

Item 6.**Development Application: 131 Botany Road, Waterloo - D/2020/1029****File No.:** D/2020/1029**Summary****Date of Submission:** 7 October 2020, amended 12 February 2021**Applicant:** The Trustee for Yao Family Trust**Architect:** PFH Architects**Owner:** Heng Feng International Pty Limited**Planning Consultant:** Plan Urbia Pty Ltd**DAPRS:** 7 December 2020**Cost of Works:** \$659,505**Zoning:** The site is located within the B4 Mixed Use zone. Boarding house accommodation is permitted with development consent.**Proposal Summary:** The development application seeks consent for alterations and additions to an existing terrace building and change of use to a boarding house comprising:

- 6 boarding rooms for a maximum of 7 lodgers;
- Stair and platform lift access from Botany Road;
- Communal facilities, including ground floor tv room, reading room, laundry, kitchen, living and dining rooms, landscaped rear outdoor area and side terrace; and
- 3 bicycle parking spaces.

Clause 30(1)(h) of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (Affordable Housing SEPP) requires that 1 motorcycle parking space is provided for every 5 boarding rooms.

The proposed development does not provide any motorcycle parking spaces and the applicant has submitted a Clause 4.6 written request to vary the development standard under Clause 30(1)(h) of the Affordable Housing SEPP. The proposed variation has merit and is supported in this instance. The proposed variation request to the development standard is for a numerical variation of 100% and accordingly, the application is referred to the Local Planning Panel for determination.

The application was notified between 16 October 2020 and 7 November 2020 in accordance with the requirements of the City of Sydney Community Participation Plan 2019. No submissions were received by the City during or after the public exhibition period.

The proposal has been amended during the course of the assessment in order to address issues raised by Council staff and the Design Advisory Panel Residential Subcommittee. This included visual and acoustic privacy, road noise, access to sunlight and natural light, ventilation and outlook, communal space and bicycle storage. The amendments and additional information submitted to the City has satisfactorily addresses the issues raised.

The amended proposal received by the City on 12 February 2021 was not required to be notified or advertised given the amendments do not result in significant additional environmental impacts.

Subject to conditions, the proposal is generally consistent with the objectives and applicable planning provisions in the Affordable Housing SEPP, the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012. While there are minor non-compliances, these are assessed as being acceptable and are addressed in the body of this assessment report. The development will provide acceptable amenity for future residents and will not result in any significant amenity impacts on neighbouring developments.

Summary Recommendation: The development application is recommended for approval, subject to conditions.

Development Controls:

- (i) Environmental Planning and Assessment Act 1979
- (ii) Environmental Planning and Assessment Regulation 2000
- (iii) State Environmental Planning Policy No 55—Remediation of Land (SEPP 55)
- (iv) State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)
- (v) State Environmental Planning Policy (Affordable Rental Housing) 2009 (Affordable Housing SEPP)
- (vi) Sydney Local Environmental Plan 2012 (Sydney LEP 2012)
- (vii) Sydney Development Control Plan 2012 (Sydney DCP 2012)
- (viii) City of Sydney Development Contributions Plan 2015

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request – Motorcycle Parking

Recommendation

It is resolved that:

- (A) the written request seeking variation to the development standard in Clause 30(1)(h) of the State Environmental Planning Policy (Affordable Rental Housing) 2009 requiring the provision of 2 motorcycle parking spaces, made in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012, be upheld; and
- (B) consent be granted to Development Application Number D/2020/1029 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The development is consistent with the objectives of the B4 mixed use zone pursuant to the Sydney Local Environmental Plan 2012.
- (B) The development complies with the maximum height of buildings development standard applicable to the site, pursuant to Clause 4.3 of the Sydney Local Environmental Plan 2012.
- (C) The development complies with the maximum floor space ratio development standard applicable to the site, pursuant to Clause 4.4 of the Sydney Local Environmental Plan 2012 and Clause 29(1)(c)(i) of the State Environmental Planning Policy (Affordable Rental Housing) 2009.
- (D) The proposal satisfies design excellence provisions and matters for consideration in Clause 6.21 of the Sydney Local Environmental Plan 2012.
- (E) The development meets the objectives and relevant provisions for boarding houses in accordance with Division 3 of Part 2 of the State Environmental Planning Policy (Affordable Rental Housing) 2009.
- (F) The development is consistent with the objectives and is generally in accordance with the relevant provisions of the Sydney Development Control Plan 2012 relating to boarding houses.
- (G) The proposal has a height and form suitable for the site, satisfactorily addresses the heights and setbacks of neighbouring developments, and is appropriate in the streetscape context and broader locality.
- (H) The development can satisfactorily accommodate the proposed land use and does not result in any significant adverse environmental or amenity impacts on surrounding properties, the public domain and the broader Regent Street and Botany Road locality, subject to the recommended conditions.
- (I) The public interest is served by the approval of the proposal, as amendments to the development application have addressed the matters raised by the City, subject to the recommended conditions relating to acoustic privacy and bicycle storage.

- (J) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:
- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney Local Environmental Plan 2012, that compliance with the minimum motorcycle parking development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 30(1)(h) of the State Environmental Planning Policy (Affordable Rental Housing) 2009; and
 - (ii) the proposal is in the public interest because it is consistent with the objectives of the B4 Mixed Use zone and the minimum motorcycle parking development standard.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 8 in Deposited Plan 21278, commonly known as 131 Botany Road, Waterloo. It is rectangular in shape, with area of approximately 226.8 square metres. It has a primary street frontage of 7.4 metres to Botany Road, with a depth of approximately 30 metres. The site is located close to the intersection of Botany Road with Buckland Street and Wellington Street. Levels fall across the site from north-east to south-west by approximately 800mm.
2. The site contains a 2 storey detached terrace building of rendered masonry construction, corrugated metal roof and single storey rear addition, with a rooftop terrace above. The last approved use was for use as a storage premises with ancillary offices.
3. The surrounding area is characterised by a mixture of land uses, primarily commercial and residential. To the south at 133-141 Botany Road, Waterloo, is a 4 storey mixed use building containing ground floor commercial and retail premises, with residential apartments above and rooftop communal open space. The site at the rear to the east at 176-178 Cope Street, Waterloo, is occupied by a 2 storey commercial building
4. The site adjoining to the north at 125-129 Botany Road, Waterloo, accommodates a 2 storey commercial building, hardstand parking area and single storey shed to the rear. Further to the north at 123 Botany Road, Waterloo, is a 2 storey pub, identified as the 'Cauliflower Hotel including interior' (Item Number I2070) in Schedule 5 of the Sydney Local Environmental Plan 2012 as an item of local heritage significance.
5. Opposite the site, on the western side of Botany Road, are a number of buildings of various scales and uses. These include:
 - (a) a 2 storey commercial building at 134-136 Botany Road, Alexandria, containing business premises;
 - (b) a 3 storey mixed use building at 138-142 Botany Road Alexandria, containing ground floor business premises, a veterinary hospital and a health services facility, with residential apartments above;
 - (c) a single storey vehicle body repair workshop at 144 Botany Road, Alexandria; and
 - (d) a 4 storey mixed use building at 156 Botany Road, Alexandria containing ground floor commercial premises and residential apartments above.
6. The site is not identified as being a heritage item or as being located within a heritage conservation area in Schedule 5 of the Sydney Local Environmental Plan 2012.
7. The site is identified as being located within the Regent Street and Botany Road locality in and is identified as being subject to flooding.
8. Photographs of the site and surrounds are reproduced in the figures provided below.

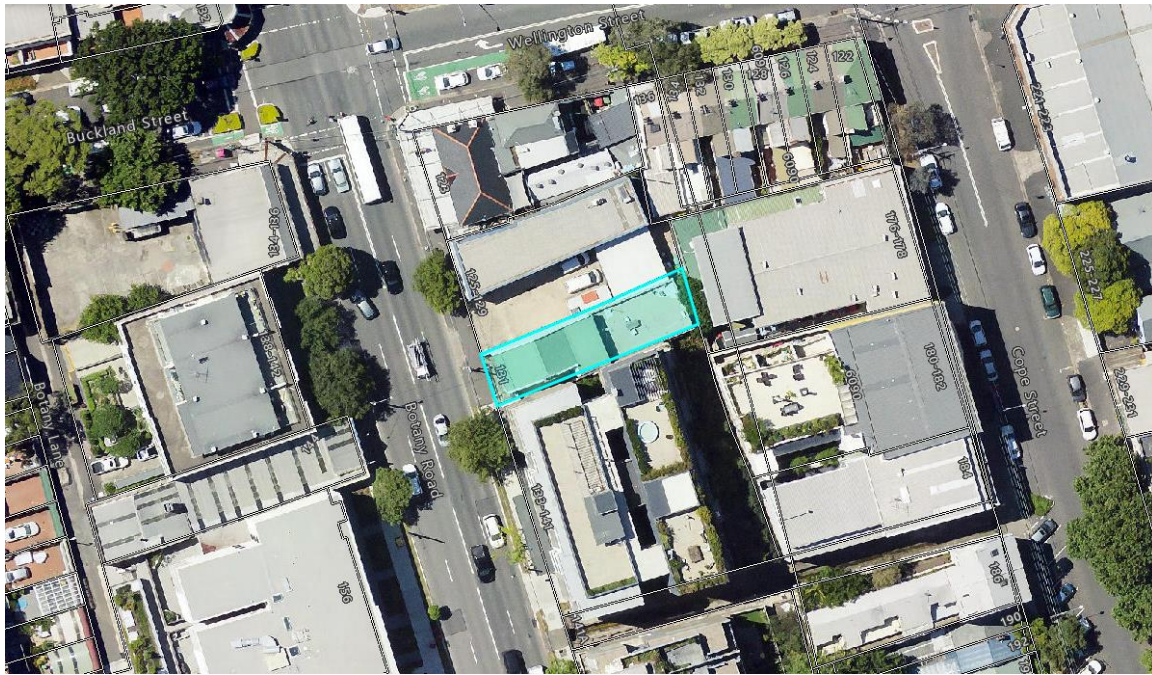


Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from the western side Botany Road, looking east



Figure 3: Site viewed from the western side of Botany Road, looking south-east



Figure 4: Site viewed from the eastern side Botany Road, looking south



Figure 5: Development to the south viewed from the western side of Botany Road, looking south-east

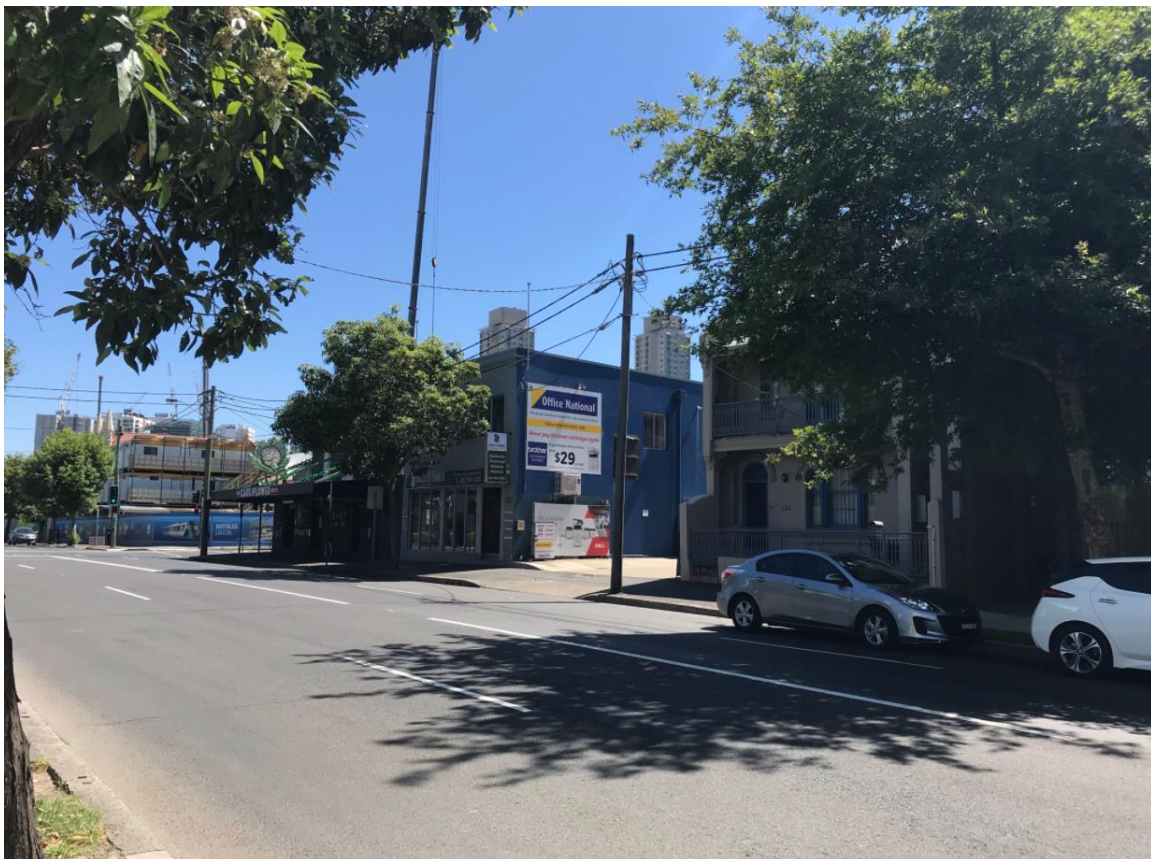


Figure 6: Development to the north viewed from the western side of Botany Road, looking north-east



Figure 7: Development opposite viewed from the eastern side of Botany Road, looking north-west



Figure 8: Development opposite viewed from the eastern side of Botany Road, looking west



Figure 9: Development opposite viewed from the eastern side of Botany Road, looking south-west



Figure 10: Development to the rear as viewed from the eastern side of Cope Street, looking west

History Relevant to the Development Application

Development Applications

9. The following applications are relevant to the current proposal:

- (a) **D/1995/382** – Development consent was granted on 21 June 1995 for the addition of a brick concrete storeroom at the rear of the existing building, for use in conjunction with the use of the premises for storage of clothing and ancillary offices.
- (b) **D/2006/984** – Development consent was granted on 9 October 2006 for alterations and additions to convert an existing commercial terrace building to a 9 room boarding house, including a first floor rear extension and rear courtyard.
- (c) **D/2006/984/A** – A modification of development consent was approved on 22 June 2007 to increase the number of boarding rooms to 11.

Development consent D/2006/984, as modified by D/2006/984/A, lapsed on 9 October 2011.

- (d) **PDA/2019/284** – Pre-development application advice was issued on 6 December 2019 in relation to a proposal for alteration and additions to the existing 2 storey building for use as a 12 room boarding house.
- (e) **PDA/2020/96** – Pre-development application advice was issued on 13 July 2020 in relation to a proposal for demolition of existing 2 storey building and construction of new 4 storey boarding house containing 17 boarding rooms.

Compliance Action

10. The site is not subject to any current compliance action or investigation.

Amendments

- 11. Following a preliminary assessment of the proposed development by City staff and the Design Advisory Panel Residential Subcommittee, a request for withdrawal of the application was sent to the applicant in December 2020, raising concern that the development provided for a low level of residential amenity and did not demonstrate design excellence.
- 12. The specific issues raised included the following:
 - (a) lack of visual and acoustic privacy, including road noise impacts from Botany Road;
 - (b) reliance on a narrow side setback and a small rear setback for light, ventilation and outlook;
 - (c) windows opening to a proposed light well and communal open space above;
 - (d) proposed balcony located on the boundary, adjoining the existing light well of the neighbouring building at 133 Botany Road, Waterloo;

- (e) lack of solar access and meaningful deep soil or landscaping to the proposed communal open space; and
 - (f) bike storage location served to reduce the amenity of the proposed communal open space area and would be difficult to manoeuvre a bike through.
13. The request included a range of design advice and offer for a pre-development application meeting.
14. The applicant requested an opportunity to amend the application.
15. The applicant presented 2 different options to City staff, including a preliminary design for an 8 room boarding house and another for a 6 room boarding house, the latter of which has formed the basis for the amended application submitted to Council in February 2021.

Proposed Development

16. The application, as amended on 12 February 2021, seeks consent for alterations and additions to an existing terrace building and change of use to a boarding house comprising the following:
- (a) Construction of new ground and first floor rear additions, a single front roof dormer window, rear roof extension and internal reconfiguration of the existing building, including:
 - (i) 6 boarding rooms for a maximum of 7 lodgers; and
 - (ii) communal facilities, including ground floor tv room, reading room, laundry, kitchen, living and dining rooms, landscaped rear outdoor area and side terrace;
 - (iii) stair and platform lift access from Botany Road; and
 - (iv) 3 bicycle parking spaces.
17. Plan, elevation and section drawings, including a schedule of finishes and landscape plan, for the proposed development are reproduced in the figures provided below.

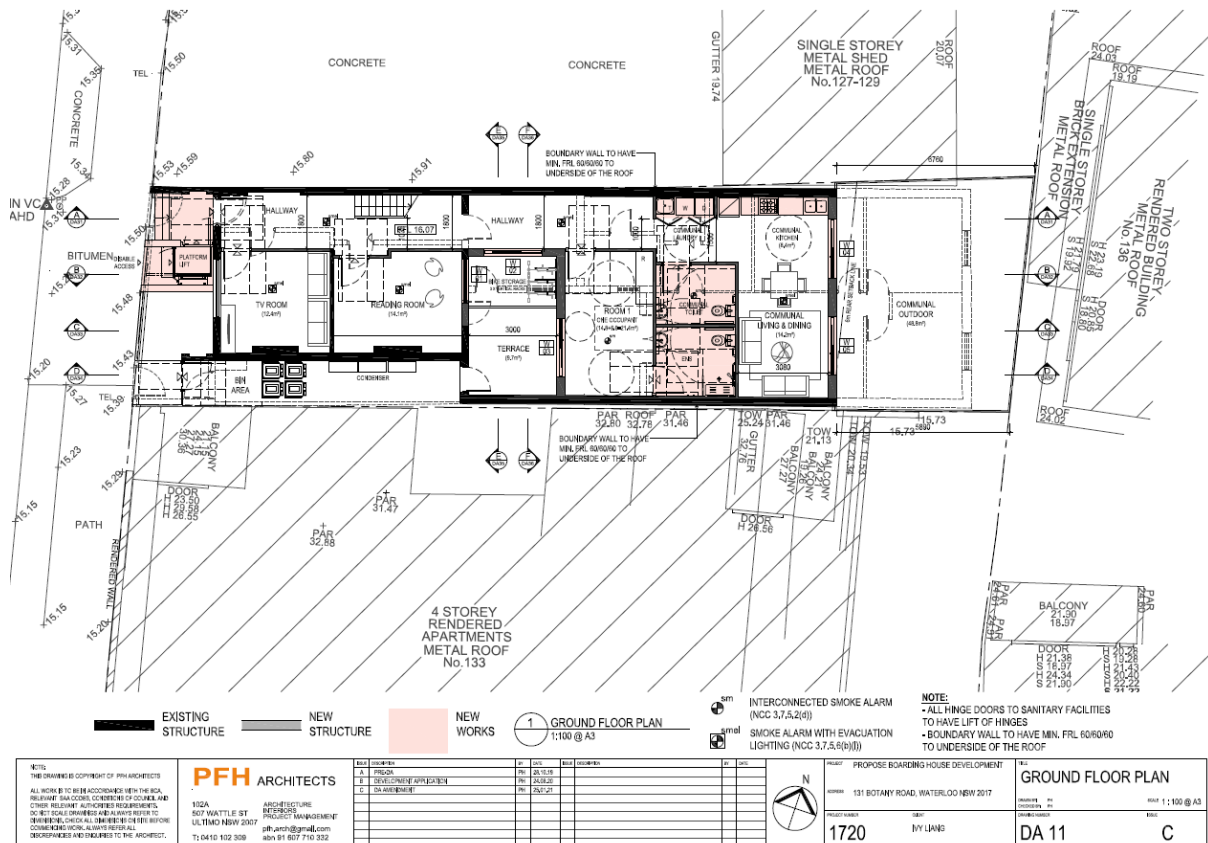


Figure 11: Ground floor plan drawing

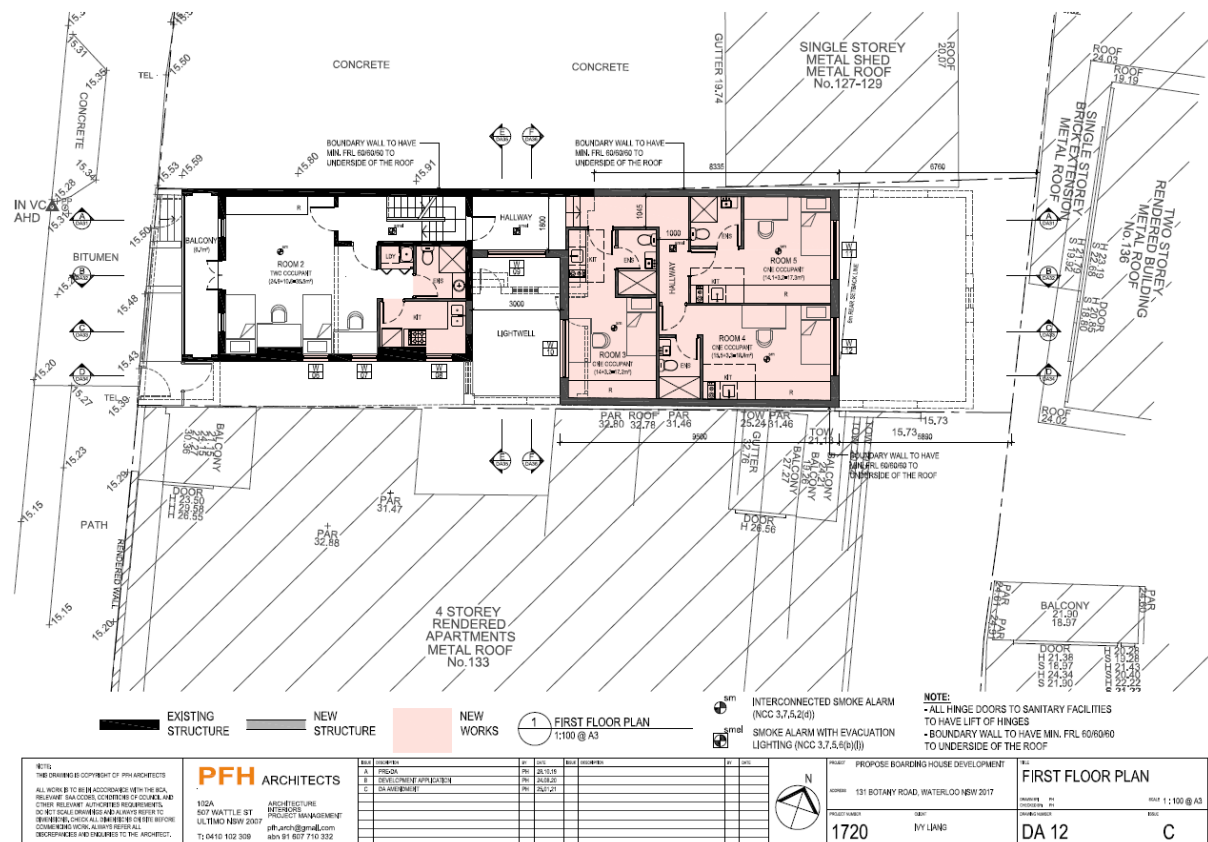


Figure 12: First floor plan drawing

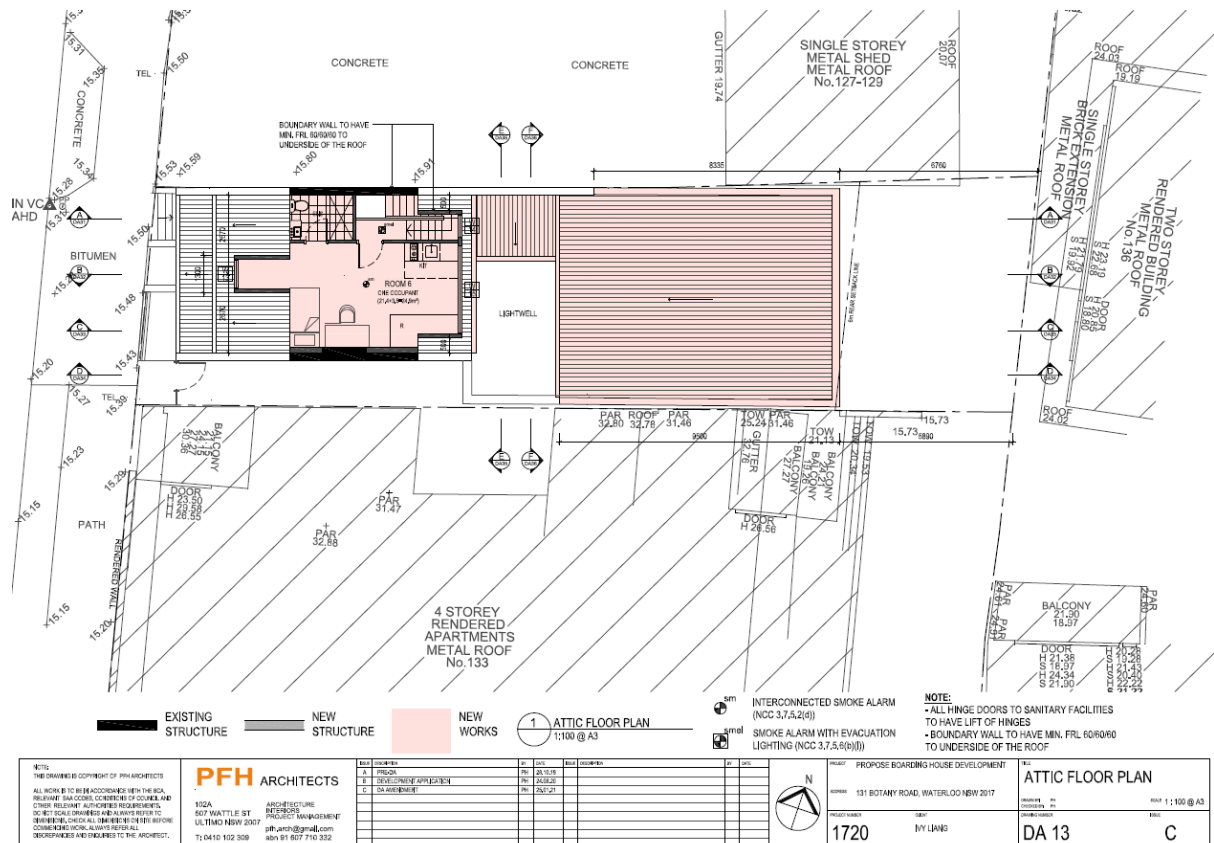


Figure 13: Proposed attic floor plan drawing

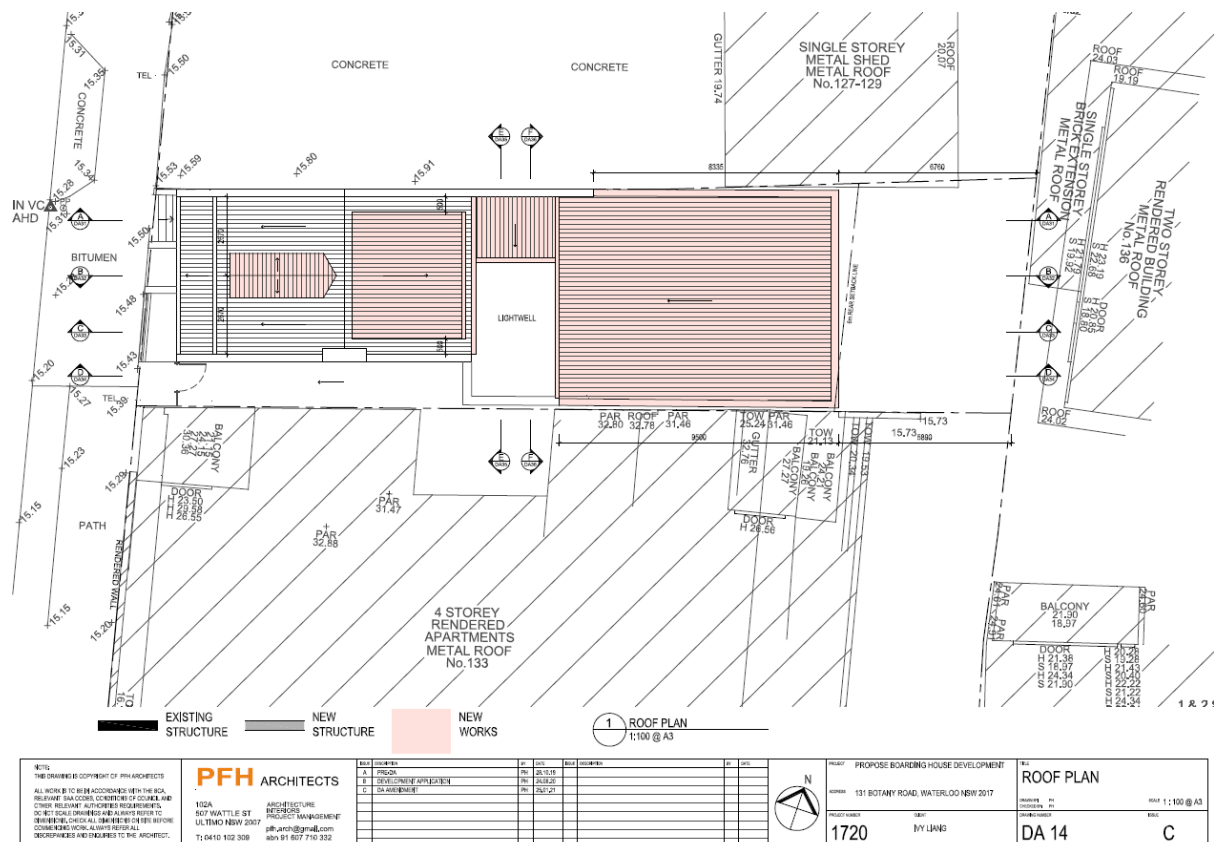


Figure 14: Proposed roof plan drawing

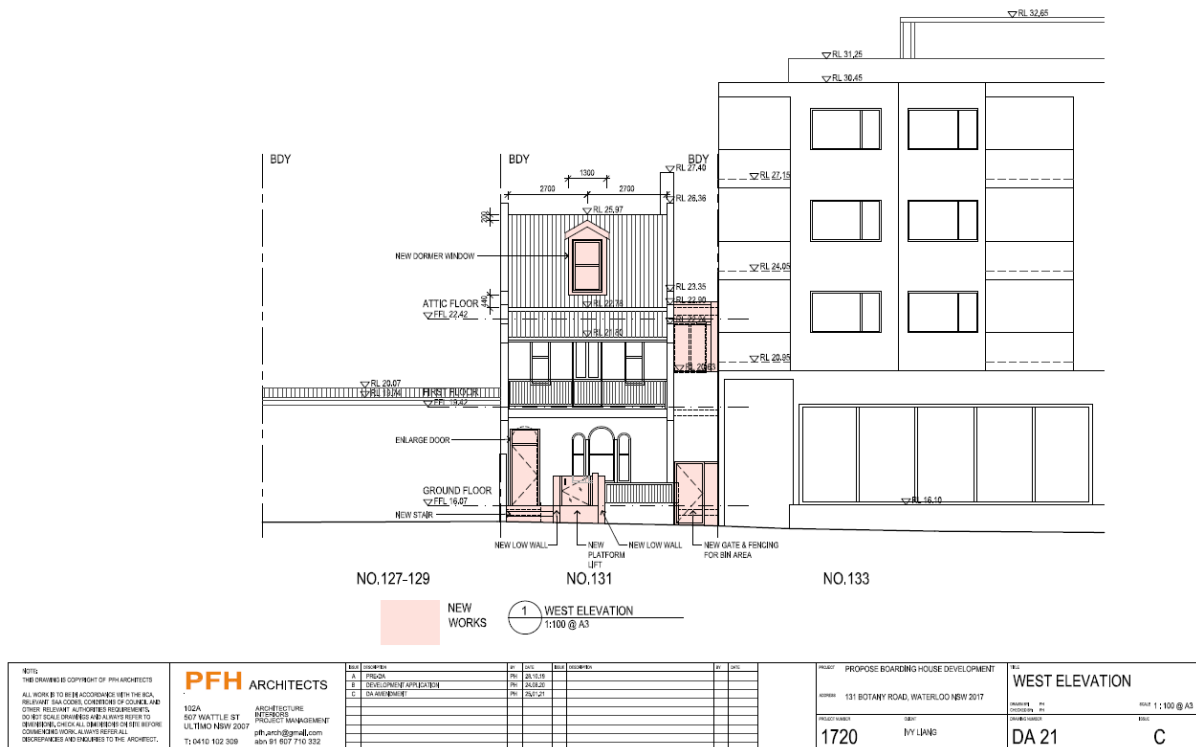


Figure 15: West (Botany Road) elevation drawing

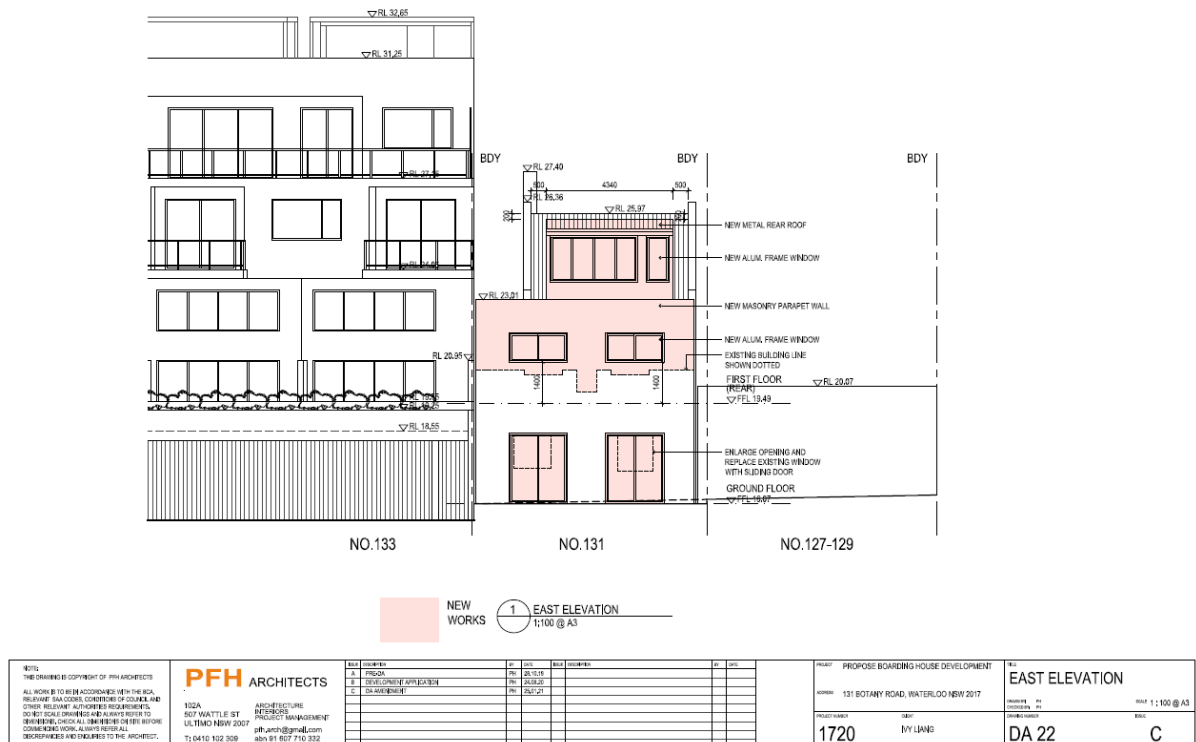


Figure 16: East elevation drawing

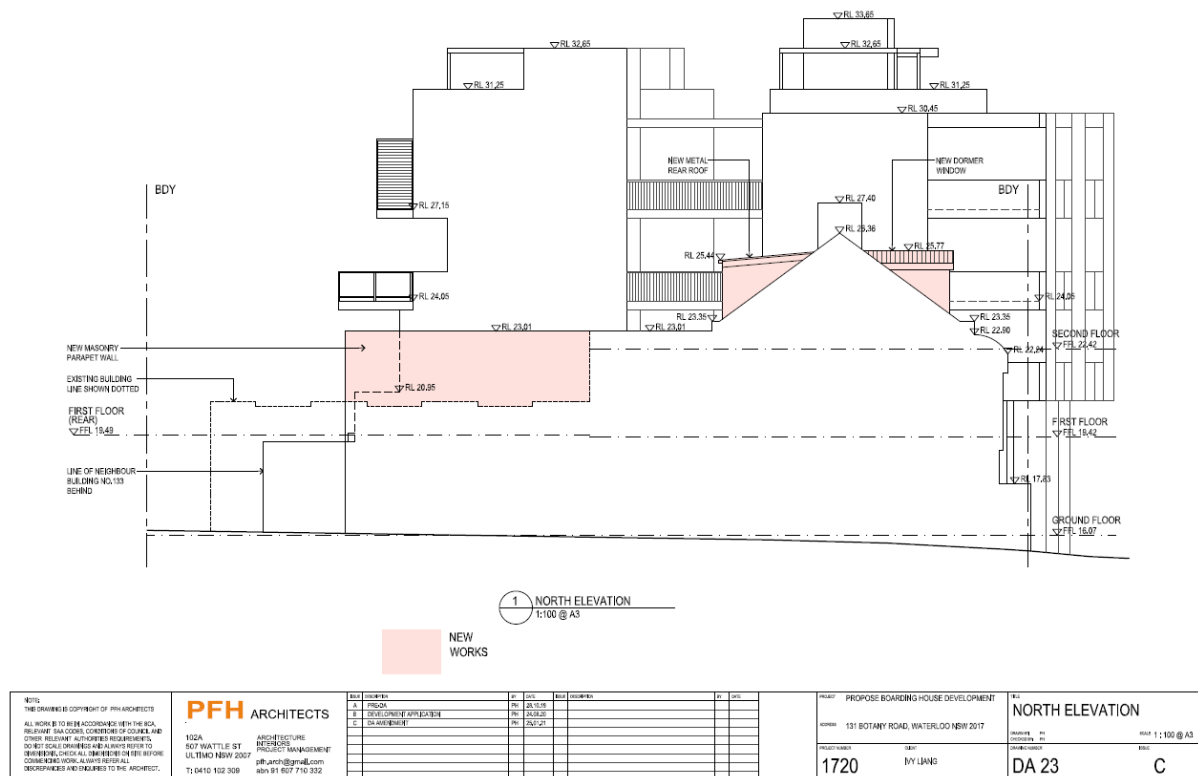


Figure 17: North elevation drawing

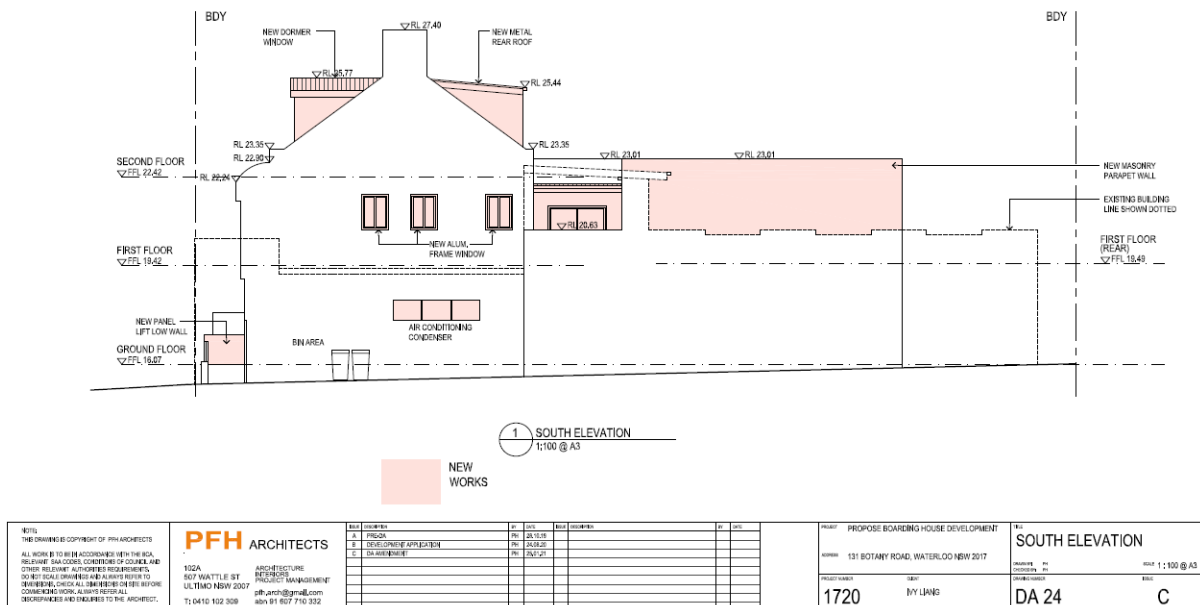


Figure 18: South elevation drawing

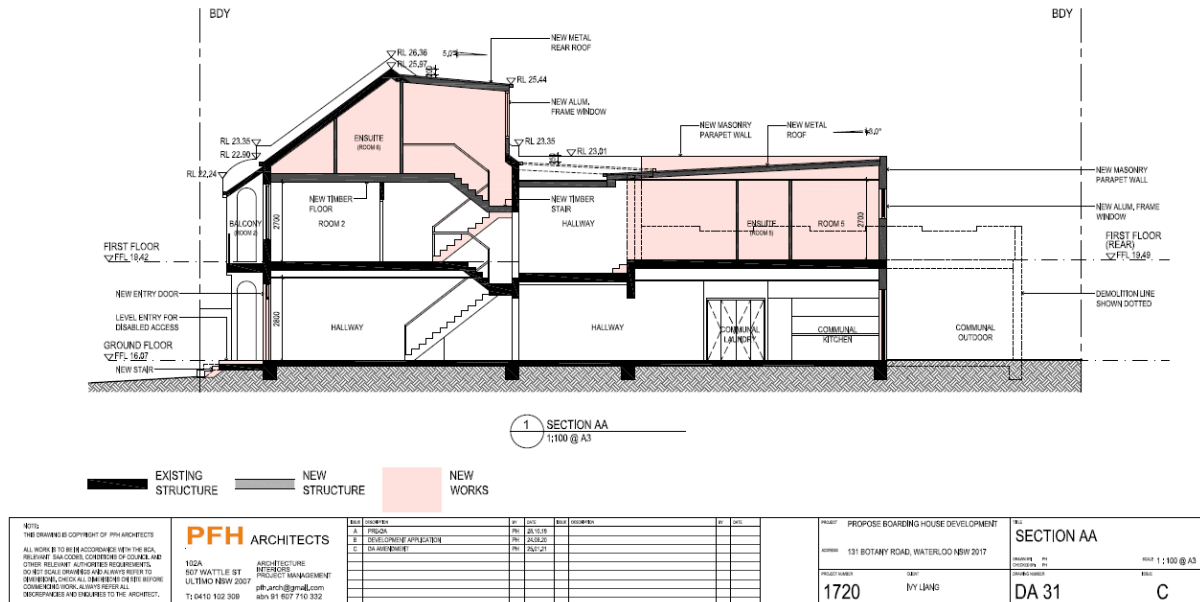


Figure 19: Section AA drawing

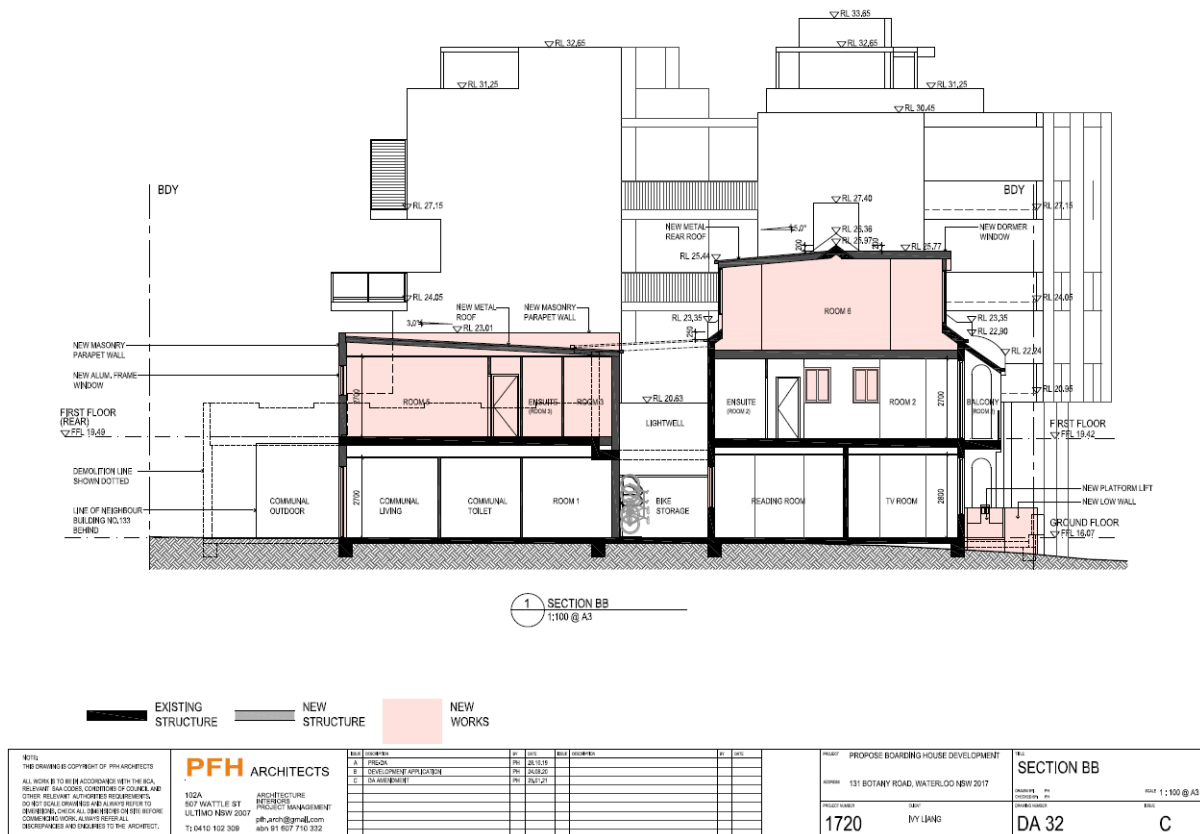


Figure 20: Section BB drawing

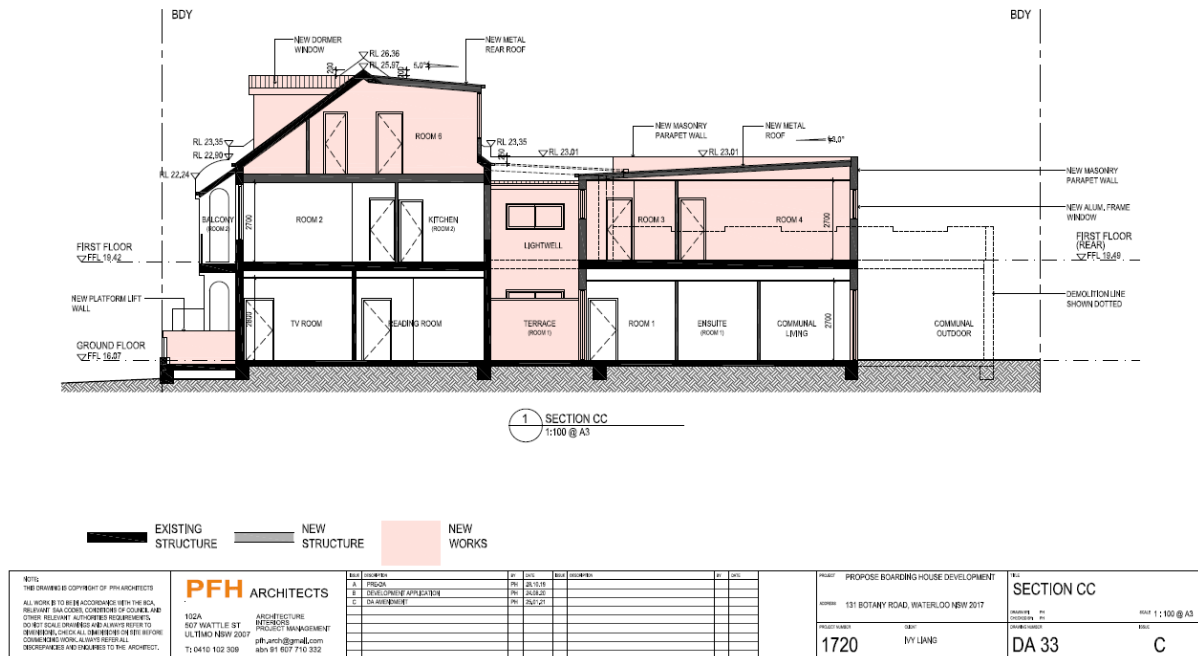


Figure 21: Section CC drawing

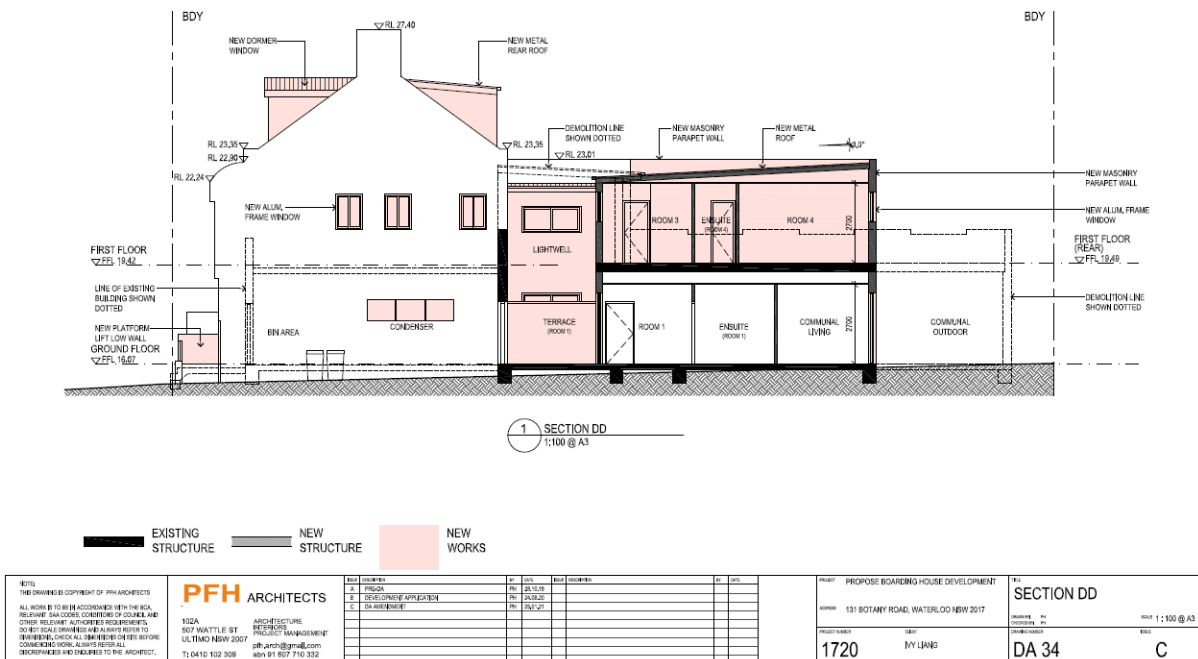


Figure 22: Section DD drawing

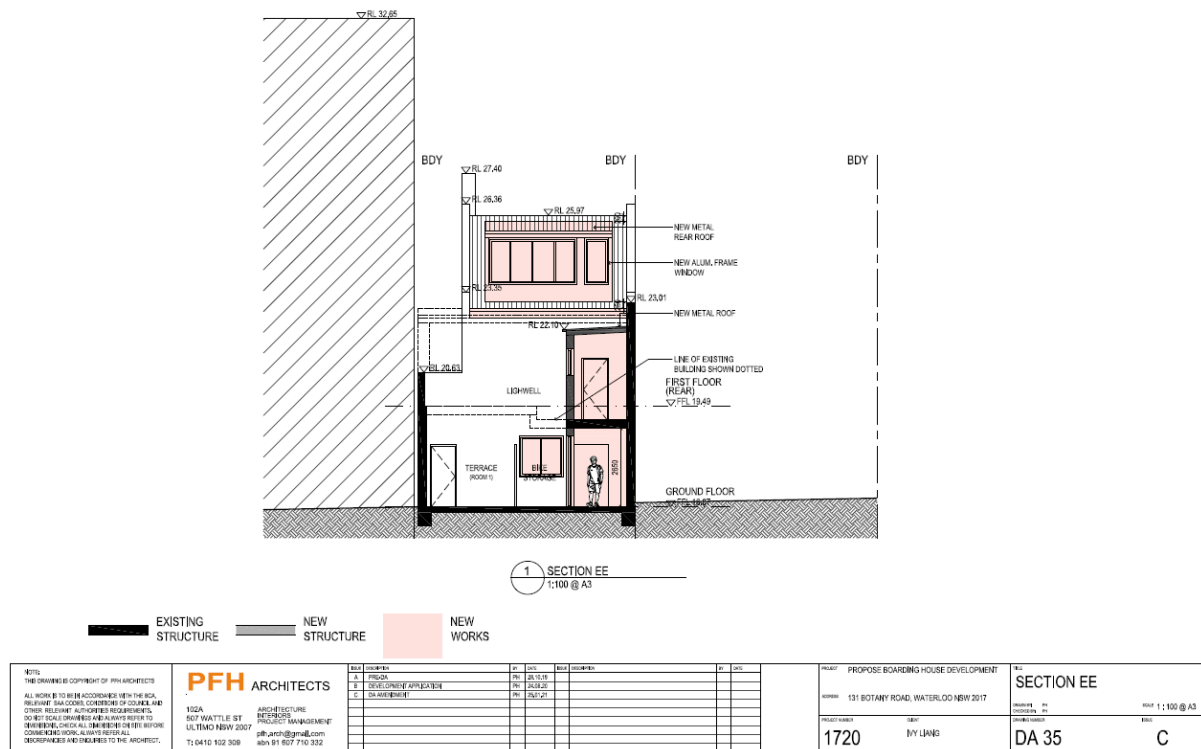


Figure 23: Section EE drawing

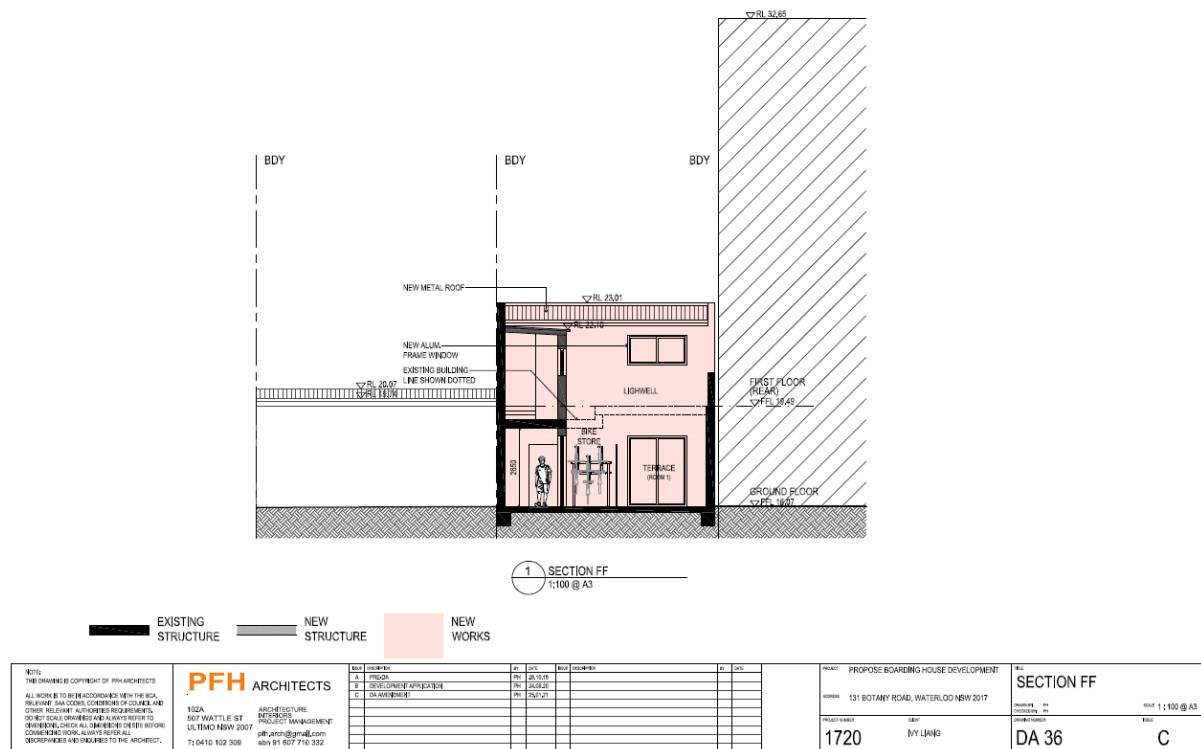


Figure 24: Section FF drawing



Figure 25: Schedule of finishes drawing



Figure 26: Landscape plan drawing

Assessment

18. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act, 1979.

State Environmental Planning Policies**State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55)**

19. The aim of SEPP 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
20. Preliminary and detailed site investigations were carried out, which conclude that the risk posed to human health and the environment during and post development is considered to be low and that remediation of the site is not necessary.
21. The Council's Health and Building Unit has reviewed the information provided and concurs with this conclusion, subject to the recommended conditions of consent included in Attachment A relating to asbestos removal works and new contamination evidence.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX)

22. BASIX Certificate number A404480 has been submitted with the development application.
23. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal.
24. Appropriate conditions of consent are included in Attachment A to ensure that the measures detailed in the BASIX certificate are implemented.

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)

25. The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.

Division 15, Subdivision 2: Development in or adjacent to rail corridors and interim rail corridors**Clause 86 – Excavation in, above, below or adjacent to rail corridors**

26. The application is adjacent to the City & Southwest Metro rail corridor and was subsequently referred to Sydney Metro for comment.
27. Sydney Metro advised the City on 7 December 2020 that they had no comments to make in relation to the proposed development.

Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations

Clause 101 – Development with frontage to classified road

28. The application is subject to Clause 101 of the SEPP as the site has frontage to Botany Road, which is a classified road.
29. The proposed development satisfies the provisions of Clause 101 subject to conditions of consent, as access to the site is not provided from the classified road and the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development, subject to the recommended conditions of consent included in Attachment A.

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

30. The application is subject to Clause 102 of the SEPP as the site is adjacent to Botany Road, which has an annual average daily traffic volume of more than 20,000 vehicles and the development is likely to be adversely affected by road noise or vibration.
31. The application satisfies Clause 102, given that the acoustic report submitted with the application assessed road noise intrusion upon the proposed development as potentially impacting its residential amenity and has provided a range of recommendations for noise control treatments for various building elements.
32. The Council's Health and Building Unit has reviewed the acoustic report and concurs with its recommendations, subject to the recommended conditions of consent included in Attachment A which will ensure that these are carried through to the certification and construction stages of the development.
33. Refer to the further assessment and details provided under the 'Discussion' heading below.

State Environmental Planning Policy (Affordable Rental Housing) 2009 (Affordable Housing SEPP)

34. The aim of the Affordable Housing SEPP is to provide a consistent planning regime for the provision and maintenance of affordable rental housing and to facilitate the delivery of new affordable rental housing, including new boarding houses.

Division 3: Boarding Houses

35. Under Clause 29, compliance with any of the following standards must not be used to refuse consent for a boarding house. An assessment of compliance for the proposed boarding house against each standard is provided in the table sections below.

Clause 29 – Standards that cannot be used to refuse consent

Provision	Compliance	Comment
1 Density and scale expressed as floor space ratio (FSR) An FSR of up to 1.5:1 plus 0.5:1 is permitted.	Yes	The application proposes an FSR of 1.09:1 and will not exceed the maximum FSR of 2:1.
2(a) Building height The proposed building height must not exceed the maximum building height of 15 metres permitted under the Sydney LEP 2012.	Yes	The proposed development will have a maximum height of 10.3 metres and will not exceed the maximum building height of 15 metres.
2(b) Landscaped area The front setback is to be compatible with the streetscape.	Yes	<p>The existing front setback area has a paved terrace area, with steps up from the footpath along the Botany Road frontage to the entrance of the building.</p> <p>The proposed development includes a new stair and a platform lift to facilitate disability access, requiring the demolition of part of this area to provide a level entry from the footpath.</p> <p>The proposed development includes a hard stand area, stair and lift, which are elements consistent with the character of the immediate locality along Botany Road, given the adjoining buildings to the north and south of the site are either built to the street edge, or defined by ramps at the street edge to provide accessible building entries.</p>
2(c) Solar access If more than one communal living area is provided, at least one of the rooms is to receive a minimum of 3 hours direct sunlight between 9:00am and 3:00pm in mid-winter.	Yes	Shadow diagrams submitted with the development application indicate that the rear communal kitchen, living and dining room areas will receive at least 2 hours solar access between 10.30am and 12.30pm during the mid-winter solstice on 21 June.

Provision	Compliance	Comment
		This is consistent with the requirements of the relevant provision in Section 4.4.1.4(2)(c) of the Sydney Development Control Plan 2012 which requires that indoor communal areas for boarding houses are “to receive a minimum 2 hours solar access to at least 50% of the windows during 9am and 3pm on 21 June”.
2(d) Private open space (i) One area of at least 20 square metres with a minimum dimension of 3 metres is provided for lodgers. (ii) If accommodation is provided for an onsite manager, one area of at least 8 square metres with a minimum dimension of 2.5 metres, adjacent to the accommodation.	Yes	Private open space of 48.8 square metres is provided at the rear, in the form of a landscaped outdoor area adjoining the communal kitchen, living and dining rooms. Due to modest size of the proposed boarding house, having less than 20 lodgers, a boarding house manager is not required.
2(e) Parking (i) 0.2 parking spaces provided for each boarding house room for sites in an accessible area. (ii) 0.4 parking spaces provided for each boarding house room for sites not in an accessible area. (iii) Not more than 1 parking space for the on-site manager.	No	No on site car parking spaces are proposed. The provision of on site car parking spaces for boarding houses is not a mandatory requirement under the Affordable Housing SEPP, with Clause 29(4) of the SEPP permitting the consent authority the capacity to exercise discretion and allow a variation of the standard. The variation of the discretionary minimum car parking space development standard is acceptable in the specific circumstances of the site and proposed development, given that:

Provision	Compliance	Comment
		<ul style="list-style-type: none"> • The Sydney Local Environmental Plan 2012 does not require a minimum car parking provision for boarding house uses, instead requiring maximum car parking rates for new development; • The site is well served by existing and future public transport infrastructure, including proximity to multiple bus routes along Botany Road, the Green Square train station to the south and the future Waterloo Metro Station to the north; • The site is located in proximity to a number of dedicate bicycle infrastructure, including routes into and out of the City; • The proposed boarding house development is intended to cater for low income earners or students who are unlikely to own a car; • The development provides 3 bicycle parking spaces which will satisfy the likely parking demand generated by the boarding house use; and • The City's Transport and Access Unit support the variation, given its proximity to public transport.
<p>2(f) Accommodation size</p> <p>(i) Rooms intended to be used by a single lodger are to have a minimum gross floor area (GFA) of 12 square metres.</p> <p>(ii) Rooms intended to be used more than one person are to have a minimum GFA of 16 square metres.</p> <p>(excluding any area used as a private kitchen/ bathroom)</p>	Yes	<p>Excluding kitchens and bathrooms, the application proposes the following compliant boarding room sizes:</p> <p>Boarding room 1 – single – 14.8 square metres</p> <p>Boarding room 2 – double – 24.9 square metres</p> <p>Boarding room 3 – single – 14 square metres</p> <p>Boarding room 4 – single – 15.5 square metres</p>

Provision	Compliance	Comment
		Boarding room 5 – single – 14.1 square metres Boarding room 6 – single – 21.4 square metres

36. Clause 30 of the Affordable Housing SEPP states that a consent authority must not grant development consent to development to which Division 3 applies, unless it is satisfied that each of the following provisions are achieved by the development.

37. An assessment of compliance for the proposed boarding house against each standard is provided in the table sections below.

Clause 30 – Standards for boarding houses

Provision	Compliance	Comment
1(a) At least one communal living room is to be provided.	Yes	Communal rooms include ground floor TV, reading, kitchen, living and dining rooms.
1(b) No boarding room is to have a gross floor area (GFA) (excluding private kitchen or bathroom facilities) of more than 25 square metres	Yes	All boarding rooms have less than 25 square metres GFA.
1(c) No boarding room to be occupied by more than 2 adult lodgers	Yes	All but 1 of the boarding rooms are proposed for single occupancy. The submitted Plan of Management restricts the number of lodgers to no more than 1 or 2 adults per room respectively.
1(d) Adequate bathroom and kitchen facilities available for use of each lodger	Yes	The boarding house provides adequate bathroom and kitchen facilities in accordance with the relevant provisions in Section 4.4.1.3 and 4.4.1.5 of the Sydney Development Control Plan 2012.
(1e) A boarding room or on-site dwelling to be provided for a boarding house manager if boarding house has a capacity of 20 or more lodgers	Yes	The boarding house will have fewer than 20 lodgers so there is no requirement for a boarding house manager.

Provision	Compliance	Comment
1(g) If the boarding house is zoned primarily for commercial purposes, no part of the ground floor that fronts a street will be used for residential purposes except where permitted under an Environmental Planning Instrument.	Yes	The land is zoned B4 Mixed Use which is not primarily for commercial purposes. The development is acceptable.
1(h) At least 1 bicycle and 1 motorcycle parking space to be provided for every 5 rooms.	Partial compliance	<p>3 bicycle parking spaces are provided in the external side terrace area, which complies with the standard.</p> <p>No motorcycle parking spaces are proposed and a written Clause 4.6 variation request has been submitted with the application and is included in Attachment C.</p> <p>Refer to the further assessment and details provided under the 'Discussion' heading below.</p>

Clause 30A – Character of the local area

38. Clause 30A states that a consent authority must not consent to development for a boarding house unless it has taken into consideration whether the design of the development is compatible with the character of the local area.
39. The site is located within the B4 Mixed Use zone and the Regent Street and Botany Road locality. As amended, the proposed boarding house is compatible with the character of the surrounding area and is consistent with Clause 30A.
40. The bulk and scale of the new additions to the existing building are appropriate to its form and scale and will have an acceptable relationship with the adjoining buildings to the north, east and south. The proposed materials and finishes are also compatible with the existing buildings in the surrounding locality and provide for a contextually appropriate response to the streetscape along Botany Road.

Clause 52 – No subdivision of boarding houses

41. Clause 52 of the Affordable Housing SEPP states that a consent authority must not grant consent to the strata subdivision or community title subdivision of a boarding house.
42. The application does not propose a strata subdivision. An appropriate condition is included in Attachment A which will serve to prevent the strata subdivision or community title subdivision of the boarding house development.

Local Environmental Plans

Sydney Local Environmental Plan 2012 (Sydney LEP 2012)

43. An assessment of the proposed development against the relevant provisions of the Sydney LEP 2012 is provided in the following table sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the B4 Mixed Use zone. The proposed development is defined as a boarding house and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	A maximum building height of 15 metres is permitted. A height of 10.3 metres is proposed. The proposed development complies with the maximum height of buildings development standard.
4.4 Floor space ratio (FSR)	Yes	A floor space ratio of 2:1, or 453.6 square metres of Gross Floor Area (GFA), including 0.5:1 for the boarding house use is permitted, in accordance with Clause 4.4 of the Sydney LEP 2012 and Clause 29(1)(c) of the Affordable Housing SEPP. A floor space ratio of 1.09:1, or 248.1 square metres of GFA, is proposed. The proposed development complies with the maximum floor space ratio development standard.
4.6 Exceptions to development standards	Yes	The proposed development seeks to vary the minimum motorcycle parking space development standard prescribed under Clause 30(1)(h) of the Affordable Housing SEPP.

Provision	Compliance	Comment
		<p>A written Clause 4.6 variation request has been submitted with the application and included in Attachment C.</p> <p>Refer to the further assessment and details provided under the 'Discussion' heading below.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The subject site is a not a heritage item and is not located within a heritage conservation area.</p> <p>The site is located within the vicinity of a 2 storey pub at 123 Botany Road, Waterloo, which is identified as the 'Cauliflower Hotel including interior' (Item Number I2070) in Schedule 5 of the Sydney LEP 2012 as an item of local heritage significance.</p> <p>The proposed development will not have any visual impacts on the significance of this heritage item.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
6.21 Design excellence	Yes	<p>The proposed development uses materials and detailing which are compatible with the existing building and development along the street, subject to a minor design modification condition included in Attachment A.</p> <p>The condition requires the front dormer window to be set back from Botany Road by an additional 300mm, in order to achieve a better relationship with the traditional terrace form of the subject building and provide a higher windowsill height.</p>

Provision	Compliance	Comment
		<p>The development generally achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants.</p> <p>The development therefore satisfies design excellence provisions.</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
7.9 Other land uses	Not applicable	The Sydney LEP 2012 does not stipulate any minimum car parking provisions for a boarding house use.
7.13 Contribution for purpose of affordable housing	Not applicable	<p>The site is not located within Green Square or the Southern Employment Lands.</p> <p>No affordable housing contribution is applicable to the proposed development as a result.</p>
7.14 Acid Sulfate Soils	Yes	<p>The site is located on land with Class 5 Acid Sulfate Soils.</p> <p>The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan.</p>
7.15 Flood planning	Yes	<p>The site is identified as being affected by flooding from the Alexandra Canal catchment.</p> <p>Flooding occurs along the Botany Road frontage of the site, with indicative depths of approximately 200mm above the gutter invert in a 1% Annual Exceedance Probability (AEP) storm event.</p>

Provision	Compliance	Comment
		<p>Based on the site survey details provided with the application, this depth would relate to a 1% AEP flood level of approximately RL 15.5 AHD along the Botany Road frontage. The 1% AEP flood is the appropriate flood planning level control for this type of land use.</p> <p>The existing floor levels of the building are already elevated approximately 500mm above the existing public domain footpath level along Botany Road at approximately RL 16.0 AHD, which is considered safe from flooding and acceptable in terms of flood risk management.</p>
7.16 Airspace operations	Yes	<p>The proposed development will not penetrate the Obstacle Limitation Surface (OLS) at a height of RL 51 AHD, as shown on the OLS Map for Sydney Airport.</p> <p>The approval of the Civil Aviation Safety Authority (CASA) is not required, as the height of development does not exceed RL 45.72 AHD.</p>

Development Control Plans

Sydney Development Control Plan 2012 (Sydney DCP 2012)

44. An assessment of the proposed development against the relevant provisions within the Sydney DCP 2012 is provided in the following table sections.

Section 2 – Locality Statements

45. The site is located within the Regent Street and Botany Road locality.
46. The proposed development is in keeping with the character and the design principles of the locality, given that it:
- (a) Adds to the existing mix of residential, retail, commercial and community land uses within the area.
 - (b) Generally retains the existing fine grain building form present on the site, maintaining the eclectic mix of building types in the neighbourhood, and diversity of form and mass.

- (c) Improves the presentation of the existing building to Botany Road, aligning with and addressing the street, including the provision of disability access.

Section 3 – General Provisions

Provision	Compliance	Comment
3.2. Defining the Public Domain	Yes	The design of the proposed development will result in a building that will generally enhance the quality of the public domain. It will have an appropriate presentation to Botany Road, with a legible and accessible entry to the boarding house from the street.
3.5 Urban Ecology	Yes	The proposed development does not involve the removal of any trees. As such, it will not have any significantly adverse impacts on the local urban ecology. Subject to a condition included in Attachment A requiring the planting of canopy trees in the rear yard, the proposed development satisfies urban ecology requirements.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. Refer to the further discussion and assessment provided in the table section above in relation to Section 7.15 of the Sydney LEP 2012.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	Subdivision is not proposed as part of the subject application. Furthermore, no strata subdivision of boarding house developments is permitted under the relevant provisions of the Affordable Housing SEPP. The application was discussed with Council's Specialist Surveyor, who provided appropriate conditions of consent which have been included in Attachment A.

Provision	Compliance	Comment
3.9 Heritage	Yes	<p>The subject site is a not a heritage item and is not located within a heritage conservation area.</p> <p>The site is located within the vicinity of a 2 storey pub at 123 Botany Road, Waterloo, which is identified as the 'Cauliflower Hotel including interior' (Item Number I2070) in Schedule 5 of the Sydney LEP 2012 as an item of local heritage significance.</p> <p>The proposed development will not have any visual impacts on the significance of this heritage item.</p>
3.11 Transport and Parking	Yes	<p>The Sydney DCP 2012 does not specify the exact number of bicycle spaces to be provided for a proposed boarding house use.</p> <p>A minimum of 1 bicycle storage space per 2 boarding rooms is generally recommended for boarding house land uses, in order to meet Council's mode share target for trips by bike as described in the Cycle Strategy and Action Plan 2018-2030.</p> <p>The proposed development provides 3 vertical bicycle parking racks within the side terrace area. Appropriate conditions are included in Attachment A to ensure the design of these spaces accords with the relevant provisions in Section 3.11.3 of the Sydney DCP 2012, including the provision of an awning to provide weather protection.</p> <p>No motorcycle parking spaces are provided. A written Clause 4.6 variation request has been submitted with the application and included in Attachment C.</p> <p>Refer to the further assessment and details provided under the 'Discussion' heading below.</p>

Provision	Compliance	Comment
3.12 Accessible Design	Yes	<p>The proposed development can provide residential accommodation and access to shared facilities for persons with disabilities, including platform lift and level access from Botany Road. Boarding room 1, and its associated ensuite bathroom, has been designed as an accessible room.</p> <p>A condition is included in Attachment A to ensure that the proposed access arrangements and facilities for persons with disabilities is carried through to the certification, construction and occupation stages of the development, in accordance with Section 3.12 of the Sydney DCP 2012 and the Building Code of Australia.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the 'Crime Prevention through Environmental Design' (CPTED) principles.</p>
3.14 Waste	Yes	<p>Conditions are included in Attachment A to ensure compliance with the City of Sydney Guidelines for Waste Management in New Development.</p>

Section 4 – Development Types

4.4 Other Development Types and Uses

4.4.1 Boarding houses and student accommodation

Provision	Compliance	Comment
4.4.1.1 Subdivision	Yes	<p>A condition of consent is included in Attachment A prohibiting the site from either being subject to strata subdivision, or to community title subdivision.</p>

Provision	Compliance	Comment
4.4.1.2 Bedrooms	Yes	<p>The minimum boarding room size for single rooms is 12 square metres and for double rooms is 16 square metres.</p> <p>All proposed boarding rooms are single occupancy, except boarding room 2 which is proposed for double occupancy.</p> <p>All rooms meet the minimum boarding room size, ranging between 17.2 and 35.5 square metres.</p>
4.4.1.3 Communal kitchen areas	Yes	<p>5 of the 6 proposed boarding rooms are provided with a kitchenette.</p> <p>Notwithstanding this, a communal kitchen is provided measuring 8.4 square metres in size, equal to 1.2 square metres per lodger.</p> <p>The kitchen facilities include a compliant number of sinks, stovetop cooker space, and adequate refrigerator, freezer and cupboard storage.</p>
4.4.1.4 Communal living areas and open space	Yes	<p>The indoor communal living areas include ground floor tv room, reading room living and dining rooms, for a total of 40.7 square metres in area, exceeding the minimum requirement for 12.5 square metres.</p> <p>The rear communal kitchen, living and dining room will receive at least 2 hours solar access between 10.30am and 12.30pm during the winter solstice and is located directly adjacent to the principal area of communal open space at the rear of the site.</p> <p>The communal open space area at the rear of the site is 48.8 square metres in area and has a minimum dimension of approximately 5.8 metres, exceeding the minimum requirement of 20 square metres with a minimum dimension of 3 metres.</p>

Provision	Compliance	Comment
		<p>Due to the site orientation, overshadowing from the adjoining development and relatively narrow allotment width, the outdoor communal area will not receive 2 hours' solar access to at least 50% of the area between 9.00am and 3.00pm at midwinter.</p> <p>The non-compliance is acceptable however, given that the rear area open space has been significantly increased in the amended application and will receive adequate solar access between 11.00am and 1.00pm on 21 June.</p> <p>The provision in Section 4.4.1.4(5) recommends that 30% of all bedrooms have access to private open space in the form of balconies or terraces with a minimum area of 4 square metres. Boarding room 2 is provided with access to a 6.7 square metre balcony at the front of the building, while the remainder of the boarding rooms are not provided with any private open space.</p> <p>This is considered acceptable, given the significant quantum of communal indoor and outdoor space provided in excess of the minimum requirements of the provisions in Section 4.4.1.4 of the Sydney DCP 2012.</p>
4.4.1.5 Bathroom, laundry and drying facilities	Yes	<p>Ensuite bathrooms are provided in each proposed boarding room, and with only boarding room 2 being provided with laundry facilities.</p> <p>Communal laundry facilities are provided at the ground floor level, adjacent to the communal bathroom and kitchen, including a laundry basin, washing machine and dryer.</p> <p>A retractable clothesline is also shown on the landscape plan within the rear common open space.</p>

Provision	Compliance	Comment
4.4.1.6 Amenity, safety and privacy	Yes	<p>The proposal provides a satisfactory level of residential amenity, safety and privacy.</p> <p>The communal open spaces are in safe and accessible locations within the building. The main proposed communal outdoor area is directly adjacent to the main internal communal kitchen, dining and living room. Bedrooms are located away from communal areas or are appropriately screened to maintain acoustic and visual privacy.</p> <p>An acoustic report was provided with the application. The report was reviewed by Council's Environmental Health Unit and is acceptable, subject to the acoustic conditions included in Attachment A.</p> <p>The application proposes an external communal area. A condition is included in Attachment A to restrict the use of this area be restricted to between 7.00am to 10.00pm, Mondays to Sundays inclusive, in order to minimise any noise disturbance to nearby residents.</p>
4.4.1.7 Plan of Management	Yes	<p>The application has been accompanied by a Plan of Management that generally addresses the requirements of Section 4.4.1.7 of the Sydney DCP 2012.</p> <p>The Plan of Management includes:</p> <ul style="list-style-type: none"> • details of on-site manager contact details and responsibilities; • house rules and sharing of information with residents; • occupancy rates for each sleeping room; • access to communal spaces for people with a disability; • waste minimisation and management;

Provision	Compliance	Comment
		<ul style="list-style-type: none"> • professional cleaning services; and • safety and security measures. <p>Further amendments are required such as reference to the CCTV arrangements and an alcohol management policy.</p> <p>The submission of an amended Plan of Management is recommended to be addressed by way of a condition included in Attachment A.</p>

Discussion

Clause 4.6 Request to Vary a Development Standard - Motorcycle Parking

47. The site is subject to a minimum motorcycle parking development standard of 2 spaces, in accordance with Clause 30(1)(h) of the Affordable Housing SEPP. The proposed development provides no motorcycle parking spaces.
48. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard;
 - (c) The proposed development will be consistent with the objectives of the zone; and
 - (d) The proposed development will be consistent with the objectives of the standard.
49. A copy of the applicant's written request is provided in Attachment C.

Applicant's Written Request - Clause 4.6(3)(a) and (b)

50. The applicant seeks to justify the contravention of the minimum motorcycle parking development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the specific circumstances of the case, including that:

- (i) The objectives of the standard are achieved notwithstanding non-compliance with the standard, as follows:
 - i. There are no stated objectives associated with the control or Clause 30 in general. However, it is assumed that the purpose of clause 30(1)(h) of the Affordable Housing SEPP is to ensure that boarding houses provide adequate parking facilities (for cars, motorcycles and bicycles) and to ensure that boarding house developments do not result in any unreasonable traffic impacts on the local road network or loss of on-street parking.
 - ii. The site is in a highly accessible location being in close proximity to bus services and the Waterloo Station / Waterloo Metro Quarter located within 40 metres of the site to the north, currently under construction. In this regard the provision of car and motorcycle parking on the site is not necessary. The non-provision of parking on the site ensures the development will have no additional impact on the local road network, particularly Botany Road which is a major feeder road to the southern Sydney and the airport, and which is generally at capacity during peak traffic periods.
 - iii. As car and motorcycle parking is not essential for future residents due to the availability of alternative forms of transport, and the proposal to not provide motorcycle parking will not adversely impact the local road network, the underlying objective of the control is satisfied by not providing car or motorcycle parking.
- (ii) The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary, as follows:
 - i. The underlying objective of the purpose of the standard is to ensure that adequate parking facilities are provided and to ensure that boarding house developments do not result in any unreasonable traffic impacts on the local road network or loss of on-street parking.
 - ii. The Sydney LEP 2012 stipulates maximum car parking rates for development in the Sydney Local Government Area. The objective of the parking control is to minimise the amount of vehicular traffic generated. The control also has the effect of encouraging the use of alternative and more sustainable forms of transport. The Sydney DCP 2012 only requires motorcycle parking to be provided in buildings that require onsite parking.
 - iii. The Sydney LEP 2012 and Sydney DCP 2012 do not require car or motorcycle parking on the site due to the availability of alternative forms of transport. The underlying objective of the control which seeks to ensure adequate on-site parking is provided is therefore not relevant to the proposed development.

- (iii) The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable, as follows:
 - i. If compliance was required, the development would provide more onsite parking than is required for other developments in the City of Sydney local government area.
 - ii. The provision of on-site motorcycle parking would therefore reduce the use of more sustainable forms of transport or walking and result in a greater impact on the road network.
 - iii. Requiring compliance with the standard would therefore be contrary to the underlying objective of the control which seeks to ensure adequate parking is provided whilst minimising the impact of boarding house developments on the local road network.
- (iv) Council has granted development consents which depart from the standard and hence compliance with the standard is unnecessary and unreasonable, as follows:
 - i. Council has adopted a flexible approach to the provision of motorcycle parking for boarding houses.
 - ii. No motorcycle parking was supported for similar boarding house development at 5 Hudson Street, Redfern and 7-9 Knox Street, Chippendale.
- (v) The proposed zoning of the land is considered to be reasonable and appropriate, however strict compliance with the motorcycle parking development standard is unreasonable and unnecessary, as follows:
 - i. It is not possible to provide site access from Botany Road due to the existing stairs and level difference between finished floor level and the footpath in the road reserve, at approximately 550mm.
 - ii. Providing no motorcycle parking maintains the relationship of the existing 2 storey terrace building with the public domain and streetscape. Providing motorcycle parking would require a substantive demolition of the terrace building.
 - iii. If compliance was required, the development would provide more on-site parking than is required for other developments in the City of Sydney Local Government Area. The provision of on-site motorcycle parking would therefore reduce the use of more sustainable forms of transport or walking and result in a greater impact on the road network.
 - iv. A complying number of bicycle parking spaces are proposed.

- v. The site is within walking distance of a range of services, shops, employment opportunities and public transport options such as bus stops along Botany Road and the site's proximity to the future Waterloo metro station currently under construction.
 - vi. In this regard the development promotes the use of sustainable transport and walking.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard, including that:
 - (i) The proposal is consistent with the Sydney LEP 2012 and Sydney DCP 2012 requirements for car and motorcycle parking.
 - (ii) Residents of the boarding house will have access to other forms of transport and are therefore not reliant on the provision of on-site motorcycle parking.
 - (iii) The non-provision of motorcycle parking will not result in any adverse impacts on the amenity of the surrounding properties.
 - (iv) The provision of on-site motor cycle parking would compromise the 2 storey terrace building proposed to be retained, requiring either total demolition of the building or significant structural and façade alterations that would render the terrace house typology redundant as having any value within the streetscape.
 - (v) If compliance was required the development would provide more on-site parking than is required for other developments in the City of Sydney Local Government Area. The provision of on-site motorcycle parking would therefore reduce the use of more sustainable forms of transport or walking and result in a greater impact on the road network.
- (c) The proposed development will be consistent with the objectives of the zone, including that;
 - (i) The proposed development provides for low cost rental accommodation for residential use which is a permissible use within the zone and is compatible with the surrounding land uses.
 - (ii) The site is located within a highly accessible area, being well served by Sydney Buses and in close proximity to the Waterloo Metro Station currently under construction, and bicycle parking spaces are provided on site.
 - (iii) The provision of low cost accommodation provides housing for workers and students who support the vitality and economic activity of the surrounding centres and businesses.
- (d) The proposed development will be consistent with the objectives of the standard, including that:
 - (i) The boarding house development contributes to the provision of affordable rental housing.
 - (ii) The proposed development does not result in a loss of existing affordable rental housing.

- (iii) The proposed boarding house contributes to the provision of housing choice and housing affordability within the B4 Mixed Use zone that is within the catchment of existing services and transport.

Consideration of Applicant's Written Request - Clause 4.6(4)(a)(i) and (ii)

51. Development consent must not be granted unless the consent authority is satisfied that:

- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
- (b) 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.

Does the written request adequately address those issues at Clause 4.6(3)(a)?

- 52. The applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable and unnecessary in the specific circumstances of the case, as the development satisfies the aims of the Affordable Housing SEPP, notwithstanding the non-compliance.
- 53. In particular, the development facilitates the delivery of new affordable rental housing by providing flexibility in the application of development standards and supporting local centres by providing affordable housing.

Does the written request adequately address those issues at clause 4.6(3)(b)?

- 54. The applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the standard.
- 55. The site is located in a highly accessible area, with a range of public transport options available. Although non-compliant with the Affordable Housing SEPP, the proposal is consistent with the relevant objectives and provisions of the Sydney LEP 2012 and the Sydney DCP 2012 in terms of transport and access.
- 56. The provision of motorcycle parking would require an access driveway to be constructed and demolition of part of the existing building, which would be unlikely to be supported by Transport for New South Wales, given that Botany Road is a classified road and would render reuse of the existing building untenable. The provision of no motorcycle parking spaces on the site therefore results in a more desirable streetscape outcome.

Is the development in the public interest?

57. The objectives of the Affordable Housing SEPP include the following:

- (a) To provide a consistent planning regime for the provision of affordable rental housing;

- (b) 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;
 - (c) To facilitate the retention and mitigate the loss of existing affordable rental housing;
 - (d) 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;
 - (e) To facilitate an expanded role for non-profit providers of affordable rental housing;
 - (f) To support local business centres by providing affordable rental housing for workers close to places of work; and
 - (g) To facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.
58. The proposal is consistent with the relevant aims of the Affordable Housing SEPP as it provides new affordable housing in a form that is suitable to the subject site. The boarding house will be located close to places of work within the Botany Road and Regent Street locality, and the broader City of Sydney Local Government area.
59. The proposal is considered to be in the public interest as it is consistent with the objectives of the Affordable Housing SEPP and the objectives of the B4 Mixed Use zone. The objectives of the B4 Mixed Use zone are as follows:
- (a) To provide a mixture of compatible land uses;
 - (b) To integrate suitable business, office, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling; and
 - (c) To ensure uses support the viability of centres.
60. The introduction of motorbike parking would have a detrimental impact on the building proposed for retention. In addition, the proposed development includes new affordable housing in a highly accessible area close to public transport.
61. The development is located within close proximity to public transport, jobs and services which encourages the use of public transport, walking and cycling. Furthermore, the development provides a sufficient number of bicycle parking spaces to cater to the parking demand generated by the new use.

Conclusion

62. For the reasons provided above the requested variation to the minimum motorcycle parking development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the Sydney LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the standard and the B4 Mixed Use zone.

Acoustic and Ventilation Amenity

63. As discussed elsewhere in this report, the site adjoins Botany Road, a classified road which has an annual average daily traffic volume in excess of 20,000 vehicles.
64. The acoustic report submitted with the amended application provided unattended noise monitoring data from a noise logger located at the western end of the site, in order to establish representative traffic and ambient noise within the locality. The data indicates that the daytime external noise levels are at 72dB(A), with evening and nighttime noise levels at 71dB(A) and 68dB(A) respectively.
65. The Infrastructure SEPP established that sleeping areas, including bedrooms, must not exceed a noise level of 35dB(A) and that other habitable rooms, excluding garages, kitchens, bathrooms and hallways, must not exceed a noise level of 40dB(A) at any time, with a 'windows closed condition'.
66. In order for the boarding house to achieve these requirements, the acoustic report makes a number of recommendations for various noise control treatments throughout the proposed development, including the following:
 - (a) carpet and underlay floor finishes to bedrooms;
 - (b) hard flooring finishes to living rooms;
 - (c) tile flooring finishes to kitchens and wet areas;
 - (d) window systems with sealed framing and laminated glazing ranging between 6.38mm to 10.38mm;
 - (e) steel metal roofing, with minimum Bradford Anticon 60 MD over timber or steel purlins;
 - (f) 215mm Bradford Gold Batts R 4.1 insulation;
 - (g) ceiling joists or trusses at 600mm maximum centres;
 - (h) two 13mm Gyprock Soundchek Plasterboard at a minimum of 5.7 kg/m² density; and
 - (i) sealing of gaps with acoustic rate sealant.
67. The acoustic report has also assessed the potential for acoustic amenity impacts arising from the operation of the proposed boarding house, including the communal open spaces at the side and rear of the building and from mechanical air conditioning plant. It recommends that no music is to be played in the outdoor communal areas at any time, and that they are to be used only by tenants of the development.
68. City planning and environmental health staff concur with these recommendations and conditions have been included in Attachment A to ensure that they are carried through to the certification, construction and occupation stages of the proposed development, and to limit the use of the outdoor communal area from between 7:00am and 10:00pm, Monday to Sunday.

69. Subject to these conditions, the proposal is acceptable with regard to acoustic amenity considerations.
70. Ventilation amenity must be provided to the new boarding house in accordance with the relevant provisions of the Building Code of Australia.
71. The proposed development allows for all boarding room windows to be operable, in order to allow a 'windows open' condition when noise levels permit and includes air conditioning to each boarding room when the noise levels from Botany Road do not.
72. An appropriate condition has been included in Attachment A to ensure that these matters are carried through to the certification, construction and occupation stages of the proposed development.

Consultation

Internal Referrals

73. The application was discussed with the City's:
 - (a) Building Approvals Unit;
 - (b) Cleansing and Waste Unit;
 - (c) Design Advisory Panel Residential Subcommittee;
 - (d) Environmental Health Unit;
 - (e) Heritage Specialist;
 - (f) Landscape Assessment Officer;
 - (g) Public Domain Unit;
 - (h) Specialist Surveyor;
 - (i) Transport and Access Unit;
 - (j) Tree Management Officer; and
 - (k) Urban Design Specialist.
74. The amended application has satisfactorily addressed the advice of the Design Advisory Panel Residential Subcommittee and the above-mentioned Council officers.
75. Where appropriate, the conditions recommended by other Council officers are included in Attachment A.

External Referrals

NSW Police

- 76. The application was referred to NSW Police for comment.
- 77. A response was received by the City on 19 November 2020, raising no objections to the proposed development and including recommended conditions of consent.
- 78. Where appropriate, the conditions recommended by the NSW Police are included in Attachment A.

Sydney Metro

- 79. Pursuant to Clause 86 of the Infrastructure SEPP, the application was referred to Sydney Metro.
- 80. Sydney Metro advised the City on 7 December 2020 that they had no comments to make in relation to the proposed development.

Transport for NSW

- 81. Pursuant to Clauses 101 and 102 of the Infrastructure SEPP, the application was referred to Transport for NSW (TfNSW).
- 82. Comments were received on 11 January 2021. Conditions of consent were recommended which are included in Attachment A.

Advertising and Notification

- 83. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified and advertised between 16 October 2020 and 7 November 2020. A total of 231 properties were notified and no submissions were received by the City, during or after the exhibition period for the application.
- 84. The amended application submitted to Council on 12 February 2021 was not required to be notified or advertised under the City of Sydney Community Participation Plan 2019, given the amendments do not result in significant additional environmental impacts.

Financial Contributions

Contribution under Section 7.11 of the Environmental Planning and Assessment Act 1979

- 85. The development is subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015.

86. Credits have been applied for the most recent approved use of the site. The previous land use is defined as being commercial office premises (3 storeys or less) and a credit of 6.3 workers has been applied.
87. The following monetary contributing is required towards to cost of public amenities:
- (a) Open space \$39,130.67
 - (b) Community facilities \$8,249.47
 - (c) Traffic and transport -\$699.86
 - (d) Stormwater and drainage -\$276.75
 - (e) Total \$46,403.53
88. A condition relating to this development contribution has been included in Attachment A. The condition requires the contribution to be paid prior to the issue of a construction certificate.

Relevant Legislation

89. Environmental Planning and Assessment Act, 1979.

Conclusion

90. The proposal seeks approval for alterations and additions to an existing terrace building and change of use to a boarding house including 6 boarding rooms for 7 lodgers.
91. The proposal has been amended during the course of the assessment to address various issues relating to visual and acoustic privacy, road noise impacts from Botany Road, poor access to natural light, solar access, ventilation and outlook, inadequate communal space and poorly design bicycle storage.
92. A written request seeking to vary the minimum motorcycle parking development standard in Clause 30(1)(h) of the State Environmental Planning Policy (Affordable and Rental Housing) 2009, has been submitted with the application. The development provides no motorcycle parking spaces, where 2 spaces are required.
93. The proposed request to vary the motorcycle parking standard is well founded. The statement provided demonstrates that compliance with the minimum motorcycle parking development standard is unreasonable and unnecessary in circumstances of the site and proposed development, and that there are sufficient environmental planning grounds to justify the variation.
94. The motorcycle parking variation is consistent with the objectives of the State Environmental Planning Policy (Affordable and Rental Housing) 2009 and the B4 Mixed Use zone and is in the public interest.

95. The proposal as amended, includes alterations to an existing building that are appropriate and consistent with the surrounding streetscape. The proposed development is also considered to be consistent with the local character test in the State Environmental Planning Policy (Affordable and Rental Housing) 2009 and will have acceptable amenity for both future occupants and their neighbours.
96. The proposal generally complies with the requirements of the State Environmental Planning Policy (Affordable and Rental Housing) 2009, the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012.
97. The development, as amended, satisfies the relevant provisions for design excellence, is in keeping with the desired future character of the area. Subject to the conditions included in Attachment A, the development is in the public interest and is recommended for approval.

ANDREW THOMAS

Executive Manager, Planning and Development

David Reynolds, Senior Planner