market value and therefore demonstrably reasonable.</p>
<p>Can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible?</p> <p>In answering this question, the key principle is whether both sites can achieve a development that is consistent with the planning controls. If variations to the planning controls would be required, such as non compliance with a minimum allotment size, will both sites be able to achieve a development of appropriate urban form and with acceptable level of amenity.</p> <p>To assist in this assessment, an envelope for the isolated site may be prepared which indicates height, setbacks, resultant site coverage (both building and basement). This should be schematic but of sufficient detail to understand the relationship between the subject application and the isolated site and the likely impacts the developments will have on each other, particularly solar access and privacy impacts for residential development and the traffic impacts of separate driveways if the development is on a main road.</p>	<p>The neighbouring sites at 86 Park Rd and 129 Parramatta Rd have the ability to further redevelop in accord with the objectives and controls offered to the land and therefore, from a future redevelopment perspective, either independently or consolidated and are not considered isolated. Those properties have benefit of the rear vehicular access that the subject site utilises and there are no other impediments to independent redevelopment.</p> <p>The proposal therefore satisfies the fourth principle.</p>

[Cornerstone Property Group Pty Ltd v Warringah Council [2004] NSWLEC 189]	
Amalgamation of the sites to achieve a desirable outcome must be balanced against one property owner frustrating the overall development and the property interests of other owners. [Karavellas v Sutherland Shire Council [2004] NSWLEC 251]	In accordance with this principle, the failed negotiations must not be allowed to unreasonably restrict any future redevelopment of the subject land to a capacity envisaged by the prescribed zoning and development standards.

Aural and Visual Privacy

The proposed development has been designed to minimise any adverse impact on surrounding residential properties and between each building in respect of visual or acoustic privacy.

The development has been designed to minimise as far as practicable the likelihood of any adverse overlooking or invasion of aural privacy to neighbouring properties. This was achieved by carefully considering the buildings location and massing across the site and through use of a number of critical design elements.

All private and communal recreation are orientated towards the front and rear of the site where they are generously offset from the boundaries mitigating any potential for direct overlooking to occur.

Economic and Social Impacts

The proposed development replaces a commercial car yard with a well-designed and contemporary development that will provide additional affordable housing opportunities in a location with excellent access to public transport, community facilities and commercial services. The proposal adds variety to the existing housing stock and improves affordability within the locality. The opportunity to develop boarding house accommodation is encouraged and facilitated by the State Environmental Planning Policy (Affordable Rental Housing) 2009. It has stated objectives that are expressly supported by development of the type proposed. These objectives are:

1. to provide a consistent planning regime for the provision of affordable rental housing,
2. to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,
3. to facilitate the retention and mitigate the loss of existing affordable rental housing,
4. to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,
5. to facilitate an expanded role for not-for-profit-providers of affordable rental housing,
6. to support local business centres by providing affordable rental housing for workers close to places of work,
7. to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.

The proposed development can only be viewed as having a positive social impact.

Undertaking the demolition and construction works will have some short-term positive economic impacts through employment generation, both direct employment and multiplier effects. Accordingly, it is considered that the proposed development is likely to have only positive social and economic impacts in the locality.

Crime Prevention through Environmental Design

Part B of the Department of Urban Affairs and Planning's (now Department of Planning and Environment) *Crime Prevention and the Assessment of Development Applications: Guidelines under Section 79C of the Environmental Planning and Assessment Act 1979* identify four Crime Prevention through Environmental Design (CPTED) principles (Table 2). Each of the principles seeks to reduce opportunities for crime and have been used to inform the *NSW Police Safer by Design Guidelines for Crime Prevention*. The principles are:

- Surveillance;
- Access control;
- Territorial reinforcement;
- and Space management

The subject development performs well in terms of achieving the safer by design guidelines for crime prevention. The development is deemed to be safe from a design perspective given the passive surveillance of the street from the commercial premises and boarding rooms, the legibility of the entrances, the ability to secure the basement

parking area and the existence of an on-site manager. A Plan of Management has been prepared and accompanies the Development Application which has considered the management and safety of occupants and adjoining neighbours.

Social Impact

1. Population Change

Will the development result in significant change/s to the local area's population (either permanently and/or temporarily)?

Explanation: *Changes to the size, structure and capacity of the population can have significant implications for the provision and adequacy of community facilities, services, community cohesion and/or social sustainability*

If yes, briefly describe the impacts below

The proposal will increase housing stock within the locality by forty-two (42) boarding rooms. The increase in population will be catered for in terms of services given the sites location and proximity to both local retail facilities and public transport.

The proposal is consistent with the vision for medium density development as instigated by Council having regard to both the site's B4 zoning and the density achieved on the site being consistent with that envisaged by both the planning controls and ARHSEPP provision.

Describe your proposed mitigations of negative impacts or enhancements of positive impacts below:

The proposal has been designed to comply with the allowable density controls enabled by the LEP and ARHSEPP. This design outcome will ensure that planned development densities will be maintained. Additionally, the provision of forty-two (42) boarding rooms in the locality will contribute to the much needed supply of high quality alternative housing. Although there will be an increase in population on the subject site, future residents are unlikely to place significant additional strain on existing community infrastructure and or services and would be generally consistent with anticipated population increase in the precinct that would arise from development under the applicable zone objectives.

2. Housing

Will the proposal increase or reduce the quantity, quality, mix, accessibility and/or affordability of housing?

Explanation: *A mix of housing types, sizes and costs is necessary for social diversity (in terms of age, family life cycles, income, cultural background) and social inclusiveness. Retention or expansion of affordable housing is necessary for social equity and to avoid displacement of individuals and families on lower incomes*

If yes, briefly describe the impacts below

The proposal will result in the demolition of a car yard. As such, there is no displacement of residents. The proposal will increase the amount of housing available on site that will promote social diversity and inclusiveness. Furthermore, the development has been designed with equitable access in mind given that the centrally located lift provides convenient access to all levels of the building while the communal indoor and outdoor living spaces located will serve to promote a sense of community.

Describe your proposed mitigations of negative impacts or enhancements of positive impacts below:

The proposed development will provide an increase in housing stock that will serve to alleviate the current housing rental demand pressures.

3. Accessibility

Will the development improve or reduce physical access to and from places, spaces and transport?

Explanation: *'Access for all' is an essential component of a fair and equitable society. Accessible developments encourage inclusive communities, improve affordability of goods and services, maximise access to public transport, pedestrian and cycle networks and provide convenient and continuous paths of travel (thereby promoting healthy, sustainable lifestyles).*

If yes, briefly describe the impacts below

The proposal will have a beneficial impact in terms of the accessibility of the site and the local area for any future residents. The development is located in close proximity to the Homebush, Strathfield and North Strathfield Centres. The subject site is also located in close proximity to a number of alternate transport options.

Describe your proposed mitigations of negative impacts or enhancements of positive impacts below:

The proposed development has been designed with the provision of five (5) adaptable rooms capable of accommodating a person with a disability should the need arise while the common areas within the development are wheelchair accessible.

4. Community and Recreation Services/Facilities

Will the development increase, decrease or change the demand or need for community, cultural and recreation services and facilities?

Explanation: *Access to diverse and adequate community and recreation services and facilities is necessary for physical and mental health, well-being, personal productivity, social cohesion and social sustainability. Examples of facilities include community centres, leisure centres, recreation centres, sports fields and playgrounds.*

If yes, briefly describe the impacts below

The proposed development is not expected to create substantial demand for new community infrastructure. It is expected that any future boarders will rely on existing infrastructure and public transport to access their everyday needs.

Describe your proposed mitigations of negative impacts or enhancements of positive impacts below:

As detailed, the proposal includes the provision of a large indoor communal room that extends onto an outdoor open space area. Furthermore, the subject site is located in proximity to a number of public areas of outdoor space including Allen Street and Billy Boyce Reserves.

5. Cultural and Community Significance

Will the development impact on any items or places of cultural or community significance?

Explanation: *There may be certain places, items or qualities that are culturally valuable or significant to the community. They provide significant meanings and reference points for individuals and groups. This may include specific sites of Aboriginal significance.*

If yes, briefly describe the impacts below

There will be a negligible impact as a result of this development. The subject site does not contain any identified elements of either cultural or community significance.

Describe your proposed mitigations of negative impacts or enhancements of positive impacts below:

Not applicable.

5. Community Identity and the Sense of Belonging

Will the development strengthen or threaten opportunities for social cohesion and integration within and between communities?

Explanation: *Social cohesion and integration requires place and spaces for informal and safe social interaction. Developments can increase or decrease these interaction opportunities through their provision (or otherwise) of safe and connected pathways and linkages and attractive gathering places (town centres, parks, squares / plazas, civic spaces and streets).*

In this regard, the proposal promotes rather than detracts from the ability to enable social integrations. The communal indoor and outdoor spaces provided as part of the development will promote the ability for interaction between boarders who are all likely to stem from various community backgrounds.

If yes, briefly describe the impacts below

The proposed development will strengthen opportunities of social cohesion and integration within and between communities.

Describe your proposed mitigations of negative impacts or enhancements of positive impacts below:

Not applicable.

7. Health and Well-being

Will the development strengthen or threaten opportunities for healthy lifestyles, healthy pursuits, physical activity and other forms of leisure activity?

Explanation: *Developments can increase or decrease opportunities for healthy lifestyles through improving or reducing the liveability of places (due to things such as safety, noise, dust, aesthetics) or increasing or decreasing opportunities for:*

- *Walking, cycling, play and other physical activity*
- *Healthy food choices*
- *Drinking, gambling and smoking*

Consideration should be given to incorporating healthy urban design principles into the development proposal.

If yes, briefly describe the impacts below

The proposal will strengthen opportunities for healthy lifestyles, healthy pursuits, physical activity and other forms of leisure activity by providing modern high quality residential accommodation that is accessible to recreation facilities and health services locally or by public transport.

Describe your proposed mitigations of negative impacts or enhancements of positive impacts below:

- The installation of a lift and the provision of wheelchair accessible pathways will combine to enable an accessible path of travel throughout the development.
- The proposal has provided secure bike storage for boarders to increase opportunities for physical activity through cycling.
- A secure lobby prior to entry to building will ensure security and sense of safety.
- All future boarders will have direct access to an accessible common open space that increases the overall level of liveability within the development.

8. Crime and Safety

Will the development increase or reduce public safety and opportunities for crime (perceived or actual crime)?

Explanation: *Developments can increase or decrease perceived and actual safety. For example, through generating increased traffic, providing venues that may attract unruly behaviour. This can diminish social cohesion and integration however impacts can be mitigated by appropriate design, traffic controls and management.*

Safer by Design principles should be considered in the development proposal.

If yes, briefly describe the impacts below

The development will increase public safety and reduce opportunities for crime (perceived or actual crime) through good site planning and proposed building design in accordance with CPTED principles.

Describe your proposed mitigations of negative impacts or enhancements of positive impacts below:

- A secure lobby prior to entry to the building will ensure security and sense of safety for individual apartments.
- The design of the proposed development will allow for casual surveillance given that a number of windows have been orientated towards the Park Road frontage.

9. Local Economy and Employment Opportunities

Will the development increase or reduce the quantity and/or diversity of local employment opportunities (temporary or permanent)?

Explanation: *Unemployment and low income are associated with poor health and reduced social inclusiveness and resilience. Accessible and diverse local jobs (suited to the capacities of local populations) reduce the risk of unemployment (and the associated poorer health and social sustainability outcomes)*

If yes, briefly describe the impacts below

The development will increase the quantity and/or diversity of local employment opportunities (temporary or permanent).

Describe your proposed mitigations of negative impacts or enhancements of positive impacts below:

The proposal will increase local employment opportunities through local sourcing of tradesmen and other construction-related professionals. The construction and ongoing maintenance of the development will therefore assist to stimulate local economic activity.

10. Needs of Specific Population Groups

Will the development increase or decrease inclusive opportunities (social, cultural, recreational, employment, governance) for groups in the community with special needs?

Explanation: *Developments can increase inclusiveness through the provision of culturally appropriate facility design and programs, and the avoidance of communication barriers.*

If yes, briefly describe the impacts below

The development will increase inclusive social opportunities.

Describe your proposed mitigations of negative impacts or enhancements of positive impacts below:

The provision of communal areas will increase opportunities for boarders to meet one another and interact through regular social activities. This will assist future boarders in establishing future relationships.

7.3 Assessment of Site Suitability – S4.15(1)(c)

It is considered that the proposed development is of a scale and design that is suitable for the site having regard to its size and shape, its topography and relationship to adjoining developments. The site is not in an area recognised by Council as being subject to landslip or bushfire. The proposed development is not likely to compound such hazards occurring and is considered appropriate in this instance.

This section will also consider the proximity of the site to services and infrastructure; traffic, parking and access issues and hazards.

Proximity to Services and Infrastructure

The site is within an established area where electricity, telephone, water and sewerage are also readily available.

Traffic, Parking and Access

The subject site has rear vehicular access from Powell Street via Right of Carriageway over the adjoining site. As detailed in the Traffic and Parking Impact Assessment that accompanies this application the following conclusions are drawn:

- The access driveway proposed to serve the development is suitably located and will provide very good sight distance along the proposed cul-de-sac.
- The proposed development satisfies the related geometric design specifications contained in the Australian Standards for off street parking and vehicular access.
- The off-street parking provided in the proposal complies with the requirements specified by the Affordable Rental Housing SEPP 2009.
- The proposal has potential estimated peak hour traffic flows in the order of 8 vehicle trips in the morning and 6 in the evening peak hours which will not have any unacceptable traffic impacts the surrounding road network.
- The basement provides adequate manoeuvring area for vehicle access to the car stackers and car lift.

Waste

A waste area has been provided at ground level where it will be appropriately screened from both the public domain and neighbouring properties. The location of the bin area will allow for convenient transfer of the bins to the street verge on collection days.

Hazard

The site is unaffected by the following hazards and natural constraints:

- Heritage restrictions do not apply to the site;
- The subject site is not affected by the provisions of the Coastal Management Act 2016;
- The subject site is not within a mine subsidence district within the meaning of Section 15 of the Mine Subsidence Compensation Act 1961;
- The land is not affected by a road widening or road realignment proposals;
- The land is not affected by a policy restriction for landslip;
- The land is not bushfire prone;
- The land is not affected by a policy restriction relating to tidal inundation;
- The land is identified as Class 5 on the Acid Sulfate Soils map (refer to previous discussion);
- The land is not subject to flood related development controls
- The land is not reserved for acquisition under any environmental planning instrument;
- The land is not biodiversity certified land; and
- The site is not contaminated land under the Contaminated Land Management Act but does contain hazardous material that can be subject to remediation and the site made suitable for the proposed development.

As detailed by this assessment, the proposed development is unlikely to have any significant negative impacts on the natural or built environments. The proposed development is generally consistent with relevant planning and design guidelines, with the non-compliances considered on planning grounds to be reasonable and justified.

The site is not in an area identified by Council as being subject to flooding and appropriate stormwater management measures have been put in place to ensure there is no adverse impact on the proposed development nor any significant intensification of downstream impacts. There are no known other hazards that impact on the site and the proposed development will not increase the likelihood of such hazards.

7.4 Submissions made under this Act or Regulations S4.15(1)(c)

Consideration will be given to any submissions made as a result of Council's consultation and notification processes.

7.5 Public Interest – S4.15(1)(e)

The proposed development is of a scale and character that does not present any conflict with the public interest and is generally consistent with the underlying zoning and primary development controls. This well serviced and accessible location is suited to boarding house accommodation and the development will not have any significant adverse impact on adjoining properties other than that which would be anticipated by the zoning and applicable building controls.

8 Conclusion

The proposed development has been assessed having regard to the Heads of Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, the provisions of SLEP 2012, SDCP 2015 and the ARHSEPP 2009.

The proposal is a permissible form of development within the B4 Mixed Use Zone. An assessment of the proposal against the objectives of the zone has been undertaken and it is considered that the proposal is consistent with the objectives of the LEP.

In addition, the development generally satisfies the primary development standards that govern the bulk and scale of development contained in the LEP as well as reasonably accommodating the bonus floorspace provisions available under the ARH SEPP.

The proposed building envelope is unlikely to result in a level of overshadowing or loss of privacy to nearby properties that would not have been envisaged at the time of development of the primary building controls of FSR and Building Height, including the bonus height and floorspace provisions available under the Key Sites nomination. The proposal is also unlikely to have a significant impact on outlook or views from surrounding properties and the public domain. On this basis, it is considered that the scale and form of the proposal is appropriate in this instance.

In summary, the proposed development:

- Satisfies the NSW Government's and Strathfield Council's strategic planning objectives;
- Is considered consistent with applicable statutory requirements and standards;
- Is generally consistent with relevant planning and design guidelines, with the non-compliances considered on planning grounds reasonable and justified;
- Will have no significant or likely negative environmental impacts; and
- Is consistent with the principle of locating new housing in or around centres which delivers a range of economic, environmental and social benefits to the community.

As discussed throughout the SEE, the proposed development is of appropriate scale and built form and is compatible with the character of both the immediate and local context and, on that basis, can be supported.

Annexure 1

Clause 4.6 Request to Vary Development Standard

Introduction and Preamble

The following Clause 4.6 variation request relates to Clause 4.3 (2) of SLEP 2012 and the related height shown on the associated map for the site.

The variation requests have been prepared having regard to the principles of Clause 4.6, identified by Preston J in *Wehbe v Pittwater Council* (2007) NSW LEC 827, and more recently considered in **Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118**, and the following judgments:

- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248; and
- *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7

As shown by Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* (2018) 236 LGERA 256; [2018] NSWLEC 118 (Initial Action), to have the power to grant development consent for a development that contravenes a development standard, cl 4.6(4)(a) requires that the consent authority be satisfied that:

- (1) The proposed development will be consistent with the objectives of the particular standard in question (cl 4.6(4)(a)(ii)), and
- (2) The proposed development will be consistent with the objectives of the zone (cl 4.6(4)(a)(ii)),
- (3) The written request adequately demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (cl 4.6(3)(a)), and
- (4) The written request adequately establishes sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b)).

The determining authority must also form two positive opinions of satisfaction under cl 4.6(4)(a) to grant development consent (Initial Action at [14]). It must be satisfied that:

- (1) the Applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3) and;
- (2) that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objective of the zone in which the development is proposed to be carried out.

In summary the principles arising from the above matters are:

- a) That the relevant objectives are those stated in the controls not unidentified underlying objectives;
- b) The environmental planning grounds relied upon must be sufficient to justify a contravention of the development standard with a focus on the aspect of the development that contravenes the development standard, not the development as a whole. Accordingly, the environmental planning grounds found in the written request must be adequate to justify the contravention of the development standard and not simply promote the benefits of carrying out the development as a whole; and

It is noted that the consent authority's obligation is to be satisfied that the applicant's clause 4.6 submission has adequately addressed that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the standard.

It can be concluded from the recent decisions in regard to the exercise of the powers available to a consent authority under clause 4.6 that there is a broad discretion under clause 4.6(4) as to the degree of satisfaction required by that clause with the reasons for the variation being either specifically particular to the development site or as broad as circumstances that might apply to a number of sites.

Following is an assessment of matters to be addressed under Cl 4.6 for the requested variation, including an assessment of the proposal against the established court principles.

The Development Standard to be Varied

The development standard this request seeks to have varied is the maximum height of building requirement of SLEP Clause 4.3 (2) as shown for the land on the Height of Buildings Map.

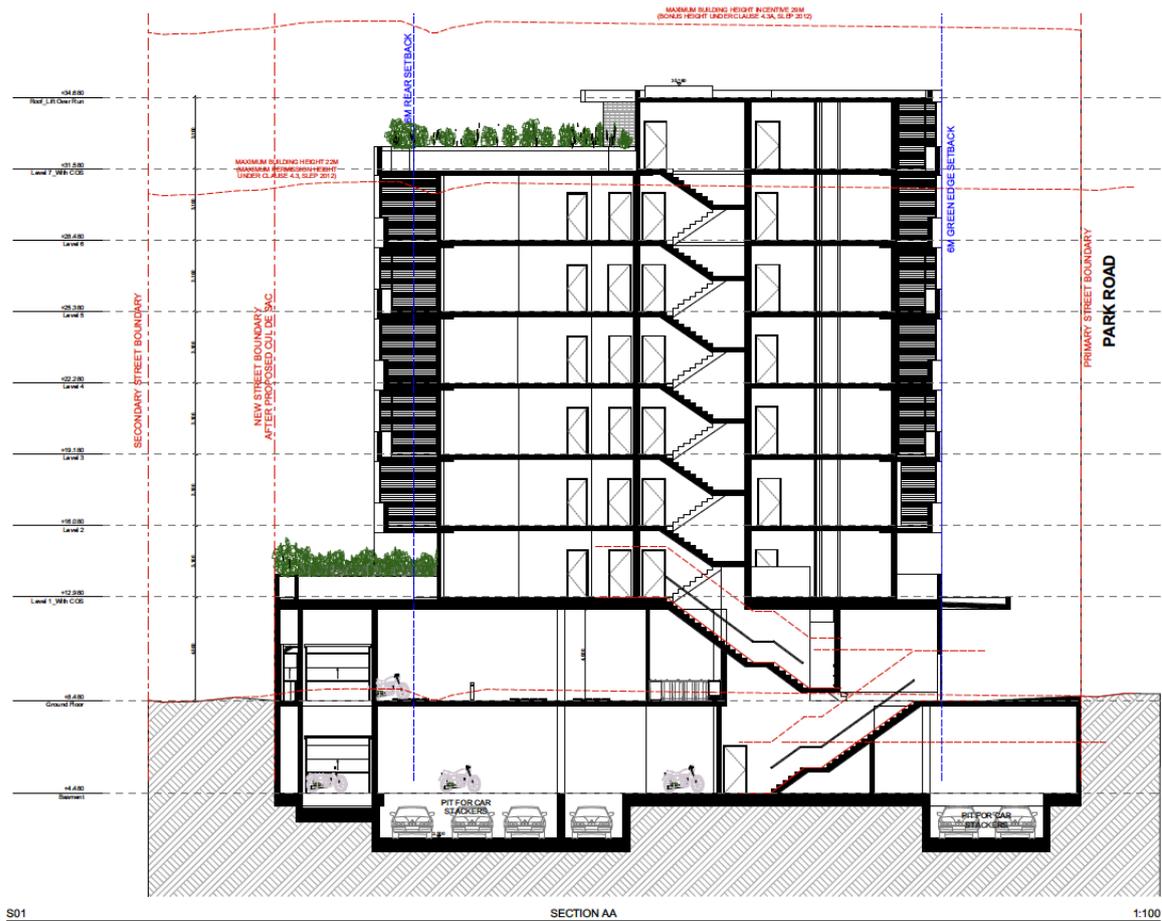
Clause 4.3 of SLEP 2012 relevantly states:

4.3 Height of buildings

- (1) The objectives of this clause are as follows—
 - (a) to ensure that development is of a height that is generally compatible with or which improves the appearance of the existing area,
 - (b) to encourage a consolidation pattern that leads to the optimum sustainable capacity height for the area,
 - (c) to achieve a diversity of small and large development options.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The Variation Requested

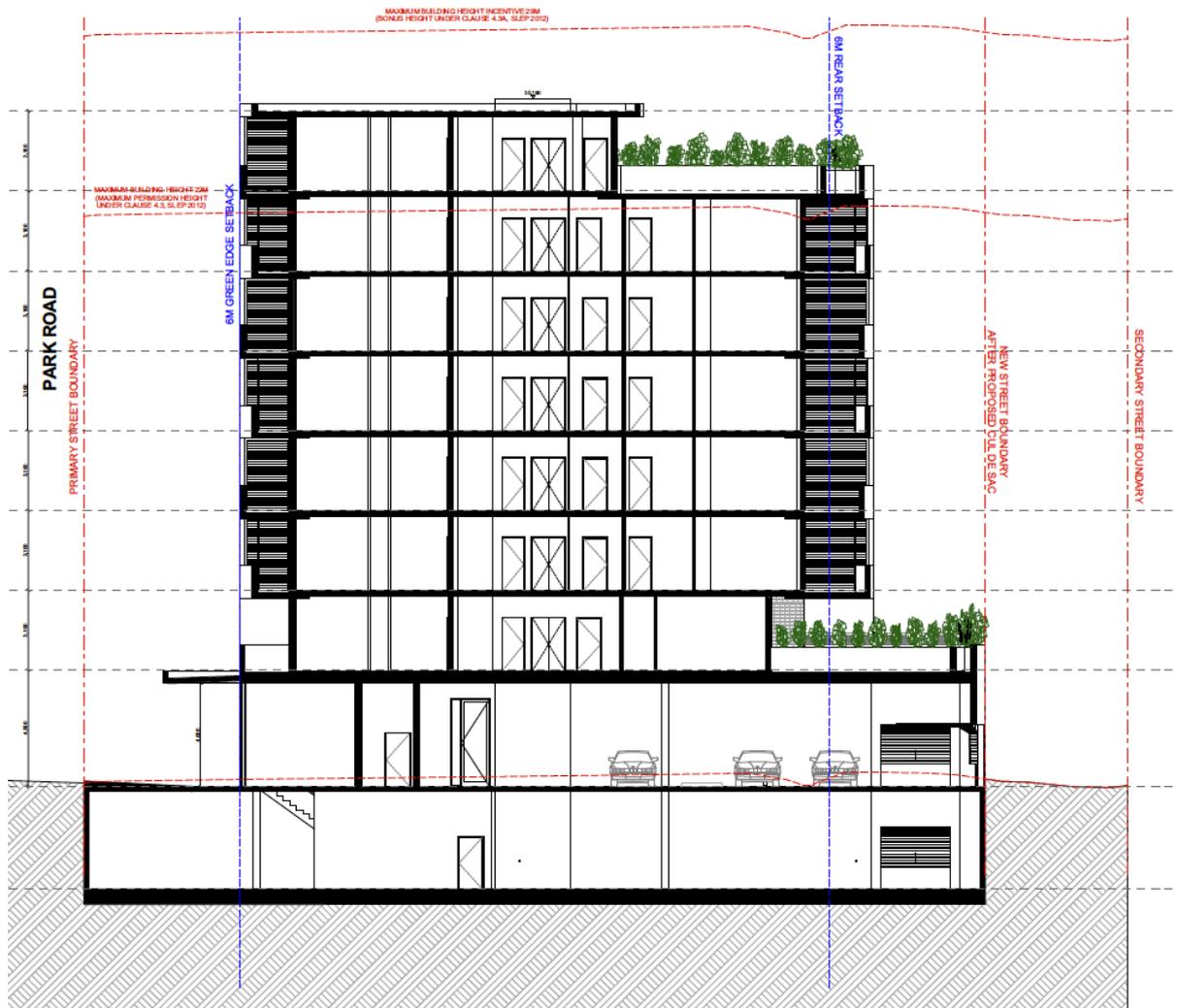
With regard to compliance with Clause 4.3(2) it is considered that there is a proposed variation to the requirement in that there are elements of the building, notably the lift overrun and rooftop facilities that exceed the 22m height limit variously up to a maximum variation of 3900mm as shown in the plan extracts below:



S01

SECTION AA

1:100



The lift overruns at RL 35.18 and parapet height on the Park Rd street frontage represent the maximum variations sought. The whole of the residential level and COS on Level 7 and the upper element of wall height and ceiling of Residential Level 6 are also in exceedance of the height limit.

The height of building variation arises primarily through utilisation of the bonus residential floorspace that is available under the ARH SEPP provisions.

Clause 4.6(1) - Objectives of Clause

The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Comments

The objectives of Clause 4.6 are considered to be satisfied in that the use of an appropriate degree of flexibility is justified in relation to the variation to the maximum height control for this particular development as:

- a) the variation provides a better outcome for this development and a better societal outcome generally by accommodating additional floor area available as a bonus provision of the ARH SEPP to allow this site to be developed for a more affordable housing choice in this locality; and
- b) allowing flexibility in the particular circumstances of the proposed development of this site will allow for provision of optimal accessibility for all future residents of the site to rooftop recreational facilities, achieving a better outcome for this site, and would be consistent within the context of existing high density development in the locality,
- c) the variation does not detract from the objectives of the development control as the building mass and form is generally consistent with that anticipated in the locality and allows for creation of a gradation in scale to that achievable on adjacent sites without significant intensification of overshadowing, visual impact or loss of privacy on adjoining properties and public domain.

In summary the proposed height variations arise as a consequence of the design intent to utilise the maximum building footprint and increase building height to allow for required front boundary setbacks and maximise amenity within the proposed development and also reduce potential off site impacts. The need to employ some design flexibility has arisen specifically as a consequence of the utilisation of bonus floorspace available as a development incentive under the ARH SEPP, the permitted building scale and typology on site and the desire to achieve a better outcome for and from the development.

The proposed variation results in a better design and amenity outcome for both the development of the site and adjoining or adjacent sites and the objectives of Clause 4.6 and the use of the provision to allow a variation to the development standard are considered to be satisfied.

Clause 4.6 (2) - Applicability

Clause 4.6(2) of SLEP 2012 states that:

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

Comments

The relevant development standard subject to this variation request is not excluded from the operation of the clause and the use of Clause 4.6 to vary the standard is permitted.

Clause 4.6(3) - Justification for Contravention of Development Standard

Clause 4.6(3)(a) – Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case

As noted above in Wehbe, five examples of situations in which compliance with a development standard might be shown as unreasonable or unnecessary were identified and these are as follows:

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

The development will now be assessed against each of these five ways in turn. It should be noted that it is sufficient to demonstrate compliance is unnecessary or unreasonable on one ground only and it is not necessary to demonstrate that all grounds for consideration are satisfied.

I. The objectives of the standard are achieved notwithstanding non-compliance with the standard.

Comments

The objectives for the height of buildings development standard are as follows:

- (a) to ensure that development is of a height that is generally compatible with or which improves the appearance of the existing area,
- (b) to encourage a consolidation pattern that leads to the optimum sustainable capacity height for the area,
- (c) to achieve a diversity of small and large development options.

The proposed development achieves the objectives of the standard notwithstanding noncompliance with the height of buildings control because:

- The proposed building is within a Key Site located at the gateway to a precinct which has specific provisions within the LEP to allow for a built form which is higher and more intense (in terms of permitted gross floor area and allowable height of building) than that generally available in accordance with the provisions under Clause 4.3 (Refer to Clause 4.3A). The proposed building lies within the height of building permitted under Clause 4.3A and is therefore generally compatible with that anticipated by the height control for this locality in terms of building form, scale and character;
- As noted above, despite the non-compliance, the scale, form and intensity of the building is generally consistent with the intended potential of the land achievable under the primary Floor Space Ratio and Building Height controls of the LEP and is necessary to accommodate the bonus floor area available under the ARH SEPPP. Under the circumstances site consolidation is not able to be achieved. Despite this the development proposes a building height within the sustainable capacity height for the area as intended by the provisions of Clause 4.3A.
- The proposed development provides for a reasonable small development option consistent with the intent of the provisions and maintains capacity for consolidation of residual lands within this Key Site and future development in accordance with the intent of the LEP provisions.

The variation in height is to a maximum point of 3.6m (or 16.36% variation) for the lift overrun, with the remainder of the upper floor residential level, roof and parapet being 3.3m (or 15% variation).

The shadow diagrams submitted with the application (Dwg No A505) show the resultant overshadowing from a compliant development at 22m height and the additional overshadowing proposed by this development. It also projects a possible shadow from a development of the site that may have reached the maximum permissible height of 29m available under the Key Sites bonus height provisions. Although the latter shadow projections are speculative they do demonstrate that irrespective of the height exceedance any overshadowing cast by the building falls mainly on the adjacent roadways and public domain areas and does not impact on habitable areas of adjoining development and that the variation to the height limit does not intensify any environmental harm.

The non-compliance with the standard does not impair the capacity of the development to meet all of the objectives of the standard despite that non-compliance.

More generally the variation does not establish an unusual precedent in the locality that would undermine the applicability of the development standard to other development of comparable sites located within the local context due to the special circumstances of this proposal and the nature of the variation that this particular development proposes due to the facilitation of bonus floor area under the ARH SEPP.

Conclusion

As noted in Wehbe, the rationale behind this way of showing that compliance with a development standard is unreasonable or unnecessary:

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

Specifically the design allows for further development within this Key Site to be achieved as a separate development whilst also providing a gradation in building form between the existing lower scaled development on the adjacent residentially zoned land and the anticipated scale and character of development along Parramatta Rd consistent with the objectives of Clause 4.3A of the LEP.

In view of the above, the requirement to strictly adhere to the development standard for Height of Building is considered to be unreasonable and unnecessary in this instance as the proposed development achieves and is consistent with the relevantly applicable objectives of the standards for this Key Site and compulsion to comply with the standard would serve no planning purpose.

- 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is not necessary.**

Comment

The purpose of the standard is considered to be relevant to the development and on that basis this way is not applicable ground for justification of the variation.

- 3. The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.**

Comment

The underlying objective or purpose of the standard is to encourage lot consolidation and a building form and scale consistent with the anticipated future character of the area as allowed for by Clause 4.3A of the SLEP 2012. Lot consolidation, in accordance with the Land and Environment Court principles, has been pursued but has not been successful.

A building height more consistent with the objective for site consolidation and built form outcome is proposed despite that consolidation not being achieved. The underlying objective or purpose of the standard would be defeated or thwarted if compliance was required as any development specifically required to meet the standard of Clause 4.3 on this site would frustrate achievement of a built form outcome consistent with that anticipated by Clause 4.3A for this Key Site and on that basis is an applicable ground for justification of the variation.

- 4. The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.**

Comment

Council has not generally abandoned this development standard and on that basis this way is not applicable ground for justification of the variation.

- 5. Compliance with the development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.**

Comment

The current use and character of the land is generally for commercial purposes with the current strategic direction for the precinct, the current zoning of the land and applicable development controls anticipating an intensification of the use of the site for mixed use development with commercial activity at ground level and high density residential development.

This site is suitable for such intensification, the zoning and primary development controls are relevant and redevelopment can be readily facilitated and on that basis this way is not applicable ground for justification of the variation.

Clause 4.6(3)(b) – Sufficient Environmental Planning Grounds

It is considered that there are sufficient environmental planning grounds to justify contravening the requirement of Cl 4.3 (2) regarding the maximum height of building standard in this particular instance on the basis that: -

- The additional height of building maintains a building of a scale and form that is appropriate for the location, consistent with the objectives of the Key Sites bonus height of building provisions available under Clause 4.3A, accentuating the high profile corner location of the site and providing visual interest and a varied building profile;
- Despite the increased height above the statutory height limit, the proposed development will not have an unreasonable impact on adjoining sites or the public domain in terms of additional overshadowing, loss of solar access or impact on views;
- The site is located within a commercial precinct and the proposed development is of a form and scale that is appropriate for the locality. The development is sustainable given its proximity to public transport and the facilities and services available nearby;
- Strict compliance with the development standard would result in a failure to achieve an appropriate built form for the site and frustrate the provision of an affordable housing opportunity in a highly appropriate location, consistent with the underlying objectives of the zoning of the land and the ARH SEPP bonus floorspace provisions, which is considered contrary to the orderly and economic use of the land.

Conclusion

It is concluded that there is sufficient justification for contravention of the development standard for Height of Building under the particular circumstances of this case. This submission demonstrates that compliance with the standard is unreasonable and unnecessary as the objectives of the standard are achieved despite non-compliance.

The proposal satisfies the underlying intent of the relevantly applicable objectives of the LEP development controls, the ARH SEPP objective to facilitate affordable housing in appropriate locations and sound planning practice.

The variation does not give rise to any environment impacts on the site or to adjoining lands demonstrating that there are also sufficient general environmental and planning grounds to justify the departure from the control. An assessment of the matter under Clause 4.6 (3) can therefore be satisfied.

Clause 4.6(4)(a)(i)

Clause 4.6(4)(a)(i) of SLEP 2012 states that:

Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and.....

In accordance with the requirement of Clause 4.6(4)(a)(i) it is considered that Council can be satisfied that this written request has adequately addressed the matters required to be demonstrated by clause 4.6(3).

Clause 4.6(4)(a)(ii) – the Public Interest

Clause 4.6(4)(a)(ii) of SLEP 2012 states that:

'Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:
 - (i)
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for

development within the zone in which the development is proposed to be carried out.'

Comment

As stated elsewhere in this submission the development is considered to satisfy the objectives of the development standard that are proposed to be varied.

The relevant objectives of the B4 Mixed Use zone are to:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To facilitate mixed use urban growth around railway stations and transport nodes and corridors, commercial centres and open space.
- To provide local and regional employment and live and work opportunities.

Despite the variation to the height of building development standard the proposal is considered to be of a type and nature that satisfies the objectives of the B4 Mixed Use Zone as:

- The proposal provides a mixture of compatible commercial uses on the site with the independent ground floor commercial premises also providing an opportunity for support uses to local residents, workers and visitors.
- The proposal provides for the housing needs of the community by providing a large affordable housing component in a highly accessible and well serviced locality.

Accordingly, granting consent to the proposed development is considered to be in the public interest. In accordance with the provisions of Clause 4.6(4) Council can be therefore be satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

Clauses 4.6(4)(b) and (5) – Concurrence of the Secretary

Clause 4.6(4)(b) of SLEP 2012 states that:

‘Development consent must not be granted for development that contravenes a development standard unless:

...

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

Clause 4.6(5) of SLEP 2012 states that:

‘In deciding whether to grant concurrence, the Secretary must consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.’

Comment

It is understood the concurrence of the Director-General is not required to be sought, however the following points are made:

- a) The contravention of the Height of Building standard does not raise any matter of significance for State or regional environmental planning given the nature of the development proposal and the extent and nature of, and circumstances of, the variation to the standard that is proposed particularly as a significant contributor to the variation arises as a consequence of facilitating the additional bonus floor space available under the ARH SEPP; and
- b) There is no public benefit in maintaining the development standard as it relates to the current proposal. To the contrary, there is significant public benefit in supporting the departure from the standard in the circumstances, given that insistence on compliance can only be achieved by further eroding the potential to achieve the ARH SEPP objective of encouraging affordable infill housing in well serviced and accessible locations.

Summary

Strict compliance with the maximum Height of Building standard is therefore considered unreasonable and unnecessary in the context of this proposal and its circumstances. The proposal is of a comparable built form to that envisioned for the locality through the underlying development controls and zoning of the land and does not result in unreasonable environmental amenity impacts due to the responsive design that is proposed.

It is considered that compliance with the standard as specified in clause 4.3 (2) is both unreasonable and unnecessary in this particular case and it has been demonstrated that there are sufficient environmental grounds to justify contravening that standard.

The objection is well founded and, taking into account the absence of adverse environmental, social or economic impacts, the proposal promotes the economic use and development of the land and furthers the provision of affordable housing in accessible and well serviced locations.

It is considered that the proposed development will not be contrary to the public interest and is consistent with the objectives of the standard and the objectives of the zone in which the development will be carried out and the objectives of the ARH SEPP. On that basis Council is requested to accept the proposed variation to the development standard.

Annexure 2

Operational Plan of Management

1. The Premises

This Plan of Management has been prepared for the '**operator**' and relates to a mixed use development comprising of a commercial tenancy and boarding rooms above at No. 84 Park Road, Homebush. The boarding house will comprise of forty-two (42) boarding rooms while an independent room proposed to house the on-site manager is also provided. The rooms are nominated as fourteen (14) single rooms and twenty-eight (28) double rooms inclusive of five (5) 'accessible' rooms. The boarding house is capable of being accommodated by a maximum of seventy (70) boarders while communal facilities such as the common living room and communal open space are located at first floor level. A further communal terrace is provided on the uppermost building level. Each of the proposed boarding rooms will contain bathroom, kitchen and laundry facilities while parking for thirteen (23) vehicles, nine (9) motorcycles and nine (9) bicycles is provided across two (2) levels

The owner/operator of the boarding house is to implement and comply with the requirements of the Plan of Management, as well as all conditions of development consent that may be issued for the boarding house by Strathfield Council.

2. The Objectives of the Operational Plan of Management

- a) *To detail the nature of the operation and to ensure compliance with all conditions of development consent issued by Strathfield Council.*
- b) *To ensure the safety of all residents of the boarding house.*
- c) *To provide a comfortable and harmonious residential environment for residents.*
- d) *To ensure that the premises is properly maintained and operates in a manner which maintains a high level of amenity.*
- e) *To ensure that there are no adverse impacts arising from the premises on any adjoining property or the neighbourhood.*

The Plan:

- a) *Identifies the everyday operation of the premises.*
- b) *Establishes a monitoring system that ensures the objectives of this plan are met.*
- c) *Establishes “House Rules” for all persons who stay within the premises.*
- d) *Ensures procedures are in place to facilitate ongoing communication with the neighbours, Police, Strathfield Council and Management of the premises, to resolve any operational issues that may arise.*

3. Operational Matters

General Parameters for the Boarding House:

1. The premises is to operate as a registrable boarding house for the purposes of the *NSW Boarding Houses Act 2012* and the operation of the boarding house is to be in compliance with the Act at all times.
2. The premises is not to offer any alternative type of accommodation or be used for any purpose other than as a registrable boarding house.
3. The boarding house will be governed by the criteria specified in Schedule 2 (Standards for Places of Shared Accommodation) of the *Local Government (General) Regulation, 2005* under the *Local Government Act 1993*, the *Public Health Act 1991*, *Boarding Houses Act 2012* and *Boarding Houses Regulation*.

Boarding House Manager:

1. The boarding house manager is to achieve the objectives set out in the Introduction of this Operational Plan of Management.
2. The particular responsibilities of the Boarding House Manager will include:
 - a. Accepting and assessing applications for residence.
 - b. Enforcing House Rules:
 - The Boarding House Manager has the authority to evict a resident who is refusing to comply with the House Rules set out in Section II. (Refer to Clause II of the ‘Standard Occupancy Agreement’ at Attachment A).
 - Other than in exceptional circumstances (i.e. in order to protect the safety of other residents), prior to eviction, the Boarding House Manager is to issue the resident/s

with a Notice of Intent to Evict. A standard wording for the Notice is to be provided by the owner/operator.

In preparing the standard wording of the Notice, it is recommended that the owner/operator consult a lawyer to ensure legal correctness. The standard wording is to be altered to reflect the particular circumstances of the case.

- The Notice of Intent to Evict must provide the resident/s with an opportunity to modify their behaviour so as to avoid eviction. However, if the resident/s does not modify their behaviour in response to the Notice of Intent to Evict, the owner/operator may engage a security firm to implement the eviction.

c. Cleaning common areas:

- The boarding house manager must ensure that the common room is kept in a clean and tidy state, including daily vacuuming/mopping.

- The common area is to be maintained by the manager and is to be cleaned to a professional standard at least once a week.

- That wastes are properly contained within the bins within the waste area. Bins are to be taken to the street for collection as required by the Manager.

- That any rubbish left around the site is properly disposed of. Appropriate signage will be installed around the premises to this effect.

On occasion, the boarding house manager will outsource general cleaning/maintenance to third party contractors such as cleaners, gardeners etc.

d. Attending to any resident complaints:

- If residents, either within the development or from surrounding residents, have complaints or enquiries, the Boarding House Manager will listen to and address those. If required, the manager will liaise between boarders and surrounding residents.

e. Preparation of rooms for new residents:

- When a room becomes vacant, the Manager is to ensure that the room is cleaned and ensure that the fixtures, fittings and furniture are in good order and if otherwise, replace or repair items as required.

f. General maintenance:

- If minor repairs or replacement of items is required, such as replacing light bulbs in common areas and the like, the Manager is to attend to these. A small toolkit and general maintenance supplies will be provided and are to be kept in the communal facilities room.

3. With the exception of an initial security deposit (see below for details), the Manager is not required to accept payments from residents. Rental payments are to be organised through electronic means and paid directly to the nominated account of the owner/operator of the Boarding House.

4. The Manager must not discriminate against residents on grounds of their race, religious beliefs, ethnicity, gender, sexual orientation or age.

5. The Manager must not use illegal drugs or engage in any illegal activity.

6. The designated boarding house manager is required to be a minimum age of eighteen (18) years.

4. Administration

1. Any person who is to occupy a room in the boarding house is to sign an Occupancy Agreement. The Occupancy Agreement that will be used on site is based on the Standard Occupancy Agreement for General Boarding Houses under the NSW *Boarding Houses Act 2012* (refer to **Attachment A**). The owner/operator of the boarding house, or their delegate, is also required to sign the Agreement.

2. Prior to entering into an Occupancy Agreement, the Boarding House Manager is to provide the prospective boarder/s with a copy of the Occupancy Principles within Schedule I of the *Boarding Houses Act 2012* (N.B. This is provided at Annexure I of the Standard Occupancy Agreement at **Attachment A**).

3. The Manager is to provide a copy of this Operational Plan of Management to all new residents at the time that they sign an Occupancy Agreement. The Manager is to advise the new resident/s that they must read and understand the resident obligations that are set out in the Operational Plan of Management. The new resident/s must sign a statement to the effect that they understand and will abide by those resident obligations.

4. Prior to entering into an Occupancy Agreement, prospective residents are to be advised that they may potentially be evicted if they breach the resident obligations.

5. Prior to entering into an Occupancy Agreement, all prospective residents are to provide photographic identification (“ID”) (typically a driver’s license or a passport) to confirm their identity. The Boarding House Manager is to enter the particulars of the ID (for example, the driver’s license number or Passport number) in the Boarding House Accommodation Register (**Attachment B**).

6. Prior to entering into an Occupancy Agreement, all prospective residents are to provide the Boarding House Manager with next of kin details for emergency purposes. Next of kin details are to be kept by the Boarding House Manager for the entire duration of the lodgers stay.

7. Prior to entering into an Occupancy Agreement, the Boarding House Manager is to confirm with a prospective resident that they are obligated to reside within the boarding room for a period of no less than three (3) months.

8. Prior to entering into an Occupancy Agreement, the Boarding House Manager is to advise prospective residents of the fees. The room charge will be determined by the owner from time to time and will be a fully inclusive amount including electricity, water and other services and parking (if applicable)

9. Upon entering into an Occupancy Agreement, the Boarding House Manager is to accept a security deposit amounting to two (2) weeks of the occupancy fees and is to provide a receipt for that amount to the new resident/s.

10. Upon execution of an Occupancy Agreement, the Boarding House Manager is to enter the details of the new resident/s into the Boarding House Register (**Attachment B**), is to provide the resident/s with a copy of the signed Occupancy Agreement and is also to keep a copy of the signed Occupancy Agreement in a secure location.

11. Upon a resident ceasing to occupy a boarding room, the security deposit, less any deductions authorised by the *Boarding Houses Act 2012*, is to be paid to the resident within fourteen (14) days of the date upon which the resident ceases to occupy the boarding room.

Signage:

The following signage must be conspicuously installed and maintained at the premises:

1. The name and 24 hour contact number of the Boarding House Manager must be displayed externally at the front of the premises, as well as in the near vicinity of the lift and stairwell at ground floor level.
2. 'No Smoking' or 'Smoke Free Premises' signage is to be displayed in all common areas of the premises.
3. The House Rules shall be displayed in the common area of the premises.
4. The minimum length of stay of any guest shall be displayed in public view outside the premises.
5. A schedule showing the numerical designation of each boarding room and the maximum number of persons permitted to be accommodated in each room must be displayed in the near vicinity of the lift and stairwell at ground floor level.

Noise/Light Management Measures:

1. The use of the outdoor communal areas should be limited to a maximum of fifteen (15) people at any one time or as otherwise stipulated by Strathfield Council as a condition of consent.
2. Access to the outdoor communal area is restricted from 10pm to 8am.
3. Amplified and/or canned music is not to be played in the outdoor communal area.
4. When noisy activities are occurring in the indoor communal living area, doors and windows must be closed, while the volume of the television or any noise generating device must be kept within reasonable levels.
5. External building lights will cease continual operation from 10pm to 6:00am daily. Sensor lighting will be employed within these hours.

Off Street Parking:

1. Vehicles, motorcycles and bicycles and motorcycles are to be parked in the allocated areas.
2. No vehicle or motorcycle is to remain in a parking space, without being moved, for a period of longer than 72 hours.
3. Car parking spaces made available within the development will not be sub-let to non-building residents.

4. The building's occupants will not be entitled to participate in Council's Resident Parking Scheme.

General Cleanliness, Hygiene and Waste Management:

1. The Boarding House Manager is to regularly inspect the premises and organise for daily cleaning of the common areas. All garbage receptacles in common areas are to be emptied daily. The boarding house manager or delegated third party will be responsible for the transfer of bins from the basement to the street on collection day and their subsequent return to the basement directly after.

2. Pest control inspections are to be carried out on a yearly basis as a minimum.

3. The waste and recycling bin storage area shall be kept in a clean and tidy manner. This area shall be thoroughly cleaned by the Boarding House Manager on a weekly basis.

4. A minimum bi-weekly collection of waste and recycling is to be carried out by the nominated waste contractor. Specialised waste removal contractors will be employed for the removal of sensitive wastes including but not limited to sanitary napkins and sharps.

5. A 'No Smoking' Policy inside all boarding rooms and the communal room will be applied on the premises.

6. All boarding rooms accommodate laundry and drying facilities. Residents will be responsible for the cleaning of personal items and clothing. Regular cleaning of linen will be carried out for each boarding room as considered reasonable and appropriate.

Security:

1. Residents must make sure that their guests are aware of, and abide by, the House Rules.

2. The manager must not enter residents' rooms other than as allowed under the Act.

3. Security cameras are permitted to be installed in the common areas.

4. All residents are to be provided with a security key/swipe card (or similar) upon arrival. The security key/swipe card must provide 24 hours access into the premises, to each respective level and entry to individual residents' rooms.

5. CCTV cameras will be installed at the building entrance point. Camera outputs will be capable of being viewed from any authorised computer, either on the local network or via the internet. The CCTV head end equipment will include the following as a minimum:

- Digital Video Recorder (DVR)
- PC complete with 20" LCD monitor
- Network card
- 4000Gb HDD
- CD and DVD RW

The DVR will be located on a dedicated rack in the managers room. All camera cabling will be reticulated in the comms riser.

Door locks and keys:

I. Residents must not tamper with (or change) any locks on the premises or make copies of (or obtain) additional security keys/swipe cards without the permission of the Boarding House Manager.

Room Capacities:

I. There is to be no more than one (1) resident in any nominated single room and two (2) residents residing in any double room at any one time.

Room Furnishings

Rooms will be furnished with the following items:

- I. The rooms have been sized to accommodate either a sofa bed or separate beds.
- II. A lockable cupboard for each lodger with a minimum volume of 1 cubic metre per person.
- III. Mirror.
- IV. A desk (900mm x 600mm) and lamp for each lodger.
- V. Waste container.
- VI. Blinds or curtains on each window for privacy.
- VII. Telephone line and telephone.
- VIII. Kitchen utensils/cutlery

Kitchenette facilities will include:

- I. A sink with running hot and cold water.
- II. I microwave.
- III. I refrigerator.
- IV. Overhead cupboards and below bench cupboards.
- V. Bench top space.

Bathrooms will include:

- I. Shower with running hot and cold running water.
- II. Washbasin with hot and cold running water.
- III. Mirror.
- IV. Toilet.

Common room facilities will include:

- I. Couch and coffee table.
- II. TV and DVD player

Building Services and Fire Safety Procedures:

1. In the instance of an emergency evacuation, residents shall be directed to emergency exits and the emergency assembly point.
2. Smoke Detectors are to be installed in every boarding room, the communal room and all internal common areas.
3. In the event of a fire, the fire alarm will sound. An assembly point will be designated for residents.
4. An emergency evacuation plan prepared by a competent person shall be prepared and that emergency evacuation plan shall be displayed in each boarding room and in the common area.
5. All material installed in the fit-out and furnishing of the rooms shall be of a type that resists the spread of fire and limits the generation of smoke.
6. An Annual Fire Safety Statement is to be submitted to Council and the Commissioner of the NSW Fire Brigade. A copy of the Annual Fire Safety Statement is to be displayed in the common area. The premises shall, at all times, comply with the fire safety provisions of the NSW *Environmental Planning and Assessment Regulation 2000*.
7. A list of emergency telephone numbers (plumbers, electricians, police, fire, ambulance) is to be provided within each boarding room.

8. Annual certification of fire safety equipment is to be carried out by a suitably qualified person/persons employed by the owner/operator of the boarding house.
9. All doors to the boarding rooms and the external doors to the boarding house shall be lockable. The doors to the boarding house shall be self-closing and will be locked from the outside but will be openable from within the boarding house without the need for a key. All doors to the boarding rooms shall be self-closing and lockable, but openable from the inside without the need for a key.

5. Monitoring/Complaints

To ensure that all complaints are appropriately recorded and acted upon, a Complaint Monitoring System has been established as part of this Plan.

A copy of the Operational Plan of Management is to be made available for inspection by any person who makes a request to the Boarding House Manager to view the document. In the case where a lodger/resident or land owner/occupier adjacent to the premises believes that they have cause to make a complaint, it may be made to the Boarding House Manager by one of the following means:

- Telephone
- Mobile Phone
- Email
- Facsimile
- Mail

The Boarding House Manager is to take all necessary and timely action to rectify the matter and is to notify the complainant of the action taken to rectify the problem. To assist in the investigation of the potential problem, it is suggested that the following information be provided to the owner/operator of the operation:

- Exact nature and details of the incident;
- Date and time of the incident; and
- The full name and address of the complainant.

The details are to be recorded once a complaint has been actioned and a record kept on site and made available on request to demonstrate compliance in what is labelled as the “Complaints Register”.

A pro forma providing an example of the information required to be kept is provided at **Attachment C**.

The Complaints Register is to be tabled at any internal Management meetings, or when any further action is required to be initiated and/or responsibilities allocated.

In receiving a complaint from a neighbouring resident/land owner, the Boarding House Manager is to adhere to the following guidelines:

1. When taking a telephone call or a personal visit, ensure that you remain polite and the visitor or enquirer is given every reasonable assistance.
2. If the comment/complaint is about a problem that is actionable immediately, appropriate action is to be taken to alleviate the problem immediately and the details are to be given to Management.
3. If the problem is not actionable immediately, the resident/landowner is to be contacted and informed of the progress and anticipated timeframe for action on their complaint.
4. Once all actions are completed, the matter is recorded and filed in a Central Register held by the Boarding House Manager.
5. If a message is received on a mobile phone, the resident/landowner's call is to be returned as soon as possible and the recording and follow-up procedures as outlined above are to be followed.
6. The NSW Police are to be made aware of any complaints of a criminal nature.

6. House Rules

The following house rules apply. The rules consist of behavioural requirements, as well as operational issues that need to be managed on site at all times. They are in no particular order of importance.

The House Rules may be amended by the owner/operator and/or the boarding house management in order to resolve issues that arise due to operational matters that come from complaints, including general management changes required as part of the everyday running of the premises.

The House Rules are to be displayed in each room and in all common areas and will form part of the tenant's agreement that is signed by all occupants.

The House Rules are as follows:

Part I - Resident and guest behaviour:

1. Only the residents who have signed an Occupancy Agreement shall occupy a boarding house room.
2. All visitors of residents are to leave the premises by 10pm nightly.
3. Residents and their guests must not interfere with the reasonable peace, comfort and privacy of other residents. From 10pm daily, expectations of reduced noise levels are heightened. Accordingly, music, television and the like is to be lowered in volume so that it is not audible from outside the room. If a neighbouring resident/s complains that the noise is audible from their rooms, the noise generating activity is to be ceased.
4. The possession of and/or use of illegal drugs on the premises is prohibited. The possession and/or usage of illegal drugs will lead to eviction and police reporting and prosecution.
5. Residents must act in a responsible and considerate manner at all times. The consumption of alcohol in common areas is not permitted. Drunken behaviour may result in eviction.
6. The premises is Smoke-free and as such, smoking is not permitted inside the rooms or in any communal recreation or common areas and any open space of the building.
7. No parties are permitted on the premises.
8. All activities within the building (including music) are to be confined such that they do not exceed 3dB above the background level between the hours of 10pm to 7am.
9. Anti-social behaviour is unacceptable. This includes threatening or demeaning any person within the building. Residents may not make comments to one another that are of a derogatory nature, on the basis of the other person's appearance, race, gender, sexual orientation, religion or ethnicity. Damage to any property, graffiti, theft of any property, physical or sexual harassment, or loud and rowdy noise can result in eviction and police intervention.

10. Residents are not permitted to walk around the premises in any state of undress and are to be respectful of other cultures.

11. Residents are to contain their general rubbish within a liner within the bins provided. When full or as required, the liners are to be tied and disposed of in the communal waste receptacles. Residents are to contain recycling, including recyclable containers and clean paper, within the communal recycling receptacles provided. For reasons of hygiene, containers should be lightly washed before disposal, as no liners may be used in the disposal of recyclable containers.

Part 2 - Maintenance of rooms:

1. Residents must maintain their rooms in a way that does not interfere with the reasonable comfort of other residents, and in a way that does not create a fire or health hazard. Residents must not intentionally or recklessly damage, destroy or remove any part of their rooms or any facility/fixture in their rooms.

2. Residents are to keep their rooms' clean and tidy at all times. Kitchenettes and bathrooms are to be kept in a hygienic condition and floors are to be vacuumed regularly (a minimum of once per fortnight) to avoid an excessive accumulation of dust.

3. Burning of candles/incense is not permitted.

4. In the event that any resident or their visitors causes willful damage to any area, fixture, fitting or furniture in the premises, the cost of repair or replacement will be met by that person, including any damage created in common areas.

5. Residents are responsible for the security of their money and other valuables at all times and the boarding house manager and owner/operator will not be responsible for any theft of personal property, or for any loss suffered by any resident or visitor.

Part 3 - Common areas:

1. Common areas are to be available to be shared by all residents and their guests at all times. Residents are to ensure that they and their guests leave common areas neat, clean and tidy after using them.

2. Residents are not to store personal items/goods in common areas of the site and must ensure that common areas are maintained in a clean state.

3. The use of the outdoor communal area is restricted to between 10pm and 8am daily.
4. Access to the indoor common room is to be restricted from 10pm to 7am daily.
5. Any damages or required repairs to common areas must be promptly reported to the Boarding House Manager.

Part 4 - Animals:

1. No animals or pets are allowed anywhere within the premises.

7. Review of Plan of Management, Noise Management Procedures or House Rules.

If in circumstances where experience shows that it is reasonable or desirable to modify any provision of this Plan for the better management of the premises, subsequent to that modification, Strathfield Council shall be provided with a copy of the modified Plan.

Attachment A - Standard Occupancy Agreement

STANDARD OCCUPANCY AGREEMENT For general boarding houses under the *Boarding Houses Act 2012*

Between

Proprietor	
Resident	

For

Room	Address

The resident's room is: unfurnished furnished (if furnished, an inventory can be attached)

Other areas of the premises which are available for use by the resident

Kitchen/s Bathroom/s Common room Laundry

Other _____

Term of Contract

Commencement Date	Term of agreement (if any)	Occupancy Fee	To be paid
		\$ per week/month/year	

Proprietor's Contact Details	
------------------------------	--

AGREEMENT TERMS

1. Condition of the Premises (refer to occupancy principle 1 – see Annexure 1)

The proprietor agrees to provide and maintain the premises so that they are in a reasonable state of repair, are reasonably clean and reasonably secure.

2. House Rules (refer to occupancy principle 2)

The resident agrees to comply with the House Rules of the boarding house, which are listed on the attached "Statement of House Rules." House rules may not be inconsistent with the Occupancy Principles stated in Annexure 1, and are not enforceable if they are inconsistent.

3. No Penalties (refer to occupancy principle 3)

The resident is not required to pay a penalty for a breach of this Occupancy Agreement or the House Rules.

4. Quiet Enjoyment (refer to occupancy principle 4)

The proprietor agrees to take all reasonable steps to enable the resident's quiet enjoyment of the premises.

5. Inspections and Access (refer to occupancy principle 5)

The proprietor may inspect boarding house common areas at any reasonable time. Repairs, cleaning and maintenance of common areas can be carried out at reasonable times.

The proprietor may only enter the resident's room, at a reasonable time, with reasonable notice and on reasonable grounds. Agreed access and notice periods are set out below. If the third column is left blank, the suggested notice periods set out in the second column will apply.

Reason For Access	Suggested Notice Period <i>examples of reasonable notice periods - this notice period applies if the next column is left blank</i>	Notice to be given under this occupancy agreement <i>(if different)</i>
In an emergency, or to carry out emergency repairs or inspections	<i>Immediate access</i>	<i>Immediate access*</i>
To clean the premises	<i>24 hours</i>	
To carry out repairs	<i>24 hours</i>	
To show the room to a prospective resident	<i>24 hours</i>	
To carry out inspections	<i>48 hours</i>	

* Immediate access is likely to be necessary in this situation for safety reasons.

6. Notice of Fee Increase (refer to occupancy principle 6)

The resident is entitled to 4 weeks written notice of any increase in the occupancy fee.

7. Utility Charges (refer to occupancy principle 7)

The proprietor may charge an additional amount for utilities if the resident is made aware of this on signing this agreement. Details of the charge, including how the charge will be calculated, are included in Annexure 2, and Annexure 2 must signed and dated by the resident and the proprietor.

Charges for utilities must be based on the cost to the proprietor of providing the utility and a reasonable measure or estimate of the resident's use of that utility.

8. Security Deposit (refer to occupancy principle 8)

A security deposit of \$_____ is payable to the proprietor, this amount being no more than the sum of two (2) weeks occupancy fee. The security deposit is payable on the day the agreement is signed or on the following day. The security deposit will be repaid to the resident within 14 after the end of this agreement, less any amount necessary to cover:

- a) the reasonable cost of repairs to the boarding house or goods that come with it, as a result of damage (other than fair wear or tear) caused by the resident and their guest;
- b) any occupancy fee or other charges owing and payable under this Agreement or the Boarding Houses Act 2012;
- c) the reasonable cost of cleaning any part of the premises occupied by the resident and not left reasonably clean by the resident, having regard to the condition of the premises at the commencement of the occupancy; and
- d) the reasonable cost of replacing locks or other security devices altered, removed or added by the resident without the consent of the proprietor.

9. Dispute Resolution (refer to occupancy principle 11)

The proprietor and the resident agree to use their best endeavours to informally resolve any disputes between them that arise from this agreement. Either party may apply to the Consumer Trader and Tenancy Tribunal to resolve a dispute about the Occupancy Principles (see Annexure 1).

10. Written Receipts (refer to occupancy principle 12)

The proprietor agrees to provide the resident with a written receipt for all money paid to the proprietor, including money paid for occupancy fees, a security deposit and for any utility charges. The receipt should be provided within a reasonable time period after the payment is received.

11. Termination (refer to occupancy principles 9 and 10)

The resident is entitled to know why and how this Occupancy Agreement may be terminated, and how much notice will be given before termination. The resident may not be evicted without reasonable written notice from the proprietor.

This Agreement can also be terminated by the resident by written notice given to the proprietor. Agreed reasons for termination and notice periods are set out below. If the third column is left blank, the suggested notice periods set out in the second column will apply.

Reason for Termination by Proprietor	Suggested Notice Period <i>examples of reasonable notice periods - this notice period applies if the next column is left blank</i>	Notice to be given under this occupancy agreement <i>(if different)</i>
Violence or threats of violence towards anyone living, working or visiting the premises	<i>Immediate</i>	<i>Immediate*</i>
Wilfully causing damage to the premises, or using the premises for an illegal purpose	<i>1 day</i>	
Continued and serious breach of this Agreement or the house rules, following a written warning	<i>3 days</i>	
Continued minor breach of this Agreement or the house rules, following a written warning	<i>1 week</i>	
Non-payment of the occupation fee	<i>2 weeks</i>	
Any other reason, including vacant possession required and "no grounds" termination	<i>4 weeks</i>	

***Immediate termination is likely to be necessary in this situation in order to protect other residents and employees.**

Reason for Termination by Resident	Suggested Notice Period <i>examples of reasonable notice periods - this notice period applies if the next column is left blank</i>	Notice to be given under this occupancy agreement <i>(if different)</i>
Serious breach of Agreement by proprietor	<i>1 day</i>	
Minor breach of agreement by proprietor	<i>1 week</i>	
No grounds/Any other reason	<i>1 week</i>	

12. Use of the Premises

The resident agrees not to wilfully or negligently cause damage to the premises or to use the premises for an illegal purpose and to respect other residents' rights to quiet enjoyment of the premises.

NOTE: Any term of this Agreement is not enforceable if it is inconsistent with the Occupancy Principles set out in Schedule 1 of the *Boarding Houses Act 2012*. The Occupancy Principles are attached at Annexure 1.

Signed: _____

(Proprietor)

Signed: _____

(Resident)

Date: _____

Date: _____

OPTIONAL INFORMATION

The resident may provide contact details to be used in an emergency

PERSONAL PHONE No/s: _____

EMERGENCY CONTACT PERSON

NAME: _____ RELATIONSHIP: _____

PHONE and/or ADDRESS: _____

Annexure 1

Occupancy principles

NB: These principles are contained in Schedule 1 of the *Boarding Houses Act 2012* and apply to residents of NSW boarding houses which are covered by this Act.

1. State of premises

A resident is entitled to live in premises that are:

- (a) reasonably clean, and
- (b) in a reasonable state of repair, and
- (c) reasonably secure.

2. Rules of registrable boarding house

A resident is entitled to know the rules of the registrable boarding house before moving into the boarding house.

3. Penalties for breaches of agreement or house rules prohibited

A resident may not be required to pay a penalty for a breach of the occupancy agreement or the rules of the registrable boarding house.

4. Quiet enjoyment of premises

A resident is entitled to quiet enjoyment of the premises.

5. Inspections and repairs

A proprietor is entitled to enter the premises at a reasonable time on reasonable grounds to carry out inspections or repairs and for other reasonable purposes.

6. Notice of increase of occupancy fee

A resident is entitled to 4 weeks written notice before the proprietor increases the occupancy fee.

7. Utility charges

(1) The proprietor is entitled to charge a resident an additional amount for the use of a utility if:

- (a) the resident has been notified before or at the time of entering the occupancy agreement of the use of utilities in respect of which the resident will be charged, and
- (b) the amount charged is based on the cost to the proprietor of providing the utility and a reasonable measure or estimate of the resident's use of that utility.

(2) A utility for the purposes of this clause is each of the following:

- (a) the supply of electricity,
- (b) the supply of gas,
- (c) the supply of oil,
- (d) the supply of water,
- (e) the supply of any other service prescribed by the regulations.

8. Payment of security deposits

(1) The proprietor may require and receive a security deposit from the resident or the resident's authorised representative only if:

- (a) the amount of the deposit does not exceed 2 weeks of occupancy fee under the occupancy agreement, and
- (b) the amount is payable on or after the day on which the resident (or the resident's authorised representative) enters the agreement.

(2) Within 14 days after the end of the occupancy agreement, the proprietor must repay to the resident (or the resident's authorised representative) the amount of the security deposit less the amount necessary to cover

the following:

- (a) the reasonable cost of repairs to, or the restoration of, the registrable boarding house or goods within the premises of the boarding house, as a result of damage (other than fair wear and tear) caused by the resident or an invitee of the resident,
- (b) any occupation fees or other charges owing and payable under the occupancy agreement or this Act,
- (c) the reasonable cost of cleaning any part of the premises occupied by the resident not left reasonably clean by the resident, having regard to the condition of that part of the premises at the commencement of the occupancy,
- (d) the reasonable cost of replacing locks or other security devices altered, removed or added by the resident without the consent of the proprietor,
- (e) any other amounts prescribed by the regulations.

(3) The proprietor may retain the whole of the security deposit after the end of the occupancy agreement if the costs, fees or charges referred to in subclause (2) (a)–(e) are equal to, or exceed, the amount of the security deposit.

(4) In this clause:

security deposit means an amount of money (however described) paid or payable by the resident of a registrable boarding house or another person as security against:

- (a) any failure by the resident to comply with the terms of an occupancy agreement, or
- (b) any damage to the boarding house caused by the resident or an invitee of the resident, or
- (c) any other matter or thing prescribed by the regulations.

9. Information about occupancy termination

A resident is entitled to know why and how the occupancy may be terminated, including how much notice will be given before eviction.

10. Notice of eviction

(1) A resident must not be evicted without reasonable written notice.

(2) In determining what is reasonable notice, the proprietor may take into account the safety of other residents, the proprietor and the manager of the registrable boarding house.

(3) Subclause (2) does not limit the circumstances that are relevant to the determination of what is reasonable notice.

11. Use of alternative dispute resolution

A proprietor and resident should try to resolve disputes using reasonable dispute resolution processes.

12. Provision of written receipts

A resident must be given a written receipt for any money paid to the proprietor or a person on behalf of the proprietor.

SCHEDULE OF ADDITIONAL CHARGES

ITEM	AMOUNT	WHEN DUE TO BE PAID	HOW CALCULATED

NOTE:

- This schedule is only for use if there are fees or charges in addition to the occupancy fee.
- This schedule forms part of the Occupancy Agreement when signed and dated by both parties.
- A receipt is to be provided to the resident for all payments of additional fees or charges made by the resident, within a reasonable time after the payment is received.
- Charges for utilities must comply with Occupancy Principle 7.

Signed: _____
(Proprietor)

Signed: _____
(Resident)

Date: _____

Date: _____

Attachment C: Complaints Register

COMPLAINT FORM					
Date:		Received by (circle):	Phone	Written	In Person
Time:					
Complainants' Details					
Name:					
Address:					
Telephone Numbers:	Home:		Work:		
	Email:				
COMPLAINT DETAILS					
Description of the complaint, time and date, including identification of person responsible, if possible.					
COMPLAINT INVESTIGATION					
Identify the resident responsible for the complaint and provide feedback from the resident responsible.					
RESOLUTION					
Complaint received by:				Date:	
Further Action:					