

City of Ryde Local Planning Panel Report

DA Number	LDA2022/0398
Site Address & Ward	20 May Street, Eastwood West Ward
Zoning	R4 High Density Residential
Proposal	Demolition of all existing structures, construction of a 3 level boarding house with 15 boarding rooms, 3 car spaces, 2 bike spaces & 2 motorbike spaces pursuant to State Environmental Planning Policy (Housing) 2021.
Property Owner	Zhou S Mei & Yu S Mei
Applicant	Just Planning – James Kim
Report Author	Niroshini Stephen – Senior Town Planner
Lodgement Date	16 December 2022
No. of Submissions	One (1) submission received
Cost of Works	\$1,150,000.00
Reason for Referral to LPP	Departure from Development Standard <ul style="list-style-type: none"> The proposed development results in a 15.7% departure from the development standard for minimum lot size imposed by Clause 25(1)(g)(ii) of SEPP (Housing) 2021
Recommendation	Refusal
Attachments	Attachment 1: Plans submitted with LDA Attachment 2: Clause 4.6 written variation Attachment 3: Plan of Management

1. EXECUTIVE SUMMARY

The following report is an assessment of Local Development Application LDA2022/0398 for demolition of all existing structures, construction of a 3 level boarding house with 15 boarding rooms, 3 car spaces, 2 bike spaces & 2 motorbike spaces pursuant to State Environmental Planning Policy (Housing) 2021.

This application is reported to the Ryde Local Planning Panel for determination as it proposes a departure from a development standard in excess of 10% in accordance with the *Environmental Planning and Assessment Act 1979*, Section 9.1 - Directions by the Minister.

The development contravenes Clause 25 (1)(g)(ii) of State Environmental Planning Policy (Housing) 2021 which establishes the minimum lot size development standard of 800m². The subject site has an area of 674.4m², representing a 15.7% departure from the standard.

The Clause 4.6 written variation request to the minimum lot size development standard indicates that *"the variation is appropriate on account of the site being isolated, strict compliance with the development standard would sterilise the development opportunity of the site, the proposal is consistent with the objectives of the R4 High Density Residential Zone and the proposal is consistent with existing residential flat buildings within the vicinity which have site areas less than 800m²".*

The assessment has concluded that the Clause 4.6 written variation request is not supported, given the undersized allotment contributes to unsatisfactory impacts to neighbouring properties and future occupants of the site. The proposal provides for minimal building separation between the subject site and adjoining developments and results in visual privacy impacts to the neighbouring residential flat building to the west. Due to the lack of separation privacy screens have been proposed over the first level communal space windows and boarding room windows on Level 1 and Level 2. The privacy screens result in poor amenity for the occupants of the rooms. The communal open space area and floor area of Room 13 and Room 14 do not comply with State Environmental Planning Policy (Housing) 2021. The parking spaces separate the building from the landscaped communal open space area and results in a poor amenity for the occupants.

The Clause 4.6 written request fails to demonstrate compliance with the development standard is unreasonable or unnecessary or that there are sufficient environmental planning grounds to justify contravening the development standard.

In accordance with DCP 2014 Part 2: Community Participation Plan, the owners of surrounding properties were given notice of the application between 19 January 2023 and 17 February 2023. One (1) submission was received objecting to the development from the adjoining property owner.

The submission raised the following concerns:

- Damage to the neighbouring property's stormwater retention tank/pit located adjacent to the shared boundary.
- Height of plants proposed on the shared boundary and issues resulting from over-hanging trees
- Insufficient parking provided for the proposed number of units

The applicant lodged a Class 1 appeal on deemed refusal basis on 9 March 2023. A Section 34 Conciliation Conference is scheduled for 21 July 2023.

The development application is recommended for refusal for the reasons detailed in the recommendation of this report.

2. THE SITE AND LOCALITY

The site is legally described as Lot 1 within DP 965774 and is known as 20 May Street Eastwood. The site is located to the north of May Street.



Figure 1 – Aerial photograph of site

The site is rectangular in shape with a frontage of 13.41 metres to May Street. The eastern and western side boundaries are 50.29 metres. The northern rear boundary width is 13.41 metres. The site has an area of 674.40m².

The site is located on the low side of the street. The site falls from the south eastern corner (RL70.50) to the north western corner (RL67.63) by approximately 2.87 metres.

The site presently accommodates a single storey dwelling (**Figure 2 to Figure 5**). Vehicular access is located adjacent to the western side boundary to a hard paved area. Other site works include paved areas. One (1) Jacaranda (*Jacaranda mimosifolia*) is located in the road reserve at the front of the site.



Figure 2 – Photograph of the site taken from May Street



Figure 3 – Photograph of the front of the existing dwelling



Figure 4 – Photograph of the rear yard of the existing dwelling



Figure 5 – Photograph of the rear of the existing dwelling

The site is adjoined to the west by No. 18 May St (**Figure 6**). This site presently accommodates a three storey residential flat building with twelve (12) units.



Figure 6 – Adjoining residential flat building to the west at 18 May Street

The site is adjoined to the east by No. 22 May St (**Figure 7**). This site presently accommodates a three storey residential flat building with eight (8) units.



Figure 7 – Adjoining residential flat building to the east at 22 May Street

The site is adjoined to the north (rear) by No. 1 Ball Av (**Figure 8**). This site presently accommodates a 3-storey residential flat building with twelve (12) units.



Figure 8 – Adjoining residential flat building to the north at 1 Ball Avenue

The surrounding area generally contains three and four storey residential flat buildings on individual lots.



Figure 9 - View of nearby residential flat buildings opposite site to the southeast at 17,19 & 21 May St

3. BACKGROUND

On 17 June 2019 an approval was granted for the subject site under LDA2018/0244 for construction of a 3 storey residential apartment building containing 6 apartments with associated basement parking for 8 vehicles. The residential apartment building comprised of six (6) residential apartments consisting of 4 x 2 bedroom units (66.7%) and 2 x 3 bedroom units (33.3%). The approved plans are reproduced below:

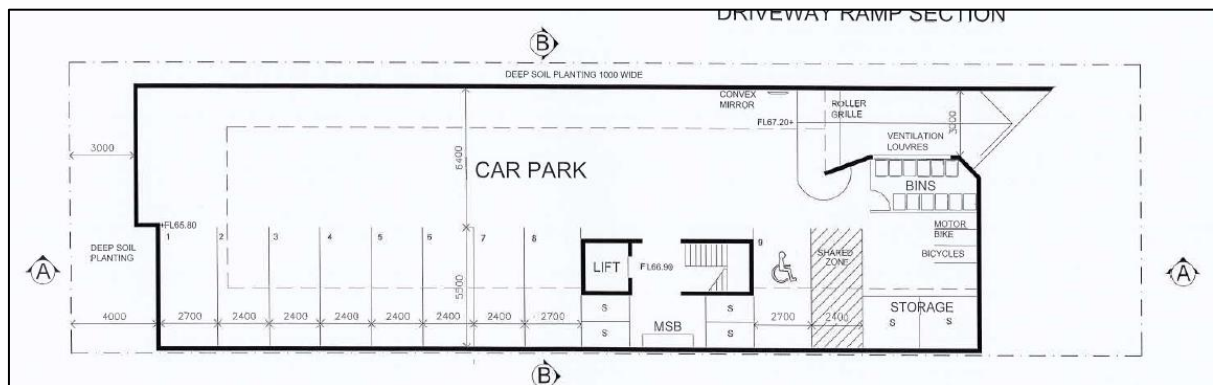


Figure 10 – Approved basement parking plan

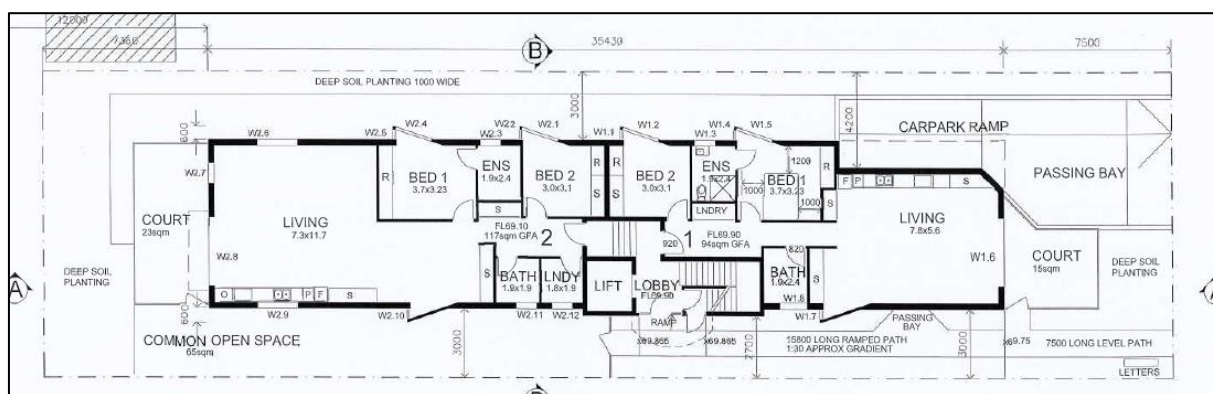


Figure 11 – Approved ground floor plan

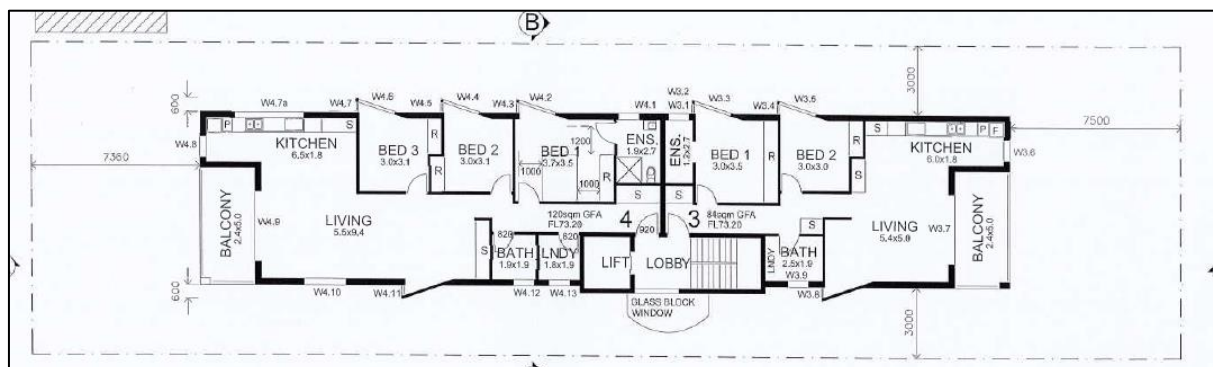


Figure 12 – Approved first floor plan

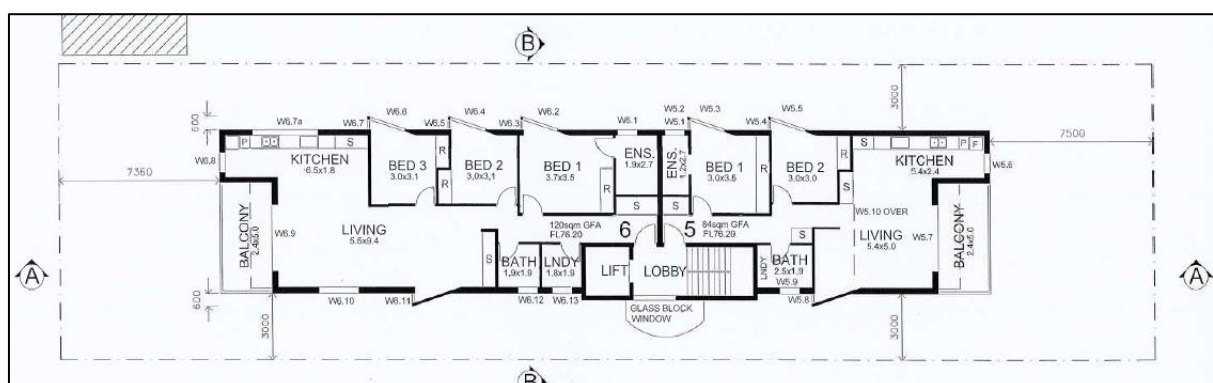


Figure 13 – Approved second floor plan

This consent is valid until 28 June 2026.

The subject development application for a boarding house has been lodged as the approved residential flat building is considered not to be financially feasible by the applicant.

4. THE PROPOSAL

The proposal seeks consent for demolition of all existing structures, construction of a 3 level boarding house with 15 boarding rooms, 3 car spaces, 2 bike spaces & 2 motorbike spaces pursuant to State Environmental Planning Policy (Housing) 2021. The proposed works include:

- Demolition of existing dwelling and associated structures
- Construction of a 3 level boarding house comprising:

Ground floor RL70.00

- Five (5) single boarding rooms (including two adaptable boarding rooms), internal stairs, store room and communal space. The communal space has access to an alfresco (RL 69.90).

First level RL73.20

- Six (6) single boarding rooms, internal stairs and communal space. Room 6 and Room 11 have street facing balconies. Room 7 and Room 8 have rear facing balconies.

Second level RL76.40

- Four (4) double boarding rooms and internal stairs. Room 12 has a street facing wrap around balcony. Room 15 has a rear facing wrap around balcony.
- Each boarding room is provided with a bathroom, washing machine and kitchenette containing a sink, two-burner cooktop and fridge.
- The maximum number of lodgers in the building is nineteen (19).
- A driveway is proposed along the western side boundary.
- Three (3) car parking spaces, two (2) bicycle spaces, two (2) motorbike spaces and bin area are located at the rear of the site
- A deep soil communal open space is located at the rear of the site
- No trees are proposed to be removed

Figures 14 to 21 below are the floor plans and elevations of the proposed boarding house.

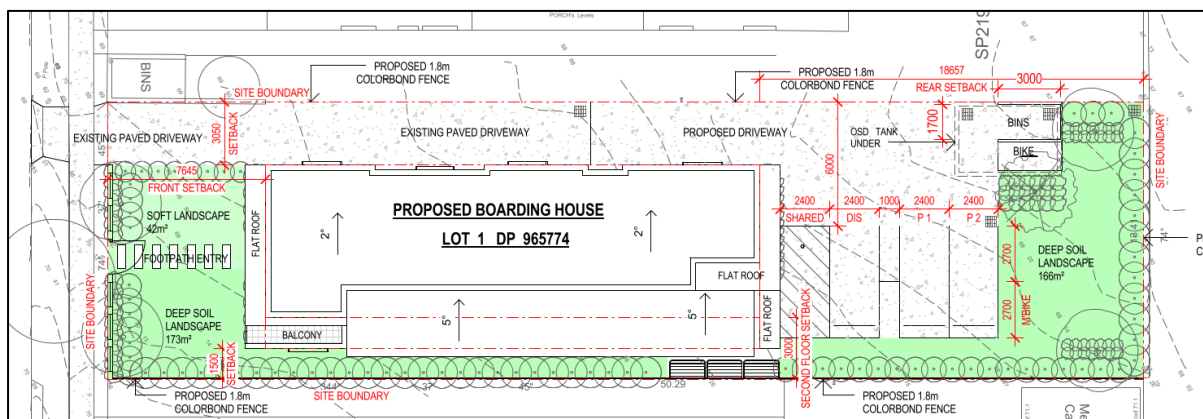


Figure 14 - Proposed Site Plan

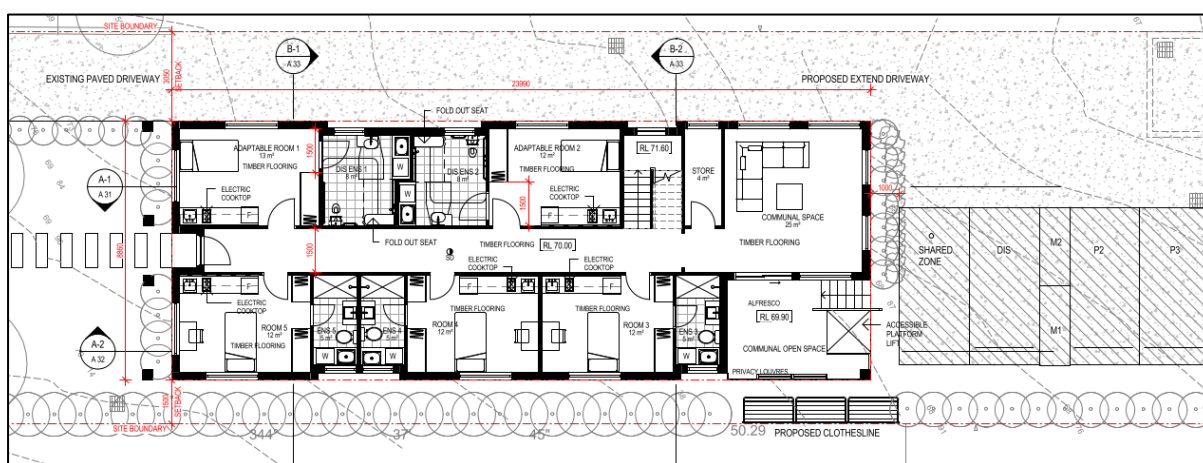


Figure 15 - Proposed Ground Floor Plan

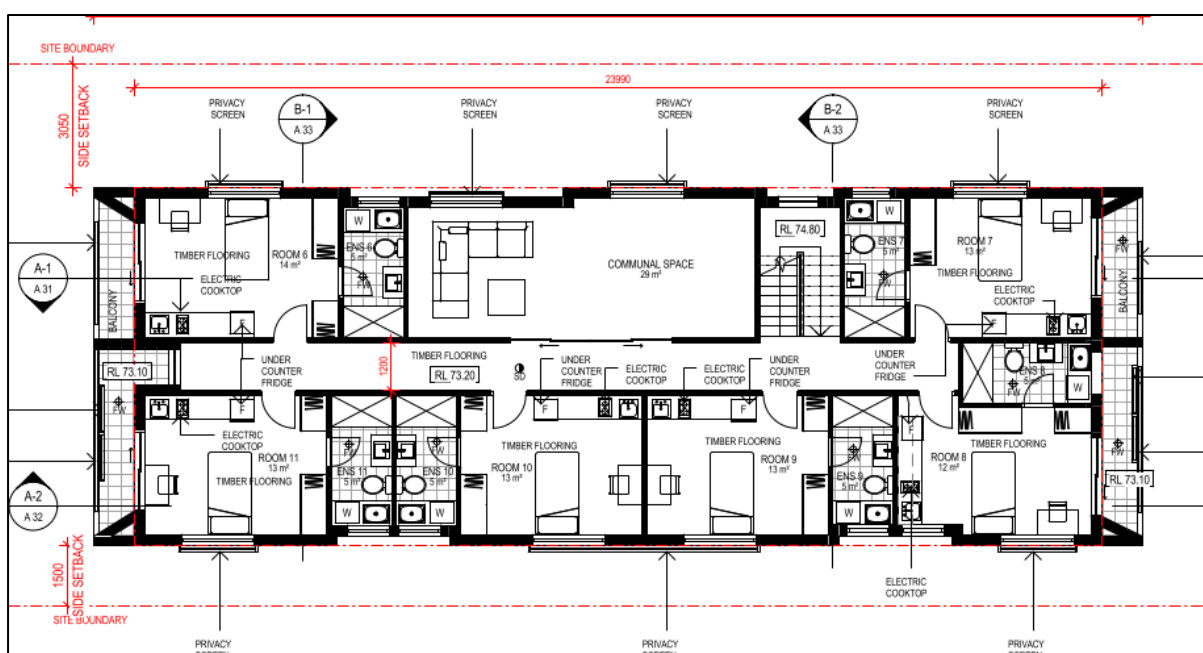


Figure 16 - Proposed First Floor Plan

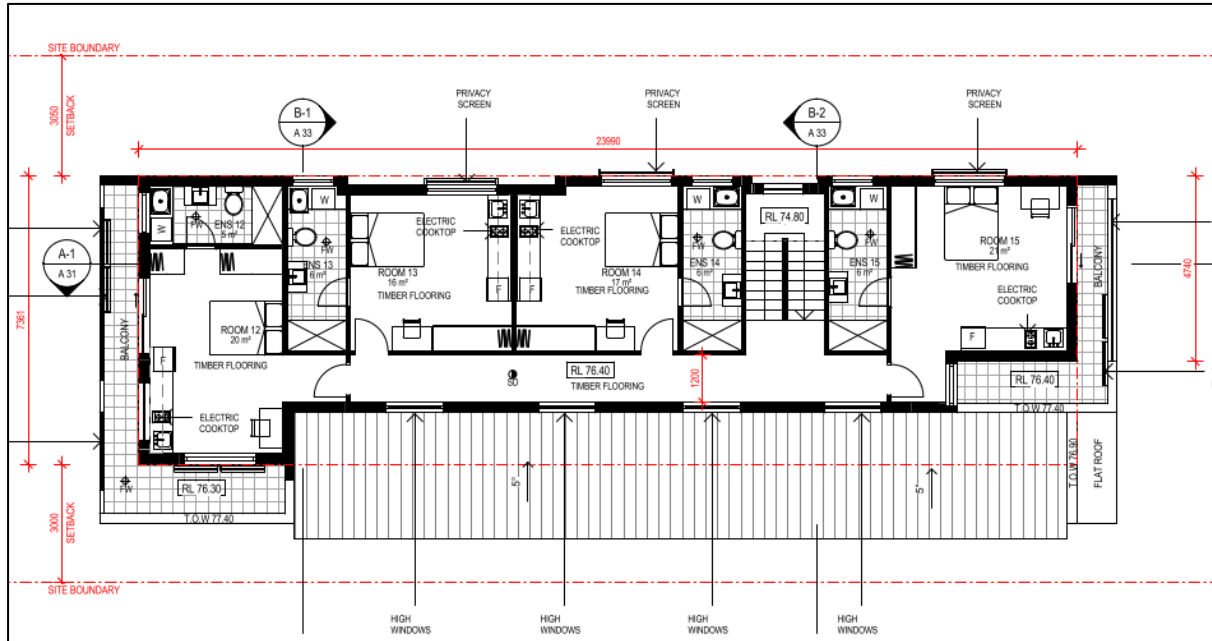


Figure 17 - Proposed Second Floor Plan



Figure 18 - Proposed South East Elevation Plan

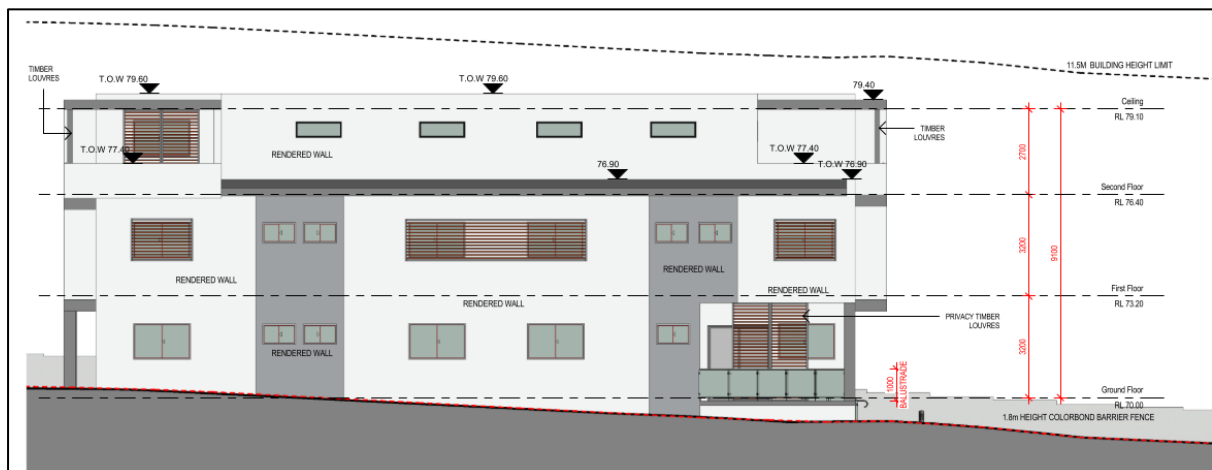


Figure 19 - Proposed North East Elevation Plan

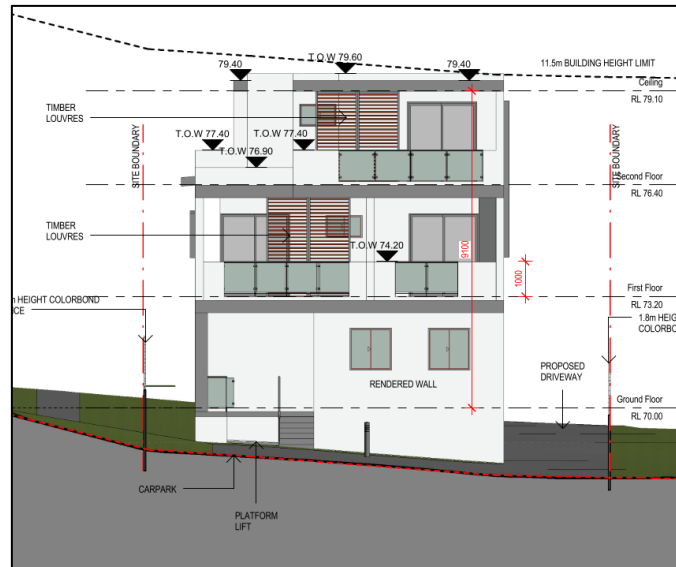


Figure 20 - Proposed North West Elevation Plan

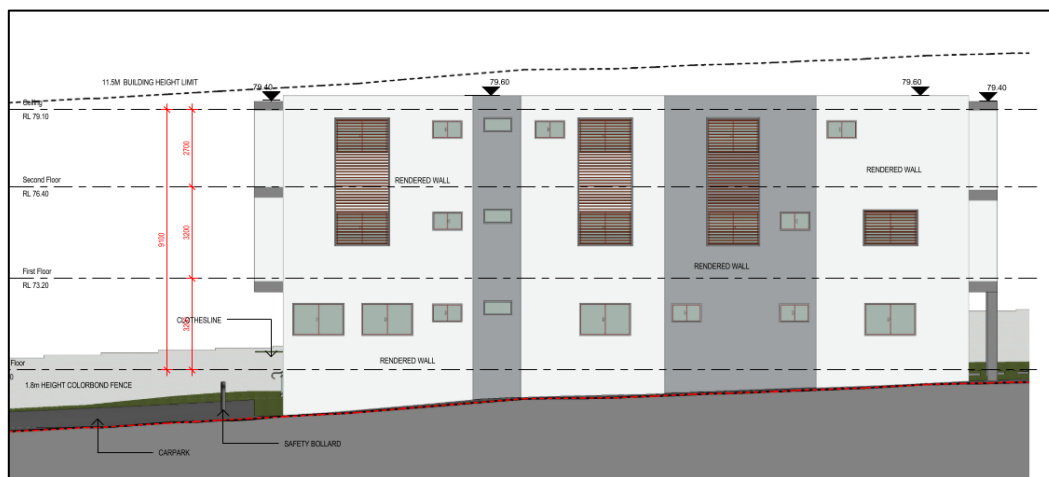


Figure 21 – Proposed South West Elevation Plan

5. HISTORY

5.1 Site History

Date	Action
17 June 2019	A deferred commencement consent was issued for Development Application No. LDA2018/0244 seeking consent for demolition and construction of a 3 storey residential flat building comprising 6 apartments with basement car parking for 9 vehicles by the Ryde Local Planning Panel. The consent became operational on 28 June 2021 and it is valid until 28 June 2026.

5.2 Application History

16 December 2022	Local Development Application LDA2022/0398 was lodged with Council.
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19 January 2023 to 17 February 2023	The Application was notified to adjoining property owners. One (1) submission was received objecting to the development.
9 March 2023	Class 1 appeal on deemed refusal basis lodged.
13 March 2023	<p>Given the fundamental concerns a letter was sent to the applicant requesting the application to be withdrawn for the following reasons:</p> <ul style="list-style-type: none"> - Undersized allotment which results in amenity impacts to future occupants and neighbouring properties; - Unsatisfactory Clause 4.6; - Issues with bin storage area/bulky waste room and passing bay not being provided; - Issues raised by the Urban Design Review Panel <p>The application was requested to be withdrawn by 27 March 2023. The applicant did not withdraw the application by this date.</p>

6. PLANNING ASSESSMENT

6.1 Environmental Planning and Assessment Act

Objects of EP&A Act

Section 1.3 of the EP & A Act contains the following relevant objects:

1.3 Objects of Act (cf previous s 5)

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
- (c) to promote the orderly and economic use and development of land,
- (d) to promote the delivery and maintenance of affordable housing,
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
- (g) to promote good design and amenity of the built environment,
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
- (j) to provide increased opportunity for community participation in environmental planning and assessment.

The proposed development does not provide for an appropriate built form which responds to the subject site and to adjoining properties. The proposal does not exhibit principles of good design and it would adversely impact upon the amenity of future occupants and neighbouring properties. The proposal is generally inconsistent with Objects (g) and (h) of the Act.

6.2. State Environmental Planning Instruments

6.2.1 State Environmental Planning Policy (Housing) 2021

The development is subject to Chapter 2 Division 2 Boarding Houses of SEPP (Housing) 2021.

Clause 23(1) requires development for the purposes of boarding houses may be carried out with consent on land on which development for the purposes of boarding houses is permitted with consent under another environmental planning instrument. The site is zoned R4 High Density Residential under the Ryde LEP 2014. The proposed boarding house is permitted within the zoning.

Clause 24 – Non-discretionary development standards—the Act, s 4.15

Clause 24(1) states the following:

“The object of this section is to identify development standards for particular matters relating to development for the purposes of boarding houses that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.”

The table below provides an assessment of the proposal against these standards.

Clause 24 Non-discretionary development standards—the Act, s 4.15		
Required	Proposed	Compliance
(a) for development in a zone in which residential flat buildings are permitted—a floor space ratio that is not more than— (i) the maximum permissible floor space ratio for residential accommodation on the land, and (ii) an additional 25% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of the boarding house,	Ryde LEP 2014 prescribes maximum FSR of 1.0:1 Proposed: 0.71:1	Yes
(b) if paragraph (a) does not apply—a floor space ratio that is not more than the maximum permissible floor space ratio for residential accommodation on the land,	N/A – Under Ryde LEP 2014 residential flat buildings are permissible in the R4 High Density Residential zone	N/A

(c) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum landscaping requirements for multi dwelling housing under a relevant planning instrument,	N/A – The site is zoned R4 High Density Residential	N/A
(d) for development on land in Zone R4 High Density Residential—the minimum landscaping requirements for residential flat buildings under a relevant planning instrument,	Apartment Design Guide (ADG) requires a deep soil zone which equates to 7% of the site area Required: 47.2m ² Proposed: 157.6m ²	Yes
(e) at least 3 hours of direct solar access provided between 9am and 3pm at mid-winter in at least 1 communal living area,	The west facing windows of the ground floor communal living area and first floor communal living area are overshadowed between 9am and 12pm. The existing shadows that would be cast from the adjoining development to the west at No. 18 May Street have not been shown on the shadow diagrams to determine if the west facing windows receive solar access between 12pm and 3pm. The existing shadows that would be cast from the adjoining development to the north at No. 1 Ball Avenue have not been shown on the shadow diagrams. Insufficient information is submitted to determine if the north facing communal living area windows receive adequate solar access.	No
(f) for a boarding house containing 6 boarding rooms— (i) a total of at least 30m ² of communal living area, and (ii) minimum dimensions of 3m for each communal living area,	N/A – Fifteen (15) boarding rooms are proposed.	N/A

<p>(g) for a boarding house containing more than 6 boarding rooms—</p> <p>(i) a total of at least 30m² of communal living area plus at least a further 2m² for each boarding room in excess of 6 boarding rooms, and</p> <p>(ii) minimum dimensions of 3m for each communal living area,</p>	<p>Required 48m² Proposed: 50.2m²</p>	<p>Yes</p>
<p>(h) communal open spaces—</p> <p>(i) with a total area of at least 20% of the site area, and</p> <p>(ii) each with minimum dimensions of 3m,</p>	<p>Required 134.88m² Proposed: 95.79m²</p> <p>Quantitatively, the communal open space results in a shortfall of 39.09m². Qualitatively, the parking spaces separate the building from the landscaped communal open space area and results in a poor amenity for the occupants.</p>	<p>No A Clause 4.6 has not been provided</p>
<p>(i) if a relevant planning instrument does not specify a requirement for a lower number of parking spaces—at least the following number of parking spaces—</p> <p>(i) for development on land within an accessible area—0.2 parking spaces for each boarding room,</p> <p>(ii) otherwise—0.5 parking spaces for each boarding room,</p>	<p>The site is located approximately 350 metres walking distance from Eastwood Station and is considered to be within an accessible area.</p> <p>Required: 3 spaces Proposed: 3 spaces</p>	<p>Yes</p>
<p>(j) if a relevant planning instrument specifies a requirement for a lower number of parking spaces—the lower number specified in the relevant planning instrument.</p>	<p>Noted</p>	<p>Yes</p>

Clause 25 – Standards for boarding houses

The table below provides an assessment of the proposal against these standards.

Clause 25 Standards for boarding houses		
Required	Proposed	Compliance
(1) Development consent must not be granted under this Division unless the consent authority is satisfied that—		
(a) no boarding room will have a gross floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, of more than 25m ² , and	All rooms are under 25m ²	Yes
(b) no boarding room will be occupied by more than 2 adult residents, and	Rooms 1 – 11 contain 1 lodger Rooms 12-15 contain 2 lodgers	Yes
(c) adequate bathroom, kitchen and laundry facilities will be available within the boarding house for the use of each resident, and	Each room has a bathroom, kitchenette and washing machine. The outdoor drying area is insufficient and overshadowed throughout the day. This issue could be resolved if dryers were provided within the rooms.	No
(d) for a boarding house on land in Zone R2 Low Density Residential or an equivalent land use zone—the boarding house will not have more than 12 boarding rooms, and	N/A – The site is zoned R4 High Density Residential	N/A
(e) for a boarding house on land in a business zone—no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits the use, and	N/A – The site is zoned R4 High Density Residential	N/A
(f) for a boarding house containing at least 6 boarding rooms—the boarding house will have at least 1 communal living area, and	Two (2) communal living areas provided	Yes
(g) the minimum lot size for the boarding house is not less than— (i) for development on land in Zone R2 Low Density Residential—600m ² , or	The site is zoned R4 High Density Residential The site has an area of 674.4m ² .	No

(ii) for development on other land—800m ² . (iii) (Repealed)	A Clause 4.6 written variation request to the minimum lot size development standard has been submitted. This is discussed further below.	
(h) each boarding room has a floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, of at least the following— (i) for a boarding room intended to be used by a single resident—12m ² , (ii) otherwise—16m ² .	Room 13 and Room 14 contains two residents. Room 13 has an area of 14.57m ² and Room 14 has an area of 15.26m ² . The rooms do not comply with the floor area requirement. The remainder of rooms meet the minimum floor area requirement.	No A Clause 4.6 has not been provided
(i) the boarding house will include adequate bicycle and motorcycle parking spaces	The Statement of Environmental Effects states two (2) bicycle and two (2) motorbike spaces are provided. No issues raised by Council's Development Engineer.	Yes
(2) Development consent must not be granted under this Division unless the consent authority considers whether—		
(a) the design of the boarding house will be compatible with— (i) the desirable elements of the character of the local area, or (ii) for precincts undergoing transition—the desired future character of the precinct, and	The design of the boarding house is not compatible with the desirable elements of the character of the local area. Discussed further below under Urban Design Review Panel comments.	No
(b) the front, side and rear setbacks for the boarding house are not less than— (i) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum setback requirements for multi dwelling housing under a relevant planning instrument, (ii) for development on land in Zone R4 High Density Residential—the minimum setback	N/A – The site is zoned R4 High Density Residential N/A – There is no relevant planning instrument in	N/A N/A

requirements for residential flat buildings under a relevant planning instrument,	respect of setbacks for the R4 zoning	
(c) if the boarding house has at least 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide, and	<p>A minimum building separation of 6.5 metres is proposed on the western elevation and a minimum building separation of 4.5 metres is proposed on the eastern elevation. The proposal does not comply with the ADG which requires a minimum separation of 12 metres between habitable rooms and balconies.</p> <p>As a result of the reduced separation, the application relies on privacy screens which have been proposed over the first level communal space windows and boarding room windows on Level 1 and Level 2. The privacy screens result in poor amenity for the occupants of the rooms.</p>	No A Clause 4.6 has not been provided
(d) Repealed	N/A	N/A
(e) Repealed	N/A	N/A
(3) This section does not apply to development for the purposes of minor alterations or additions to an existing boarding house.	N/A – The proposal is not for alterations and additions to an existing boarding house	N/A

Clause 4.6 Exceptions to development standards

Clause 4.6 of the RLEP 2014 provides flexibility in the application of planning controls by allowing Council to approve a development application that does not comply with a development standard where it can be demonstrated that flexibility in the particular circumstances achieve a better outcome for and from development.

Several key Land and Environment Court (NSW LEC) planning principles and judgements have refined the manner in which variations to development standards are required to be approached. The key findings and directions of each of these matters are outlined in the following discussion.

The decision of Justice Lloyd in *Winten v North Sydney Council* established the basis on which the former Department of Planning and Infrastructure's Guidelines for varying development standards was formulated.

These principles for assessment and determination of applications to vary development standards are relevant and include:

- Is the planning control in question a development standard?
- What is the underlying object or purpose of the standard?
- Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act?
- Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?
- Is a development which complies with the development standard unreasonable or unnecessary in the circumstances of the case?; and
- Is the objection well founded?

The decision of Justice Preston in *Wehbe V Pittwater [2007] NSW LEC 827* expanded on the above and established the five part test to determine whether compliance with a development standard is unreasonable or unnecessary considering the following questions:

- Would the proposal, despite numerical non-compliance be consistent with the relevant environmental or planning objectives?
- Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard is unnecessary?
- Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable?
- Has Council by its own actions, abandoned or destroyed the development standard, by granting consent that depart from the standard, making compliance with the development standard by others both unnecessary and unreasonable?
- Is the “*zoning of particular land*” unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land? Consequently, compliance with that development standard is unnecessary and unreasonable.

In the matter of *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC*, it was found that an application under clause 4.6 to vary a development standard must go beyond the five (5) part test of *Wehbe V Pittwater [2007] NSW LEC 827* and demonstrate the following:

- Compliance with the requirements of Clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of the LEP; and
- That there are sufficient environment planning grounds, particular to the circumstances of the proposed development (as opposed to general planning grounds that may apply to any similar development occurring on the site or within its vicinity);
- That maintenance of the development standard is unreasonable and unnecessary based on planning merit that goes beyond the consideration of consistency with the objectives of the development standard and/or the land use zone in which the site occurs.

The development contravenes Clause 25 (1)(g)(ii) of State Environmental Planning Policy (Housing) 2021 which establishes the minimum lot size development standard of 800m². The subject site has an area of 674.4m², representing a 15.7% departure from the standard.

The applicant has submitted a written request to vary the minimum lot size development standard. An assessment of the relevant provisions of Clause 4.6 is as follows:

Whether compliance with the standard is unreasonable and unnecessary in the circumstances of the case

The justification in the applicant's request and Assessment Officer's comments are below:

"10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?"

Strict compliance is considered unreasonable and unnecessary in this particular case for the following reasons:

Firstly, the subject site is the last remaining dwelling house to be re-developed in the locality within the R4 (High Density Residential) Zone. All the other surrounding sites contain 3 to 4 storey residential flat buildings. The subject site is considered to have been physically isolated. Amalgamation would be practically impossible as all the surrounding residential flat buildings are Strata title subdivided with individual ownership (i.e. 9 units at No.22 May Street and 11 units at No.18 May Street). In addition, the amalgamation cost would not be financially feasible either.

Secondly, strict compliance would sterilise the development opportunity of the subject site despite being zoned for R4 (High Density Residential) and being very conveniently located close to the town centre which provides all sorts of service facilities and all forms of public transportations. Given the small and narrow land dimensions, the subject property will not be suitable for dual occupancy, multi dwelling housing or any other higher density residential land uses permissible under the LEP. In fact, the residential flat building approved under LDA2018/044 has been found not to be financially viable due to the significant building cost associated with the basement carpark construction which could only be distributed over the approved 6 units. Under the circumstances, strict compliance would be unreasonable or unnecessary in this case.

Thirdly, the proposal, despite the numerical non-compliance, is consistent with the objectives of R4 (High Density Residential) which will be discussed in detail in 'Item 13' below.

Fourthly, the 800m² minimum lot size for the boarding house applies for development on land other than R2 (i.e. R3 or R4) where larger minimum lot sizes would apply to allow for multi dwelling housing or residential flat building development in accordance with their respective zonings. So, it is believed that the underlying objective of the 800m² minimum lot size requirement for a boarding house within land other than R2 zone is to make boarding house buildings more compatible in the streetscape with

other higher density development which would already exist on larger lots. However, numerous existing RFB sites in the vicinity are less than 800m² and have similar lot sizes as the subject site including Nos.22 and 24 May Street on the same side and Nos.15, 17, 19, 21, 23, 25 and 27 May Street on the opposite side. These properties already contain 3 to 4 storey walk-up apartment buildings of similar mass and scale to the proposed boarding house to blend in without resulting in adverse streetscape impact. So, strict numerical compliance is considered unnecessary in this regard.

1) Would the proposal, despite a numerical non-compliance, be consistent with the relevant environmental or planning objectives?

The objectives of R4 (High Density Residential) include; (1) to provide for the housing needs of the community within a high density residential environment and (2) to provide a variety of housing types within a high density residential environment.

The subject site is an isolated and last remaining underdeveloped allotment within the R4 zoned area. The proposal would be consistent with the said zoning objectives in providing housing variety and housing needs of the community within the existing high density residential environment, despite the numerical non-compliance regarding the minimum lot size.

The proposal will not compromise the integrity of LEP 2014, since the subject site is unique in the locality which will not set a precedence at all.

2) Establish that the underlying objective or purpose [of the development standard] is not relevant to the development, with the consequence that compliance is unnecessary.

The 800m² minimum lot size for the boarding house applies for development on land other than R2 (i.e. R3 or R4) where larger minimum lot sizes would apply to allow for multi dwelling housing or residential flat building development in accordance with their respective zonings. So, it is believed that the underlying objective of the 800m² minimum lot size requirement for a boarding house within land other than R2 zone is to make boarding house buildings more compatible in the streetscape with other higher density development which would already exist on larger lots.

However, numerous existing RFB sites in the vicinity are less than 800m² and have similar lot sizes as the subject site including Nos.22 and 24 May Street on the same side and Nos.15, 17, 19, 21, 23, 25 and 27 May Street on the opposite side. These properties already contain 3 to 4 storey walk-up apartment buildings of similar mass and scale to the proposed boarding house to blend in without resulting in adverse streetscape impact. So, strict numerical compliance is considered unnecessary in this regard.

3) Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required, with the consequence that compliance with the development standard is unreasonable.

Strict compliance is not necessarily consistent with the underlying objective of Clause 25(1)(g)(ii) of SEPP (Housing) 2021 for the following reasons:

(a) The streetscape is predominantly characterised by residential flat buildings of 3 to 4 storey in height in relatively small allotments less than 800m² throughout May Street, Ethel Street and adjacent streets in R4 zone. The proposed 3 storey boarding house would be in keeping with the existing streetscape character.

(b) The subject site is the last remaining high density residential allotment which could not have been consolidated in the past. Most properties in the locality had been redeveloped for RFBs on their own without going through land consolidation process. Hence, amalgamation with any of the adjoining sites now only to comply with the minimum lot size in this case would result in a new boarding house building on 1,350m² (=674.4 x 2) or greater in land size which would be much larger in mass and scale than those of the neighbouring RFBs not in keeping with the streetscape and would defeat the underlying objective of the clause.

4) Establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the development standard, and hence compliance with the standard is unnecessary and unreasonable.

N/A, the 800m² minimum lot size for a boarding house under Clause 25(1)(g)(ii) of SEPP (Housing) 2021 came into effect on 26 November 2021 which is relatively recent. It is not believed that the development standard in question has been virtually abandoned or destroyed by Ryde Council's own actions in granting consents departing from the standard to date.

Nevertheless, the proposed development has its merit despite the variation which has been discussed throughout this report. As such, insisting strict compliance and not allowing such development in this case would be unnecessary and unreasonable.

5) Establish 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 high density residential zoning of the subject site is consistent with the neighbouring sites which is appropriate. However, most sites in the vicinity contain RFBs which do not comply with present development standards and controls in accordance with SEPP 65 and its ADG. As such, strict compliance with the subject development standard in that case would also be unreasonable or unnecessary."

Assessment Officer's Comments: The site is constrained by the narrow site width and small site area. The undersized allotment results in the following issues:

- The proposal provides for minimal building separation between the subject site and adjoining developments and results in visual and acoustic privacy impacts to the neighbouring residential flat buildings;
- The ground floor communal space is elevated and results in overlooking impacts;
- Due to the lack of separation privacy screens have been proposed over the first level communal space windows and boarding room windows on Level 1 and Level 2. The privacy screens result in poor amenity for the occupants of the rooms;

- The communal open space area and floor area of Room 13 and Room 14 do not comply with State Environmental Planning Policy (Housing) 2021;
- A communal kitchen has not been provided;
- The ground floor entrance is located adjacent to two (2) windows and results in adverse impacts to Room 1 and Room 5;
- The outdoor drying area is insufficient and overshadowed throughout the day;
- The motorcycle spaces are nominated to be in tandem with each other which is impractical for access and egress. The nominated width of the spaces are non compliant with AS 2890.1;
- The architectural plans do not show how the bin storage area will accommodate 10 x 240L bins. The architectural plans do not show a suitable storage space (bulky waste room) for unwanted household items;
- The proposed vehicle access to the development is via a 3.05 metre wide single lane driveway with a length of over 30 metres long and lacks any waiting/overtaking bays. The configuration presents concern as it is likely to require a vehicle to stand in the public roadway whilst waiting for the opposing vehicle to exit the site.
- The parking spaces separate the building from the landscaped communal open space area and results in a poor amenity for the occupants.

The surrounding development consists of 3 to 4 storey residential flat buildings. The proposed boarding house contains 15 rooms and results in 15 unrelated households. The boarding house is inconsistent with the surrounding residential flat buildings and results in an intensification of the site. The undersized allotment contributes to unsatisfactory impacts to neighbouring properties and future occupants of the site.

The Clause 4.6 written variation fails to demonstrate compliance with the development standard is unreasonable or unnecessary.

Environmental planning grounds to justify contravening the development standard

The submitted request provides the following in response to addressing what the environmental planning grounds are for the variation.

Firstly, the proposed development, despite contravening the development standard, will achieve the objects of Section 1.3 of the Environmental Planning and Assessment Act 1979 for the following reasons:

- *The development will promote the delivery of affordable rental housing for the local community within high density residential environment.*
- *The development will achieve a better built environment outcome than that of the existing isolated substandard dwelling house on the subject site within R4 (High Density Residential) Zone.*
- *The development will facilitate orderly and economic use and development of land, whilst not resulting in detrimental impacts on the built and natural environment in the vicinity as explained throughout this report and Statement of Environmental Effects.*
- *The development will promote the last remaining and isolated high density residential allotment to accommodate affordable rental housing development consisting of 15 boarding rooms within the very convenient location which in*

turn reduces the cumulative impact of urban sprawl and facilitates ecologically sustainable development for the metropolitan Sydney in the long run.

Secondly, *the proposed development, despite contravening the development standard, will be more appropriate and consistent with the objective of the R4 (High Density Residential) Zone than that of the existing substandard dwelling house for the following environmental planning grounds:*

- *The development will better provide for the housing needs of the community within a high density residential environment in a very convenient location than that of the existing substandard dwelling house.*
- *The proposed 3 storey boarding house building will blend in the streetscape better than that of the existing substandard dwelling house as all the other development in the vicinity is of 3 to 4 storey residential flat buildings in relatively small allotments as the subject site.*
- *The proposed boarding house will better promote a variety of housing types within a high density residential environment than that of the existing substandard dwelling house.*

Thirdly, *Council's support for the proposed development is considered to be in the public interest as it will rejuvenate the subject site which currently contains a substandard house and will provide a well-designed boarding house to support low-income earners and the disadvantaged in the local community within an easy walking distance to the public transport and day to day service and health facilities.*

Assessment Officer's Comments: The applicant's arguments failed to provide any valid planning arguments to support the minimum lot size non compliance. Other forms of development can still offer an orderly development of the land, provision of additional housing with lesser impacts on the amenity of adjoining residents. The site is constrained by the narrow site width and small site area. The undersized allotment contributes to unsatisfactory impacts to neighbouring properties and future occupants of the site. The proposal provides for minimal building separation between the subject site and adjoining developments and results in visual privacy impacts to the neighbouring residential flat building to the west. Due to the lack of separation privacy screens have been proposed over the first level communal space windows and boarding room windows on Level 1 and Level 2. The privacy screens result in poor amenity for the occupants of the rooms. The communal open space area and floor area of Room 13 and Room 14 do not comply with State Environmental Planning Policy (Housing) 2021. The parking spaces separate the building from the landscaped communal open space area and results in a poor amenity for the occupants.

The narrow site width and small site area result in a built form which would be incompatible with the immediate locality and would present significant adverse impacts to the existing amenity of adjoining properties and the future occupants of the site.

The Clause 4.6 written variation fails to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard.

Public interest – Development consistent with the zone objectives and objectives of the development standard

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

The minimum lot size development standard does not contain objectives.

The development must also be consistent with the objectives of the zone. As already discussed in this report, the development is generally consistent with the R4 High Density Residential zone objectives.

Whilst the proposed development may not be contrary to the objectives of the R4 High Density Residential zone, the proposed development would provide a built form which is incompatible with the immediate locality and result in significant adverse impacts to future occupants and the existing amenity of adjoining properties. Due to the narrow site width and small site area the proposal does not provide a well designed boarding house within a high density residential environment. The development is not consistent with Clause 4.6(4)(a)(ii).

Matters required to be taken into consideration by the Director-General before granting the concurrence

Circular PS 18-003 issued on 21 February 2018 informed Council that it may assume the Director-General's concurrence for exceptions to development standards.

Conclusion

The assessment concludes that the applicant's written request has not adequately addressed the matters required to be demonstrated by subclause (3) of Clause 4.6 of RLEP 2014. Therefore, the variation to the minimum lot size development standard pursuant to Clause 4.6 of RLEP 2014 is not supported.

Clause 26 – Must be used for affordable housing in perpetuity

The table below provides an assessment of the proposal against these standards.

Clause 26 Must be used for affordable housing in perpetuity		
Required	Proposed	Compliance
(1) Development consent must not be granted under this Division unless the consent authority is satisfied that from the date of the issue of the occupation certificate and continuing in perpetuity— (a) the boarding house will be used for affordable housing, and	A condition could be imposed if the application were recommended for approval	Yes

(b) the boarding house will be managed by a registered community housing provider.	Details of the registered community housing provider who will manage the boarding house have not been provided	No
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Clause 27 – Subdivision of boarding houses not permitted

Clause 27 requires development consent must not be granted for the subdivision of a boarding house. The proposal does not seek approval for subdivision of the boarding house.

It is noted a Clause 4.6 has not been submitted for the following non compliances within State Environmental Planning Policy (Housing) 2021:

- Clause 24(2)(h)(i) – total area of communal open spaces
- Clause 25(1)(h)(ii) – boarding room floor area
- Clause 25(2)(c) – building separation distances

6.2.2 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

Clause 4(4) of SEPP 65 states that unless specified by a LEP, this Policy does not apply to boarding house developments. However, Section 1.6 in Part 3.5 Boarding Houses of Ryde Development Control Plan 2014 (RDCP 2014) states that “*Where boarding house development is associated with residential flat building design, the provisions of State Environmental Planning Policy No. 65 - Residential Flat Development (SEPP 65) are also relevant*”. This assessment is useful to assess the design quality of the proposal and achieve an overall better built form and aesthetics of the building within the streetscape.

Due to the size and scale of the development and as it resembles a residential flat building, the application was reviewed by Council’s Urban Design Review Panel (UDRP) on 2 March 2023. The UDRP comments are discussed below:

SEPP 65 – Design Quality of Residential Flat Buildings	UDRP Comments
<p>Context and Neighbourhood Character</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area’s existing or future character. Well-designed</p>	<p><i>This is the fourth time that the Panel has reviewed drawings for this site, however since the third review, a residential apartment development has been approved by Council. This new application is put forward by the same land owner.</i></p> <p><i>This DA is for a boarding house in a different configuration than the approved residential flat building. The new DA proposes boarding rooms facing side boundaries, on grade car parking and driveway access as opposed to the previous basement configuration, COS at the rear of the carpark behind the on grade car park and 15 rooms with ensuites as well as communal rooms on the ground level and level 1.</i></p> <p><i>The site is located in an established medium density neighbourhood adjacent to the Eastwood Town Centre and is the last remaining dwelling house lot. This results in a</i></p>

SEPP 65 – Design Quality of Residential Flat Buildings	UDRP Comments
<p>buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p><i>constrained lot due to the narrow site width and small site area. The site area is 674.4 sqm.</i></p> <p><i>The developments to either side of this lot are 3 storey walk-up apartments with setbacks of 3.475m to the west and 3.040m for the units to the eastern boundary. Both developments on adjacent lots have habitable rooms facing towards the side boundary.</i></p> <p><i>The site is zoned R4 High Density with an FSR of 1:1 and a height limit of 11.5m. The proposal is for a height below the maximum and an FSR of 0.451:1.</i></p> <p><i>As mentioned in the previous Panel meetings and minutes, the constraints of the site's size and the proximity of the adjacent units limit the development options and habitable room orientation available for the site and its consequent density.</i></p> <p><i>The Panel also notes that this new application falls under the new SEPP (Housing) 2021 and that the SEPP requires a minimum site area of 800sqm for development of a boarding house. The site does not achieve this minimum site area, which further highlights the difficulty in resolving proximity, privacy and acoustic issues as well as achieve appropriate relationships for parking, COS and outlook.</i></p> <p><i>Given the issues identified in this report the Panel considers that the cl 4.6 for site area fails to demonstrate sufficient environmental planning grounds and cannot be supported.</i></p> <p><i>The SEPP also requires the proposal to be compatible with the 'desirable' elements of the character of the local area. The SEE and other documents accompanying the DA drawings seek to justify the proposal on the basis of the outdated surrounding brick walk up flats with surface driveways and on grade parking. These older developments are not reflective of current standards or design for apartment buildings ie SEPP 65 and ADG and cannot be considered to represent 'desirable' elements of the surrounding character.</i></p> <p><i>The Panel considers the scheme is not in character with the desirable elements in the context.</i></p>
<p>Built Form and Scale</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and</p>	<p><i>The approved RFB on the site addressed the site constraints through the following techniques -</i></p> <ul style="list-style-type: none"> <i>• 3m setbacks with 'ear windows' to habitable rooms along side boundaries</i> <i>• 2 units per floor which assists with privacy impacts</i> <i>• A separation of 7.36m was provided to the rear boundary – in combination with the setback to the building to the rear of the site 12m is achieved was considered acceptable</i> <i>• COS was shown on the roof of the building.</i> <i>• Landscape was provided along the short driveway ramp with a basement carpark proposed.</i> <p><i>The boarding house proposal has departed from these techniques and instead results in significant built form and amenity issues.</i></p> <p><i>The boarding house proposal includes a long, exposed driveway with no landscape to the western boundary and adjacent to the</i></p>

SEPP 65 – Design Quality of Residential Flat Buildings	UDRP Comments
<p>parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p><i>building. The driveway and parking area extend effectively the full length of the site.</i></p> <p><i>The deep soil COS area is located behind the parking area adjacent to the rear boundary, dislocated from the building itself. The boarding house building is located only 1.5m from the eastern boundary for the first two storeys and then setback in part for the third level, this setback is not dimensioned on the plans.</i></p> <p><i>The floor layouts locate both rooms and ensuites with their primary or sole orientation looking to the west and east side boundaries.</i></p> <p><i>On the ground level both rooms and the communal space have windows directly overlooking the driveway. To the east a raised COS deck is positioned 1.5m from the side boundary fence.</i></p> <p><i>The first floor adopts a similar layout with rooms relying on direct overlooking of the adjacent apartment developments over the side boundaries some 1.5m and 3.05m from the boundary.</i></p> <p><i>On the second level the plan changes to have the circulation corridor looking to the east with high windows, rooms still looking to the western side boundary and two end rooms with windows and/or balconies looking to the eastern boundary still only 1.5m away (balcony).</i></p> <p><i>The proposal locates built form too close to existing apartments, which have habitable windows and rooms located along their side elevations. The fact that these older developments have such a layout does not justify adopting a similar approach in this DA.</i></p> <p><i>This is not a desirable character element and it creates privacy issues and significantly restricts the opportunity for side boundary landscaping to moderate the building bulk and length. The lack of landscape along the western boundary exposes the car park and driveway to the adjoining neighbours windows without any softening and creates an equally poor outlook and amenity for the rooms in the boarding house also impacted by the location on the driveway.</i></p> <p><i>The location of the raised COS deck will also create potential privacy and acoustic issues for the neighbour to the east and the surface parking on the site dislocates the building, its residents and the communal room from the landscaped COS space to the rear of the site. The car noise and movement will also impact the amenity and safety of this rear area.</i></p> <p><i>The front setback of the scheme appears reasonable relative to the context and the rear setback also seems responsive to the context (if it was not occupied by surface parking).</i></p> <p><i>The location of drying lines on the side boundary fence is also a poor outcome.</i></p> <p><i>The internal layout of the scheme is poor. There is no entry lobby as such, just a long corridor with rooms opening off it so the sense of arrival is not adequate. The built form has little articulation on its long side facades and the building composition and expression is awkward and poorly resolved with too many disjointed elements put into the façade that do not create a cohesive architectural concept.</i></p> <p><i>The fact that the building is under height and FSR does not justify the outcome against the character test. It is suggested that if the applicant wants to pursue a boarding house option then basement or semi basement parking with a car lift or ramp is pursued and any habitable room windows along side boundaries adopt a similar approach to the approved RFB with</i></p>

SEPP 65 – Design Quality of Residential Flat Buildings	UDRP Comments
	<i>main outlooks to the rear or front and 'ear windows' where side outlooks are unavoidable. The side setbacks adopted for the RFB should also be maintained in any other scheme.</i>
<p>Density</p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<i>The proposal is below the maximum permissible density but this is not achieving good design or reasonable amenity for neighbours or residents on the site.</i>
<p>Sustainability</p> <p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and livability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<i>Sustainability measures were not specifically discussed given the fundamental concerns with the general approach taken for the new DA.</i>
<p>Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute</p>	<p><i>The lack of side boundary landscape to the driveway is not acceptable. Hedge planting is shown along the eastern side boundary, however the Panel is concerned that Murraya's are unlikely to be successful in such a tight setback and may struggle to attain a height that will provide any meaningful screening for the adjacent development.</i></p> <p><i>The provision of two trees in the front setback is positive. Three trees are proposed to the rear area. Two trees are Weeping Lilli Pillis to a height of 15m. These trees can create very dense all year-round shade and they are located on the northern boundary. The Panel is concerned at the extent of overshadowing they might create in the future.</i></p> <p><i>The extent of deep soil is positive however the general positioning of the COS and landscape to side setbacks is not supported.</i></p>

SEPP 65 – Design Quality of Residential Flat Buildings	UDRP Comments
<p>to the local context, coordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	
<p>Amenity</p> <p>Good design positively influences internal and external amenity for residents and neighbours.</p> <p>Achieving good amenity contributes to positive living environments and resident well-being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p><i>The decision to create a long building of 3 storeys with many rooms and windows relying on side boundary outlook in very close proximity to the side boundary and adjoining RFB's is creating major visual and acoustic privacy issues for both the adjacent RFB's and the future residents in this development.</i></p> <p><i>This is also exacerbated by the surface driveway and parking area which directly abuts the new building adjacent to windows of rooms. There is no buffer or setback from the western side boundary either. The noise and headlights of vehicles using the driveway will impact both the neighbours and the residents.</i></p> <p><i>The car parking creates potential safety issues as residents will be required to cross the parking area to access any useable outdoor space. The area is not secure or private and would be impacted by vehicle noise and movements as well as potential unwanted access.</i></p> <p><i>The entry to the development is poor with no lobby or greeting space or location to wait for a taxi or uber.</i></p> <p><i>The end rooms on level 2 both have balconies that wrap around the building and provide overlooking opportunities to the eastern residential flat building particularly given the proximity of the southern balcony.</i></p> <p><i>Where side windows occur to rooms above ground level they are heavily screened due to the proximity to privacy concerns with the neighbouring RFB's and this creates poor amenity in terms of outlook, light and air movement in small rooms.</i></p> <p><i>The communal open space deck is raised a considerable distance above the ground level. This creates overlooking opportunities to neighbours. The built form does not respond to the topography either and exposes a considerable extent of blank subfloor wall to the rear garden and driveway which is not a positive outcome.</i></p>
<p>Safety</p> <p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and</p>	<p><i>The side driveway and surface parking area creates potential safety issues for residents in the parking area as well as residents using the external COS or the outdoor deck off the communal room.</i></p>

SEPP 65 – Design Quality of Residential Flat Buildings	UDRP Comments
<p>fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	
<p>Housing Diversity and Social Interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p><i>The proposal is for a boarding house which supplements existing housing types in the area. This use is supportable, but not in the format currently proposed.</i></p>
<p>Aesthetics</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p><i>The Panel considers that the scheme lacks a strong ordering principle or architectural concept. The composition has disparate colour and façade elements that are not tied together in a pleasing or articulated composition. The masonry base is only ‘skin deep’ ie it applies only to the front façade and does not wrap the entire base of the building. The rest of the facades are all relying on painted render which creates long term maintenance issues and does not weather well.</i></p> <p><i>The only elements of interest to the side facades are a change of colour for panels on the wall and this is not sufficient to moderate the building length.</i></p> <p><i>The modelling to the top of the building also lacks refinement with partial setbacks to the upper level creating a rather uncomfortable massing dictated by the internal spatial planning rather than a strong architectural design approach.</i></p> <p><i>The Panel encourage the applicant to consider brickwork for the entire building and to develop a real architectural concept to guide the design of any future building in concert with working through internal spatial planning. The architectural concept should be influencing the internal layout not be dominated by it.</i></p>

The comments provided by the Urban Design Review Panel are noted and generally agreed with.

As the boarding house adjoins residential flat buildings to the east and west and the proposal resembles a residential flat building; the following assessment against Apartment Design Guide with regards to the built form, environmental amenity and vehicular access offers helpful guideline for consideration and further confirms the unsatisfactory nature of the proposed development:

Apartment Design Guide Requirement	Proposal	Complies												
Part 2 Development Controls														
Building Depth Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line.	Proposed building depth Ground floor plan: 8.4m – 8.9m First floor plan: 8.4m – 8.9m Second floor plan: 5.8m – 8.9m	Yes												
Building Separation Minimum separation distances for buildings are: <i>up to 4 storeys should be:</i> -12m between habitable rooms / balconies -9m between habitable / balconies and non-habitable rooms -6m between non-habitable rooms.	A setback of 3.05 metres is proposed to the western side boundary and a setback of 1.5 metres is proposed to the eastern side boundary. The proposal does not comply with the ADG which requires a minimum setback of 6 metres between habitable rooms/balconies and side boundaries. A minimum building separation of 6.5 metres is proposed on the western elevation and a minimum building separation of 4.5 metres is proposed on the eastern elevation. The proposal does not comply with the ADG which requires a minimum separation of 12 metres between habitable rooms and balconies.	No												
3F Visual Privacy Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: <table border="1" data-bbox="204 1518 746 1863"> <thead> <tr> <th>Building Height</th><th>Habitable rooms & balconies</th><th>Non habitable rooms</th></tr> </thead> <tbody> <tr> <td>Up to 12m(4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table>	Building Height	Habitable rooms & balconies	Non habitable rooms	Up to 12m(4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	The boarding house has a setback of 3 metres to the western boundary and 1.5 metres to the eastern boundary. The proposal does not comply with the ADG which requires a minimum setback of 6 metres from habitable rooms and balconies to the side boundaries. Due to the lack of separation privacy screens have been proposed over the first level communal space windows and boarding room windows on Level 1 and Level 2. The privacy screens result in poor amenity for the occupants of the rooms. The ground floor communal space is elevated and results in overlooking impacts.	No
Building Height	Habitable rooms & balconies	Non habitable rooms												
Up to 12m(4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												
3G Pedestrian Access & entries Pedestrian access, entries and pathways are accessible and easy to identify.	The development proposes a pedestrian entry to the building from May Street. The entry is easy to identify, however a proper reception area or foyer is not provided for visitors to report. An accessible path has also not been provided.	No												

3H Vehicle Access. Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	The proposed vehicle access to the development is via a 3.05 metre wide single lane driveway with a length of over 30 metres long and lacks any waiting / overtaking bays. The configuration presents concern as it is likely to require a vehicle to stand in the public roadway whilst waiting for the opposing vehicle to exit the site. The proposal has been reviewed by Council's Senior Development Engineer and Council's Traffic Engineer and is not supported.	No
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Based on the above analysis demonstrating proposal's inconsistency with the principles of SEPP 65 and the requirements of the ADG, the proposal is considered unsatisfactory.

6.2.3 Other relevant State Environmental Planning Instruments

Instrument	Proposal	Compliance
State Environmental Planning Policy Resilience and Hazards SEPP 2021		
Chapter 4 Remediation of land		
The object of this Chapter is to provide for a Statewide planning approach to the remediation of contaminated land. The aims are to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.	The site has a long and established history of residential use and is not likely to contain any form of contamination. No further soil assessment is deemed to be required given the long-established residential use of the subject site and the adjoining sites.	Yes
State Environmental Planning Policy BASIX 2004		
The certificate demonstrates compliance with the provisions of the SEPP and is consistent with commitments identified in the application documentation.	The boarding house accommodates nineteen (19) people and has a floor area of 478.8m ² . A BASIX Certificate is not required to be provided	N/A
State Environmental Planning Policy – Biodiversity and Conservation SEPP 2021		
Chapter 2 Vegetation in non-rural areas		
The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation.	No trees are proposed to be removed. One (1) Jacaranda (<i>Jacaranda mimosifolia</i>) is located in the road reserve at the front of the site and trees are located within the adjoining site.	No

	The development is unlikely to impact on the street tree. However the driveway and crossover is likely to adversely impact on the trees on the neighbouring property. An Arboricultural Impact Assessment has not been submitted with the application. Insufficient information has been submitted to demonstrate there is no impact on adjoining trees.	
Chapter 6 Water Catchments		
This Plan applies to the whole of the Ryde Local Government Area as the LGS is within the Sydney Harbour Catchment. Division 2 of Part 6.2 of this SEPP identifies controls on development in respect of water quality and quantity, aquatic ecology, flooding, recreation and public access and total catchment management.	Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal.	Yes

6.3 Ryde Local Environmental Plan 2014

The following is an assessment of the proposed development against the applicable provisions from the Ryde Local Environmental Plan 2014. The site is zoned R4 High Density Residential under the provisions of the RLEP 2014. The proposed development being a boarding house is permitted within this zoning.

Aims and objectives for the high density residential zones:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal is for demolition of all existing structures, construction of a 3 level boarding house with 15 boarding rooms, 3 car spaces, 2 bike spaces & 2 motorbike spaces pursuant to State Environmental Planning Policy (Housing) 2021 which provides for a variety of housing types and provides for the housing needs of the community within a high density residential environment. The third objective is not of relevance to the proposed development. The proposed satisfies the relevant objectives for residential developments.

Other relevant Clauses of RLEP 2014

Ryde LEP 2014	Proposal	Compliance
4.3(2) Height		
11.5m	11.3m	Yes
4.4(2) & 4.4A(1) FSR		
1.0:1	0.71:1	Yes
6.2 Earthworks		
(1) 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>The proposal includes 1.3 metres of fill within the building footprint.</p> <p>The fill is associated with the ground floor communal space. The communal space is elevated and results in visual privacy impacts. If the application were recommended for approval a condition could be recommended requiring the windows to be amended to highlight windows or have obscured glazing.</p> <p>The proposed fill is not considered to result in any adverse detrimental impacts upon environmental functions and processes or neighbouring uses. The proposed fill is considered acceptable.</p>	Yes
Clause 6.4 Stormwater management		
(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.	The proposal has been considered acceptable by Council's Senior Development Engineer.	Yes

6.4 Draft Environmental Planning Instruments

Nil

6.5 Ryde Development Control Plan 2014

Part 3.5 – Boarding Houses

Section 1.3 states that the objectives of Part 3.5 are:

1. *“To recognise boarding house accommodation as a component of the City of Ryde’s residential housing mix.*
2. *To facilitate the provision of high quality affordable rental housing in the form of boarding houses where permissible in residential and business zones in the City of Ryde.*
3. *To support government policy which facilitates the retention and mitigates the loss of existing affordable rental housing.*
4. *To encourage appropriate design of boarding house development to ensure the impact and operation does not interfere with surrounding land uses and amenity.*
5. *To provide controls for boarding houses that are not within “accessible area” as defined under the SEPP ARH.*
6. *To ensure that boarding houses are designed to be compatible with and enhance the local area character and the desired future character.*
7. *To ensure that any building that has been developed or adopted into a boarding house maintains a satisfactory standard of amenity for both the needs of occupants and neighbours alike”.*

The proposal does not satisfactorily demonstrate that the design of the boarding house would provide a high quality development with good amenity for future occupants. The proposal provides for minimal building separation between the subject site and adjoining developments and results in visual privacy impacts to the neighbouring residential flat building to the west. Due to the lack of separation privacy screens have been proposed over the first level communal space windows and boarding room windows on Level 1 and Level 2. The privacy screens result in poor amenity for the occupants of the rooms. The ground floor entrance is located adjacent to two (2) windows and results in adverse impacts to Room 1 and Room 5. The outdoor drying area is insufficient and overshadowed throughout the day. The parking spaces separate the building from the landscaped communal open space area and results in a poor amenity for the occupants. The proposed development is not considered to be consistent with surrounding properties or the desired future character of the local area.

The following table provides an assessment of the development against the applicable clauses of Part 3.5.

Provision	Required	Proposed	Complies
1.6 Relationship of this Part to other Plans and Policies	Where boarding house development is associated with residential flat building design, the provisions of SEPP No. 65 Residential Flat Development (SEPP 65) are also relevant.	Assessment against the provisions of SEPP 65 & ADG is provided earlier in this report as the proposal is comparable with a residential flat building design. The assessment concluded that the proposal does not adequately meet the design provisions of SEPP 65 and will result in poor amenity for occupants.	No

Provision	Required	Proposed	Complies
2.0 Location and Character	<p>The design must demonstrate compatibility with character of local area and address:</p> <ul style="list-style-type: none"> Existing character (streetscape and visual catchment areas) Predominant building type Predominant height Predominant front setback and landscape treatment Permissible FSR and site coverage Predominant pattern of subdivision and spacing of buildings Predominant parking arrangement Predominant side setbacks Predominant rear setback and rear landscaping 	<p>The Statement of Environmental Effects seek to justify the proposal on the basis of the surrounding brick walk up residential flat buildings with at grade parking. These older developments predate the current standards or design for apartment buildings ie SEPP 65 and ADG.</p> <p>The proposal is not considered compatible with the character of the local area for the reasons as follows:</p> <ul style="list-style-type: none"> The proposal provides for minimal building separation between the subject site and adjoining developments and results in visual privacy impacts to the neighbouring residential flat building to the west. The communal open space area and floor area of Room 13 and Room 14 do not comply with State Environmental Planning Policy (Housing) 2021; The lack of landscaping along the western boundary exposes the car park and driveway to the adjoining neighbours windows without any softening and creates an equally poor outlook and amenity for the rooms in the boarding house also impacted by the location on the driveway. The motorcycle spaces are nominated to be in tandem with each other which is impractical for access and egress. The nominated width of the spaces are not-compliant with AS 2890.1. 	No

Provision	Required	Proposed	Complies
		<ul style="list-style-type: none"> The proposed vehicle access to the development is via a 3.05 metre wide single lane driveway with a length of over 30 metres long and lacks any waiting/overtaking bays. The configuration presents concern as it is likely to require a vehicle to stand in the public roadway whilst waiting for the opposing vehicle to exit the site. A proper reception area or foyer is not provided for visitors to report. 	
2.3(c) Heritage	Within vicinity of heritage item needs to be sympathetic to heritage significance	The site is not located in the immediate vicinity of any heritage items or heritage conservation areas.	Yes
2.3(f) Size and Scale	<p>The bulk and scale of the development must demonstrate acceptable impacts for the street and adjoining properties relating to:</p> <ul style="list-style-type: none"> Overshadowing and privacy Streetscape Building setbacks Parking and traffic impact Landscape requirements Visual impacts and impact on views Impact on significant trees Suitable lot size, shape and topography 	<p>The proposal provides for minimal building separation between the subject site and adjoining developments and results in visual and acoustic privacy impacts to the neighbouring residential flat building to the west.</p> <p>The ground floor communal space is elevated and results in overlooking impacts.</p> <p>The motorcycle spaces are nominated to be in tandem with each other which is impractical for access and egress. The nominated width of the spaces are not-compliant with AS 2890.1.</p> <p>The proposed vehicle access to the development is via a 3.05 metre wide single lane driveway with a length of over 30 metres long and lacks any waiting/overtaking bays. The configuration presents concern as it is likely to require a vehicle to</p>	No

Provision	Required	Proposed	Complies
		<p>stand in the public roadway whilst waiting for the opposing vehicle to exit the site.</p> <p>An Arborist Report has not been submitted to determine the impacts to the existing street tree.</p> <p>The lot is undersized and results in the issues raised above.</p>	
2.3(g) and (h) Parking and Traffic	<p>Parking is not to be located within communal open space or landscape areas.</p> <p>A boarding house with 30 or more rooms is to be supported by a Traffic and parking Impact Assessment report, prepared by a suitably qualified person, addressing as a minimum the following:</p> <ul style="list-style-type: none"> • prevailing traffic conditions • the likely impact of the proposed development on existing traffic flows and the surrounding street system • pedestrian and traffic safety, and • justification of any variation to the parking requirements (if proposed). 	<p>Parking separates landscaped communal open space area and boarding house</p> <p>N/A – The boarding house contains 15 rooms</p>	<p>No</p> <p>N/A</p>
3.2 Privacy and Amenity	(a) Main entrance to be located and designed to address street	The main entrance to the boarding house is located at the ground level and addresses May Street.	Yes

Provision	Required	Proposed	Complies
	(b) Access ways to front entrance located away from windows of boarding rooms for privacy	The ground floor entrance is located adjacent to two (2) windows and results in adverse impacts to Room 1 and Room 5.	No
	(c) Designed to minimise and mitigate visual and acoustic privacy impacts on neighbours	An Acoustic report has not been submitted to determine the noise impacts of the proposal. The ground floor communal space is elevated and results in overlooking impacts.	No
	(d) An acoustic report prepared by a suitably qualified acoustic consultant may be required where there is the potential for noise impacts on occupants and neighbours.	An Acoustic report has not been submitted	No
3.3 Accessibility	All boarding house developments to be accompanied by accessibility report	An Access report has not been submitted. An accessible path has not been provided from the street to the entrance of the boarding house.	No
3.4 Waste Minimisation and Management	Required in accordance with Part 7.2 of the RDCP 2014	The architectural plans do not show how the bin storage area will accommodate 10 x 240L bins. The application has been reviewed by Council's Waste Officer and is not supported.	No
3.5 Sustainability and Energy Efficiency	BASIX Certificate required	The boarding house accommodates nineteen (19) people and has a floor area of 478.8m ² . A BASIX Certificate is not required to be provided	N/A
3.6 Internal Building Design	Must make provision for laundry facilities, communal food preparation facilities, sanitary	Each room contains a washing machine. The Statement of Environmental Effects states a dryer will be provided in each room however this is not shown	No

Provision	Required	Proposed	Complies
	facilities and storage areas	on the architectural plans. The outdoor drying area is insufficient and overshadowed throughout the day. A communal food preparation facility has not been provided. Electric cooktops are proposed within each kitchenette. For fire safety reasons the DCP does not support cooktops in boarding rooms. A bathroom is provided within each room. A suitable storage space (bulky waste room) for unwanted household items has not been provided.	
	Safety to be optimized by providing for overlooking of communal areas, provision of lighting and providing clear definition between public and private spaces	A clear definition is provided between public and private spaces. Windows and balconies orientate to May Street and provide overlooking to the street. The communal areas are within the building and have adequate security and surveillance.	Yes
3.6(e)(i) Bedrooms	<ul style="list-style-type: none"> Not to open directly onto a communal area Must comply with SEPP (Affordable Rental Housing) 2009 Minimum 2.1m² required for basin and toilet plus 0.8m² for shower, 1.1m² for laundry which must include a tub and 2m² for a kitchenette Kitchenettes must have small fridge, cupboards, shelves, microwave and 0.5m² of bench space 	<p>Boarding rooms do not open directly to communal living areas.</p> <p>As discussed above, Room 13 and Room 14 do not comply with the minimum floor area required by SEPP (Housing) 2021</p> <p>Sufficient area is provided for basins, toilets and showers within each room.</p> <p>Sufficient space is provided for laundry which consists of a wash tub and washing machine.</p> <p>The kitchenettes are less than 2m²</p> <p>Kitchenettes have a small fridge, cupboards, shelves, microwave and a minimum 0.5m² of bench space</p>	<p>Yes</p> <p>No</p> <p>Yes</p> <p>Yes</p> <p>No</p> <p>Yes</p>

Provision	Required	Proposed	Complies
	Note: For fire safety reasons no other cooking appliances are permitted.	Electric cooktops are proposed within each kitchenette	No
3.6(e)(ii) Communal Living Room	<ul style="list-style-type: none"> Locate adjacent to communal open space to minimise impact on neighbours Minimum size 15m² plus additional 15m² for each additional 12 persons. Openings to be oriented away from adjoining residential properties. 	<p>The ground floor communal living room is located adjacent to the alfresco communal open space. The first floor communal living room is not directly adjacent to any bedrooms. An acoustic report has not been submitted to determine the noise impacts to adjoining properties.</p> <p>Required area is 30m². The proposed area of the communal living room is 50.1m².</p> <p>The ground floor communal living room west facing windows are elevated and result in overlooking to the neighbouring property</p>	<p>No</p> <p>Yes</p> <p>No</p>
3.6(e)(iii) Communal Kitchen and Dining Areas	<ul style="list-style-type: none"> To be in accessible location Area to be minimum 6.5m² or 1.2m² per resident that does not contain a kitchenette and provide one sink and stove top cooker per 6 people Combined kitchen/dining areas to have minimum 15m² area and 1m² per room = 56m² 	A communal kitchen has not been provided	No

Provision	Required	Proposed	Complies
3.6(e)(iv) Bathroom	Communal bathrooms must be accessible 24 hours a day	No communal bathrooms are proposed, given each room contains its own bathroom.	Yes
3.6(e)(v) Laundry and Drying Facilities	<p>Outside drying areas shall be located in communal open space:</p> <ul style="list-style-type: none"> 15m² external clothes drying area for every 12 residents in an outdoor area (can be retractable) – required 30m² Outside drying areas shall be located in a communal open space in a location which maximises solar access and ensures that the usability of the space is not compromised 	<p>Each room contains a washing machine.</p> <p>The required area for the external clothes drying area is 30m². The proposed external clothes drying area is 4.8m².</p> <p>The outside drying area is overshadowed.</p>	No
3.6(e)(vi) Management office design	The Manager's office is to be in a central, visible location for occupants and visitors.	There is no Manager's office provided. A proper reception area or foyer is not provided for visitors to report, deliveries or new occupants	No
4.2(a) to (d) Management Controls	To be managed by a manager who has overall responsibility including the operation, administration, cleanliness, maintenance and fire safety of the premises.	Details of the registered community housing provider who will manage the boarding house have not been provided within the Plan of Management	No

Provision	Required	Proposed	Complies
	A Plan of Management is to be submitted to address the ongoing management and operational aspects of the boarding house		

Part 9.3 – Parking Controls

Objective (1) of Section 1.1 states to minimise traffic congestion and ensure adequate traffic safety and management.

The proposed vehicle access to the development is via a 3.05 metre wide single lane driveway with a length of over 30 metres long and lacks any waiting / overtaking bays. The configuration presents concern as it is likely to require a vehicle to stand in the public roadway whilst waiting for the opposing vehicle to exit the site. The proposal has not been supported by Council's Senior Development Engineer. Vehicle manoeuvring to and from the end parking space is inadequate and has not been supported by Council's Traffic Engineer. The proposal does not comply with Objective (1) of Section 1.1.

Control 3.2(a) requires all parking areas shall be designed in accordance with Australian Standards AS2890.1, AS2890.2 and AS2890.6. The development does not comply with AS 2890.1 Section 2.4.5 in regards to the minimum motorcycle space width of 1.2m. The proposed tandem motorcycle space configuration would be impractical given the forward most space could not be exited when the alternate space is occupied. The proposal has not been supported by Council's Senior Development Engineer. The proposal does not comply with Control 3.2(a).

6.6 Planning Agreements or Draft Planning Agreements

There are no planning agreements or draft planning agreements for this development.

6.7 City of Ryde Section 7.11 Development Contributions Plan 2020

The Section 7.11 Development Contributions Plan 2020 commenced on 1 July 2020 and is applicable to the proposal. However, as the application is recommended for refusal a calculation has not been provided.

6.8 Any matters prescribed by the regulations

Environmental Planning and Assessment Regulation 2021

There are no planning agreements or draft planning agreements for this development. The Regulation underpins the day-to-day operation of the NSW planning system. The Regulation guides the processes, plans, public consultation, impact assessment and decisions made by local councils, the Department of Planning and others. Standard

conditions could be conditioned relating to compliance with BCA and AS if the application were recommended for approval.

Australian Standard for Demolition - Clause 61(1)

Clause 61(1) of the Environmental Planning & Assessment Regulations 2021 requires the consent authority to consider the provisions of *Australian Standard AS 2601-2001: The demolition of structures*. Standard conditions could be conditioned relating to compliance with AS if the application were recommended for approval.

Building Code of Australia Upgrade – Clause 64

In accordance with Clause 64 of the Regulations 2021, the proposal will be required to provide adequate fire safety in accordance with the BCA. Standard conditions could be conditioned relating to compliance with BCA if the application were recommended for approval.

7. THE LIKELY IMPACTS OF THE DEVELOPMENT

The likely impacts of the development have been considered within this report and the assessment demonstrates that the undersized allotment contributes to unsatisfactory impacts to neighbouring properties and future occupants of the site. The development is considered unsatisfactory in terms of its environmental impact.

The following information has not been submitted and limit the proper understanding of the impacts associated with the development:

- No Arboricultural Impact Assessment was submitted.
- No Acoustic Report was submitted.

8. SUITABILITY OF THE SITE FOR THE DEVELOPMENT

The site is zoned R4 High Density Residential. The proposal is for demolition of all existing structures, construction of a 3 level boarding house with 15 boarding rooms, 3 car spaces, 2 bike spaces & 2 motorbike spaces pursuant to State Environmental Planning Policy (Housing) 2021.

The undersized allotment contributes to unsatisfactory impacts to neighbouring properties and future occupants of the site. The proposal provides for minimal building separation between the subject site and adjoining developments and results in visual privacy impacts to the neighbouring residential flat building to the west. Due to the lack of separation privacy screens have been proposed over the first level communal space windows and boarding room windows on Level 1 and Level 2. The privacy screens result in poor amenity for the occupants of the rooms. The communal open space area and floor area of Room 13 and Room 14 do not comply with State Environmental Planning Policy (Housing) 2021. A communal kitchen has not been provided. The ground floor entrance is located adjacent to two (2) windows and results in adverse impacts to Room 1 and Room 5. The outdoor drying area is insufficient and overshadowed throughout the day.

The architectural plans do not show how the bin storage area will accommodate 10 x 240L bins. The architectural plans do not show a suitable storage space (bulky waste room) for unwanted household items. The motorcycle spaces are nominated to be in tandem with each other which is impractical for access and egress. The nominated width of the spaces are non compliant with AS 2890.1. The proposed vehicle access to the development is via a 3.05 metre wide single lane driveway with a length of over 30 metres long and lacks any waiting/ overtaking bays. The configuration presents concern as it is likely to require a vehicle to stand in the public roadway whilst waiting for the opposing vehicle to exit the site. The parking spaces separate the building from the landscaped communal open space area and results in a poor amenity for the occupants.

The Clause 4.6 written variation fails to demonstrate compliance with the development standard is unreasonable or unnecessary or that there are sufficient environmental planning grounds to justify contravening the development standard.

The proposal is not considered to be suitable for the site.

9. THE PUBLIC INTEREST

The public interest is best served by the consistent application of the requirements of relevant Environmental Planning Instruments and by Council ensuring that any adverse effects on the surrounding area and the environment is minimised. The proposal has been assessed against the relevant planning instruments and is considered to be unacceptable. The undersized allotment results in non compliances with SEPP (Housing) 2021, the design principles of SEPP 65 Design Quality Residential Apartment Development, the Apartment Design Guide, Ryde LEP and Ryde DCP. The development will result in unacceptable amenity to future residents and adjoining properties. On this basis, the proposal is considered to be contrary to the public interest.

10. SUBMISSIONS

In accordance with DCP 2014 Part 2: Community Participation Plan and Procedure, the owners of surrounding properties were given notice of the application between 19 January 2023 and 17 February 2023. One (1) submission was received objecting to the development from the adjoining property.

The submission raised the following concerns:

1. *Concern is raised with damage to the neighbouring property's stormwater retention tank/pit located adjacent to the shared boundary. The submission requests the applicant be required to arrange suitable dilapidation reporting prior to works and after works and make any required repairs at their cost and/or indemnify the Owners Corporation for their costs in making any repairs if required.*

Assessing Officer comment's: If the application were recommended for approval a condition would be imposed requiring if the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) Protect and support the adjoining premises from possible damage from the excavation, and
 - (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
2. *Concern is raised with the height of the proposed *Murraya paniculata* trees on the shared boundary overhanging and impacting the neighbouring property. The submission requests the *Acmena* 'Cherry Surprise' plants should not be planted as far back as the neighbouring property's car parking area as this would impact the clothes line for drying purposes.*

Assessing Officer comment's:

The *Murraya paniculata* is a weed species identified by NSW Department of Primary Industries and not been supported by Council's Landscape Architect. This forms reasons for refusal of the application.

The *Acmena* 'Cherry Surprise' plants will not cast significant overshadowing onto the neighbouring property and is considered acceptable.

3. *Concern is raised insufficient parking is provided for the proposed number of units. The submission requests greater provision for parking be provided or the number of units be reduced.*

Assessing Officer comment's: Clause 24(2)(i)(i) of SEPP (Housing) 2021 requires the following:

- (i) *if a relevant planning instrument does not specify a requirement for a lower number of parking spaces—at least the following number of parking spaces—*
 - (i) *for development on land within an accessible area—0.2 parking spaces for each boarding room,*
 - (ii) *otherwise—0.5 parking spaces for each boarding room,*

The site is located approximately 350 metres walking distance from Eastwood Station and is considered to be within an accessible area. Three (3) parking spaces are required to be provided. Three (3) car parking spaces have been provided and the proposal complies with Clause 24(2)(i)(i) of SEPP (Housing) 2021. Council's Senior Development Engineer has reviewed the proposal and no issues were raised with the number of parking spaces proposed.

11. REFERRALS

INTERNAL REFERRAL:

Senior Development Engineer

The application was referred to Council's Senior Development Engineer who provided the following comments:

“Stormwater Management

The proposed stormwater management system for the development discharges to a kerb inlet pit in Ball Avenue via a drainage easement over the downstream property and incorporates an onsite detention system complying with Councils requirements.

A review of the plan has noted the following matters;

- The easement has been registered in relation to a previous Development Consent and is valid, as noted in Council's records. Refer to Record D22/162851: 20 May Street Eastwood - Drainage easement.*
- The design of the council water management system is generally acceptable given it conveys stormwater to the lowest point of the property, located in the northwestern corner. The onsite detention system storage itself has been located in hardstand area and is not anticipated to impact adjoining property or landscaping. Notwithstanding this, the plans nominate a bin storage area in this same location and therefore it would be prudent that the access lids to the storage be sealed. The system has the opportunity to surcharge via the boundary pit, placed just prior to the drainage system entering 2 Ball Avenue.*
- It is noted that the footpath fronting the property happens to be below the level of the roadway. The development presents a great opportunity to present address an issue relating to runoff being conveyed and trapped in the footpath area by requiring the development to implement a mild crest threshold within the property. This need only be some 100mm above the property boundary alignment level and could be readily implement and addressed by condition.*

These matters can be addressed by condition.

Vehicle Access and Parking

In accordance with the SEPP (Housing) 2021, the development will warrant three parking spaces which has been provided at the rear of the site. Additionally a set of two motorcycle and bicycle parking spaces have been provided for, as per the requirements.

In regards to vehicle access and manoeuvring, the following points are noted;

- The motorcycle spaces are nominated to be in tandem with each other which is impractical for access and egress. Further to this, the nominated width of the spaces are not-compliant with AS 2890.1. There is potential this could be resolved with considerable reconfiguration of the parking area though would warrant revised plans.*
- The proposed vehicle access to the property is via a single lane driveway with a length of some 30 metres long and lacks any waiting / overtaking bays. The configuration presents some concern as on the chance of there being conflicting traffic flow, this may potentially require a vehicle to stand in the public roadway whilst waiting for the opposing vehicle to exit the site. The level of off street parking provided however (3 parking spaces) presents a low level of traffic generation and consequently a low probability for such an event to occur. It is preferable that such an occurrence never happen and this could be resolved by widening the driveway entry by some 2.5m for the first 6m into the property, potentially using permeable pavers to reduce the impact of*

hardstand area. If this is not supported on planning grounds, a compromised solution may be provided by widening the driveway crossover to allow the overtaking movement to occur in the footpath area though this is not desirable with it impacting pedestrian amenity in the public domain.”

Assessing Officer comment: The motorcycle spaces are nominated to be in tandem with each other which is impractical for access and egress. Further to this, the nominated width of the spaces are not-compliant with AS 2890.1. This forms reason for refusal of the application.

The proposed vehicle access to the development is via a 3.05 metre wide single lane driveway with a length of over 30 metres long and lacks any waiting / overtaking bays. The configuration presents concern as it is likely to require a vehicle to stand in the public roadway whilst waiting for the opposing vehicle to exit the site. A passing opportunity has not been provided along the driveway. This forms reason for refusal of the application.

Landscape Architect

The application was referred to Council's Landscape Architect. The following issues have been raised:

“3.0 Existing Trees

An Arboricultural Impact Assessment (AIA) has NOT been submitted with the application. All existing trees on site have been cleared however there are trees on the adjoining site 18 May Street and a Street Tree that will be impacted by the proposed driveway and crossover. Therefore, an AIA is required with this Development Application.

4.0 Landscape Plan – Boarding Houses

The Landscape plan has satisfied the following requirements of DCP 2014 Part 3.5 Boarding Houses

- *The proposed Landscaping in the front yard is in keeping with the dominant character of landscape treatment within the front yard of properties in the streetscape/ visual catchment area.*
- *Deep Soil Planting has been provided to side and rear setbacks, which is in character with established landscape treatment of the adjoining properties.*

The Landscape plan has NOT satisfied the following requirements of DCP 2014 Part 3.5

- *Parking spaces and access are not to be located within communal open space areas or landscaped areas. The Communal Open Space has been located on the back boundary with parking spaces located between the Outdoor Covered Area and the Communal Open Space. The parking spaces need to be moved to the back boundary and the Communal Open Space be located adjoining the Outdoor Covered Area so the two spaces can share outdoor activities.*
- *Communal Open Space is to be provided with communal facilities such as barbeques and seating. None of these facilities have been provided.*

- *The Planting Schedule includes a weed species identified by NSW Department of Primary Industries: "Murraya paniculate"*

Tree Management Officer

The proposal was considered satisfactory by Council's Tree Management Officer. Conditions of consent could be imposed if the application were recommended for approval.

Environmental Health Officer

The application was referred to Council's Environmental Health Officer. The following issues have been raised:

"Acoustics"

An acoustic report has not been prepared for this LDA.

An acoustic report is to be submitted to assess how noise from use of communal spaces (especially the open communal space on the ground floor), proposed mechanical plant and construction noise will impact on the local amenity.

The report should refer to any noise that may affect the residents residing within the proposed development, including but not limited to traffic noise.

"Contamination"

No contamination report has been submitted for the purpose of this LDA.

Generally, a PSI at minimum is required to rule out potential contamination at the site. Given the site has historically been used for residential purposes and the SEE has not identified any previous uses the likelihood of contamination is low.

Taking into consideration the age of the current dwelling it is likely that hazardous materials will be encountered during demolition. As such, a hazardous materials survey will need to be prepared prior to the commencement of any demolition works."

Traffic Engineer

The following issues were raised by Council's Traffic Engineer:

- The length of the one-way internal roadway is too long. Clause 3.2.2 of AS2890.1 requires a passing bay to be provided at least every 30 metres.
- Issues raised with vehicle manoeuvring to and from the end parking space.

Waste

The application was referred to Council's Waste Officer. The following issues were raised:

“The Waste Management Plan refers to the Ongoing Operational phase of the development requiring 7 x 240L waste bins and 7 x 240L recycling bins. Based on the number of dwellings council will allocate the following number of bins:

- *4 x 240L waste bins serviced weekly and 4 x 240L recycling bins serviced fortnightly*
- *Space for 2 x 240L FO/FOGO bins is required. The collection of food organics will be mandated in 2030 as per the EPA’s WASIM Strategy. These bins will be delivered separately at a later stage.*
- *The Waste Management Plan is to be amended to reflect the above bin configurations*

The architectural plans depict a small bin area at the rear of the property.

- *The architectural plans are to be amended to show how the bin storage area will accommodate 10 x 240L bins*
- *The architectural plans are to be amended to show a suitable storage space (bulky waste room) for unwanted household items.”*

Assessing Officer comment: The architectural plans do not show how the bin storage area will accommodate 10 x 240L bins. The architectural plans do not show a suitable storage space (bulky waste room) for unwanted household items. This forms reason for refusal of the application.

EXTERNAL REFERRAL:

Ausgrid

The proposal was consideration satisfactory by Ausgrid. Conditions of consent could be imposed if the application were recommended for approval.

NSW Police

NSW Police did not raise major concerns with the proposal. Conditions of consent could be imposed if the application were recommended for approval.

12. CONCLUSION

After consideration of the development against section 4.15 of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, the proposal is not suitable for the subject site and is not in the public interest. Therefore, it is recommended that the application be refused for the following reasons:

1. The undersized allotment results in non-compliances with SEPP (Housing) 2021, the design principles of SEPP 65 Design Quality Residential Apartment Development, the Apartment Design Guide, Ryde LEP and Ryde DCP.
2. The development will result in unacceptable amenity impacts to future residents and adjoining properties.

3. The development is considered to be not suitable for the site.
4. The proposal is considered to be contrary to the public interest.

13. RECOMMENDATION

That the Ryde Local Planning Panel, as the consent authority, refuse Local Development Application LDA2022/0398 for demolition of all existing structures, construction of a 3 level boarding house with 15 boarding rooms, 3 car spaces, 2 bike spaces & 2 motorbike spaces pursuant to State Environmental Planning Policy (Housing) 2021 at 20 May Street, Eastwood, for the following reasons:

1. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development does not comply with the following provisions of the *State Environmental Planning Policy (Housing) 2021*:
 - *Clause 24(2)(e)* – Insufficient information submitted to determine if the north facing communal living area windows receive adequate solar access.
 - *Clause 24(2)(h)(i)* – The communal open space does not comply with the minimum requirement being at least 20% of the site area.
 - *Clause 25(1)(c)* – The outdoor drying area is insufficient and overshadowed throughout the day.
 - *Clause 25(1)(g)(ii)* – The site has an area of 674.4m² and does not comply with the minimum requirement being 800m².
 - *Clause 25(1)(h)(ii)* – Room 13 and Room 14 do not comply with the minimum floor area requirement being 16m².
 - *Clause 25(2)(a)(i)* – The undersized allotment results in a design that is not compatible with the desirable elements of the local built character.
 - *Clause 25(2)(c)* – The proposed building separation distances do not comply with the Apartment Design Guide.
 - *Clause 26(1)(b)* – The Plan of Management does not include details of the registered community housing provider who will manage the boarding house.
2. Pursuant to Section 4.15(1)(a)(i) of *Environmental Planning and Assessment Act 1979*, the development does not comply with the Aims of Chapter 2 of *State Environmental Planning Policy Biodiversity and Conservation 2021*. An Arboricultural Impact Assessment has not been submitted to determine the impacts to the existing trees. The *Murraya paniculata* included in the planting schedule is a weed species identified by NSW Department of Primary Industries.
3. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development does not comply with the provisions of Ryde Local Environmental Plan (RLEP 2014) in that:
 - The development contravenes Clause 25 (1)(g)(ii) of State Environmental Planning Policy (Housing) 2021 which establishes the minimum lot size development standard of 800m². The subject site

has an area of 674.4m². The Clause 4.6 written variation request fails to demonstrate compliance with the development standard is unreasonable or unnecessary or that there are sufficient environmental planning grounds to justify contravening the development standard. The proposal does not comply with Clause 4.6(3)(a) and (b).

- A Clause 4.6 has not been submitted for the following non compliances with State Environmental Planning Policy (Housing) 2021:
 - Clause 24(2)(h)(i) – area of communal open space
 - Clause 25(1)(h)(ii) – floor area of boarding room
 - Clause 25(2)(c) – building separation distances

4. Pursuant to Section 4.15(1)(a)(iii) of *Environmental Planning and Assessment Act 1979*, the development does not comply with the following provisions of *Ryde Development Control Plan 2014*:

Part 3.5 – Boarding Houses specifically:

- *Clause 1.3 – Objectives* in that the proposed development is not consistent with objectives (2), (4), (6) and (7)
- *Clause 1.6 – Relationship of this Part to other Plans and Policies* in that the proposed development has failed to address the provisions of *State Environmental Planning Policy No. 65 Residential Flat Development*, which are applicable when a boarding house is associated with residential flat building design.
- *Clause 2.0 – Location and Character* in that the proposed development is not consistent with the character of the local area.
- *Clause 2.3(f) – Size and Scale* in that the lot is undersized and provides for minimal building separation between the subject site and adjoining developments. The lot is undersized and results in impacts to the adjoining properties and future occupants.
- *Clause 2.3(g) – Parking and Traffic* in that the parking separates the landscaped communal open space area and boarding house and results in poor amenity for future occupants.
- *Clause 3.2(b) - Privacy and Amenity* as the ground floor entrance is located adjacent to two (2) windows and results in adverse impacts to Room 1 and Room 5.
- *Clause 3.2(c) and (d) - Privacy and Amenity* and *Clause 3.6(e)(ii)* as an Acoustic report has not been submitted to determine the noise impacts of the proposal. The ground floor communal space is elevated and results in overlooking impacts.

- *Clause 3.3(a) – Accessibility* as an Access report has not been submitted. An accessible path has not been provided from the street to the entrance of the boarding house.
- *Clause 3.4(a) – Waste Minimisation and Management* in that:
 - The architectural plans do not show how the bin storage area will accommodate 10 x 240L bins
- *Clause 3.6 – Internal Building Design* in that:
 - The outdoor drying area is insufficient and overshadowed throughout the day. A communal food preparation facility has not been provided. A suitable storage space (bulky waste room) for unwanted household items has not been provided. The proposal does not comply with Clause 3.6(b) and Clause 3.6(e)(v).
 - Room 13 and Room 14 do not meet the minimum floor area required by SEPP (Housing) 2021. The proposal does not comply with Clause 3.6(e)(i)
 - The kitchenettes are less than 2m² and the proposal does not comply with Clause 3.6(e)(i).
 - Electric cooktops are proposed within each kitchenette and do not comply with Clause 3.6(e)(i).
 - A communal kitchen has not been provided. The proposal does not comply with Clause 3.6(e)(iii).
 - There is no Manager's office provided. A proper reception area or foyer is not provided for visitors to report, deliveries or new occupants. The proposal does not comply with Clause 3.6(e)(vi).
- *Clause 4.2(a) to(b) – Management Controls* in that:
 - Details of the registered community housing provider who will manage the boarding house have not been provided within the Plan of Management

Part 9.3 – Parking Controls specifically:

- *Clause 1.1 – Objectives of this part* in that:
 - The proposed vehicle access to the development is via a 3.05 metre wide single lane driveway with a length of over 30 metres long and lacks any waiting / overtaking bays. Vehicle manoeuvring to and from the end parking space is inadequate. The proposal does not comply with Objective (1) of Section 1.1.
- *Clause 3.2(a) – Design of parking areas* in that:

- The development does not comply with AS 2890.1 Section 2.4.5 in regards to the minimum motorcycle space width of 1.2m. The proposed tandem motorcycle space configuration would be impractical given the forward most space could not be exited when the alternate space is occupied. The proposal does not comply with Control 3.2(a).

5. Insufficient information has been provided in relation to the documentation provided.

The following information has not been submitted:

- Arboricultural Impact Assessment
 - Acoustic Report
 - Access Report
 - A Hazardous Materials Survey
6. Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the likely impacts are deemed to be unacceptable.
7. Pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the proposal is not suitable for the site.
8. Pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, the development is contrary to the public interest.

ATTACHMENTS

- 1 Architectural Plans – subject to copyright provisions
- 2 Clause 4.6 written variation (minimum lot size)
- 3 Plan of Management

Report prepared by:

Niroshini Stephen
Senior Town Planner

Report approved by:

Sohail Faridy
Senior Coordinator Development Assessment

Sandra Bailey
Executive Manager City Development

DEVELOPMENT APPLICATION

A 00	A	Cover Page
A 01	A	Site Plan
A 11	A	Ground Floor Plan
A 12	A	First Floor Plan
A 13	A	Second Floor Plan
A 21	A	South Elevation
A 22	A	East Elevation
A 23	A	North Elevation
A 24	A	West Elevation
A 31	A	Section A-1
A 32	A	Section A-2
A 33	A	Section B
A 41	A	Typical Detail - Boarding Room
A 42	A	Typical Detail - Boarding Ensuite
A 71	A	Site Analysis
A 72	A	Streetscape Analysis
A 73	A	Streetscape Analysis
A 74	A	Demolition Plan
A 75	A	GFA Calculations
A 76	A	Site Coverage Calculation
A 77	A	Common Open Space Calculation
A 78	A	Deep Soil Calculation
A 79	A	Landscape Calculation
A 81	A	March Shadow Diagrams
A 82	A	June Shadow Diagrams
A 83	A	December Shadow Diagrams
A 91	A	Material and Finishes Schedule
A 92	A	Material and Finishes Schedule
A 93	A	Material and Finishes Schedule
A 94	A	Material and Finishes Schedule

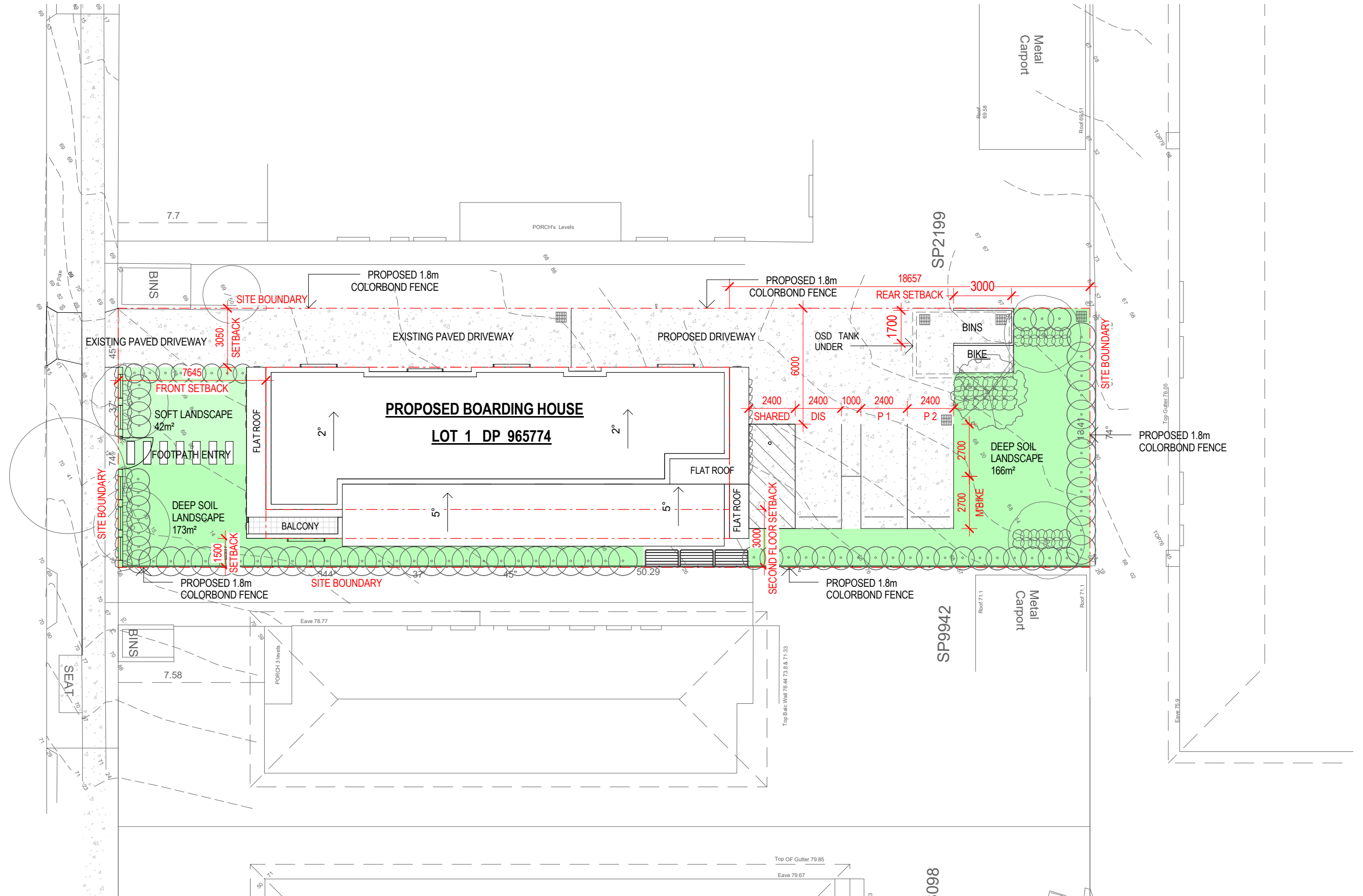


DEVELOPMENT SUMMARY

Lot 1 DP 695774	
SITE AREA	674.47m²
Land Zone	R4
No. of Room	15 with Ensuite
No. of Residents	MAX 1 person per room
NO. of Carpark	3 Car 2 Motorbike
GROUND FLOOR SETBACK	
Front Setback (7.7 + 7.58) / 2	7.64m
West Side Setback	3.05m
East Side Setback	1.5m
Rear Setback	18.34m
FIRST FLOOR SETBACK	
Front Setback	7.64m
West Side Setback	3.05m
East Side Setback	1.5m
Rear Setback	Over 20m
SECOND FLOOR SETBACK	
Front Setback	7.64m
West Side Setback	3.05m
East Side Setback	3m
Rear Setback	Over 20m
SITE COVERAGE	230.30m²
DEEP SOIL AREA	211.13m²
LANDSCAPE AREA	221.76m²
COMMON OPEN SPACE	149.00m²
GFA	
Ground Floor Area	173.95m²
First Floor Area	138.41m²
Second Floor Area	120.73m²
TOTAL GFA	304.2m²

Issue for DA

MAY STREET



1

Site Plan

1 : 200

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1
2
3
A
Issue

CDC Boarding House
DA Rev Boarding House
DA Boarding House
Issue for DA

Description

RG 22.08.22
RG 22.09.15
RG 22.11.03
CJ 22.11.10
By Date

Proposed Boarding House
20 May St EASTWOOD 2122
Client: Sam Mei

Proj No.
202013

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Suite 208/ 80 William Street Woolloomooloo NSW 2011
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t: 0431 877 765

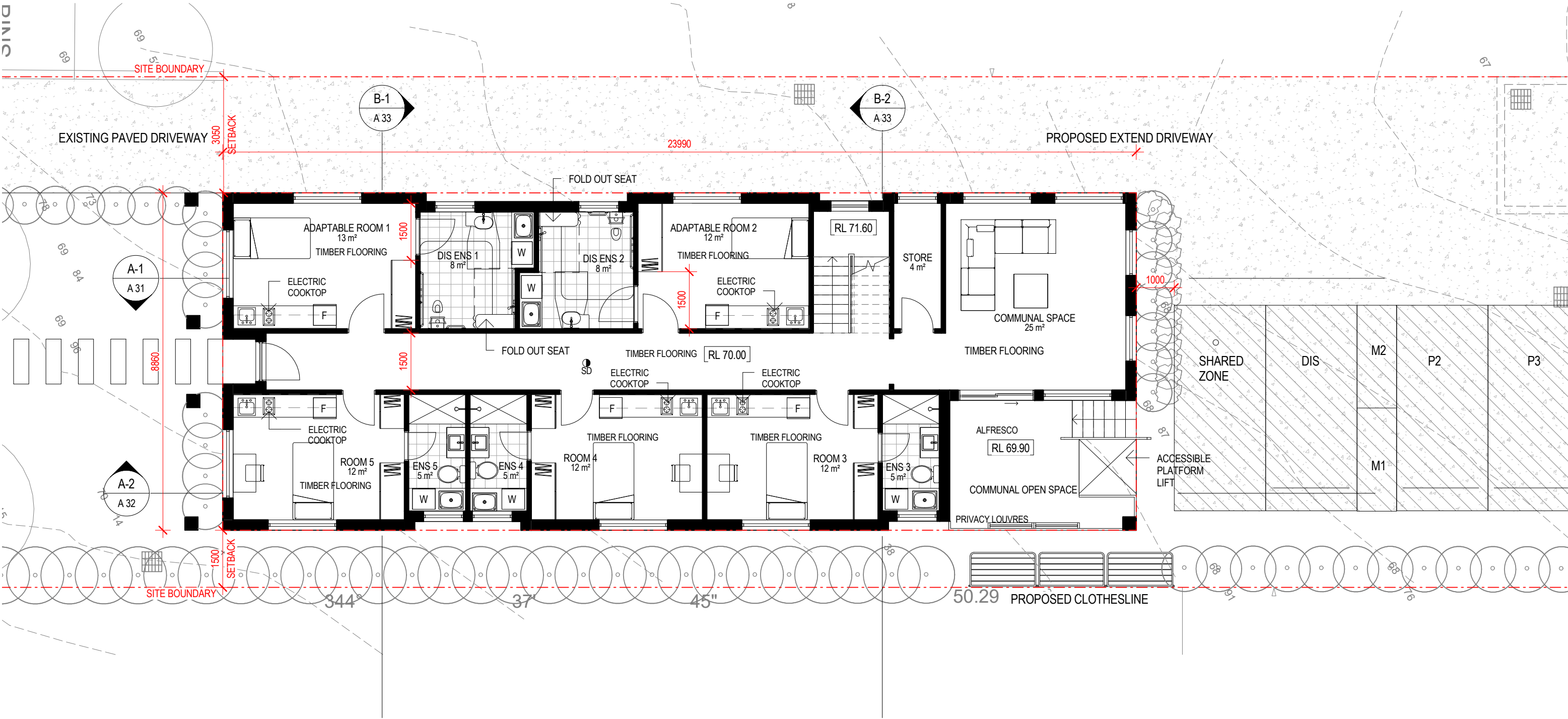
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Drawing Title
Site Plan

Drawing No
A 01

Issue for DA

Scale
1 : 200@A3

Issue
A



1 Ground Floor

1 : 100

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3	DA Boarding House	RG	22.11.03
A	Issue for DA	CJ	22.11.10

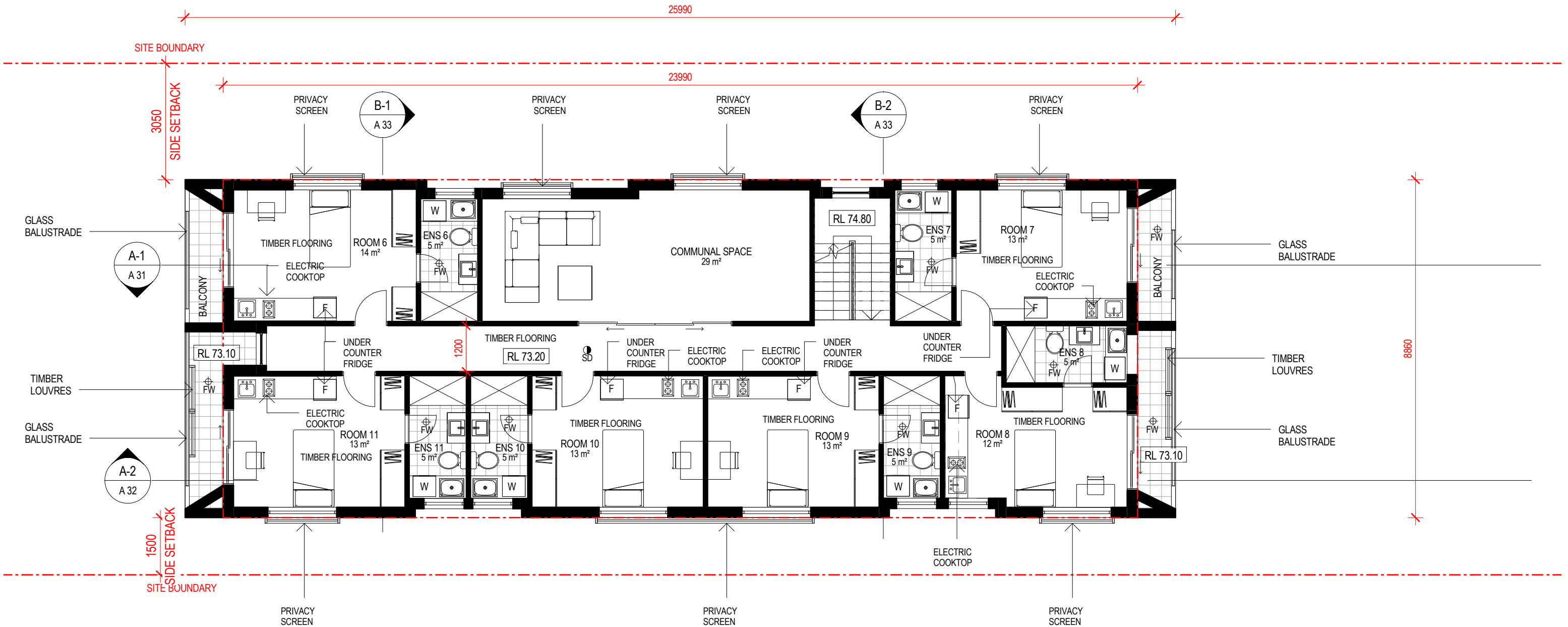
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Drawing Title
Ground Floor Plan
Drawing No
A 11
Scale
1 : 100@A3
Issue
A



2 First Level
1 : 100

Issue for DA

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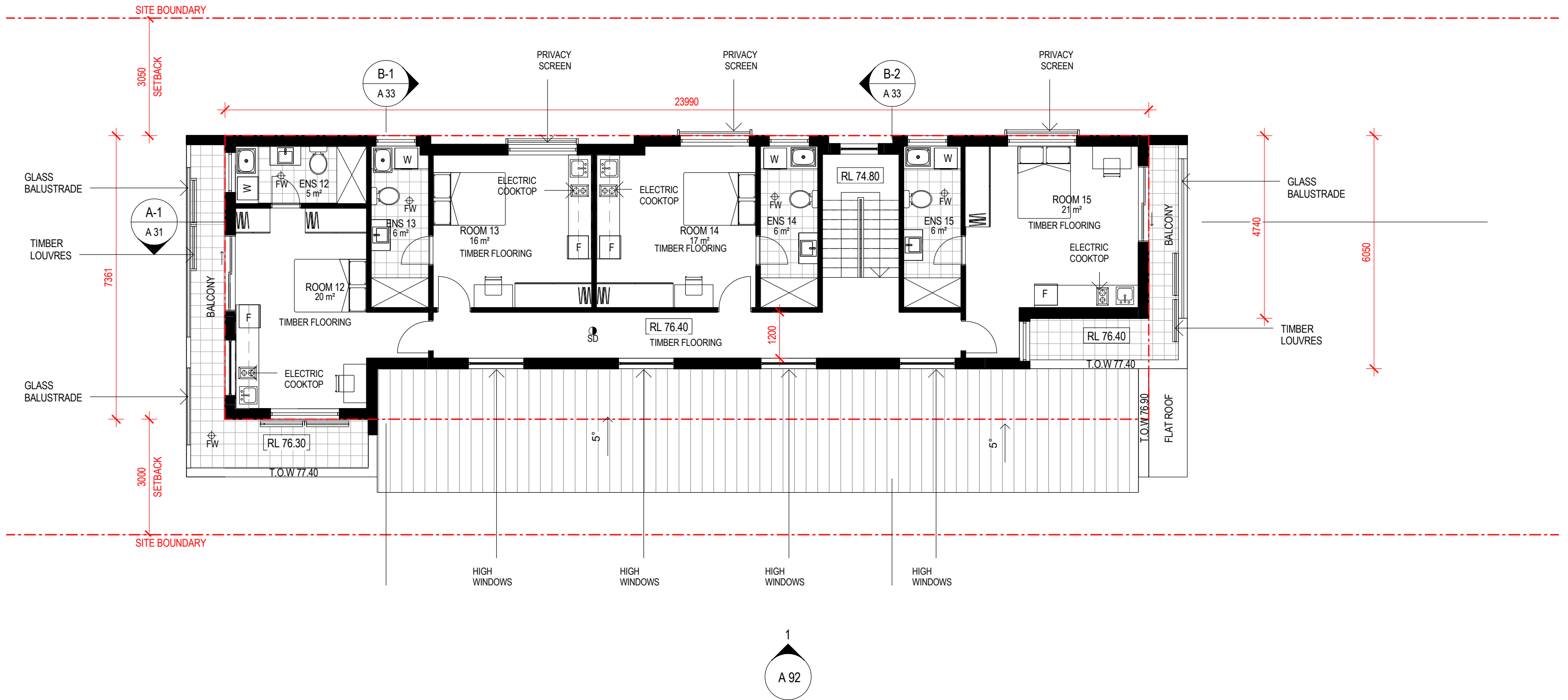
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Drawing Title
First Floor Plan

Drawing No
A 12

Scale
1 : 100@A3

Issue
A



3 Second Level 1:100

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Drawing Title
Second Floor Plan
Drawing No
A 13
Scale
1:100@A3
Issue
A



Section J Notes :

*Refer to Section J Report for Full Statement of Compliance

Climate Zone	CZ 5
Class	3
Display glazing?	No
Help note	2

Exposure	Wall R-value	Window		Description
		U-Value	SHGC	
N	1.40	5.6	0.44	Single Glazed Low E Neutral/Tinted or the like
E	1.40	5.6	0.44	Single Glazed Low E Neutral/Tinted or the like
S	1.40	5.6	0.44	Single Glazed Low E Neutral/Tinted or the like
W	1.40	5.6	0.44	Single Glazed Low E Neutral/Tinted or the like

1 South East

1 : 100

Issue for DA

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Proposed Boarding House

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Suite 208/ 80 William Street Woolloomooloo NSW 2011
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Drawing Title
South Elevation

Drawing No
A 21

Scale
1 : 100@A3

Issue
A

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Section J Notes :

*Refer to Section J Report for Full Statement of Compliance

Climate Zone	CZ 5
Class	3
Display glazing?	No
Help note	2

Exposure	Wall R-value	Window		Description
		U-Value	SHGC	
N	1.40	5.6	0.44	Single Glazed Low E Neutral/Tinted or the like
E	1.40	5.6	0.44	Single Glazed Low E Neutral/Tinted or the like
S	1.40	5.6	0.44	Single Glazed Low E Neutral/Tinted or the like
W	1.40	5.6	0.44	Single Glazed Low E Neutral/Tinted or the like

2 North East

1 : 100

Issue for DA

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	2	DA Rev Boarding House	RG	22.09.15
	3	DA Boarding House	RG	22.11.03
	A	Issue for DA	CJ	22.11.10
	Issue	Description	By	Date

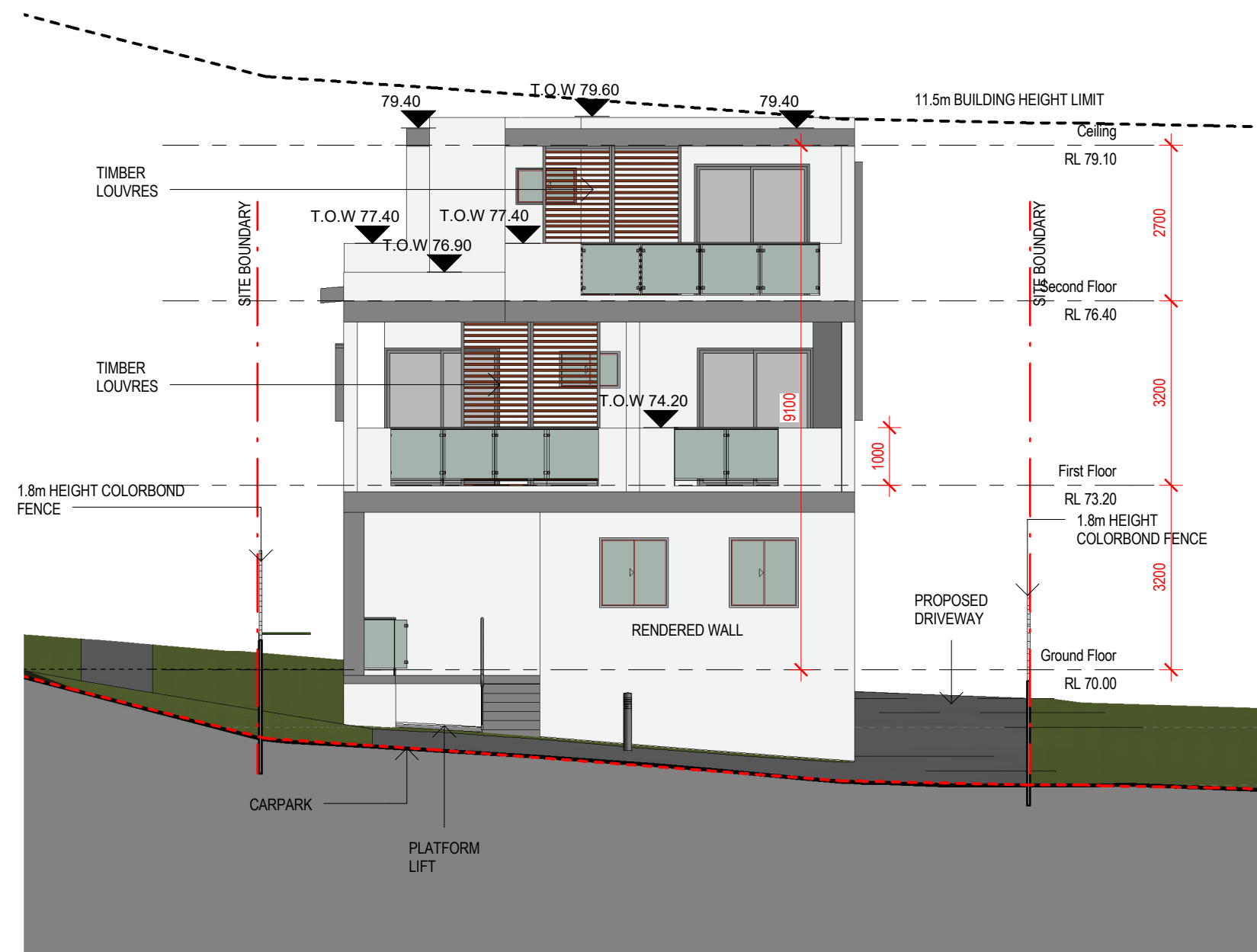
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Client: Sam Mei

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Check by: CJ
Drawing Title
East Elevation
Drawing No
A 22
Issue
A
Scale
1 : 100@A3



Section J Notes :

*Refer to Section J Report for Full Statement of Compliance

Climate Zone	CZ 5
Class	3
Display glazing?	No
Help note	2

Exposure	Wall R-value	Window		Description
		U-Value	SHGC	
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E	1.40	5.6	0.44	Single Glazed Low E Neutral/Tinted or the like
S	1.40	5.6	0.44	Single Glazed Low E Neutral/Tinted or the like
W	1.40	5.6	0.44	Single Glazed Low E Neutral/Tinted or the like

3 North West

1 : 100

Issue for DA

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Issue	Description	By	Date

Proposed Boarding House

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Drawing Title
North Elevation

Drawing No
A 23

Scale
1 : 100@A3

Issue
A

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Section J Notes :

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Climate Zone	CZ 5
Class	3
Display glazing?	No
Help note	2

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		U-Value	SHGC	
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W	1.40	5.6	0.44	Single Glazed Low E Neutral/Tinted or the like

4 South West

1:100

Issue for DA

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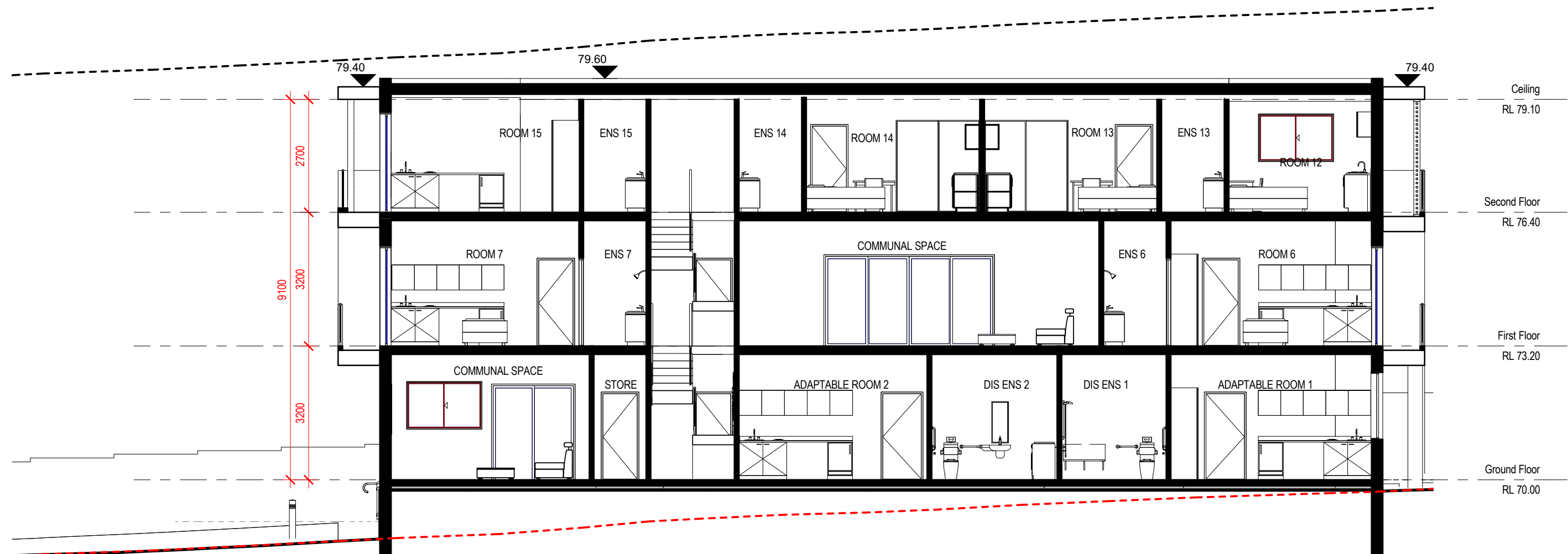
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Drawing Title
West Elevation

Drawing No
A 24

Scale
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Issue
A

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A-1 Section A-1

1 : 100

Issue for DA

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Proposed Boarding House
20 May St EASTWOOD 2122
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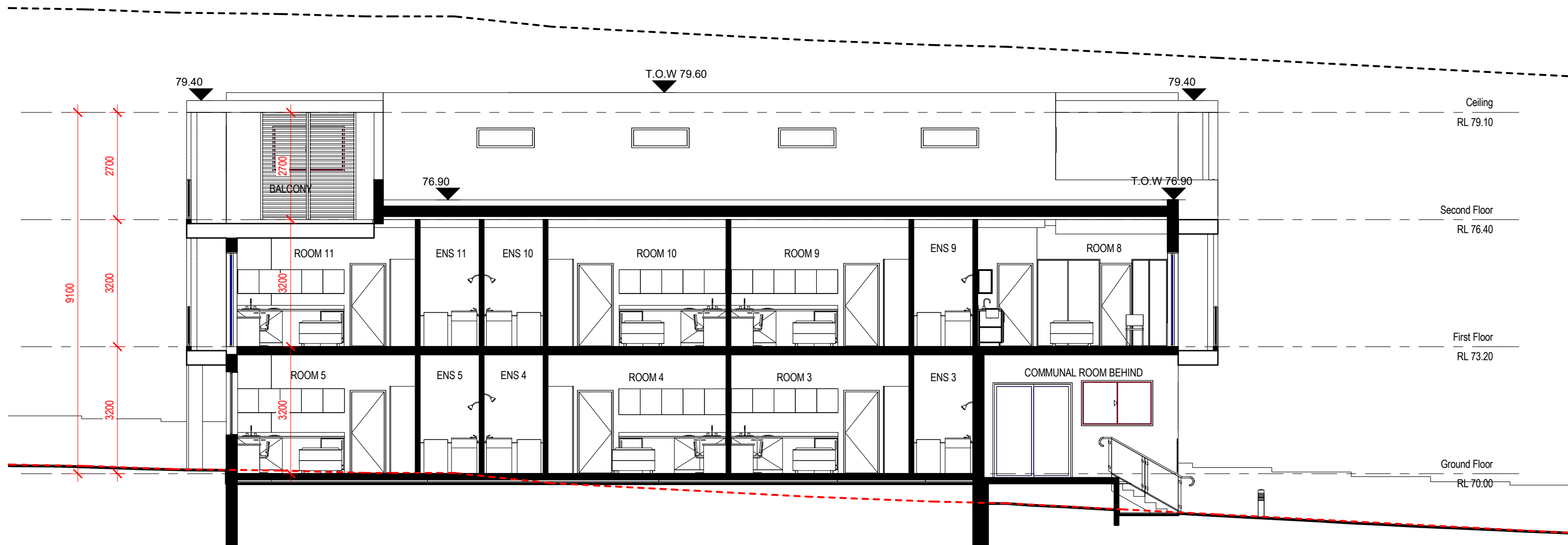
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Drawing Title
Section A-1
Drawing No
A 31

Scale
1 : 100@A3
Issue
A



A-2

Section A-2

1 : 100

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Drawn by: RG

Check by: CJ

Drawing Title

Section A-2

Drawing No

A 32

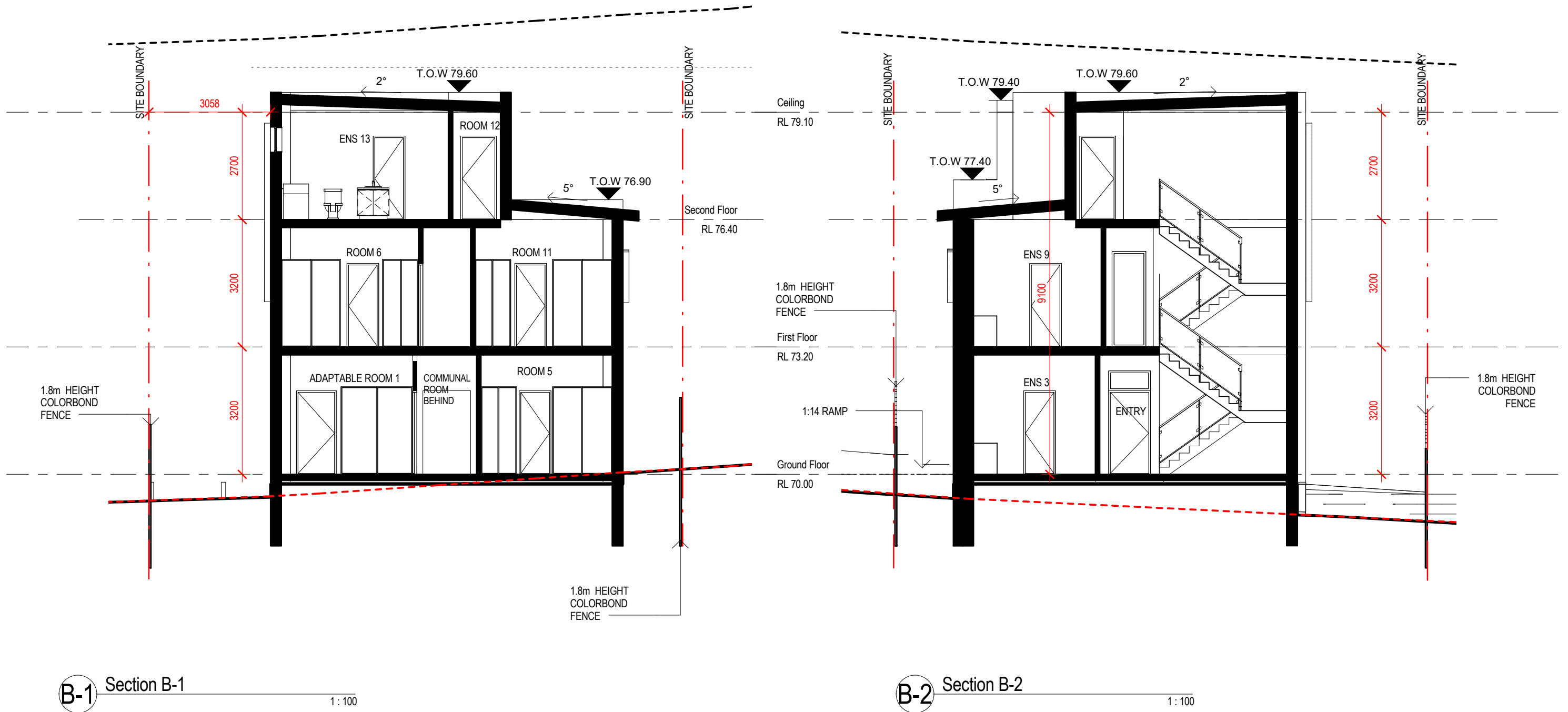
Issue for DA

Scale

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Issue

A



B-1 Section B-1 1 : 100

B-2 Section B-2 1 : 100

Issue for DA

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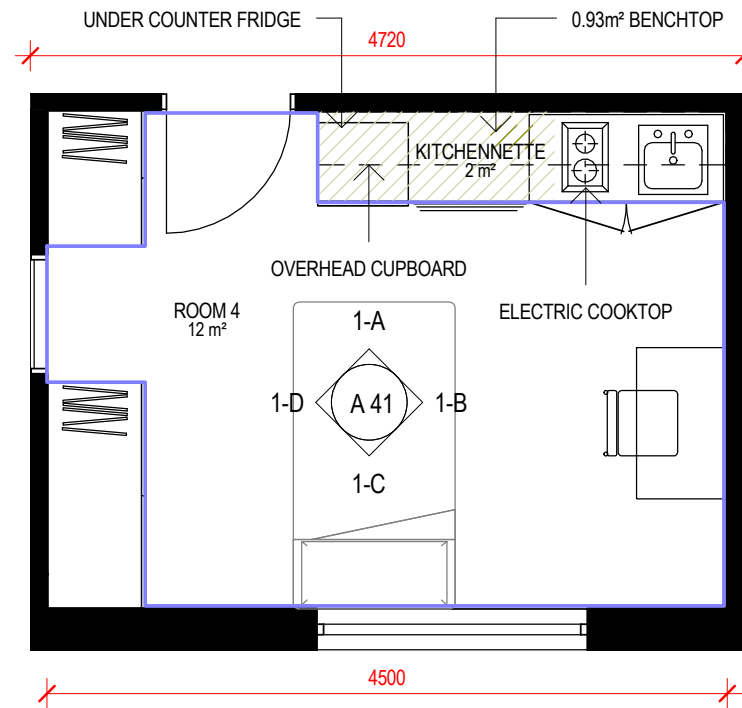
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Check by: CJ
Drawing Title
Section B

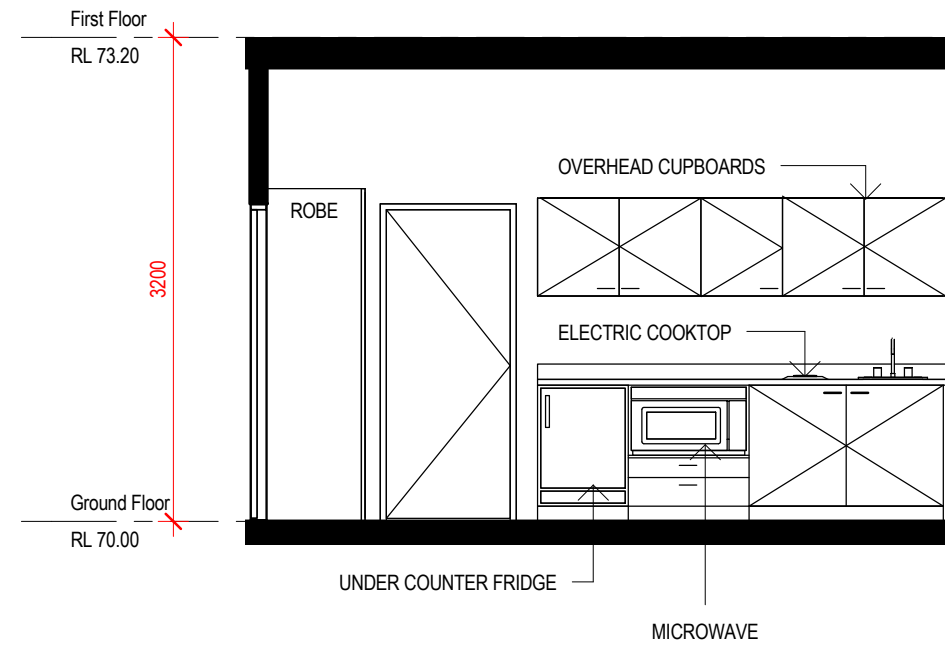
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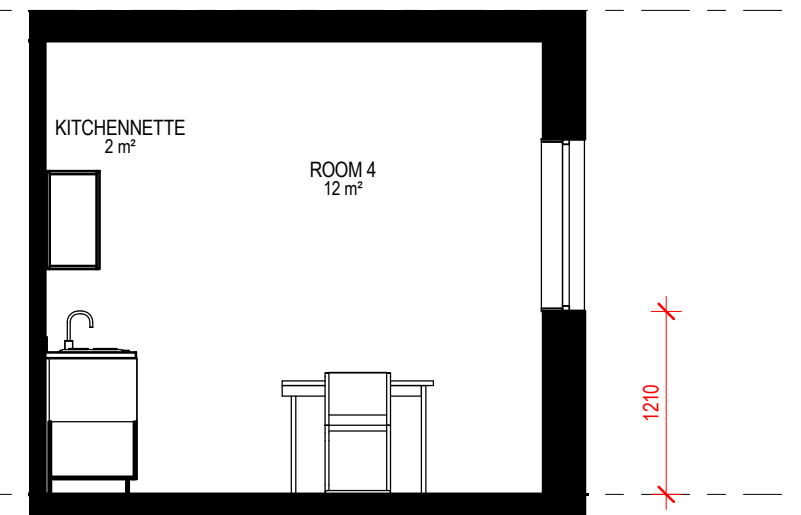
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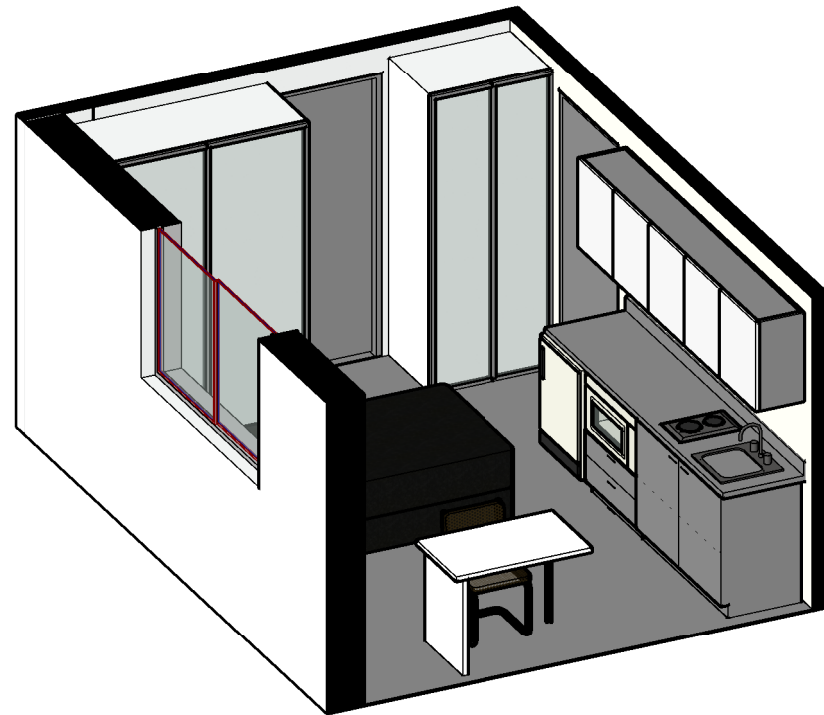
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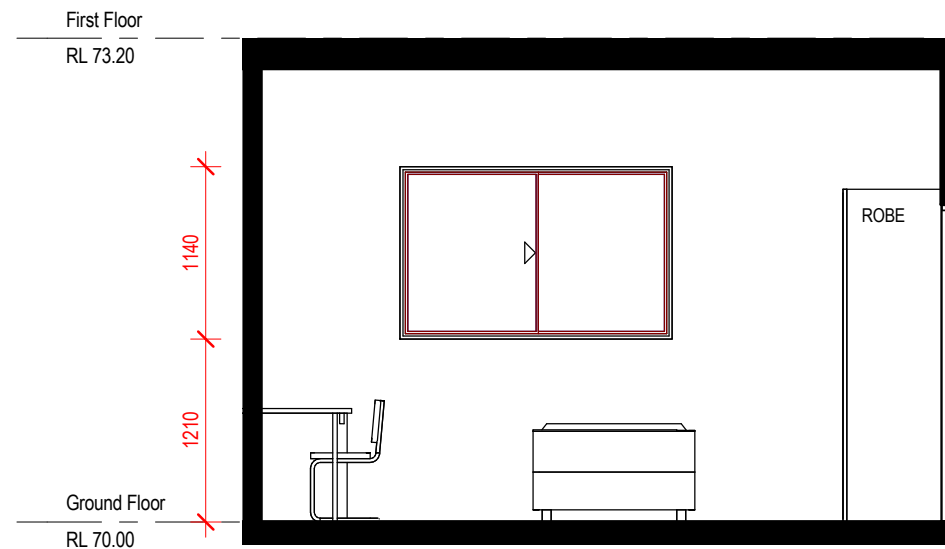
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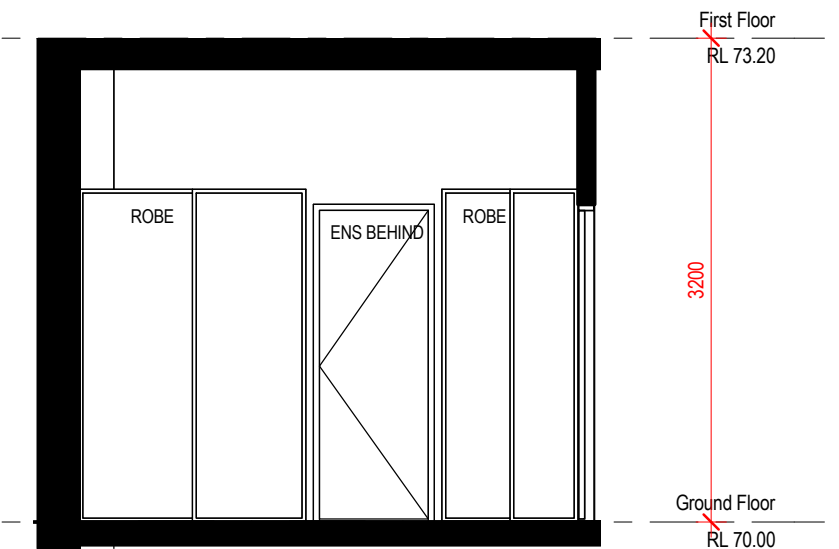
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2 3D Room Perspective



1-C Elevation 1 - C 1:50



1-D Elevation 1 - D 1:50

Issue for DA

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A	Issue for DA	CJ	22.11.10

Proposed Boarding House
20 May St EASTWOOD 2122
Client: Sam Mei

Proj No.
202013

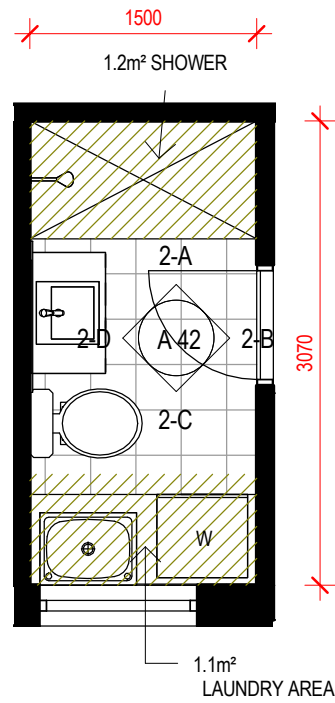
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Drawn by: RG
Check by: CJ
Drawing Title
Typical Detail - Boarding Room

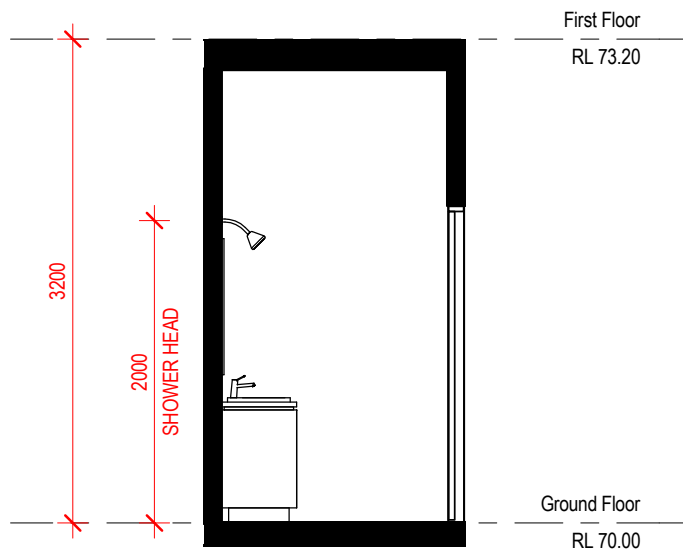
Drawing No
A 41

Scale
1 : 50@A3

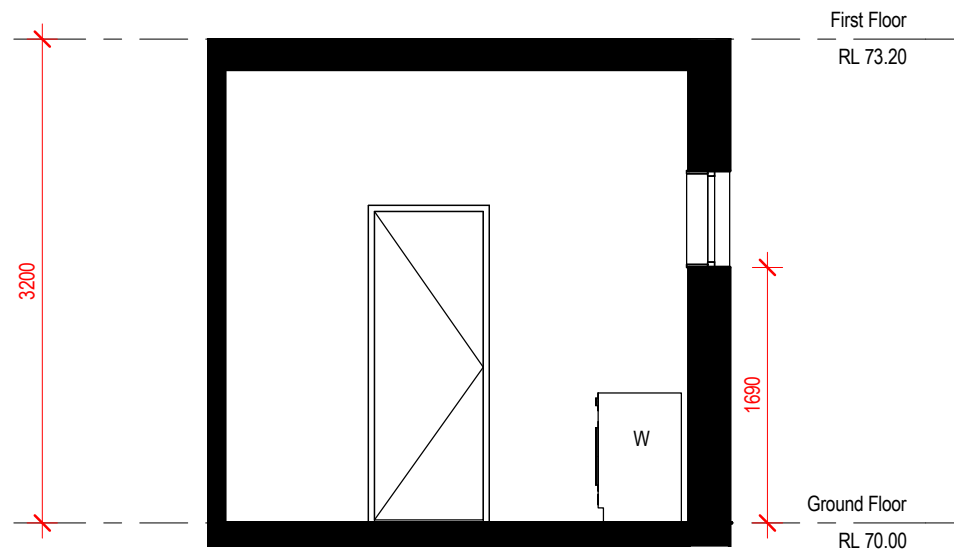
Issue
A



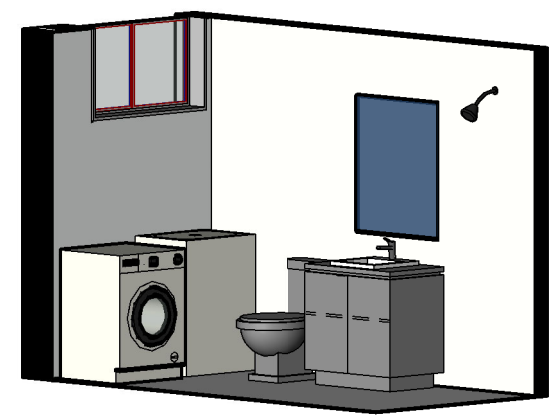
1 Boarding Ensuite Plan 1 : 50



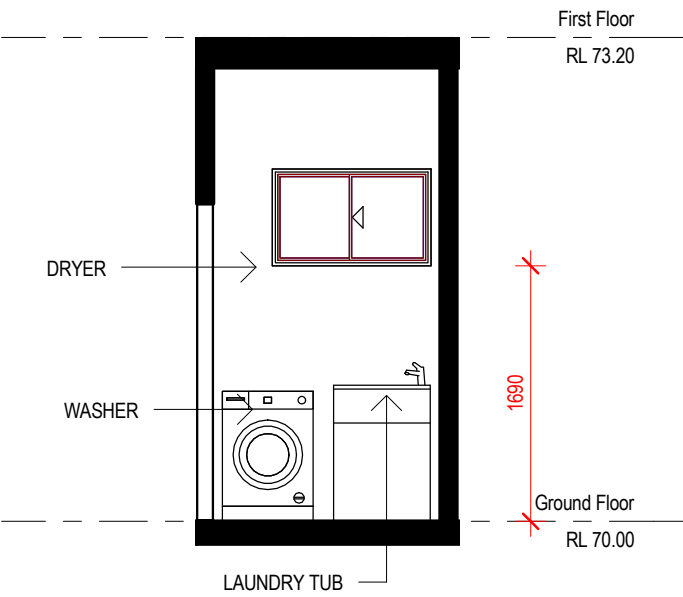
2-A Elevation 2 - A 1 : 50



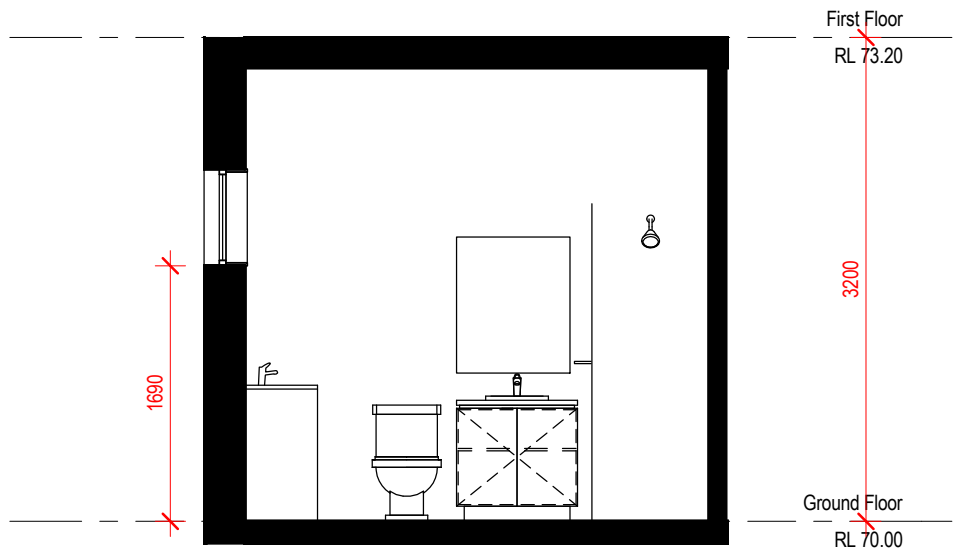
2-B Elevation 2 - B 1 : 50



2 3D Perspective - Ensuite

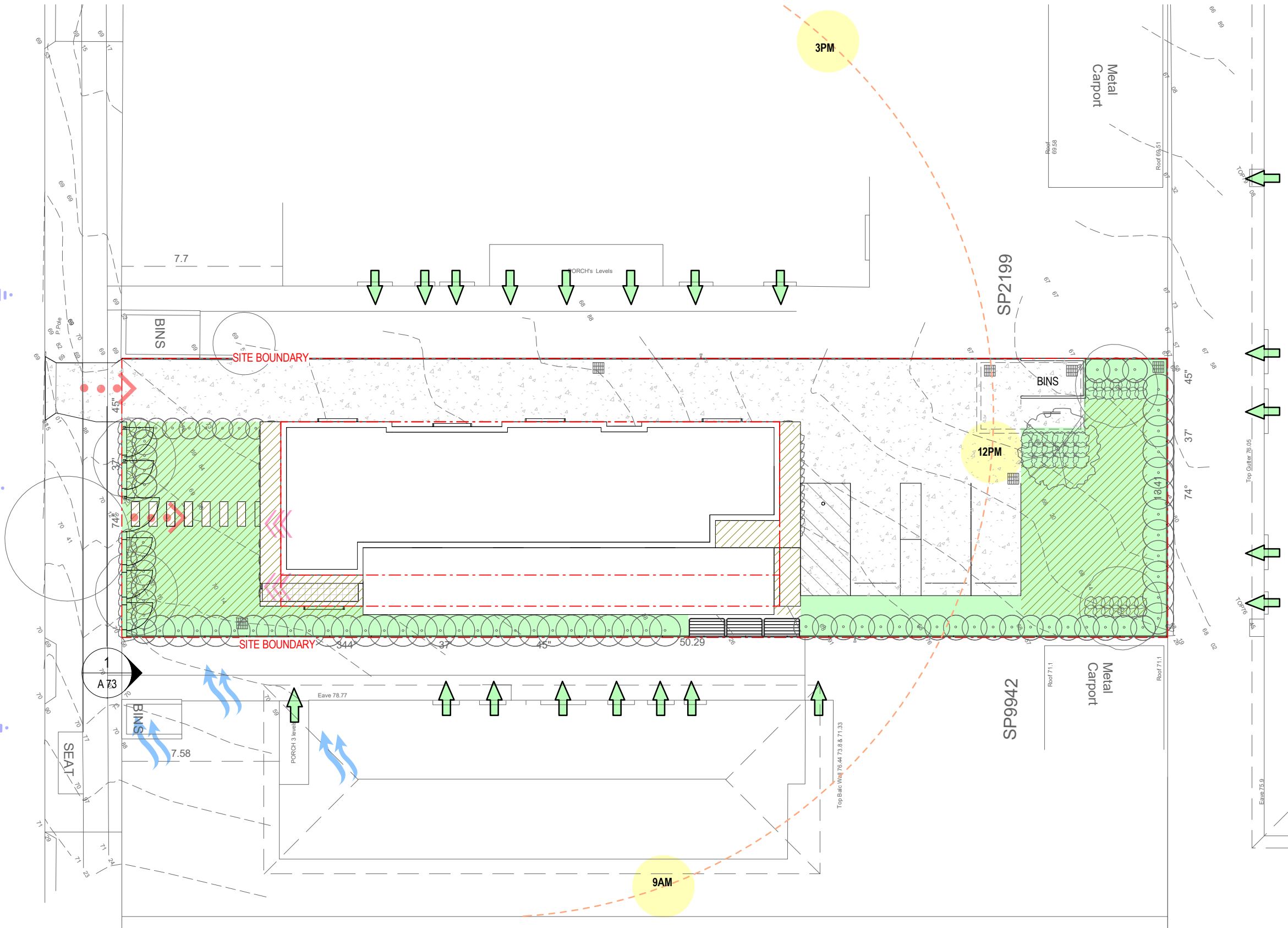


2-C Elevation 2 - C 1 : 50



2-D Elevation 2 - D 1 : 50

MAY STREET



- LEGEND
- SITE BOUNDARY
 - PEDESTRIAN ACCESS
 - PREVAILING WINDS
 - SUN PATH
 - TRAFFIC NOISE
 - VIEWS
 - PRIVACY OVERLOOKING
 - PRIVATE OPEN SPACE
 - LAND FALL RUN OFF
 - LANDSCAPE AREA 196.01m²

1 Site Plan Analysis

1 : 200

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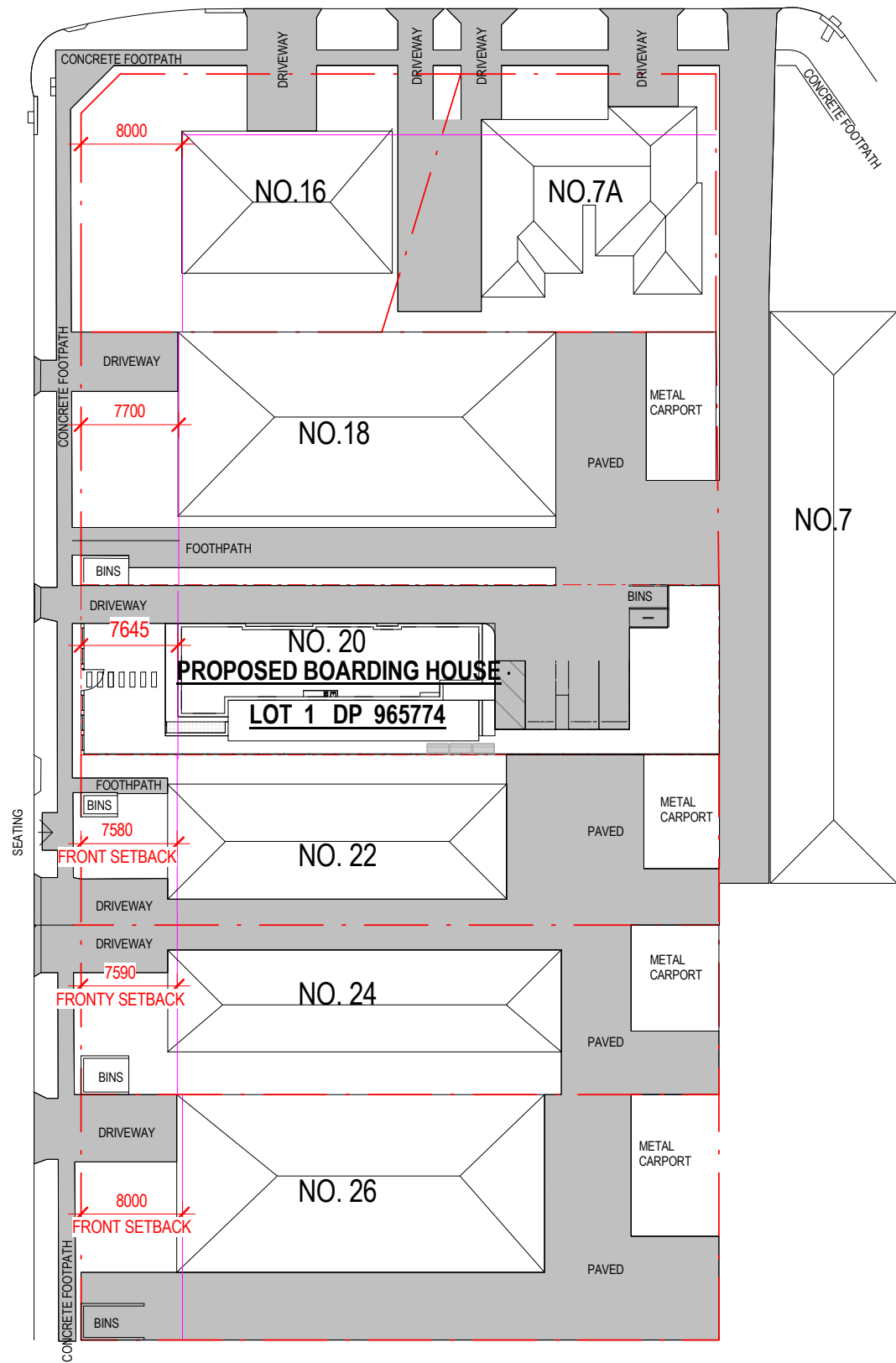
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Drawn by: RG
Check by: CJ
Drawing Title
Site Analysis
Drawing No
A 71
Scale
1:200@A3
Issue
A

Issue for DA

BALL AVENUE

MAY STREET



1 Site Plan with Neighbours

1 : 500

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Drawn by: RG
Check by: CJ
Drawing Title

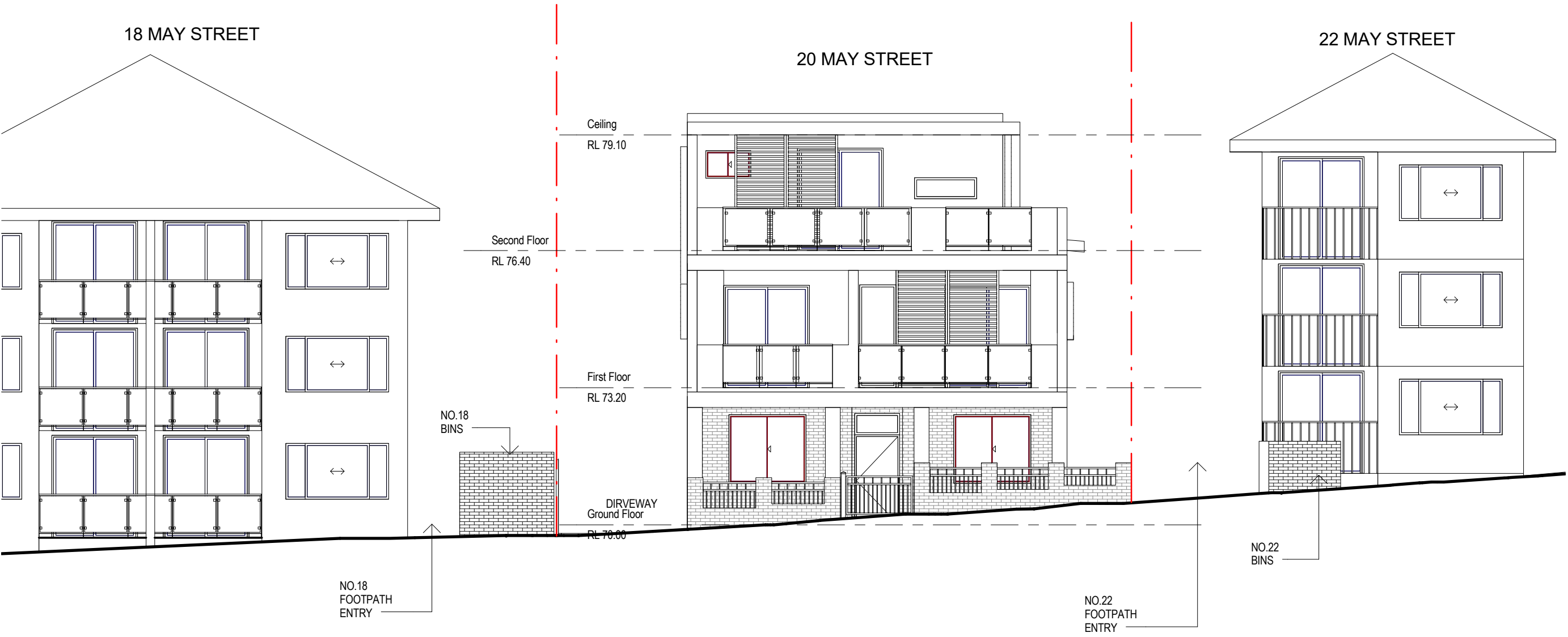
Streetscape Analysis

Drawing No
A 72

Issue for DA

Scale
N.T.S

Issue
A



1 Streetscape View - MAY STREET
1 : 100

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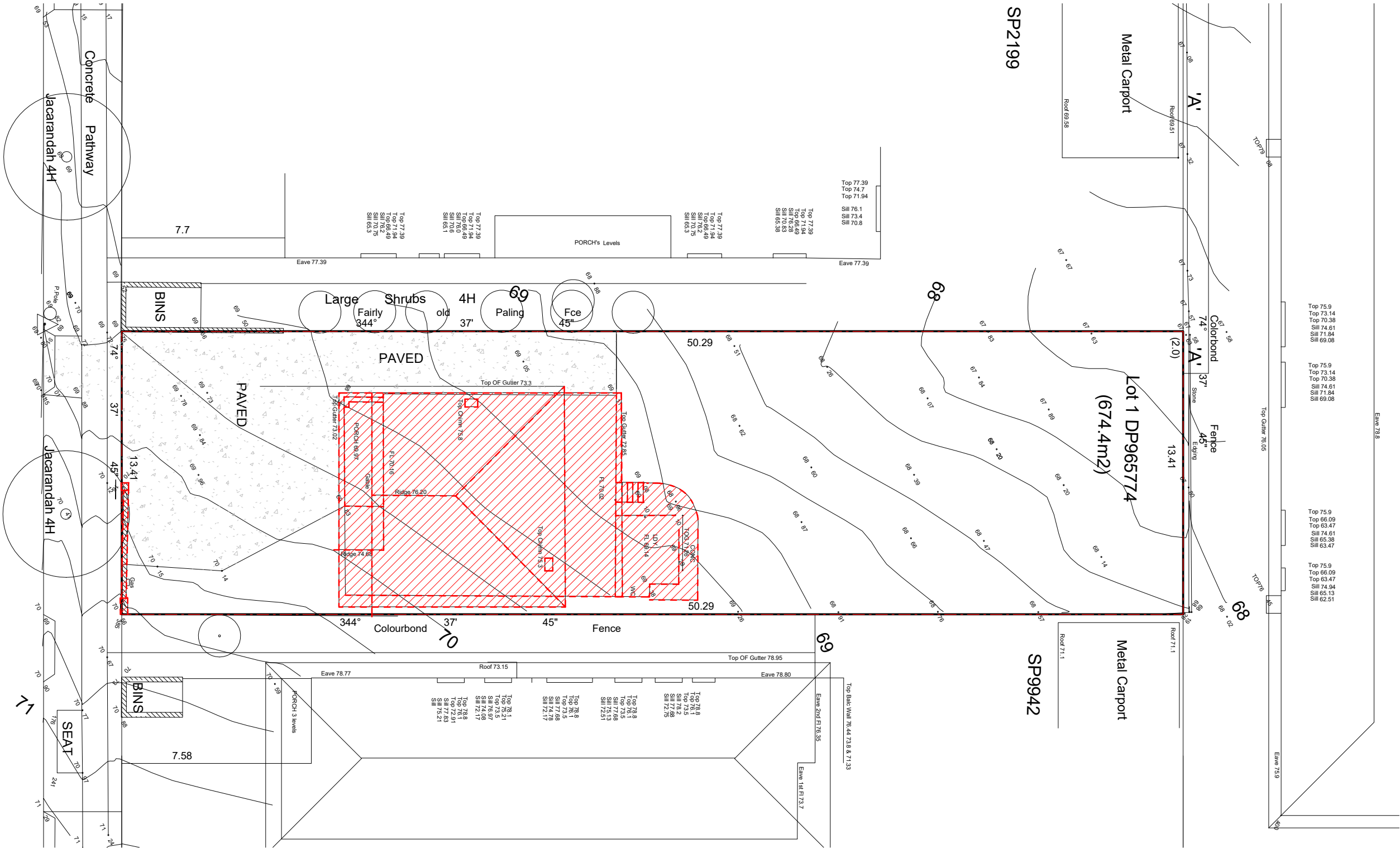
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Check by: CJ
Drawing Title
Streetscape Analysis
Drawing No
A 73
Scale
1 : 100@A3
Issue
A

Issue for DA



1 Existing Site - Demolition Plan
1 : 200

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Proposed Boarding House
20 May St EASTWOOD 2122
Client: Sam Mei

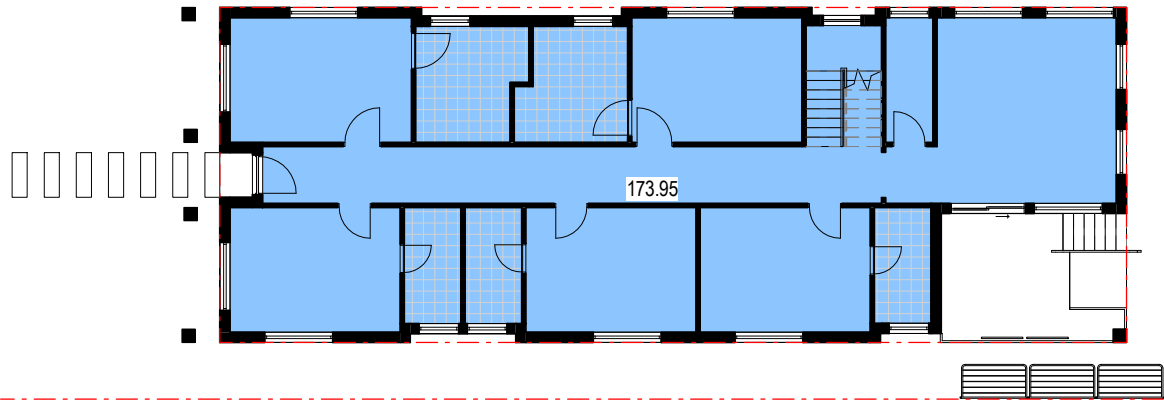
Proj No.
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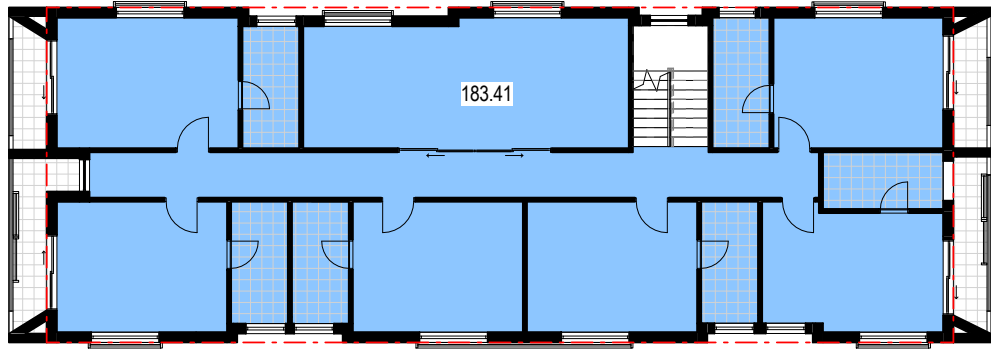
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Drawn by: RG
Check by: CJ
Drawing Title
Demolition Plan
Drawing No
A 74
Issue
A
Scale
1 : 200@A3

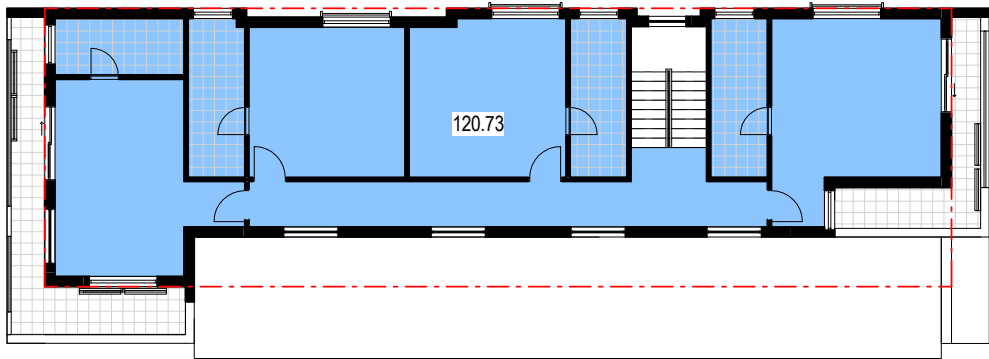
Issue for DA



1 Ground Floor GFA 1 : 200



2 First Level GFA 1 : 200



3 Second Level GFA 1 : 200

GFA	
Ground Floor Area	173.95m ²
First Floor Area	183.41m ²
Second Floor Area	120.73m ²
TOTAL GFA	304.2m²

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A		CJ	22.11.10
Issue		By	Date
Issue for DA		Description	

Proposed Boarding House
20 May St EASTWOOD 2122
Client: Sam Mei

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Issue for DA

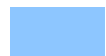
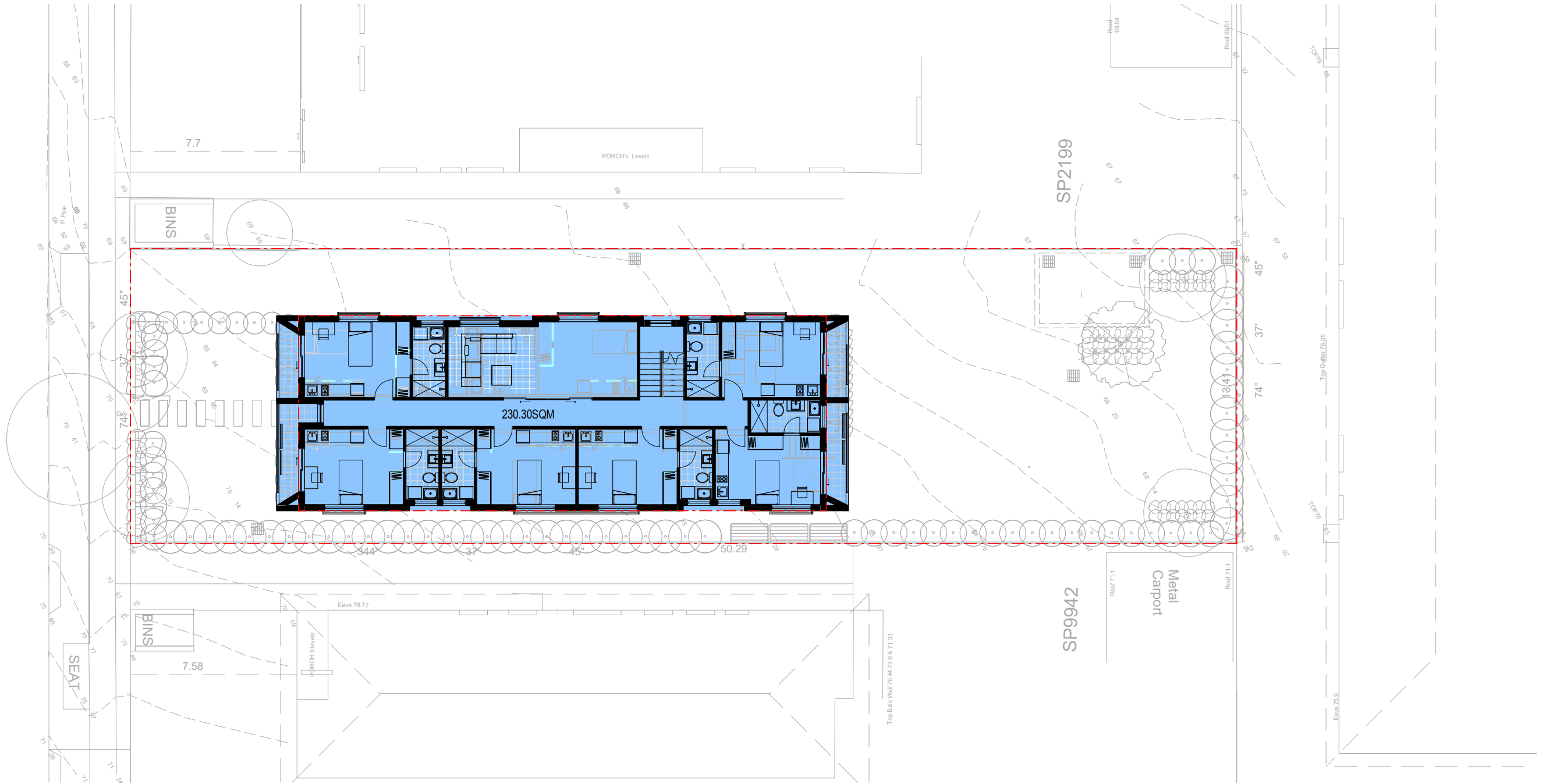
Drawn by: RG
Check by: CJ
Drawing Title
GFA Calculations

Drawing No
A 75

Scale
1 : 200@A3

Issue
A

MAY STREET



SITE COVERAGE

230.30m²

1 Site Coverage Calculation

1 : 200

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Proj No.
202013

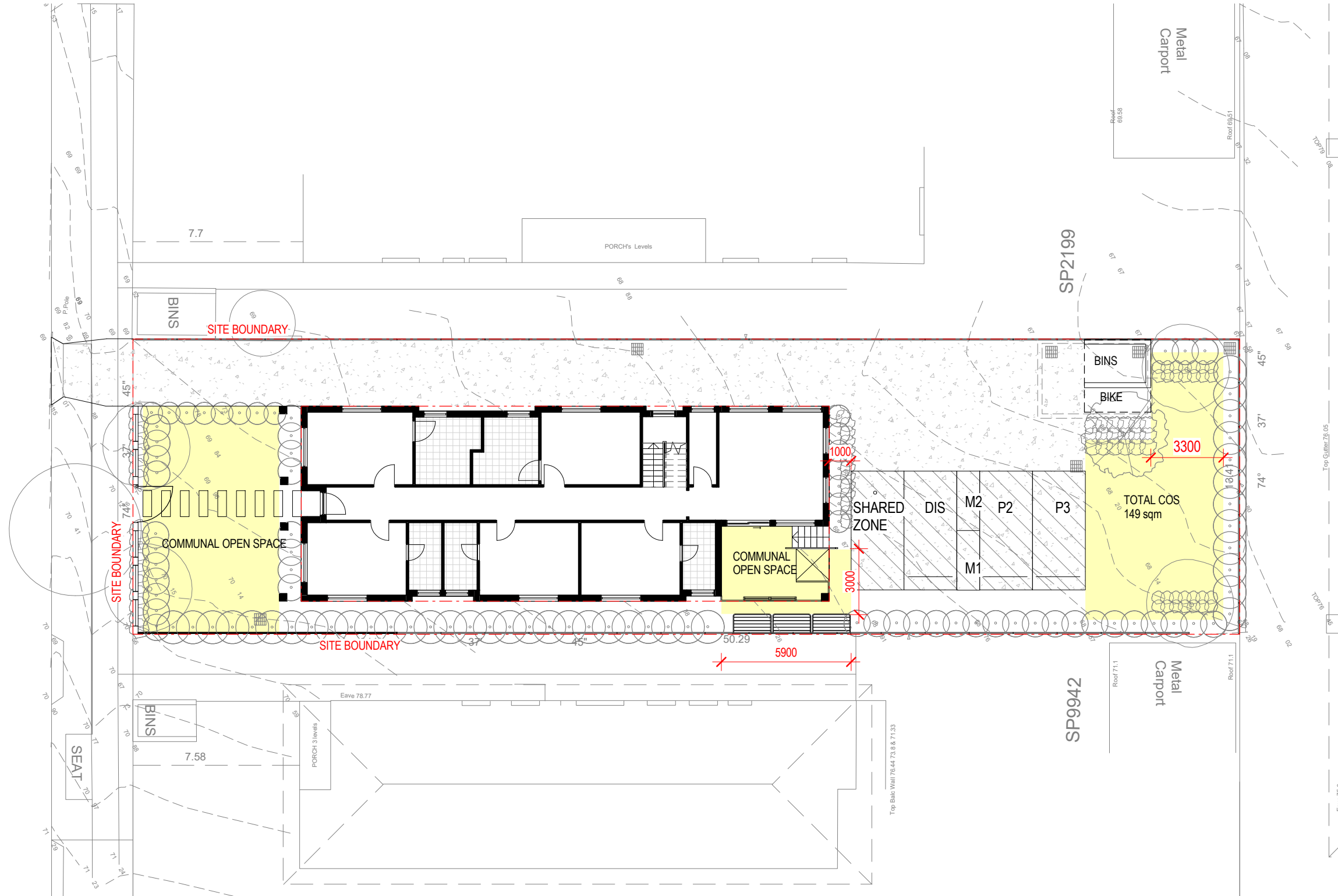
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Drawn by: CJ
Check by: CJ
Drawing Title
Site Coverage Calculation
Drawing No
A 76
Scale
1 : 200@A3
Issue
A

Issue for DA

MAY STREET



COMMON OPEN SPACE

149.00m²

1

COS Calculation

1:200

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1

CDC Boarding House

RG

22.08.22

2

DA Rev Boarding House

RG

22.09.15

3

DA Boarding House

RG

22.11.03

A

Issue for DA

CJ

22.11.10

Issue

Description

By

Date

Proposed Boarding House

20 May St EASTWOOD 2122

Client: Sam Mei

Proj No.

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Drawn by: CJ

Check by: CJ

Drawing Title

Common Open Space
Calculation

Drawing No

A 77

Scale

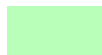
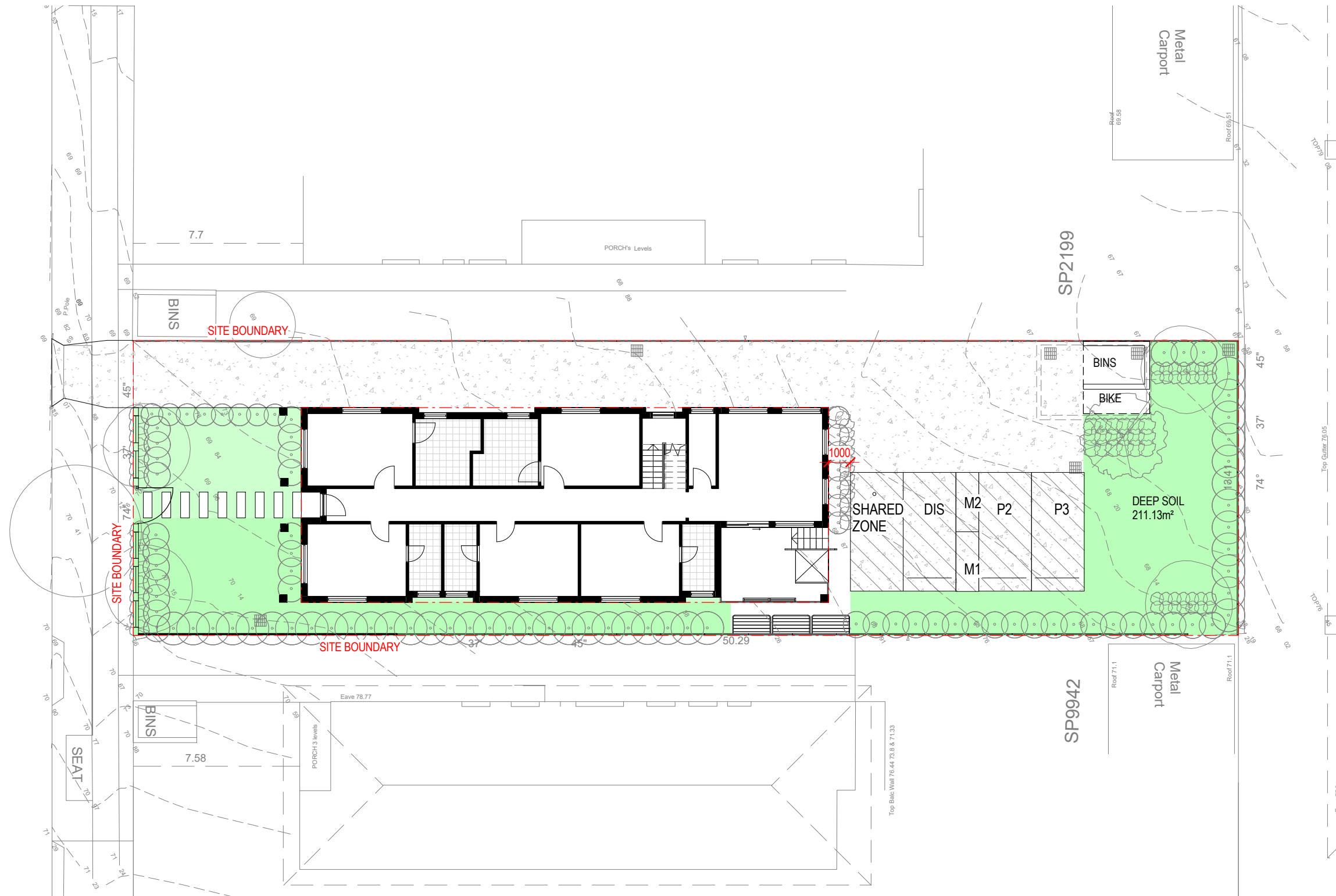
1 : 200@A3

Issue

A

Issue for DA

MAY STREET



DEEP SOIL CALCULATION

211.13m²

1

Deep Soil Calculation

1 : 200

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1

CDC Boarding House

RG

22.08.22

2

DA Rev Boarding House

RG

22.09.15

3

DA Boarding House

RG

22.11.03

A

Issue for DA

CJ

22.11.10

Issue

Description

By

Date

Proposed Boarding House
20 May St EASTWOOD 2122
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Drawing Title

Deep Soil Calculation

Drawing No

A 78

Scale

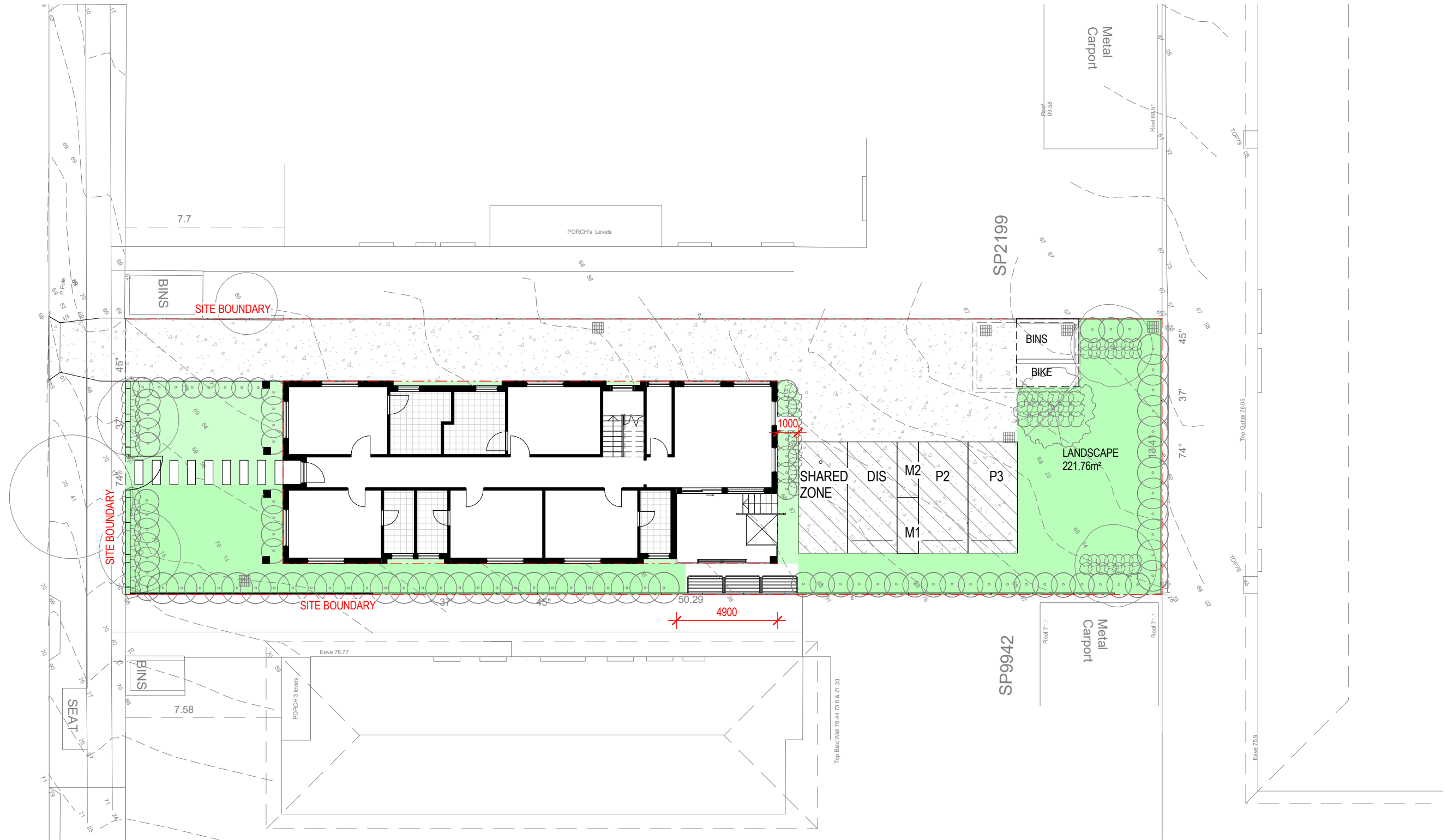
1 : 200@A3

Issue

A

Issue for DA

MAY STREET



LANDSCAPE CALCULATION 221.76m²

1 Landscape Calculation

1 : 200

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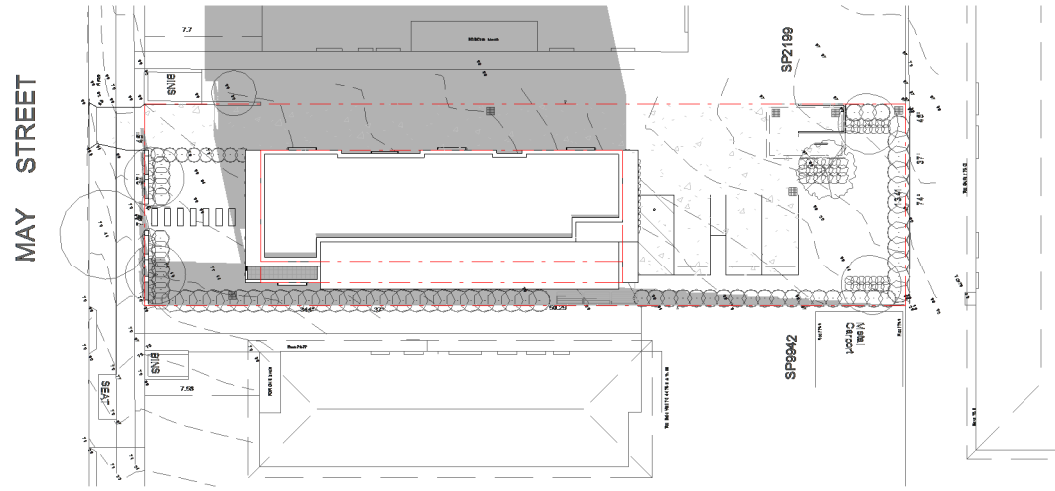
Proposed Boarding House
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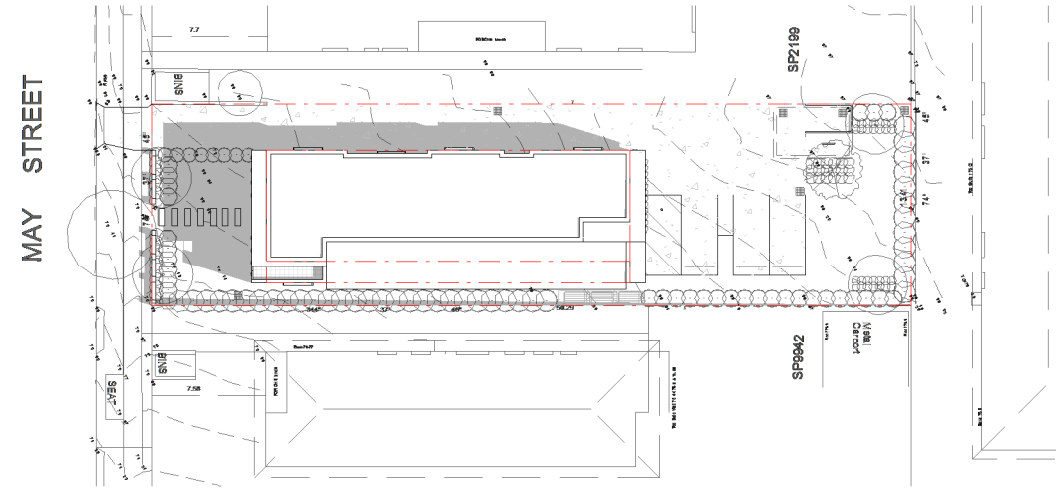
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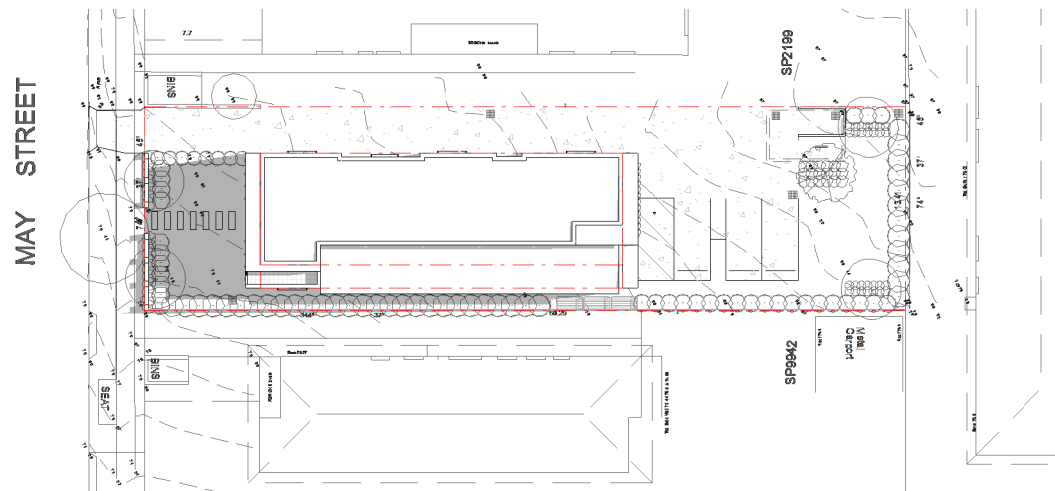
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Check by: CJ
Drawing Title
Landscape Calculation
Drawing No
A 79
Issue
A
Scale
1 : 200@A3
Issue for DA



1 March 21st - 9am 1 : 500



2 March 21st - 12pm 1 : 500



3 March 21st - 3pm 1 : 500

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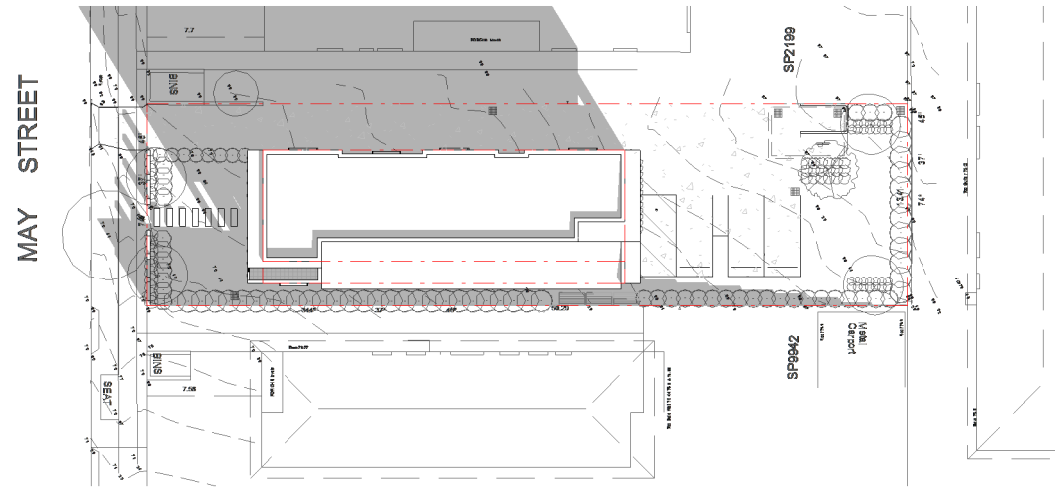
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Check by: CJ
Drawing Title
March Shadow Diagrams

Drawing No
A 81

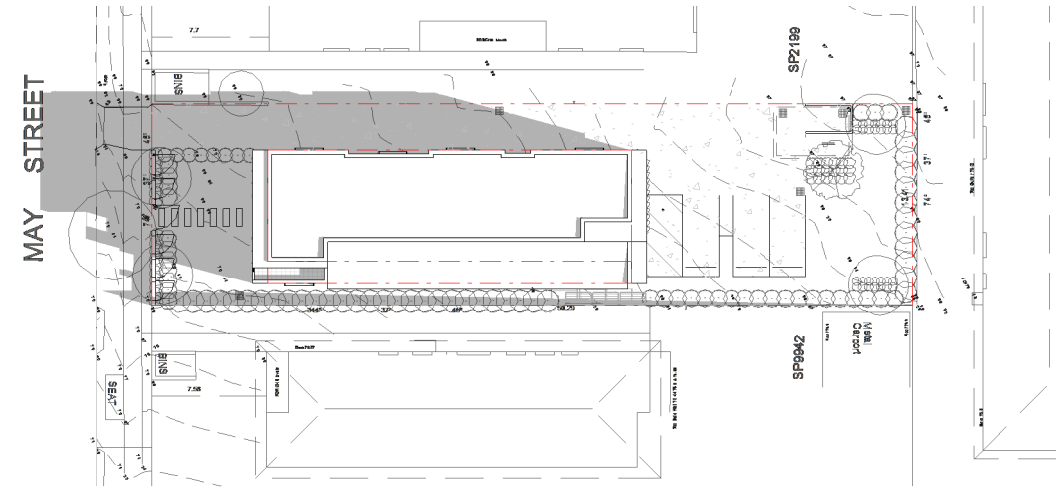
Scale
1 : 500@A3

Issue
A

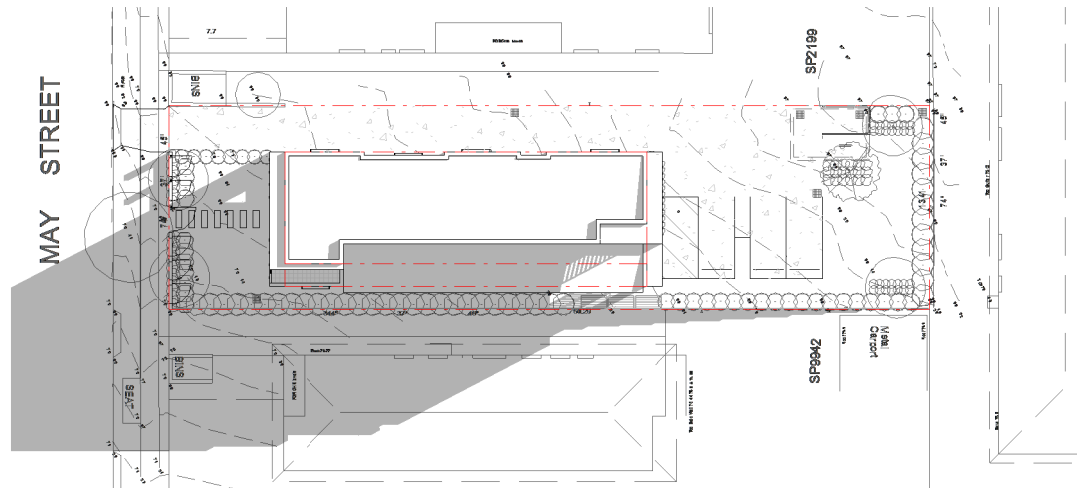
Issue for DA



1 June 21st - 9am 1 : 500



2 June 21st - 12pm 1 : 500



3 June 21st - 3pm 1 : 500

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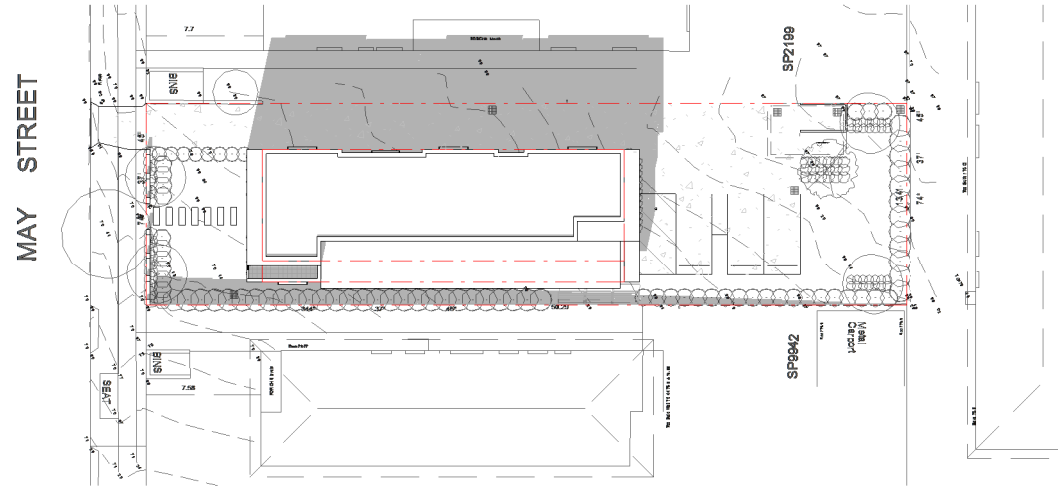
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Drawing Title
June Shadow Diagrams

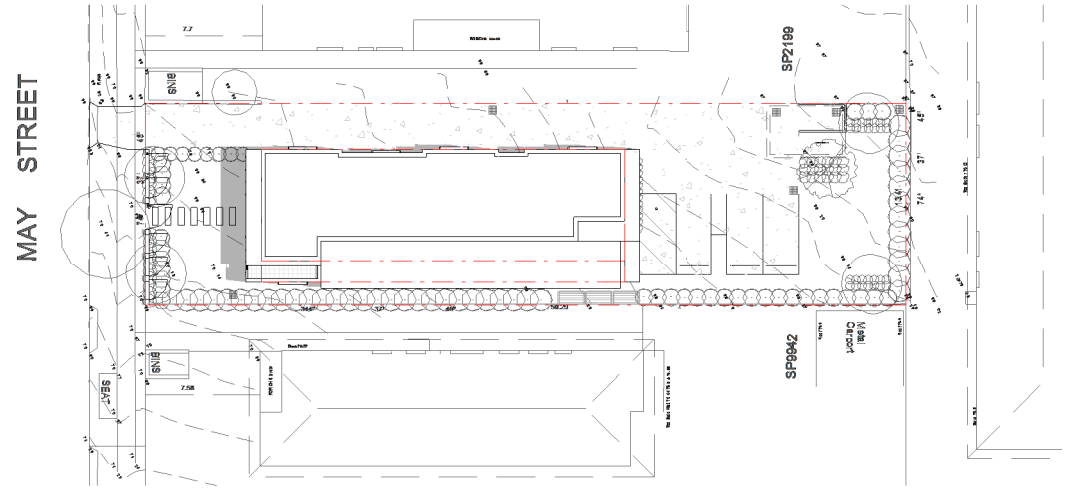
Drawing No
A 82

Scale
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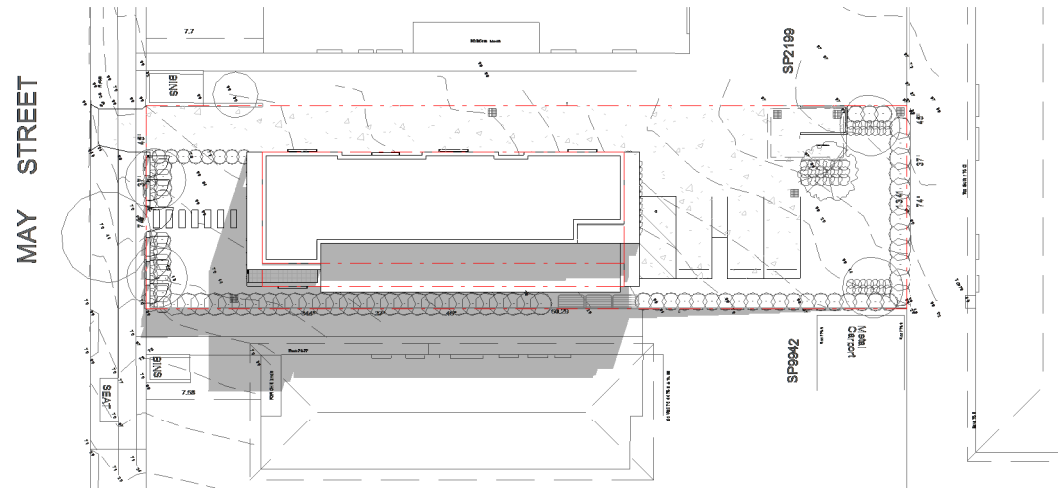
Issue
A



1 December 21st - 9am 1 : 500



2 December 21st - 12pm 1 : 500



3 December 21st - 3pm 1 : 500

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Drawing Title
December Shadow Diagrams

Drawing No
A 83

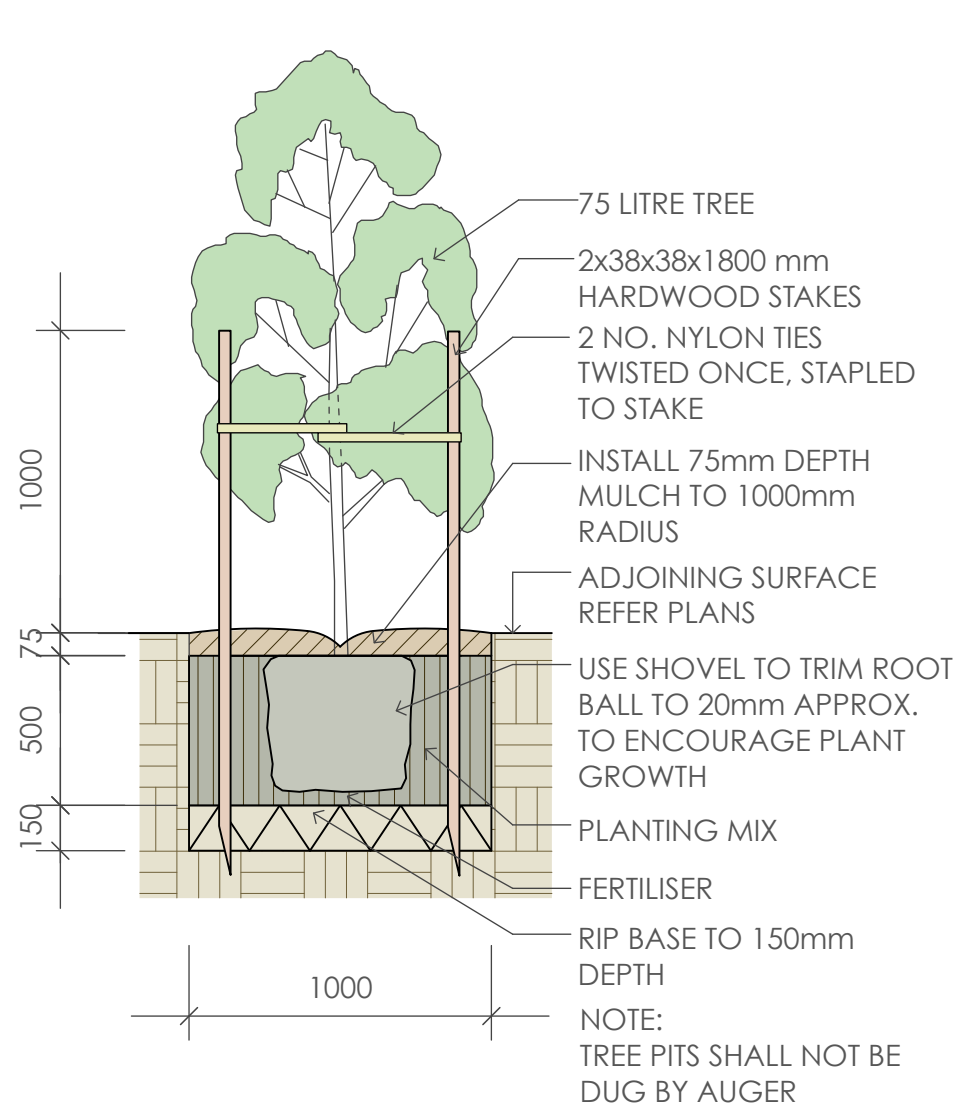
Scale
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Issue
A

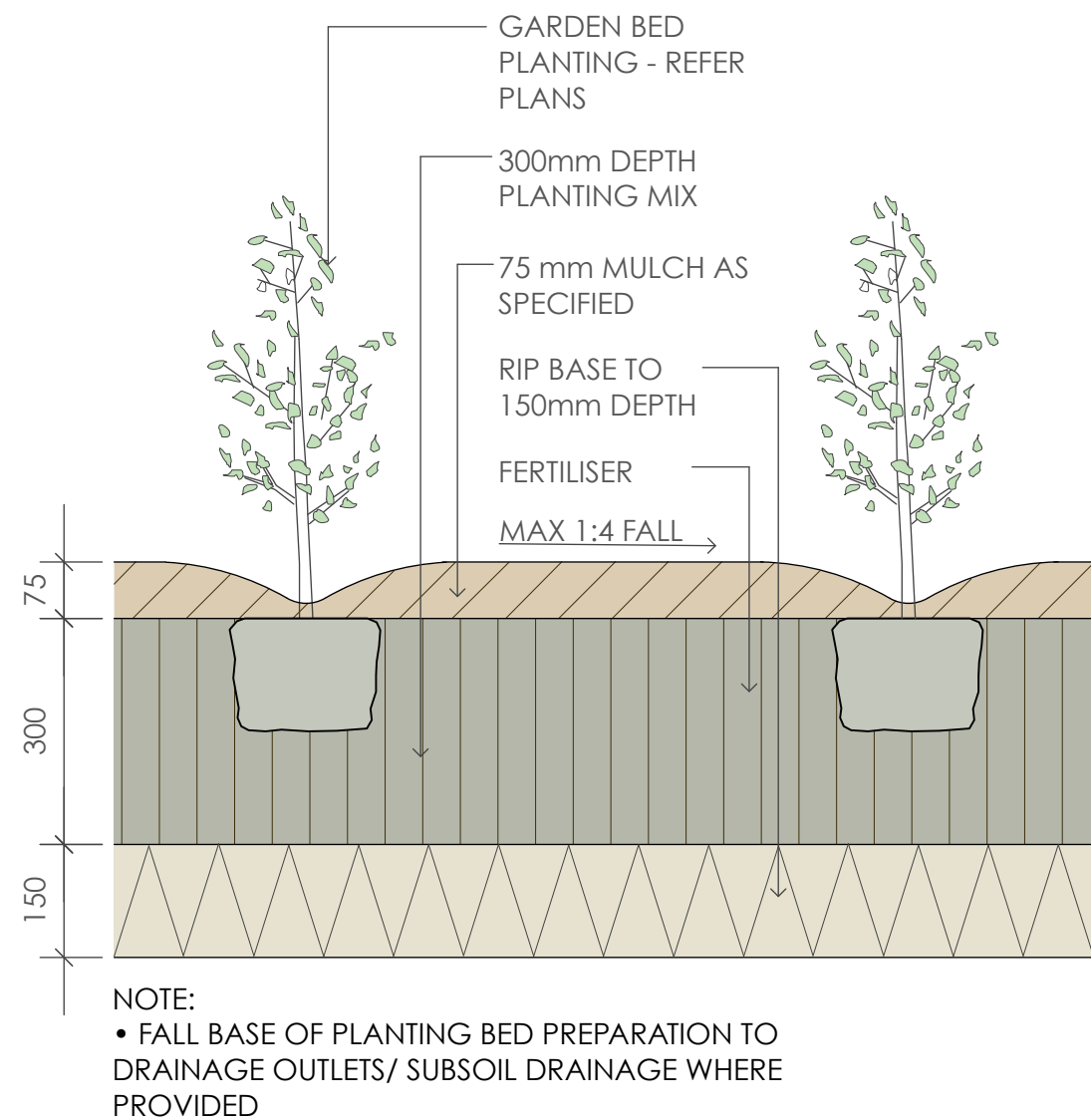
[illegible]

Plant Schedule							
ID	Qty	Common Name	Botanical Name	Size	Mature Height	Mature Spread	Native (N)
Trees							
HymFla	2	Native Frangipani	Hymenosporum flavum	75Litre	8 - 12m	5 - 6m	N
LagNat	1	Crepe Myrtle	Lagerstroemia indica 'Natchez'	75Litre	6 - 8m	3.5 - 6m	
WatFlo	2	Weeping Lilly Pilly	Waterhouisia floribunda	75Litre	10 - 15m	6 - 10m	N
Shrubs							
AcaGree	8	Green Mist	Acacia cognata 'Green Mist'	200mm	1.0 - 1.5m	0.8 - 1.0m	N
AcmChe	22	Frost Flame	Acmena 'Cherry Surprise'	200mm	3.0 - 5.0m	1.2 - 1.5m	N
CalEnd	12	Scarlet Bottlebrush	Callistemon citrinus 'Endavour'	200mm	3 - 5m	2.0 - 3.5m	N
CalRed	11	Red Alert Bottle Brush	Callistemon 'Red Alert'	200mm	1.0 - 1.5m	2.0 - 3.0m	N
GarFlo	7	Florida Gardenia	Gardenia augusta 'Florida'	200mm	0.8 - 1.0m	1.0 - 1.2m	
MurPan	28	Orange Jessamine	Murraya paniculata	200mm	2.0 - 3.0m	2.0 - 3.0m	
PhiXan	8	Philodendron	Philodendron xanadu	200mm	0.8 - 1.0m	0.8 - 1.0m	
Ground Covers							
LomTan	28	Spiny-headed mat rush	Lomandra longifolia 'Tanika'	150mm	0.45 - 0.6m	0.6 - 0.9m	N
AltRub	18	Little Ruby	Alternanthera 'Little Ruby'	150mm	0.3 - 0.4m	0.6 - 0.9m	
LirIsa	14	Isabella Liriope	Liriope muscari 'Isabella'	150mm	0.3 - 0.4m	0.4 - 0.5m	
CasCov	17	Cousin It	Casuarina 'Cousin It'	150mm	0.10 - 0.15m	0.8 - 1.0m	N

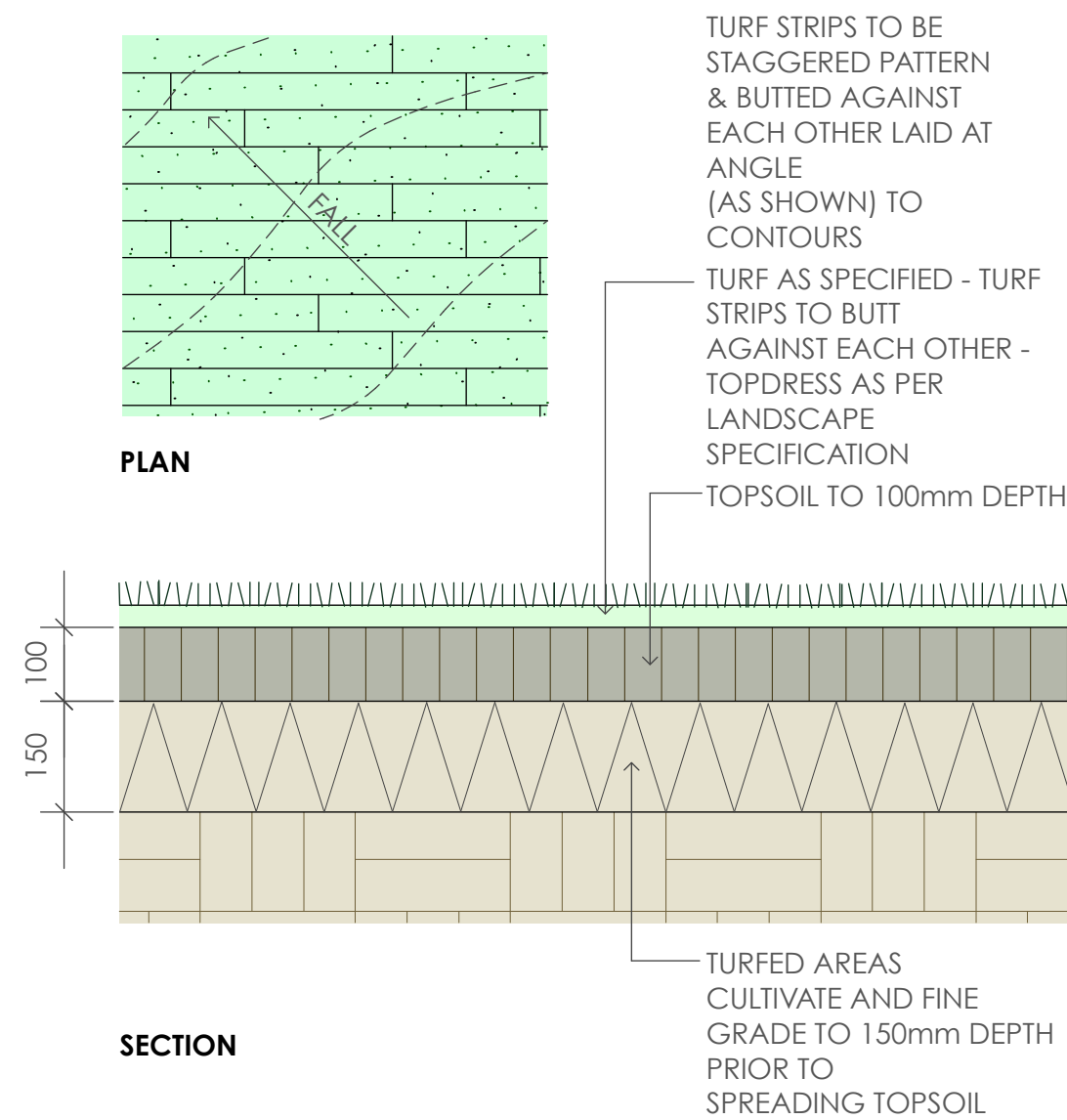
<div>GENERAL NOTES:</div> <div><div>1. Do not scale of drawings. Follow written dimensions. If in doubt obtain written advice from the Superintendent.</div><div>2. Verify all dimensions on site.</div><div>3. Refer to legend for all symbol and code keys.</div><div>4. Read in conjunction with the specifications</div><div>5. Read in conjunction with all associated drawings.</div></div>					<div>DESIGNED:</div> <div>GD</div>	<div>PREPARED FOR:</div> <div>SAM MEI</div>	<div>PREPARED BY:</div> <div><div></div><div>GREENLAND DESIGN Landscape Architects</div></div> <div><div>Greenland Design Pty Ltd</div><div>ABN 73 139 152 855</div><div>Registered Landsc. Architect: Bao Ly</div><div>PO Box 3228 Wetherill Park NSW 2164</div><div>T: 0403 164 198</div><div>E: gd@greenlanddesign.com.au</div></div>	<div>PROJECT:</div> <div>PROPOSED BOARDING HOUSE</div>	<div>DRAWING TITLE:</div> <div>Landscape Plan</div>	<div>DATE:</div> <div>OCTOBER 2022</div>
					<div>DRAWN:</div> <div>CL</div>			<div>SCALE:</div> <div>1:200</div>	<div>ISSUE:</div> <div>A</div>	
								<div>DRAWING NO:</div> <div>2653.GD.01</div>		
	<div>A</div> <div>ISSUE</div>	<div>FOR DA</div> <div>AMENDMENT</div>		<div>CL</div> <div>DRAWN</div>	<div>31.10.22</div> <div>DATE</div>				<div>PROJECT ADDRESS:</div> <div>NO. 20 MAY STREET EASTWOOD</div>	<div><div><div><div></div><div>0</div></div><div><div></div><div>1</div></div><div><div></div><div>2</div></div><div><div></div><div>5m</div></div></div><div><div><div></div><div></div><div></div></div><div></div></div></div>



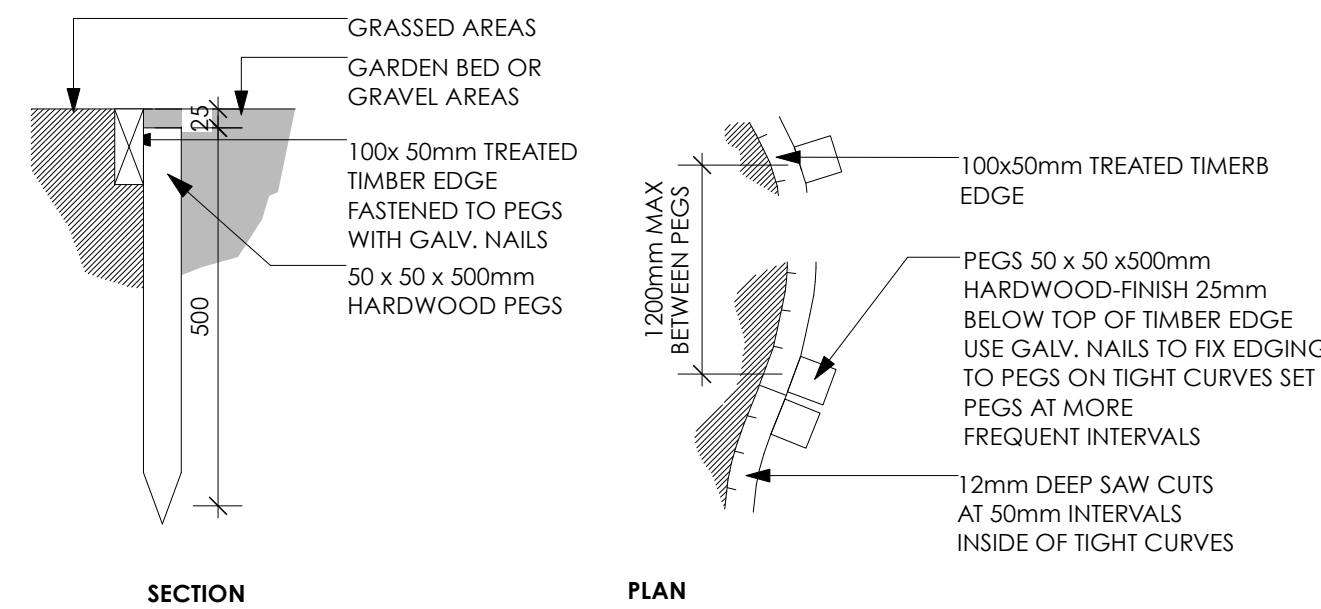
1 75 Litre Tree Planting
scale 1:50



2 Planting Bed Detail
scale 1:20



3 Turfing
scale as shown



4 Timber Edge
scale 1:20

SPECIFICATION NOTES

PLANTING MATERIALS

Planting Mix:

Planting mix for tree pit backfill shall be "Organic Garden Mix" consisting of
50% Black Soil
20% Coarse Sand
30% Organic Material

as available from Australian Native Landscapes, Phone: [02] 9450 1444, or approved equivalent. Samples shall be provided to the Superintendent prior to ordering or delivery to site. Any material delivered to site, that is rejected by the Superintendent, shall be removed by the contractor at his own expense. Minimum depths of mix to all planting bed areas is as specified on details.

Mulch:

Mulch to garden bed:

Mulch shall mean hardwood mulch (25mm grade), free from material derived from Privet, Willow, Poplar, Coral trees, or other noxious weeds. Any mulch exceeding the 25mm grade shall be rejected / removed from the site. Graded hardwood mulch to be supplied by Australian Native Landscapes Pty Ltd Phone (02) 9450 1444, or approved equivalent.

Spread mulch so that after settling, it is:

- smooth and evenly graded between design surface levels;
- flush with adjacent finished levels;
- of the required depths (75mm); and
- sloped towards the base of plant stems in plantation beds, but not in contact with the stem (not closer than 50mm in the case of gravel mulches).

Place after the preparation of the planting bed, planting and all other work.

Plant Material:

All plant material must be true to the species. No substitutes will be allowed. All plants shall be free of fungus and insect damage. All plants shall be healthy, well shaped, not soft or force grown and not root bound.

Plants are available from **Andreasens Green** wholesale nursery, contact Darren [02] 8777 4713, email darren@andreasensgreen.com.au or approved equivalent.

Turfed areas:

All new turfed areas are to be selected weed free Soft Leaf Buffalo. Turf shall be laid neatly butted with staggered joints, flush with adjacent surfaces and have even running falls to all drainage points.

All new turfed area shall have a minimum 150mm depth of weed free top soil, placed and levelled prior to turfing.

PREPARATION AND HARDWORKS

Excavating for Spot Planting

To planting areas, excavate a hole for each plant large enough to provide not less than twice the depth and twice the diameter than the root ball of species to be planted.

Staking

Use durable hardwood, straight, free from knots or twists, pointed at one end. Drive stakes into the ground a minimum one third of their length, avoiding damage to the root system.

- 75 Litre trees in 2 x 38x38x1800mm Hardwood Stake with double Nylon tie TIES: Provide a 50mm wide Nylon webbing tie per stake, fixed securely to the stakes, one tie at half the height of the main stem and the other as necessary to stabilise the plant.

Timber Edge

MATERIAL: Timber edging shall consist of:

Edging: 100 x 50mm hardwood
Pegs: 50 x 50 x 400mm hardwood.
Fastenings: to be 75x3.75mm diam, galvanised nails.

INSTALLATION: Setout alignment of timber edges on site for approval of Superintendent. Excavate to approved alignment and place edge band within trench to confirm peg locations. Install pegs and affix timber edge in accordance with details. All timber edging to finish flush with adjoining turf.

MAINTENANCE / PLANT ESTABLISHMENT

Maintenance shall apply to all hard and soft landscape materials installed prior to the "handover" and acceptance by Principles Representative and the Site Superintendent. The maintenance period shall convenience at the granting of practical completion and shall extend for 12 months.

Maintenance shall consist of the following works:

- Follow a daily watering programme to be approved by Superintendent. Water all plants individually, twice per week or when necessary to ensure constant plant growth. Water all turf and native grassed areas, twice per week.
- Apply appropriate weed control sprays and hand weed as required to maintain planting areas, native grassing bed areas, turfed areas, paved areas, and tree pits in turf free of weed or rogue grass growth.
- Regularly tidy and top up mulch and trim edges to prevent spill over onto paved / grassed areas.
- Spray to control pests and diseases.
- Replace plants, which fail with plants of a similar size and quality as originally specified to approval of Superintendent. Costs of replacement shall be the responsibility of the Contractor. Replacement planting will be undertaken within 2 weeks of identification of dead material or instruction by the Superintendent.
- Report any incidence of plants stolen or destroyed by vandalism.
- Adjust stakes and ties to plants as necessary. Ensure that strangulation of plants does not occur.
- Prune and shape plants as directed or where necessary.
- Make good any defects or faults arising out of defective workmanship or materials.
- Fertilise lawn areas to maintain healthy growth.
- Make good any erosion or soil subsidence, which may occur including soft areas in pathways.
- Mow lawn to maintain neat healthy growth.
- A final inspection shall be made by the Superintendent before handover. Any items requiring rectification shall be repaired before the works are finally approved, and retention moneys released.

NOTE:

- All finished levels are to be verified by Contractor on site.
- All landscape works be in strict accordance with Council's landscape code and guidelines
- This plan to be used in conjunction with all other submitted architectural, hydraulics and engineering drawing where applicable.

GREENLAND DESIGN															
TWELVE MONTHS MAINTENANCE SCHEDULE	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec			
Plant Care															
Monitoring															
Pruning as required															
Deadhead /tip pruning															
Slow release fertilise															
Rapid soluble fertilise as required															
Cut back perennials and grasses															
Watering as required															
Garden Bed															
Edging															
Remove weeds and herbicide spraying as required															
Top up mulch as required															
Dead foliage removal															
Pest Management															
Monitoring and herbicide spraying as required															
Turfed Area															
Fertilise															
Make good turf as required															
Winter clean up															
Remove dead foliage and pruning as required															

GENERAL NOTES: 1. Do not scale of drawings. Follow written dimensions. If in doubt obtain written advice from the Superintendent. 2. Verify all dimensions on site. 3. Refer to legend for all symbol and code keys. 4. Read in conjunction with the specifications 5. Read in conjunction with all associated drawings					DESIGNED: GD	PREPARED FOR: SAM MEI	PREPARED BY:  Greenland Design Pty Ltd ABN 73 139 152 855 Registered Landsc. Architect: Bao Ly PO Box 3228 Wetherill Park NSW 2164 T: 0403 164 198 E: gd@greenlanddesign.com.au	PROJECT: PROPOSED BOARDING HOUSE	DRAWING TITLE: Landscape Details & Specification	DATE: OCTOBER 2022
					DRAWN: CL			SCALE: varies FULL SIZE: A3	ISSUE: A	
	A	FOR DA	CL	31.10.22				PROJECT ADDRESS: NO. 20 MAY STREET EASTWOOD		DRAWING NO: 2653.GD.02
	ISSUE	AMENDMENT	DRAWN	DATE						

STATEMENT TO VARY A DEVELOPMENT STANDARD

REGARDING

**CLAUSE 25(1)(g)(ii) MINIMUM LOT SIZE FOR BOARDING
HOUSE UNDER SEPP (HOUSING) 2021**

Demolition of the existing dwelling house & associated structures,
then Construction of a new 3 storey boarding house containing 15
boarding rooms pursuant to SEPP (Housing) 2021

Address: 20 May Street, Eastwood

November 2022



James Kim
Bachelor & Grad Dip U&RP
PO Box 3046, Putney NSW 2112

INTRODUCTION

A Development Application is lodged with Council to seek consent to the demolition of the existing substandard dwelling and associated structures and erection of a 3 storey boarding house containing 15 boarding rooms on land at No.20 May Street, Eastwood.

This written request to vary a development standard is made pursuant to the provisions of Clause 4.6 of Ryde LEP 2014. In this regard, it is requested Council support a variation with respect to compliance with the minimum lot size for boarding house development which is contained in Clause 25(1)(g)(ii) of SEPP (Housing) 2022.

This written request has been structured generally in accordance with '*Varying Development Standards: A Guide*' published by the NSW Department of Planning & Infrastructure in August 2011.

1. What is the name of the environmental planning instrument that applies to the land?

Ryde Local Environmental Plan 2014 and State Environmental Planning Policy (Housing) 2021 for the proposed boarding house in this case.

2. What is the zoning of the land?

R4 (High Density Residential)

3. What are the objectives of the zone?

Zone R4 High Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a high density

residential environment.

- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

4. What is the development standard being varied? (e.g. FSR, height, lot size)

Minimum lot size for the boarding house outside R2 Zone

5. Under what clause is the development standard listed in the environmental planning instrument?

Clause 25(1)(g)(ii) of SEPP (Housing) 2021 states:

“25 Standards for boarding houses

(1) Development consent must not be granted under this Division unless the consent authority is satisfied that—

(g) the minimum lot size for the boarding house is not less than—

(i) for development on land in Zone R2 Low Density Residential—600m²,

or

(ii) for development on other land—800m².”

6. What are the objectives of the development standard?

SEPP (Housing) 2021 does not provide the objectives of the minimum lot size development standard.

7. What is the numeric value of the development standard in the environmental planning instrument?

800m²

8. What is proposed numeric value of the development standard in your development application?

674.4m²

9. What is the percentage variation (between your proposal and the environmental planning instrument)?

The variation is 125.6m² or 15.7%

10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

Strict compliance is considered unreasonable and unnecessary in this particular case for the following reasons:

Firstly, the subject site is the last remaining dwelling house to be re-developed in the locality within the R4 (High Density Residential) Zone. All the other surrounding sites contain 3 to 4 storey residential flat buildings. The subject site is considered to have been physically isolated. Amalgamation would be practically impossible as all the surrounding residential flat buildings are Strata title subdivided with individual ownership (i.e. 9 units at No.22 May Street and 11 units at No.18 May Street). In addition, the amalgamation cost would not be financially feasible either.

Secondly, strict compliance would sterilise the development opportunity of the subject site despite being zoned for R4 (High Density Residential) and being very conveniently located close to the town centre which provides all sorts of service facilities and all forms of public transportations. Given the small and narrow land dimensions, the subject property will not be suitable for dual occupancy, multi dwelling housing or any other higher density residential land uses permissible under the LEP. In fact, the residential flat building approved under LDA2018/044 has been found not to be financially viable due

to the significant building cost associated with the basement carpark construction which could only be distributed over the approved 6 units. Under the circumstances, strict compliance would be unreasonable or unnecessary in this case.

Thirdly, the proposal, despite the numerical non-compliance, is consistent with the objectives of R4 (High Density Residential) which will be discussed in detail in 'Item 13' below.

Fourthly, the 800m² minimum lot size for the boarding house applies for development on land other than R2 (i.e. R3 or R4) where larger minimum lot sizes would apply to allow for multi dwelling housing or residential flat building development in accordance with their respective zonings. So, it is believed that the underlying objective of the 800m² minimum lot size requirement for a boarding house within land other than R2 zone is to make boarding house buildings more compatible in the streetscape with other higher density development which would already exist on larger lots. However, numerous existing RFB sites in the vicinity are less than 800m² and have similar lot sizes as the subject site including Nos.22 and 24 May Street on the same side and Nos.15, 17, 19, 21, 23, 25 and 27 May Street on the opposite side. These properties already contain 3 to 4 storey walk-up apartment buildings of similar mass and scale to the proposed boarding house to blend in without resulting in adverse streetscape impact. So, strict numerical compliance is considered unnecessary in this regard.

11. How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) (Currently Section 1.3) of the EP&A Act?

In this instance, the aim of Clause 4.6 of Ryde LEP 2014 is to be considered:

"4.6 Exceptions to development standards

(1) The objectives of this clause are as follows:

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

In this regard, the objects of the Environmental Planning & Assessment Act under Section 5(a)(i) and (ii) which have been replaced with Section 1.3 now are:

Previously: Section 5(a)(i) and (ii)

(a) *to encourage:*

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*

Currently: Section 1.3 (equivalent subclauses highlighted)

- (a) *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,***
- (b) *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,***
- (c) *to promote the orderly and economic use and development of land,***
- (d) *to promote the delivery and maintenance of affordable housing,***
- (e) *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,***
- (f) *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),***
- (g) *to promote good design and amenity of the built environment,***
- (h) *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,***
- (i) *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,***
- (j) *to provide increased opportunity for community participation in environmental planning and assessment.***

Strict compliance with the development standard is not necessarily consistent with the

aim of Clause 4.6 of Ryde LEP 2014 and would hinder the attainment of the objects specified in Section 1.3 of the EP&A Act. In that, insisting strict compliance and not permitting the proposed development:

- (a) would unnecessarily prevent the opportunity of ensuring social and economic welfare and a better built environment for the community by providing affordable housing that the existing substandard house on the subject site cannot offer.
- (b) would unnecessarily prevent the opportunity of facilitating ecologically sustainable development. The Commonwealth Government suggested the following definition for ESD in Australia: *'using, conserving and enhancing the community's resources so that ecological processes, on which life depends, are maintained, and the total quality of life, now and in the future, can be increased'*. By allowing the proposed development, it will promote the last remaining and isolated high density residential allotment to accommodate a boarding house consisting of 15 boarding rooms which in turn reduces the cumulative impact of urban sprawl for the metropolitan Sydney in the long run.
- (c) would prevent the orderly and economic use and development of land, although the variation sought would not result in detrimental environmental impact.
- (d) would prevent the delivery of affordable rental housing.
- (e) would not necessarily protect the environment, including conservation of threatened and other species of native animals and plants, ecological communities and their habitats in the long run in this case
- (f) would not necessarily promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage) in this case
- (g) would prevent the opportunity of promoting better built environment than that of the existing substandard dwelling house on the subject site
- (h) would prevent the opportunity of promoting the proper construction and maintenance of buildings, including the protection of the health and safety of their future occupants
- (i) Council to note
- (j) Council to note

12. Is the development standard a performance based control? Give details.

A 'performance based control' is considered to refer to 'merit assessment' recognising that more than one solution may be available to achieve the desired outcomes. The 800m² minimum lot size is not a performance based control. It is rather a quantitative and prescriptive arbitrary standard which does not allow for any flexibility in achieving the same or even better environmental outcome and which focuses on artificial definitions and numerical designation rather than the actual effects or impact of development.

The 800m² minimum lot size for the boarding house under Clause 25(1)(g)(ii) of SEPP (Housing) 2021 is not considered to have regard to the performance based planning principle questioning what would be the minimum lot size to design a quality boarding house development. This becomes evident that a boarding house is permitted on land greater than 600m² within R2 (Low Density Residential).

13. Would the proposal, despite a numerical non-compliance, be consistent with the objectives of the zone and the objectives of the standard in question, in your particular case? Why?

The proposed boarding house development is not considered contrary to the objectives of the R4 (High Density Residential) Zone in question, having regard to the judgement in *Wehbe v Pittwater Council* [2007] NSWLEC 827.

At [42], it was noted that *'the most common way to establish that compliance with a development standard is unreasonable or unnecessary is because the objectives of the development standard are achieved despite non-compliance with the control.'*

Then, the Court added at [43]:

"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).”

The questions raised by this includes:

1) *Would the proposal, despite a numerical non-compliance, be consistent with the relevant environmental or planning objectives?*

The objectives of R4 (High Density Residential) include; (1) to provide for the housing needs of the community within a high density residential environment and (2) to provide a variety of housing types within a high density residential environment.

The subject site is an isolated and last remaining underdeveloped allotment within the R4 zoned area. The proposal would be consistent with the said zoning objectives in providing housing variety and housing needs of the community within the existing high density residential environment, despite the numerical non-compliance regarding the minimum lot size.

The proposal will not compromise the integrity of LEP 2014, since the subject site is unique in the locality which will not set a precedence at all.

2) *Establish that the underlying objective or purpose [of the development standard] is not relevant to the development, with the consequence that compliance is unnecessary.*

The 800m² minimum lot size for the boarding house applies for development on land other than R2 (i.e. R3 or R4) where larger minimum lot sizes would apply to allow for multi dwelling housing or residential flat building development in accordance with their respective zonings. So, it is believed that the underlying objective of the 800m² minimum lot size requirement for a boarding house within land other than R2 zone is to make boarding house buildings more compatible in the streetscape with other higher density development which would already exist on larger lots.

However, numerous existing RFB sites in the vicinity are less than 800m² and

have similar lot sizes as the subject site including Nos.22 and 24 May Street on the same side and Nos.15, 17, 19, 21, 23, 25 and 27 May Street on the opposite side. These properties already contain 3 to 4 storey walk-up apartment buildings of similar mass and scale to the proposed boarding house to blend in without resulting in adverse streetscape impact. So, strict numerical compliance is considered unnecessary in this regard.

3) *Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required, with the consequence that compliance with the development standard is unreasonable.*

Strict compliance is not necessarily consistent with the underlying objective of Clause 25(1)(g)(ii) of SEPP (Housing) 2021 for the following reasons:

- (a) The streetscape is predominantly characterised by residential flat buildings of 3 to 4 storey in height in relatively small allotments less than 800m² throughout May Street, Ethel Street and adjacent streets in R4 zone. The proposed 3 storey boarding house would be in keeping with the existing streetscape character.
- (b) The subject site is the last remaining high density residential allotment which could not have been consolidated in the past. Most properties in the locality had been redeveloped for RFBs on their own without going through land consolidation process. Hence, amalgamation with any of the adjoining sites now only to comply with the minimum lot size in this case would result in a new boarding house building on 1,350m² (=674.4 x 2) or greater in land size which would be much larger in mass and scale than those of the neighbouring RFBs not in keeping with the streetscape and would defeat the underlying objective of the clause.

4) *Establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the development standard, and hence compliance with the standard is unnecessary and unreasonable.*

N/A, the 800m² minimum lot size for a boarding house under Clause 25(1)(g)(ii)

of SEPP (Housing) 2021 came into effect on 26 November 2021 which is relatively recent. It is not believed that the development standard in question has been virtually abandoned or destroyed by Ryde Council's own actions in granting consents departing from the standard to date.

Nevertheless, the proposed development has its merit despite the variation which has been discussed throughout this report. As such, insisting strict compliance and not allowing such development in this case would be unnecessary and unreasonable.

5) Establish 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 high density residential zoning of the subject site is consistent with the neighbouring sites which is appropriate. However, most sites in the vicinity contain RFBs which do not comply with present development standards and controls in accordance with SEPP 65 and its ADG. As such, strict compliance with the subject development standard in that case would also be unreasonable or unnecessary.

14. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.

Firstly, the proposed development, despite contravening the development standard, will achieve the objects of Section 1.3 of the Environmental Planning and Assessment Act 1979 for the following reasons:

- The development will promote the delivery of affordable rental housing for the local community within high density residential environment.
- The development will achieve a better built environment outcome than that of the existing isolated substandard dwelling house on the subject site within R4 (High Density Residential) Zone.

- The development will facilitate orderly and economic use and development of land, whilst not resulting in detrimental impacts on the built and natural environment in the vicinity as explained throughout this report and Statement of Environmental Effects.
- The development will promote the last remaining and isolated high density residential allotment to accommodate affordable rental housing development consisting of 15 boarding rooms within the very convenient location which in turn reduces the cumulative impact of urban sprawl and facilitates ecologically sustainable development for the metropolitan Sydney in the long run.

Secondly, the proposed development, despite contravening the development standard, will be more appropriate and consistent with the objective of the R4 (High Density Residential) Zone than that of the existing substandard dwelling house for the following environmental planning grounds:

- The development will better provide for the housing needs of the community within a high density residential environment in a very convenient location than that of the existing substandard dwelling house.
- The proposed 3 storey boarding house building will blend in the streetscape better than that of the existing substandard dwelling house as all the other development in the vicinity is of 3 to 4 storey residential flat buildings in relatively small allotments as the subject site.
- The proposed boarding house will better promote a variety of housing types within a high density residential environment than that of the existing substandard dwelling house.

Thirdly, Council's support for the proposed development is considered to be in the public interest as it will rejuvenate the subject site which currently contains a substandard house and will provide a well-designed boarding house to support low-income earners and the disadvantaged in the local community within an easy walking distance to the public transport and day to day service and health facilities.

'The Guide to Section 79C (Currently Section 4.15)' published by the previous Department of Planning refers '(e) – the public interest' to be '*Federal, State and Local government interests and community interests*' as below:

(e) – The public interest

<i>Primary Matters</i>	<i>Specific Considerations</i>
Federal, State and Local government interests and community interests	<ul style="list-style-type: none">▪ Do any policy statements from Federal or State Governments have relevance?▪ Are there any relevant planning studies and strategies?▪ Is there any management plan, planning guideline, or advisory document that is relevant?▪ Are there any credible research findings, which are applicable to the case?▪ Do any covenants, relevant issues raised in public meetings and inquiries?▪ Have there been relevant issues raised in public meetings or inquiries?▪ Was there consultations and submissions made in addition to (d) above?▪ How will the health and safety of the public be affected?

To apply the specific considerations in the table to the proposed development, the following assessment is made:

- Numerous policy statements and planning studies and strategies have been published by the NSW Department of Planning and Environment in recent years to facilitate affordable rental housing supply including boarding houses and urban consolidation, whilst best protecting the environment.
- No covenant or registered easement exists that could possibly undermine the public interest. In fact, a new 1.2m wide drainage easement has been created along the northern side neighbour to appropriately treat stormwater.
- All written submissions objecting to the proposal can be adequately dealt with during Council's DA conciliation process if received.
- The health and safety of the public will not be adversely affected by the proposed development.
- Plan of Management is provided to deal with potential social impact of the boarding house.

CONCLUSION

This application seeks approval for the demolition of the existing substandard dwelling house and associated structures and erection of a 3 storey boarding house containing 15 boarding rooms. It has been established that the strict compliance with the development standard (minimum lot size) specified in Clause 25(1)(g)(ii) of SEPP (Housing) 2021 in this case is unreasonable and unnecessary for the reasons stated above and there are sufficient environmental planning grounds to justify contravening the development standard. It has also been demonstrated that the proposed development will satisfy the objectives of R4 (High Density Residential) Zone and the development standard and is in the public interest.

Therefore, it is concluded that the proposed development is worthy of Council support notwithstanding the numerical non-compliance with the development standard.

Yours faithfully,



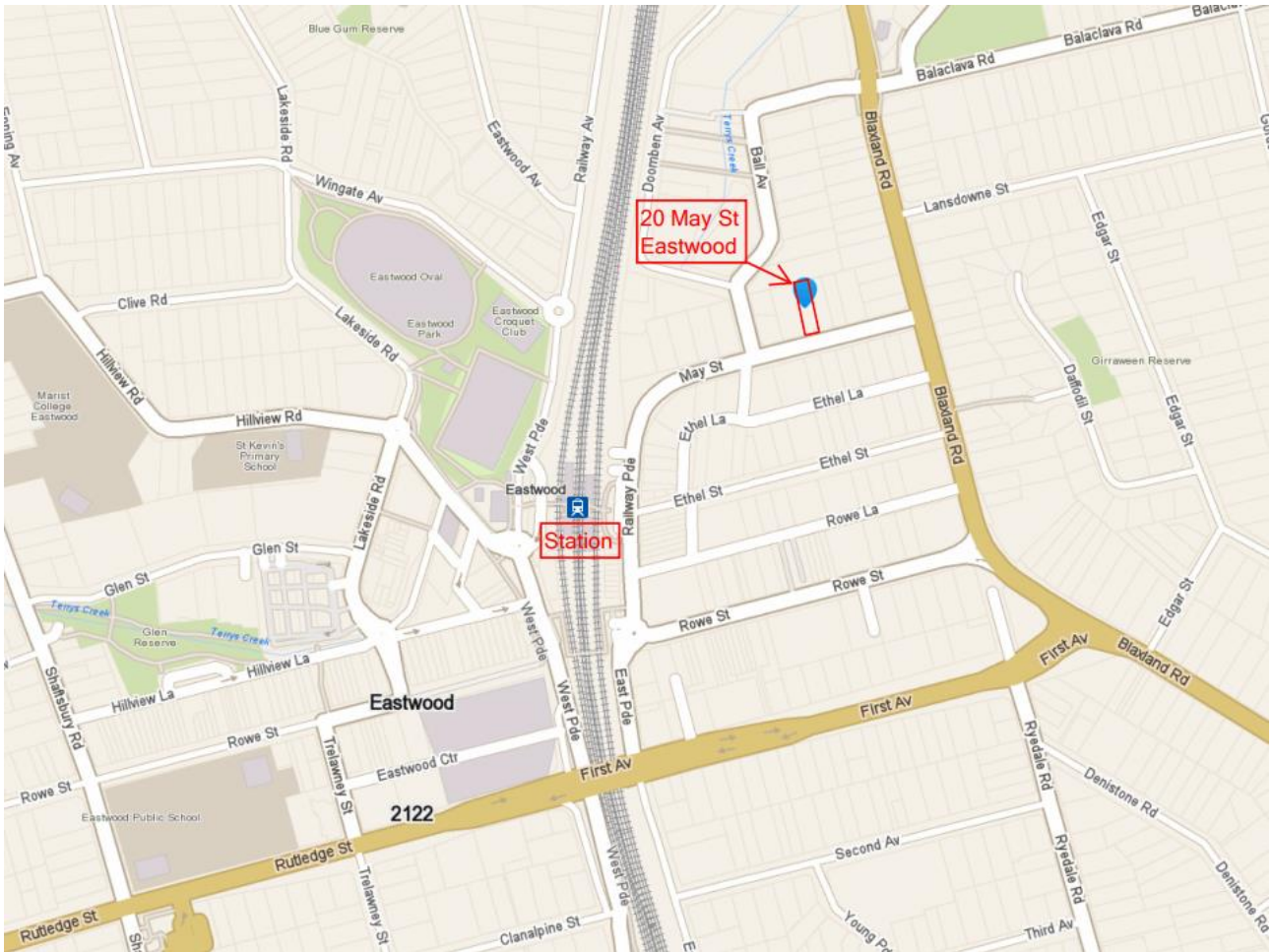
James Kim of Just Property & Planning (B. U&RP & Grad. Dip. U&RP)
PO Box 3146, Putney NSW 2112
Mob) 0425 346 411, Email) justplanning@live.com.au

PLAN OF MANAGEMENT (BOARDING HOUSE)

At No.20 May Street, Eastwood

1. INTRODUCTION

- 1.1 This Plan of Management provides directions and controls on the use and management of the premise as a Boarding House. The directions and controls are to be strictly adhered to in the operation of the Boarding House, to ensure compliance with the conditions of Development Consent and health and amenity requirements for both the occupants and surrounding residents.
- 1.2 The Plan of Management refers to the plans prepared by [Archian Architecture] dated [INSERT DATE OF PLANS] and Development Application No. [INSERT NUMBER].
- 1.3 The Plan of Management has been prepared for a Boarding Housing at No.20 May Street, Eastwood. The Boarding House was approved on [INSERT DATE OF DA CONSENT] and is subject to compliance with the Conditions of Consent [INSERT DA CONSENT NUMBER]. The Conditions of Consent and a copy of the approved plans are provided as **Annexure A**.
- 1.4 The Boarding House is to be managed by [INSERT WHETHER AN Off-site Manager, or On-site Manager] who will be familiar with the content of the Plan of Management. [INSERT MANAGER CONTACT DETAILS]
- 1.5 The location of the premises is shown on Figure 1 – Location Plan.



[Figure 1] Location Plan (Source: Whereis.com)

2. DEFINITIONS

2.1 In this Plan of Management:

- a. **Building:** means the building known as No.20 May Street, Eastwood NSW 2122
- b. **Business:** means the operation of the building as a Boarding House.
- c. **Common Room:** means the rooms identified as the communal living rooms on the approved plans.
- d. **Common Areas:** means the communal living rooms, alfresco

area, store room, hallways and the stairs as identified on the approved plans.

- e. **Common Open Space Area:** means the external communal area including the front yard, side yard, rear yard, ground floor alfresco and porches as identified on the approved plans.
- f. **Council:** means City of Ryde Council.
- g. **Boarder, Lodger:** means a person having the benefit of the use a nominated bedroom and the common rooms /areas within the building.
- h. **Manager:** means the Manager engaged by the business proprietor.
- i. **Owner:** means the registered proprietor/s of the building.
- j. **Room:** means that part of the building occupied and used by a lodger(s).

3. DUTIES OF THE MANAGER

3.1 The proprietor shall engage a Manager whose responsibilities are, but not limited to, the following:

The Manager shall:

- a. Be contactable between the hours of 8.00 am to 6pm Monday to Saturday inclusive.
- b. Oversee all residential concerns.
- c. Enforce the minimum occupancy period.
- d. Organise the cleaning and maintenance of the common areas and common open space areas.
- e. Enforce the maximum occupancy levels.
- f. Provide lodgers with appropriate information prior to the commencement of occupation.
- g. Carry out inspections on a regular basis at a minimum of once every 3 months to ensure that the building is maintained in a clean and tidy condition and that all facilities and fittings are appropriately maintained.
- h. Record all inspections in a log book which must be made available

to Council upon request.

- i. Organise the waste collection and facility needs for the site, and the ongoing storage and collection of waste on-site including transfer of waste to and from collection points for the waste collection service as required, and regular cleaning of bins/waste storage areas/ rooms.
- j. Maintain an incident register.
- k. Maintain the electrical circuits to a safe standard.
- l. Notify the Council in writing within 1 month of any change in the management and provide contact details for the new management.

4. MAXIMUM NUMBER OF LODGERS

4.1 The maximum number of lodgers in the building is nineteen (19). The maximum number of persons per bedroom is as follows:

Single rooms

- Boarding room one (1): one (1)
- Boarding room two (2): one (1)
- Boarding room three (3): one (1)
- Boarding room four (4): one (1)
- Boarding room five (5): one (1)
- Boarding room six (6): one (1)
- Boarding room seven (7): one (1)
- Boarding room eight (8): one (1)
- Boarding room nine (9): one (1)
- Boarding room ten (10): one (1)
- Boarding room eleven (11): one (1)

Double rooms

- Boarding room twelve (12): two (2)
- Boarding room thirteen (13): two (2)
- Boarding room fourteen (14): two (2)
- Boarding room fifteen (15): two (2)

It is the Manager's responsibility to ensure that these numbers are not exceeded.

5. MINIMISING IMPACTS ON RESIDENTS

So as to minimise impacts upon the residents of adjoining premises as well as residents of the building the following rules are to apply:

- a. No loud music or television noise is permitted after 10.00pm.
- b. No parties or gatherings are permitted upon the premises after 10.00pm.
- c. No visitors other than residents of the property are permitted after 10.00pm.
- d. No use of the outdoor areas is permitted after 10.00pm.
- e. No smoking in areas which may affect the amenity of other residents of the boarding house or of residents of neighbouring properties.

Note: More specific references may be required to define the terms such as "loud" and "noise", maximum number of persons after 10pm, etc depending on the scale of development proposed.

6. DISPLAY OF HOUSE RULES

To minimise potential amenity impacts on the neighbouring properties and lodgers within the boarding house, The house rules are to be clearly displayed throughout the premises and are to detail the following, but not be limited to:

- A complaint register is to be prepared by the manager. All complaints are to be attended in an appropriate and respectful manner as soon as practicable to eliminate further complaints. The lodger who caused the complaint is to be consulted by the manager so as to prevent re-occurrence of such complaint.

- Visitors will not be allowed to stay overnight and will be required to leave the premises by 10pm.
- The use of the laundry, loud music and loud TV noise will not be permitted after 10pm.
- No parties or gatherings are permitted at the premises after 10pm.
- The use of the private open space area will be restricted after 10pm.
- Smoking will be prohibited within the boarding rooms and common living room.
- Behaviour, activities, noise policies are to be prepared, displayed and implemented.
- The house rules also include rules regarding keeping of pets, use of bicycle and motorcycle spaces, use of alcohol and drug, emergency contact details.
- The manager/caretaker will be responsible for monitoring the house in preserving the amenity on a regular basis.

The house rules are to be clearly displayed throughout the premises and are to detail the following: Boarder behaviour, including that no smoking or cooking to be permitted in bedrooms.

- a. Visitor policy
- b. Activities and noise
- c. Operating hours of outdoor common areas
- d. Emergency contact details
- e. Advice concerning the responsible consumption of alcohol, and
- f. A zero tolerance policy on illegal drugs.

Note: The above list is provided as a minimum. Other house rules may also relate to:

- use of communal space and facilities, quiet enjoyment etc
- keeping shared facilities clean and tidy
- keeping of pets
- use of parking spaces (bicycle parking and motorcycle parking spaces available on first come first use);
- incidents register will be referred to prior to renewing any lease;
- balconies or porches not to be used for the purpose of drying clothing.

7. FIRE SAFETY

Emergency Management & Evacuation Plans and Fire Mitigation Plans (no smoking in bedrooms) are to form part of this Plan of Management.

All fire safety features within the building are to be regularly maintained in accordance with any statutory requirements.

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

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

All residents are to be made aware of the fire safety features of the building and what to do in the event of an emergency.

All staff shall be trained in relation to the operation of the approved Emergency Management & Evacuation Plan.

8. CLEANING & MAINTENANCE

The subject premises are at all times to be maintained in a safe and healthy condition. In this regard all common areas are to be cleaned to a professional standard at least once a week. The cleaning and maintenance is to occur to both the area and fixtures and fittings in the area.

In addition all boarders are to be made aware, upon their entering into an agreement to occupy, of their responsibilities in relation to the maintenance and cleaning of the facility.

Further, the common open space areas are to be maintained in a neat and orderly manner. This will require twice/month mowing and garden maintenance during spring and summer and once/ month mowing and garden maintenance during autumn and winter.

9. BOARDER/ LODGER INFORMATION

All boarders are to be made aware of the contents and their obligations under approved Plan of Management.

In this regard:

- A full copy of the approved Plan of Management is to be permanently displayed in each boarding room and each common area.
- A copy of the approved Plan of Management is to be made available upon request.

10. BOARDING HOUSE FURNITURE & FACILITIES

[THIS SECTION IS TO BE USED TO LIST THE FURNITURE AND FACILITIES PROVIDED WITHIN EACH ROOM OF THE BOARDING HOUSE AN EXAMPLE LIST IS PROVIDED]

[Example List]

1. *Each boarding room shall be provided with:*
 - a. *One (1) single bed or double bed in case of couple's room, mattress and bedding*
 - b. *One student desk & chair*
 - c. *One desk lamp*
 - d. *Wardrobe facility*
 - e. *Window furnishing/blind*
 - f. *Kitchenette containing undercounter fridge, microwave, cooktop, sink, benchtop and overhead cupboards*
 - g. *Ensuite bathroom containing shower cubicle, WC, wash basin, laundry tub and washing machine with dryer*
2. *The communal living rooms are to be provided with a TV, sofa set with coffee table.*
3. *A broom, bucket and mop are to be kept in the laundry for use by lodgers as necessary.*

4. *The entrance door, doors from boarding rooms to patios or porches and each boarding room shall be fitted with a classroom latch (dead bolt) which is able to be opened from the inside by a single handle motion.*

Note: Additional inclusions should also be listed here, such as television, sofas, etc, and identification of access and facilities for people with disabilities.]

[End of example list]

11. WASTE MANAGEMENT & RECYCLING

Residents of the facility are to be encouraged where possible to take advantage of Council's waste and recycling facilities. It is the responsibility of the boarder to sort garbage and place it in the appropriate receptacles.

The manager is to be responsible for the collection arrangements, including making sure that the waste containers are placed adjacent to the kerb on the day of collection and removed back onto the property promptly after collection, and including the servicing of special waste such as "sharps" and/or sanitary napkin receptacles. Where receptacles are provided for the disposal of sanitary napkins, these are to be serviced and readily cleaned on a regular basis.

Collection responsibilities of the manager include all regular garbage, recycling and green waste collection services, as well as household clean-up collection, ensuring goods for collection are managed in accordance with Council's collection requirements (information available on Council's website at: www.ryde.nsw.gov.au or via Council's Customer Service Centre Ph: 9952 8222).

12. SAFETY & SECURITY

The following matters are to be provided within the property:

- Internal signage indicating the property caretaker or manager and contact numbers;
- Emergency contact numbers for essential services including fire, ambulance,

police and utilities such as gas, electricity, plumbing and the like;

- Perimeter lighting;
- Individual room keys (a master key is to be maintained by the manager and made available to the fire brigade);
- Landline telephone within a common area available for use by residents in the event of an emergency.

Note: Other safety and security measures for reference in the POM might also include:

- surveillance or security camera systems;
- fencing and secure gates;
- Identification of access and facilities for people with disabilities;
- Information about maximum loading of electrical circuits.

ANNEXURE A: DEVELOPMENT CONSENT & STAMPED PLANS

ANNEXURE B: EMERGENCY MANAGEMENT & FIRE EVACUATION PLAN

The subject boarding house will not have a residing manager, so it will be important for the visiting manager, all other maintenance staff and lodgers to be appropriately inducted of the emergency management and fire evacuation plan and its procedures.

- a) Any lodger who becomes aware of an emergency must contact the manager and other lodgers in the building immediately.
- b) The manager is responsible for implementing this plan and appoint assistant wardens within the lodgers so that appropriate actions can be taken in case the manager is not on site.
- c) The manager and any lodgers upon becoming aware of an emergency must take the following actions:
 - i. Ascertain the nature of the emergency and determine appropriate actions to be taken including operation of first-attack fire fighting equipment (portable fire extinguishers, hose reels and/or fire blankets)
 - ii. Report to the relevant emergency service agency as appropriate by calling 000
 - iii. Implement evacuation procedure, if considered necessary:
 - Advise all occupants turn off appliances, close doors and exit the building immediately
 - Ensure flow of the evacuation routes (i.e. stairway) is clear of obstructions
 - Lead all the occupants to move to the designated assembly area on the **May Street footpath** in front of the building
 - Assist occupants with impaired mobility
 - Carry out head count in the designated assembly area
 - If possible, search all floors to ensure all occupants are accounted for
 - iv. On arrival of the emergency service personnel, brief them of the nature, location and scope of the emergency and the status of the evacuation.
 - v. Act on the instructions of the emergency incident commander
- d) If the manager is not on site, the lodger who becomes aware of an emergency should notify the relevant emergency service agency by telephoning 000 and should follow any instructions given by the agency.