30 October 2019

At 5.00 pm

Local Planning Panel

Sydney2030/Green/Global/Connected

city of villages

Agenda

1. **Disclosures of Interest**
2. **Confirmation of Minutes**
3. **Development Application: 161 Castlereagh Street, Sydney - D/2019/88**
4. **Development Application: 658-660 Botany Road, Alexandria - D/2018/871**
5. **Development Application: 82 City Road, Chippendale - D/2019/822**
6. **Development Application: 84 City Road, Chippendale - D/2019/823**
7. **Development Application: 901/ 13-15 Bayswater Road Potts Point - D/2019/646**

Guidelines for Speakers at Local Planning Panels

As part of our democratic process, the City invites members of the community to speak directly to Members of the Local Planning Panel (LPP) about items on a meeting agenda.

To enable the LPP to hear a wide range of views and concerns within the limited time available, we encourage people interested in speaking at meetings to:

1. Register to speak by calling Council's Secretariat on 9265 9310 before 12.00 noon on the day of the meeting.

2. Check the recommendation in the agenda report before speaking, as it may address your concerns so that you just need to indicate your support for the recommendation.

3. Note that there is a three minute time limit for each speaker and prepare your presentation to cover your major points within that time.

4. Avoid repeating what previous speakers have said and focus on issues and information that the LPP may not already know.

5. If there is a large number of people interested in the same item as you, try to nominate three representatives to speak on your behalf and to indicate how many people they are representing.

6. Before speaking, turn on the microphone by pressing the button next to it and speak clearly so that everyone in the Council Chamber can hear.

7. Be prepared to quickly return to the microphone and respond briefly to any questions from LPP members, after all speakers on an item have made their presentations.

At the start of each LPP meeting, the Chair may re-order agenda items so that those items with speakers can be dealt with first.

LPP reports are on line at www.cityofsydney.nsw.gov.au, with printed copies available at Sydney Town Hall immediately prior to the meeting. Council staff are also available prior to the meeting to assist.

March 2018

Item 1.

Disclosures of Interest

Pursuant to the provisions of Clause 15 of Schedule 4B of the Environmental Planning and Assessment Act 1979, members of the Local Planning Panel are required to disclose pecuniary interests in any matter on the agenda for this meeting of the Local Planning Panel.

Panel members are also required to disclose any non-pecuniary interests in any matter on the agenda for this meeting of the Local Planning Panel.

In both cases, the nature of the interest must be disclosed.

In accordance with section 4.9 of the Code of Conduct for Local Planning Panel Members, all Panel members are required to sign a declaration of interest in relation to each matter on the agenda.

Item 2.

Confirmation of Minutes

Minutes of the following meeting of the Local Planning Panel, which have been endorsed by the Chair, are submitted for noting:

Meeting of 9 October 2019

Item 3.

Development Application: 161 Castlereagh Street, Sydney - D/2019/88

File No.: D/2019/88

Summary

Date of Submission:	5 February 2019
Applicant:	Simon Tilley
Architect/Designer:	FJMT and Paul Kelly Design
Developer:	Simon Tilley
Owner:	GPT Funds Management Ltd and The Trust Company (RE Services) Ltd
Cost of Works:	$7,000,000
Zoning:	The site is located in the B8 Metropolitan Centre zone. The proposal is defined as a "*food and drink premise*" which is permissible in the subject zone with development consent.
Proposal Summary:	The subject Development Application (DA) seeks consent for the fit out, extension and use of tenancies 6, 7, 8, 9 of Liberty Place for a licensed pub to be known as 'Liberty Place Bar'. The application includes the construction of a pavilion bar below the tower under-croft in the area known as tenancy 10. The pavilion and extension of the existing tenancies will result in the creation of an additional 181.3sqm of floor space. The existing planter bed and tree located within the north-west of the site will be removed and replaced with a new toilet block and 10 benches will be relocated / removed. The private leasable outdoor seating area is proposed to be extended and a continuous awning will be constructed over the outdoor seating areas. The extension of the leasable seating zone will require the modification of the restrictive covenant on title relating to the use of the public plaza which was required under the base consent for the site.

A total of 680 patrons (390 internal and 290 external areas) are proposed with indoor trading between 7.00am to 12.00 midnight Monday to Saturday and 7.00am to 10.00pm Sunday and outdoor trading between 10.00am and 10.00pm Monday to Sunday with a one year trial for external trading between 7.00am and 10.00am Sunday, Monday, Tuesday and Wednesday and 7.00am to 11.00pm Thursday, Fridays and Saturdays.

The application is being referred to the Local Planning Panel (LPP) as it is falls within the definition of '*sensitive development*' being a new licensed premise that requires a hotel (general bar) license under the Liquor Act 2007. Further, the application is being referred to the LPP as the proposed Floor Space Ratio (FSR) of the site contravenes the FSR development standard in the Sydney LEP 2012 by over 10%.

The application was notified and advertised for 21 days. Two submissions were received from the Castlereagh Boutique Hotel which raise issues with floor space exceeding the Sydney LEP 2012, excessive patron numbers, inconsistencies with the base consent and restrictive covenants in respect of the use of the public space, acoustic impacts and confusion as a result of multiple applications for the pub (4 applications to Council and 2 court cases).

Development application, D/2017/725 approved the fit out and use of tenancies 6 -9 as Liberty Place Bar and included the assessment of the transfer of the liquor license from the Windsor Hotel which has been demolished following compulsory acquisition by the State Government as part of the Metro project. The transfer of the license was approved by the Liquor and Gaming Authority on 15 August 2018.The subject DA seeks consent to extends both the internal and external bar areas approved under D/2017/725.

The site is subject to a maximum FSR of 12.52:1 (8:1 base FSR and 4.52: bonus accommodation floor space) under the Sydney LEP 2012. The proposal will result in an FSR of 14.86:1, approximately 19% over the maximum.

The base building approved an FSR of 14.2:1 which exceeded the maximum FSR of 12.5:1 by 13.8%. An additional 1,217.9sqm of floor space was approved under modification H resulting in an FSR of 14.5:1. The variation of floor space development standard was supported on the basis that the development would provide public benefits including a public plaza. In order to protect the plaza, restrictions were placed on title including a maximum FSR of 14.5:1 and restriction in the use of the plaza for private outdoor seating.

The applicant's justifies the additional floor space on the basis that voids within the tower allow for additional floor space which will comply with the maximum FSR of 14.5:1 prescribed on the covenant. The applicant's argument that the restrictive covenant takes precedents over the floor space development standard is not supported. Further, outdated gross floor area calculations of the site were provided with the application that exclude areas of floors that were previously exempt under the definition of floor space area in the Central Sydney LEP 1996 but are now to be included in accordance with the definition of gross floor area in the Sydney LEP 2012. A clause 4.6 variation has been submitted and is addressed in the Issues section within this report.

The proposal extension of the leasable seating area is not supported as it will privatise the public space reducing the quantity and quality of the public space which is contrary to the intention of the base consent and the covenant. The pavilion building will negatively impact on views to the existing public art installation and the existing bench seating will be removed.

For the reasons discussed above, the proposal has un-acceptable non-compliances with the Sydney DCP 2012 provisions relating to public domain.

The Summary Recommendation:

This proposal is recommended for refusal.

Development Controls:

(i) Liquor Act 2007

(ii) City of Sydney Act 1988

(iii) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

(iv) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)

(v) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended)

(vi) Central Sydney Contributions Plan 2013

Attachments:

A. Selected Drawings

B. Clause 4.6 Variation Request

Recommendation

It is resolved that consent be refused for Development Application No. D/2019/88 for the following reasons:

(A) The proposal will result in an FSR of 14.86:1 which exceeds the 12.52:1 FSR (base 8:1 plus 4.52:1 accommodation floor space) development standard prescribed under Clause 4.4 and Clause 4.6 of the Sydney LEP 2012. The Clause 4.6 variation that has been submitted is not supported as Council is not satisfied that the written request has provided adequate justification that compliance with the Floor Space Ratio control is unreasonable or unnecessary. Further, the application does not provide sufficient environmental planning grounds to justify contravening the standard.

(B) The proposal reduces the amount and quality of the useable open space available to the public in the plaza. The leasable seating zone, for the exclusive use of pub, is extended with a continuous awning over the outdoor seating area. This will result in a large portion of the plaza being privatised.

(C) The proposal is contrary to the base consent D/2007/1792/H which permitted additional floor space above the floor space development standard based on public benefits including the plaza. The proposal is contrary to the restrictive covenant which requires a clear demarcation of the "public" and "private/leasable space" space to ensure that the space is not privatised by future uses.

(D) The new bar known as tenancy 3 will almost entirely encompasses the buildings under croft and will negatively impact on views and the space around the existing public art installation. The proposal is contrary to the objectives of provision 3.1.5 (public art) of Sydney DCP 2012 which includes a requirement to improve the quality of public artworks in private developments and ensure that public art if an integrated and cohesive part of new development.

(E) The proposal fails to demonstrate design excellence in accordance with Clause 6.21 of the Sydney LEP 2012. The form and external appearance of the proposed development does not improve the quality and amenity of the public domain and the proposal will impact on views to the existing art installation.

(F) The proposal fails to comply with provision 3.5.2 of the Sydney DCP 2012. The proposed awning will encroach significantly on the canopy of the semi-mature hills fig tree located in a planter box on the eastern side of the plaza.

(G) The proposal is inconsistent with the objectives of Section 3.15 (late night trading management) of the Sydney DCP 2012 as the submitted acoustic report presents a number of technical errors and fails to detail the existing acoustic levels of the surrounding site. Further the recommendations in the report have not been reflected in plans or the submitted Plan of Management and a number of claims in the report of acoustic compliance are not supported, thus failing to ensure that the development will not have an adverse amenity impact on surrounding sensitive uses.

(H) With consideration of the above matters, approval of the development would not be in the public interest and is contrary to Clause 4.15(1) (e) of the Environmental Planning and Assessment Act 1979. The proposal is inconsistent with the relevant planning controls and will have adverse environmental impacts on the locality.

Background

The Site and Surrounding Development

1. A site visit was carried out by staff on 19 February 2019, 23 July 2019 and 20 September 2019.

2. The site is irregular in shape with frontages to Pitt Street and Castlereagh Street. The site comprises an area of approximately 4,400sqm. The site is known as Liberty Place and contains a series of buildings including a commercial office tower fronting Pitt Street and two commercial buildings fronting Castlereagh Street and basement parking. One of the commercial buildings is the 44 storey commercial building known as ANZ Tower with a 2 storey private residence on the topmost floors. A number of retail and food and drink uses currently occupy the ground floors of the three buildings contained within the site. A public plaza is located within the centre of the site and a pedestrian mid-block connection links Pitt Street to Castlereagh Street.

3. “Legion House” forms part of the site which is a commercial building with a ground level licensed restaurant and is identified as a local heritage item number I1698 under Schedule 5 of the Sydney Local Environmental Plan 2012.

4. The subject application relates to tenancies 6, 7, 8, 9 and 10 located within the northern section of the plaza and a portion of the adjacent outdoor plaza, refer to figure 1 below.

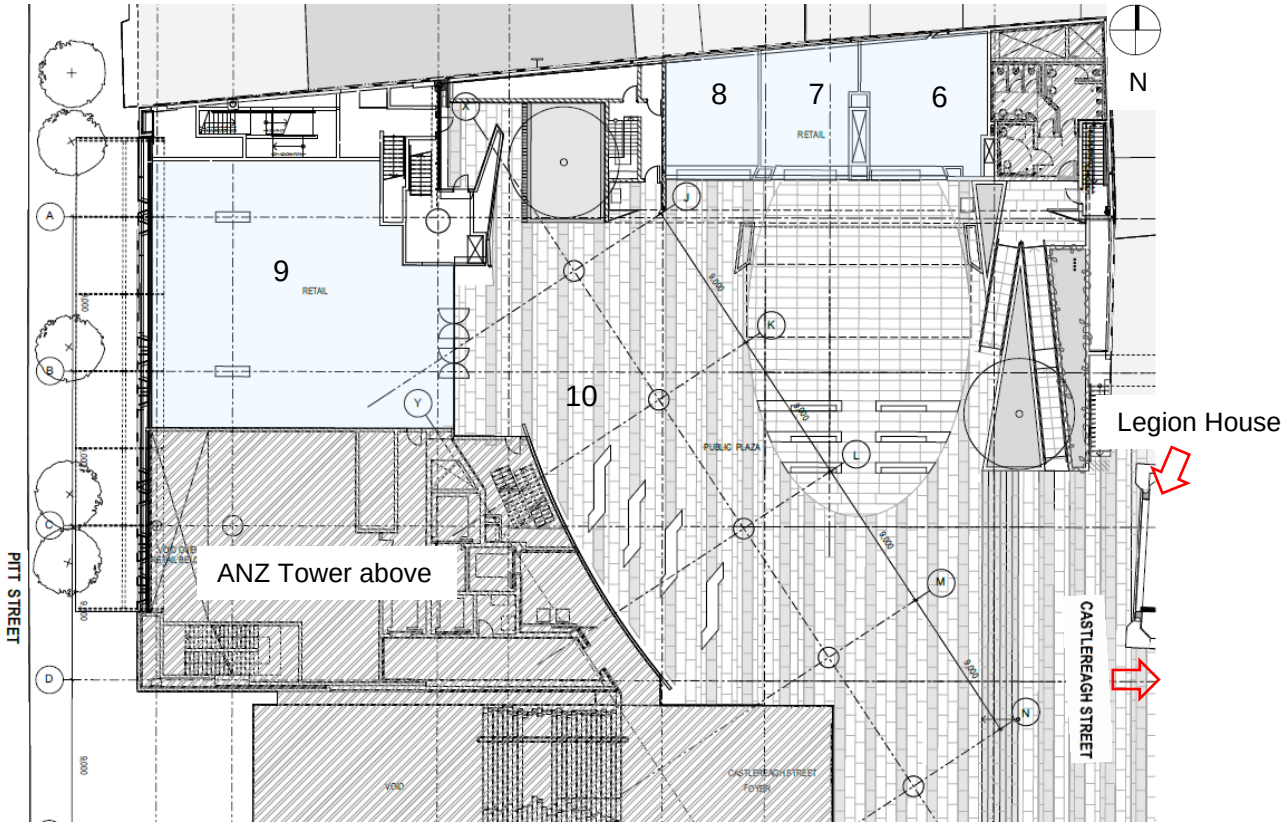


Figure 1: Existing ground floor plan of the plaza showing the existing tenancies.

5. Surrounding land uses are predominately commercial. The Castlereagh Boutique Hotel adjoins the site to the south on the Castlereagh Street frontage. The hotel is separated from Liberty Place plaza by a southern building which also fronts Castlereagh Street and part of the ANZ Tower site. Part of the northern side elevation of the hotel faces Liberty Place plaza. Commercial office buildings abut the site to the north on the Castlereagh and Pitt Street frontages. Retail premises occupy the majority of the ground floor tenancies of the adjacent buildings.

6. The Windsor Hotel was previously located approximately 80m to the south of Liberty Place, on the corner of Castlereagh Street and Park Street at 48-48A Park Street. The four (4) level hotel building has been demolished following the State Government's compulsory acquisition of the site as part of the construction of the Pitt Street (North) Station associated with the proposed underground Sydney Metro Line. The Pitt Street Metro station is currently under construction on part of the former Windsor Hotel site.

7. Photos of the site and surrounds are provided below:

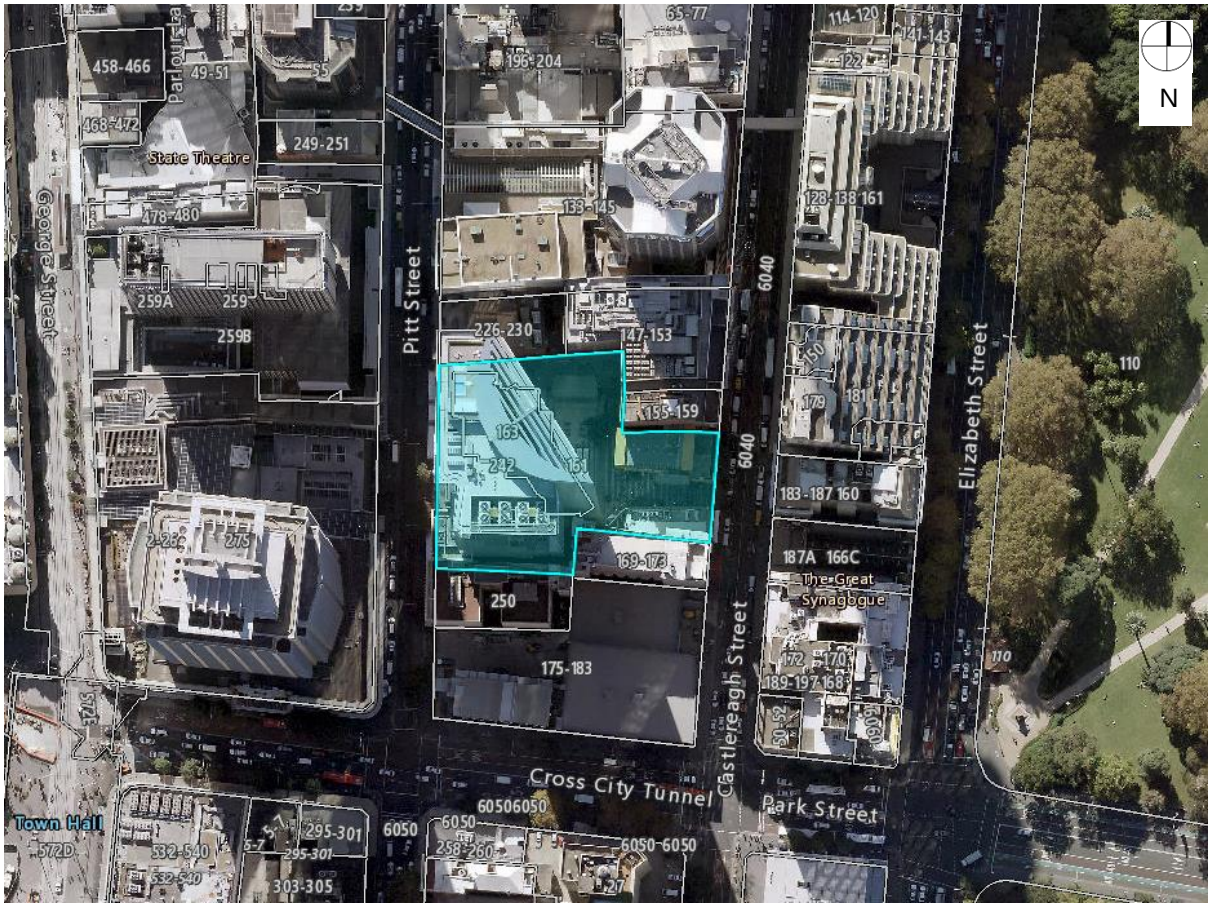


Figure 2: Aerial image of subject site and surrounding area



Figure 3: Liberty Place entrance via Castlereagh Street (looking west).



Figure 4: Liberty Place public right of way looking west towards the ANZ tower and tenancy 10.



Figure 5: Steps to Liberty Place plaza looking generally north-west towards the art installation above tenancy 10.

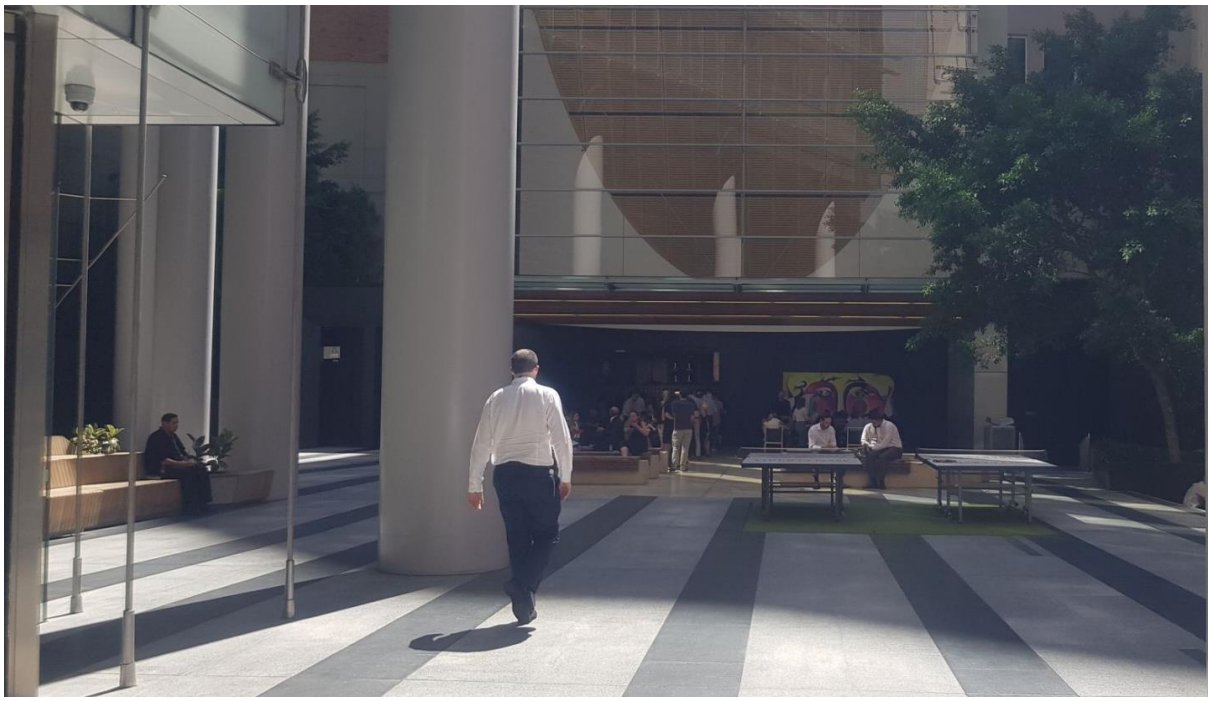


Figure 6: Liberty Place looking north towards tenancies 6 - 8.



Figure 7: Table tennis tables and public seating in the central plaza with tenancies 6 -8 beyond (looking north-west).



Figure 8: Liberty Place plaza looking south.



Figure 9: Liberty Place plaza looking south from the pedestrian ramp and planter bed. The photo depict the fig tree that will be affected by the awning.

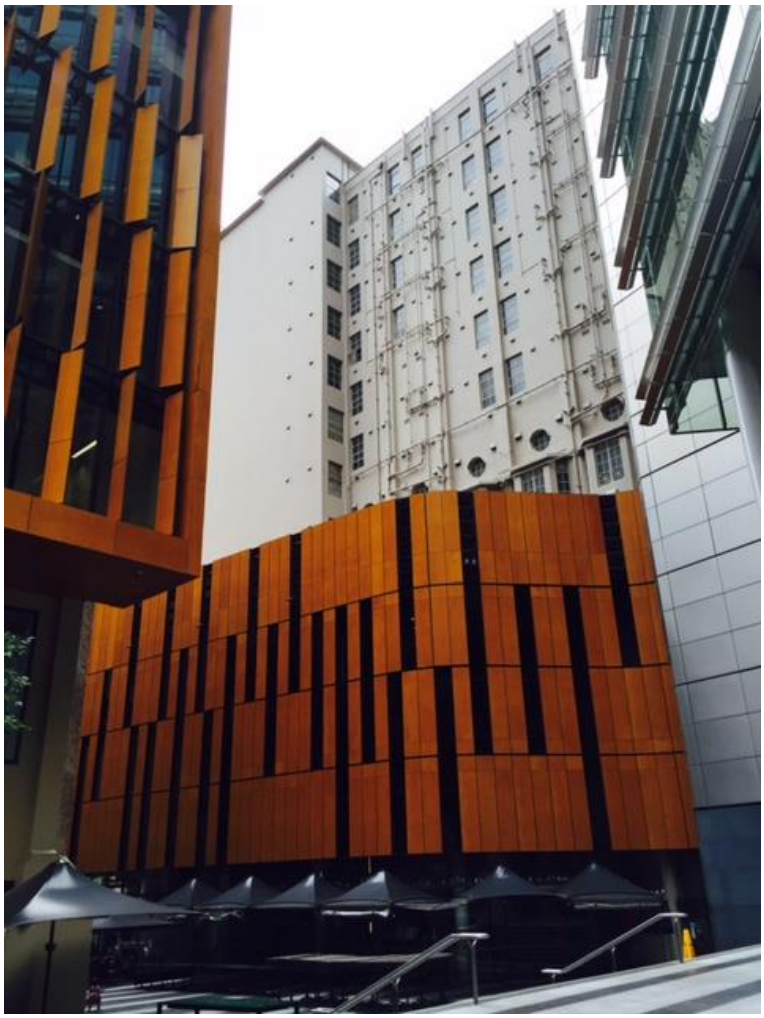


Figure 10: Looking south-east towards the side elevation of the Castlereagh Boutique Hotel.



Figure 11: Tenancy 9 (looking west).

Proposal

8. The application seeks consent for the use, fit out and extension of tenancies 6, 7, 8 and 9 of Liberty Place Plaza (NW section of the plaza) for a licensed pub to be known as 'Liberty Place Bar'. The proposal includes a 181.3sqm increase in the floor-space including the construction of an 80sqm pavilion structure in the tower under-croft area in the area known as tenancy 10. A detailed description of the application is provided below:

(a) Internal and external bar and dining areas

(i) Reconfiguration, fit out and extension of tenancies 6, 7 and 8 located at the northern end of the Liberty Place plaza to create a 257.61sqm internal bar area to be known as tenancy 1. Work includes the demolition of the existing internals walls, partitions and glazing to the three existing tenancies and amalgamation into one tenancy. The new tenancy will extend beyond the existing building line;

(ii) Reconfiguration, fit out and extension of tenancy 9 located at the western end of Liberty Place (to be known as tenancy 2) to create a 280sqm internal bar area including new kitchen and toilet area. Work includes the demolition of the existing glass frontage and door and the extension of the frontage beyond the existing building line;

(iii) Construction of an enclosed 80sqm pavilion bar structure in the under-croft area known as area 10 with bi-fold doors on its eastern side;

(iv) Extension of leasable / outdoor seating area adjacent to each internal bar area and a variation to the leasable seating zone plan and restriction on covenant which was required under D/2007/1792/N.

(v) Demolition of the existing awning adjacent to tenancies 6-8 and construction of a continuous awning over the outdoor seating areas. The awning has a height of 4.24m and extends 6.9m from tenancy 6 - 8 and 6.8m from the south-eastern wall of Liberty Place.

(vi) Demolition of the existing planter box and removal of the tree located on the northern (side) boundary to be replaced with a new amenities block comprising 2 male, 5 female toilets and 1 accessible toilet. It is noted that the existing toilet block located to the north-east of the site will also be retained.

(vii) Four timber benches located within the western portion of the plaza will be removed to allow for the new bar (tenancy 10). The 6 benches in the centre of the plaza will be replaced with 4 benches.

(viii) Materials: Wall cladding - brushed aluminium, slopped soffit -perforated plywood, awning soffit - timber battens, glazing extrusions - powder-coated finfish, structural steel - metallic paint finish.

(b) Operational Restrictions:

(i) A total of 680 patrons are proposed (390 indoor and 290 outdoor) with internal trading hours between 7.00am to 12 midnight, Monday to Saturday and 7.00am to 10.00pm Sunday. Proposed base external trading hours are between 10.00am and 10.00pm Monday to Sunday and extended external trading from 7.00am to 10.00pm Sunday to Wednesday and 7.00am to 11.00pm Thursdays, Fridays and Saturdays for a one year trial.

(ii) Extension of the liquor license boundary.

9. An amended plan was submitted on the 9 April 2019 reducing the extension of the tenancies 6-8.

10. Plans of the proposed development are provided at figures 12 and 20 below and at Attachment A.

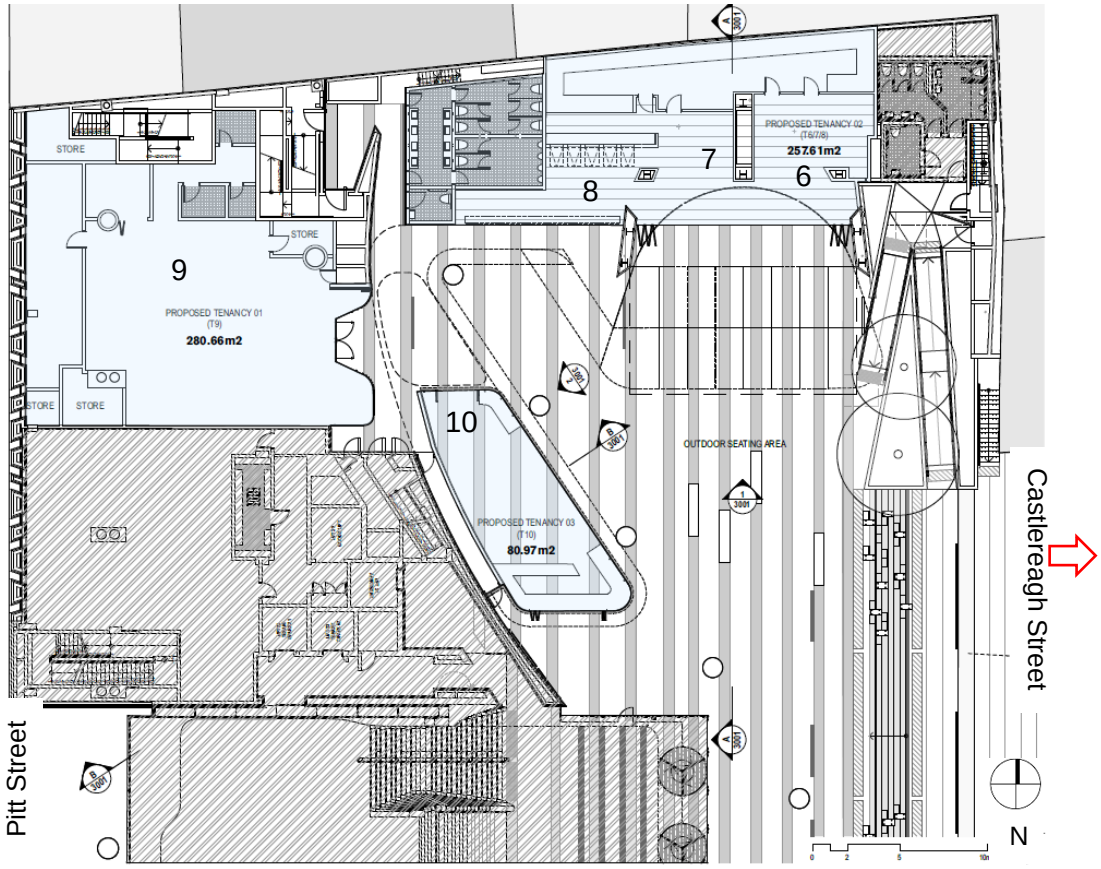


Figure 12: Proposed plan. Tenancy numbers also labelled on plans.

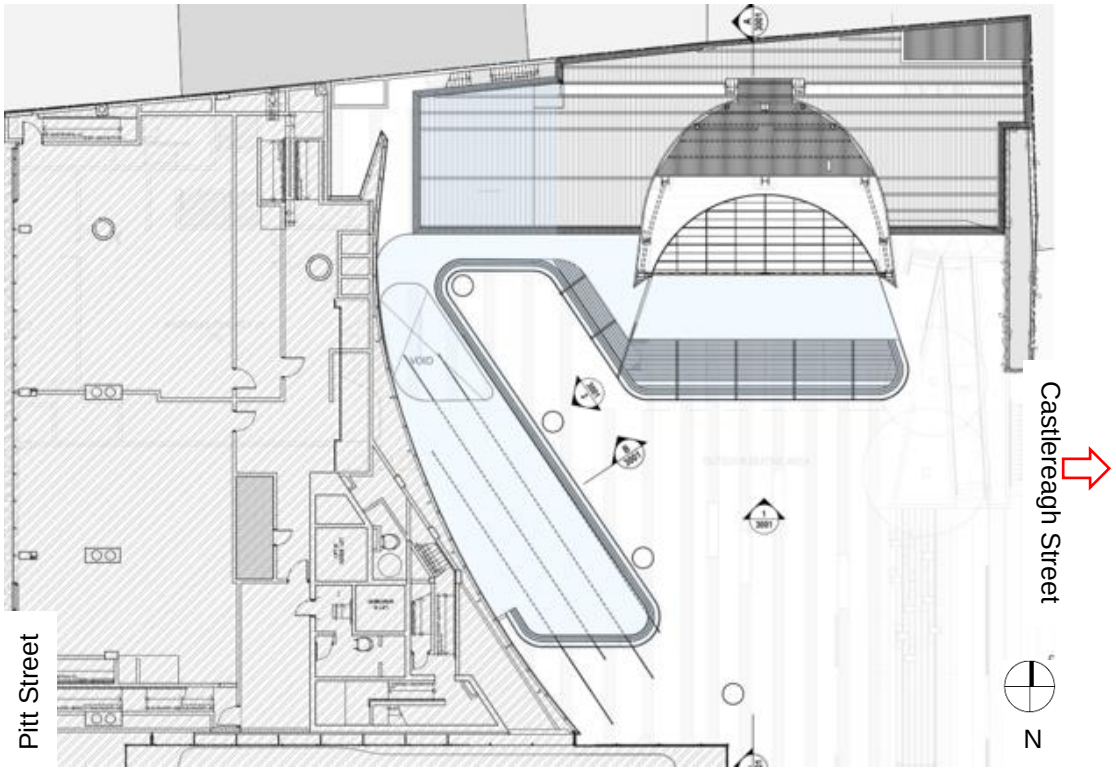


Figure 13: Proposed awning plan.

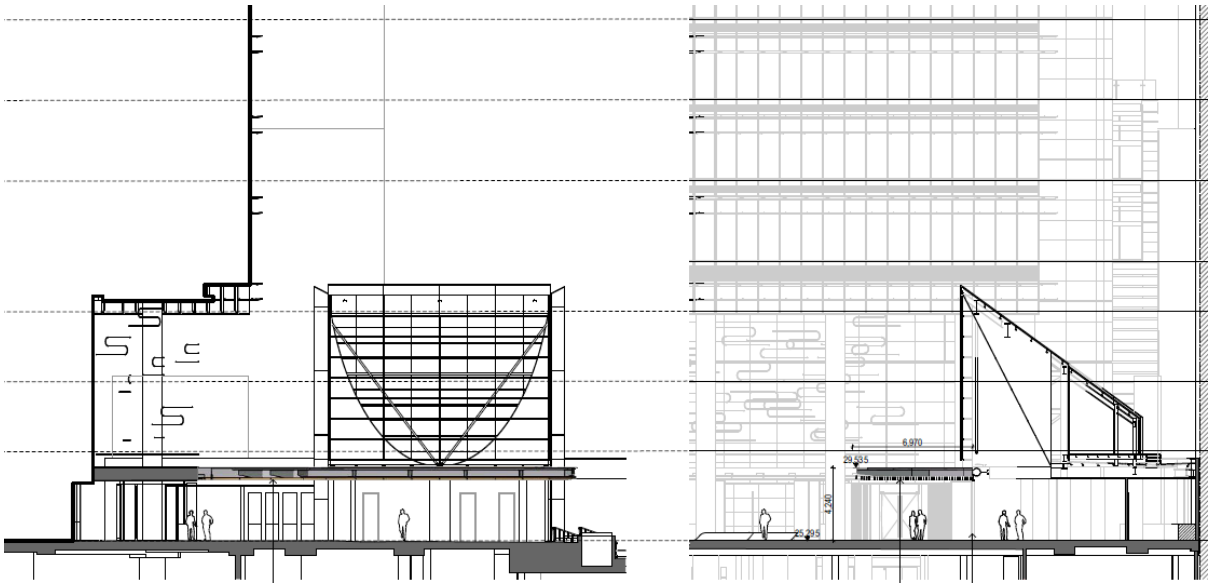


Figure 14: Proposed pavilion section (tenancy 10).

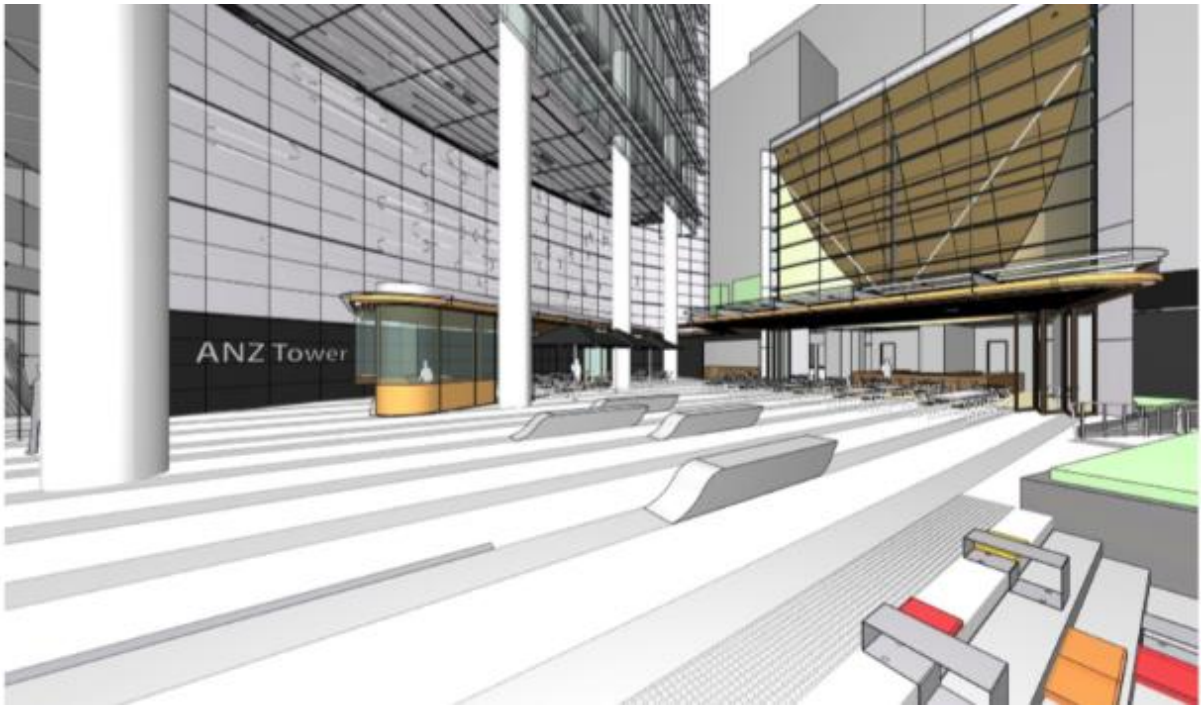


Figure 15: 3D view of the proposal.



Figure 16: 3D birds eye view of the proposal.



Figure 17: 3D view of pavilion (tenancy 10).

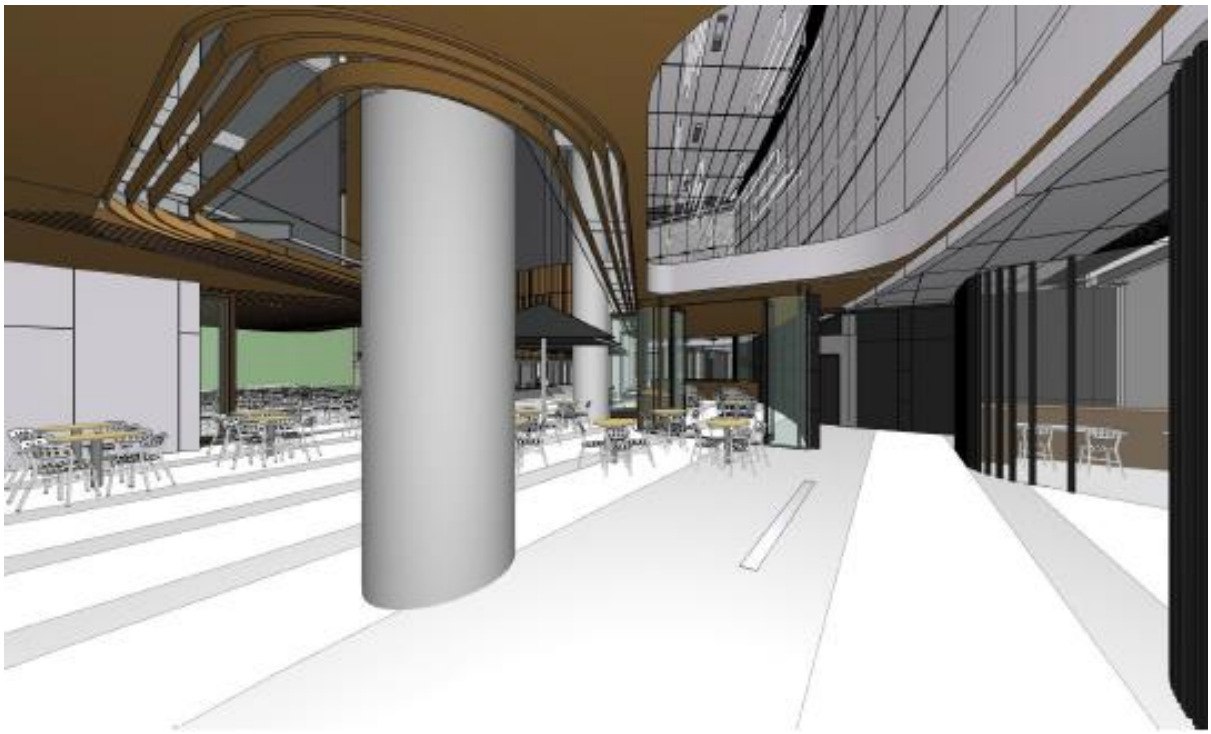


Figure 18: 3D view of the awning looking south towards the pavilion.



Figure 19: 3D view of the outdoor seating next to the pavilion.

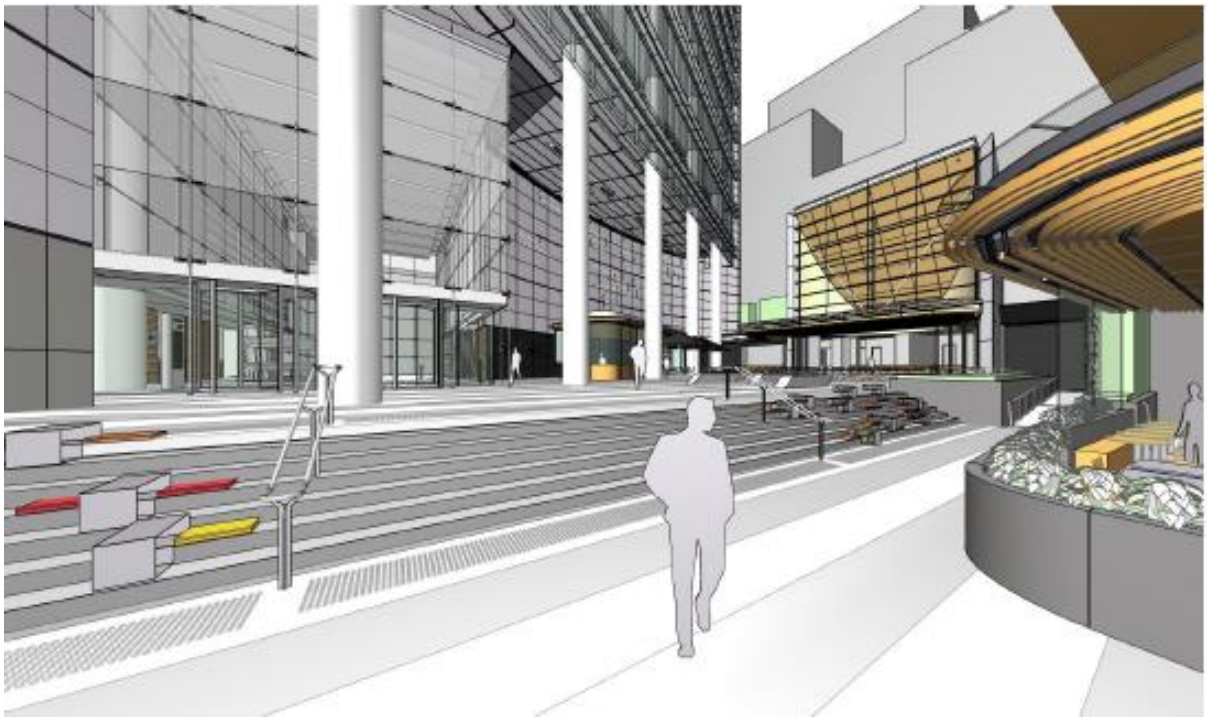


Figure 20: 3D view on approach from the public right of way looking north to the plaza.

History and amendments to the subject Development Application

11. On 19 February 2019, the applicant was requested to submit additional information to address issues with respect to the increase in floor-space.

12. On 23 March 2019 a reminder was sent to the applicant for the outstanding GFA information.

13. On 9 April 2109, the applicant submitted the following

    (a) A revised plans which reduce the floor space to an additional 202.8sqm;

    (b) A letter from Veris surveyors providing details of void spaces and floor-space calculations;

    (c) A plan illustrating a comparison of the publicly accessible space and

    (d) Construction certificate hydraulic services plans of levels 32-42 of the tower.

14. On 12 April 2019, the applicant was requested to submit an amended acoustic report, Plan of Management and details of mechanical ventilation and cooking.

15. On 13 May 2019, a reminder was sent to the applicant advising that the acoustic and GFA issues remain outstanding and a clause 4.6 variation was requested. The applicant was also advised that changes to the restrictive covenants in relation to right of public access and the leasable seating zones could not be supported. Issues in relation to the impact of the enclosed pavilion on the existing artwork was also raised.

16. On 1 July 2019, the applicant submitted an amended acoustic report. On 12 July 2019, the applicant was advised that the acoustic report was still insufficient.

17. On 18 July 2019, the applicant submitted a further revision to the acoustic report and an amended Plan of Management. The applicant requested that issues relating to mechanical ventilation be addressed by a condition.

18. On 15 August 2019, the applicant submitted GFA plans and a letter from Veris relating to gross floor space.

19. On 23 August 2019, the applicant submitted additional information to address public domain issues.

20. On 28 August 2019, the applicant submitted a Clause 4.6 variation request to vary the floor space ratio control of 12.52:1 (8:1 base and 4.52:1 accommodation floor space bonus) in the Sydney LEP 2012.

History Relevant to the Development Application

ANZ Tower and creation of Liberty Place

21. On 12 December 2002, the CSPC granted consent to a Stage 1 DA (D/2002/748) for a commercial tower to a height of 168m (RL 190.1m) with 4 levels of basement parking for 116 vehicles.

22. Following the approval of the Stage 1 application, a design competition for the development was held. The winning scheme designed by Mitchell/Giurgola and Thorp (now known as FJMT) was praised for its creation of a mid-block public open space and a publicly accessible through-site link.

23. On 27 February 2003, Stage 2 Development Application D/2002/842 was granted consent by the CSPC for a 43 storey commercial tower with ground and basement retail, a mid-block link from Castlereagh Street to Pitt Street and a large open plaza, 3 basement levels for car parking and the retention and restoration of the heritage listed Legion House. Additional floor space was allocated to the site as the development provided a number of public benefits including the provision of a through-site link and mid-block open plaza. Further, the development was granted a discount in the allocation of Heritage Floor Space equal to the area of the plaza and through-site link.

24. On 6 December 2007, the CSPC approved D/2007/1792, a Stage 2 DA to amend the approval granted in 2003 for the erection of a 43 storey commercial tower with ground and basement level retail, a mid-block connection from Castlereagh Street to Pitt Street, three basement levels for 90 car spaces retention and restoration of Legion House and demolition of all other buildings and site amalgamation into one title. The amendments from the previous Stage 2 consent was to remove the Grand United Building (GUB) at 147-153 Castlereagh Street from the development site effectively decreasing the development site areas and increasing the proposed FSR as there were no proposed changes to the proposed tower development. Due to the removal of the GUB site from the development, the proposed FSR sought to vary the compliant FSR of 12.5:1 to 14.2:1, exceeding the LEP maximum.

25. The varied FSR was supported by the CSPC at the time, one of the reasons of support being due to the public benefit provided at the ground floor with the through-site link and public plaza - at the time referred to as Ethics Plaza in association with The Ethics Centre located within Legion House, The approved FSR was14.2:1 (gross floor area 63,885.5sqm).

26. A notable condition of consent is Condition 6 which sought to protect the mid-block link/open space between Castlereagh Street and Pitt Street and the central open space that Liberty Place was providing for public use. See further discussion under the heading '*Restrictive Covenants*'.

27. Since the approval of the base building a number of Section 4.55 Modifications (A-N) have been approved. The following Section 4.55 Modifications are of relevance to the subject development application.

28. On 13 January 2012, D/2007/1792/I approved modifications to the retail pavilion building and plaza area including awning changes and additional seating in the form of benches.

29. On 1 December 2011, D/2007/1792/H was granted consent for the modifications to Legion House and the neighbouring buildings at 167 Castlereagh Street including an additional 1,217.9sqm of commercial floor-space above Legion House resulting in a GFA of 65,103.4sqm (increased from 63,885.5sqm) and FSR of 14.5:1. In addition, the proposal approved a cogeneration plant to provide a zero energy tower building.

Restrictive Covenants

30. Condition 6(c)(i) (*Mid-Block Link/Open Space*) of D/2007/1792 (as amended) required a plan to document the clear demarcation of the "public" and "private / leasable" space within the mid-block open space to ensure that this space is not "privatised" by future uses. The plan was approved on 27 July 2012 to satisfy this condition (refer to figure 21 below).

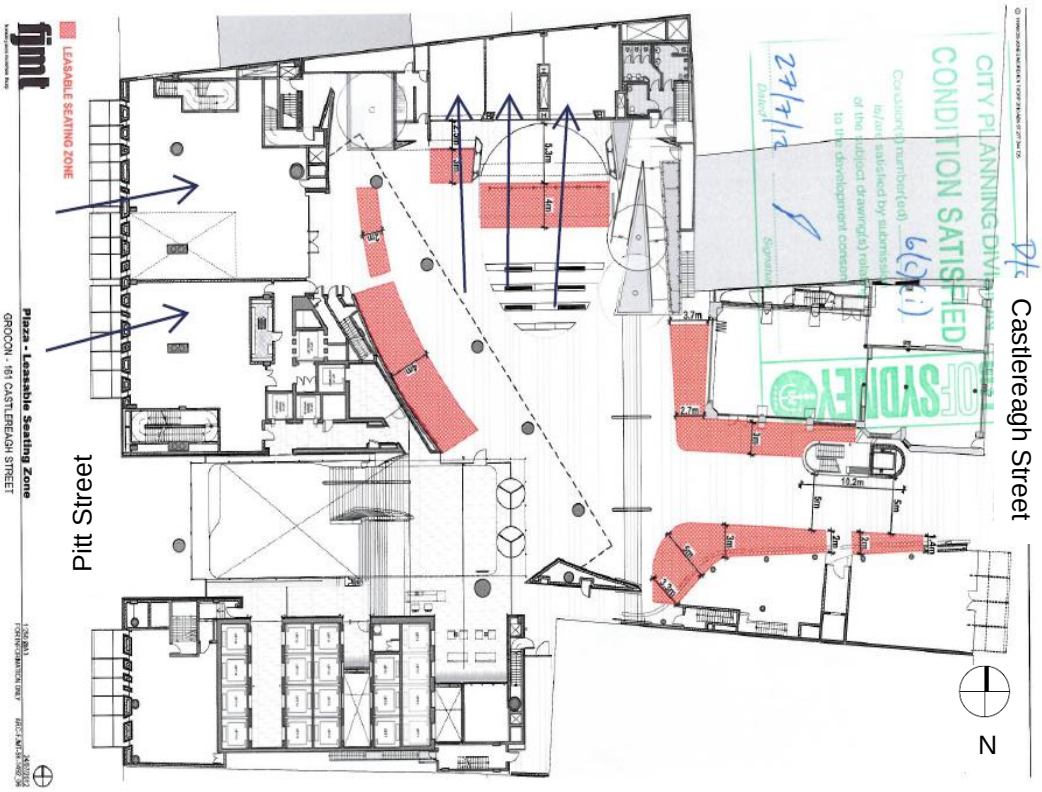


Figure 21: Approved leasable seating zone

31. Condition 6 (c)(ii) requires the above demarcation to be reflected in a restrictive covenant. The plan below is a part of the restrictive covenant, with the area in pink being a right of public access (approximately 6m wide) connecting Pitt Street and Castlereagh Street, and the area in green being the Restriction on the Use of Land in relation to outdoor dining and fitout of tenancies.



Figure 22: Plan showing the restrictions on the use of land on Castlereagh Street level.

32. In particular, the Title of the land contains a Restriction on the Use of Land, created by the registration of DP1184135 which requires: *The Owner of the Lot Burdened must not without the prior consent of the Council grant any tenant of the premises within the Lot Burdened the right to occupy or use any part of the site for the purpose of outdoor seating or fit out associated with any tenancy*.

33. In addition, the Title also contains a floor space Restriction created by the registration of DP1183173. The Restriction states: *The Grantor must limit the sum of the floor space ratio (FSR) of all lots taken together to be no more than 14.51:1, calculated in accordance with the Central Sydney Local Environmental Plan 1996.* This equates to a maximum 64,265.1sqm of commercial floor space and 838sqm of residential floor space which was approved under development modification D/2007/1792/H condition 16(a). It should be noted that the definition of gross floor area and the calculation of FSR has been modified in the Sydney LEP and the actual total existing GFA of the building is higher than that specified in the Restriction. See further discussion regarding floor space ratio under the heading Issues.

Liberty Place tenancies

34. On 15 April 2013, D/2013/335, approved the use and fit out of tenancy 8 as a licensed restaurant with outdoor seating for 16 patrons. The tenancy is currently vacant.

35. On 5 March 2013, D/2013/53, approved the fit out and use of tenancy 6 as a licensed restaurant with outdoor seating for 68 patrons. The tenancy is currently vacant.

36. On 5 March 2013, D/2013/54, approved the fit out and use of tenancy 7 as a food outlet with outdoor seating. The tenancy is currently trading as Stockmarket kitchen.

37. On 26 March 2013, D/2013/172, approved the fit out and use of tenancy 9 as a licensed Japanese restaurant with outdoor seating with a patron capacity of 90 persons. The tenancy is currently vacant.

38. On 14 March 2013, D/2012/1902 approved the fit out and use of tenancy 5 as a licensed espresso bar and cafe known as 'The Local Bar' with approved trading hours 6.30am to 12 midnight Monday to Saturday and between 7.00am and 10.00pm Sunday. Condition 4 limits the patron capacity to 190 persons.

39. On 27 March 2017, D/2017/170 approved alterations to the existing licensed ground floor cafe at 'Legion House' with indoor trading between 6.30am and 10.00pm Monday to Saturday and base outdoor trading between 6.30am and 8.00pm Monday to Saturday and a one year trial of outdoor trading until 10.00pm. Condition 9 limits the patron capacity to 92 persons which includes 38 patrons in the outdoor area.

Liberty Place Bar

40. On 2 June 2017, D/2017/725 was submitted for the use and fit out of tenancies 6, 7, 8 and 9 of 'Liberty Place Bar' and transfer of the liquor license from the (then) Windsor Hotel site to 161 Castlereagh Street. Proposed hours are 7.00am to 12 midnight Monday to Saturday and 7.00am to 10.00pm Sunday. A total of 680 patrons are proposed

41. On 27 October 2017, the applicant lodged a Class 1 appeal with the Land and Environment Court, (proceedings number 2017/364007) against the deemed refusal of D/2017/725 for the use and fit out of tenancies 6,7, 8 and 9 of 'Liberty Place Bar'.

42. On 19 February 2018, D/2017/725 was approved by Council for the use and fit out of tenancies 6, 7, 8 and 9 of 'Liberty Place Bar'. Refer to figure 21 below which illustrates the approved layout.

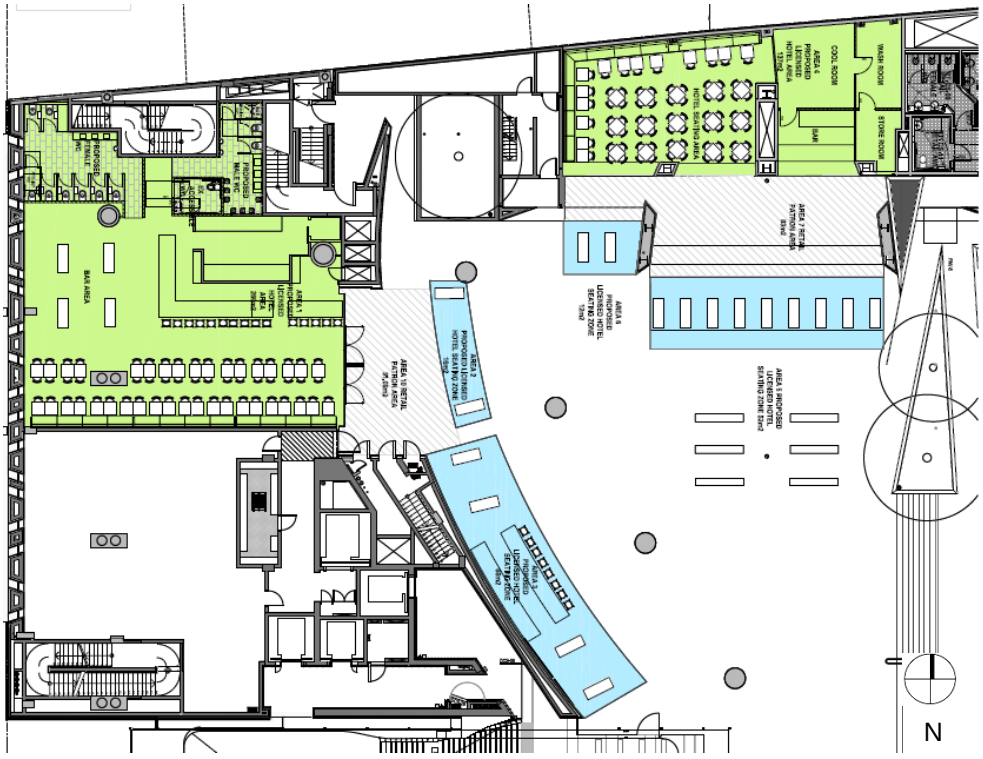


Figure 23: Excerpt of approved plan for Liberty Place Bar under D/2017/725. Note the areas coloured 'blue' are outdoor spaces consistent with the approved outdoor leadable seating zone plan.

43. The following conditions are of relevance:

    (a) Condition 2 restricts the total patron capacity to 680 (390 indoor and 290 outside) with specific internal and external areas having maximum patron capacities.

    (b) Condition 3 allows indoor trading hours between 7.00am and 12.00 midnight Monday to Saturday and 7.00am to 10.00pm Monday to Sunday.

    (c) Condition 4 restricts outdoor trading between 10.00am to 10.00pm Monday to Sunday base hours with a one year trial for extended trading between 7.00am and 10.00am Sundays, Mondays, Tuesdays and Wednesdays, and 7.00am to 11.00pm Thursdays, Fridays and Saturdays.

    (d) Condition 5 requires all doors and windows to the internal bars shall be closed from 10.00pm Monday to Saturday.

    (e) Condition 6 requires the applicant to submit an Outdoor Patron Capacity Plan for the management and control of the dissemination of the 290 external population at night. The Plan is to be agreed to by a Suitably Qualified Acoustic Consultant and to include an assessment of measures to stagger the departure of the 290 'outdoor' patrons at closing.

    (f) Condition 7 states that the PCA must not release any Occupation Certificate until notified in writing by the City's Area Planning Manager, that they are satisfied that a number of acoustic and management measures have been adequately completed.

44. To date, no such Outdoor Patron Capacity Plan has been submitted to Council for review to satisfy Condition 6 of the consent.

45. On the 11 April 2018, a Statement of Facts and Contentions in relation to Land and Environment Court, (LEC proceedings number 2017/364007) prepared by the applicant was filed with the Court. The contentions related to various operational conditions including patron capacity, acoustic impacts, outdoor patron capacity management and hours of operation.

46. On the 24 April 2018, the appeal ref 2017/364007 was discontinued.

47. On 22 March 2018, the applicant lodged a Section 4.55(2) modification application referred to as D/2017/725/A. The application sought to modify or delete conditions relating to patron capacity, outdoor trading hours, the closure of windows and doors, the imposed outdoor patron capacity plan condition and the use of speakers outside.

48. On 13 June 2018, the applicant lodged a new Class 1 Appeal, appeal reference 2018/183600, to the Land and Environment Court against the deemed refusal of D/2017/725/A.

49. On 19 November 2018, the appeal ref 2018/183600 was discontinued and the determination of the application reverted back to Council.

50. On 4 December 2018, Section 4.55 (2) Modification D/2017/725/A was withdrawn.

51. On 21 May 2018, Development Application D/2018/534 was lodged with Council proposing the use and fit out of tenancies 6, 7, 8 and 9 of Liberty Place for a new licensed pub with additional outdoor seating. On 3 August 2018, Council issued a letter to the applicant notifying them of the similarities between the proposal and the Court proceedings that were underway (LEC ref. 2018/183600) and requested that the application be withdrawn and possibly resubmitted to Council at a later date, pending the outcome of the Court proceedings. On 3 December 2018, the application was withdrawn.

Other relevant development history

52. On 23 May 2018 the Local Planning Panel granted consent to Development Application D/2018/269 for the removal of a staircase and infill of two voids on Level 29 resulting in an additional 25.82sqm of floor space or a 1% increase of the overall FSR of the site from 14:51:1 to 14.52:1. Reasons for approval for the increase in GFA for the site included the increase in FSR being contained wholly within the internal areas of the tower and that the development will have no adverse impact on the amenity of the locality.

53. On 20 December 2018, Development Application D/2018/1601 was lodged with Council for the construction of new awnings, planter boxes, retractable roller blinds and glass screens for the existing outdoor seating area of Legion House and 167 Castlereagh Street. On 15 March 2019, Council issued a letter highlighting a number of issues with the development including the adverse impact of the proposal on significant heritage fabric, pedestrian permeability and impacts on the approved mid-block connection between Pitt Street and Castlereagh Street. On 11 July 2019, the application was withdrawn noting further discussions are required between the building management and commercial tenants.

54. On 8 July 2019, Development Application D/2019/419 was granted consent for the installation of a double glazing window system to the Castlereagh Boutique Hotel at 169-173 Castlereagh Street.

Economic/Social/Environmental Impacts

55. The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:

    (a) Environmental Planning Instruments and DCPs.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)

56. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.

57. The Sydney Harbour Catchment Planning Principles must be considered in the carrying out of development within the catchment. The key relevant principles include:

    (a) protect and improve hydrological, ecological and geomorphologic processes;

    (b) consider cumulative impacts of development within the catchment;

    (c) improve water quality of urban runoff and reduce quantity and frequency of urban run-off; and

(d) protect and rehabilitate riparian corridors and remnant vegetation.

58. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development. The development is consistent with the controls contained within the deemed SEPP.

Liquor Act 2007

59. The subject site and the former Windsor Hotel (now demolished) are identified on the Sydney CBD Entertainment Precinct Map.

60. The transfer (removal) of the hotel license between premises each located in the same freeze precinct requires consideration under clause 47F(3) of the Liquor Act which requires:

61. *47F (3) Removal of licence between premises in same prescribed precinct.*

During the freeze period, the Authority must not approve the removal of a licence, being a licence to which this subsection applies, to subject premises from other premises situated in the same prescribed precinct in which the subject premises are situated if the Authority is satisfied that the patron capacity of the subject premises will be more than the patron capacity of the premises from which the licence would be removed

62. The assessment of the original DA for the pub, D/2017/725, included a review of population studies for the Windsor Hotel and Liberty Place Bar. The studies were based on a review of the population of both venues against the requirements of the deemed to satisfy provisions of the NCC considering available floor area, aggregate exit widths and sanitary facilities.

63. A site visit to the now demolished Windsor Hotel also confirmed that the additional amenities, approved under a CDC, had been built. Council's Building Unit reviewed studies and floor plans and confirmed that the assessment was acceptable.

64. Pursuant to S47F (3) of the Liquor Act 2007 and as part of the assessment of D/2017/725 it was concluded that the patron capacity of the Liberty Place Bar will be no more than the patron capacity of the Windsor Hotel. Conditions were imposed in the original development consent to ensure this.

65. The proposed patron numbers (total 680 (with a maximum of 290 patrons permitted outside) in the subject DA do not exceed the number approved under the original Development Consent D/2017/725.

66. On the 15 August 2018, the Independent Liquor and Gaming Authority approved the removal of the hotel liquor license ref LIQH400106599 from the New Windsor Hotel at 48-48A Park Street to 161 Castlereagh Street. The conditions of the license include limiting consumption on the premise - indoor area Monday to Saturday 10.00am to 12.00am and Sunday 10.00am to 10.00pm. Consumption in the premise - outdoor area Monday to Wednesday 10.00am to 10.00pm, Thursday to Saturday 10.00am to 11.00pm and Sunday 10.00am to 10.00pm. Conditions also included the requirement to close all doors and windows by 10.00pm. It is noted the transfer approval does not set a maximum limit on patron capacity.

67. While the subject application does not seek to increase the patron capacity of the licensed venue it seeks approval for the extension of the liquor license boundary beyond the leasable seating areas and the approved liquor license boundary plan.

68. As such section 47G (restrictions on changing boundaries of Premises) apply. The existing approved licensed area floor plan is provided below in figure 24 and the proposed licensed area floor plan is provided in figure 25.

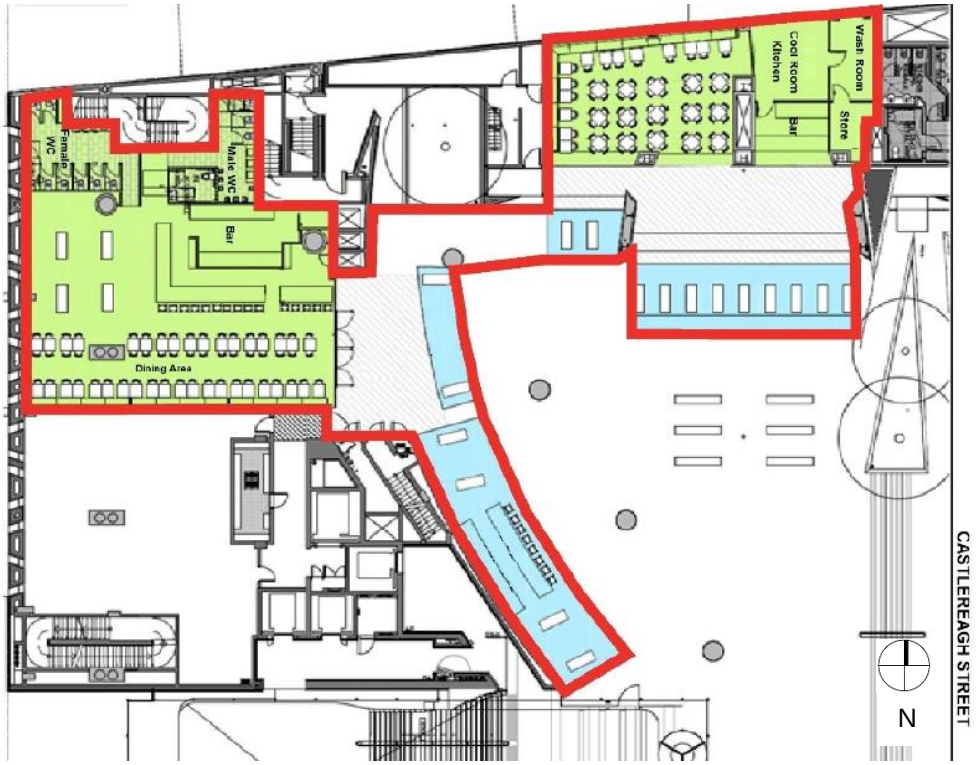


Figure 24: Approved licensed boundary area.

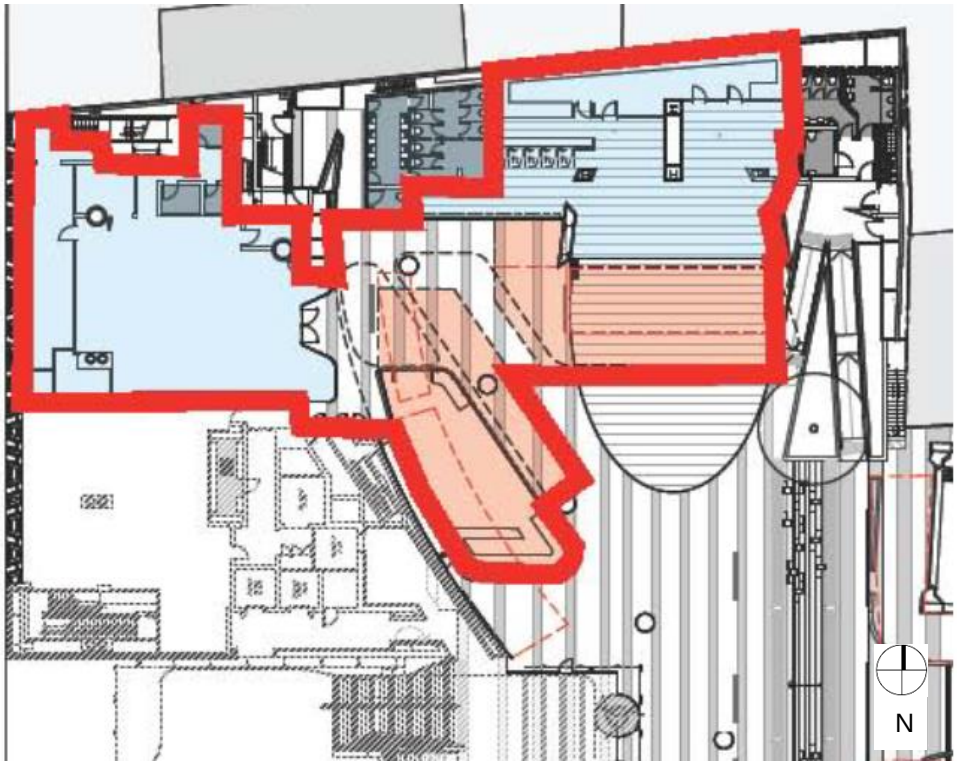


Figure 25: Proposed extended licensed boundary area.

69. Clause 47G (1) states:

During the freeze period, the Authority must not change the specified boundaries (as referred to in section 94) of the subject premises to which this subsection applies if the Authority is satisfied that the change in the boundaries of the premises is likely to result in (a) an increase in the number of people that enter the freeze precinct in which the subject premises are situated principally to consume alcohol, or (b) an increase in the patron capacity of the subject premises.

70. The application does not propose an increase in patron numbers for the Hotel and Council's Licensed Premise Unit confirm that the proposed liquor licensing of the premises will comply with clause 47G of the Liquor Act 2007.

Sydney Local Environmental Plan 2012

71. The site is located within the within the B8 Metropolitan zone. The proposed use is defined as 'pub' and is permissible with development consent.

72. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.4 Floor Space Ratio Part 6 Division 1 Additional Floor space Central Sydney	No	The site has an area of 4,490sqm and a maximum FSR of 12.52:1 is specified for the site under the Sydney LEP 2012. Based on the existing GFA, the proportion of residential floor space to commercial floor space is approximately 1.23% to 98.77%respectively. As accommodation floor space bonuses in 'Area 2' in which the site is located differ between commercial (4.5:1) and residential (6:1), the proportioned bonus of floor space applicable to the site reflecting the existing proportions equates to an accommodation floor space bonus of approximately 4.52:1. As such, in addition to the base FSR control of 8:1, it is considered that the FSR control for the site is 12.52:1. The proposal will result in an additional 181sqm of floor space. The applicant justifies this on the basis that voids within ANZ tower result in 236.2sqm of available floor space which can be used while still maintaining the gross floor area of 65,103.4sqm (FSR 14.5:1) which complies with the restrictive covenant for the site. A desktop survey and GFA plans have been submitted to demonstrate that voids within the ANZ tower allow for additional floor space which will comply with the 14.5:1 FSR covenant on the site. The Applicant's justification that the GFA allowance in the restrictive covenant takes precedent over the FSR controls is not supported and the DA cannot be supported. See discussion under the heading Issues.

Development Control	Compliance	Comment
4.6 Exceptions to development standards	No	The applicant has submitted a 4.6 variation to the FSR development standard. See discussion under the heading Issues.
5.10 Heritage conservation	Yes	Legion House building is located on the Castlereagh Street frontage of the subject site and is listed as Heritage item under Schedule 5 of the LEP. Liberty Place Bar is proposed within ground floor tenancies 6 – 10 of Liberty Place located within the central portion of the site. The fit out of the tenancies and the construction of the pavilion and awning will not impact on the heritage significance of Legion House or any nearby heritage item.

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
Division 1 Additional floor space in Central Sydney 6.10 Heritage Floor Space	Yes	Should the application have been supported, the development would be required to have Heritage Floor Space allocated to the site.
Division 4 Design excellence	No	The proposed development fails to satisfy clause 6.21 (4)(b), (c), and (d)(v),(ix), (x) and (xii) of the design excellence provisions which relate to public domain. The form and external appearance of the proposed development does not improve the quality and amenity of the public domain. The proposed development impacts on view corridors to the art installation. The proposal will have negative impacts on pedestrian circulation requirements including the permeability of the pedestrian network. See discussion under the heading Issues.

Sydney Development Control Plan 2012

73. The relevant matters to be considered under Sydney Development Control Plan 2012 for the proposed development are outlined below.

3. General Provisions	Compliance	Comment
3.1 Public Domain Elements 3.1.2.2 Through site links 3.1.5 Public Art	No	***Through site link and public open space*** The proposed development will result in a 222sqm reduction in publicly accessible open space and a reduction in the quality of useable open space available to the public in the plaza. A large portion of the plaza will effectively be privatised as the leasable seating zone for the exclusive use of the pub is extended and an awning is constructed over the private outdoor dining space. The proposal will also restrict public access to the northern half of the site. The existing public benches will be removed from the sheltered under-croft area at tenancy 10 and the 6 existing benches located in the open will be reduced to 4. It is considered that the public amenity of the provision of a partially outdoor through-site link and entirely outdoor open plaza is significantly diminished with the construction of additional structures sought to enclose the area for private use. ***Public Art*** The proposal will negatively impact on the existing public art installation. The pavilion bar structure and awning will impact on views to the artwork. See discussion under the heading Issues.

3. General Provisions	Compliance	Comment
3.2 Defining the Public Domain	No	The proposed development will not contribute to the quality of the public domain. See discussion under the heading Issues.
3.5 Urban Ecology	No	The awning adjacent to tenancies 6 -7 will encroach on the semi-mature Hills Fig (tree 2) which is in good health. The impact on this tree is unacceptable and a minimum 3m clearance is required between the awning and the tree canopy.
3.9 Heritage	Yes	Refer to LEP table above. The fit out of the tenancies and the construction of the pavilion and awning will not impact on the heritage significance of Legion House or any nearby heritage items.
3.12 Accessible Design	Yes	Accessible access can be provided to the proposed pub.
3.13 Social and Environmental Responsibilities	Yes	The proposed development is capable of providing adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.15 Late Night Trading Management	Partial compliance	The Category A premise is located within a Late Night Management Area which permits base indoor trading between 6.00am and 12 midnight with extended trading up to 24 hours on a trial period, and base outdoor trading between 10.00am and 10.00pm with trial trading between 9.00am and 1.00am.

3. General Provisions	Compliance	Comment
		The proposal seeks consent for internal trading between 7.00am to 12 midnight Monday to Saturday, 7.00am to 10.00pm on Sundays and outdoor trading between 7.00am to 10.00pm Sunday to Wednesday and 7.00am to 11.00pm Thursday to Saturdays. The proposed trading hours comply with the LNT provisions subject to a one year trial for extended outdoor trading from 7.00am daily and to 11.00pm on Thursday to Sunday. It is noted that the proposed hours are consistent with those approved under D/2017/725. The applicant has submitted a Plan of Management (POM) which has not been updated to reflect the operational restrictions contained in the 18 July 2019 acoustic report. The application was discussed with Council's Health and Building Unit who raised a number of issues regarding acoustic compliance and the possibly adverse amenity impact the development may have on surrounding sensitive uses. See discussion under the heading Issues.

Issues

Floor space

74. A maximum FSR of 12.52:1 is permitted, comprising 8:1 base FSR and 4.52:1 accommodation floor space (based on the proportioning of residential and commercial uses within the site).

75. As discussed above in the history of the development, the redevelopment of the site was granted consent for a floor space ratio of 14.5:1 in accordance with the Central Sydney Local Environmental Plan 1996 and later the Sydney Local Environmental Plan 2005. The process of calculating gross floor area and definition of floor space has since changed and the application is to be assessed in accordance with the definitions of the Sydney Local Environmental Plan 2012.

76. The applicant has submitted a letter from Veris, registered surveyors, noting that as a result of a desktop survey of the current as built floor space, 236.2sqm of floor space is available as a result of voids in the tower. An additional letter from Veris provides a GFA breakdown of the site. The survey adopts the definition of floor space applicable at the time of the original DA under Sydney LEP 1996 and is not an accurate calculation of actual GFA in accordance with current controls.

77. The GFA breakdown letter from Veris further states that they did not attend the site to survey the current as built floor plans and void locations. The desk top review was based on the existing tower drawings that were provided by the owner of the site, GPT Funds Management Limited and provided a note stating the 'Pitt Street Convenience' area and internal through-site link have also been excluded from the GFA total based on calculations completed by FJMT in 2013 (under the 1996 definition of floor space). Furthermore, while GFA plans have been submitted which are annotated to illustrate the location of the voids, no comparison has been made of the approved floor plans by the applicant. As such, there remains some uncertainty as to whether there is available floor space on the site which will render the site compliant with the FSR covenant.

78. The Veris survey calculates an as built GFA of 64,867.1sqm and notes that the proposal will result in a GFA of 65,048.4sqm which complies with the floor space restriction of 65,103.3sqm however, these calculations are made based on an outdated definition of floor space. A number of areas excluded from the calculations now contribute to the overall GFA calculations under the Sydney LEP 2012, including enclosed through-site links, wintergardens associated with the single dwelling within the site and 'convenience' retailing stores. The table below provides a breakdown of the approved GFA in the original consent in accordance with previous definitions, actual existing GFA as per the definition of the Sydney LEP 2012 and the proposed GFA based on the survey plans provided by the applicant.

	Gross Floor Area	**FSR**
Veris calculations (based on LEP 1996 and LEP 2005 definitions)	64,967.1sqm	14.46:1
Existing equivalent under LEP 2012 definitions	66509.2sqm	14.82:1
Proposed	66,690.5sqm	14.86:1

79. The proposal will increase the floor space by 181sqm as a result of the creation of the pavilion bar (tenancy 10 (T10)) and the extension of tenancies 6-9. The proposal will result in a FSR of 14.86:1 providing a gross floor area of 66,690.5sqm across the site.

80. The base building approved a previous FSR of 14.2:1 (63,885sqm) which exceeded the maximum FSR of 12.5:1 by 13.8%. The variation of the floor space development standard, primarily due to the removal of the Grand United Building site from the development, was supported by the CSPC citing that the development seeks no material changes to the tower development or restoration of Legion House and would provide public benefits including a 1,200sqm "Ethics Plaza". In order to ensure that the public benefits were delivered restrictions were placed on title relating to floor space, out-door seating and public access through the public plaza. These are discussed separately below.

81. The GFA was again increased under modification D/2007/1792/H resulting in a GFA of 65,103.5sqm FSR 14.5:1 under previous definitions of GFA and FSR.

82. Overall, in accordance with the GFA calculations using plans provided by Veris and calculations reflecting the Sydney LEP 2012 definition of floor space, the proposed FSR is 14.86:1, exceeding the FSR control of 12.52:1 by approximately 19%.

Clause 4.6 request to vary a development standard

83. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

    (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and

    (b) That there are sufficient environmental planning grounds to justify contravening the standard.

84. A copy of the applicant's written request is provided at Attachment B.

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

85. The applicant seeks to justify the contravention of the floor space ratio development standard on the following basis:

    (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:

        (i) that the need to create additional floor space demonstrates there is insufficient appropriately located floor space to meet the needs for hospitality focussed offerings in the CBD;

        (ii) that the built form is not affected from outside the development and is not inconsistent with any local character controls;

        (iii) that the absence of the development at the ground floor would hinder the attainment of the objects of Section 1.3(a) and (c) of the Act, which are to promote the social and economic welfare of the community;

        (iv) that the additional floor space resulting from the built additions will assist with the activation of the existing commercial premises; and

        (v) that the proposal meets the objectives of the floor space ratio development standard and the objectives of the B8 Metropolitan Centre zone and strict compliance does not serve any purpose that should outweigh the positive outcomes of the development and thus a better planning outcome.

    (b) That there are sufficient environmental planning grounds to justify contravening the standard:

        (i) The variation is minor, making up 0.27% of the existing FSA at the subject site. It is also within the scope of the maximum FSA previously approved.

        (ii) The additional GFA is primarily sought is to be located within an existing undercroft and so would not add to the overall height or bulk of the development. Notwithstanding, its construction would not impact upon the public domain outside of the redevelopment.

(iii) The development will ensure activation of Liberty Place. The additional building would be most suited to be used as an early morning café and breakfast spot, reflecting the success of two similar offerings in Liberty Place closer to Castlereagh Street. Due to its underutilisation of the undercroft, there is presently no public benefit being accrued by its existence.

(iv) The additional building is proposed to act as an attractor to encourage potential patrons from Castlereagh Street, deeper into the development. The fact that 3 out of the 4 businesses in the existing retail tenancies did not survive at the base of ANZ Tower shows demonstrates the underutilisation of this space.

(v) The FSR variation will not give rise to any significant adverse amenity impacts on surrounding development in terms of overshadowing, loss of solar access or loss of views.

(vi) The proposed development, including the FSR variation, achieves compliance with the relevant underlying objectives of the standard and the objectives of the zone.

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

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

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

(b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

87. The applicant has failed to demonstrate that the application meets the objectives of the floor space ratio as the new development does not reflect the desired character of the locality, namely a public plaza, and will not minimise adverse impact on the amenity of the locality. In contrast, the additional floor space will modify the mix of uses on site (being commercial indoor/outdoor space and a publicly accessible open plaza) and have a negative impact on the quantity and quality of the public plaza. The application does not rationalise why the reduction of outdoor public space for the purposes of increasing the area of a commercial tenancy is an adequate intensification of commercial use on site or an appropriate mix of land uses that characterise Central Sydney.

88. The applicant notes that the vacancies of three of the four existing commercial tenancies shows the need to provide additional floor space to support hospitality focussed offerings in the CBD however does not adequately address how additional floor space will provide appropriate amenity to the reduced public plaza area, an aspect of the development that has been praised from its initial design development phase.

89. The applicant's justification is unable to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary nor has it established that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.

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

90. The applicant has failed to accurately calculate the existing GFA on the site and has relied on calculations from previous application quoting LEP 1996 and LEP 2005 definitions of gross floor area and floor space area. Further, the applicant partly justifies the non-compliance with the FSR control by relying on a covenant stating the maximum FSR of the site is 14.51:1. This covenant notes the 14.51:1 FSR is in accordance with the relevant definition of floor space in the Central Sydney LEP 1996, a definition that is no longer applicable to the development. The notion that the additional floor space is still contained within the scope of the already approved maximum floor space area is not supported.

91. The assertion that exceeding the floor space ratio standard provides improved hospitality activity to the site by remove a large area of dedicated public open space is not considered an environmental planning ground sufficient to justify a variation, as there is already an established outdoor leasable area available to assist the activity of these commercial tenancies.

92. Further, the argument that the proposed development does not add any additional bulk to the development is not supported. The existing public plaza is surrounded by a small pavilion addition and a large undercroft area approximately 13.8m in height that supports a piece of public art. The proposal seeks to add additional pavilions that both add bulk to the otherwise large open plaza and impacts views to the artwork and existing pavilion.

93. The removal of an established public plaza with a component of outdoor seating areas for commercial tenants and the proposed replacement with additional built pavilion spaces that exceeds the floor space ratio development standard has not been adequately justified and the applicant has not adequately provided enough planning grounds to justify contravening the floor space ratio development standard.

Is the development in the public interest?

94. With regard to varying development standards, the public interest is conceived as being protected where a development meets the objectives of the zone and the development standard sought to be varied. As has been discussed already, the exceedance to the floor space ratio standard does not accord with its objectives nor the objectives of the B8 Metropolitan Centre zone in providing diverse and compatible land uses.

95. The additional floor space will reduce the amount of available space in the plaza available to the public and is not in the public interest.

Conclusion

96. For the reasons provided above the requested variation to the Floor Space Ratio development standard is not supported as the applicant's written request has not adequately addressed the matters required to be addressed by cl 4.6(3) of the Sydney Local Environmental Plan 2012. In addition the proposed development is not in the public interest because it is inconsistent with the objectives of the Floor Space Ratio development standard and the B8 Metropolitan Centre Zone.

Impacts on the Public plaza

97. The proposal seeks consent to extend the private leasable seating zone and vary the restrictive covenant in relation to the use of land to allow for a larger outdoor dining area. Figure 26 below illustrate the approved leasable seating areas under the restrictive covenant and the proposed variation to the leasable seating zones. The plan is annotated to reference that the red area (the open space) in the approved plan equates to 971.15sqm - this is reduce to 748.19sqm in the proposed plan (a reduction of 222sqm).

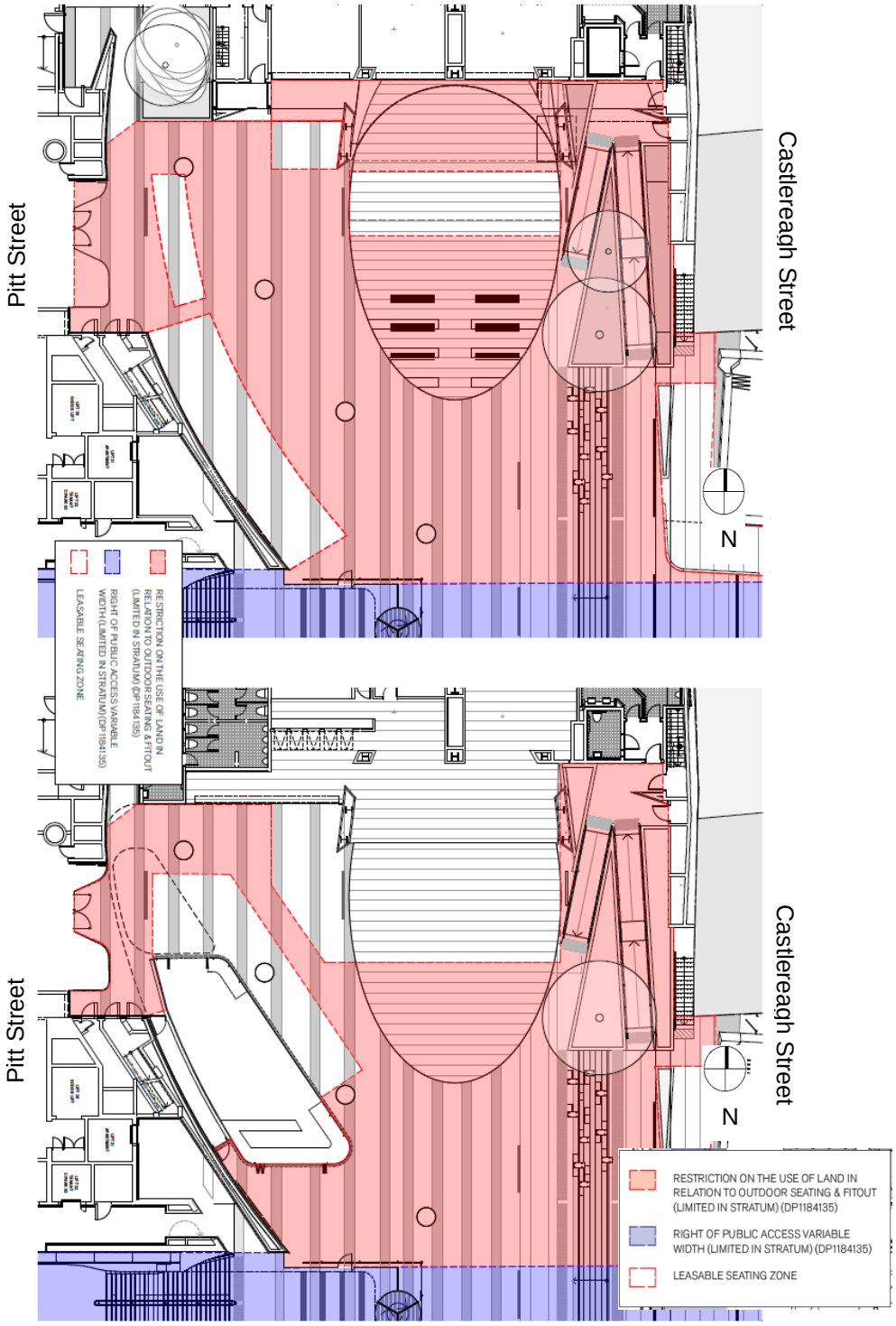


Figure 26: Approved and proposed Restriction on Land Uses Plan.

98. The Applicant justifies the variation to the leasable seating zone on the following grounds:

(a) The increased leasable seating will not impact on the 6m wide public easement between Pitt and Castlereagh Street and will not result in privatisation of 'public' space.

Response: It is agreed that the increased seating zone will not impact on the 6m wide easement between Pitt and Castlereagh Street which is subject to a separate clause in the restrictive covenant. However, it is not accepted that the extension of private outdoor seating for the exclusive use of the bar will not privatise the 'public' space.

(b) The plaza was always intended to be used for the benefit of future tenants and workers by being partly used for outdoor seating. The intention for this area to provide outdoor seating and public activation will be furthered by the Application, which is presently underutilised and largely inactive.

Response: The plaza was intended to be used for the benefit of the public with specific seating areas available for lease by tenants in the ground floor units that surround the plaza. Tenancy 7 is occupied which is trading as Market Place and tenancies 6, 8 and 9 are vacant. Site visits confirm that Market Place provides an active frontage with customers using the leasable seating zone.

Members of the public use the additional seating dispersed throughout the plaza. Should the other tenancies be leased this will further activate the plaza. An extension of the leasable seating zone for the exclusive benefit of one commercial business is not a valid reason for activating the space.

The proposed extension of the leasable seating zone to be used solely by Liberty Place Bar would privatise the space reducing the quantity and quality of space available to all members of the public.

(c) The increase in leasable seating area primarily falls between the internal and existing external leasable seating areas. As an operational consideration, these areas can serve no public purpose and would need to operate as part of any retail food and drink premises approved to occupy the internal areas and external leasable seating areas.

Response: The area between the internal bar area and the outdoor dining areas approved under D/2017/725 are standing areas which allow patrons to walk between the internal bar area and the outdoor seating. The subject application proposes an extension of the internal bar (tenancies 6-7) into the plaza, an extension of the private leasable outdoor seating area and the additional pavilion bar area (T10).

The extension of the internal bars and the leasable seating zone is excessive and diminishes the quantity and quality of the retained public plaza. The space between the tenancies and the outdoor seating is identified as general 'public' space on the original base approval which will be lost as a result of the extension of the pub into these areas.

99. On the 24 August 2019, the Applicant submitted the following additional justification in support of the modification.

    "The Owners' intent is that the plaza will remain a highly activated, publicly accessible space with an improved retail offering. While the retail improvements are dependent on revised retail enclosures and adjusted areas of external leasable seating, the final mechanism for approval of these would be subject to review between the Owners and Council. The design response endeavours to ensure the long-term public accessibilities of the space is retained and permits future flexibility and retail trends develop over time"

100. It is accepted that the Owners seek to improve the retail offering at Liberty Place, however, it is not accepted that the extension of the internal and external private bar area will ensure long term public accessibility within the plaza. These areas will be used exclusively for patrons of the bar and not the general public under the subject application.

101. In summary, the extension of the leasable seating zone and the variation of the restrictive covenant are not supported for the following reasons:

Contrary to the base consent and restrictive covenant

102. As noted above, the CSPC approved development consent D/2007/1792 for an FSR which exceeded the maximum FSR by 13.8% on the basis that the proposal will result in public benefits including the creation of a 1,200sqm 'Ethics Plaza'.

103. In order to secure the public benefits of the plaza, condition 6(c)(i) of D/20071792/N required the formalisation of the leasable seating area plan through a restrictive covenant. Conditions 6 (c) (i) of the consent reads as follows:

    "*The following applies to the mid-block open space and its property ownership:*

    In order to provide clear demarcation of the "public" and "private / leasable" space within the mid-block open space, to ensure that this space is not "privatised" by future uses, and to assist in the determination of future Development Applications by tenants for the individual use and fit out of adjacent tenancies only that part of the space within a 2-4m perimeter of the respective shopfronts (allowing for adequate public circulation space) is permitted to be leased for outdoor seating only. A plan complying with the requirement of this condition must be approved by the Director of City Planning and regulatory Services prior to the release of the Construction Certificate for Stage 2 of the development".

104. The leasable seating zone plan was approved on 27 July 2012 to satisfy this condition (refer to figure 21 above) and a restriction on title to address the condition was created and a leasable seating zone plan was approved (refer to discussion above).

105. The extension of the private leasable space contravenes the development approval for the base building D/2007/1792/N and the restrictive covenant which was created to protect the public benefits of the plaza. Any reduction of the publicly accessible area is contrary to the planning intentions of the original approval in providing a mid-block open space and accessible public plaza.

106. The proposal will result in the following negative impacts on the public plaza contrary to the intent of the base consent:

(a) A 222.96sqm reduction in the amount of 'public' space in the plaza. This loss is further exacerbated if the relatively narrow spaces leading to Tenancy 9 around the proposed private outdoor spaces (see figure 27 below), which effectively is only usable for circulation purposes, were excluded;

(b) The privatisation of part of the public square. The proposal will result in the alienation of a large portion of the public plaza to the exclusive benefit of the pub / hotel proposed tenancies (tenancies 6 -10) on the perimeter of the square;

(c) The proposed outdoor seating area extends well into the plaza significantly reducing the amount of useable open space. In particular, the new pavilion bar T10 will take up most of the building under croft area which is the only space of the square providing protection from the elements;

(d) While the current configuration (with the seating area confined at the perimeter of the plaza) encourages the use of the space by employees and visitors from nearby buildings, the envelopment of the square on three sides by large seating areas will effectively "code" the space as private and diminishing its "publicness";

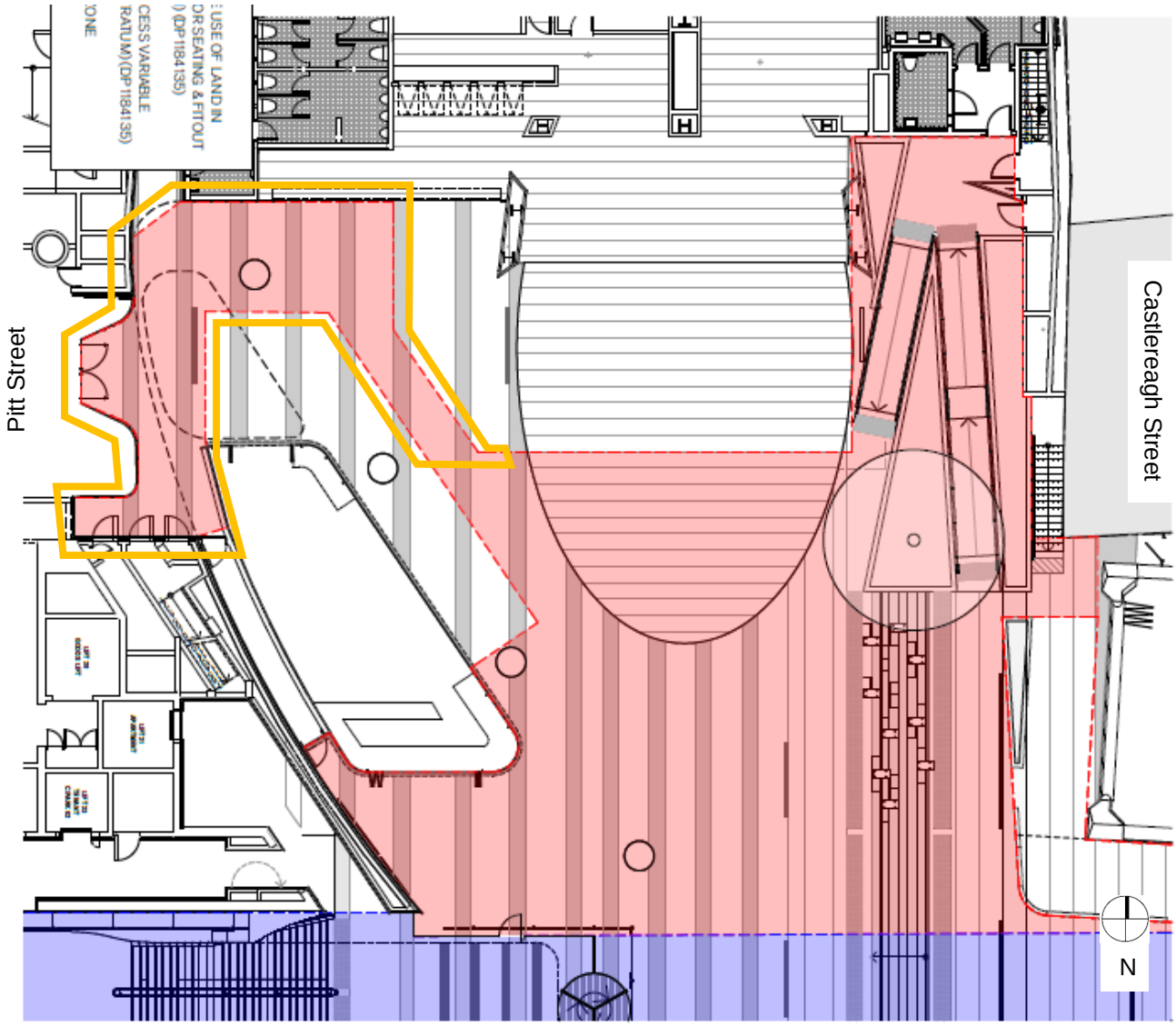


Figure 27: Narrow circulation spaces excluded from proposal outlined in orange

107. A variation to condition 6 (c) (i) has not been submitted and the modification to the restriction on title in relation to outdoor seating in the plaza is not supported.

Design Excellence

108. Clause 6.21 of the Sydney LEP 2012 requires that Council be satisfied that a development must demonstrate design excellence. Clause 6.21 (4) provides for a list of matters to which Council must have regards to. These matters include:

(a) whether a high standard of architectural design, material and detailing appropriate to the building type and location will be achieved;

(b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,

(c) whether the proposed development detrimentally impacts on view corridors,

(d) how the proposed development addresses the following matters—

(i) the suitability of the land for development,

(ii) the existing and proposed uses and use mix,

(iii) any heritage issues and streetscape constraints,

(iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,

(v) the bulk, massing and modulation of buildings,

(vi) street frontage heights,

(vii) environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,

(viii) the achievement of the principles of ecologically sustainable development,

(ix) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network,

(x) the impact on, and any proposed improvements to, the public domain,

(xi) the impact on any special character area,

(xii) achieving appropriate interfaces at ground level between the building and the public domain,

(xiii) *excellence and integration of landscape design.*

109. The form and external appearance of the proposed development does not improve the quality and amenity of the public domain and the proposal will impact on views to the existing art installation and is contrary to clause 6.21 (4)(b), (c), and (d)(v),(ix), (x) and (xii).

Amenity of the central public plaza

110. The plaza currently provides space for both passive and active uses that respond to the community uses. Dedicated private leasable outdoor seating is available for the ground floor commercial tenancies. In addition, 10 benches are available throughout the plaza for public benefit. Site visits confirm that the benches and public space is used by residents, visitors and workers within the city especially during lunch periods. The space is also used for recreational needs of the community with table tennis tables and events held in the public open space, refer to figure 28 below.



Figure 28: Existing Plaza with passive and active recreational zones.

111. The proposal will remove the 4 benches currently located in the under-croft area to be replaced with the new pavilion bar building (tenancy 3) and associated private outdoor seating with awning above, refer to figure 29 below. The proposal will have the effect of privatising the space and reducing the quality of open space and is not in the public interest.



Figure 29: Tenancy 10 public seating and art work above. The proposed pavilion will replace the benches.

Public Art

112. An art installation was installed within the plaza as part of the consent for the base building. The art comprises a white neon mobile public art installation named "Light Event" created by Cerith Wyn Evans (refer to figure 30 below).

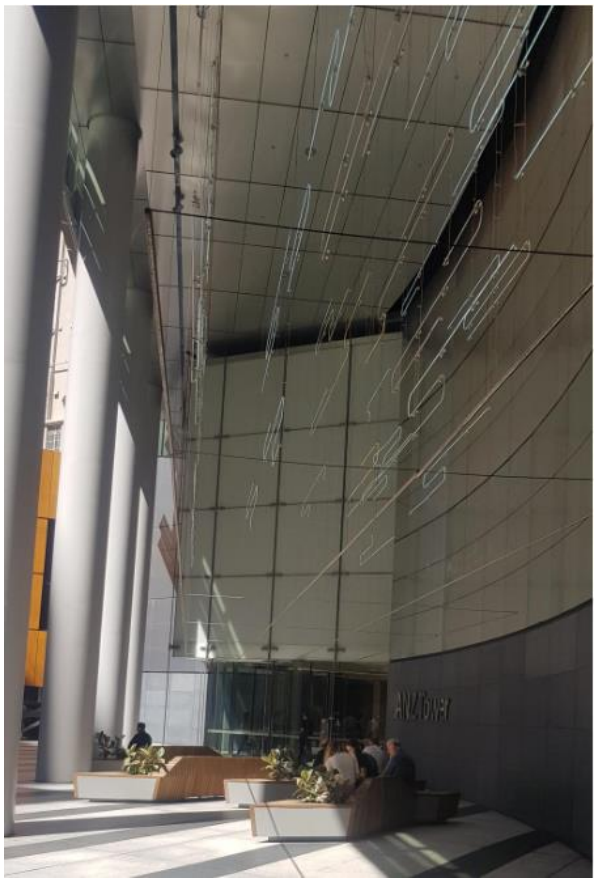


Figure 30: Tenancy 10 in the under-croft area provides public benches and artwork above.

113. The proposed pavilion is located immediately below the under croft and the art installation, refer to figures 31 and 32 below.

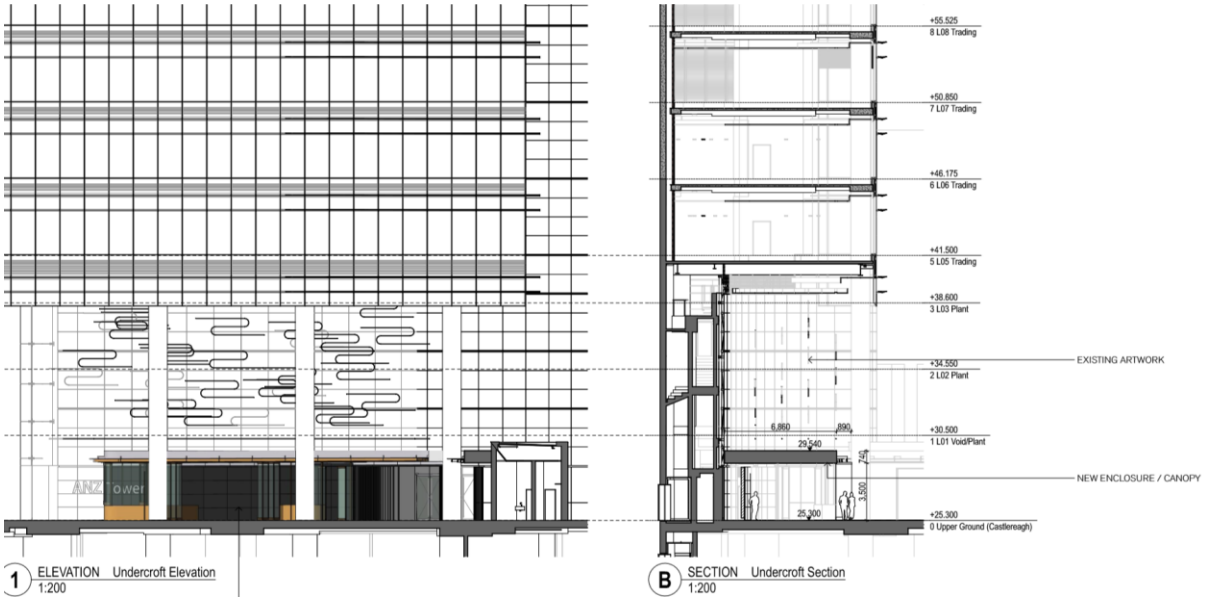


Figure 31: Elevation and section of the proposed pavilion to tenancy 10.

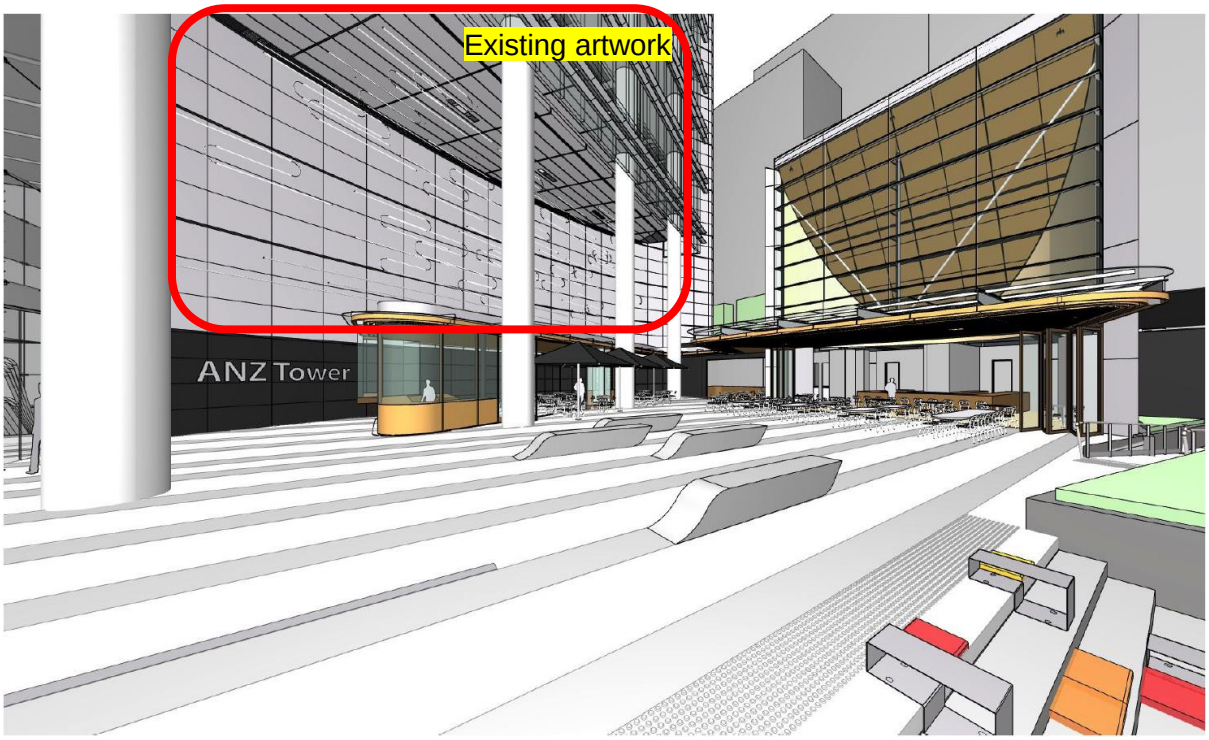


Figure 32: 3D perspective of proposed pavilion addition and artwork directly above (outlined in red).

114. In response to issues raised regarding the negative impacts of the pavilion on the artwork the Applicant provides the following justification:

115. "*The T10 pavilion has been designed as a low-key addition and respectively to the neighbouring artwork. The proposal will maintain keys views to the artwork and ensure that there is a strategy for its ongoing maintenance. The new T10 pavilion adopts its design expression and materiality from the existing elements in the plaza. This ensures a new / competing element is not added to the plaza that would conflict with the artwork".*

116. While it is appreciated that materiality of the pavilion has been considered to express the elements in the plaza, the location of the pavilion and subsequent impacts on the availability and quality of open space (refer to discussion above) and impacts on the existing artwork remains the relevant issue.

117. The location of the pavilion and awning will almost entirely encompass the building under-croft and will negatively impact on public enjoyment of the artwork and public space around it. The location of the bar structure at T10 sits below the existing public art installation "Light Event". The bar structure will restrict visibility to the art and compromise its significance.

118. Council's Public Art Unit, Public Domain Unit and Urban Designer confirm that the pavilion bar will have a negative impact on the artwork and the public space around the artwork. As such, the proposal will not improve the quality of the art installation and is inconsistent with objective (a) of provision 3.1.5 (public art) of Sydney DCP 2012 which seeks to increase the number and improve the quality of public artworks in private developments.

Trees

119. The proposed development will impact two trees including the removal of a Hills Fig tree (tree 1) located in a planter box on the north-west side of the courtyard (refer to figure 33 below). The application was referred to Council's Tree Management Officer who supported the removal of the tree considering its age and inappropriate location.

120. The awning will however encroach on the semi-mature Hills Fig (tree 2) which is in good health. The impact on this tree is unacceptable and a minimum 3m clearance is required between the awning and the tree canopy. The proposal is not supported by Council's Tree Management Officer and is inconsistent with provision 3.5.3 of the Sydney DCP 2012 which requires developments to ensure the protection of trees and maximise the quality and quantity of healthy tree canopy coverage.



Figure 33: Plaza looking toward the tree that will be negatively impacted by the canopy.

Acoustic compliance

121. The proposed development has failed to demonstrate that appropriate acoustic levels can be achieved by presenting technical errors in the submitted amended acoustic report and making assumptions on background noise levels and surrounding buildings prior to certain works are carried out, particularly the glazing and façade works that are yet to occur at the Castlereagh Boutique Hotel adjacent to the site.

122. The amended acoustic report and Plan of Management were referred to Council's Health and Building Unit and Acoustic Specialists who identified a number of inconsistencies and technical errors within the report. The main concerns have been summarised below:

    (a) In relation to impacts on the hotel receiver, the acoustic consultant has assumed that the Castlereagh Boutique Hotel has completed the glazing and façade works, creating an additional acoustic barrier. This barrier, although approved by the City, has not yet been installed and it is unclear when or if these works will be completed. Therefore, the report underestimates the noise impacts on the hotel receiver. If the correction is removed there are large exceedances of the noise criteria in all octave spectra from 125 Hz.

    (b) In relation to the commercial receivers, the consultant has used an area correction of the ceiling equivalent to 25sqm. However, the submitted plans for Area 1 show a ceiling area of 269sqm. This would alter the area correction and result in an under prediction of noise impacts of up to 10dBA for internal to internal noise transfer within this area.

    (c) The proposal includes the installation of a 4mm thick PVC drop down curtain placed along the perimeter of the proposed awning to contain noise after a certain time. Testing data for a 4mm PVC curtain and sample calculations from Council's Acoustic Specialist however indicates that the PVC may increase noise levels, rather than reduce them.

(d) The acoustic report measured noise generation as a single patron sound power rather than assessing maximum patrons in each of the areas of the proposed tenancy (i.e. inside the additional pavilion, under the awning area and other internal areas). The sound power issue has not yet been clarified into sound pressure levels established from multiple people talking outside in the various licensed outdoor areas and the patron number control commitment in the submitted Plan of Management fails to ensure patron numbers will be diligently monitored and maintained.

123. The errors, assumptions and claims of performance of certain materials in the submitted acoustic report are not supported by Council and is likely that the development will have an adverse acoustic impact on surrounding sensitive uses. The proposal is thus inconsistent with objectives (b), (h) and (k) of Section 3.15 of the Sydney DCP 2012 as the level and quality of information provided cannot ensure the development will not have an adverse impact on surrounding sensitive uses or will be managed to adequately monitor any acoustic issues. Inadequate information has been provided to support the application for acoustic compliance and the application cannot be supported from an acoustic amenity perspective.

Access

124. Access for disabled persons can be provided to the premises.

Other Impacts of the Development

125. The proposed development is capable of complying with the BCA. It is a Class 6 building.

126. It is considered that the proposal increase in floor space and the extension of the leasable seating zone will have significant detrimental effect relating to environmental, social or economic impacts on the locality.

Internal Referrals

127. The application was discussed with the Urban Design Specialists; Public Domain; Environmental Health Unit and Tree Management Unit who all raised issues with the proposal. The respective issue of each referee is discussed under the Issue section.

128. The application was also discussed with the Building Unit, Licensed Premises Unit, and the Specialist Surveyor and Heritage Specialist who raised no particular issues with the development.

External Referrals

129. On 12 February 2019, the application was referred to the NSW Police and the Liquor and Gaming Authority. At the time of writing this report no response has been received.

Notification, Advertising and Delegation (Submission(s) Received)

130. In accordance with Schedule 1 the Sydney DCP 2012, the proposed development is required to be notified and advertised. As such the application was notified and advertised for a period of 21 days between 12 February 2019 and 6 March 2019. As a result of this notification a total of 205 properties were notified and two submission were received from the Castlereagh Boutique Hotel (CBH). Both submissions attach a letter of objection prepared by GLN planning on behalf of the Hotel.

    (a) Variation of the maximum FSR control not supported by a Clause 4.6 variation. The proposal exceeds the maximum FSR of 8:1 applied under the SLEP 2012 and argues that the restrictive covenant on floor space imposed on the title of the land takes precedence over the floor space ratio control. Neither the LEP nor the EPA should be disregarded where inconsistent with a land title covenant. The Wang v North City Council decision confirm that a covenant such as this is an "instrument made" under the Conveyancing Act, not the EPA Act. The covenant is treated separately to the requirements under the LEP. A Clause 4.6 variation has not been submitted and the application and as such the DA cannot be approved.

    Response: It is agreed that the variation of the restrictive covenant on floor space does not take precedence over the floor space control and the EPA and Sydney LEP 2012 must be considered. The restrictive covenant was placed on title for the base building which exceeded the FSR controls by 13.8% based on the public benefits. The proposal exceeded the maximum 12.52:1 FSR (8:1 FSR base plus 4.52 FSR accommodation floor space) and diminishes the amount of public space available and the quality of the open space. A Clause 4.6 variation request was lodged with Council after the notification of the development however the applicant's justification is not supported.

    (b) Increase to patron number allowances above that approved at the former Windsor Hotel and breach of the Liquor Act and Freeze Provisions. The subject site is within the Freeze Precinct. A search of Council's records confirm that the patron numbers approved under condition 2 of D/2017/725 are in excess of the patron numbers of the Windsor Hotel. D/2017/725 has adopted the maximum numbers indicated on the population study report prepared by the applicant which relied on additional sanitary facilities approved under CDC 17/0317/01. The subject DA seeks the same patron numbers.

    Response: The assessment of the original DA for the pub, D/2017/725, included a review of two population study for the Windsor Hotel and Liberty Place Bar. The studies were based on a review of the population of both venues against the requirements of the deemed to satisfy provisions of the National Construction Code considering available floor area, aggregate exit widths and sanitary facilities.

    A site visit to the now demolished Windsor Hotel also confirmed that the additional amenities approved under the CDC had been built. Council's Building Unit reviewed studies and floor plans and confirmed that the assessment was acceptable. Pursuant to clause 47 of the Liquor Act and the assessment of the original DA, it was concluded that subject to a condition restricting the patron capacity to 680 that the patron population of the new Liberty Place Bar would be no more than the patron capacity of the Windsor Hotel. The removal (transfer) of the Liquor license was approved by the Liquor and Gaming Authority on 15 August 2018.

The proposed patron numbers (total 680 (with a maximum of 290 patrons permitted outside) in the subject DA do not exceed the number approved under the original Development Consent D/2017/725.

(c) Inconsistency with development consent D/2007/1792/N, in particular condition 6 (c) which relates to the mid-block public and private open space and leasable seating. The proposal extends the private leasable seating contrary to the condition and the restrictive covenant on the land use. The applicant's argument that the space is needs for the operation of the pub and the activation of the space is not sufficient justification for the variation of the amendment and the proposal will result in the alienation of public space.

Response: It is agreed that the development is inconsistent with the base consent. The SEPP 1 objection for the 13.8% increase in GFA above the FSR was based on the premise that the development would deliver significant public benefits including the 1,200sqm Ethics Plaza. In order to secure the public benefits and protect the plaza from privatisation condition 6 (c) required the creation of a restrictive covenant which defines the private leasable seating areas. The proposal seeks consent to extend the private / leasable seating areas beyond those approved, effectively reducing the amount of "public" space available in the plaza by 222sqm and in effect privatising a large section of the plaza. This loss is further exacerbated if the relatively narrow spaces leading to Tenancy 9 around the proposed private outdoor spaces, which effectively is only usable for circulation purposes, were excluded. The Applicant's argument that the space is underutilised is not sufficient justification.

(d) Interference with right of public access. The right of public access includes areas 7 and 10. The areas used by the hotel effectively alienate / privatise land that otherwise is required to be kept available for public access. The current application intends to enclose the area as part of the development.

Response: The areas of the plaza adjacent to tenancies 6 - 10 do not form part of the easement for public access pursuant to the restrictive covenant. The covenant requires the consent of Council for any use of the space for outdoor seating with the intent of protecting the space from privatisation.

Condition 6 of D/2007/1792 for the base building requires a clear demarcation of 'public' and 'private leasable' space. In accordance with this condition, a leasable seating zone plan was approved in July 2012 which identifies specific zones. The proposed pub extends beyond these area which is contrary to the base consent.

(e) Impacts of noise upon the surrounding locality. The noise impact assessment is inadequate. The applicant relies on the earlier acoustic report despite the amendments to the outdoor areas and the addition of a new tenancy T10 closer to the Castlereagh Boutique Hotel. This is a significant variation of the approved plan. The adequacy of the noise assessment is questioned and it is noted that the changes to the operation of the premise is not included in the report. There is not sufficient certainty that the impacts of noise as a result of the amended design will not negatively on the surrounding locality.

Response: The applicant has amended the acoustic report on 18 July 2019 to consider the worse-case scenario and recommended noise limiters for indoor and outdoor speakers, minimum glazing requirement and the cessation of the outdoor areas and any speakers at specific times. The report indicates that the use of the premises is in accordance with the recommended controls and will comply with Council entertainment noise condition. Council's Health Unit however have raised issues with the submitted acoustic report and highlighted technical issues that result in inaccurate readings that may impact the acoustic compliance of the development. As discussed above, the application is not supported from an acoustic compliance perspective.

(f) The subject application indicates a number of variations which are confusing resulting in un-certainty as to what is being sought. There have been four applications to Council for the development and two appeals to the Land Environment Court. Both appeals and two of the four development applications to Council have been withdrawn.

The documentation requires a comprehensive review and supporting reports prepared for earlier applications are not sufficient for the current application. Inaccuracies and uncertainties identified in D/2017/725 are exacerbated by the current application.

The subject development should be considered as a fresh application and no weight given to the earlier development consent D/2017/725. Should consent be considered for the subject proposal DA, development consent D/2017/725 should be surrendered in order to avoid ambiguity.

Response: It is agreed that there is a protracted history to the site and to the proposed Liberty Place Bar including four (4) applications to Council and two (2) Court cases. The subject application is not substantially the same as the approved DA, D/2017/725. As such, the application has been assessed as a new DA which includes a review of history relevant to the development history applicable to the proposal.

(g) The application is a Schedule 3 DA and the proposed development is identified as 'sensitive development' as it is a new licensed premises that will require a liquor license. In accordance with the Section 9.1 Direction the application will be required to be determined by the Local Planning Panel (LPP).

Response: As a sensitive development with a new licensed venue, the application is being reported to the LPP.

(h) The trading hours should be in accordance with the Late Night Trading Provision of the SDCP 2012 and any trial extension should be applied for following the operation of the premise.

Response: The proposal trading hours complies with the Late Night Trading Provisions subject to a trial for extended outdoor trading.

Public Interest

131. It is considered that the proposal will have a detrimental effect on the public interest.

S61 Contribution

132. The cost of the development is in excess of $200,000. If the application is recommended for approval, the development would be subject to a levy under the Central Sydney Development Contributions Plan 2013.

Relevant Legislation

133. The Environmental Planning and Assessment Act 1979.

134. Liquor Act 2007.

Conclusion

135. The application proposes the demolition of an existing planter bed and mature tree and public seating elements within the existing outdoor public plaza for the fit out, extension and use of tenancies 6, 7, 8, 9 of Liberty Place for a licensed pub to be known as 'Liberty Place Bar'. The development includes the encroachment of private development into the established public plaza and reduces accessibility to the plaza and views to existing public artworks that will have a negative public amenity impact.

136. The pavilion and extension of the existing tenancies will result in the creation of an additional 181.3sqm of floor space resulting in an overall FSR of 14.86:1, 18% over the Sydney LEP 2012 maximum FSR control for the site. A request to vary the floor space ratio standard does not adequately address the provisions of Clause 4.6(3) and is not in the public interest. As such development consent must not be granted.

137. The proposed extension of the leasable seating area is not supported as it will privatise the public space reducing the quantity and quality of the public space which is contrary to the intention of the base consent and the covenant. The pavilion building will negatively impact on views to the existing public art installation and the existing bench seating will be removed, further reducing the quality of public user experience within the plaza.

138. Further, the application fails to demonstrate design excellence in accordance with Clause 6.21 of the Sydney LEP 2012 as the form and external appearance of the proposed development does not improve the quality and amenity of the public domain and the proposal will impact on views to the existing art installation and has a negative impact on existing mature trees within the site.

139. Inadequate information has been provided to support the application from an acoustic amenity perspective and the application cannot ensure adequate amenity is maintained to surrounding sensitive uses thus failing to meet the objectives for late night trading management in Section 3.15 of the Sydney DCP 2012.

140. The application was notified and advertised for 21 days and received two objections. These concerns are discussed within the report.

141. For the reasons discussed above, the proposal has unacceptable non-compliances with the Sydney LEP 2012 and Sydney DCP 2012 and is recommended for refusal.

GRAHAM JAHN, AM

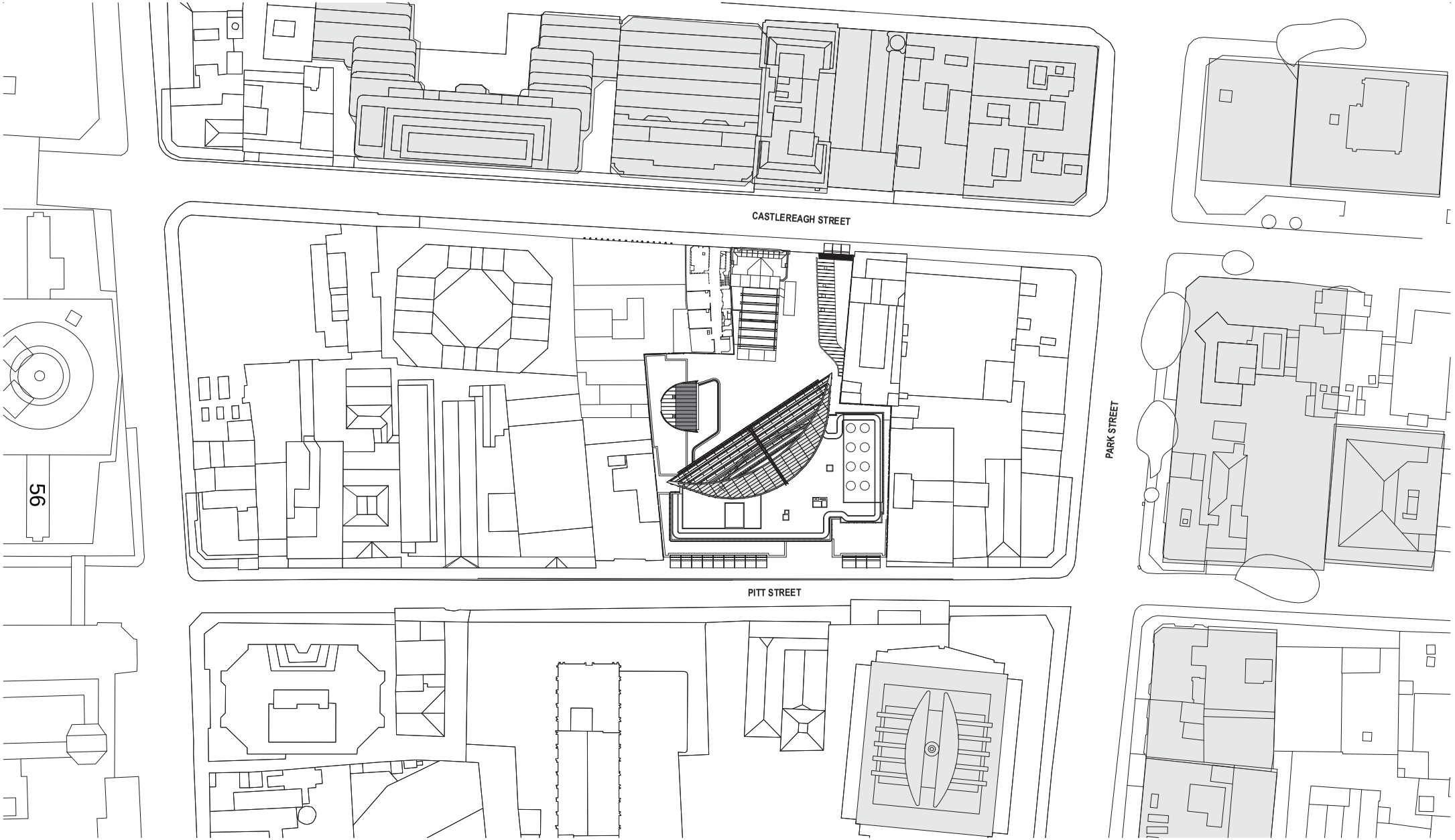
Director City Planning, Development and Transport

Marie Burge, Planner

Attachment A

Selected Drawings

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1 PLAN Site Plan
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fjmt studio architecture interiors landscape urban community
sydney melbourne uk
Level 5, 70 King Street t +61 2 9251 7077 w fjmtstudio.com

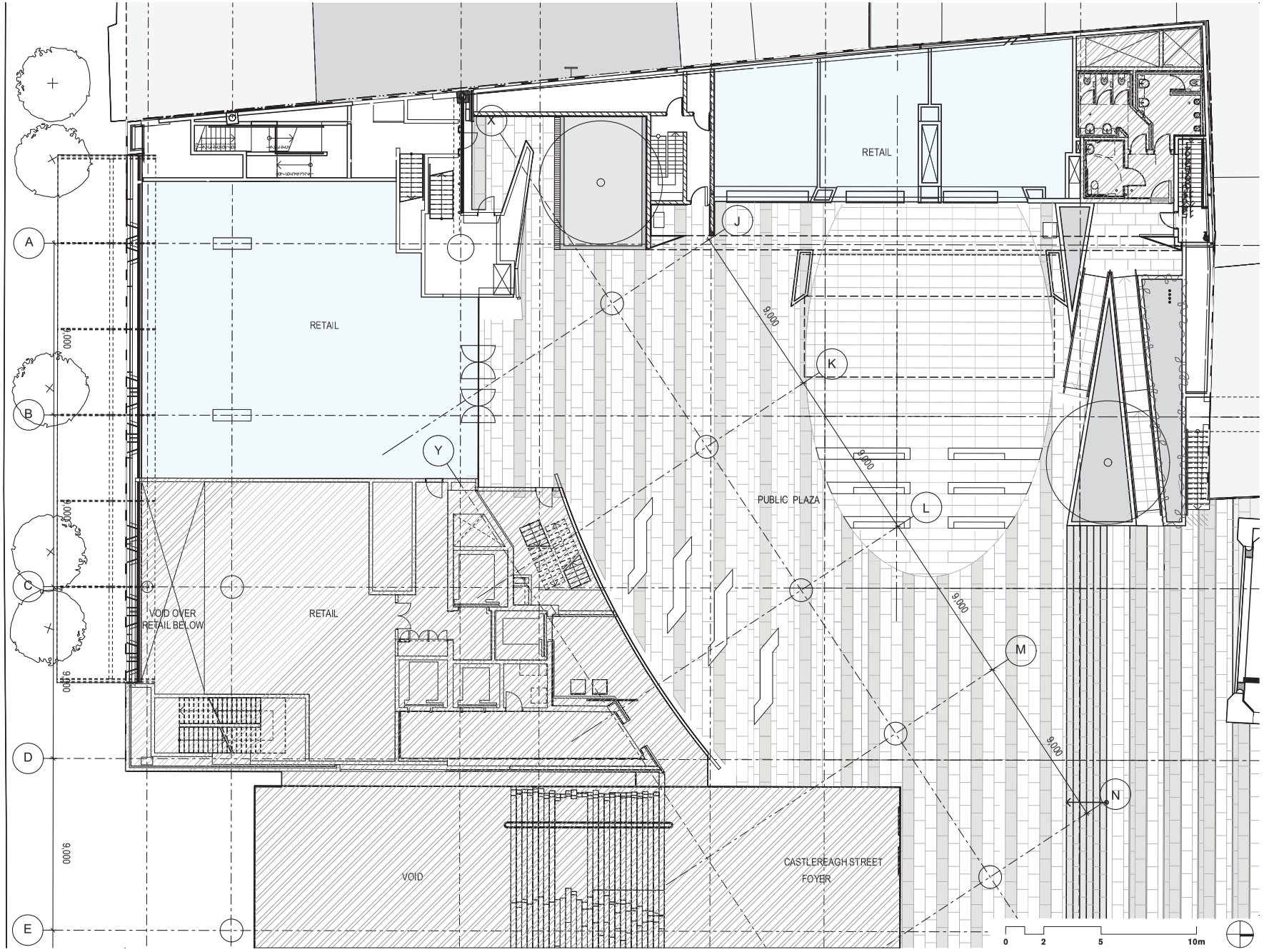
project
Liberty Place
161 Castlereagh Street
Sydney NSW 2000

LIBERTY PLACE
161 CASTLEREAGH ST. THRU 242 PITT ST.

title
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Site Plan

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1 PLAN Existing Ground Plan
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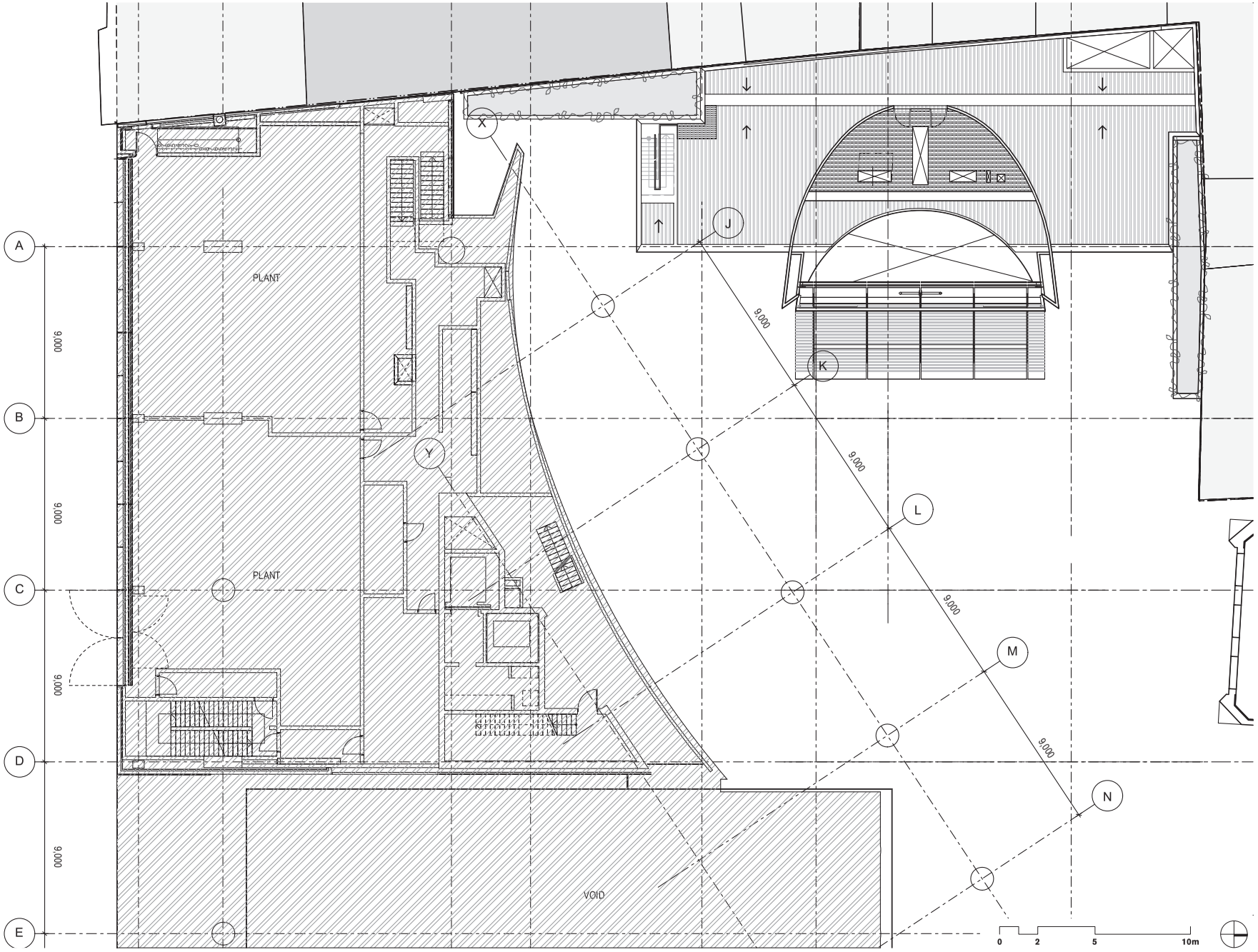
project
Liberty Place
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LIBERTY PLACE
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title
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Existing Plan

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1 PLAN Existing Awning Plan
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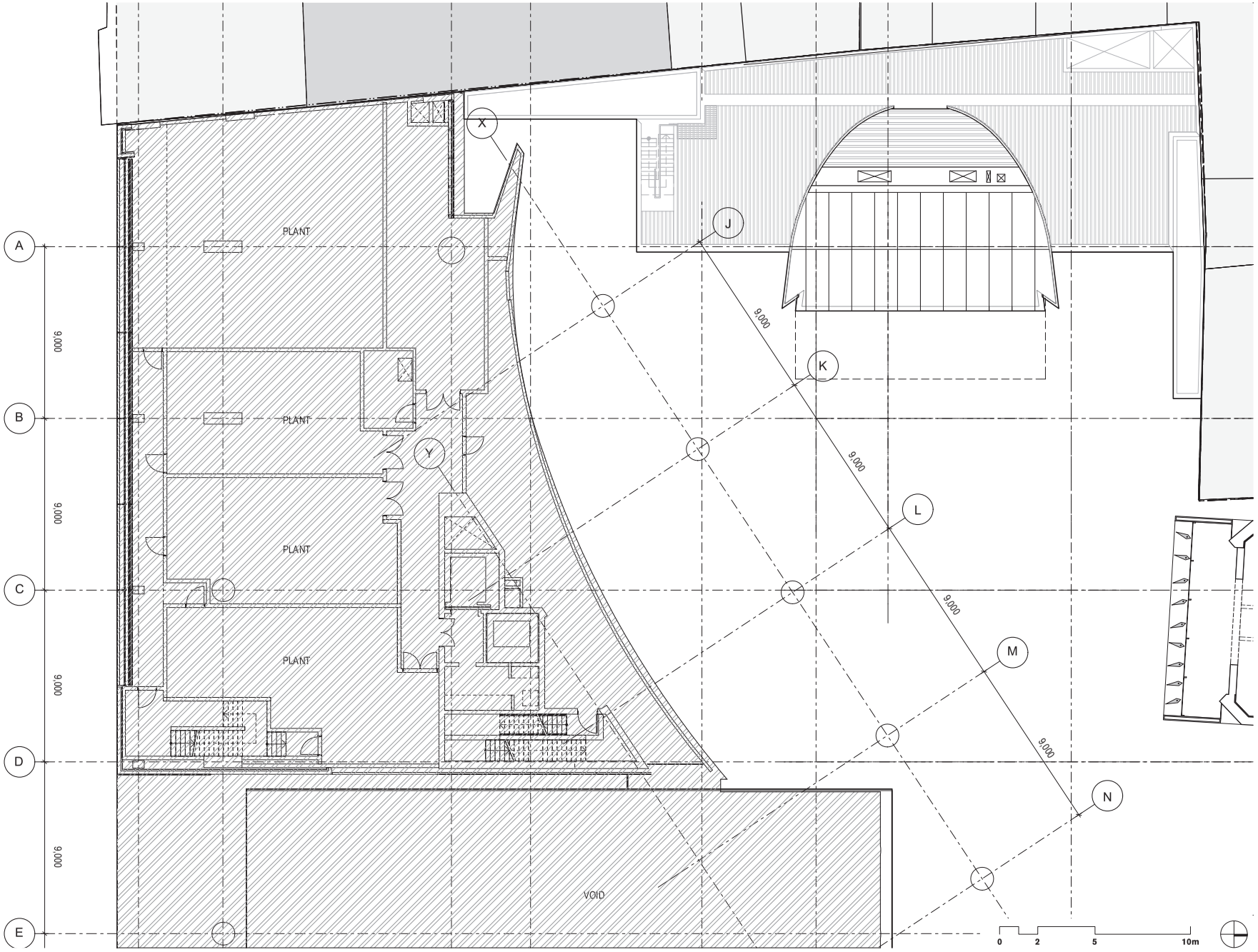
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LIBERTY PLACE
161 CASTLEREAGH ST. THRU 242 PITT ST.

title
DEVELOPMENT APPLICATION PROJECT 1
Existing Awning Plan

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1 PLAN Existing Roof Plan
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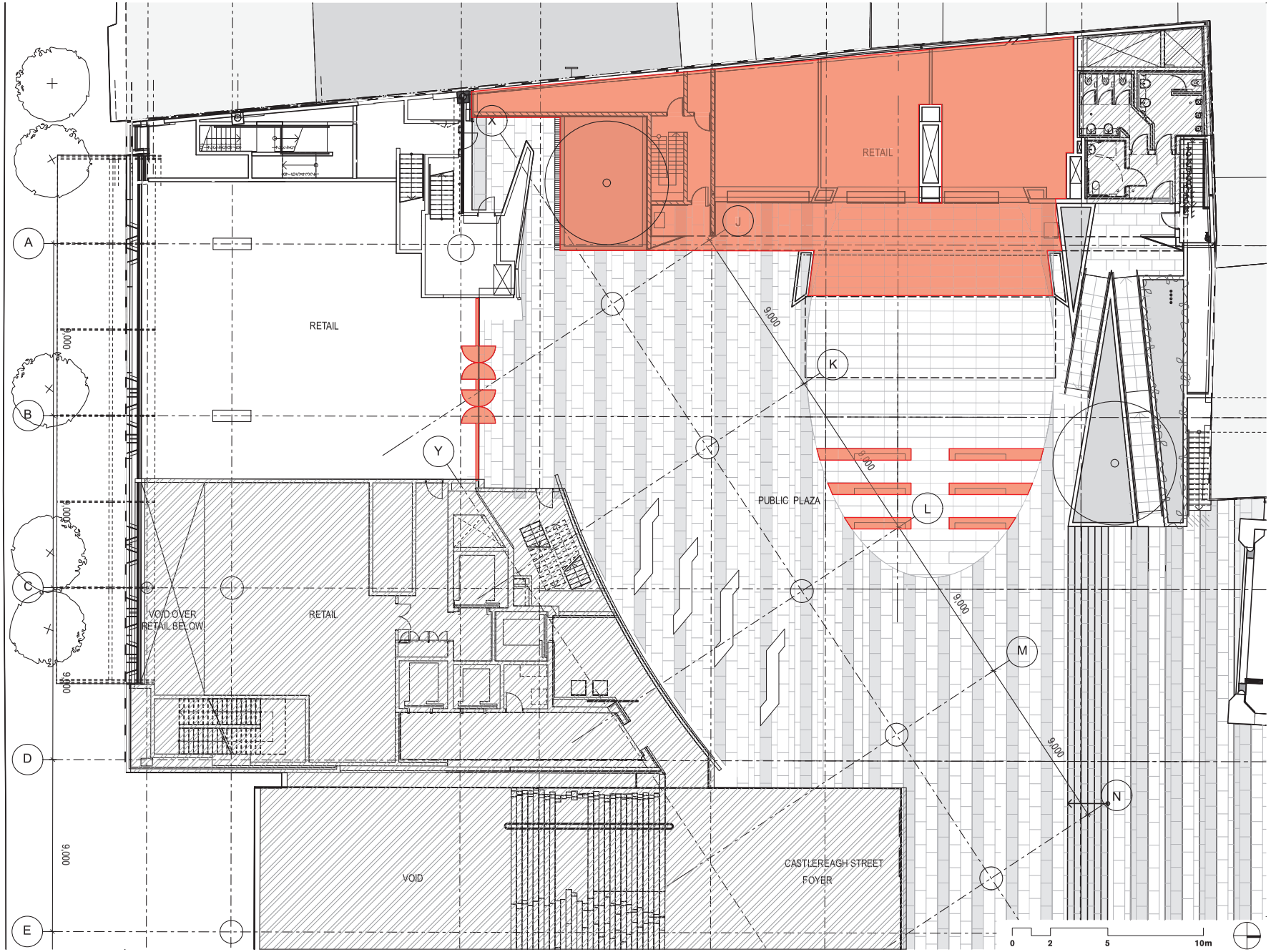
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161 Castlereagh Street
Sydney NSW 2000

LIBERTY PLACE
161 CASTLEREAGH ST. THRU 242 PITT ST.

title
DEVELOPMENT APPLICATION PROJECT 1
Existing Roof Plan

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1 PLAN Demolition Plan Ground
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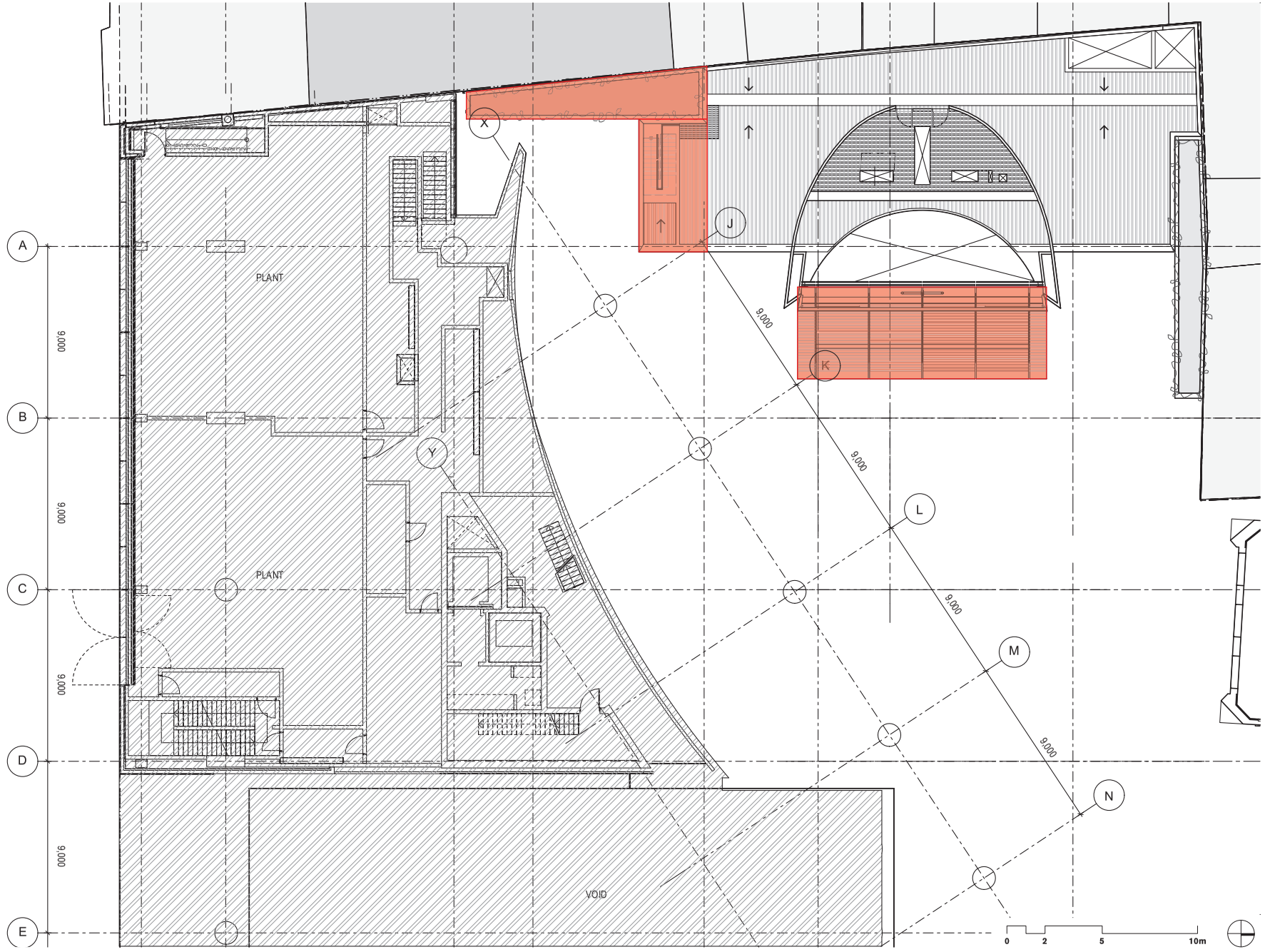
project
Liberty Place
161 Castlereagh Street
Sydney NSW 2000

LIBERTY PLACE
161 CASTLEREAGH ST. THRU 242 PITT ST.

title
DEVELOPMENT APPLICATION PROJECT 1
Demolition Plan

scale		sheet no.	rev
1:200 @ A3	14.01.2019	**DA01-1004**	A

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1 PLAN Demolition Plan Awning
1:200

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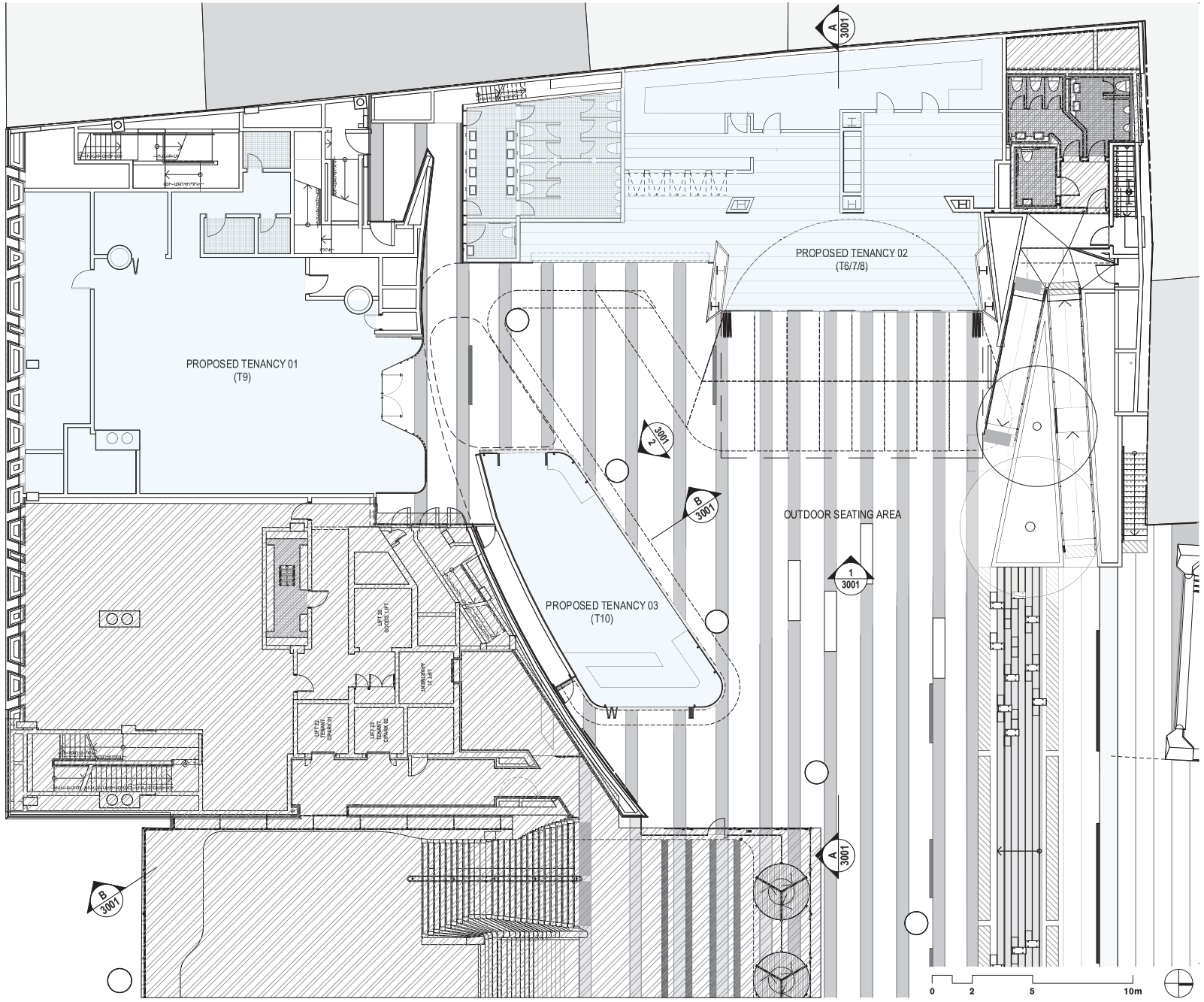
project
Liberty Place
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title
DEVELOPMENT APPLICATION PROJECT 1
Demolition Plan Awning

scale		sheet no.	rev
1:200 @ A3	14.01.2019	**DA01-1005**	A

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1 PLAN Ground Plan
1:200

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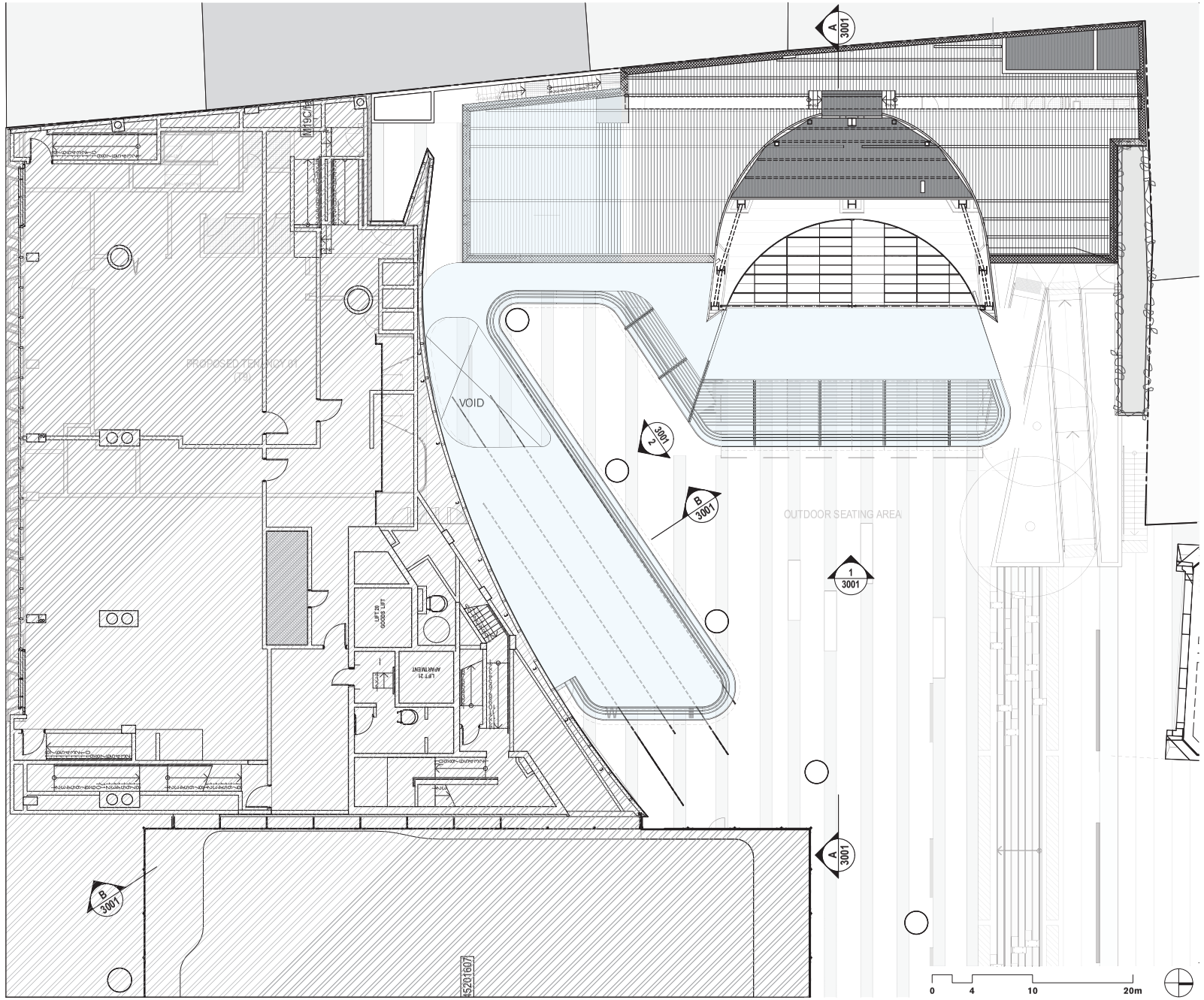
project
Liberty Place
161 Castlereagh Street
Sydney NSW 2000

LIBERTY PLACE
161 CASTLEREAGH ST. THRU 242 PITT ST.

title
DEVELOPMENT APPLICATION PROJECT 1
Proposed Plan

scale		sheet no.	rev
1:200 @ A3	14.01.2019	**DA01-2001**	A

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1 PLAN Awning Plan
1:200

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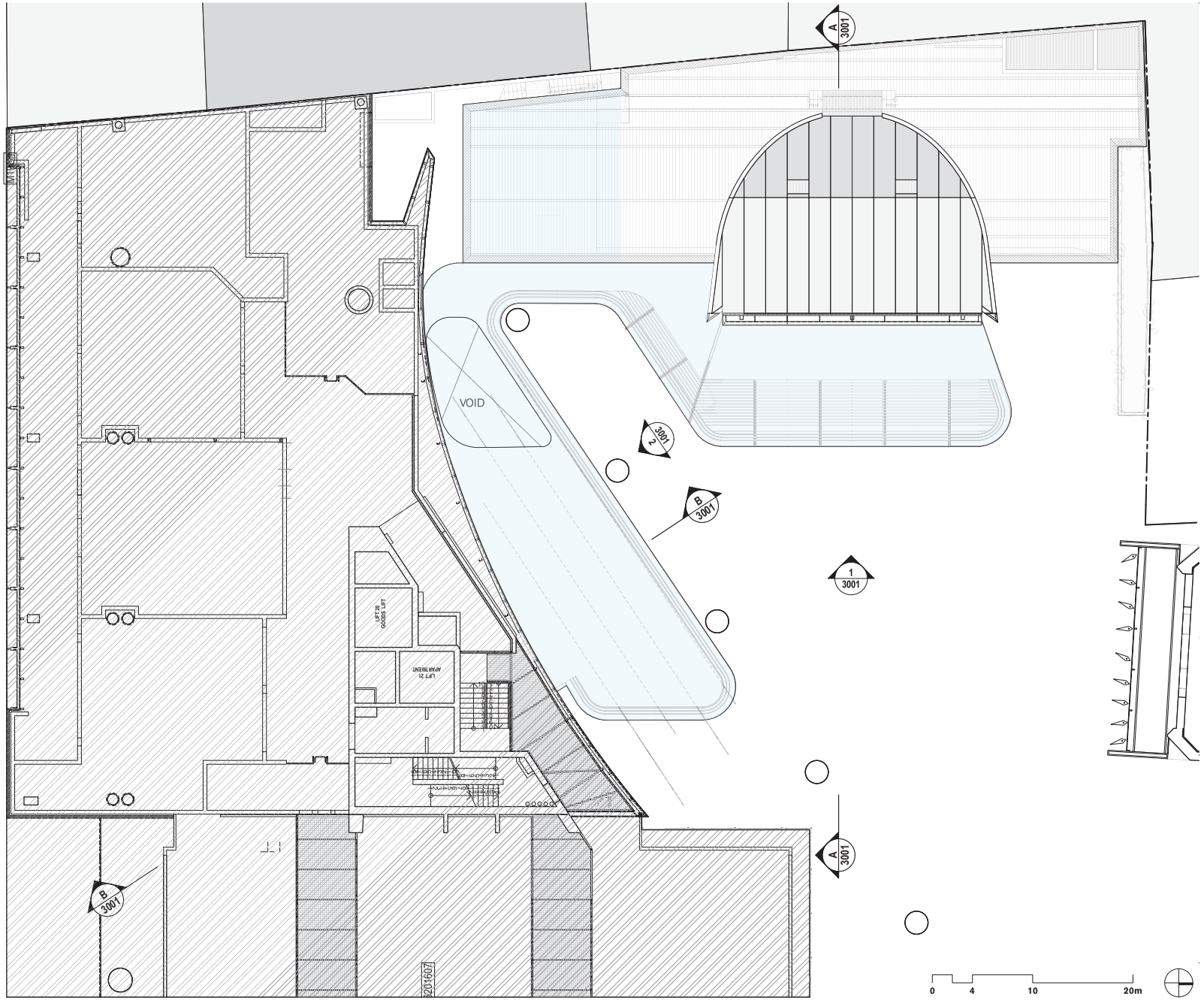
project
Liberty Place
161 Castlereagh Street
Sydney NSW 2000

LIBERTY PLACE
161 CASTLEREAGH ST. THRU 242 PITT ST.

title
DEVELOPMENT APPLICATION PROJECT 1
Proposed Awning Plan

scale		sheet no.	rev
1:400 @ A3	14.01.2019	**DA01-2002**	A

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1 PLAN Roof Plan
1:200

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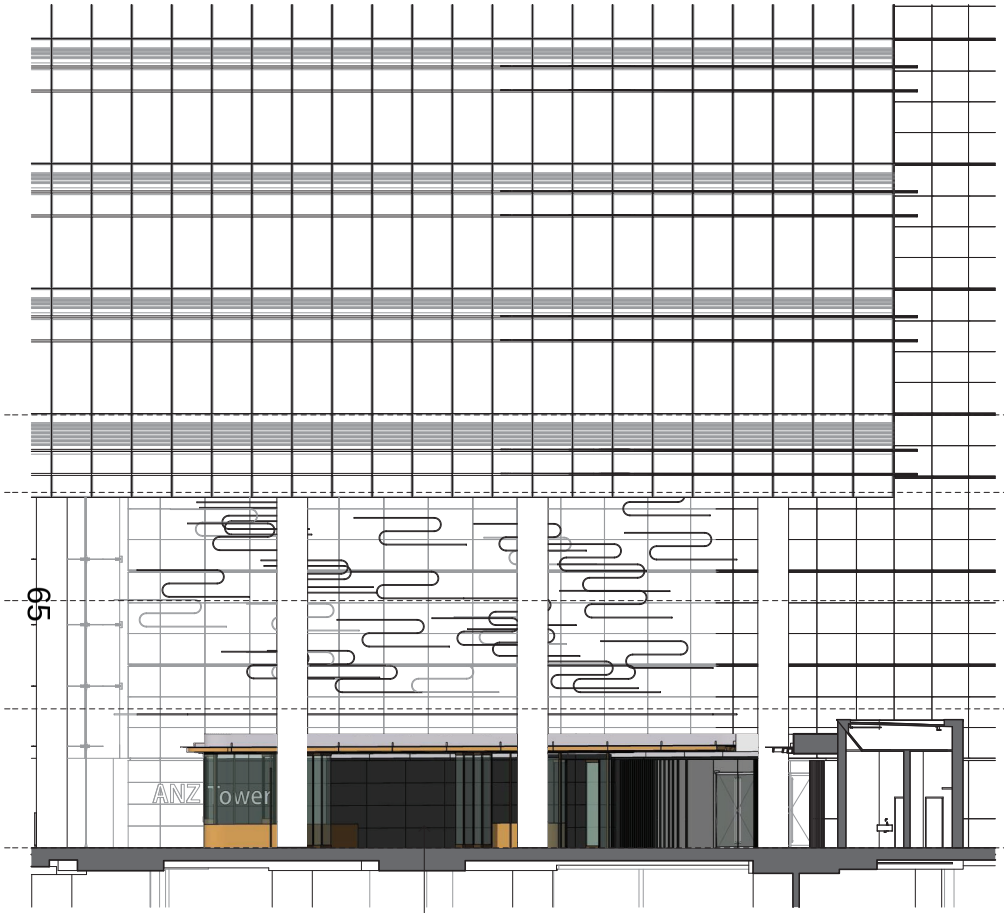
project
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161 Castlereagh Street
Sydney NSW 2000

LIBERTY PLACE
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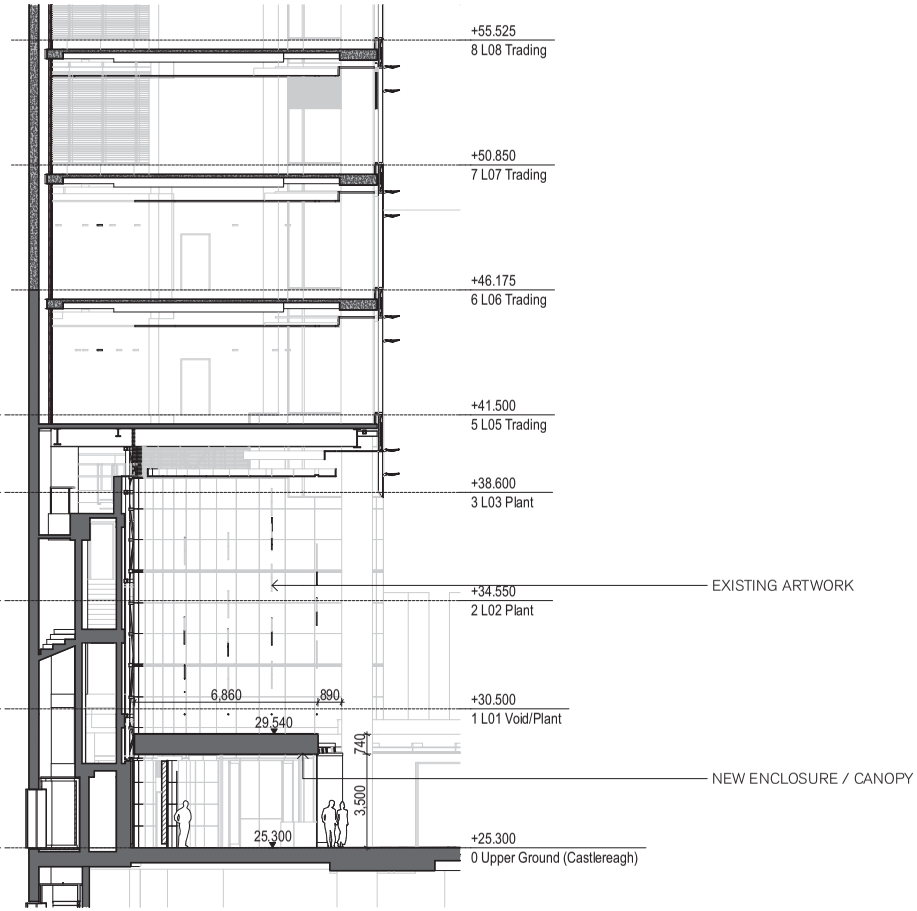
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DEVELOPMENT APPLICATION PROJECT 1
Proposed Roof Plan

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1 ELEVATION Undercroft Elevation
1:200



B SECTION Undercroft Section
1:200

0 2 5 10m

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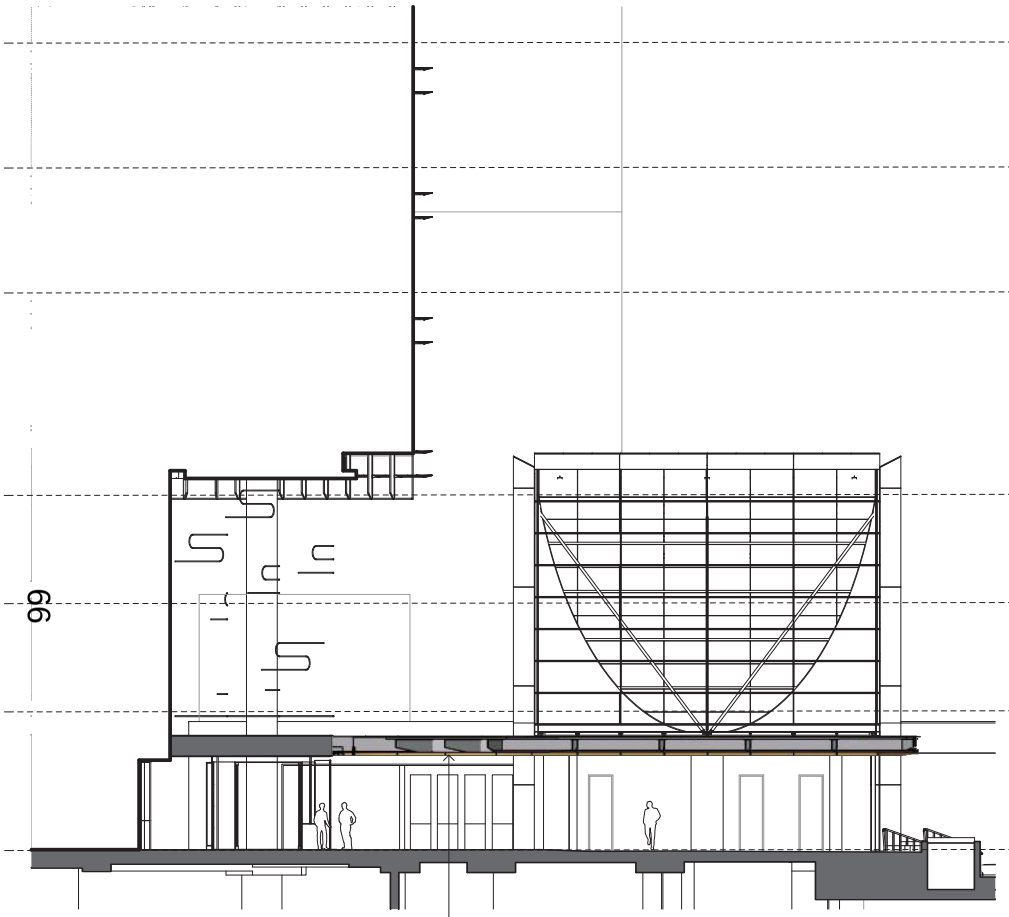
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Liberty Place
161 Castlereagh Street
Sydney NSW 2000

LIBERTY PLACE
161 CASTLEREAGH ST. THRU 242 PITT ST.

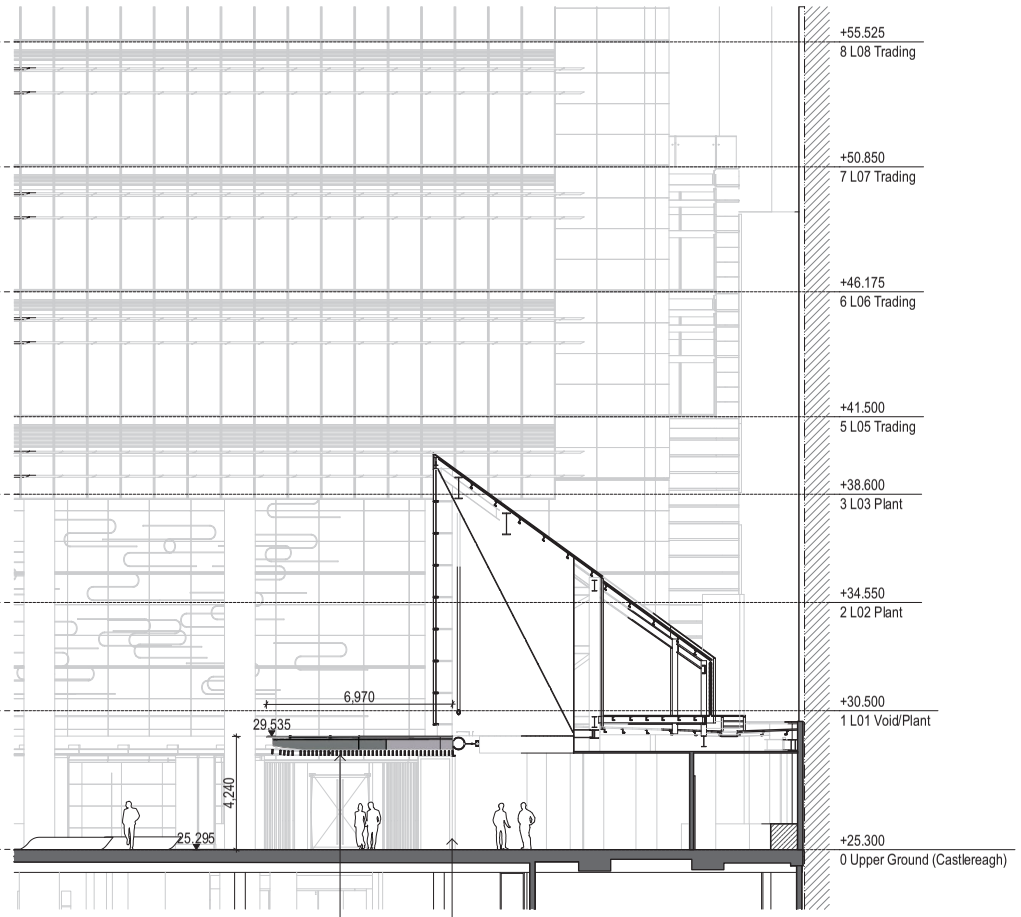
title
DEVELOPMENT APPLICATION PROJECT 1
Elevations & Sections

scale		sheet no.	rev
1:200 @ A3	14.01.2019	**DA01-3002**	A

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1 ELEVATION Pavilion Elevation
1:200



A SECTION Pavilion Section
1:200

0 2 5 10m

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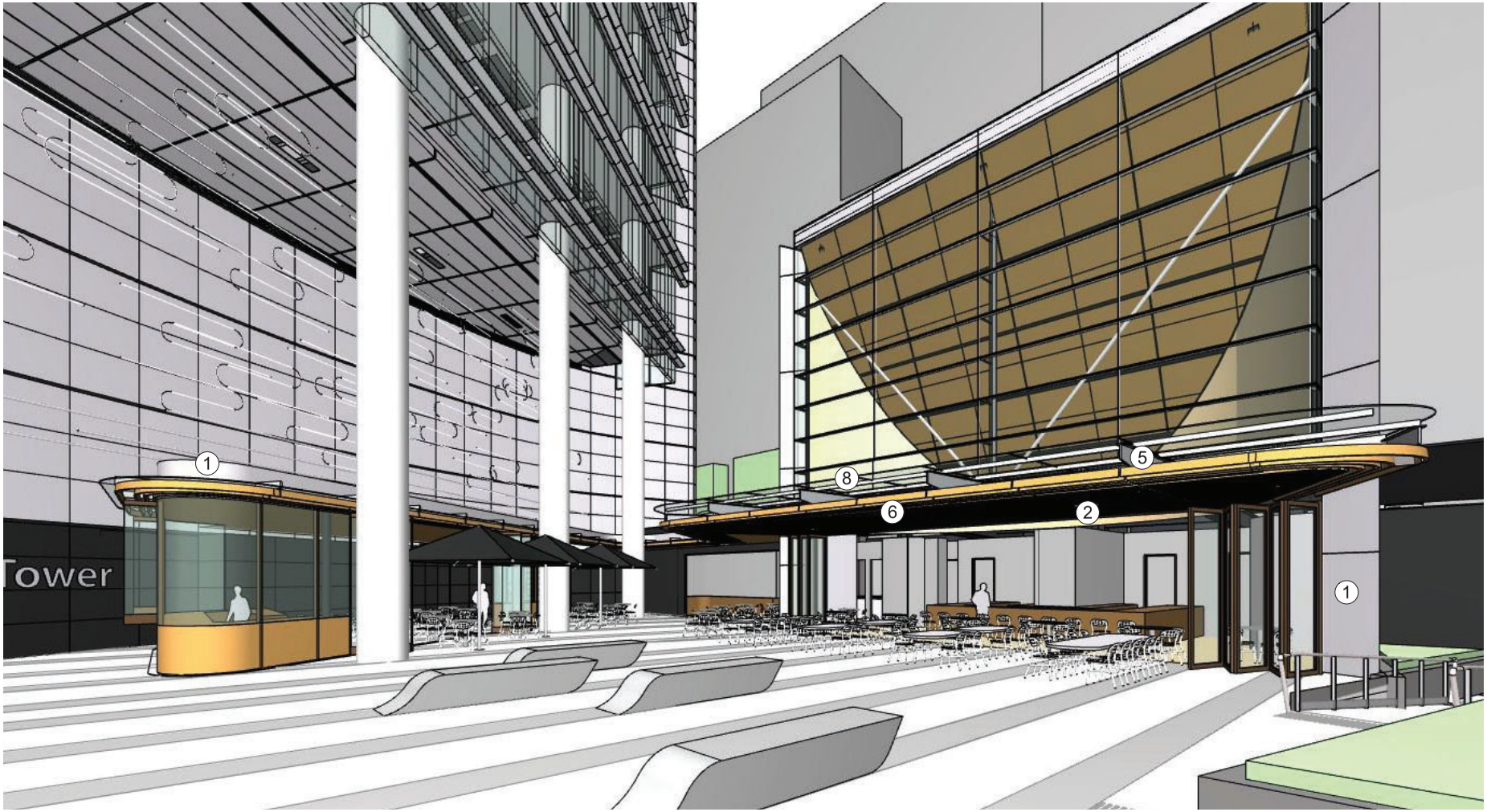
project
Liberty Place
161 Castlereagh Street
Sydney NSW 2000

LIBERTY PLACE
161 CASTLEREAGH ST. THRU 242 PITT ST.

title
DEVELOPMENT APPLICATION PROJECT 1
Elevations & Sections

scale		sheet no.	rev
1:200 @ A3	14.01.2019	**DA01-3001**	A

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1	Wall Cladding	Brushed Aluminium
2	Sloped Soffit	Perforated Plywood (natural veneer)
3	Wall Cladding	China Black Granite (honed finish)
4	Planter Box Walls	Paint Finish (dark grey)
5	Structural Steel	Metallic Paint Finish (silver)
6	Awning Soffit	Timber battens (Blackbutt with clear finish)
7	Glazing Extrusions	Powdercoat Finish (silver grey)
8	Glazing	Low Iron

fjmt

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project
Liberty Place
161 Castlereagh Street
Sydney NSW 2000

LIBERTY PLACE
161 CASTLEREAGH ST. THRU 242 PITT ST.

title
DEVELOPMENT APPLICATION PROJECT 1
Materials Specification

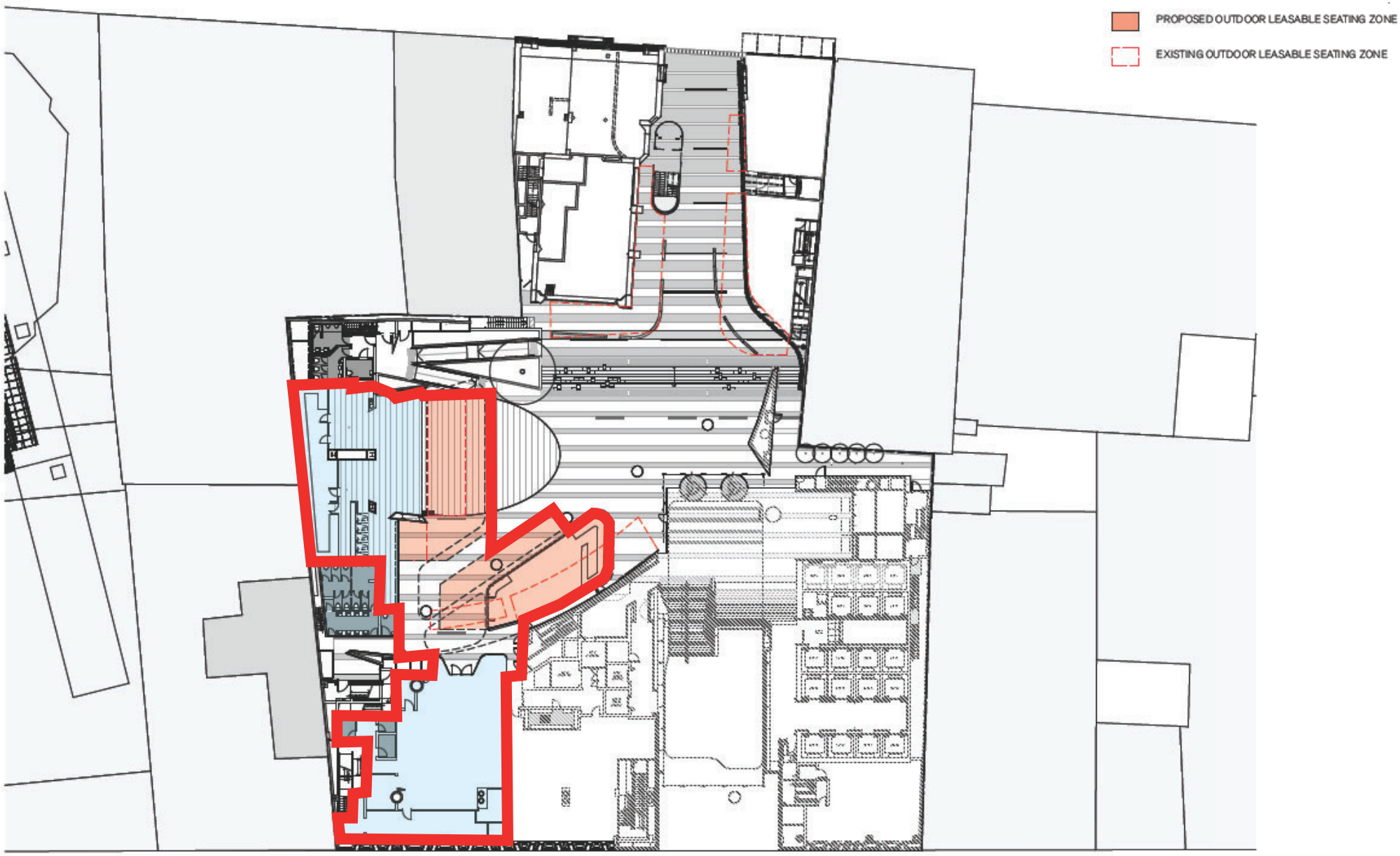
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14.01.2019

sheet no. **DA01-6002**

rev A

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1 PLAN Upper Ground Seating Plan (Castlereagh)
1:400

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project
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161 Castlereagh Street
Sydney NSW 2000

LIBERTY PLACE
161 CASTLEREAGH ST. THRU 242 PITT ST.

title
DEVELOPMENT APPLICATION PROJECT 1
Proposed Seating Plan

scale	code	sheet no.	rev
1:400 @ A3	-	DA01-4001	

DEVELOPMENT APPLICATION

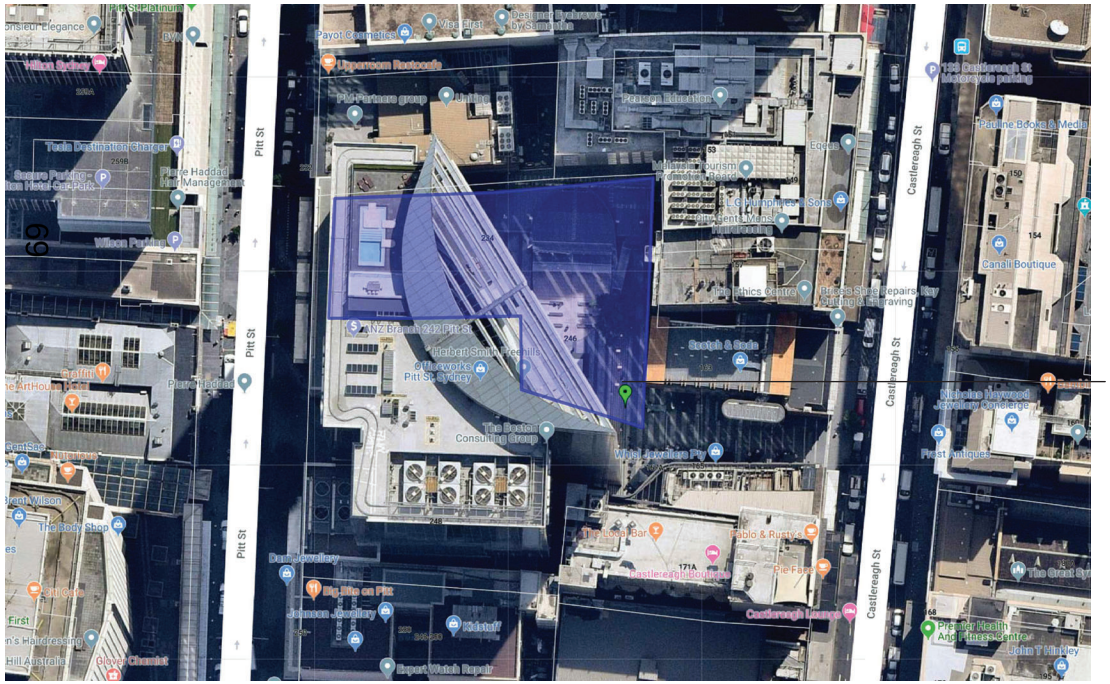
161 CASTLEREAGH ST

161 CASTLEREAGH ST
SYDNEY, NSW 2000

Project Number: 488

DRAWINGS

DA 0 00	Cover Page
DA 0 04 101	Basement 4 Proposed Plan
DA 0 00 100	Ground Floor Existing Demolition Plan
DA 0 00 101	Ground Floor Proposed Plan (1:200@A3)



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Rev	Date	Description	Checked
H	14.12.18	DEVELOPMENT APPLICATION	PK
G	10.11.17	DEVELOPMENT APPLICATION	PK
F	30.05.17	DEVELOPMENT APPLICATION	PK
E	19.05.17	DEVELOPMENT APPLICATION	PK
D	11.05.17	DEVELOPMENT APPLICATION	PK
C	28.04.17	DEVELOPMENT APPLICATION	PK
B	20.04.17	DEVELOPMENT APPLICATION	PK
A	13.04.17	DEVELOPMENT APPLICATION	PK

LIBERTY PLACE

161 CASTLEREAGH STREET
SYDNEY NSW 200

Cover Page

Status	DEVELOPMENT APPLICATION
Scale	1:200@A3
Drawn	HG
Project No.	488

Drawing No.

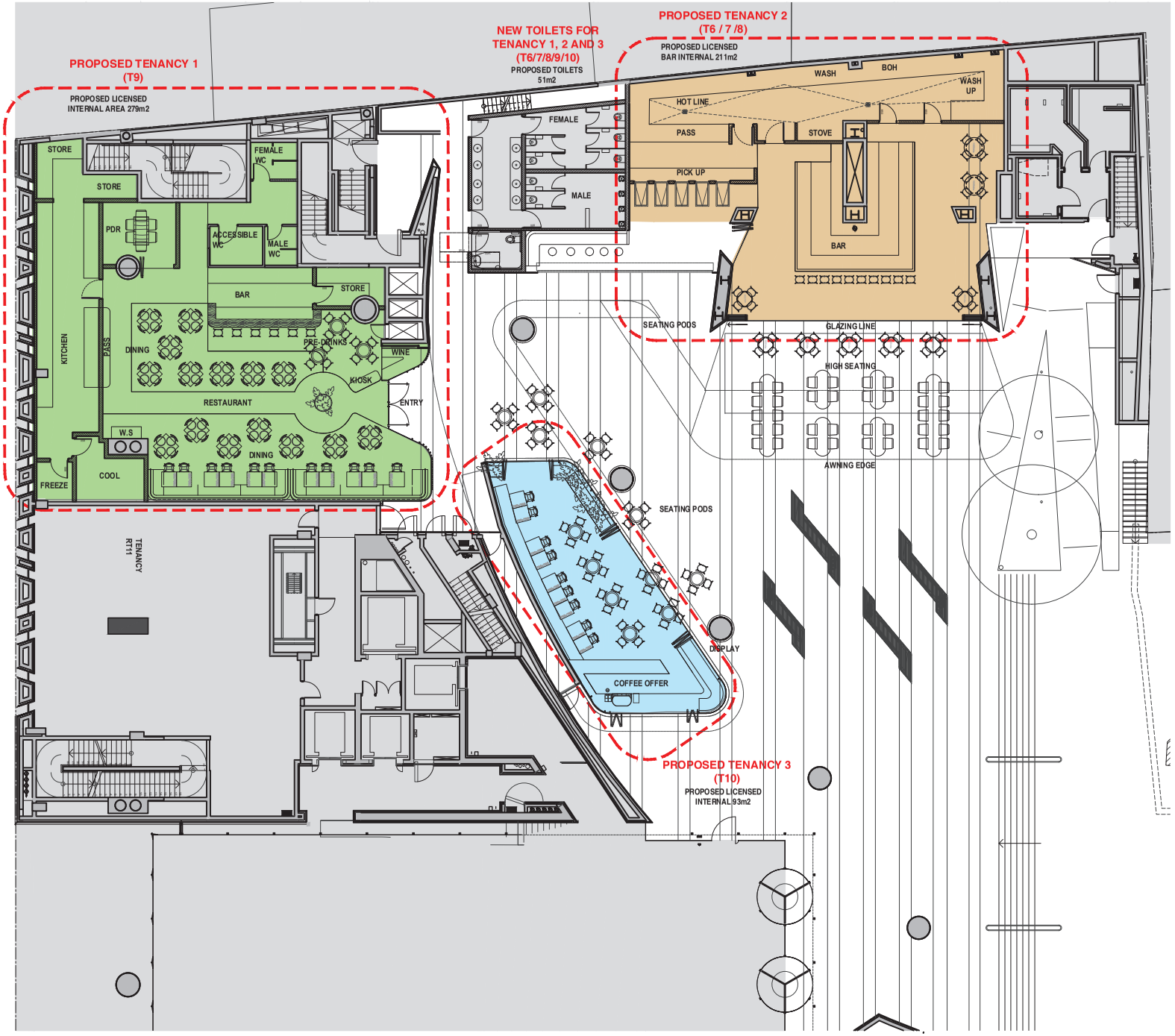
DA 0 00 H

Discipline Code | Level | Type | No. | Revision

503 / 50 Holt Street
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DEVELOPMENT APPLICATION



01 - PROPOSED PLAN
GROUND FLOOR 1:200@A3

DEVELOPMENT APPLICATION

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Proposed Works Legend

- EXISTING WALLS TO BE RETAINED
- NEW WALLS

Legend

AREA CALCULATIONS

- TENANCY 1 (T9)
  PROPOSED RESTAURANT 277 m2
- TENANCY 2 (T6/7/8)
  PROPOSED BAR INTERNAL 211 m2
- TENANCY 3 (T10)
  PROPOSED PAVILLION CAFE 93 m2
- PROPOSED TOILETS 51 m2
  TENANCY 1, 2 AND 3

Rev	Date	Description	Checked
H	14.12.18	DEVELOPMENT APPLICATION	PK
G	10.11.17	DEVELOPMENT APPLICATION	PK
F	30.05.17	DEVELOPMENT APPLICATION	PK
E	19.05.17	DEVELOPMENT APPLICATION	PK
D	11.05.17	DEVELOPMENT APPLICATION	PK
C	28.04.17	DEVELOPMENT APPLICATION	PK
B	20.04.17	DEVELOPMENT APPLICATION	PK
A	13.04.17	DEVELOPMENT APPLICATION	PK

LIBERTY PLACE

161 CASTLEREAGH STREET
SYDNEY NSW 200

Ground Floor
Proposed Plan

Status	DEVELOPMENT APPLICATION
Scale	1:200@A3
Drawn	VG
Project No.	488

Drawing No.
DA 00 1 01 H
Discipline Code / Level / Type / No. / Revision

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phone: 02 9660 8299
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Attachment B

Clause 4.6 Variation Request

Pty Limi
ABN 36 002 126
ACN 002 126
Planning and Development Consulta
www.designcollaborative.com

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BTP (UNSW)
MPIA CPP

Director
David Rippingill
BEP (WSU)
Juris Doctor (UNE)
RPIA

Consultant
G W Smith BSurv(QLD)
MCP(MIT)
FPIA MRTPI FAPI
MIS Aust

WRITTEN REQUEST PROVIDING GROUNDS FOR VARIATION TO FSR DEVELOPMENT STANDARD PURSUANT TO CLAUSE 4.6 OF SYDNEY LEP 2012

MODIFICATION 2019/88 – 161 CASTLEREAGH STREET, SYDNEY – THE LIBERTY PLACE BAR

Context – Background

This written request has been prepared with respect to cl 4.6 of *Sydney Local Environmental Plan 2012* (*LEP 2012*) to accompany Development Application 2019/88 seeking consent for fitout of four existing retail tenancies and the construction of an additional tenancy for use as a pub as well as public domain changes (*the Application*).

The base building approval, D/2007/1792, when lodged was caught by savings provisions under *Sydney LEP 2005* (*LEP 2005*). It was subject to *Central Sydney Local Environmental Plan 1996* (*LEP 1996*). At the time of originally granting consent in 2007, the permissible Floor Space Ratio (*FSR*) was 12.5:1 which was varied to 14.2:1 (as permitted at the time under *State Environmental Planning Policy No 1*).

An increase in Gross Floor Area approved under D/2007/1792/H of 1,217.9sqm. Because that application was a modification, it did not require a SEPP 1 request. Development standards only apply to development applications.[1] The power to modify a consent is a standalone power.

The FSR that applies under *Sydney Local Environmental Plan 2012* (*LEP 2012*) is 8:1, with additional floor space available under cl 6.4 of 4.5:1 for the current land uses. That is a total of 12.5:1. Consequently, the current development exceeds the FSR limit for the site.

In addition to the above, the lot is burdened by an instrument created under s 88 of the *Conveyancing Act, 1919*. Clause 43A(4) of LEP 1996 required a covenant to be imposed on the title limiting floorspace to the approved level and consolidation of the lots. The subject site comprises a consolidated site where a covenant was placed on the title. That restriction reads as follows.

[1] *North Sydney Council v Michael Standley & Associates Pty* Ltd [1998] NSWSC 163.

Suite 304, 105 Pitt St Sydney NSW 2000 Tel: 02 9262 3200 Fax: 02 9262 3601

13. Terms of restriction on the use of land numbered 13 in the Plan

13.1. The Grantor must limit the sum of the floor space ratio of all the Lots taken together to no more than 14.51:1, calculated in accordance with the Central Sydney Local Environmental Plan 1996.

13.2. The terms of this restriction on the use of land cannot be released, varied or modified without the consent of the Council of the City of Sydney.

The site has an area of 4,487sqm. The ratio of 14.51:1 provide a 65,103.4sqm of Floor Space Area (*FSA*).[2] D/2018/269 was granted consent on 23 May 2018, permitted an additional 35.82sqm through the infill of a stair void. This increased the FSR to 14.52:1 and so beyond the above limit on the title.

When D/2007/1792 was first approved, the variation sought was a 13.8% increase beyond the 12.5:1 FSR that applied to the lot. As noted above however, further increases have been approved. Seven reasons were provided in support of the variation in the original determination. Reason four is most relevant to this Application as follows (which in itself provides three reasons).

(4) The proposed development is of an exceptionally high standard of design and provides for a number of public and social benefits, including a public "Ethics" Plaza, a mid block connection between Castlereagh and Pitt Streets and rent free accommodation for the not for profit organisation, St James Ethics Centre,

The subject Application, through construction of an additional building and public domain changes, will reduce to some degree the scope of "Ethics Plaza". Notwithstanding, the numerical reduction in public access in terms of square metres, the site will be accessible and useability and amenity will be substantially improved. Public usability can also be improved throughout Ethics Plaza.

The remaining benefits including the mid-block connection and rent-free accommodation for the St James Ethics Centre would be maintained.

The **enclosed** survey calculations provided by Veris submit that the proposed FSA is presently 65,048.4sqm, some 50sqm less than the permitted amount under the covenant.

Clause 4.6 of Sydney Local Environmental Plan 2012

Clause 4.6 of the LEP provides:

(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.

[2] It should be noted that under LEP 1996 *Floor Space Area* is used to calculate Floor Space Ratio. Under D/2007/1792/H, a new definition of *Gross Floor Area* was used. Despite the different terms, there is no relevant difference for the purpose of this application.

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

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

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

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

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

(5) In deciding whether to grant concurrence, the Secretary must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

This document constitutes the written request referred to in Clause 4.6(3) in relation to the Application's variation of the height development standard.

It is noted that the NSW Department of Planning and Environment provides guidance on how to prepare cl 4.6 variations in the form of *Varying development standards: A Guide* (August 2011). This written request to vary the standard is based on the DP&E's Guide.

This written request has also been prepared having regard to the recent judgment in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (*Initial Action*). At [17] – [21] of *Initial Action*, Preston CJ confirmed the findings in *Wehbe v Pittwater Council* [2007] NSWLEC 827 (*Wehbe*) based on *State Environmental Planning Policy No 1 – Development Standards* continues to apply to cl 4.6 variations. *Wehbe* established that compliance with a development standard can be found to be unreasonable or unnecessary in the circumstances of the case (in accordance with the test provided by cl 4.6(3)(a) of the LEP) if the objectives of the development standard are achieved notwithstanding non-compliance with the standard (*Initial Action* at [17]).

Further, Preston CJ found in *Initial Action*, at [87] and [88], in the context of Clauses 4.6(3)(a) and (b) that:

> "…*Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development…*
>
> *…The requirement in Clause 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard…".*

Written Request

The proposed increase in GFA relates to the construction of the proposed pavilion building, to be known as tenancy 10. There are other minor changes to the scope of the approved tenancies, that do not affect the bulk and scale of the building but also result in a minor increase in GFA.

The existing FSR for the site is understood to be 14.52:1. However, the results of the detailed survey of the site show that that current FSA is 64,887.1sqm. That results in an FSR of 14.46:1. The application results in an additional 181.33sqm, and so a total FSA of 65,048.4sqm or 14.49:1.

The questions set out in the DP&E's Guide are addressed below.

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

Sydney Local Environmental Plan 2012.

2. What is the zoning of the land?

The land is zoned B8 Metropolitan Centre.

3. What are the objectives of the zone?

The objectives of the B8 Zone are:

- *To recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy.*
- *To provide opportunities for an intensity of land uses commensurate with Sydney's global status.*
- *To permit a diversity of compatible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community.*
- *To encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling.*
- *To promote uses with active street frontages on main streets and on streets in which buildings are used primarily (at street level) for the purposes of retail premises.*

4. What is the development standard being varied?

The development standard being varied is the FSR development standard.

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

The development standard is listed under clause 4.4 of LEP 2012.

6. What are the objectives of the development standard?

The objectives of clause 4.4 are:

(a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,

(b) to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,

(c) to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure,

(d) to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.

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

The numeric value of the development standard in LEP 2012 is approximately 56,087sqm. The building was approved under LEP 1996 which permitted 56,084.87sqm of FSA under LEP 1996. The final variation permitted construction of 65,103.4sqm of GFA under ELP 2012, approved under D/2007/1792/H.

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

The proposed additional GFA is 181.33sqm, for a total of 65,048.4sqm. That is a 0.27% increase in GFA.

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

The percentage variation from the current FSR under LEP 2012 of 12.5:1 is approximately 15%. However, it is less than the total amount of floor space previously approved and required to be imposed on the title of the land by 50sqm or so.

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

In the circumstances of the case, it is considered that strict compliance with the FSR of buildings development standard applicable to the site is unreasonable and unnecessary for the following reasons:

A. The objectives of the development standard are achieved notwithstanding non-compliance with the standard (cl 4.6(3)(a), cl 4.6(4)(ii) and *Initial Action* at [17])

(a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,

(b) to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,

(c) to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure,

(d) to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.

Assessment:

The subject site is within the Central Business District, the Metropolitan Centre Zone, for the City of Sydney. The Application intends to cater to the existing demand in the City for hospitality offerings. The businesses will primarily cater to office workers, with the busiest days being during the week. Consequently, there would be no increased pedestrian or vehicular generation or otherwise any adverse impact upon infrastructure.

The need to create additional floor space for the purpose demonstrates there is insufficient appropriately located floor space to meet the needs for hospitality focussed offerings in the CBD. It also demonstrates that the current design and relationship with the public domain is undesirable, requiring significant changes to improve its attractiveness to the City's users.

The built-form is not affected from outside the development. The subject site is located within Central Sydney Specific Area. There is no specific character statements relating to internal open areas that would be relevant to the changes proposed to the character of Liberty Place.

The assessment to which this variation request is appended demonstrates that the proposed use will not impact adversely upon the surrounding area, consistent with the objectives above.

B. Consistency with the objectives of the B8 Local Centre zone (cl 4.6(4)(a)(ii))

Assessment:

As well as achieving the applicable objectives of clause 4.4 as demonstrated above, the Application, including the FSR variation, is also in the public interest as it is consistent with the relevant objectives of the B8 Metropolitan Centre zone in that it contributes significantly to active ground floor land uses.

11. How would strict compliance hinder the attainment of the objects specified in Section 1.3(a) and (c) of the Act?

Compliance with the relevant FSR standard would hinder the attainment of the objects of section 1.3(a) and (c) of the Act, which are 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, in addition to promoting and coordinating orderly and economic use and development of land.

There is a at present, a significant underutilisation of Ethics Plaza. The area was intended to be used by the public, in particular, patrons of the four approved retail tenancies. That did not occur, and three of those four retail tenancies are vacant. The rear of Ethics Plaza is almost entirely inactive during the busiest parts of the day and entirely devoid of life in the evening. This is an unacceptable outcome in the Sydney CBD, where access to ground level

active uses is highly prized. The additional FSA will occupy an area within an undercroft, which presently provides scattered seating. Seating will continue to be available notwithstanding, and so there is considered to be no great impact on the public as a result of the change. The Application will however assist in activating the entirety of the Ethics Plaza by installing an anchor land use at its rear.

The Application satisfies the zone and development standard objectives and therefore strict compliance with the standard is not required in order to achieve compliance with the objectives. Strict compliance would result in an inflexible application of policy. It does not serve any purpose that should outweigh the positive outcomes of the development and therefore a better planning outcome overall.

The Application as proposed, including the FSR variation, is consistent with the provisions of orderly and economic development as provides for the activation of Liberty Place and in a built-form which responds appropriately to existing surrounding development, and neighbouring development and which will have no impact on the character of the streetscape and the locality.

In this regard, the Application also meets the object of the Act with respect to good design and amenity of the built environment.

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

The FSR development standard is a numerical based control.

13. Would strict compliance with the standard, in your particular case, be unreasonable or unnecessary? Why?

This matter is addressed in detail above in the answer to Question 10. Strict compliance would result in an inflexible application of policy. It does not serve any purpose that should outweigh the positive outcomes of the Application which improve the enjoyment and access to Liberty Place.

The intended outcome for this area is to create an active outdoor space, supported by a popular hospitality offering. It is appropriate and necessary to seek to increase usability of the built environment, particularly in an area such as the CBD where the efficient use of land is key to its success in both business and in creating a desirable location for workers and residents.

Leaving Ethics Plaza as it is presently designed is not an acceptable outcome. The areas which are sought to be used are not presently set aside in any way or designed to be used by the public. As an urban area, as opposed to an open park or the like, it is appropriate that the built environment is designed in a way that is attractive and usable by the public. An open concrete area scattered with chairs is not an attractive space for use by the public.

The publicly accessible aspect of this area was limited to sporadic seating which could only be used by patrons of the adjoining retail uses. No dining tables or tables generally are provided, which might have been of some benefit to surrounding workers. That would not fundamentally change as a result of the application. The only active use is a table tennis table.

The Application is consistent with the provisions of orderly and economic development and good design and amenity of the built environment.

14. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details. (cl 4.6(3)(b) and *Initial Action* at [24])

There are sufficient environmental planning grounds to support the variation to the FSR of applicable to the site, being:

- The variation is minor, making up 0.27% of the existing FSA at the subject site. It is also within the scope of the maximum FSA previously approved.

- The additional GFA is primarily sought is to be located within an existing undercroft and so would not add to the overall height or bulk of the development. Notwithstanding, its construction would not impact upon the public domain outside of the redevelopment.

- The development will ensure activation of Liberty Place. The additional building would be most suited to be used as an early morning café and breakfast spot, reflecting the success of two similar offerings in Liberty Place closer to Castlereagh Street. Due to its underutilisation of the undercroft, there is presently no public benefit being accrued by its existence.

- The additional building is proposed to act as an attractor to encourage potential patrons from Castlereagh Street, deeper into the development. The fact that 3 out of the 4 businesses in the existing retail tenancies did not survive at the base of ANZ Tower shows demonstrates the underutilisation of this space.

- The FSR variation will not give rise to any significant adverse amenity impacts on surrounding development in terms of overshadowing, loss of solar access or loss of views.

- The proposed development, including the FSR variation, achieves compliance with the relevant underlying objectives of the standard and the objectives of the zone.

The above factors confirm that there are sufficient environmental planning grounds to justify the variation and that the Clause 4.6 variation request is well-founded.

Summary

Accordingly, there are more than sufficient environmental planning grounds to justify the variation of the FSR standard on the basis that compliance with the standard would be unreasonable and unnecessary in the circumstances of this particular case. As demonstrated above, the proposed development will be in the public interest because it is consistent with the objectives of the FSR standard, the objectives of the B8 zone and will achieve the objects of the EP&A Act. Most importantly, the Application will reinvigorate the secluded urban environment which was always intended to be used by surrounding retail workers but instead is empty during the busiest times of the day. The Application will ensure its use day and night.

In the context of the other requirements of Clause 4.6, no matters of State or regional planning significance are raised by the Application. Moreover, it is considered that there would be no public benefit in maintaining the particular planning control in question, in the case of this specific development.

The Application also meets the objects of the EP&A Act with respect to good design and amenity of the built environment and will contribute to a better environment by providing a built form which respects the scale and definition of the existing streetscape and will improve the built environment through activation and use of the public domain.

This request is considered to adequately address the matters required by Clause 4.6 and demonstrates that compliance with the development standard would be unreasonable and unnecessary in the circumstances of this case.

Despite the proposal's non-compliance with the FSR development standard, the proposed development is considered to meet the objectives of the standard and the objectives of the B8 zone.

Item 4.

Development Application: 658-660 Botany Road, Alexandria - D/2018/871

File No.: D/2018/871

Summary

Date of Submission:	30 July 2018, various amendments submitted up until 10 October 2019
Applicant:	Tone Wheeler - Environa Studio
Architect:	Environa Studio
Owner:	Ozimex International Pty Ltd & Marina Royal Pty Ltd
Cost of Works:	$9,934,246
Zoning:	B7 Business Park Zone
Proposal Summary:	The subject application is for a 6 storey shop-top housing development comprising: • demolition of existing structures; • excavation and construction of two basement levels; • vehicular access off Birmingham Street; • a retail tenancy fronting Birmingham Street; • the 'House of Indonesia' business premises fronting Botany Road; • 30 residential apartments; • 25 car parking spaces within the basement levels and; • associated landscaping. House of Indonesia comprises a business use that is an Indonesian government supported initiative to grow business relations between Australia and Indonesia.

This application is for Integrated Development requiring the approval of Water NSW under the Water Management Act 2000.

As Integrated Development the subject application was notified and advertised for 30 days between 14 August and 17 September 2018. Twelve (12) submissions were received, raising the following matters:

- overshadowing of neighbouring properties;
- blocking of sky views;
- demolition and construction noise;
- excessive height;
- demands on local infrastructure;
- increased on-street parking demand;
- increased population to be accommodated within the site;
- inadequate documentation;
- adverse privacy impacts on neighbouring properties;
- items being dropped from upper level balconies;
- leaf litter from rooftop plantings;
- stormwater management; and
- wind effects.

There have been several iterations of substantially amended plans and additional information submitted over the course of the assessment of the application to address concerns raised relating to remediation, height and FSR non-compliances, overshadowing, visual and acoustic privacy and natural ventilation, communal open space, basement design and landscape design. Each iteration of amended plans have reduced the height, bulk, scale and density of the development and any associated impacts and as such have not triggered the requirement for re-notification of the application.

The site is located within the area subject to clause 1AA of Schedule 1 of the Sydney Local Environmental Plan 2012 (the LEP), which together with Clause 2.5 specifies development for the purposes of shop-top housing as being permitted with consent. The proposed development complies with the 22m height of buildings control pursuant to clause 4.3 of the LEP and complies with the 2:1 floor space ratio control pursuant to clause 4.4 of the LEP. The proposed development provides an appropriate contribution that is suitable in terms of its context, scale and built form that is consistent with the desired future character of the area, as expressed in the applicable planning policies. As such it is considered to exhibit design excellence.

The acoustic report submitted by the applicant shows that the site's Botany Road frontage is affected by noise from road traffic and its Birmingham Street frontage is affected by noise from aircraft and from nearby commercial and industrial uses. As a result the application relies on the application of acoustically attenuated ventilation plenums to naturally ventilate apartments and to provide acceptable internal noise levels to satisfy the relevant objectives of the Apartment Design Guide. As this is the key design challenge for the development of the site, a deferred commencement condition is recommended for further refinement of the acoustically attenuated ventilation plenums to be carried out prior to the consent becoming operative.

The owner of the site has made a formal offer to enter into a voluntary planning agreement (VPA) with Council for dedication of a 1.4 metre wide strip of land along the Botany Road frontage of the site for footpath widening. It is noted that this public benefit is not to be eligible for any commensurate development uplift, but to satisfy DCP requirements for public domain setbacks along Botany Road.

As the application includes a VPA and is for development that is subject to SEPP 65 Design Quality of Residential Apartment Development, it is to be determined by the Local Planning Panel.

Water NSW have issued General Terms of Approval for the development pursuant to section 4.47 of the Environmental Planning and Assessment Act 1979.

Summary Recommendation: The development application is recommended for deferred commencement approval.

Development Controls:	(i)	State Environmental Planning Policy No 55 - Remediation of Land
	(ii)	State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development
	(iii)	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
	(iv)	State Environmental Planning Policy (Infrastructure) 2007
	(v)	State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
	(vi)	Sydney Local Environmental Plan 2012
	(vii)	Sydney Development Control Plan 2012
Attachments:	A.	Recommended Conditions of Consent
	B.	Selected Drawings
	C.	Photomontages

Recommendation

It is resolved that pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2018/871 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

(A) The proposed development is for shop-top housing comprising apartment dwellings above ground floor retail and business premises. The site is located within the area subject to clause 1AA of Schedule 1 of the Sydney Local Environmental Plan 2012 (the LEP), which specifies development for the purposes of shop-top housing as being permitted with consent.

(B) The proposed development complies with the 22m height of buildings control pursuant to clause 4.3 of the LEP and complies with the 2:1 floor space ratio control pursuant to clause 4.4 of the LEP. The proposed development satisfies the relevant objectives of Sydney Development Control Plan 2012 (the DCP).

(C) The proposed development provides an appropriate architectural contribution that is suitable in terms of its context, scale and built form that is consistent with the desired future character of the area, as expressed in the applicable planning policies. As such it is considered to exhibit design excellence and satisfies the relevant requirements of clause 6.21 of the LEP.

(D) The proposed development will not result in unacceptable adverse impacts upon the amenity of surrounding residential properties, subject to the recommended conditions.

Background

The Site and Surrounding Development

1. The site is rectangular, with an area of 1,442sqm. It has a primary street frontage with an existing vehicle crossover to Botany Road and a secondary street frontage with an existing vehicle crossover to Birmingham Street.

2. The site is located 58m south-west of the intersection of Gillespie Avenue and Botany Road. The north-western portion of the site fronting Birmingham Street is occupied by a 1 to 2 storey warehouse building. The south-eastern portion of the site contains a hard-stand car parking area fronting Botany Road.

3. The site does not contain a heritage item and is not located within a heritage conservation area, however it is in the vicinity of several locally listed heritage items, including:

   (a) the former warehouse 'Boltons Trading Co.' (I7) immediately adjacent to the south-west at 662-674 Botany Road;

   (b) Electricity Substation No 375 (I2226), further to the south-west at 27 Birmingham Street;

   (c) further to the south-west beyond the substation is the former HG Whittle & Sons factory (I2227) at 29-33 Birmingham Street;

   (d) the former Sil-Ora Dental Products factory (I2225) on the western side of the street at 22-30 Birmingham Street;

   (e) the former Walter Barr Pty Ltd factory (I2224) on the western side of the street and to the north at 2-6 Birmingham Street; and

   (f) Gardeners Road Public School (I1373) which is located directly opposite the site on the south-eastern side of Botany Road.

4. Adjacent to the south-west at 662-674 Botany Road is a 4 to 5 storey shop-top housing development comprising 70 apartments, 7 ground level commercial tenancies and a through site link connecting Botany Road to Birmingham Street.

5. Adjacent to the north-east at 654-656 Botany Road is a four storey shop-top housing building comprising 29 apartments and 2 ground floor commercial tenancies.

6. Further to the north-east at 648, 650 and 652 Botany Road are three lots accommodating commercial uses within single storey former warehouse buildings and associated hard-stand parking areas.

7. Opposite the site on the north-western side of Birmingham Street are 1 to 2 storey former warehouse buildings accommodating commercial and light industrial uses.

8. Opposite the site on the south-eastern side of Botany Road is Gardeners Road Public School.

9. Council officers attended the site on 23 August 2018 and 7 June 2019. Photos of the site and surrounds are provided below.



Figure 1: Aerial image of subject site and surrounding area.



Figure 2: Site viewed from Botany Road.



Figure 3: Four storey shop-top housing adjacent to the north-east of the site at 654-656 Botany Rd.



Figure 4: Streetscape view looking north-east along Botany Road.



Figure 5: Four storey shop-top housing adjacent to the south-west of the site at 662-674 Botany Rd.



Figure 6: Streetscape view looking south-west along Botany Road.



Figure 7: Heritage listed Gardeners Road school on the opposite, eastern side of Botany Road.



Figure 8: Birmingham street frontage of subject site viewed from the intersection of Birmingham and Bradford Streets.



Figure 9: Birmingham Street frontage of development adjacent to the north-east of the site at 654-656 Botany Road.



Figure 10: Birmingham Street frontage of development adjacent to the south-west of the site at 662-674 Botany Road.



Figure 11: View along pedestrian link through property at 662-674 Botany Road to Birmingham St.



Figure 12: View to the northeast towards the subject site from through-site link at 662-674 Botany Rd.



Figure 13: Birmingham Street frontage of heritage listed former warehouse 'Boltons Trading Co.' at 662-674 Botany Road.



Figure 14: Heritage listed HG Whittle & Sons factory at 29-33 Birmingham St.



Figure 15: Existing warehouses at 10-12 and 14 Birmingham Street opposite and to the northwest.

History of the Subject Site

10. The following development consents pertain only to the part of the site fronting Botany Road, formerly known as 658-660 Botany Road:

    (a) U93/00326 – On 2 July 1993, development consent was granted for alterations and additions to fire damaged buildings;

    (b) U02/01305 – On 13 February 2003, development consent was granted for proposed re-roofing of the existing warehouse to stabilise perimeter walls and addition of office space and utilities on ground floor;

    (c) D/2009/1244 – On 1 December 2009, development consent was granted for construction of a two storey commercial building comprising a café, a commercial trade hall and ancillary offices and facilities;

11. It appears none of the consents listed above were ever activated.

12. That part of the site fronting Birmingham Street and formerly known as 11 Birmingham Street contains a 1 to 2 storey warehouse building. Council's heritage specialist has advised that the exact date of construction of this building is unclear, however Council's aerial photos of the area show it was constructed some time during the period 1959-1975.

History of Adjacent Development

654-656 Botany Road, Alexandria

13. U03/00342 - On 29 July 2003, development consent was granted for erection of a four storey mixed-use development containing 135sqm of commercial/retail floor space at ground level with 29 residential apartments above and 27 car spaces at basement level and to strata subdivide the premises into 31 lots.

662-674 Botany Road, Alexandria

14. U01/00598 - On 5 December 2001, deferred commencement consent was granted for construction of a mixed use development comprising 70 strata apartments, 1007sqm of commercial / retail space, basement car parking and associated open space.

History of the Subject Development Application

15. The subject application was lodged on 30 July 2018.

16. There have been two meetings between Council officers and the applicant's project team during the assessment period:

    (a) 9 October 2018 - issues discussed included height and FSR non-compliances, overshadowing, acoustic privacy and natural ventilation, communal open space and basement design;

    (b) 26 August 2019 - to discuss outstanding issues including acoustic privacy and natural ventilation, communal open space and landscape design.

17. There have been several iterations of substantially amended plans and additional information submitted over the course of the assessment of the application in response to the various concerns raised by Council officers. The most recent and final iteration of amended plans and supporting documentation was submitted 10 October 2019.

18. An assessment of this final amended proposal is the subject of this report.

Proposal

19. Demolition of existing structures, excavation, remediation and construction of a 5 to 6 storey shop-top housing development comprising:

    (a) Basement Levels 1 and 2:

    (i) 25 car parking spaces;

    (ii) bicycle parking;

    (iii) residential storage;

    (iv) waste and service areas; and

    (v) a loading dock.

(b) Ground Floor (Level 1):

(i) 1 x 304.43sqm commercial tenancy for the 'House of Indonesia' fronting Botany Road and external garden;

(ii) 1 x 128.98sqm retail premises (in two parts 35.51sqm and 93.47sqm in area) and external garden;

(iii) residential entry foyers; and

(iv) residential communal open space.

(c) Levels 2 - 6

(i) 30 residential apartments [3 x studio, 7 x one bed, 15 x two bed (including 5 x dual-key apartments) and 5 x three bed]; and

(ii) roof top communal open space and non-trafficable green roof.

20. This application is for Integrated Development requiring the approval of Water NSW under the Water Management Act 2000.

21. It is noted that House of Indonesia comprises a business use that is an Indonesian government supported initiative to grow business relations between Australia and Indonesia.

22. Drawings of the proposed development are provided below.



Figure 16: Photomontage of proposed development from Botany Road.



Figure 17: Photomontage of proposed development from Birmingham Street.

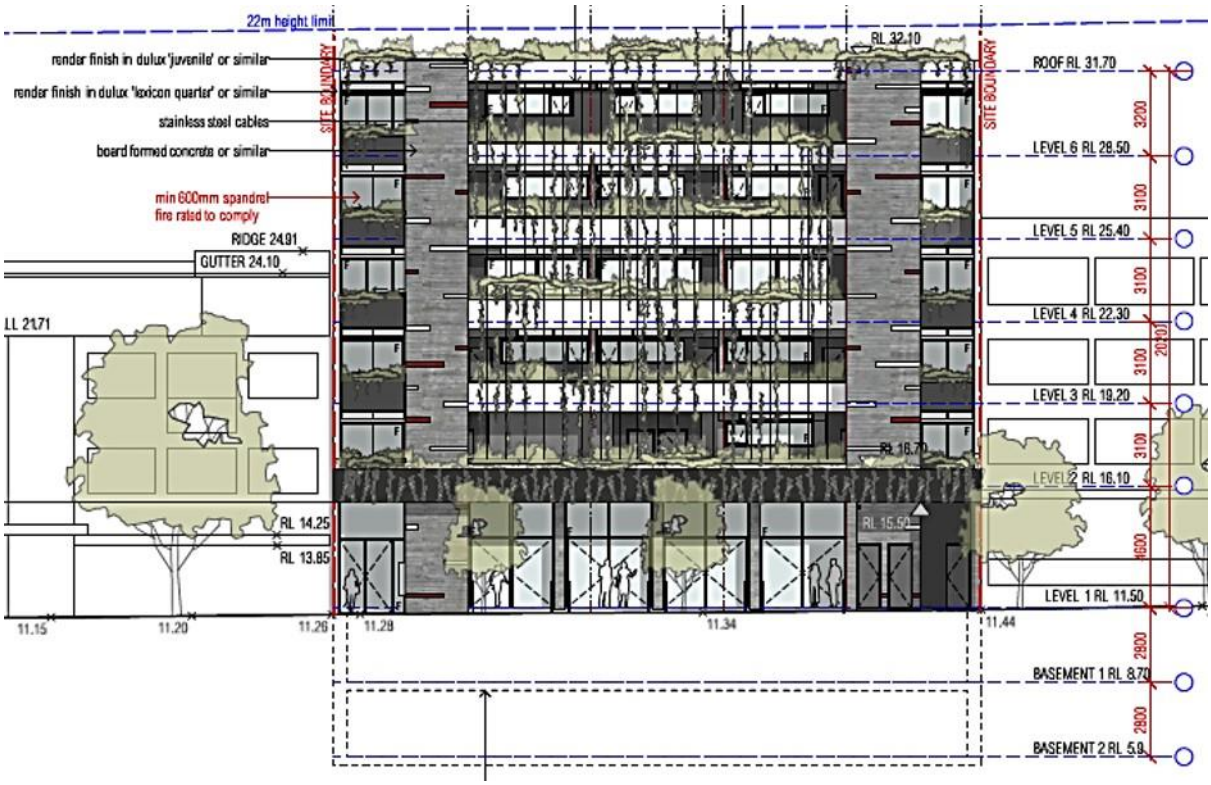


Figure 18: Botany Road elevation.



Figure 19: Birmingham Street elevation.

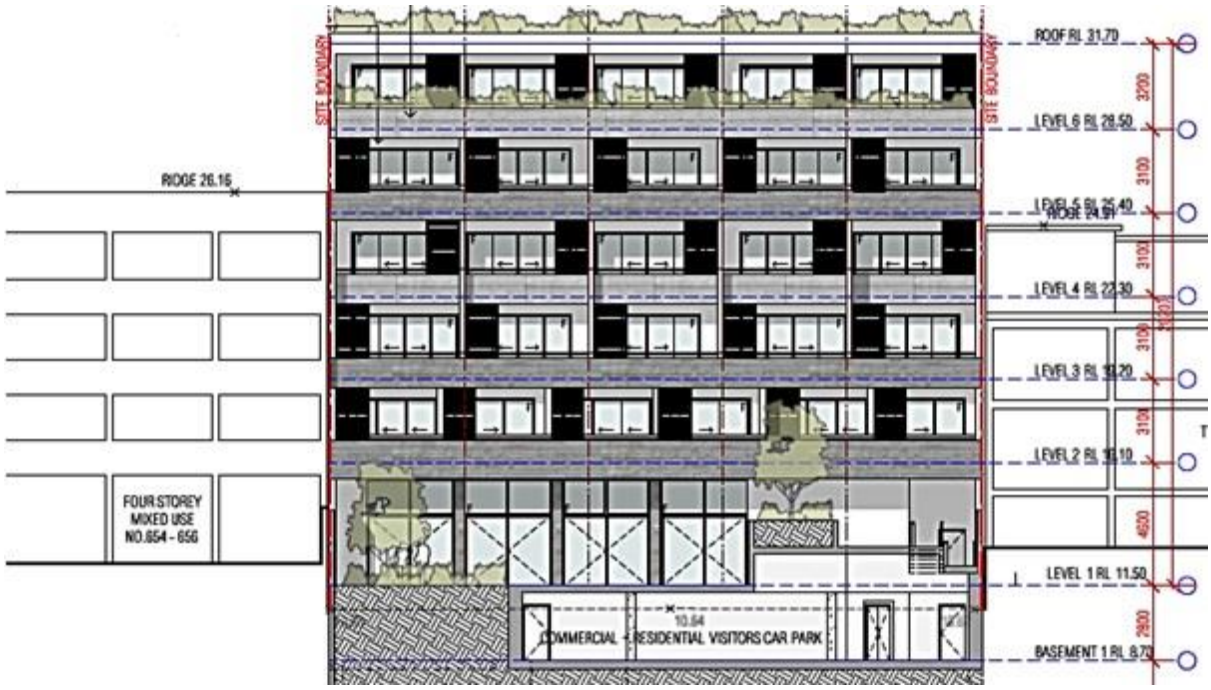


Figure 20: Internal north-west elevation.

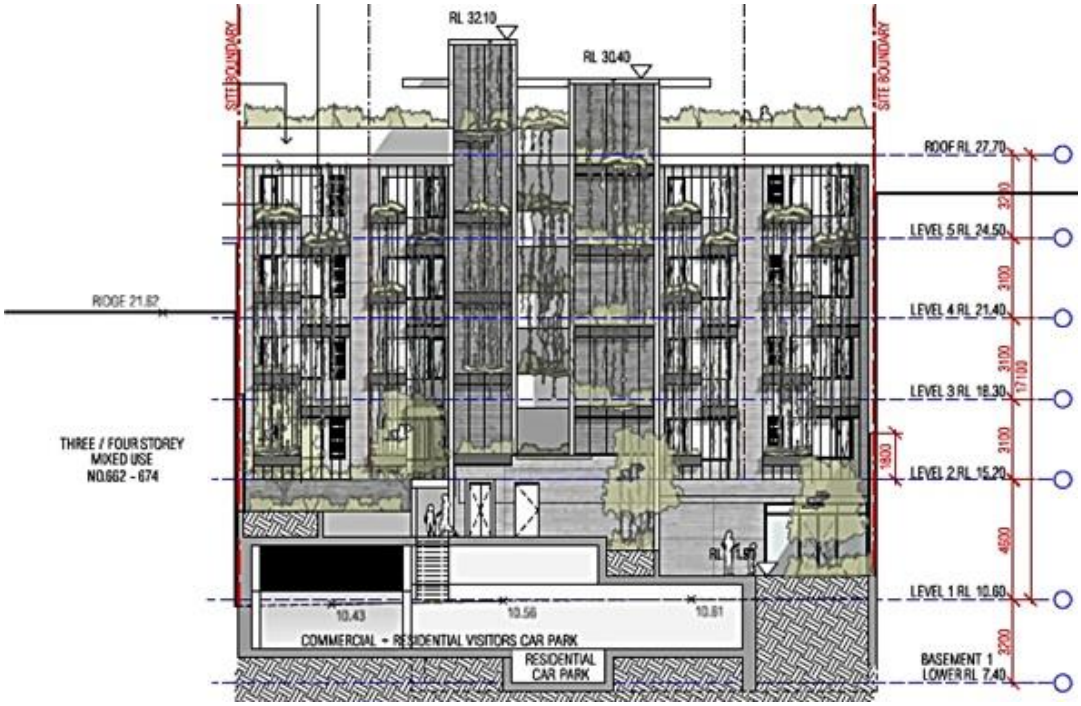


Figure 21: Internal south-east elevation.

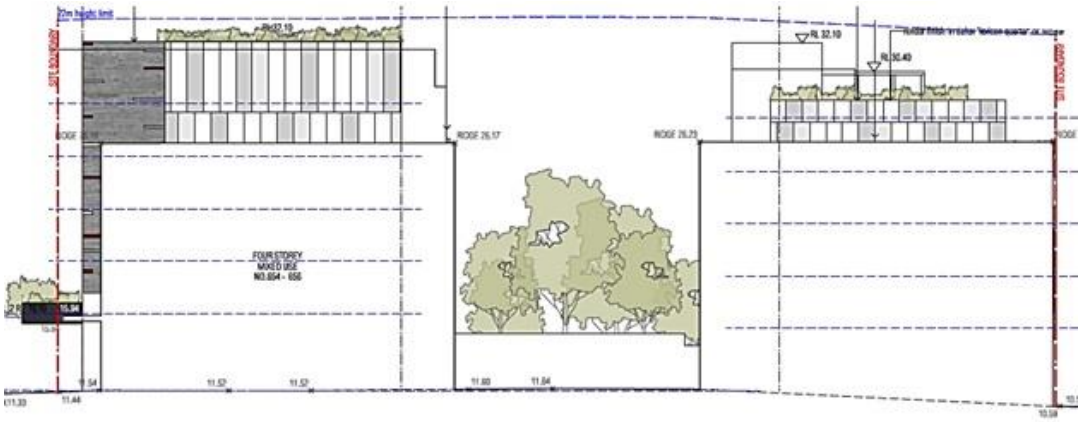


Figure 22: North-east elevation.

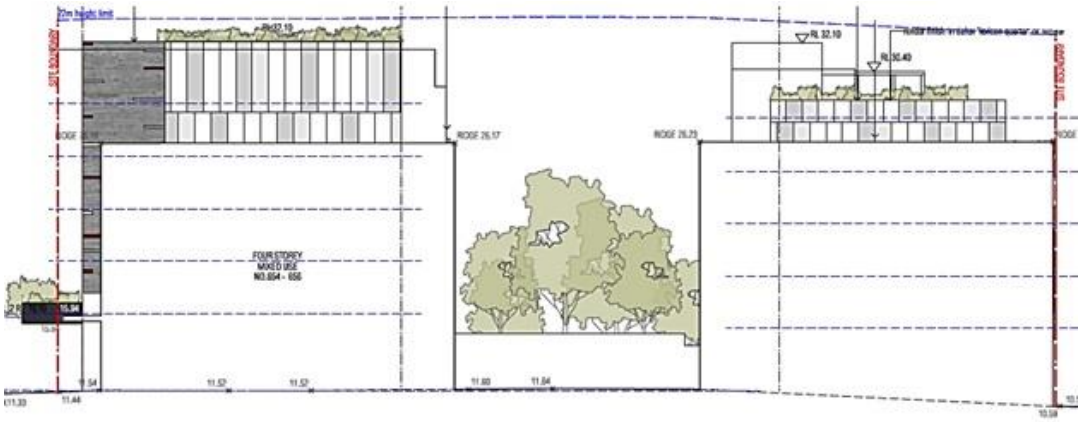


Figure 23: South-west elevation.

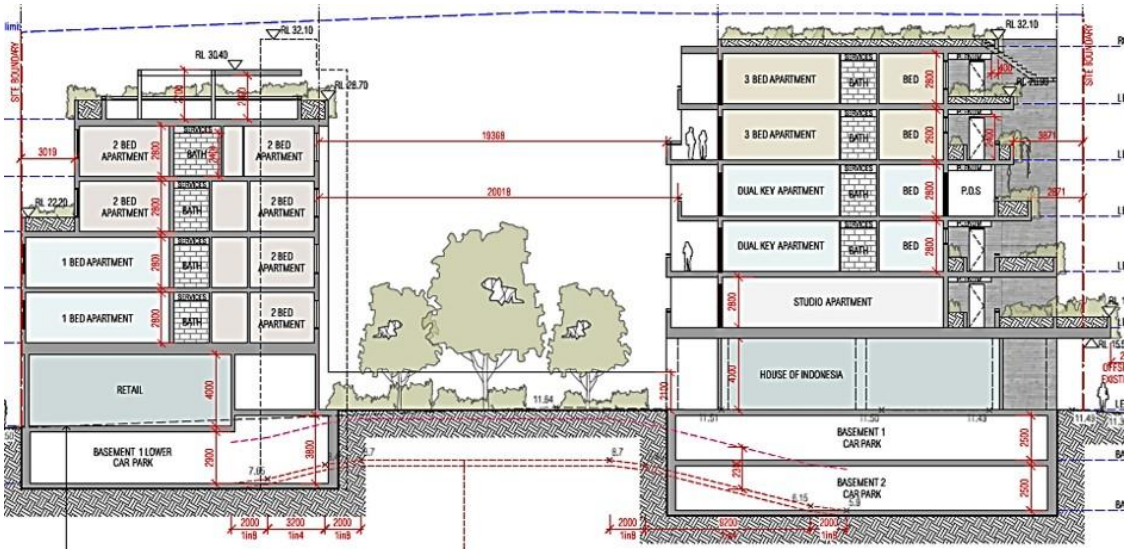


Figure 24: Section A.

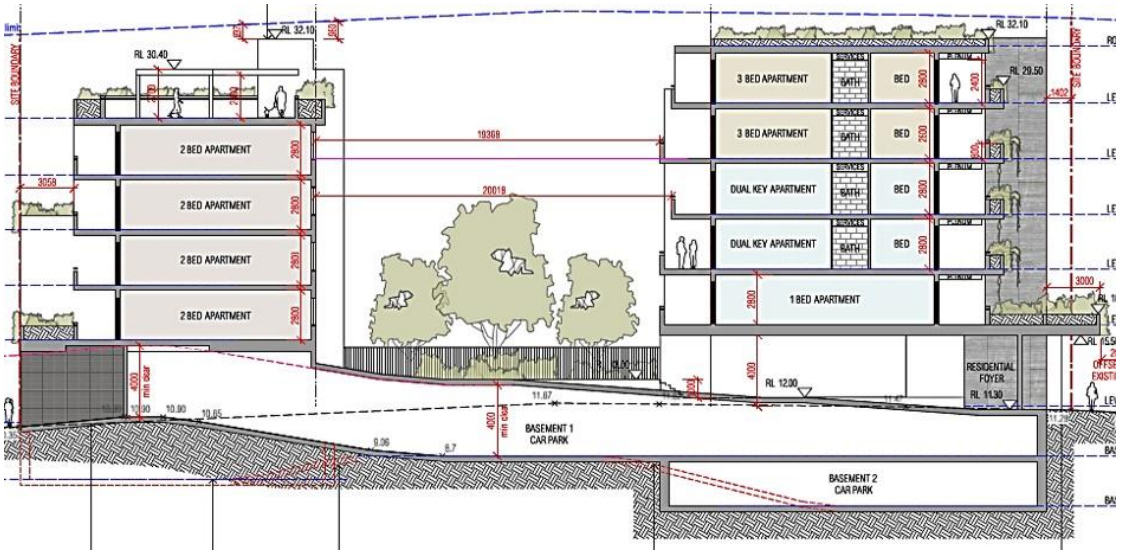


Figure 25: Section B.

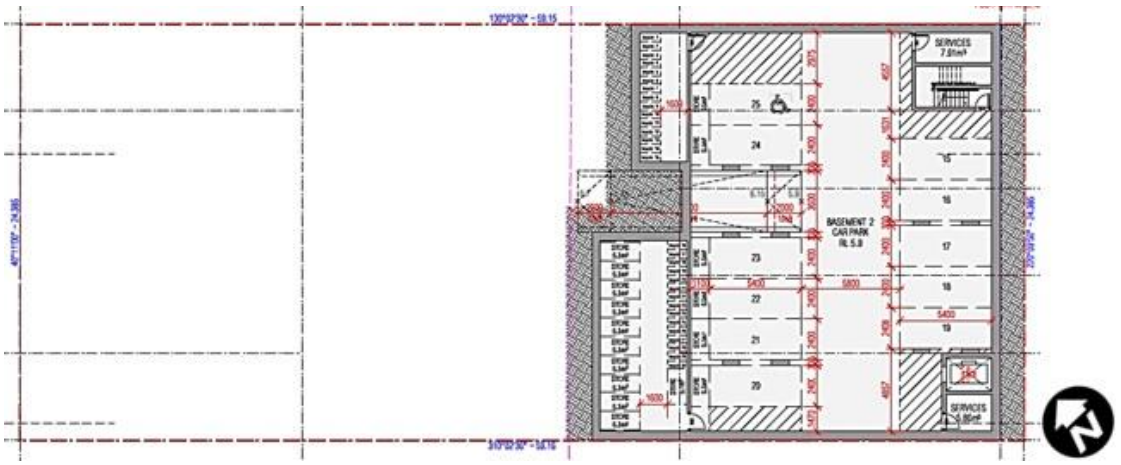


Figure 26: Basement 2.

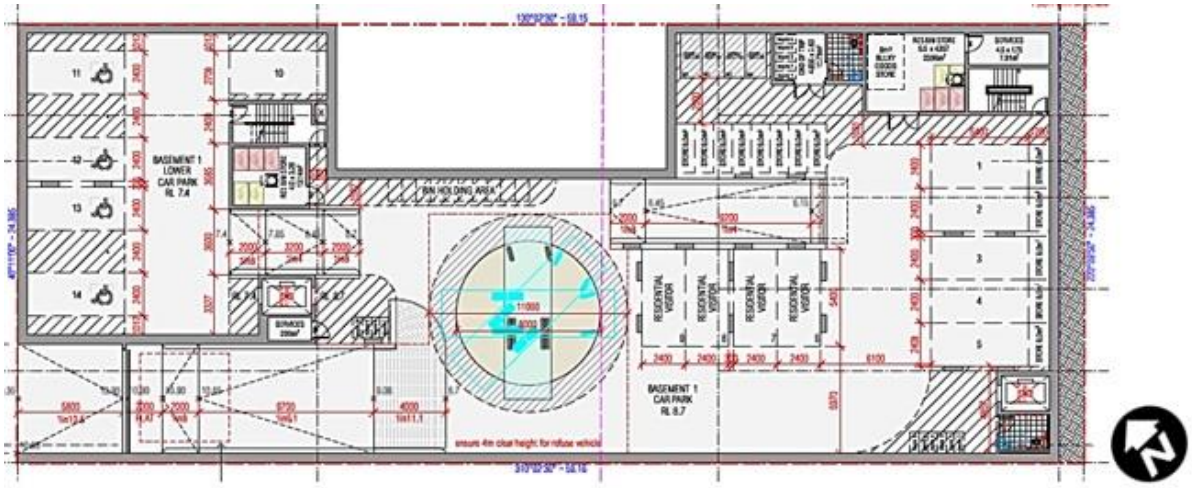


Figure 27: Basement 1.

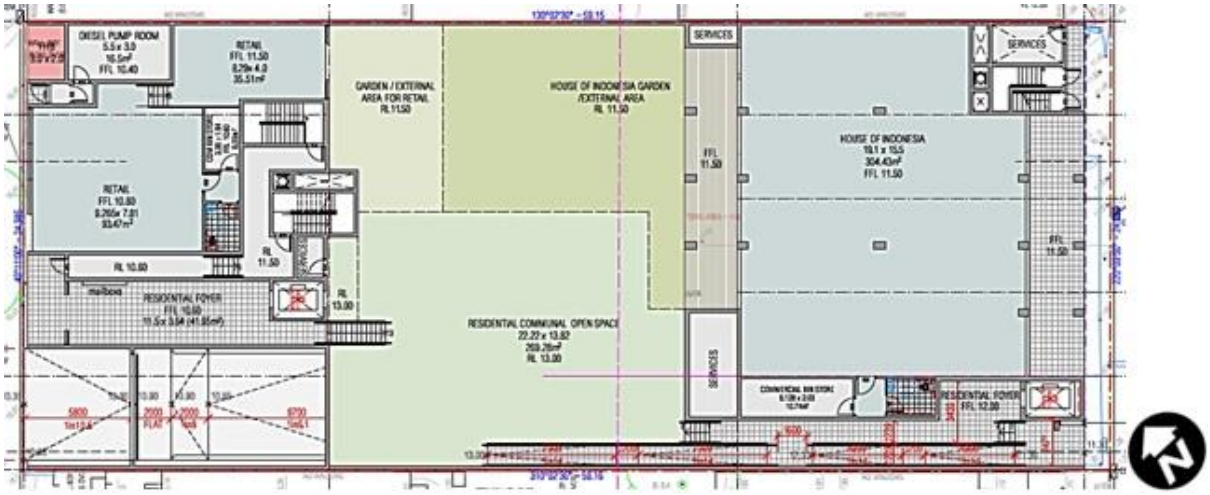


Figure 28: Ground level (level 1).

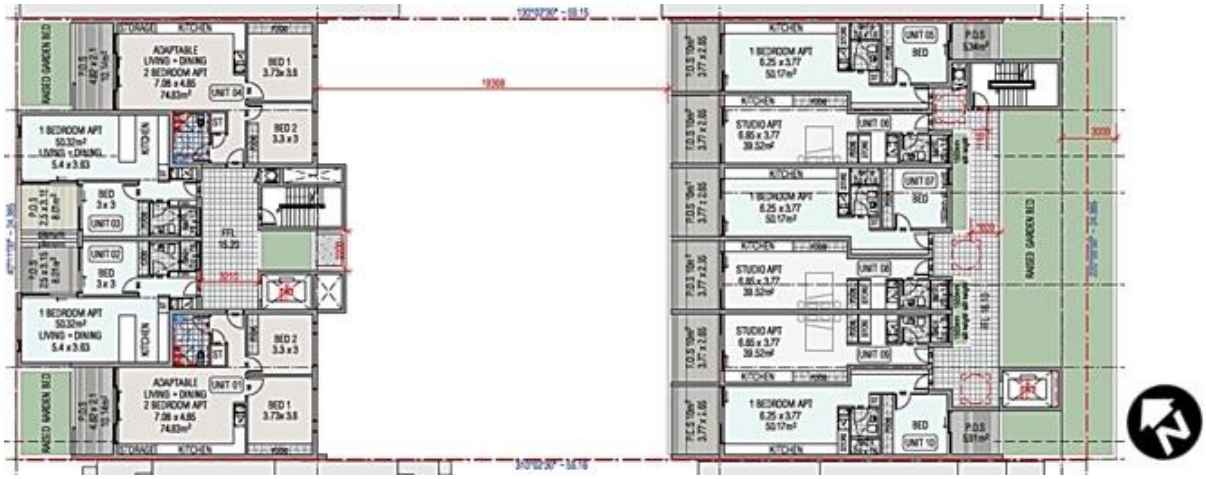


Figure 29: Level 2.

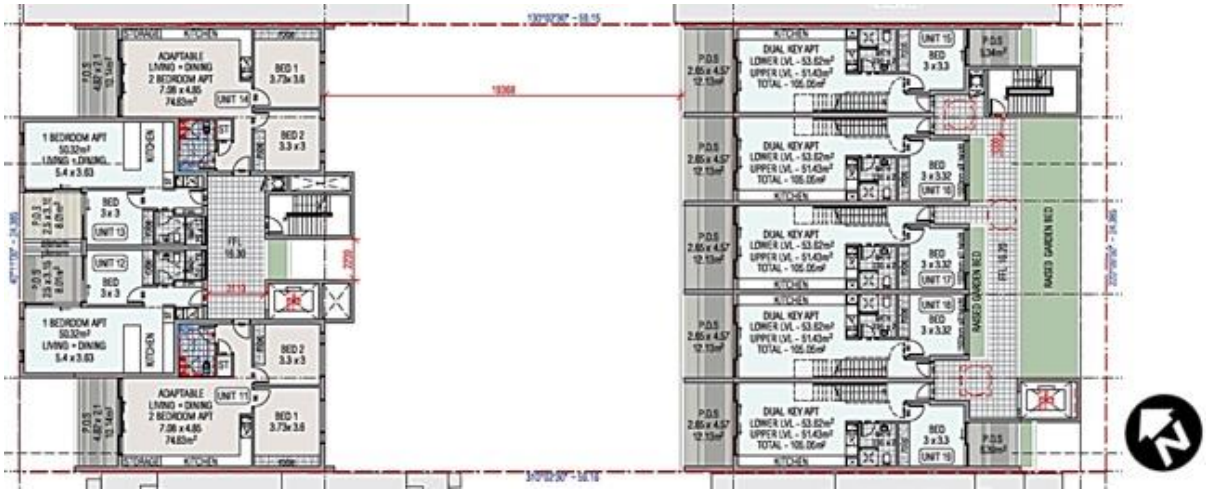


Figure 30: Level 3.

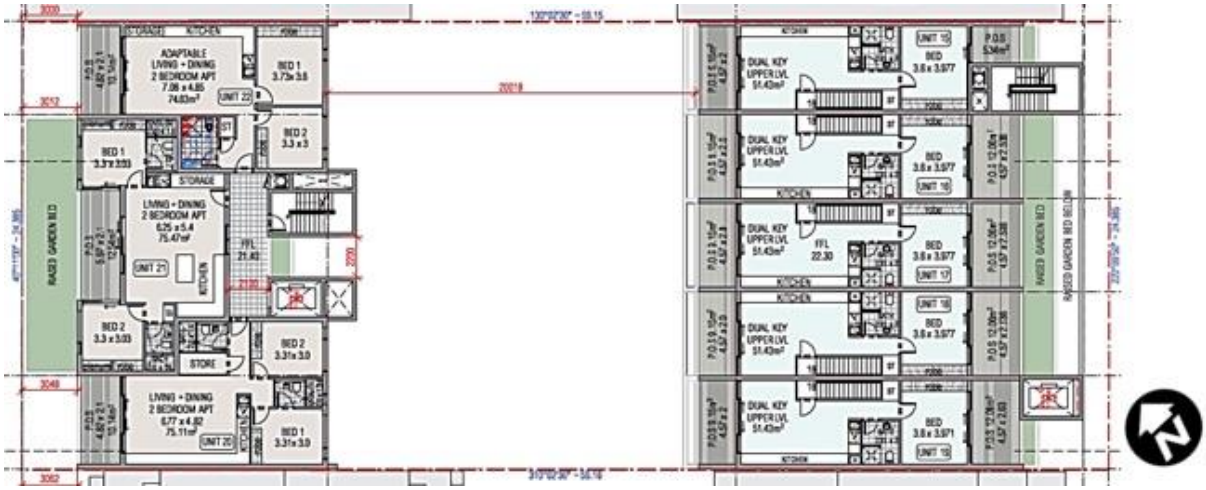


Figure 31: Level 4.

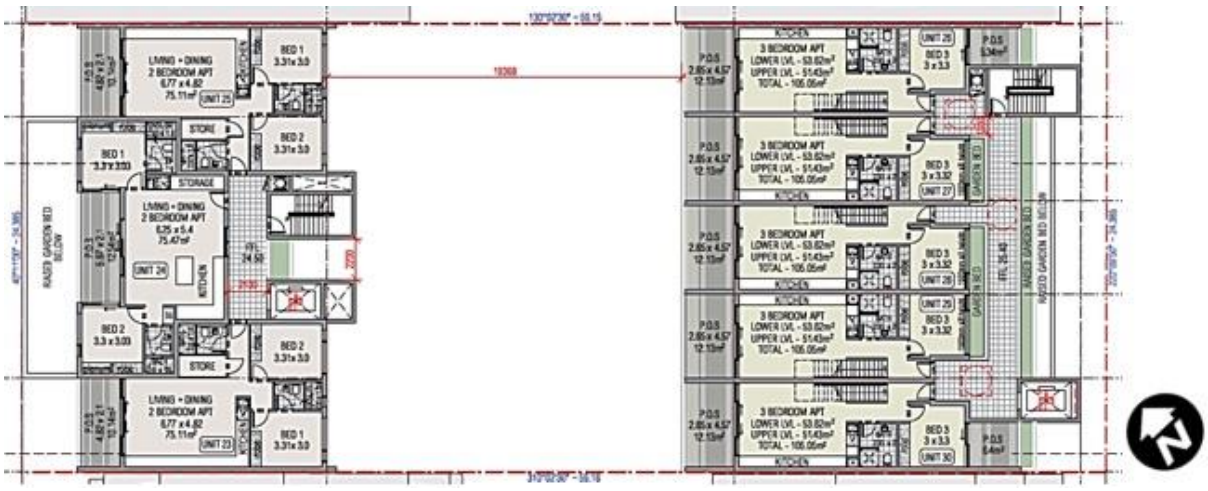


Figure 32: Level 5.

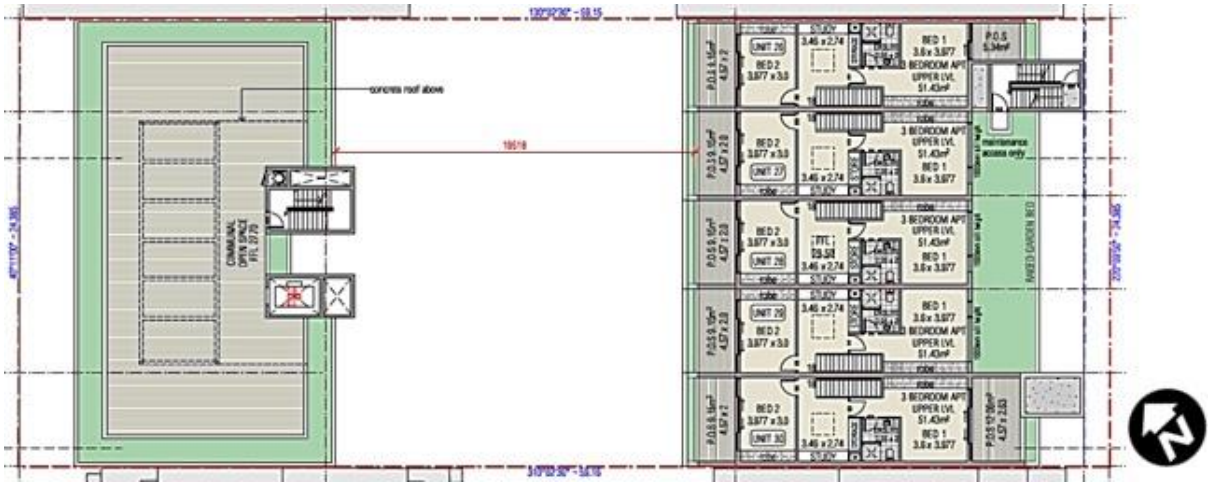


Figure 33: Level 6.

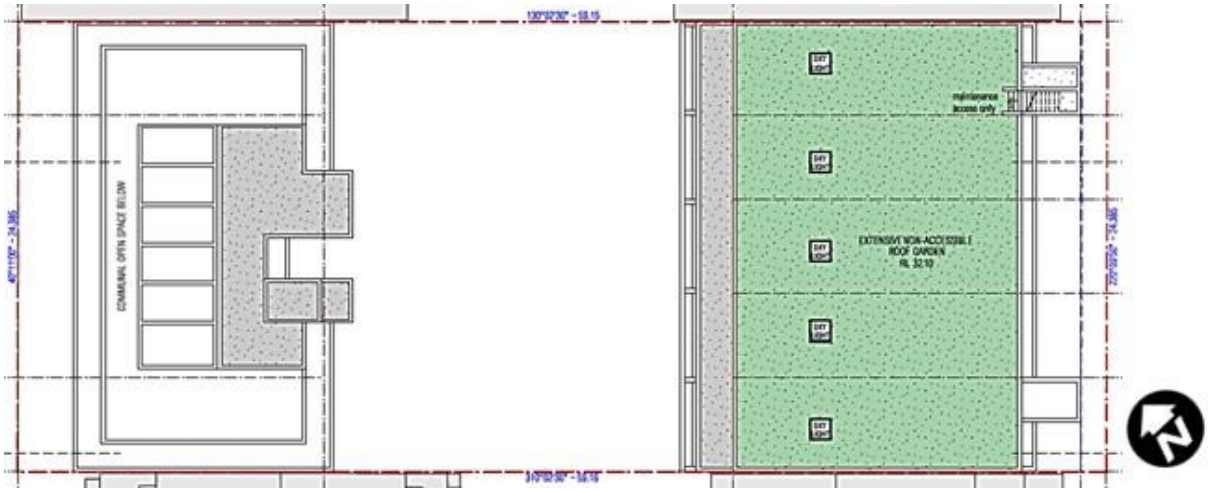


Figure 34: Roof plan.

Economic/Social/Environmental Impacts

23. The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:

    (a) Environmental Planning Instruments and DCPs.

State Environmental Planning Policy No 55—Remediation of Land

24. The aim of SEPP 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.

25. The submitted Detailed Environmental Site Investigation concluded that no remediation works were required. A Letter of Interim Advice from a Site Auditor confirmed that no remediation was required. Council's Environmental Health Specialist has reviewed the submitted documentation and has advised that they are satisfied that subject to conditions, the site can be made suitable for the proposed use.

State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development

26. In accordance with the requirements of SEPP 65 and the Environmental Planning and Assessment Regulation 2000, a design verification statement has been prepared and submitted by Tone Wheeler, registered architect (no. 6239) of Environa Studio.

27. SEPP 65 provides that in determining an application for a residential apartment development of three or more storeys and containing four or more apartments, that the consent authority take into consideration a number of matters relating to design quality, including 9 design quality principles, being:

(a) **Principles 1 and 2:** Context, Neighbourhood Character, Built Form and Scale

The proposal complies with the LEP building height control of 22m and the 6 storey height limit control required by the Sydney Development Control Plan 2012 (the DCP).

The street frontage height of the proposed development responds to the varying heights of buildings either side through modulation of massing and variation to facade depths.

The proposed development provides varied setbacks above ground level to both its Botany Road and Birmingham Street frontages to respond to the staggered upper storey setbacks of the development adjacent to the south at 662-674 Botany Road.

The site is located within the locality of Rosebery West. The proposed development is considered to be in accordance with the design principles for Rosebery West in that it incorporates non-residential uses at ground level and is designed to ameliorate the impacts of traffic noise upon the proposed residential uses to be accommodated within the site.

By massing buildings adjacent to the site's street frontages and aligning the central open space with that of the development to the south, the proposed development demonstrably minimises overshadowing of neighbouring properties in the development at 662-674 Botany Road.

In all, the proposed development provides an architectural contribution that is suitable in terms of its context, character, scale and built form that is consistent with these design quality principles.

(b) **Principle 3:** Density

Considering the applicable floor space ratio (FSR) provisions contained in the Sydney LEP 2012 (the LEP), the maximum permissible FSR for the development is 2:1 (2,884sqm GFA). The proposal has a gross floor area of 2,883.95sqm, and which equates to a FSR of 2:1.

Therefore the proposed density of development is consistent with that envisaged under the relevant planning controls and is considered to be appropriate given the context of the site.

The proposal is consistent with this design quality principle.

(c) **Principle 4:** Sustainability

The proposed development provides natural ventilation and a high level of solar access to residential apartments to reduce demands for artificial lighting, heating and cooling. Appropriate conditions are recommended to ensure sustainability measures included in the BASIX certificate are implemented at construction.

The proposal is consistent with this design quality principle.

(d) **Principle 5:** Landscape

The proposed development provides a common open space of approximately 487sqm, equal to 34% of site area in the form of a central garden area at ground level and a rooftop open space atop the Birmingham Street building.

The proposed development provides 9.5% (137.7sqm) of the site area as deep soil and which has a minimum dimension in excess of 3m and which satisfies the relevant requirements of the Apartment Design Guide (the ADG).

The design intent for verdant green facades, roofs and common open spaces is supported in principle. However the landscape design must be developed and fully integrated to ensure this intent is realised, as is discussed further in the Issues section of this report.

The proposed landscape design is consistent with this design quality principle.

(e) **Principle 6:** Amenity

Eighty percent (80%) or 24 of 30 apartments receive a minimum of 2 hours of sunlight to living rooms and private open spaces in midwinter.

All apartments achieve the minimum size requirements. In excess of the minimum 2.7m floor to ceiling heights are proposed to improve solar access and to provide a sense of spaciousness within apartments.

Adequate private open space, communal open space and deep soil are provided, alongside verdant green facades, roofs and common open spaces.

The design has overcome the site's greatest constraint of traffic noise by incorporating acoustically attenuated plenums to provide natural ventilation and suitable internal noise levels for the amenity of future residents.

In combination these design outcomes are considered to provide a good level of amenity for residents and neighbours as is consistent with this design quality principle.

(f) **Principle 7:** Safety

The proposed development is able to provide appropriate levels of safety and security within the development and the public domain.

It is considered that the proposed development has been designed in accordance with the SEPP’s safety principle and the principles of Crime Prevention through Environmental Design (CPTED).

(g) **Principle 8:** Housing Diversity and Social Interaction

The proposed development provides a mix of dwelling types, adaptable apartments and accessible facilities in accordance with DCP requirements.

The proposal is consistent with this design quality principle.

(h) **Principle 9:** Aesthetics

The use of robust materials such as painted rendered masonry and board finished off-form concrete is supported and are suitable to the environmental conditions of Botany Road and Birmingham Street.

Conditions are recommended to provide certainty that the proposed materials will be used at construction and not substituted for less appropriate materials. Refer to the Issues section in this report.

The proposal is consistent with this design quality principle.

28. The development is considered to be acceptable when assessed against the design quality principles and the SEPP generally, the requirements of which are replicated in part within Council's planning controls.

Apartment Design Guide

2E Building Depth	**Compliance**	**Comment**
12-18m (glass to glass)	Yes	Both the Botany Road and Birmingham Street building elements have depths that do not exceed the recommended maximums of 12-18m.

2F Building Separation	**Compliance**	**Comment**
Up to four storeys (approximately 12 metres): • 12m between habitable rooms / balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms	Yes	No windows or balconies are oriented toward side boundaries. The proposed development provides 25.8m separation to the property located on the opposite south-eastern side of Botany Road and 20m to the property located on the opposite north-western side of Birmingham Street. Within the site, the Botany Road and Birmingham Street building elements are separated by more than the minimum 12m, up to 4 storeys.

2F Building Separation	Compliance	Comment
Five to eight storeys (approximately 25 metres): • 18m between habitable rooms / balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms	Yes	No windows or balconies are oriented toward side boundaries. As noted above, adequate separation is provided from buildings across Botany Road and Birmingham Street. Within the site the Botany Road and Birmingham Street building elements are separated by more than the minimum 18m required for the fifth and sixth storeys.

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	Yes	The proposed development provides a common open space of approximately 487sqm, equal to 34% of site area in the form of a central garden area at ground level and a rooftop open space atop the Birmingham Street building.
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Yes	Proposed common open space areas, particularly that located on the rooftop will receive sunlight throughout the day and satisfy this requirement.

3E Deep Soil Zones	Compliance	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 3m	Yes	The proposed development provides 9.5% (137.7sqm) of the site area as deep soil and which has a minimum dimension in excess of 3m.

Separation between windows and balconies is required to ensure visual privacy is achieved. Minimum separation distances from buildings to the side and rear boundaries are outlined below.

3F Visual Privacy	Compliance	Comment
Up to four storeys (12 metres): • 6m between habitable rooms / balconies • 3m between non-habitable rooms	Yes	As noted in the assessment against objective 2F above, adequate separation for visual privacy is achieved.
Five to eight storeys (25 metres): • 9m between habitable rooms / balconies • 4.5m between non-habitable rooms	Yes	As noted in the assessment against objective 2F above, adequate separation for visual privacy is achieved.
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	No, but acceptable	South-east facing bedroom windows in the Botany Road building are separated from common circulation areas by 1m wide planters. Conditions have been recommended to address visual privacy concerns and are discussed in the Issues section in this report.

4A Solar and Daylight Access	Compliance	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	Eighty percent (80%) or 24 of 30 apartments receive a minimum of 2 hours of sunlight to living rooms and private open spaces in midwinter.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	Yes	No apartments receive no direct sunlight.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes	The proposed development incorporates acoustically attenuated ventilation devices to all habitable rooms facing Botany Road and to bedrooms facing Birmingham Street. Refer to the Issues section in this report.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	No, but acceptable	Requisite internal noise levels cannot be achieved with windows open to the site's noise affected street frontages. Subsequently, these windows cannot be relied upon for natural cross ventilation of apartments during noisy periods. In accordance with ADG objective 4J-1, failure to achieve this design criterion is acceptable where an alternative solution can be applied As noted above and at objective 4J-1 below, all noise affected habitable rooms are naturally ventilated by the application of noise attenuated plenums and which is considered to be an acceptable alternative solution in this instance.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	Depths of apartments do not exceed 18m.

Measured from finished floor level to finished ceiling level, minimum ceiling heights are as follows in the table below.

4C Ceiling Heights	**Compliance**	**Comment**
Habitable rooms: 2.7m Non-habitable rooms: 2.4m	Yes	Sufficient floor to floor heights are provided to achieve in excess of 2.7m floor to ceiling heights to residential floors.
Two-storey apartments: 2.7m for main living area floor, 2.4m for second floor, where it does not exceed 50% of the apartment area.	Yes	Sufficient floor to floor heights are provided to achieve 2.7m floor to ceiling heights to both upper and lower levels of two storey apartments.
In mixed use buildings – 3.3m for ground and first floor commercial uses.	Yes	Four metre floor to ceiling heights are provided at ground level to accommodate proposed retail and commercial uses and which exceeds the 3.3m minimum requirement.

4D Apartment Size and Layout	**Compliance**	**Comment**
Minimum unit sizes: • Studio: 35m^2 • 1 bed: 50m^2 • 2 bed: 70m^2 • 3 bed: 90m^2 The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m^2 each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m^2 each.	Yes	All apartments achieve the minimum size requirements.

4D Apartment Size and Layout	Compliance	Comment
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Able to comply	Apartments on level 6 of the Botany Road building contain a study without a window in an external wall. Council's Urban Design Specialist has recommended conditions to: • delete the study and allocate the space to bedroom 2 within each apartment (apartments 26 to 30) and • to ensure bed areas within studio apartments are not enclosed with any structure including stud walls, glazing, screens or any other barrier to natural ventilation as has been suggested on previous iterations of plans.
Habitable room depths are to be no more than 2.5 x the ceiling height.	Yes	Habitable room depths do not exceed 2.5m x 2.8m (ceiling height).
8m maximum depth for open plan layouts.	Yes	All apartments have a maximum depth of 8m or less.
Minimum area for bedrooms (excluding wardrobes): • master bedroom: 10m^2 • all other bedrooms: 9m^2 Minimum dimension of any bedroom is 3m (excluding wardrobes).	Partial compliance	The proposed apartments provide master bedrooms with an area of at least 10sqm, with the exception of one bedroom apartments 02, 03, 05, 07, 10, 12 and 13 which provide master bedrooms with a minimum area of 9.9sqm. It is noted that all of these apartments with the exception of apartment 07 provide oversized private open space. These apartments will otherwise provide a good level of amenity and as such a minor non-compliance with the design criteria is supported in this instance. All 2 and 3 bedroom apartments provide secondary bedrooms with a minimum area of at least 9sqm and a minimum dimension of at least 3m.

4D Apartment Size and Layout	Compliance	Comment
Living and living/dining rooms minimum widths: • Studio and one-bedroom: 3.6m • Two-bedroom or more: 4m	Yes	All apartments satisfy minimum width requirements.
4m minimum width for cross over and cross through apartments.	Yes	All cross over and cross through apartments satisfy minimum width requirements.

4E Private Open Space and Balconies	Compliance	Comment
Studio apartments are to have a minimum balcony area of $4m^2$ with a minimum depth of 1m. One bed apartments are to have a minimum balcony area of $8m^2$ with a minimum depth of 2m. Two bed apartments are to have a minimum balcony area of $10m^2$ with a minimum depth of 2m. Three bed apartments are to have a minimum balcony area of $12m^2$ with a minimum depth of 2.4m.	Yes	All apartments satisfy minimum balcony size requirements. Dual-key apartments satisfy minimum balcony size requirements both when considered as 2 bedroom apartments or as 2 x 1 bedroom apartments.

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	The proposed maximum number of apartments off a circulation core is six (6).
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Partial compliance	South-east facing bedroom windows in the Botany Road building are separated from common circulation areas by 1m wide planters.

4F Common Circulation and Spaces	Compliance	Comment
		Conditions have been recommended to address visual privacy concerns and are discussed in the Issues section in this report. These windows cannot be relied upon for natural ventilation (due to noise). Acceptable internal noise levels to bedrooms with windows to common circulation spaces can only be achieved with windows closed and with the application of acoustically attenuated ventilation plenums.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	Common circulation spaces in both the Botany Road and Birmingham Street building elements are partly open to their respective south-eastern elevations.

4G Storage	Compliance	Comment
Minimum storage provision facilities: • Studio: 4m3 • 1 bed: 6m3 • 2 bed: 8m3 • 3 bed: 10m3 (Minimum 50% storage area located within unit)	Yes	All apartments achieve minimum storage allocation requirements with the exception of 2 bedroom apartments 14 and 20, which have 7 cubic metres of storage space each. As the submitted storage schedule and diagram (drawing no. 984, F) show that some apartments are provided with more than the minimum storage space allocation, a condition is recommended for a reconfiguration of storage space so apartments 14 and 20 are provided with 8 cubic metres of storage space in accordance with ADG requirements.

4J Noise and Pollution	Compliance	Comment
Have noise and pollution been adequately considered and addressed through careful siting and layout of buildings?	Yes	As noted elsewhere in this report, both the Botany Road and Birmingham Street frontages are noise affected. Apartments within the Botany Road building have been oriented away from the noise source. Non-residential uses have been located at the ground level and provided with generous floor to ceiling heights to maximise the distance between the proposed apartments and the road. Apart from these siting and layout moves, the design incorporates acoustically attenuated ventilation plenums to ventilate apartments without compromising acoustic amenity.

State Environmental Planning Policy (Infrastructure) 2007

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

Clause 44 and 45 - Development likely to affect an electricity transmission or distribution network

30. The development is in the vicinity of electricity power lines and may require a substation as a result of increased demand for electricity arising from the development.

31. In accordance with SEPP clauses 44 and 45 the application was notified to Ausgrid on 14 August 2018. No objection was raised.

Clause 101 - Development with frontage to classified road

32. The site has frontage to Botany Road, which is a classified road. In accordance with SEPP clause 101 the application was notified to Roads and Maritime Services (RMS) on 14 August 2018.

33. RMS provided referral comments on 29 August 2018 and raise no objection subject to the recommended conditions.

34. The application is considered to satisfy the requirements of the SEPP as the development does not provide vehicular access to the site from Botany Road and is subject to conditions which require the incorporation of measures to address the impacts of traffic noise upon future occupants of the development.

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

35. The subject site is located on a part of Botany Road that has an average daily traffic volume of more than 20,000 vehicles.

36. An Acoustic Report has been submitted as part of the application and addresses the relevant RMS guidelines. As noted above, conditions are recommended that require the incorporation of measures to ameliorate the impacts of traffic noise and so that the development can achieve the stated internal noise criteria.

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

37. A BASIX Certificate has been submitted with the development application and which lists measures to satisfy BASIX requirements which have been incorporated into the proposal.

38. A condition is recommended which requires the measures detailed in the BASIX Certificate to be implemented in the development.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

39. The aim of the SEPP is to preserve the amenity of non-rural areas through the preservation of trees and other vegetation. Refer to the assessment against provision 3.5 Urban Ecology, of the Sydney Development Control Plan 2012 (the DCP) in the DCP compliance table elsewhere in this report.

Sydney Local Environmental Plan 2012

40. The site is located within the B7 Business Park Zone. The proposed development is for shop-top housing comprising apartment dwellings above ground floor retail and business premises and which are prohibited uses in the zone.

41. The site is located within the area subject to clause 1AA of Schedule 1 of the Sydney Local Environmental Plan 2012 (the LEP), which together with Clause 2.5 specifies development for the purposes of shop-top housing as being permitted with consent.

42. For this reason, the proposed development is permitted with consent notwithstanding the proposed development being prohibited in the B7 Business Park Zone.

43. Other relevant matters to be considered under the LEP are outlined below.

Compliance Tables

Development Control	**Compliance**	**Comment**
4.3 Height of Buildings	Yes	A maximum height of 22m is permitted. A height of 21.1m is proposed.
4.4 Floor Space Ratio	Yes	A maximum FSR of 2:1 is permitted. A FSR of 2:1 is proposed.
5.10 Heritage conservation	Yes	The site does not contain a heritage item and is not located within a heritage conservation area, however it is in the vicinity of several locally listed heritage items. Council's Heritage Specialist has reviewed the proposal and raises no objection. A condition is recommended for photographic archival recording of the site and the existing warehouse building contained therein.

Part 6 Local Provisions - Height and Floor Space	**Compliance**	**Comment**
6.21 Design excellence	Yes	The proposed development addresses the challenging environmental conditions of Botany Road and Birmingham Street. It provides a suitable height, scale and massing in response to its context and an appropriate ground level interface with the public domain. The proposal satisfies the requirements of this provision. Council's Urban Design Specialist has recommended conditions for minor design modifications to correct drafting errors and discrepancies in DA documentation. Refer to the Issues section in this report.

Part 7 Local Provisions - General	**Compliance**	**Comment**
7.5-7.7 Car parking ancillary to other development	Yes	A maximum of 37 car parking spaces are permitted. Twenty-five (25) car parking spaces are proposed.
7.13 Contribution for the purpose of affordable housing	Yes	The development is subject to an affordable housing contribution levy of $1,469,798.63 calculated as follows: • $98.82/sqm x 94.2sqm total non-residential floor area; • $296.47/sqm x 4,926.3sqm total residential floor area.
7.14 Acid Sulphate Soils	Able to comply	The site is located within a Class 3 Acid Sulphate Soil zone. The Acid Sulphate Soils Assessment Report submitted with the application concludes that an Acid Sulphate Soils Management Plan (ASSMP) is required. In accordance with advice from Council's Environmental Health Specialist, a condition is recommended for an ASSMP to be submitted prior to the commencement of any below ground works.
7.15 Flood planning	Able to comply	The site is flood affected. A site specific flood assessment (the Flood Report) has been provided as part of the application. The proposed development generally incorporates the flood planning levels (FPLs) recommended in the Flood Report. However, the entry point to the basement stair access to the Botany Road frontage is below the recommended FPL of 12.0m AHD. Conditions are recommended to ensure FPLs are incorporated into the design, prior to issue of a Construction Certificate.

Part 7 Local Provisions - General	Compliance	Comment
7.17 Development in areas subject to airport noise	Yes	The proposed development incorporates residential development and is located within the ANEF Contour 20 Zone. The Acoustic Report submitted as part of the application has recommended acoustic treatments to achieve the Indoor Design Sound Levels for Determination of Aircraft Noise Reduction as specified in AS 2021—2000. A condition is recommended for the development to incorporate the acoustic treatments specified in the submitted Acoustic Report.
7.19 Demolition must not result in long term adverse visual impact	Yes	The proposed development satisfies the requirements of this provision.
7.23 Large retail development near Green Square Town Centre	Yes	The proposed development does not incorporate shops or markets in excess of 1,000sqm of gross floor area.
7.25 Sustainable transport on southern transport land	Yes	Council's Transport Planner has reviewed the proposed development and has advised that it is acceptable. Conditions have been recommended pertaining to the allocation of car and bicycle parking, vehicle access and servicing of the site.

Sydney Development Control Plan 2012

44. The relevant matters to be considered under Sydney Development Control Plan 2012 (the DCP) for the proposed development are outlined below.

2.10.5 Locality Statements – Rosebery West
The subject site is in the locality of Rosebery West. The proposed development is considered to be in keeping with the unique character of the area and design principles in that it incorporates non-residential uses at ground level and is designed to ameliorate the impacts of traffic noise upon the proposed residential uses to be accommodated within the site.

3. General Provisions	Compliance	Comment
3.1.2.2 Public Domain Elements - Through Site Links	No, but acceptable.	The DCP through site links map identifies the site as being required to provide a through site link (TSL). Council's Strategic Planning Officer has confirmed that the TSL map contains a mapping error. A TSL connecting Botany Road and Birmingham Street exists at the site adjacent to the south at 662-674 Botany Road. This existing TSL is mapped on the Southern Employment Lands Urban Strategy at section 5.8 of the DCP and is considered to provide a suitable pedestrian connection in this location. For these reasons a variation to DCP requirements is supported in this instance.
3.1.5 Public Domain Elements - Public Art	N/A	The proposed cost of works is less than $10 million dollars and as such it is not required to provide public art under the City of Sydney Public Art Guidelines.
3.2.2 Defining the Public Domain - Addressing the Street and the Public Domain	Yes	The proposed development will provide active ground level uses to both of its frontages. Amended plans have incorporated a more generously proportioned residential foyer entry to Botany Road than that which was originally proposed and a loggia to the ground level House of Indonesia tenancy to provide a suitable address and some small respite from the harsh environment of Botany Road. The proposal satisfies the requirements of this provision.

3. General Provisions	Compliance	Comment
3.2.3 Active Frontages	Yes	The site's Botany Road frontage is identified as an active frontage on the DCP active frontages map. Fifty-eight percent (58%) of the Botany Road frontage is activated by the House of Indonesia business use and is considered to satisfy the requirements of this provision.
3.2.4 Footpath Awnings	Yes	The site's Botany Road frontage is identified as requiring a continuous footpath awning on the DCP awnings and colonnades map. The proposed development incorporates a continuous footpath awning for the full extent of its Botany Road frontage. The proposed footpath awning is setback 2.13m from the kerb to allow for street trees and power poles and the like. It is 4m above the footpath and is within the permissible 3.2m-4.2m height range specified in the DCP.
3.2.5 Colonnades	Partial compliance	The proposed development incorporates a loggia to its ground level frontage to Botany Road and which forms a colonnade. While the DCP discourages colonnades provision 3.2.5(2) allows them where good visual and physical access is provided to the shopfront, as is the case here. For this reason the proposed colonnade is supported in this instance.
3.2.7 Reflectivity	Able to comply	A condition is recommended that requires that visible light reflectivity from building facade materials must not exceed 20%.

3. General Provisions	Compliance	Comment
3.5 Urban Ecology	Yes	The proposed development provides large areas of green roof including atop the Botany Road building and the footpath awning over Botany Road. Significant tree plantings are to be planted within the proposed deep soil areas. Council's Landscape and Tree Management Specialists have reviewed the proposal and raise no objections subject to recommended conditions for protection of trees on the streets and within the adjacent property adjacent to the south-west at 662-674 Botany Road.
3.6 Ecologically Sustainable Development	Yes	Council's ESD Specialist has reviewed the proposal and has confirmed that it satisfies BASIX requirements.
3.7 Water and Flood Management	Able to comply	Refer to the assessment against LEP clause 7.15 in the LEP compliance table above.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	Council's Specialist Surveyor has reviewed the proposed development and recommended appropriate conditions including those requiring lot consolidation and prohibiting encroachments onto adjacent properties.
3.11.3 Transport and Parking - Bike Parking and Associated Facilities	Yes	A minimum of 39 bicycle parking spaces are required. Forty-five bicycle parking spaces are proposed. Council's Transport Planner has recommended a condition for allocation of bicycle parking and design requirements for the proposed end of trip facilities.

3. General Provisions	Compliance	Comment
3.11.6-9 Transport and Parking - Service Vehicle, Motorbike and Accessible Parking	Partly complies	The DCP requires provision of a single service vehicle parking space within the development. No service vehicle parking space is proposed. Council's Transport Planner has advised non-provision of a dedicated service vehicle parking space is acceptable as any service vehicles will be able to use one of the 4 visitor parking spaces provided. Conditions are recommended for allocation of motorbike and accessible parking.
3.11.11 Transport and Parking - Vehicle Access and Footpaths	No, but acceptable	The proposal has a driveway 6.1m wide and a roller door opening 5.8m wide and which exceed the 3.6m driveway and 4m roller door opening widths permitted under the DCP. Council's Transport Planner and Urban Design Specialist have reviewed the proposal and raised no objection to the sizes of the driveway and vehicle entry. The sizes of the driveway and vehicle entry are considered to provide appropriate on-site waste collection vehicle access and are supported.
3.11.13 Transport and Parking - Design and Location of Waste Collection Points	Able to comply	Council's Transport Planner has reviewed the proposed turntable and waste collection areas and raises no objection subject to the recommended condition requiring submission of a loading dock management plan.
3.11.14 Transport and Parking - Parking Area Design	Able to comply	Council's Transport Planner has reviewed the proposal and has recommended conditions for parking areas to be designed in accordance with the relevant Australian standards.

3. General Provisions	Compliance	Comment
3.12.1 Accessible Design	Able to comply	A condition has been recommended for the proposed development to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.
3.12.2 Adaptable Dwelling Mix	Yes	Five of 30 or 17% of apartments are adaptable and satisfy the requirements of this provision.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Able to comply	Conditions have been recommended for the proposed development to comply with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.
3.15 Late Night Trading Management	N/A	The applicant has not specified the proposed hours of operation of the House of Indonesia and retail tenancies. Refer to the Issues section of this report.

45. Note: Some relevant DCP provisions that would otherwise be listed in the table below have not been addressed as they are matters to which clause (6A) of SEPP 65 applies and which renders those provisions to be of no effect.

4. Development Types **4.2 Residential flat, commercial and mixed use developments**	Compliance	Comment
4.2.1.1 Building height - building height in storeys	Yes	A maximum height of 6 storeys is permitted. The proposed development is 6 storeys in height.

4. Development Types **4.2 Residential flat, commercial and mixed use developments**	**Compliance**	**Comment**
4.2.1.1 Building height - street frontage height	Yes	The street frontage height of the proposed development responds to the varying heights of buildings either side through modulation of massing and varying the depths of facades. The proposal satisfies the requirements of this provision.
4.2.2.2 Setbacks above street frontage height	Yes	The proposed development provides varied setbacks above ground level to both its Botany Road and Birmingham Street frontages to respond to the staggered upper storey setbacks of the development adjacent to the south at 662-674 Botany Road.
4.2.3.5 Amenity - landscaping	Yes	A landscape design has been submitted as part of the final iteration of plans and supporting documents. Council's Landscape Design Specialist has reviewed the proposal and raises no objection subject to the recommended conditions. Refer to the Issues section in this report.
4.2.3.8 Amenity - common open space	Yes	The proposed development provides a common open space of approximately 487sqm, equal to 34% of site area in the form of a central garden area at ground level and a rooftop open space atop the Birmingham Street building. These areas, particularly the rooftop common open space, will receive sunlight throughout the day and satisfy the solar access requirements of this provision.

4. Development Types **4.2 Residential flat, commercial and mixed use developments**	**Compliance**	**Comment**
		Subject to the recommended conditions to regulate the use of the outdoor areas associated with the ground floor commercial uses it is considered that these uses can operate without detriment to residential units above.
4.2.3.11 Amenity - acoustic privacy	No, but acceptable	Both the Botany Road and Birmingham Street frontages are noise effected. The Botany Road frontage cannot achieve internal noise criteria with windows open. The Birmingham Street frontage cannot achieve internal noise criteria for bedrooms with windows open. The submitted Acoustic Report recommends measures for internal noise criteria to be achieved with windows closed and which are supported. However, this has implications for natural ventilation of apartments. Refer to the Issues section in this report.
4.2.3.12 Amenity - flexible housing and dwelling mix	Yes	The proposed development comprises the following dwelling mix: • 10% (3) studios - complies; • 23% (7) 1 bed - complies; • 50% (15) 2 bed - complies; • 17% (5) 3 bed - complies.

4. Development Types **4.2 Residential flat, commercial and mixed use developments**	**Compliance**	**Comment**
4.2.5.3 Types of development - developments on busy roads and active frontages	Yes	The subject site is located on a part of Botany Road that carries between 20,000 and 40,000 annual average daily traffic movements. In accordance with the requirements of this provision non-residential uses are located on the ground floor.
4.2.6 Waste and Recycling Management	Able to comply	Conditions have been recommended for the proposed development to comply with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.
4.2.7 Heating and Cooling Infrastructure	Yes	Adequate heating and cooling infrastructure is provided.
4.2.8 Letterboxes	Able to comply	A condition has been recommended for letterboxes provided at the Botany Road frontage are to be located within the Botany Road residential entry foyer.

5. Specific Areas	**Compliance**	**Comment**
5.8.1 Southern Employment Lands Strategy	Yes	The subject site is identified as being required to provide an ‘active edge’ to its Botany Road frontage. As noted in the assessment against provisions 3.2.2 and 3.2.3 above, the proposal does provide adequate activation to the nominated frontage.
5.8.2.1 Subdivision	Yes	Council's Specialist Surveyor has reviewed the proposed development and recommended appropriate conditions including those requiring lot consolidation and prohibiting encroachments onto adjacent properties.

5. Specific Areas	Compliance	Comment
5.8.2.2 Setbacks	Yes	In accordance with the DCP Public Domain Setbacks Map, a 1.4m setback for footpath widening along the site's Botany Road frontage is to be dedicated to Council through a Voluntary Planning Agreement (VPA). Refer to the Issues section in this report.
5.8.2.3 Building Height	Yes	As noted elsewhere in this report, the proposal complies with the permitted LEP height limit, the DCP height in storeys limit of 6 storeys and provides suitable upper level setbacks in response to adjacent buildings.
5.8.2.4 Building Layout and Design	Able to comply	In accordance with the requirements of this provision the proposed development provides active uses to its Botany Road frontage and the vehicle entry is located to its secondary frontage to Birmingham Street. Council's Urban Design Specialist has recommended conditions pertaining to materials and finishes discussed in the Issues section of this report below.
5.8.2.5.1 Landscaping	No, but acceptable	The DCP requires that 10% of the site area is to be provided as deep soil with a minimum dimension of 3m. The proposed development provides 9.5% (137.7sqm) of the site area as deep soil and which has a minimum dimension in excess of 3m. While the proposed deep soil provision satisfies the 7% of site area required by the ADG, it is a minor variation from the requirements of this provision and which is considered to be acceptable in this instance.
5.8.2.5.2 Fences	Able to comply	The maximum height of side and rear fences is 1.8m.

5. Specific Areas	Compliance	Comment
		The proposed height of the side fence to the north-eastern boundary is 3.2m. The proposed height of the side fence to the south-western boundary is 3.5m. A condition is recommended for side fences to adjacent properties to be no higher than 1.8m above the adjacent finished floor level within the site.
5.8.2.6 Parking, Access and Loading	Yes	Refer to the assessment against DCP provision 3.11 in the DCP compliance table above.
5.8.3.2 Proposed Streets and Through Links	Yes	In accordance with the DCP Public Domain Setbacks Map, a 1.4m setback for footpath widening along the site's Botany Road frontage is to be dedicated to Council through a Voluntary Planning Agreement (VPA). Refer to the Issues section in this report.
5.8.5 Managing Transport Demand	Yes	The proposed development provides less car parking than that permitted by the LEP and more bicycle parking than that required by the DCP.
5.8.6 Land Use Interface and Building Design	Yes	As discussed elsewhere in this report, the proposed development incorporates acoustically attenuated ventilation devices to allow for natural ventilation while ameliorating acoustic impacts from traffic noise. The proposal will not undermine the viability of the area as an employment zone.
5.8.7.1 Storm Water Management and Waterways	Able to comply	Refer to the assessment against LEP clause 7.15 in the LEP compliance table above.

5. Specific Areas	Compliance	Comment
5.8.7.4 Green Roofs and Walls	Yes	The proposed development incorporates an expansive non-trafficable green roofs atop the Botany Road building and the Botany Road footpath awning. Substantial planters are incorporated atop the Birmingham Street building and on all upper levels to its Botany Road elevation to achieve a verdant landscape design.

Issues

Natural Ventilation

46. All habitable rooms facing Botany Road are affected by road and traffic noise and are unable to satisfy the relevant internal noise criteria. The proponent has addressed this by applying horizontally proportioned acoustically attenuated plenums that are ducted from the external face of the building, under the soffit of the open corridors and into the adjacent apartments.

47. The proponent's submitted acoustic report has also identified that bedrooms facing the Birmingham Street frontage are affected by noise from aircraft and noise generated by nearby commercial and industrial uses (bedrooms are subject to a lower noise criteria than living rooms). Again, the proponent has addressed this by applying acoustically attenuated plenums that are ducted from the external face of the building across balconies and into the adjacent bedrooms. However, a vertical plenum design has been determined to be a more efficient configuration to provide natural ventilation to bedrooms facing the site's Birmingham Street frontage.

48. This alternative ventilation solution has been reviewed by an external consultant specialised in such devices and who has advised Council officers that these plenums are able to satisfy ADG objective 4B-1 for natural ventilation of habitable rooms, subject to the recommended condition for further refinement of the plenum design.

Voluntary Planning Agreement

49. In correspondence dated 6 November 2018 the owner of the site made a written offer to Council to enter into a Voluntary Planning Agreement (VPA) to provide the public domain setbacks as required under DCP provision 5.8.2.2(1).

50. The draft VPA that has been prepared in association with the subject development application provides for the following public benefits:

    (a) dedication of a 1.4 metre wide strip of land along the Botany Road frontage of the development site (with an area of 34sqm) to allow for a widened pedestrian footpath; and

    (b) construction of a new concrete footpath over the dedicated land in accordance with Council's technical specifications.

51. The draft VPA will undergo 28 day publicly exhibition period in accordance with the requirements of section 7.5 of the Environmental Planning and Assessment Act 1979. The public exhibition period commenced on 15 October 2019. At the time of preparing this report, no submissions had been received.

52. Subject to there being no unresolvable objection to the draft VPA, the application is recommended for deferred commencement consent to require the owner of the site to execute this planning agreement and register it on title before activation of the consent. This will ensure that the consent cannot be acted upon without assurance that the public benefits will be delivered in accordance with the provisions of this agreement.

Landscape Design

53. The design intent for verdant green facades, roofs and common open spaces is supported in principle. However, Council's Landscape Design Specialist has reviewed the proposed Landscape Design and has identified several matters that need to be addressed so that the design intent is developed, integrated and realised in the development. Those matters that are to be addressed include:

    (a) inconsistencies between the landscape design and architectural drawings;

    (b) lack of design details for proposed water features, OSD and rainwater tanks, access ramps and stairs;

    (c) structural capacity and design of the Botany Road awning to accommodate a green roof; and

    (d) maintenance and access strategies to green roofs and planters.

54. Council's Landscape Design Specialist has recommended conditions requiring design modifications, landscape management details, design details of accessible and inaccessible green roofs and green walls, to be submitted to and approved by Council officers.

Materials and Finishes

55. The proposed materials are detailed on drawing no. 210, Rev. D and in many instances are captioned with a notation stating ‘or similar’. This undermines the certainty of the final outcome.

56. In accordance with LEP clause 6.21(4) that requires consideration be given to the standard of materials and detailing of the building, Council's Urban Design Specialist has recommended a condition requiring submission of a physical materials sample board and the following conditions pertaining to the materials and finishes to be used in the development:

    (a) The board finish off-form concrete is notated ‘or similar’, which may result in the use of an inferior material. Off-form concrete is supported for design quality and longevity (it does not require re-finishing). A condition is recommended that requires all surfaces notated as off-form concrete to be constructed as notated (from board finish off-form concrete) to remove any doubt about future substitution for a less appropriate material; and

(b) The use of the 'Lady in Red' colour on the south west elevation does not correspond to the submitted photomontages, as shown in the Figures below. A condition is recommended to delete the application of this colour to the external wall.

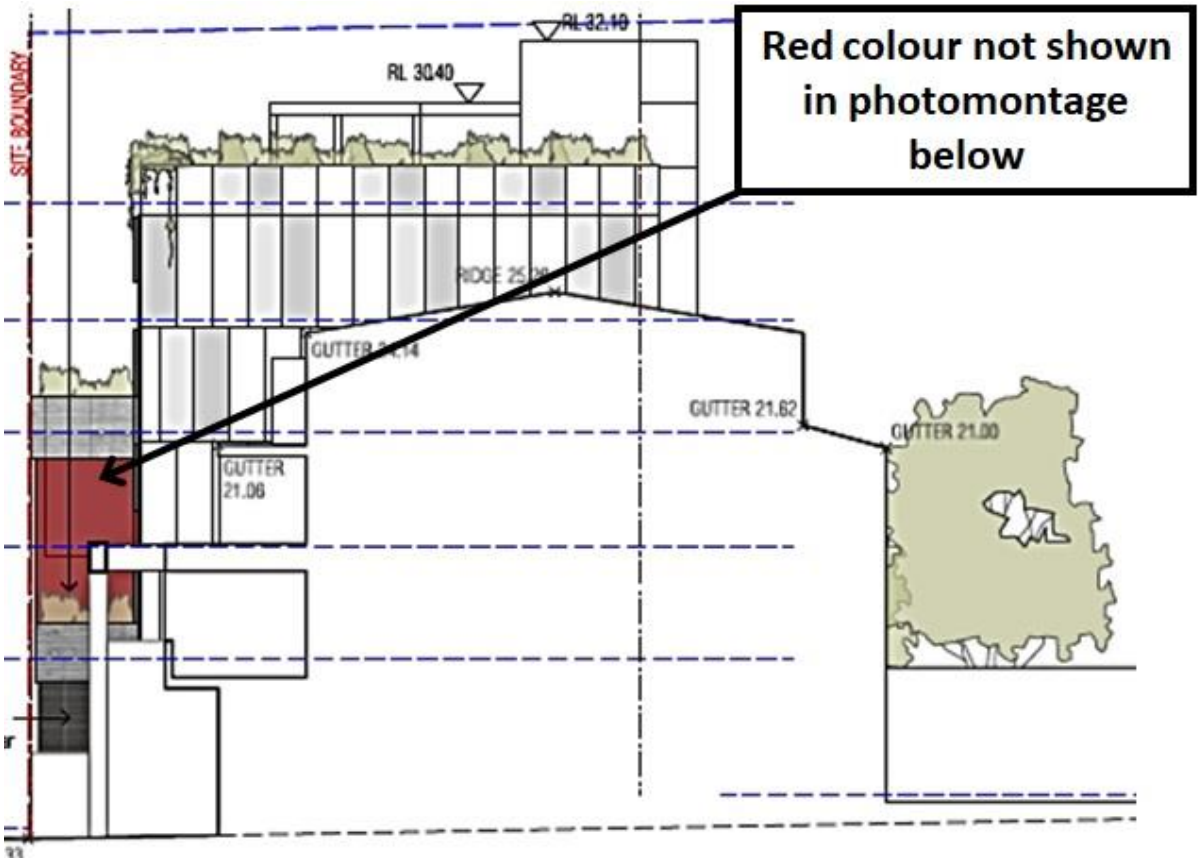


Figure 35: South-west elevation showing application of 'Lady In Red' to facade.



Figure 36: Photomontage showing application of white painted render to south-western facade.

Other Design Refinements

Visual Privacy

57. The open communal walkways adjacent to south-west facing bedroom windows to levels 2, 3 and 5 of the Botany Road building, shown in the Figure below, will diminish the level of visual privacy provided for residents of these apartments.

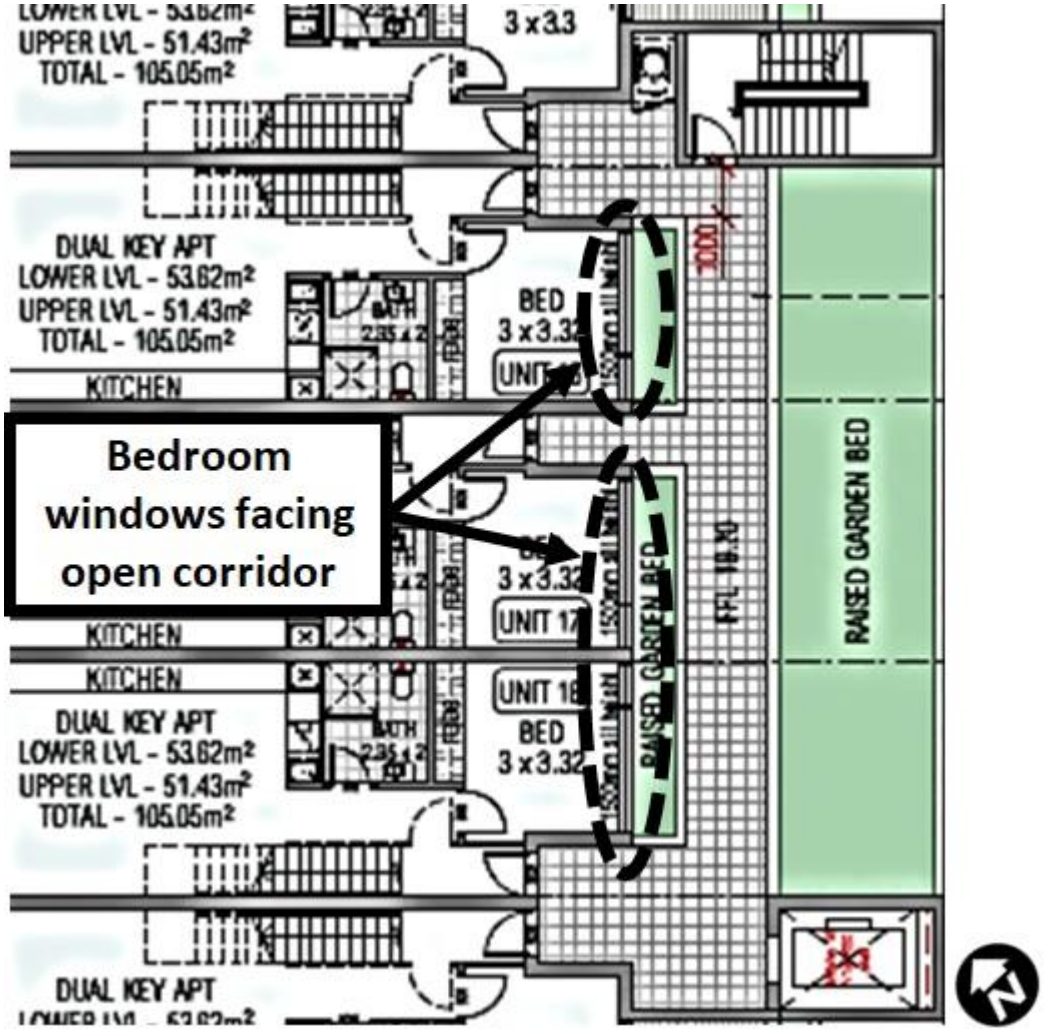


Figure 37: Typical layout of levels 2, 3 and 5 with windows facing gallery spaces.

58. South-west facing bedroom windows to levels 2, 3 and 5 of the Botany Road building will rely on acoustically attenuated ventilation plenums and suitably thick glazing, to achieve the requisite internal noise levels within these bedrooms. As such any noise generated by those using the adjacent open walkways will be ameliorated by these acoustic treatments.

59. In satisfying ADG acoustic privacy and natural ventilation requirements, the result has been a variation from the ADG objective 3F-2 design guidance, which is to separate habitable rooms from gallery access and open circulation space by apartments' service areas.

60. Council's Urban Design Specialist has recommended a condition for external louvres to be applied to these windows to improve the level of visual privacy provided to these bedrooms.

External Shading

61. The north-west (Birmingham Street) elevation shows horizontal louvres to provide sun-shading to windows in this elevation, as shown in the Figure below.

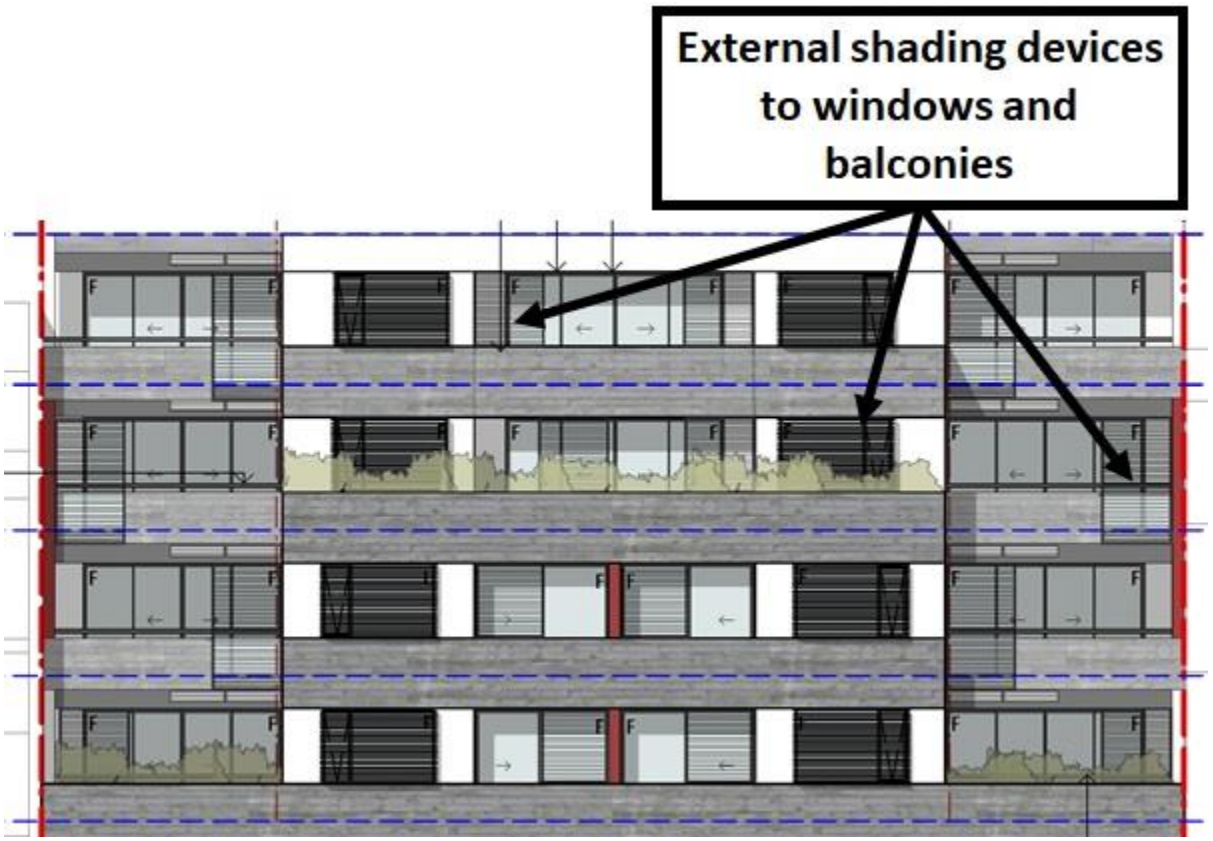


Figure 38: Proposed sun-shading to north-west (Birmingham Street) elevation.

62. While this is supported in principle, inadequate information has been provided about operability of the louvres themselves and whether they are adjustable to cope with low altitude summer sun or retractable to allow more sunlight into apartments during winter.

63. Council's Urban Design Specialist has recommended conditions for:

    (a) horizontal louvres to windows in the north-west (Birmingham Street) elevation to be adjustable, retractable louvres with manufacturer's details to be submitted to and approved by Council officers; and

    (b) adjustable, retractable shading to be applied to the internal north-west elevation to provide adequate sun-shading to these windows also.

Windows to Level 6 Planters

64. Level 6 bedrooms with a south-east facing window to Botany Road are notated as having a 1.5m high sill height and which is inconsistent with the lower sill height (approximately 0.8m) shown in section in the Figure below.

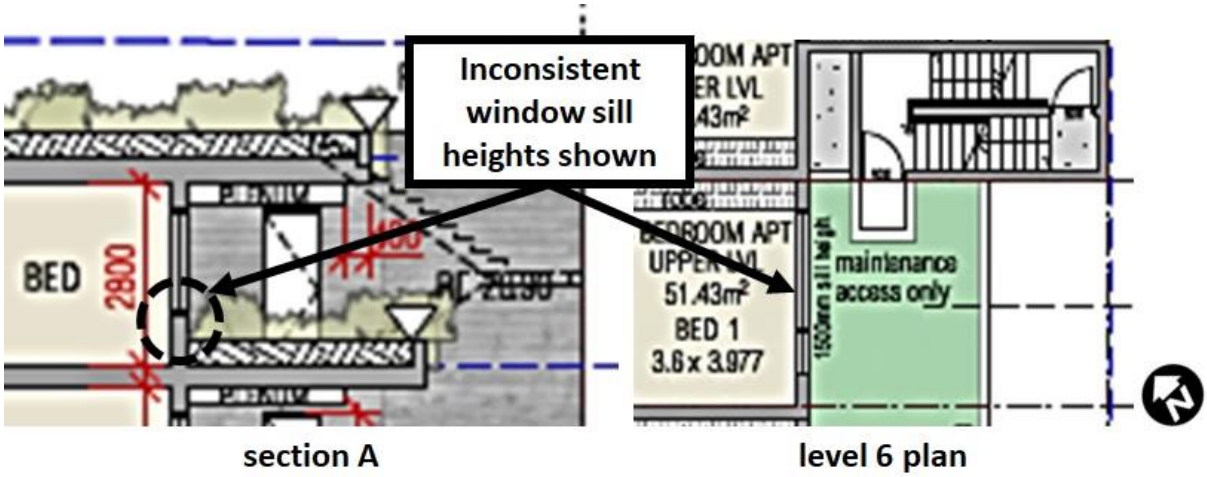


Figure 39: Section and level 6 plan show inconsistent sill heights.

65. The sill heights of the Level 6 bedroom windows to Botany Road create a potential safety problem, if they were not designed to prevent access to the garden planter. The garden planter does not have a BCA compliant balustrade to its outer edge. Also a potential security problem in that the windows could allow access from the maintenance access door from the north-western stairwell. It is also noted that the level 6 plan is inconsistent with the level 6 landscape plan.

66. Council's Urban Design and Landscape Design Specialists have recommended conditions for:

    (a) the Level 6 bedroom windows to Botany Road to be designed to prevent access to the adjacent garden planter; and

    (b) for design modifications to address consistency of design details of Level 6 bedroom windows to Botany Road to be consistent across all relevant architectural and landscape design drawings.

Relocation of Half-Height Landing

67. To improve the safety of maintenance access to the non-accessible roof garden atop the Botany Road building, Council's Urban Design Specialist has recommended a condition to relocate the secure door from the half height landing above level 6 (shown in the Figure below) to level 6.

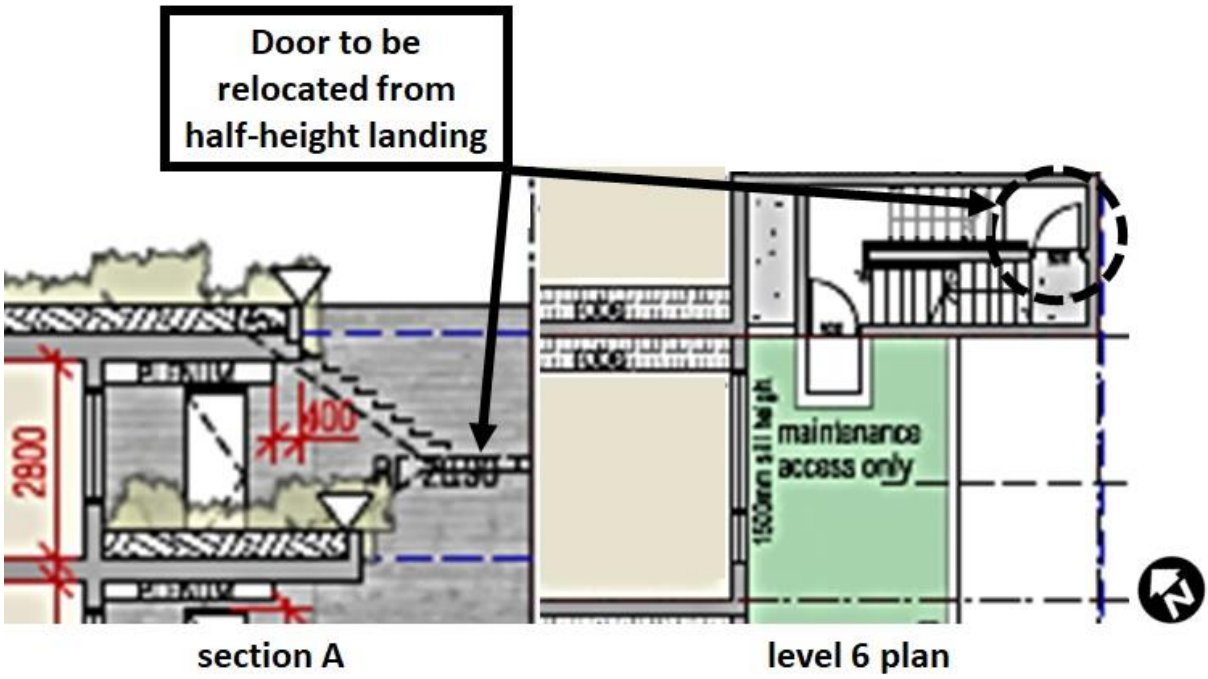


Figure 40: Design modifications to be provided to relocate door at half-height landing above level 6 to level 6.

Hours of Operation of Commercial Tenancies

68. Using the permissible hours of operation for commercial uses specified in the SEPP (Exempt and Complying Development Codes) 2008 and in the late night trading provisions of the DCP as a guide, hours of operation for the retail and House of Indonesia tenancies are recommended as follows:

    (a) Indoor operations - 7.00am to 10.00pm Monday to Saturday and 7.00am to 8.00pm on a Sunday or a public holiday; and

    (b) Outdoor operations (within the central open space areas or within the loggia to Botany Road) - 7.00am to 8.00pm, Monday to Sunday.

Other Impacts of the Development

69. The proposed development is capable of complying with the BCA.

70. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

Suitability of the site for the Development

71. The proposal is suitable for the site.

Internal Referrals

72. The assessment process has been informed by advice from Council's Specialist Surveyor, Environmental Health Specialist, Safe City Unit, Heritage Specialist, Urban Design Specialist, Public Domain Specialist, Landscape Design Specialist, Transport Planner, Strategic Planner, Tree Management Specialist, ESD Specialist, Natural Ventilation Expert, Waste Management Specialist and the Design Advisory Panel (DAP).

73. DAP considered an initial iteration of the design scheme. Concerns raised by DAP included height and FSR non-compliances, natural ventilation of noise affected apartments and the size of the Botany Road residential entry foyer. The design has since been amended to address the concerns raised by DAP.

74. Where appropriate, conditions recommended by these referrals have been included for imposition on any consent given.

External Referrals

Integrated Development

75. On 30 July 2018, the subject application was referred to Water NSW in accordance with section 4.47 of the Environmental Planning and Assessment Act 1979 (the Act).

76. On 26 September 2018, submissions received during the exhibition period were forwarded to Water NSW in accordance with clause 69 of the Environmental Planning and Assessment Regulation 2000.

77. On 28 September 2018, Water NSW issued General Terms of Approval for the development.

78. On 28 November 2018, amended plans which increased the depth of the basement were sent to Water NSW and re-sent on 16 January 2019.

79. On 17 January 2019, Water NSW confirmed that the previously issued General Terms of Approval still apply to the amended scheme.

Notification, Advertising and Delegation

80. The application constitutes integrated development and as such the application was notified and advertised for 30 days between 14 August 2018 and 17 September 2018 in accordance with the provisions of Environmental Planning and Assessment Regulations 2000. As a result of this notification 12 submissions were received. Issues raised in submissions are summarised and responded to as below. It is noted that each iteration of amended plans have reduced the height, bulk, scale and density of the development and any associated impacts and as such have not triggered the requirement for re-notification of the application.

(a) Objection is raised to overshadowing of adjacent apartments, common open spaces, and subsequent stunting of trees in common open space areas.

Response - At present the neighbouring development at 662-674 Botany Road receives 2 hours of direct sun to living rooms and private open space of 38.6% (27) of 70 apartments and no direct sun to 28% (20) of 70 apartments. It is Council's planning officer's assessment that the proposed development will reduce the number of apartments receiving 2 hours of direct sun to living rooms and private open space by one apartment, down to 37.1% (26) of 70 apartments. It will also reduce the number of apartments that receive no direct sun (i.e. increase the number of apartments that do receive direct sunlight) by two, down to 25.7% (18) of 70 apartments. On balance, this is considered to be a minor net improvement in solar access to the neighbouring properties adjacent to the south at 662-674 Botany Road.

As shown in the Figure below, the neighbouring development at 662-674 Botany Road does not have common open space as it is defined in the ADG and DCP. Rather it has a publicly accessible through site link and secure gates to footpaths that provide access for residents to the courtyards of ground floor apartments.

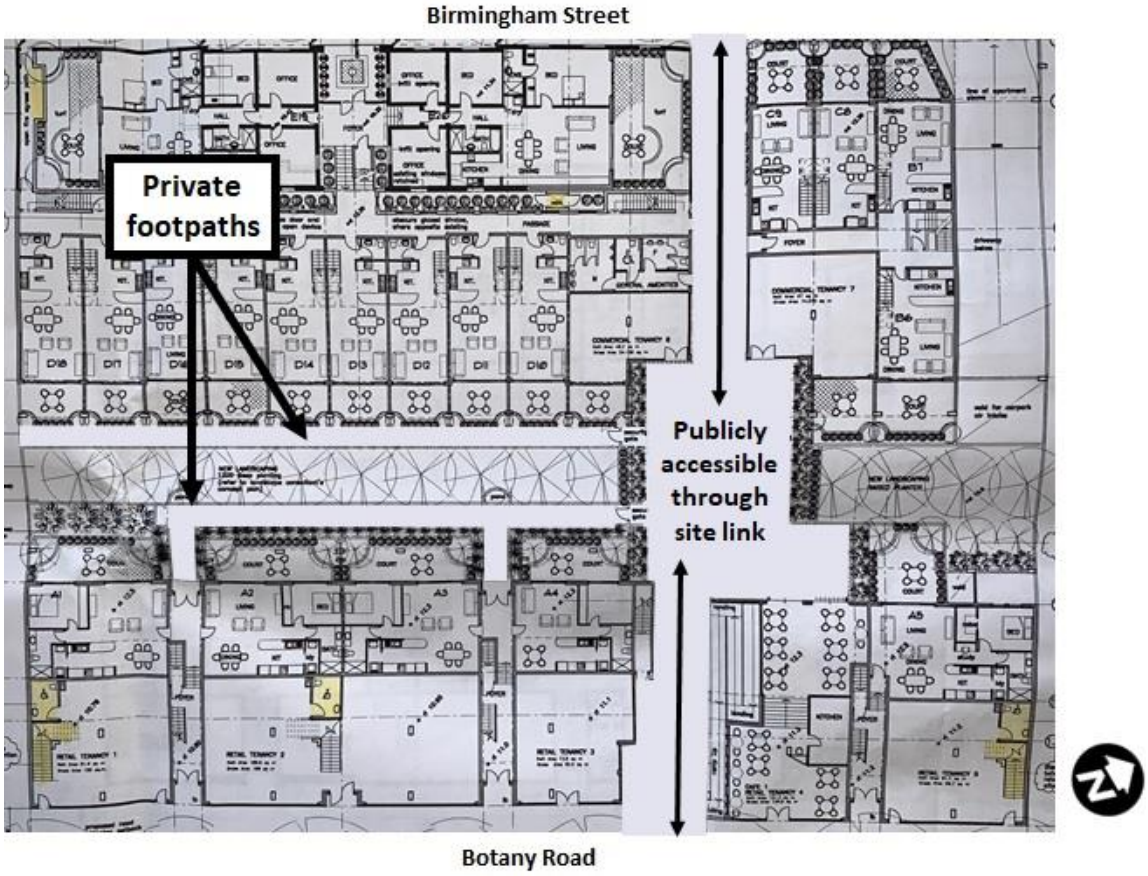


Figure 41: Ground floor plan of neighbouring development at 662-674 Botany Road.



Figure 42: Private footpaths connecting to through site link at 662-674 Botany Road.

Submitted shadow diagrams demonstrate that there is minor additional shadowing over the publicly accessible through site link between 10.45am and 12.15pm.

It is considered that by massing buildings adjacent to the site's street frontages and aligning the central open space with that of the development to the south, the proposed development demonstrably minimises overshadowing of the neighbouring development at 662-674 Botany Road and is acceptable.

(b) Objection is raised to blocking of views to the sky from adjacent apartments.

Response - The proposed development complies with the relevant height and density controls. It will provide development of a suitable height, bulk and scale that is consistent with the desired future character of the area and the design quality principles set out in the relevant planning policies. As such, any reduction in sky views is considered to be acceptable.

(c) Objection is raised to demolition and construction noise associated with the development.

Response - Council's Environmental Health Specialist has reviewed the proposal and has recommended appropriate conditions for the management of noise and vibrations from demolition, excavation and construction phases of the development.

(d) Objection is raised to a 6 storey building of excessive height being proposed adjacent to the 1 to 4 storey buildings that characterise the streetscape. Previously consent (D/2009/1244) was granted for a 2 storey commercial building and which is far more appropriate to the site.

Response - As detailed elsewhere in this report the proposed development complies with the 22m LEP building height control and the 6 storey DCP height in storeys control. Development consent D/2009/1244 was determined prior to the commencement of these currently applicable planning controls, which came into effect in December 2012. As such, the proposed development is considered to be consistent with the desired future character of the area, as expressed in the current suite of applicable planning policies and is supported on these grounds.

(e) Objection is raised to the additional demands on local infrastructure, including sewers, drains, roads, parking and transport, associated with the proposed development.

Response - Council's Transport Planner and Public Domain officers have reviewed the proposal and raise no objection subject to the recommended conditions being imposed and which are discussed elsewhere in this report.

(f) Objection is raised due to the proposal’s impacts in terms of reduction in available on-street parking for residents. Time-limited or paid parking should be introduced in surrounding streets. A speed bump should be introduced on surrounding streets to reduce the speed of drivers and to improve safety in the area.

Response - The proposed development complies with the relevant LEP and DCP parking requirements which take into account the accessibility of the area by public and active transport modes. Council's Transport Planner has considered the proposed level of car parking provision and has not raised any objection in this regard. The suggested introduction of time limited parking, paid parking and speed bumps in surrounding streets is otherwise beyond the scope of the subject DA and this assessment.

(g) Objection is raised to the additional population to be accommodated on the site and associated amenity impacts upon neighbouring residents, businesses and the school located opposite the site.

Response - As discussed elsewhere in this report, any amenity impacts arising from the proposed development are within the bounds specified within the relevant planning controls. Any such impacts are considered to be acceptable on this basis.

(h) Objection is raised to the inadequate documentation submitted as part of the DA as it does not allow for an assessment of its impacts upon adjacent residences. Inadequacies include: lack of shadow diagrams showing existing solar access to adjacent apartments, no elevational shadow diagrams have been provided, the SEE does not address ADG objective 3B-2 regarding overshadowing of adjacent buildings, elevations are unclear, the roof plan does not show adjacent properties, the notification site plan does not indicate adjacent properties.

Response - As discussed elsewhere in this report there have been seven iterations of substantially amended plans and additional information submitted over the course of the assessment of the application in response to the various concerns raised by Council officers. These submissions have included shadow diagrams, sun's eye view diagrams to adjacent apartments, elevations and roof plans. These submissions have allowed for the proper assessment of the application, including against the relevant requirements of ADG objective 3B-2. A summary of Council's planning officer's assessment against ADG objective 3B-2 is provided at sub-paragraph (a) above.

(i) Objection is raised to adverse impacts upon the privacy of adjacent residences.

Response - The proposed development provides adequate separation from adjacent residential buildings to achieve acceptable levels of privacy to neighbouring dwellings, in accordance with the requirements of the ADG, as detailed elsewhere in this report.

(j) Objection is raised to the possibility of items being dropped from the upper level balconies and falling onto the roof and balconies of the adjacent buildings.

Response - The proposed development does not encroach upon or project over adjacent properties so as to reasonably prevent any dropped items landing on the roof or balconies of adjacent buildings.

(k) Objection is raised to the proposed rooftop plantings as these will shed leaf litter that may fall onto the roofs and balconies of the lower adjacent buildings, blocking drains and gutters.

Response - DCP provision 5.8.7.4 Green roofs and walls, states that on all buildings, green roofs, walls and facades are encouraged. In accordance with this DCP requirement the proposed development has incorporated green roofs, walls and facades and which are supported.

(l) Objection is raised to rainwater being shed from the roofs of the proposed buildings onto the roofs of lower adjacent buildings.

Response - Conditions are recommended for all stormwater to be managed within the site and for drainage and connections to the City's stormwater system.

(m) Objection is raised to the wind tunnel effect that will be created by the alignment of the central courtyards of the proposed development with those adjacent.

Response - DCP provision 3.2.6 requires DAs for tall buildings (over 45m) to submit a report providing an assessment of the wind effects of the development. As a building less than 22m tall, the proposed development is not subject to this DCP requirement as it is considered to have minimal effects on wind conditions within and around the site.

Police

81. On 14 August 2018, the application was referred to Redfern Local Police for comment. No response was received.

Sydney Water

82. On 14 August 2018, the application was referred to Sydney Water in accordance with section 78 of the Water Act 1912.

83. On 21 September 2018, Sydney Water provided comments to advise that no objection was raised subject to the recommended conditions being imposed on any consent granted.

84. In accordance with Sydney Water's referral comments, Sydney Water Certificate (Tap-in) and Sydney Water Certificate conditions have been recommended for imposition on any consent granted.

Sydney Airport Referral Act 1996

85. Section 182 of the Commonwealth Airports Act 1996 specifies that, amongst other things, constructing a building or other structure that intrudes into a prescribed airspace is a controlled activity.

86. Schedules 2 and 5 of the Civil Aviation (Building Control) Regulations 1988 identify the subject site is subject to a prohibition of the construction of buildings more than 50 feet in height (15.24m) above existing ground height.

87. Section 183 of the Commonwealth Airports Act 1996 specifies that controlled activities may not be carried out in relation to prescribed airspace unless an approval has been granted. The relevant approval body is the Civil Aviation Safety Authority (CASA).

88. The Sydney Airport Airfield Design Manager, as an authorised person of the CASA, provided approval for the controlled activity on 16 August 2018.

Public Interest

89. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

S7.11 Contribution

90. The development is subject of a S7.11 contribution under the provisions of the City of Sydney Development Contributions Plan 2015. This contribution is calculated on the basis of the development's net increase in resident, worker and/or visitor populations.

91. Credits have been applied for existing working population accommodated on the site and calculated as follows:

    (a) 696sqm of warehouse uses at the rate of 1 worker per 61sqm and which is equal to a credit of 11.4 workers; and

    (b) 462sqm of office uses at the rate of 1 worker per 33sqm and which is equal to a credit of 14 workers.

92. Applying a credit for the existing working population calculated above, the following monetary contribution is required towards the cost of public amenities:

(a)	Open Space	$339,574.17
(b)	Community Facilities	$68,629.17
(c)	Traffic and Transport	$62,367.16
(d)	Stormwater Drainage	$24,668.62
	Total	$495,239.13

Relevant Legislation

93. The Environmental Planning and Assessment Act 1979.

Conclusion

94. The proposed development complies with the 22m height of buildings control pursuant to clause 4.3 of the LEP and complies with the 2:1 floor space ratio control pursuant to clause 4.4 of the LEP.

95. The acoustic report submitted by the applicant shows that the site's Botany Road frontage is affected by noise from road traffic and its Birmingham Street frontage is affected by noise from aircraft and from nearby commercial and industrial uses. As a result the application relies on the application of acoustically attenuated ventilation plenums to naturally ventilate apartments and to provide acceptable internal noise levels to satisfy the relevant objectives of the Apartment Design Guide. As this is the key design challenge for the development of the site, a deferred commencement condition is recommended for further refinement of the acoustically attenuated ventilation plenums to be carried out prior to the consent becoming operative.

96. The proposed development provides an appropriate contribution that is suitable in terms of its context, scale and built form that is consistent with the desired future character of the area, as expressed in the applicable planning policies.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Ben Chamie, Senior Planner

Attachment A

Recommended Conditions of Consent

PART A - DEFERRED COMMENCEMENT CONDITIONS

SCHEDULE 1

(A) The consent is not to operate until the following conditions are satisfied:

(1) VOLUNTARY PLANNING AGREEMENT

(a) The Voluntary Planning Agreement between the Council of the City of Sydney and Ozimex International Pty Ltd and Marina Royal Pty Ltd which was placed on public exhibition between 15 October 2019 and 13 November 2019 shall be executed and submitted to Council; and

(b) The guarantee must be provided to Council in accordance with the Voluntary Planning Agreement; and

(c) The Voluntary Planning Agreement, as executed, must be registered on the title of the land.

(2) NATURAL VENTILATION

Natural ventilation is to be provided in accordance with the arrangements shown on Drawing 611 Revision H, dated 02.10.19. The design of the natural ventilation and associated attenuation devices is to be further detailed and resolved as follows:

(a) Where attenuated natural ventilation is provided, apartments shall also be provided with opening windows with an effective open area sufficient to make-up the 5% area stated in the ADG guidelines. This additional open area is not required to be acoustically attenuated.

(b) The design of all attenuated natural ventilation systems is be in accordance with the City of Sydney's draft Alternative Natural Ventilation of Apartments in Noisy Environments: Performance Pathway Guideline.

(c) The design of the attenuated natural ventilation is to ensure ease of access to the inside of any plenums or ducts for cleaning and maintenance.

(d) The design of the plenum is to include a selection of louvres, dampers, grilles, fly screens and similar to demonstrate the minimum effective open areas required for natural ventilation and achieved.

(e) All relevant architectural drawings listed at Condition (1) of Part B of this consent including all plans, internal and external elevations and sections, must be amended to show all visible physical components of the natural ventilation system design to satisfy (a) to (d) above. The components must be described in sufficient detail to demonstrate the final appearance, and include manufacturer details for proprietary products, including materials, colours, and finishes. Where non-standard components are used, detail drawings at 1:10 scale must be provided to demonstrate how they are integrated into building fabric.

(B) Evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council within **24 months** of the date of determination of this deferred commencement

consent failing which, this deferred development consent will lapse pursuant to section 4.53(6) of the Environmental Planning and Assessment Act 1979.

(C) The consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions, as indicated above, have been satisfied.

(D) Upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the conditions of consent, as detailed in Part B Conditions of Consent (Once the Consent is Operation).

PART B – CONDITIONS OF CONSENT (ONCE THE CONSENT IS IN OPERATION)

SCHEDULE 1A

APPROVED DEVELOPMENT/DESIGN MODIFICATIONS/COVENANTS AND CONTRIBUTIONS/USE AND OPERATION

Note: Some conditions in Schedule 1A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

(1) APPROVED DEVELOPMENT

(a) Development must be in accordance with Development Application No. D/2018/871 dated 30 July 2018 and the following drawings prepared by Environa Studio:

Drawing Number	Drawing Name	Date
030, F	Site Plan	16.09.19
040, D	Demolition Plan	22.03.19
100, F	Basement 2	16.09.19
101, F	Basement 1	16.09.19
102, F	Level 1	16.09.19
103, H	Level 2	02.10.19
104, H	Level 3	02.10.19
105, H	Level 4	02.10.19
106, H	Level 5	02.10.19
107, G	Level 6	27.09.19
110, F	Roof Plan 1	16.09.19
120, F	Section A	16.09.19
121, F	Section B	16.09.19
130, F	South East	16.09.19
131, F	North West	16.09.19
132, F	North East	16.09.19
133, F	South West	16.09.19

Drawing Number	Drawing Name	Date
134, F	North West Internal	16.09.19
135, F	South East Internal	16.09.19
201, E	Window + Door Schedule – Sheet 1	16.04.19
202, E	Window + Door Schedule – Sheet 2	16.04.19
210, D	Materials + Finishes Schedule	22.03.19
211, D	Terms and Abbreviations Summary	22.03.19
610, H	Ventilation Details	02.10.19
611, H	Ventilation Diagram	02.10.19

except where amended as required by Deferred Commencement Condition (2) and as amended by the conditions of this consent.

(b) The plans submitted as required by Deferred Commencement Condition (2) when approved by Council, form approved conditions of consent and development is required to be in compliance with those plans.

(c) In the event of any inconsistency between the approved plans referred to in (b) above and supplementary documentation, the plans will prevail.

(2) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

(a) side fences to adjacent properties are to be no higher than 1.8m above the adjacent finished floor level within the site, as annotated in red on the stamped approved plans;

(b) external doors to residential entry foyers, the retail tenancy, the House of Indonesia tenancy and fire stairs are to be clearly shown on plans so as to be consistent with the relevant elevation drawings;

(c) letterboxes adjacent to the Botany Road frontage are to be relocated to be behind the glass-line, inside the Botany Road residential entry foyer, as annotated in red on the stamped approved plans;

(d) the Level 6 internal study is to be deleted from apartments 26, 27, 28, 29 and 30. The space is to be reallocated to bedroom 2 in each unit;

(e) the application of dulux ‘lady in red’ colour paint to the Birmingham Street end of the south west elevation is not approved. This colour is to be replaced with a more neutral white or grey colour selected from the palette of colours shown on drawing no. 210, Rev. D;

(f) horizontal angled louvres are to be applied to the outside of south-west facing bedroom windows on levels 2, 3 and 5 of the Botany Road building element;

(g) horizontal louvres to windows in the north-west (Birmingham Street) elevation are to be adjustable, retractable louvres with manufacturer’s details to be submitted to and approved by Council’s Area Planning Manager as detailed below;

(h) adjustable, retractable shading is to be applied to the internal north-west elevation to provide sun-shading to windows and balconies with manufacturer’s details to be submitted to and approved by Council’s Area Planning Manager as detailed below;

(i) south-east facing windows of level 6 bedrooms are to be designed to prevent access to and from the adjacent garden planter;

(j) design details of south-east facing windows of level 6 bedrooms are to be coordinated to be consistent across all relevant architectural and landscape design drawings;

(k) the secure door to the non-accessible roof garden atop the Botany Road building is to be relocated from the half height landing above level 6 to level 6;

(l) a secure gate is to be provided for secure access to the level 1 communal open space from the Botany Road residential entry ramp;

(m) construction details at 1:20 scale for all facade planters, privacy screens, walls, balustrades, shade structures located in landscape and roof areas are to be submitted and approved in accordance with the requirements of this condition;

(n) construction details to demonstrate the carpark exhaust does not directly vent onto or adversely impact upon planting in common open spaces are to be submitted and approved in accordance with the requirements of this condition;

(o) design details illustrating the location of all plant including rainwater tanks and storage tanks pertaining to the irrigation and fertilising of the facade and terrace planters are to be submitted and approved in accordance with the requirements of this condition; and

(p) the Materials + Finishes Schedule (drawing no. 210, D) and any relevant drawings are to be amended so as to delete any notations or references to generic material or colour descriptions, or use terminology such as ‘or similar’.

The modifications are to be submitted to and approved by Council’s Area Planning Manager prior to the issue of a Construction Certificate.

(3) MATERIALS AND SAMPLES BOARD

(a) A physical material sample board which specifies all proposed materials, finishes and colours, including visible rainwater goods and services, must be submitted to and approved by Council's Area Planning Manager prior to a Construction Certificate being issued.

(b) The physical material sample board is to incorporate changes to materials prescribed by the DESIGN MODIFICATIONS condition above;

(c) The physical materials and samples board must not include generic material or colour descriptions, or use terminology such as 'or similar';

(d) All surfaces notated as off-form concrete are to be constructed as notated (from board finish off-form concrete).

(4) STUDIO BED AREAS MUST NOT BE ENCLOSED

Prior to the issue of any Occupation Certificate the Principal Certifier must be satisfied that any bed area within any of the approved studio apartments is not enclosed with any type of structure, including stud walls, glazed doors, curtains or any other barrier to natural ventilation.

(5) STORAGE ALLOCATION AND DESIGN DETAILS

(a) Storage areas must be configured to provide all apartments with a quantum of storage space in accordance with Design criteria (1) of Objective 4G-1 of the Apartment Design Guide, including apartments 14 and 20;

(b) All storage areas must be fitted with built-in cupboards, shelves or the like;

(c) Any storage provided in basement areas must be provided within a secure enclosure;

(d) Prior to the issue of any Occupation Certificate, the Principal Certifying Authority must be satisfied that parts (a) to (c) of this condition have been addressed and all storage areas shown on the storage schedule have been fitted with built in cupboards, shelves or the like.

(6) VENTILATION, SECURITY AND WEATHER PROTECTION

All habitable rooms must have a combination of openable sashes and/or louvres that ensure a minimum Effective Openable Area (EOA) for ventilation purposes as required by the NCC and the Apartment Design Guide (ADG) when opened to the maximum dimension permitted under the NCC provisions for Protection of Openable Windows.

The sashes and/or louvres must provide the minimum EOA under most wet weather conditions and must also be securable to prevent unauthorised entry when open. The minimum EOA must be provided in addition to any external doors as these cannot be adequately weather-protected or secured when left partially open. A reduction for fly screens must be taken into consideration to account for any future installation.

The method of measurement must be in accordance with the definition of EOA as defined by the Apartment Design Guide, which is:

'the minimum area of clear opening of a window that can take part in providing natural ventilation. The effective openable area of a sliding or hung sash window can be measured in elevation. Hinged windows such as casement, awning and hopper windows may measure the diagonal plane from the sash to the jamb and add the triangles at either end up to a total area of the window opening in the wall. Obstruction within 2m of a window reduce the effective openable area as measured in elevation. Fly screens and security screen will reduce the effective openable area by half'.

(a) Prior to the issue of a Construction Certificate, the following details of the proposed fenestration must be submitted to, and approved by Council's Area Coordinator Planning Assessments / Area Planning Manager:

(i) Detailed elevation drawings and a window schedule which show the size, type and location of all openable sashes / louvres in relation to the floor area served by those sashes;

(ii) Details of any proposed insect screens or other barriers to free air flow;

(b) Evidence that all fenestration details shown in the approved drawings described in part (a) above have been completed is to be provided to the Principal Certifier prior to any Occupation Certificate being issued.

(7) HOURS OF OPERATION – RETAIL TENANCY AND HOUSE OF INDONESIA

(a) The indoor hours of operation are restricted to between 7.00am and 10.00pm Monday to Saturday and 7.00am and 8.00pm on a Sunday or a public holiday.

(b) The outdoor hours of operation (within the central open space areas or within the loggia to Botany Road) are restricted to between 7.00am and 8.00pm, Monday to Sunday.

(8) BUILDING HEIGHT

(a) The height of the Botany Road building must not exceed RL 32.10 (AHD) to the top of the building.

(b) The height of the Birmingham Street building must not exceed RL 32.10 (AHD) to the top of the lift overrun, RL 30.40 (AHD) to the top of the pergola and RL 28.70 (AHD) to the parapet of the building.

(b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifier.

(9) FLOOR SPACE RATIO - ALL OTHER AREAS

The following applies to Floor Space Ratio:

(a) The Floor Space Ratio for the retail use must not exceed 0.09:1; for the business use must not exceed 0.21:1; for the residential use must not

exceed 1.7:1; and for the mixed use must not exceed 2:1 calculated in accordance with the Sydney LEP 2012. For the purposes of the calculation of FSR, the Gross Floor Area of the retail component is 128.98sqm, of the business component is 304.03sqm, for the residential component is 2450.94sqm, and the total Gross Floor Area is 2883.95sqm.

(b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total and component Gross Floor Areas (by use) in the development, utilising the definition under the Sydney LEP 2012, applicable at the time of development consent, to the satisfaction of the Principal Certifier.

(10) SECTION 7.11 CONTRIBUTIONS PAYABLE - CONTRIBUTION TOWARDS PUBLIC AMENITIES – CITY OF SYDNEY DEVELOPMENT CONTRIBUTIONS PLAN 2015 – SOUTH PRECINCT

Council has identified the development will increase demand for public amenities and facilities. Pursuant to Section 7.11 of the Environmental Planning and Assessment Act, 1979 (as amended), and the City of Sydney Development Contributions Plan 2015 the following monetary contributions are required towards the cost of public amenities.

Contribution Category	Amount
Open Space	$339,574.17
Community Facilities	$68,629.17
Traffic and Transport	$62,367.16
Stormwater Drainage	$24,668.62
Total	$495,239.13

The City of Sydney will index the above contribution for inflation at the time of payment using the following formula.

Cpayment = Cconsent x (CPIpayment ÷ CPIconsent)

Where:

Cpayment = Is the contribution at time of payment;

Cconsent = Is the contribution at the time of consent, as shown above;

CPIpayment = Is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment; and

CPI1consent = Is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being – 115.9 for the June 2019 quarter.

The contribution must be paid prior to the issue of any Construction Certificate in relation to this development.

Please contact Council's Planning Administration staff at planningsystemsadmin@cityofsydney.nsw.gov.au to request a letter confirming the indexed contribution amount payable.

Once the letter confirming the indexed contribution is obtained, payment may be made at any of the City's Neighbourhood Service Centres or the One Stop Shop at Town Hall House. Acceptable payment methods are EFTPOS (debit card only), cash (up to 10K only), Credit Card (up to 50K only) or a bank cheque made payable to the City of Sydney. Personal or company cheques will not be accepted.

(11) AFFORDABLE HOUSING CONTRIBUTION – EMPLOYMENT LANDS – PAYMENT IN LIEU OF FLOOR SPACE CONTRIBUTION – PRIOR TO CONSTRUCTION CERTIFICATE

In accordance with Clause 7.13 of Sydney Local Environmental Plan 2012 and the Employment Lands Affordable Housing Program and prior to a Construction Certificate being issued, the applicant must provide evidence that any monetary contribution towards the provision of affordable housing has been paid. Payment is to be by bank cheque made payable to the City of Sydney.

The contribution is $1,469,798.63 based on the in lieu monetary contribution rate for non-residential development at $98.82 per square metre of total non-residential floor area (94.2sqm) and for residential development at $296.47 per square metre of total residential floor area (4,926.3sqm).

If the contribution is paid after the indexation period in which the consent is granted, being 1 September 2019 to 30 November 2019, the above contribution will be adjusted according to the relative quarterly change in the Sydney LGA median strata dwelling price ('MDP') using the following formula.

Contributions at Time of Payment = C x MDP2 / MDP1

where:

C is the original contribution amount as shown above;

MDP2 is the median dwelling price for strata dwellings in Sydney LGA taken from the NSW Government Family and Community Services Rent and Sales Report at the time of payment; and

MDP1 is the median dwelling price for strata dwellings in Sydney LGA taken from the NSW Government Family and Community Services Rent and Sales Report at the date of calculation, being 1 September 2019 to 30 November 2019.

Contact Council's Planning Assessment Unit at planningsystemsadmin@cityofsydney.nsw.gov.au for written confirmation of the amount payable, with indexation as necessary, prior to payment.

(12) COMPLIANCE WITH THE ACOUSTIC REPORT PRIOR TO CONSTRUCTION AND OR OCCUPATION CERTIFICATES

(a) All relevant performance parameters (including but not limited to requirements, engineering assumptions and recommendations) in the DA Acoustic Report prepared by West and Associates dated 10/10/2019 ref

No 2220/9 Issue F titled 11 BIRMINGHAM STREET, 658-660 BOTANY ROAD ALEXANDRIA DEVELOPMENT APPLICATION ACOUSTIC REPORT Council Ref 2019/512720-01 must be implemented in the development prior to the commencement of its use.

(b) Prior to the issue of any relevant Construction Certificate, the final construction drawings and final construction methodology must be assessed and reported to be in accordance with the requirements of the DA Acoustic Report in (a) above, with reference to relevant documentation. This must be done by a Suitably Qualified Acoustic Consultant* (see definition below). This work will be to the satisfaction of the certifier.

(c) Prior to the issue of an Occupation Certificate, a Suitably Qualified Acoustic Consultant* is to provide a written Acoustic Verification Report to the satisfaction of the Principal Certifier/Principal certifying Authority that the development complies with the requirements set out in the Report and in (a) and (b) above.

Note: *Suitably Qualified Acoustic Consultant* means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

(d) All physical aspects of the building's structure installed in order to meet performance parameters in accordance with this condition must be maintained at all times.

(13) DEMOLITION, EXCAVATION AND CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN

A site specific noise management plan shall be submitted to the Council for comment and approval prior to issue of any Construction Certificate.

The Plan must be prepared by a suitably qualified person who possesses the qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants.

The plan must include but not be limited to the following:-

(a) identification of noise sensitive receivers near to the site.

(b) A prediction as to the level of noise impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite. A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the *City of Sydney Construction Hours /Noise Code of Practice 1992* for the typical construction hours of 07.00am to 7.00pm. Where resultant site noise levels are likely to be in exceedance of this noise criteria then a suitable proposal must be given as to the duration and frequency of respite periods that will be afforded to the occupiers of neighbouring property.(c) A representative background noise measurement ($L_{A90,\ 15\ minute}$) should be submitted, assessed in the vicinity of any potentially affected receiver locations and measured in accordance with AS 1055:1.2.1997.(d) Confirmation of the level of community consultation

that has/is and will be undertaken with Building Managers/ occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.(e) Confirmation of noise monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria contained within City's Construction Noise Code.(f) What course of action will be undertaken following receipt of a complaint concerning offensive noise.(g) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring noise sensitive property to a minimum.(h) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

(14) NOISE – COMMERCIAL PLANT / INDUSTRIAL DEVELOPMENT

(a) Noise from commercial plant and industrial development must not exceed a project amenity/intrusiveness noise level or maximum noise level in accordance with relevant requirements of the NSW EPA *Noise Policy for Industry* 2017 (NPfI) unless agreed to by the City's Area Planning Manager. Further:

(i) Background noise monitoring must be carried out in accordance with the long-term methodology in *Fact Sheet B* of the NPfI unless otherwise agreed by the City's Area Planning Manager.

(ii) Commercial plant is limited to heating, ventilation, air conditioning, refrigeration and energy generation equipment.

For internal residential and commercial amenity only

(b) An $L_{Aeq,15\ minute}$ (noise level) emitted from the development must not exceed the $L_{A90,\ 15\ minute}$ (background noise level) by more than 3dB when assessed inside any habitable room of any affected residence or noise sensitive commercial premises at any time. Further:

(i) The noise level and the background noise level shall both be measured with all external doors and windows of the affected residence closed.

(ii) Background noise measurements must not include noise from the development but may include noise from necessary ventilation at the affected premise.

(c) Corrections in *Fact Sheet C* of the NPfI are applicable to relevant noise from the development measured in accordance with this condition, however duration corrections are excluded from commercial noise.

(15) REFLECTIVITY

The Principal Certifier must ensure that the visible light reflectivity from building materials used on the facade of the building does not exceed 20% prior to issue of the Construction Certificate.

(16) RESTRICTION ON USE OF CAR SPACES - RESIDENTIAL, SERVICED APARTMENTS AND MIXED USE

The following conditions apply to car parking:

(a) The on-site car parking spaces, exclusive of service and visitor car spaces, are not to be used other than by an occupant, tenant or resident of the subject building.

(b) Prior to an Occupation Certificate being issued, a documentary restrictive covenant, is to be registered on the Title of the development site pursuant to Section 88E of the *Conveyancing Act 1919*, to the effect of (a) above. The covenant is to be created appurtenant to Council, at no cost to and to the satisfaction of Council.

(c) Any future strata subdivision of the site is to include a restriction on User pursuant to section 39 of the *Strata Titles (Freehold Development) Act, 1973*, as amended, burdening all utility car parking allotments in the Strata Plan and/or an appropriate restrictive covenant pursuant to section 88B of the *Conveyancing Act 1919* burdening all car parking part - lots in the strata scheme.

(17) ALLOCATION OF CAR PARKING

Car parking spaces are to be provided in accordance with the table below. Details confirming the quantity and allocations of car parking spaces is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

Car Parking Type	Number
Residential spaces	15
Accessible residential spaces	5
Residential visitor spaces	4
Commercial Spaces	1
Sub Total	25
Motorcycle parking	3
Total	28

(18) CAR PARKING DESIGN

The design, layout, signage, line marking, lighting and physical controls of all off-street car parking facilities must comply with the *Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking* and *Australian Standard AS/NZS 2890.6 - 2009 Parking facilities Part 6: Off-street parking for people with disabilities*.

The details must be submitted to and approved by the Certifying Authority prior to a Construction Certificate being issued.

(19) BICYCLE PARKING AND END OF TRIP FACILITIES

The minimum number of bicycle parking spaces and end of trip facilities to be provided for the development must comply with the table below.

User	Number of bicycles to be accommodated	Requirements
Residential	30	Class A bicycle parking facility in accordance with AS2890.3 (see note below) or Class B bicycle parking facility in accordance with AS2890.3
Visitor/Customer	6	Class B/C bicycle parking facility located at street level in accordance with AS2890.3
Staff	3	Class B bicycle parking facility in accordance with AS2890.3
End of Trip Facility Type	Number	
Showers with change area	1	
Personal lockers	3	

The layout, design and security of bicycle facilities must comply with *Australian Standard AS 2890.3:2015 Parking Facilities Part 3: Bicycle Parking Facilities*. The details must be submitted to and approved by the Certifying Authority confirming prior to the Construction Certificate being issued.

Notes:

(a) A basement storage area on title and large enough to store a bicycle in accordance with the Bicycle spacing envelope requirements in AS2890.3 can be counted as a space.

(b) The above table shows a total 38 spaces which is the minimum. Transport planning welcomes any additional bicycle parking spaces as proposed with the submitted plan (44 proposed). At least 20 percent of the total bicycle parking spaces will require to be horizontal.

(20) VISITOR CAR PARKING TO BE RETAINED AS COMMON PROPERTY

Visitor car parking spaces must not at any time be allocated, sold or leased to an individual owner/occupier and must be strictly retained as common property by the Owners Corporation for use by building visitors.

All spaces must be clearly marked 'VISITOR' prior to the issue of an Occupation Certificate. All signs must be maintained in good order at all times.

(21) ALLOCATION OF ACCESSIBLE CAR PARKING SPACES

For residential development, accessible car parking spaces for people with mobility impairment are only to be allocated as visitor car parking or to adaptable units. Where allocated to adaptable units, the unit(s) and car spaces must be assigned to the unit in any future strata subdivision of the building.

(22) COST OF SIGNPOSTING

All costs associated with signposting of any kerbside parking restrictions and traffic management measures associated with the development shall be borne by the developer.

(23) ASSOCIATED ROADWAY COSTS

All costs associated with the construction of any new road works including kerb and gutter, road pavement, drainage system and footway shall be borne by the developer. The new road works must be designed and constructed in accordance with the City's "Development Specification for Civil Works Design and Construction".

All costs associated with the construction of new road/footpath works including kerb and gutter, road pavement, drainage system and footway shall be borne by the developer. The new road works must be designed and constructed in accordance with the City's "Sydney Streets Technical Specification" including amendments and "Sydney Streets Design Code".

(24) INTERCOM FOR VISITORS

Where a boom gate or barrier control is in place, the visitor spaces must be accessible to visitors by the location of an intercom at the car park entry and at least 4m clear of the property boundary, wired to all units. The intercom must comply with *Australian Standard AS 1428.2-1992: Design for access and mobility - Enhance and additional requirements - Building and facilities Sections 22 and 23*.

(25) PARKING ON COMMON PROPERTY AREAS

No part of the common property, apart from the visitor vehicle spaces which are to be used only by visitors to the building and service vehicle spaces which are to be used only by service vehicles, is to be used for the parking or storage of vehicles or boats. The strata subdivision of the building is to include an appropriate documentary restriction pursuant to Section 88B of the *Conveyancing Act 1919*, so burdening common property, with the Council being the authority to release, vary or modify the restriction.

(26) SECURITY GATES

Where a car park is accessed by a security gate, that gate must be located at least 6 metres within the site from the street front property boundary.

(27) VEHICLES ACCESS

The site must be configured to allow all vehicles to be driven onto and off the site in a forward direction.

(28) TURNTABLE OPERATION AND LOADING DOCK MANAGEMENT PLAN

(a) Prior to the issue of any Construction Certificate a Turntable Operation and Loading Dock Management Plan is to be submitted to and approved by Council's Area Planning Manager and must provide design details and

operational procedures so that vehicles are able to pass through the car park while a Council waste collection vehicle is parked on the turntable.

(b) The following information is to inform and is to be submitted in support of the Turntable Operation and Loading Dock Management Plan:

(i) Vehicle queuing analysis - a vehicle queuing analysis prepared in accordance with AS 2890 that demonstrates that sufficient on-site waiting bays are provided to accommodate a minimum of 98% of the vehicle queue;

(ii) Vertical clearance – a vertical swept path analysis depicting travel paths and vertical clearance for a Council waste collection vehicle in accordance with provision 3.11.13(3)(b) of the Sydney Development Control Plan 2012;

(iii) Swept path analysis - vehicle swept path analyses prepared in accordance with AS 2890 to demonstrate that:

a. the largest size vehicle can enter and exit the site from the street in a forward direction.

b. the largest size service vehicle and a standard size car can pass through the access ramp simultaneously.

(c) The turntable and loading areas are to be designed and operated in accordance with the Turntable Operation and Loading Dock Management Plan once approved in accordance with this condition.

SCHEDULE 1B

PRIOR TO CONSTRUCTION CERTIFICATE/COMMENCEMENT OF WORK/HEALTH AND BUILDING

(29) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES

The building must be designed and constructed to provide access and facilities for people with a disability in accordance with the *Building Code of Australia*.

If, in complying with this condition, amendments to the development are required, the design changes must be submitted to and approved by Council prior to a Construction Certificate being issued.

(30) ADAPTABLE HOUSING

Prior to a Construction Certificate being issued, information from an appropriately qualified access consultant is to be submitted to the Principal Certifier:

(a) Confirming that the required number of residential units are able to be adapted for people with a disability in accordance with the *Building Code of Australia*.

(b) Demonstrating (in a checklist) compliance with Australian Standard AS4299.

(31) ASBESTOS REMOVAL WORKS

(a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with Safework NSW, holding either a Friable (Class A) or a Non- Friable (Class B) Asbestos Removal Licence which ever applies.

A copy of the relevant licence shall be made available to any authorised Council officer on request within 24 hours.

(b) Five days prior to the commencement of licensed asbestos removal, Safework NSW must be formally notified of the works. All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification must identify the licensed asbestos removal contractor and include a contact person for the site together with telephone number and email address.

(c) All work must be carried out in accordance with the *Work Health and Safety Regulation 2011* and the NSW Government and Work Cover document entitled *How to manage and control asbestos in the work place: Code of Practice (Safework NSW)* December 2011 and the *City of Sydney Managing Asbestos Policy dated 21 October 2013 and associated guidelines.*

(d) The asbestos removalist must use signs and barricades to clearly indicate the area where the asbestos removal work is being performed. Signs must be placed in positions so that people are aware of where the asbestos removal work area is and should remain in place until removal is completed and clearance to reoccupy has been granted. Responsibilities for the security and safety of the asbestos removal site and removal must be

specified in the asbestos removal control plan (where required). This includes inaccessible areas that are likely to contain asbestos.

(e) Warning signs must be placed so they inform all people nearby that asbestos removal work is taking place in the area. Signs must be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs must be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs must be in accordance with AS 1319 -1994 *Safety Signs for the Occupational Environment* for size, illumination, location and maintenance.

(f) Asbestos waste must only be transported and disposed of at an EPA licensed waste facility.

(g) No asbestos products are to be reused on the site (i.e. packing pieces, spacers, formwork or fill etc).

(h) No asbestos laden skips or bins are to be left in any public place without the written approval of Council.

(i) A site notice board must be located at the main entrance to the site in a prominent position and must have minimum dimensions of 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size.

The site notice board must include the following:

(i) contact person for the site;

(ii) telephone and facsimile numbers and email address; and

(iii) site activities and time frames.

(32) BASIX CERTIFICATE – DETAILS TO BE LODGED WITH A CC

A copy of the required completed BASIX certificate accepted as part of this Development Consent with respect to the proposed residential building works, must be lodged with an application for a construction certificate and the items nominated as part of the subject BASIX certificate must be specified on the plans submitted with the construction certificate application. – See Note.

IMPORTANT NOTE:

Any requirement detailed in the accompanying BASIX Certificate, MUST be included as a specific notation or inclusion on any future Construction Certificate plans and specification in accordance with Part 3 of Schedule 1 of the EP&A Regulation, 2000.

(33) EXTERNAL WALLS AND CLADDING FLAMMABILITY

The external walls of the building including attachments must comply with the relevant requirements of the *National Construction Code (NCC)*. Prior to the issue of a Construction Certificate and Occupation Certificate the Principal Certifier must:

(a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and

(b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

(34) PRODUCTS BANNED UNDER THE BUILDING PRODUCTS (SAFETY) ACT 2017

(a) No building products that are banned, or products that are subject to a ban if used in a particular way, under the Building Products (Safety) Act 2017 are to be used in the construction of the development approved in this development consent.

(b) Prior to the issue of any Occupation Certificate, the principal certifier is to confirm that none of the building products used on the building are subject to a building product use ban under the Building Products (Safety) Act 2017 or, if a product is only subject to a ban if used in a particular way that it is not used in any way contrary to the Building Products (Safety) Act 2017.

(35) OPERATING HOISTING DEVICES INCLUDING BUILDING MAINTENANCE UNITS OVER A PUBLIC ROAD

If it is proposed to install a building maintenance unit or operate a hoisting device above a road (footpath) including swinging, hoisting material/equipment and slewing any part of the device, a separate application under Section 68 of the *Local Government Act 1993* and Section 138 of the *Roads Act 199*3 must be made to Council to obtain approval.

Note: Building maintenance unit means a power operated suspended platform and associated equipment on a building specifically designed to provide permanent access to the faces of the building for maintenance (*Work Health and Safety Regulation 2011*).

(36) PHYSICAL MODELS

(a) Prior to a final Occupation Certificate being issued, an accurate 1:500 scale model of the development as constructed must be submitted to Council for the City Model in Town Hall House.

Note:

(i) The models must be constructed in accordance with the Model Specifications available online at http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements Council's modellers must be consulted prior to construction of the model.

(ii) The models are to comply with all of the conditions of the Development Consent.

(iii) The models must be amended to reflect any further modifications to the approval (under Section 4.55 of the *Environmental Planning and Assessment Act*) that affect the external appearance of the building.

(37) SUBMISSION OF ELECTRONIC CAD MODELS PRIOR TO OCCUPATION CERTIFICATE

(a) Prior to an Occupation Certificate being issued, an accurate 1:1 electronic CAD model of the completed development must be submitted to Council for the electronic Visualisation City Model.

(b) The data required to be submitted within the surveyed location must include and identify:

(i) building design above and below ground in accordance with the development consent;

(ii) all underground services and utilities, underground structures and basements, known archaeological structures and artefacts;

(iii) a current two points on the site boundary clearly marked to show their Northing and Easting MGA (Map Grid of Australia) coordinates, which must be based on Established Marks registered in the Department of Lands and Property Information's SCIMS Database with a Horizontal Position Equal to or better than Class C.

The data is to be submitted as a DGN or DWG file on a Compact Disc. All modelling is to be referenced to the Map Grid of Australia (MGA) spatially located in the Initial Data Extraction file.

(c) The electronic model must be constructed in accordance with the City's 3D CAD electronic model specification. The specification is available online at http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements Council's Modelling staff should be consulted prior to creation of the model. The data is to comply with all of the conditions of the Development Consent.

(38) CONSTRUCTION TRAFFIC AND PEDESTRIAN MANAGEMENT PLAN

(a) A Construction Traffic and Pedestrian Management Plan must be submitted to and approved by Council prior to a Construction Certificate being issued.

Construction Traffic and Pedestrian Management Plans are to be prepared in accordance with Standard Requirements for Construction Traffic Management Plan on the City's website http://www.cityofsydney.nsw.gov.au/business/business-responsibilities/traffic-management/construction-traffic-management-plans

(39) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION

(a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of 662-674 Botany Road and 654-656 Botany Road are to be prepared by an appropriately qualified structural engineer prior to commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying photographs must

be given to the above property owners, and a copy lodged with the Principal Certifier and the Council prior to the issue of a Construction Certificate.

UPON COMPLETION OF EXCAVATION/DEMOLITION

(b) A second Dilapidation Report/s, including a photographic survey must then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report/s, together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Principal Certifier and the Council prior to the issue of an Occupation Certificate.

Any damage to buildings, structures, lawns, trees, sheds, gardens and the like must be fully rectified by the applicant or owner, at no cost to the affected property owner.

Note: Prior to the commencement of the building surveys, the applicant/owner must advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information must be submitted to Council.

(40) EROSION AND SEDIMENT CONTROL - BETWEEN 250 AND 2,500SQM

Prior to the commencement of demolition/excavation/construction work, an Erosion and Sediment Control Plan (ESCP) must be submitted to and be approved by the Principal Certifier. The ESCP must:

(a) Conform to the specifications and standards contained in Managing Urban Stormwater: Soils and Construction (Landcom, 2004); the Guidelines for Erosion and Sediment Control on Building Sites (City of Sydney, 2004); and the *NSW Protection of the Environment Operations Act 1997*.

(b) Include a drawing(s) that clearly shows:

(i) location of site boundaries and adjoining roads

(ii) approximate grades and indications of direction(s) of fall

(iii) approximate location of trees and other vegetation, showing items for removal or retention

(iv) location of site access, proposed roads and other impervious areas

(v) existing and proposed drainage patterns with stormwater discharge points

(vi) north point and scale

(c) Specify how soil conservation measures will be conducted on site including:

(i) timing of works

(ii) locations of lands where a protective ground cover will, as far as is practicable, be maintained

(iii) access protection measures

(iv) nature and extent of earthworks, including the amount of any cut and fill

(v) where applicable, the diversion of runoff from upslope lands around the disturbed areas

(vi) location of all soil and other material stockpiles including topsoil storage, protection and reuse methodology

(vii) procedures by which stormwater is to be collected and treated prior to discharge including details of any proposed pollution control device(s)

(viii) frequency and nature of any maintenance program

(ix) other site-specific soil or water conservation structures.

(41) TEMPORARY GROUND ANCHORS, TEMPORARY SHORING AND PERMANENT BASEMENT/RETAINING WALLS AFFECTING THE ROAD RESERVE

For temporary shoring including ground anchors affecting the road reserve, a separate application under Section 138 of the *Roads Act 1993* must be lodged with Council.

(42) CLASSIFICATION OF WASTE

Prior to the exportation of waste (including fill or soil) from the site, the waste materials must be classified in accordance with the provisions of the Protection of the *Environment Operations Act 1997* and the *NSW DECC Waste Classification Guidelines, Part1: Classifying Waste (July 2009)*. The classification of the material is essential to determine where the waste may be legally taken. The *Protection of the Environment Operations Act 1997* provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the EPA.

(43) ENVIRONMENTAL MANAGEMENT PLAN

Prior to the commencement of any demolition and remedial works an Environmental Management Plan (EMP) must be prepared for the site and submitted to Council's Area Planning Manager for written approval prior to the commencement of work. The EMP must consider all potential environmental impacts from the approved works including but not limited to sedimentation control, contamination containment, stockpiles, noise and vibration, odours and dust emissions.

All works must be undertaken onsite in accordance with the approved Environmental Management Plan.

(44) IMPORTED FILL MATERIALS

All fill imported onto the site shall be validated to ensure the imported fill is suitable for the proposed land use from a contamination perspective. Fill imported on to

the site shall also be compatible with the existing soil characteristic for site drainage purposes.

The City may require details of appropriate validation of imported fill material to be submitted with any application for future development of the site. Hence all fill imported onto the site should be validated by either one or both of the following methods during remediation works:

(a) Imported fill should be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or

(b) Sampling and analysis of the fill material shall be conducted in accordance with NSW EPA (1995) Sampling Design Guidelines.

(45) NOTIFICATION – NEW CONTAMINATION EVIDENCE

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination and Acid Sulfate Soils shall be notified to Council's Area Planning Manager and the Principal Certifier.

(46) SITE AUDIT STATEMENT

Prior to the issue of a construction certificate associated with the built form of the development (excluding building work directly related to remediation), a Section A Site Audit Statement must be obtained from a NSW Environment Protection Authority accredited Site Auditor and submitted to the Council's Area Planning Manager at email address:-

hbapplications@cityofsydney.nsw.gov.au

The Site Audit Statement must confirm and clearly state that site is suitable for the proposed use.

(a) In circumstances where the Site Audit Statement is subject to conditions that require ongoing review by the Auditor or Council, these must be reviewed and must be approved by the Council's Health and Building department in writing through the Area Planning Manager before the Site Audit Statement is issued.

(b) In circumstances where the Site Audit Statement conditions (if applicable) are not consistent with the consent, the development must not proceed until the inconsistency has been resolved to the satisfaction of Council (such as via a S4.55 modification of the consent pursuant to the provisions of the *Environmental Planning & Assessment Act 1979*).

(c) No Occupation Certificate is to be issued by the Principal Certifier unless a Site Audit Statement has been submitted to and approved by Council in accordance with this condition.

(47) ACID SULFATE SOILS MANAGEMENT PLAN

(a) An Acid Sulfate Soils Management Plan (ASSMP) must be prepared in accordance with the NSW Acid Sulfate Soils Management Advisory Committee, Acid Sulfate Soils Assessment Guidelines 1998 for development to be carried out on land classified as being in an Acid Sulfate Soils zone class 3.

(b) The ASSMP is to be submitted to and approved by Council's Area Planning Manager prior to the commencement of any below ground works.

(c) The ASSMP must be prepared by a person or company who is qualified and has the relevant geotechnical expertise in relation to the assessment and remediation of Acid Sulfate Soil risks.

(d) All recommendations contained in the ASSMP approved in accordance with this condition are to be implemented in the development.

(48) STOCKPILES

(a) No stockpiles of soil or other materials shall be placed on footpaths or nature strips unless prior approval has been obtained from the City's Construction Regulation Unit.

(b) All stockpiles of soil or other materials shall be placed away from drainage lines, gutters or stormwater pits or inlets.

(c) All stockpiles of soil or other materials likely to generate dust or odours shall be covered.

(d) All stockpiles of contaminated soil shall be stored in a secure area and be covered if remaining more than 24 hours

(49) CAR PARK VENTILATION

The car park must be ventilated in accordance with the *Building Code of Australia* and, where necessary, Australian Standard AS1668, Parts 1 and 2. Ventilation must be controlled by carbon monoxide monitoring sensors to ensure compliance with occupant health requirements.

(50) MECHANICAL VENTILATION

(a) The premises must be ventilated in accordance with the *Building Code of Australia* and *AS1668.1 and 2 - 2012. The Use of Ventilation and Air-Conditioning in Buildings - Mechanical Ventilation in Buildings.*

(b) Details of any mechanical ventilation and/or air conditioning system complying with *AS1668.1 and 2 – 2012 The Use of Ventilation and Air-Conditioning in Buildings - Mechanical Ventilation in Buildings*, the *Building Code of Australia* and relevant Australian Standards must be prepared by a suitably qualified person and certified in accordance with Clause A2.2 (a) (iii) of the *Building Code of Australia*, to the satisfaction of the Principal Certifier prior to the issue of a Construction Certificate.

(c) Prior to issue of an Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2 (a) (iii) of the *Building Code of Australia*, must be submitted to the Principal Certifier.

(51) FUTURE FOOD USE - MECHANICAL VENTILATION PROVISION

Prior to the issue of a Construction Certificate, the mechanical exhaust systems and/or shafts must be designed to allow for the discharge of effluent air above roof level and must be designed with capacity to accommodate exhaust ducts and mechanical ventilation systems for all commercial tenancies proposed with the potential to become a food premises in future. Systems must be designed in accordance with *AS1668.2 – The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings,* and *AS1668.1 – The Use of Mechanical Ventilation and Air-Conditioning in Buildings – Fire and Smoke Control in Multi-compartment Buildings.*

(52) PHOTOGRAPHIC ARCHIVAL DOCUMENTATION (MINOR WORKS)

Prior to a Construction Certificate being issued, an archival photographic recording of the warehouse building fronting Birmingham Street is to be prepared to Council's satisfaction. The recording is to be in digital form, or a combination of both, prepared in accordance with the NSW Heritage Division of the Department of Environment and Heritage guidelines titled ''Photographic Recording of Heritage Items using Film or Digital Capture''. One copy of the record is to be submitted to Council to be lodged with Council's Archives.

The form of the recording is to be as follows:

(a) The Development Application number must be noted on the submitted information.

(b) Include a summary report detailing the project description, date and authorship of the photographic record, method of documentation and limitations of the photographic record.

(c) Include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive licence to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

(d) The report is to be submitted on a USB, CD or DVD, in PDF/A format, (created directly from the digital original), with the digital catalogue of images containing the following data for each: DOS title, image subject/description and data photograph was taken.

(e) The electronic images are to be taken with a minimum 8 megapixel camera, saved as JPEG TIFF or PDF files with a size of approximately 4-6MB, and cross referenced to the digital catalogue sheets and base plans. Choose only images that are necessary to document the process, and avoid duplicate images.

(53) SITE WIDE LANDSCAPE MANAGEMENT

A site wide management plan for the landscape including, but not limited to, public and private areas (facades and balconies), communal open spaces at ground and rooftops areas must be submitted to and approved by Council's Area Planning Manager prior to issue of any Occupation Certificate. The plan is to demonstrate who is responsible for and how the landscape features will be installed, cost and responsibility of ongoing maintenance of the landscaping.

(54) LANDSCAPE AT GROUND LEVEL (LEVEL 1)

(a) The landscape package, revision C, prepared by Sydney Design Collective dated September 2019 is not approved. A detailed landscape design including plans and details drawn to scale, and technical specification, by a registered landscape architect or AILDM qualified landscape designer, must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate. These documents must include:

(i) Location of existing and proposed planting on the site including existing and proposed trees, and planting in natural ground, on structure and in pots.

(ii) Location and details of existing and proposed structures on the site including, but not limited to, fences and details of how residential outdoor space is to be separated from commercial outdoor space, paved areas, timber decks, walls, services, furniture, water features, privacy screens, shade structures, lighting and other features

(iv) Details of earthworks and soil depths including finished levels and any mounding. The minimum soil depths for planting on slab must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers, excluding mulch and drainage layers.

(v) Planting details, and location, numbers, type and supply size of plant species, with reference to Australian Standards and preference for drought resistant species that contribute to habitat creation and biodiversity.

(vi) Landscape maintenance plan. This plan is to be complied with during occupation of the property.

(vii) Details of drainage, waterproofing and watering systems.

(b) All landscaping in the approved plan is to be complete prior to an Occupation Certificate being issued.

(55) INACCESSIBLE GREEN ROOFS (BOTANY TOWER ROOFTOP AND LEVEL 2 AWNING)

(a) The landscape package, revision C, prepared by Sydney Design Collective dated September 2019 is not approved. A detailed green roof design including plans and details drawn to scale, and technical specification, by a registered landscape architect or AILDM qualified landscape designer, must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate. These documents must include:

(i) Location and details of existing and proposed services, walls, fixings and other structural elements that may interrupt waterproofing, including cross-sectional details of all components.

(ii) Engineers report confirming structural capacity of building for proposed green roof loads.

(iii) Details of soil types and depth including any mounding.

(iv) Details of drainage and irrigation systems, including overflow provisions and water retention cells in the drainage layer.

(v) Planting details, and location, numbers, type and supply size of plant species, with reference to Australian Standards and preference for drought resistant species that contribute to habitat creation and biodiversity.

(vi) Green roof maintenance plan. This plan is to be complied with during occupation of the property.

(vii) Maintenance methodology for safe working at height including access requirements, location of any anchor points, gates, and transport of materials such as green waste removal.

(viii) A plan outlining the intended strategy for decommissioning if planting works fail. This is to ensure green roof maintained is throughout its life.

(b) Prior to the issue of a Construction Certificate, structural and waterproofing certifications for the green roof are to be submitted to and approved by the Principal Certifying Authority.

(c) All landscaping in the approved plan must be complete prior to the issue of an Occupation Certificate.

(d) Inaccessible green roofs must remain inaccessible for the lifetime of the property.

(56) ACCESSIBLE GREEN ROOFS (BIRMINGHAM STREET BUILDING)

(a) The landscape package, revision C, prepared by Sydney Design Collective dated September 2019 is not approved. A detailed green roof design including plans and details drawn to scale, and technical specification, by a registered landscape architect or AILDM qualified landscape designer, must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate. These documents must include:

(i) A statement that includes details of proposed use of the green roof, roof terrace, accessibility, and any noise and privacy treatments.

(ii) Location and details of existing and proposed services, walls, balustrades, hard surfaces, furniture, screens and shade structures, fixings and other structural elements that may interrupt waterproofing, including cross-sectional details of all components.

(iii) Engineers report confirming structural capacity of building for proposed roof terrace loads.

(iv) Wind study (if applicable) confirming suitability of the roof for intended use.

(v) Details of soil types and depth including any mounding.

(vi) Details of drainage and irrigation systems, including overflow provisions and water retention cells in the drainage layer.

(vii) Planting details, and location, numbers, type and supply size of plant species, with reference to Australian Standards and preference for drought resistant species that contribute to habitat creation and biodiversity.

(viii) Green roof maintenance plan. This plan is to be complied with during occupation of the property.

(ix) Maintenance methodology for safe working at height including access requirements, location of any anchor points, gates, and transport of materials such as green waste removal.

(b) Prior to the issue of a Construction Certificate, structural and waterproofing certifications for the green roof are to be submitted to and approved by the Principal Certifying Authority.

(c) All landscaping in the approved plan must be complete prior to the issue of an Occupation Certificate.

(d) Inaccessible green roofs must remain inaccessible for the lifetime of the property.

(57) GREEN WALLS (FACADE PLANTERS)

The design of the green wall and façade planters must demonstrate the response to site conditions, including in particular light availability, sun and wind impacts. The following information must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate:

(a) A detailed green wall design including plans and details drawn to scale, and technical specification, by a registered landscape architect or AILDM qualified landscape designer. These documents must include:

(i) Detailed drawings demonstrating how the green wall and facade planter is constructed, including proposed materials, planter dimensions, fixings and structures;

(ii) Details of the proposed growing medium, including soil depth and type;

(iii) Location, numbers, type and size of plant species selected on the basis of the site conditions, and species that contribute to habitat and biodiversity;

(iv) Rainwater harvesting, drainage, irrigation and waterproofing details;

(v) Details of any additional lighting (where applicable).

(vi) Details of ongoing maintenance, including methodology for safe working at height, access requirements, location of any anchor points, gates, and transport of materials such as green waste removal, and a detailed planting maintenance schedule.

(vii) A plan outlining the intended strategy for decommissioning if planting works fail. This is to ensure green wall is maintained is throughout its life.

(58) DEDICATION FOR FOOTPATH WIDENING

Prior to the issue of any Interim or Final Occupation Certificate for the development, the owner of the site must dedicate, for road purposes, free of cost to Council, a 1.4 metre widening along the site frontage to Botany Road.

(59) SEWER MAIN

Prior to the issue of a Construction Certificate, the position and level of the Sydney Water sewer main bisecting the site shall be determined by a registered surveyor, and provided to the project architect, who must provide certification to the Principal Certifier that no design changes will be required to the basement, working on the assumption that Sydney Water will require the sewer main to be concrete encased.

If any changes are required to the level or configuration of the basement, the survey plan and modifications are to be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate.

(60) SUBDIVISION PLAN

(a) **Prior to the issue of any approval for demolition or Construction Certificate**, the initial boundary definition survey work necessary for the preparation of a subdivision plan to dedicate the road widening and consolidate the site shall be carried out by a surveyor registered under the Surveying and Spatial Information Act, 2002. The registered surveyor shall provide a letter to the Principal Certifier, certifying that the initial survey work and calculations to define the subject boundaries has been completed, prior to the issue of the Construction Certificate. (b) A plan or CAD file showing the redefined boundaries shall be provided to the project architect, who shall certify in writing that the proposed building as designed will fit within the redefined boundaries, without causing any encroachment. This written confirmation shall be provided to the Principal Certifier **prior to the issue of a Construction Certificate.** It is recommended that the side walls of the building are set back at least 0.02 metres from each side boundary to allow for construction tolerances and avoid encroachment. (c) **Prior to the issue of any Interim or Final Occupation Certificate,** the subdivision plan shall be completed and lodged with the office of NSW Land Registry Services, showing the new building, and creating any other easements as necessary. Evidence of lodgment of the subdivision plan shall be supplied to the Principal Certifier prior to the issue of the Occupation Certificate.

(61) SURVEY

(a) Prior to foundation stage - All footings and walls adjacent to a boundary or setback line must be set out by a surveyor registered under the Surveying & Spatial Information Act, 2002, and provided to the Principal Certifier. All piers and below-ground footings must be contained wholly within the boundaries of the site.

(b) Prior to the concrete pour of the main slab at each level, a survey shall be made by a surveyor registered under the Surveying & Spatial Information Act, 2002, confirming that the formwork adjacent to existing or proposed boundaries is clear of those existing or proposed boundaries. This survey shall be provided to the Principal Certifier prior to the concrete pour. The concrete pour must not take place until the Principal Certifier receives a survey proving that the formwork has been constructed within the boundaries of the site.

(c) At completion – **Prior to the issue of any Interim or Final Occupation Certificate** - A Final Identification Survey prepared and signed by a Surveyor registered under the Surveying & Spatial Information Act, 2002 must be submitted at the completion of the building work certifying the location of the building in relation to the boundaries of the allotment. Any encroachments of the building over the side boundaries must be removed, or alternatively appropriate easements under Section 88B of the Conveyancing Act, 1919, with terms to the satisfaction of Council, must be lodged with NSW Land Registry Services and evidence of lodgment provided to the Principal Certifier prior to the issue of any Interim or Final Occupation Certificate.

(62) SUBDIVISION CERTIFICATE

Separate application is to be made to Council to obtain the approval of the final Plan of Subdivision and issue of the Subdivision Certificate under Part 4A of the *Environmental Planning and Assessment Act 1979* for the subdivision referred to in the SUBDIVISION PLAN condition above.

(63) COMPLETION OF PUBLIC DOMAIN WORKS

Prior to the issue of the Subdivision Certificate for the subdivision, the public domain works associated with the subdivision works are to be completed in accordance with the requirements of and to the satisfaction of Council.

(64) STRATA SUBDIVISION

Any proposal to Strata subdivide the building will require a separate application to obtain approval of the final Strata Plan and issue of the Strata Certificate by Council or an accredited Strata Certifier.

(65) APPLICATION FOR HOARDINGS AND SCAFFOLDING INSTALLED ON OR ABOVE A PUBLIC ROAD AND OPERATING HOISTING DEVICES INCLUDING BUILDING MAINTENANCE UNITS OVER A PUBLIC ROAD

(a) A separate application under Section 68 of the *Local Government Act 1993* and Section 138 of the *Roads Act 1993* is to be made to Council to erect a

hoarding and/or scaffolding (temporary structures) on or above a public road (footway and/or roadway).

(b) Where an approval (Permit) is granted allowing the placement of temporary structures on or above a public road the structures must comply fully with Council's *Hoarding and Scaffolding Policy; Guidelines for Hoardings and Scaffolding;* and the conditions of approval (Permit) granted including:

(i) maintaining a current and valid approval for the full duration that the temporary structure/s is in place;

(ii) maintaining temporary structure/s in a structurally sound and stable condition for the full duration of installation (Clause 2.11.1);

(iii) bill posters and graffiti being removed within 24 hours of their placement (Clause 2.11.2);

(iv) maintaining temporary structures and the public place adjoining the work site in a clean and tidy condition including repainting and/or repair of graphics (Clauses 2.11.1, 2.11.4, 2.14.1 and 3.9.3);

(v) maintaining a watertight deck (Type B hoardings) to prevent liquids including rainwater, falling onto the footway/roadway surfaces (Clauses 3.9.1 and 3.9.4);

(vi) approved site sheds on the decks of a Type B hoarding being fully screened from the public place (Clause 3.9.5);

(vii) material and equipment not being placed or stored on the deck of Type B hoardings, unless specifically approved by Council (Clause 3.9.4);

(viii) providing and maintaining operational artificial lighting systems under Type B hoardings including at high-bay truck entry points (Clause 3.9.9); and

(ix) ensuring all required signage is provided and maintained (Clauses 3.9.3, 3.9.6, 3.9.8, 3.10.1 and 4.2).

If it is proposed to operate a hoisting device including a building maintenance unit above a public road which swings, hoists material/equipment and/or slews any part of the device over the public road, a separate application under Section 68 of the *Local Government Act 1993* and Section 138 of the *Roads Act 1993* must be made to Council to obtain approval.

Note: 'Building maintenance unit' means a power-operated suspended platform and associated equipment on a building specifically designed to provide permanent access to the faces of the building for maintenance (*Work Health and Safety Regulation 2011*).

(66) WORKS REQUIRING USE OF A PUBLIC PLACE

Where construction/building works require the use of a public place including a road or footpath, approval under Section 138 of the *Roads Act 1993* is to be obtained from Council prior to the commencement of work. Details of any

barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

(67) LAND SUBDIVISION – SUBDIVISION CERTIFICATE

A separate application must be made to Council to obtain the approval of the plan of subdivision and issue of a Subdivision Certificate under Section 6.15 of the *Environmental Planning and Assessment Act 1979*.

(68) ALIGNMENT LEVELS – MAJOR DEVELOPMENT

(a) Proposed building floor levels, basement levels, basement car park entry levels and ground levels shown on the approved Development Application plans are indicative only and have not been approved by this consent.

(b) Prior to a Construction Certificate being issued for any excavation, civil construction, drainage or building work (whichever is earlier), excluding approved preparatory or demolition work, alignment levels for the building and site frontages must be submitted to and approved by Council. The submission must be prepared by a Registered Surveyor and designed by a suitably qualified engineer, must be in accordance with the City of Sydney's *Public Domain Manual* and must be submitted with a completed and Levels and Gradients Approval Application form (available on the City's website).

(c) These alignment levels, as approved by Council, are to be incorporated into the plans submitted with the application for a Construction Certificate for any civil, drainage and public domain work as applicable under this consent. If the proposed detailed design of the public domain requires changes to any previously approved Alignment Levels, then an amended Alignment Levels submission must be submitted to and approved by Council to reflect these changes prior to a Construction Certificate being issued for public domain work.

(69) PUBLIC DOMAIN PLAN

(a) A detailed Public Domain Plan must be prepared by a suitably qualified architect, urban designer, landscape architect or engineer and must be lodged with Council's Public Domain Section and be approved by Council prior to a Construction Certificate being issued for public domain work or above ground building work, whichever is later.

(b) The Public Domain Plan must document all works required to ensure that the public domain complies with the City of Sydney's *Public Domain Manual*, *Sydney Streets Code* and *Sydney Streets Technical Specification*, including requirements for road pavement, traffic measures, footway pavement, kerb and gutter, drainage, vehicle crossovers, pedestrian ramps, lighting, street trees and landscaping, signage and other public domain elements. If an Alignment Levels condition applies to the development, the Public Domain Plan submission must incorporate the approved Alignment Levels. If the proposed detailed design of the public domain requires changes to any previously approved Alignment Levels, then an amended Alignment Levels submission must be submitted to and approved by Council to reflect these changes prior to a Construction Certificate being issued for public domain work.

(c) The works to the public domain are to be completed in accordance with the approved Public Domain Plan and Alignment Levels plans and the *Public Domain Manual* before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.

(d) A Public Domain Works Deposit will be required for the public domain works, in accordance with the City of Sydney's adopted fees and charges and the *Public Domain Manual*. The Public Domain Works Deposit must be submitted as an unconditional bank guarantee in favour of Council as security for completion of the obligations under this consent.

(e) Council's Public Domain section must be contacted to determine the guarantee amount prior to lodgement of the guarantee. The guarantee must be lodged with Council prior to a Construction Certificate being issued.

(f) The Bank Guarantee will be retained in full until all Public Domain works are completed and the required certifications, warranties and works-as-executed documentation are submitted and approved by Council in writing. On satisfying the above requirements, 90% of the total securities will be released. The remaining 10% will be retained for the duration of the specified Defects Liability Period.

(70) STORMWATER AND DRAINAGE - MAJOR DEVELOPMENT

(a) Prior to an approval or Construction Certificate being issued for excavation, civil construction, drainage or building work (whichever is earlier), excluding approved preparatory or demolition work a detailed drainage engineering design, calculations and design for the stormwater overland flow path for the development must be:

(i) prepared by a suitably qualified hydraulic or civil engineer to show the proposed method of collection and disposal of stormwater; and

(ii) prepared in accordance with the City of Sydney's *Stormwater Drainage Manual*, technical specifications, standards and policies, as amended from time to time; and

(iii) submitted to and be approved by the City of Sydney and a copy of the City's letter of approval must be provided to the Principal Certifying Authority.

(b) For approval of a connection into the City of Sydney's drainage system an "Application for Approval of Stormwater Drainage Connections" must be submitted to the City, together with an application fee in accordance with the City of Sydney's adopted Schedule of Fees and Charges.

(i) The application must be approved by the City of Sydney prior to an approval or Construction Certificate being issued for excavation, civil construction, drainage or building work (whichever is earlier), excluding approved preparatory or demolition work.

(ii) All proposed connections to the City's underground drainage system require the owner to enter into a Deed of Agreement with the City of Sydney and obtain registration on Title of a Positive Covenant prior to

an Occupation Certificate being issued, including an Interim Occupation Certificate.

On-site Detention

(c) The requirements of Sydney Water with regard to the on-site detention of stormwater must be ascertained and complied with.

(i) Evidence of the approval by Sydney Water of the detailed design of the on-site detention must be submitted to and be accepted by the City of Sydney and a copy of the City's letter of acceptance must be provided to the Principal Certifying Authority prior to a Construction Certificate being issued, excluding for any approved preparatory, demolition or excavation works.

(ii) Prior to the issue of an Occupation Certificate, including an Interim Occupation Certificate, a Positive Covenant must be registered on the property title for all drainage systems involving On-Site Detention (OSD) to ensure maintenance of the approved OSD system regardless of the method of connection.

Stormwater Quality Assessment

(d) Prior to a Construction Certificate being issued for any excavation, civil construction, drainage or building work (whichever is earlier), but excluding approved preparatory or demolition work, a stormwater quality assessment must be undertaken and must be approved by City of Sydney and a copy of the City's letter of approval must be provided to the Principal Certifying Authority.

The stormwater quality assessment must:

(i) be prepared by a suitably qualified hydraulic engineer with experience in Water Sensitive Urban Design;

(ii) Use modelling from an industry-standard water quality model (e.g. MUSIC Model or equivalent); and

(iii) Demonstrate through reports, design plans and calculations, what water sensitive urban design and other drainage measures will be used to ensure that the development will achieve the following post-development pollutant loads:

a. reduce the baseline annual pollutant load for litter and vegetation larger than 5mm by 90%;

b. reduce the baseline annual pollutant load for total suspended solids by 85%;

c. reduce the baseline annual pollutant load for total phosphorous by 65%;

d. reduce the baseline annual pollutant load for total nitrogen by 45%.

(iv) Include certification from a suitably qualified practicing professional that the requirements of parts d) (I), (ii) and (iii) of this condition have been met.

(e) Prior to the issue of an Occupation Certificate, maintenance schedules of the proposed water sensitive urban design and drainage measures must be submitted to and be approved by the Principal Certifying Authority and a copy provided to the City of Sydney.

Completion / Works-as-Executed Documentation

(f) Prior to a Certificate of Completion being issued by the City of Sydney for stormwater drainage works:

(i) All works for the disposal of stormwater and drainage are to be implemented in accordance with the approved plans, City of Sydney technical specifications. Standards and policies, approval letters and the requirements of this consent.

(ii) A Works-As-Executed survey, prepared, signed and dated by a Registered Surveyor, must be submitted to and be accepted by the City of Sydney. The plan must be overlaid on a copy of the approved stormwater drainage plans issued with the Construction Certificate, with variations to locations, dimensions, levels and storage volumes clearly marked.

(iii) Electronic works-as-executed (as-built) details, certifications, warranties, inspection reports (including Closed Circuit Television reports) and associated documentation for the completed work must be prepared and certified by a suitably qualified hydraulic engineer, in accordance with the requirements of the City of Sydney's technical specifications, the *Public Domain Manual*, the *Stormwater Drainage Manual*, the conditions of this consent and all letters of approval issued by the City of Sydney for works in the public domain, and must be submitted to and be accepted by the City of Sydney.

(g) Prior to the issue of the first Occupation Certificate, including an Interim Occupation Certificate, or before the use commences (whichever is earlier):

(i) A copy of the City's Certificate of Completion for all stormwater and drainage work undertaken in the public domain must be provided to the Principal Certifying Authority;

(ii) A Works-As-Executed survey, must be prepared, signed, dated and certified by a Registered Surveyor and must be submitted to and be accepted by the Principal Certifying Authority. The Works-as-Executed plan must be overlaid on a copy of the approved stormwater drainage plans issued with the Construction Certificate, with variations to locations, dimensions, levels and storage volumes clearly marked;

(iii) a Hydraulic Compliance Certificate and Calculation Sheet must be prepared by a suitably qualified hydraulic engineer (minimum NER), showing approved versus installed hydraulic calculations, and must be submitted to and be accepted by the Principal Certifying Authority;

(iv) evidence of Sydney Water's acceptance of the Works-As-Executed documentation, certification and Hydraulic Compliance Certificate and Calculation Sheet must be provided to the Principal Certifying Authority;

(v) The Principal Certifying Authority must submit a copy of the Works-As-Executed plans, certifications, Hydraulic Compliance Certificate and Calculation Sheet to the City of Sydney.

(71) PHOTOGRAPHIC RECORD / DILAPIDATION REPORT - PUBLIC DOMAIN

Prior to an approval for demolition being granted or a Construction Certificate being issued, whichever is earlier, a photographic recording of the public domain site frontages is to be prepared and submitted to Council's satisfaction.

The recording must include clear images of the building facade adjoining the footpath, the footpath, nature strip, kerb and gutter, driveway crossovers and laybacks, kerb ramps, road carriageway, street trees and plantings, parking restriction and traffic signs, and all other existing infrastructure along the street.

The form of the recording is to be as follows:-

(a) A PDF format report containing all images at a scale that clearly demonstrates the existing site conditions;

(b) Each image is to be labelled to identify the elements depicted, the direction that the image is viewed towards, and include the name of the relevant street frontage;

(c) Each image is to be numbered and cross referenced to a site location plan;

(d) A summary report, prepared by a suitable qualified professional, must be submitted in conjunction with the images detailing the project description, identifying any apparent existing defects, detailing the date and authorship of the photographic record, the method of documentation and limitations of the photographic record;

(e) Include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive license to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

Any damage to the public way including trees, footpaths, kerbs, gutters, road carriageway and the like must immediately be made safe and functional by the applicant. Damage must be fully rectified by the applicant in accordance with the City's standards prior to a Certificate of Completion being issued for Public Domain Works or before an Occupation Certificate is issued for the development, whichever is earlier.

(72) PRESERVATION OF SURVEY MARKS

All works in City streets must ensure the preservation of existing permanent survey marks (a brass bolt, or a lead plug holding a brass tack, covered by a cast iron

box). At least forty-eight hours prior to the commencement of any works in the public way within 1 metre of a permanent survey mark contact must be made with the City's Project Manager Survey / Design Services to arrange for the recovery of the mark.

Prior to the issue of a Construction Certificate, a survey plan, clearly showing the location of all permanent survey marks fronting the site and within 5 metres on each side of the frontages must be submitted to Council.

At least forty-eight hours prior to the commencement of any works in the public way within 1 metre of a permanent survey mark contact must be made with the City's Senior Surveyor to arrange for the recovery of the mark.

A fee must be paid to the Council for the replacement of any permanent survey mark removed or damaged in accordance with the City's Schedule of Fees and Charges (Reinstatement of Survey Box).

(73) PROTECTION OF SURVEY INFRASTRUCTURE

Prior to the commencement of any work on site, a statement prepared by a Surveyor registered under the *Surveying and Spatial Information Act 2002* must be submitted to Council verifying that a survey has been carried out in accordance with the Surveyor General's Direction No. 11 – Reservation of Survey Infrastructure. Any Permanent Marks proposed to be or have been destroyed must be replaced, and a "Plan of Survey Information" must be lodged at the NSW Land Registry Services.

Reason: To ensure that the survey control infrastructure and cadastral framework are preserved for the public benefit and in accordance with the *Surveying and Spatial Information Act 2002*.

(74) DEFECTS LIABILITY PERIOD – PUBLIC DOMAIN WORKS

All works to the City's public domain, including rectification of identified defects, are subject to a 12 month defects liability period from the date of final completion. The date of final completion will be nominated by Council on the Certificate of Completion for public domain works.

(75) LEVELS FOR FLOOD PROTECTION

The level difference between ground floor building levels and the adjacent public footpath shall not exceed 1200mm. Detailed plans demonstrating compliance with this requirement must be submitted to and approved by Council as part of the Alignment Levels application prior to the issue of a Construction Certificate for any excavation, construction work or building work (whichever is earlier), excluding any approved preparatory or demolition work.

The following performance criteria shall apply to the design of buildings and structures on the site:

(a) All proposed ground floor levels within the site shall be set at or above the 1% AEP flood levels being – 10.4m AHD on Birmingham Street frontage and 11.5m AHD on Botany Road frontage.

(b) The proposed access ramp to the basement carpark from Birmingham Street is to have crest level set at or above 500mm + the 1% AEP flood level being – 10.9m AHD

(c) The residential lobby lift and stairwell access to the basement from Botany Road is to be at or above 500mm + the 1% AEP flood level being 12.0m AHD

Certification, stating that these levels have been achieved, by a Civil Engineer shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

(76) PUBLIC DOMAIN DAMAGE DEPOSIT

A Public Domain Damage Deposit calculated on the basis of 8 lineal metres of concrete site frontage must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The Public Domain Damage Deposit must be submitted as an unconditional bank guarantee in favour of Council as security for repairing any damage to the public domain in the vicinity of the site.

The guarantee must be lodged with Council prior to an approval for demolition being granted or a Construction Certificate being issued, whichever is earlier.

The Bank Guarantee will be retained in full until the final Occupation Certificate has been issued and any rectification works to the footway and Public Domain are completed to Council's satisfaction. On satisfying the above requirements 90% of the total securities will be released, with the remaining 10% to be retained for the duration of the 12 months Defect Liability Period.

(77) PUBLIC DOMAIN LIGHTING

(a) Prior to a Construction Certificate for public domain works or above ground building works being issued, whichever is later, a detailed Public Domain Lighting Plan for pedestrian and street lighting in the public domain must be prepared by a suitably qualified, practicing lighting engineer or lighting designer and must be submitted to and approved by Council. The Lighting Plan must be prepared in accordance with the City of Sydney's Interim Draft Sydney Lights Design Code, Sydney Streets Design Code, *Sydney Streets Technical Specification* and *Public Domain Manual* and must include the following:

(I) Vertical and horizontal illuminance plots for the public domain lighting design to demonstrate compliance with all relevant Australian Standards and to meet the lighting categories and requirements specified by the City;

(ii) The location, type and category of existing and proposed lights, including details of luminaire specifications, required to ensure compliance with City policies and Australian Standards;

(iii) Footing locations and structural details;

(iv) Location and details of underground electrical reticulation, connections and conduits;

(v) Certification by a suitably qualified, practicing lighting engineer or lighting designer to certify that the design complies with City policies and all relevant Australian Standards including AS 1158, AS 3000 and AS4282;

(vi) Structural certification for footing designs by a suitably qualified, practicing engineer to certify that the design complies with City of Sydney policies and Australian Standards.

(b) The public domain lighting works are to be completed in accordance with the approved plans and the City of Sydney's *Public Domain Manual* before any Occupation Certificate is issued in respect of the development or before the use commences, whichever is earlier.

(78) LAND DEDICATION - NO ENVIRONMENTAL MANAGEMENT PLAN

Any land that is to be dedicated to the City as part of the associated Voluntary Planning Agreement must not be encumbered by an Environmental Management Plan or Long Term Environmental Management Plan.

(79) TREE PRUNING

(a) A 'Pruning Specification Report' prepared by a qualified Arborist (minimum AQF Level 5) must be submitted to and approved by Council's Area Planning Manager prior to the issuing of the Construction Certificate. The report must include:

(i) Number of branches and orientation, branch diameter, percentage of canopy to be pruned/removed.

(ii) Photos with individual branches which are recommended for pruning/removal to be clearly marked. (Please note reports which include photos with a single vertical line as the area recommended for pruning will not be accepted).

(iii) A maximum of 5% canopy removal and maximum of 100mm diameter branches will be permitted by Council.

(iv) Pruning work must be specified in accordance with *Australian* Standard *4373–2007, Pruning of Amenity Trees*.

(v) Tree removal must not be recommended in this report.

(b) All approved tree pruning works must be carried out by a qualified Arborist, with a minimum Level 3 AQF in arboriculture and in accordance with WorkCover's Code of Practice – Amenity Tree Industry.

(c) Any pruning works carried out under this consent must not result in the death of the tree, the creation of a hazard or in excessive or inappropriate amounts of pruning, which result in the overall shape of the tree becoming unbalanced and/or unstable.

(d) The consent from Council's Tree Management Officer must be obtained prior to the undertaking of any additional tree pruning works or pruning of any tree roots greater than 30mm in diameter.

(80) STREET TREE PROTECTION

All street trees directly outside the site must be retained and protected in accordance with the Australian Standard 4970 Protection of Trees on Development Sites. All street trees must be protected during the construction works as follows:

(a) Tree trunk and major limb protection must be undertaken prior to the commencement of any works. The protection must be installed by a qualified Arborist (AQF level 3) and must include:

(i) An adequate clearance, minimum 250mm, must be provided between the structure and tree branches, limbs and trunks at all times;

(ii) Tree trunk/s and/or major branches, must be protected by wrapped hessian or similar material to limit damage, and

(iii) Timber planks (50mm x 100mm or similar) must be placed around tree trunk/s. The timber planks must be spaced at 100mm intervals, and must be fixed against the trunk with tie wire, or strapping. The hessian and timber planks must not be fixed to the tree in any instance, or in any fashion,

(iv) Tree trunk and major branch protection is to remain in place for the duration of construction and development works, and must be removed at the completion of the project.

(b) All hoarding support columns are to be placed a minimum of 300mm from the edge of the existing tree pits/setts, so that no sinking or damage occurs to the existing tree setts. Supporting columns must not be placed on any tree roots that are exposed.

(c) Temporary signs, or any other items, shall not be fixed or attached to any street tree.

(d) Materials or goods, including site sheds, must not be stored or placed:

(i) around or under the tree canopy; or

(ii) within two (2) metres of tree trunks or branches of any street trees.

(e) Any excavation within in any area known to, or suspected of having street tree roots greater than 40mm diameter must be undertaken by hand.

(f) Any trenching works for services / hydraulics / drainage etc must not be undertaken within 3 metres of any street tree. Alternative installation methods for services, such as directional boring/drilling, or redirection of services shall be employed where large woody roots greater than 40mm diameter are encountered during the installation of any services.

(g) Any damage sustained to street tree/s as a result of construction activities (including demolition) must be immediately reported to the Council's Street Tree Contract Coordinator on 9265 9333. Any damage to street trees as a result of construction activities may result in a prosecution under the Local

Government Act 1993 and/or the Environmental Planning and Assessment Act 1979.

(81) PRIVATE TREE SPATIAL CONFLICT

A separate permit to prune any trees or roots of trees located within adjacent private properties, including trees within the property at 662-674 Botany Road, must be obtained from Council prior to any works being undertaken.

(82) ELECTRICITY SUBSTATION

If required by the applicable energy supplier, the owner must dedicate to the applicable energy supplier, free of cost, an area of land within the development site, but not in any landscaped area or in any area visible from the public domain, to enable an electricity substation to be installed. The size and location of the substation is to be submitted for approval of Council and Ausgrid, prior to a Construction Certificate being issued or the commencement of the use, whichever is earlier.

(83) SYDNEY WATER CERTIFICATE (TAP-IN)

(a) The approved plans must be submitted to Sydney Water's "Tap-in" online service to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Sydney Water's "Tap-in" online service is available at www.sydneywater.com.au, (see Plumbing, Building & Development and then Sydney Water "Tap-in").

(b) The Consent Authority or a Principal Certifier must ensure that Sydney Water has appropriately stamped the plans before the commencement of work.

(84) TELECOMMUNICATIONS PROVISIONS

(a) Appropriate space and access for ducting and cabling is to be provided within the plant area and to each apartment within the building within for a minimum of three telecommunication carriers or other providers of broad-band access by ground or satellite delivery. The details must be submitted for the approval of the Principal Certifier prior to a Construction Certificate being issued.

(b) A separate DA must be submitted prior to the installation of any external telecommunication apparatus, or the like.

(85) UTILITY SERVICES

To ensure that utility authorities are advised of the development:

(a) Prior to the issue of a Construction Certificate a survey is to be carried out of all utility services within and adjacent to the site including relevant information from utility authorities and excavation if necessary, to determine the position and level of services.

(b) Prior to the commencement of work the applicant is to obtain written approval from the utility authorities (e.g. Energy Australia, Sydney Water,

and Telecommunications Carriers) in connection with the relocation and/or adjustment of the services affected by the construction of the underground structure. Any costs in the relocation, adjustment or support of services are to be the responsibility of the developer.

(86) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL

(a) The Waste and Recycling Management Plan accompanying this Development Application has not been approved by this consent.

(b) A Waste and Recycling Management Plan is to be approved by the Principal Certifier prior to a Construction Certificate being issued. The plan must comply with the Council's *Guidelines for Waste Management in New Developments 2018*. All requirements of the approved Building Waste and Recycling Management Plan must be implemented during construction of the development.

UPON COMPLETION OF THE DEVELOPMENT

(c) Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifier must ensure that waste handling works have been completed in accordance with: the Waste and Recycling Management Plan; other relevant development consent conditions; and Council's *Guidelines for Waste Management in New Developments 2018*.

(87) WASTE AND RECYCLING MANAGEMENT - MINOR

The proposal must comply with the relevant provisions of Council's *Guidelines for Waste Management in New Developments 2018* which requires facilities to minimise and manage waste and recycling generated by the proposal.

(88) WASTE AND RECYCLING MANAGEMENT - RESIDENTIAL

(a) The Waste and Recycling Management Plan accompanying this Development Application has not been approved by this consent.

(b) A Waste and Recycling Management Plan is to be submitted to and approved by Council's Area Coordinator Planning Assessments prior to a Construction Certificate being issued. The plan must comply with the Council's *Guidelines for Waste Management in New Developments 2018*. All requirements of the approved Waste and Recycling Management Plan must be implemented during construction of the development.

(c) The building must incorporate designated areas or separate garbage rooms constructed in accordance with Council's *Guidelines for Waste Management in New Developments 2018*, to facilitate the separation of commercial waste and recycling from residential waste and recycling.

UPON COMPLETION OF THE DEVELOPMENT

(d) Prior to an Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifier must obtain Council's approval of the waste and recycling management facilities provided in the development and ensure arrangements are in place for domestic waste collection by Council.

SCHEDULE 1C

DURING CONSTRUCTION/PRIOR TO OCCUPATION/COMPLETION

(89) OCCUPATION CERTIFICATE TO BE SUBMITTED

An Occupation Certificate must be obtained from the Principal Certifier and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

(90) HOURS OF WORK AND NOISE – OUTSIDE CBD

The hours of construction and work on the development must be as follows:

(a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.

(b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.

(c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a permit being issued by Council under Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993.

Note: Works may be undertaken outside of hours, where it is required to avoid the loss of life, damage to property, to prevent environmental harm and/or to avoid structural damage to the building. Written approval must be given by the Construction Regulation Unit, prior to works proceeding

The *City of Sydney Code of Practice for Construction Hours/Noise 1992* allows extended working hours subject to the approval of an application in accordance with the Code and under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

(91) USE OF HIGH NOISE EMISSION APPLIANCES / PLANT

(a) The operation of high noise emission appliances, plant and/or machinery such as pile – drivers, rock breakers and hydraulic hammers and those which are not listed in Groups B, C, D, E or F of Schedule 1 of the *City of Sydney Code of Practice for Construction Hours/Noise 199*2 and Australian Standard 2436-2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites* is restricted to the hours of 9am to 12.30am and 2pm to 4.30pm Mondays to Fridays and 9am to 1pm Saturdays.

(b) All reasonable and feasible steps must be undertaken to ensure that the work, including demolition, excavation and building complies with the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436- 2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites*.

(92) ENCROACHMENTS – NEIGHBOURING PROPERTIES

No portion of the proposed structure shall encroach onto the adjoining properties.

(93) ENCROACHMENTS – PUBLIC WAY

No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach upon Council's footpath area.

(94) STREET NUMBERING – MAJOR DEVELOPMENT

Prior to an Occupation Certificate being issued, street numbers and the building name must be clearly displayed at either end of the ground level frontage in accordance with the *Policy on Numbering of Premises within the City of Sydney*. If new street numbers or a change to street numbers is required, a separate application must be made to Council.

(95) SYDNEY WATER CERTIFICATE

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section on the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to Council or the Principal Certifier prior to an Occupation Certificate or subdivision/strata certificate being issued.

(96) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

(a) All loading and unloading associated with construction activity must be accommodated on site, where possible.

(b) If, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.

(c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for

a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.

(d) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate approval under Section 68 of the Local Government Act 1993 must be obtained.

(97) NO OBSTRUCTION OF PUBLIC WAY

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by Council to stop all work on site.

(98) USE OF MOBILE CRANES

The following requirements apply:

(a) Mobile cranes operating from the road must not be used as a method of demolishing or constructing a building.

(b) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes, permits must be obtained from Council for the use of a mobile crane. The permits must be obtained 48 hours beforehand for partial road closures which, in the opinion of Council will create minimal traffic disruptions and 4 weeks beforehand in the case of full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.

(c) The use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes outside of approved hours of construction can occur, subject to a permit being issued by Council under Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993.

SCHEDULE 1D

RMS CONDITIONS

1. Roads and Maritime raises no objection on property grounds provided all buildings and structures (other than pedestrian footpath awnings), together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth), along the Botany Road boundary.

2. The existing timed parking "1P, 10am - 5:30pm, MON-FRI" along the entire frontage of 658 - 660 Botany Road is to be made "No Stopping" at the completion of the development. The developer is to contact Mohamed Tita, Senior Network and Safety officer to discuss the changing of the parking restrictions

3. A Construction Traffic Management detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.

4. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping.

5. A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Botany Road during construction activities.

6. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

7. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

   Details should be forwarded to: suppiah.thillai@rms.nsw.gov.au

   If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

8. Should the post development storm water discharge from the subject site into the Roads and Maritime system exceed the pre-development discharge, detailed design plans and hydraulic calculations of any changes are to be submitted to Roads and Maritime for approval, prior to the commencement of works on site.

   Details should be submitted to Suppiah Thillai: suppiah.thillai@rms.nsw.gov.au

   A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

9. All works/sign posting associated with the subject development (including public utility adjustment/relocation works) shall be at no cost to Roads and Maritime.

SCHEDULE 2

PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation 2000* apply:

Clause 98 Compliance with *Building Code of Australia* and insurance requirements under the *Home Building Act 1989*

Clause 98A Erection of signs

Clause 98B Notification of *Home Building Act 1989* requirements

Clause 98C Conditions relating to entertainment venues

Clause 98D Conditions relating to maximum capacity signage

Clause 98E Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the *Environmental Planning and Assessment Regulation 2000*. This can be accessed at: http://www.legislation.nsw.gov.au

SCHEDULE 3

TERMS OF APPROVAL

The Terms of Approval for Integrated Development as advised by *Water NSW* are as follows:

1. A Water Supply Work Approval from WaterNSW must be obtained prior to commencing dewatering activity on the proposed site. Please complete an Application for approval for water supply works, and/or water use.

2. An application for a Water Supply Works Approval will only be accepted upon receipt of supporting documentation, and payment of the applicable fee (see Application fees for New or amended Works and/or Use Approvals). The information required for the processing of the water supply work application may include preparation of a dewatering management plan. Please refer to checklist attached.

3. If approved, the Approval will be issued for a period of up to 24 months to cover the dewatering requirements during the construction phase. It will include conditions to ensure that impacts are acceptable and that adequate monitoring and reporting procedures are carried out. The Approval will be issued subject to the proponent meeting requirements of other agencies and consent authorities. For example, an authorisation by either Sydney Water or the local Council, depending where the water will be discharged. If contaminants are likely, or are found to be present in groundwater, and are being discharged to stormwater, Including high salinities, a discharge licence under the Protection of the Environment Operations Act 1997 (NSW) may also be required.

4. WaterNSW prefers "tanking" (ie. total water proofing below the seasonal high water table) of basement excavations, and avoids the ongoing extraction of groundwater after the Initial construction phase. It is also advised to adopt measures to facilitate movement of groundwater post construction (eg. a drainage blanket behind the water-proof membrane).

5. If the basement is not "tanked", the proponent will require a Water Access Licence (WAL) and need to acquire groundwater entitlements equivalent to the yearly ongoing take of groundwater. Please note: Acquiring groundwater entitlements could be difficult, and may cause delay in project completion. If a WAL Is required, please complete an Application for a new water access licence with a zero share component.

Attachment B

Selected Drawings



SITE PLAN
1:500 @ A3

0 5 10 15m

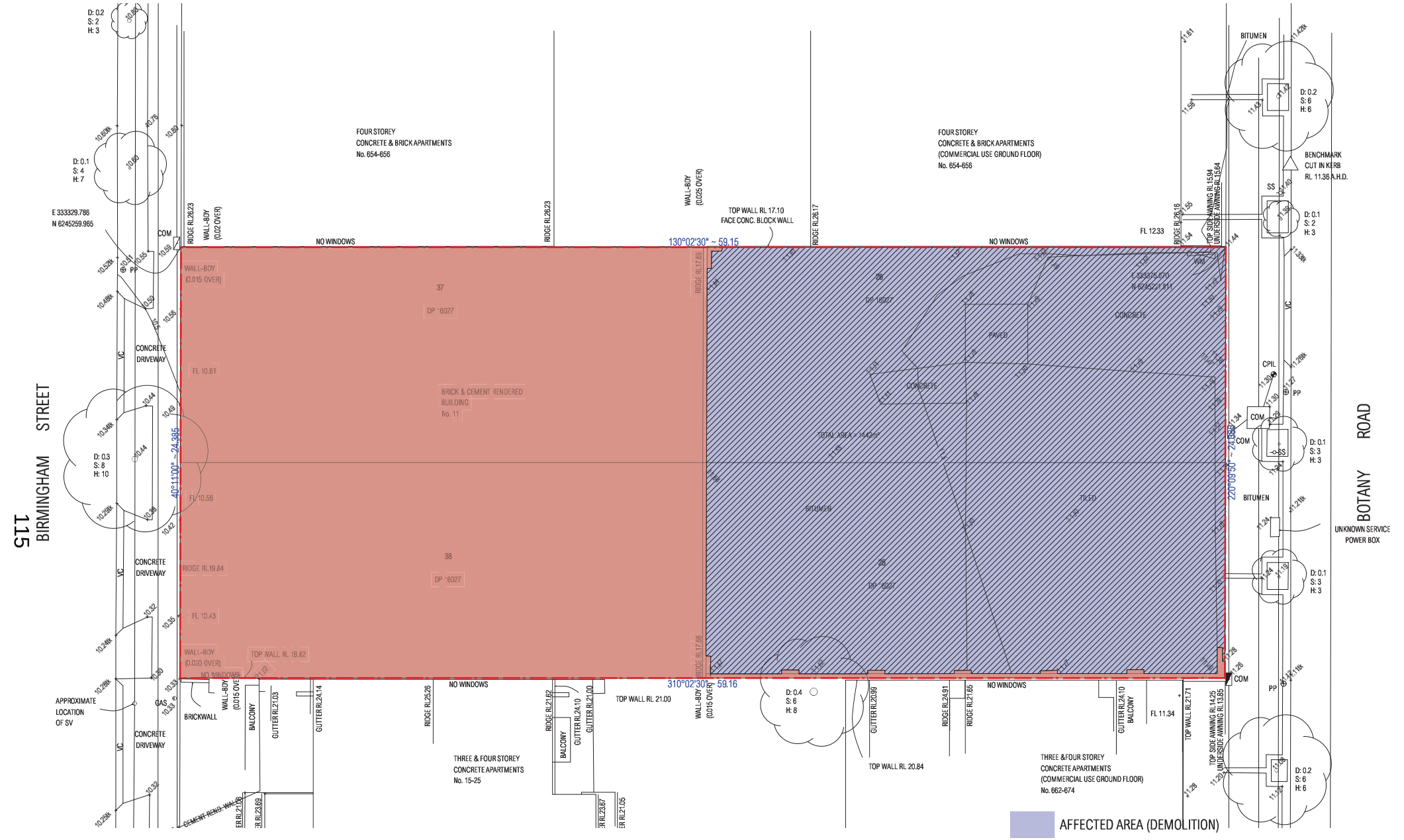
notes

all work to be carried out in accordance with bca, saa codes and conditions of council. measurements in mm's unless noted. use figured dimensions. do not scale drawings. site measure before starting work. refer all discrepancies to the architect.

rev	date	amendment
A	01.05.18	issue for information
A	18.06.18	issue to council (DA)
B	05.11.18	issue for information
C	23.11.18	issue to council (DA)
D	04.03.19	issue for information
D	19.03.19	issue for information
D	21.03.19	issue for information
D	22.03.19	issue to council (DA)
E	16.04.19	issue to council (DA)
F	16.09.19	issue for information

environa studio
224 riley st surry hills 2010
t: 02 9332 1211 f: 02 9332 1355
w: www.environastudio.com.au
architects registration number 6239

project: SHOP TOP HOUSING	location: 658-660 BOTANY RD 11 BIRMINGHAM ST	drawing: SITE PLAN	stage: D.A.	project no.: 928	dwg no.: 030
for/client: HOUSE OF INDONESIA	at: ALEXANDRIA	drawing	chkd: TW drwn: OZ KR	date: 16/09/19	revision: F



DEMOLITION PLAN
1:200 @ A3

0 2.0 4.0 6.0m

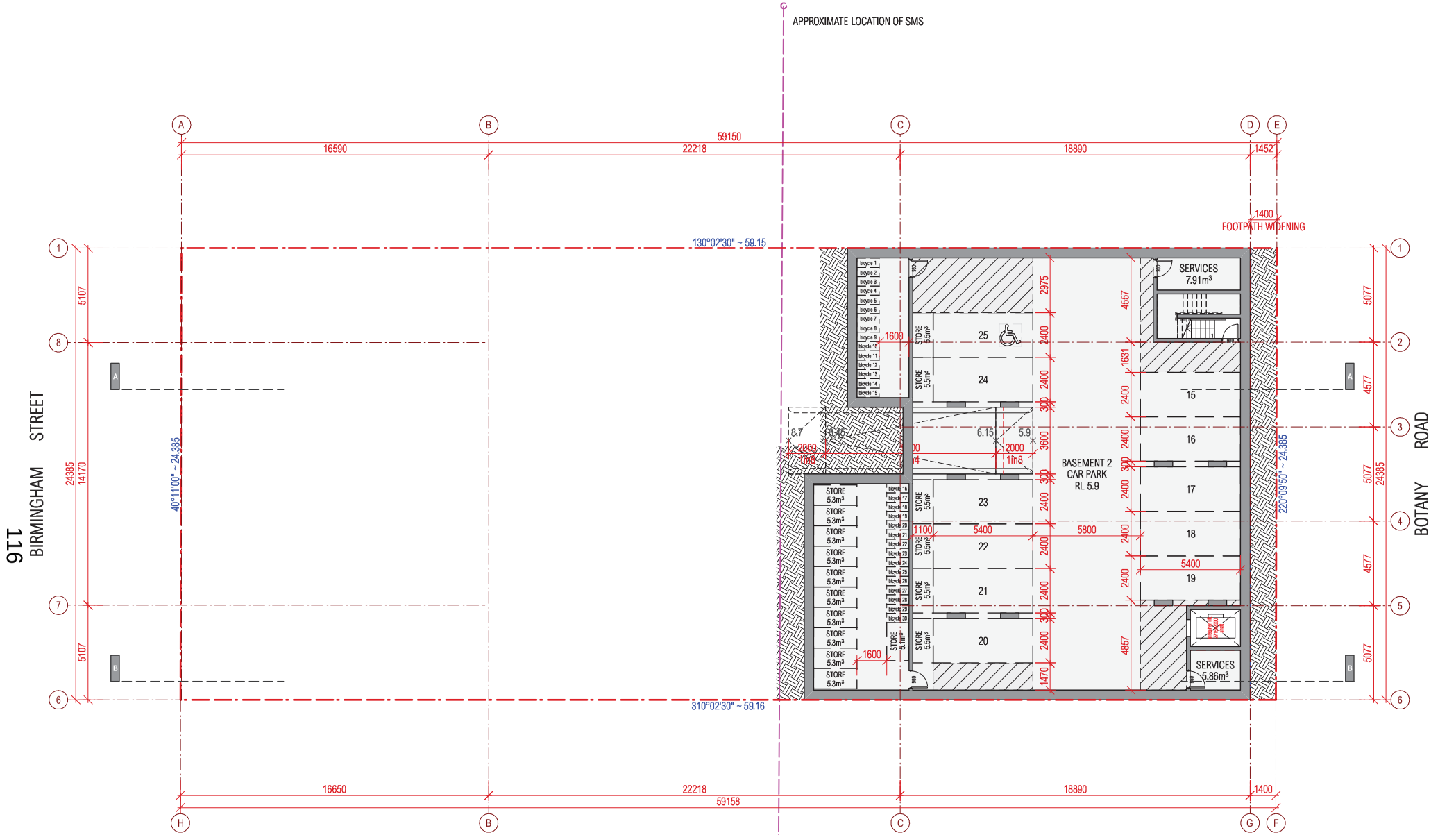
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project	location	drawing	stage	project no.	dwg no.
SHOP TOP HOUSING	658-660 BOTANY RD 11 BIRMINGHAM ST	DEMOLITION PLAN	D.A.	928	040
for/client	at	drawing	chkd / drwn	date	revision
HOUSE OF INDONESIA	ALEXANDRIA		TW / OZ	22/03/19	D



BASEMENT 2 FLOOR PLAN
1:200 @ A3

0 2.0 4.0 6.0m

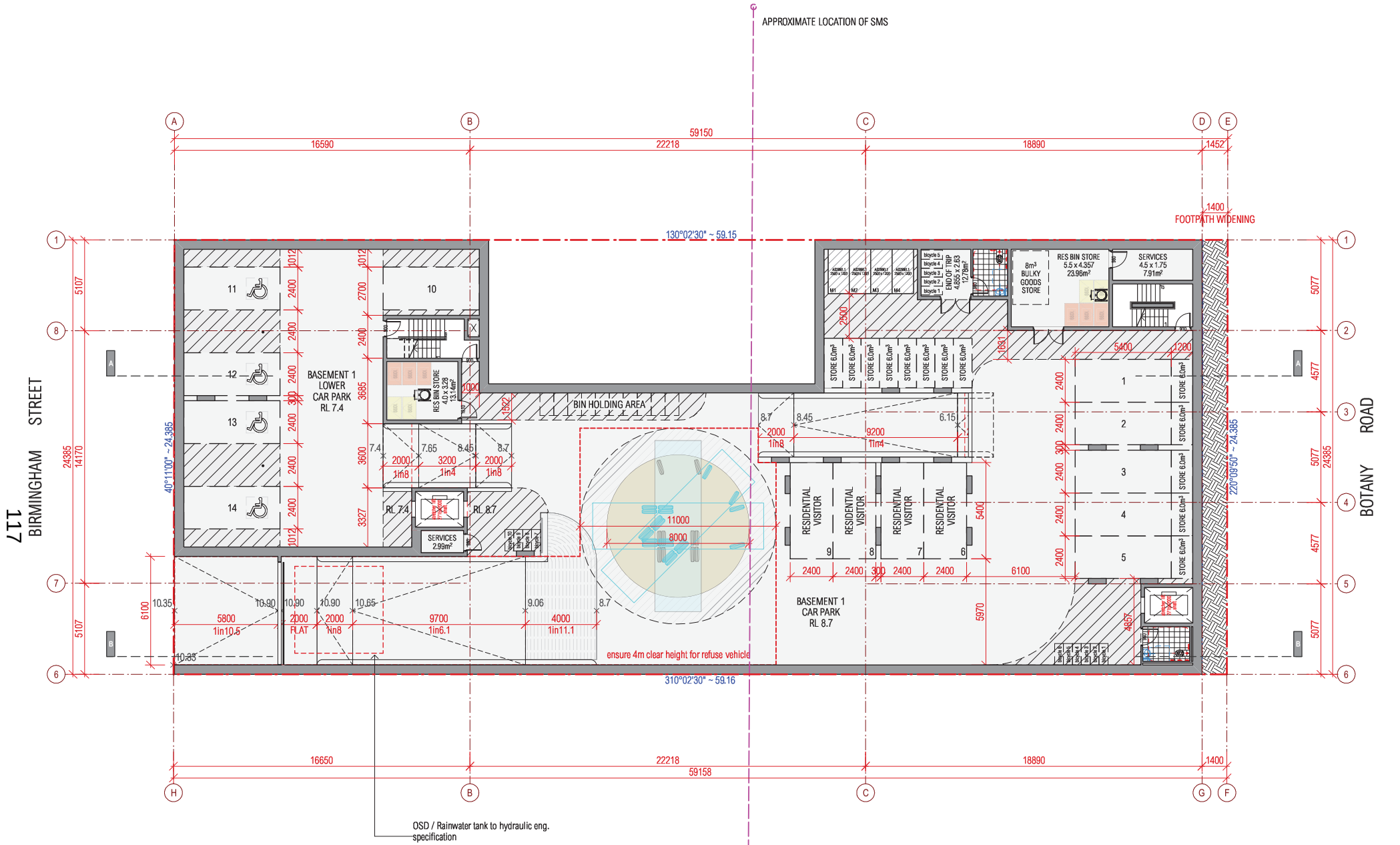
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architects registration number 6239

project: SHOP TOP HOUSING	location: 658-660 BOTANY RD 11 BIRMINGHAM ST	drawing: FLOOR PLAN	stage: D.A.	project no.: 928	dwg no.: 100	
for/client: HOUSE OF INDONESIA	at: ALEXANDRIA	drawing: BASEMENT 2	chkd: TW	drwn: OZ KR	date: 16/09/19	revision: F



BASEMENT 1 FLOOR PLAN

1:200 @ A3

0 2.0 4.0 6.0m

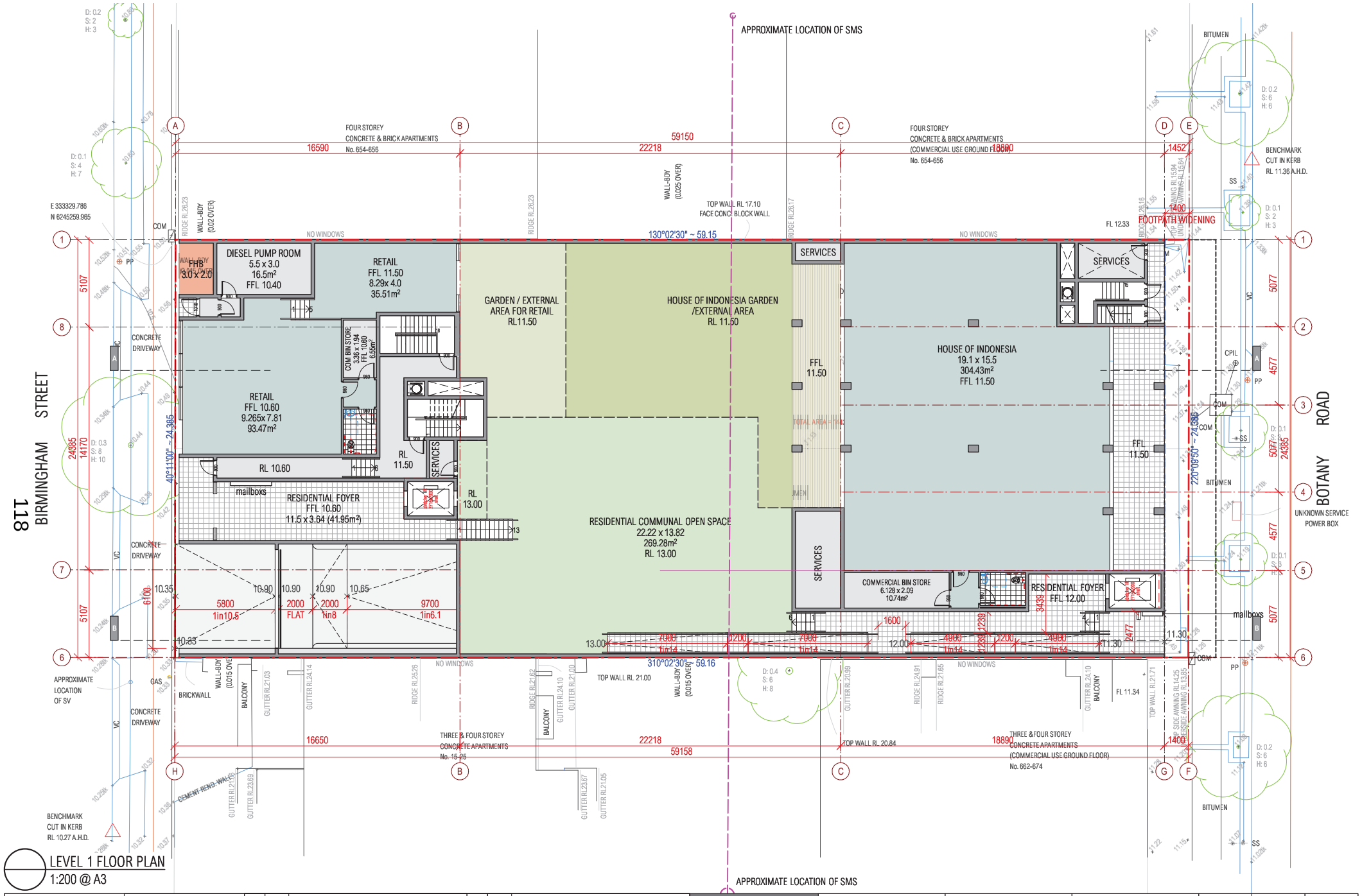
notes

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rev	date	amendment
A	01.05.18	issue for information
A	18.06.18	issue to council (DA)
B	05.11.18	issue for information
C	23.11.18	issue to council (DA)
D	04.03.19	issue for information
D	19.03.19	issue for information
D	21.03.19	issue for information
D	22.03.19	issue to council (DA)
E	16.04.19	issue to council (DA)
F	16.09.19	issue for information

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project	location	drawing	stage	project no.	dwg no.		
SHOP TOP HOUSING	658-660 BOTANY RD 11 BIRMINGHAM ST	FLOOR PLAN	D.A.	928	101		
for/client	at	drawing	chkd	drwn	date	revision	
HOUSE OF INDONESIA	ALEXANDRIA	BASEMENT 1	TW	OZ KR	16/09/19	F	



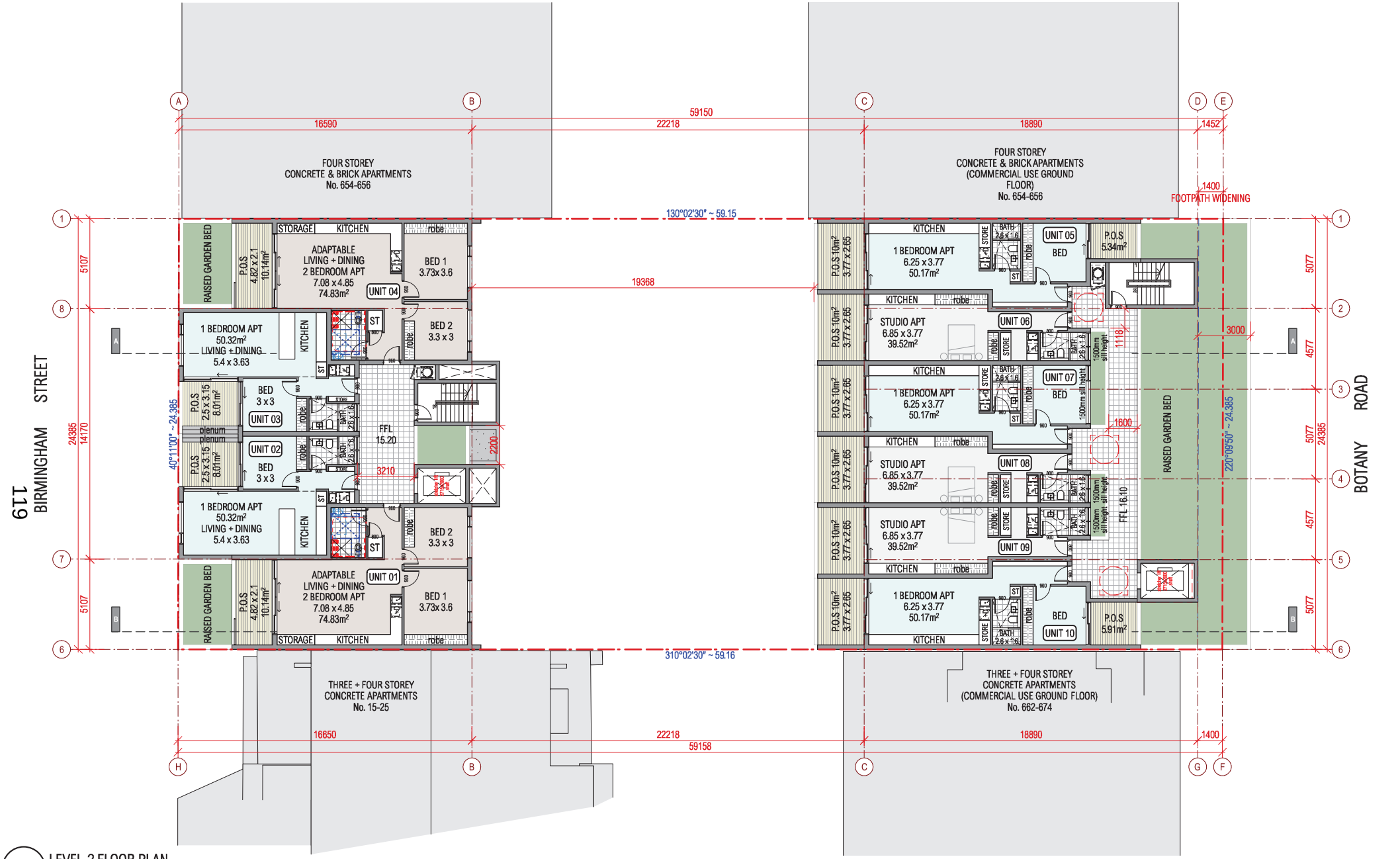
LEVEL 1 FLOOR PLAN
1:200 @ A3

notes	rev	date	amendment	rev	date	amendment
all work to be carried out in accordance with bca, saa codes and conditions of council. measurements in mm's unless noted. use figured dimensions. do not scale drawings. site measure before starting work. refer all discrepancies to the architect.	A	01.05.18	issue for information	E	16.04.19	issue to council (DA)
	A	18.06.18	issue to council (DA)	F	16.09.19	issue for information
	B	05.11.18	issue for information			
	C	23.11.18	issue to council (DA)			
	D	04.03.19	issue for information			
	D	19.03.19	issue for information			
	D	21.03.19	issue for information			
	D	22.03.19	issue to council (DA)			

0 2.0 4.0 6.0m

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architects registration number 6239

project	location	drawing	stage	project no.	dwg no.		
SHOP TOP HOUSING	658-660 BOTANY RD 11 BIRMINGHAM ST	FLOOR PLAN	D.A.	928	102		
for/client	at	drawing	chkd	drwn	date	revision	
HOUSE OF INDONESIA	ALEXANDRIA	LEVEL 1	TW	OZ KR	16/09/19	F	



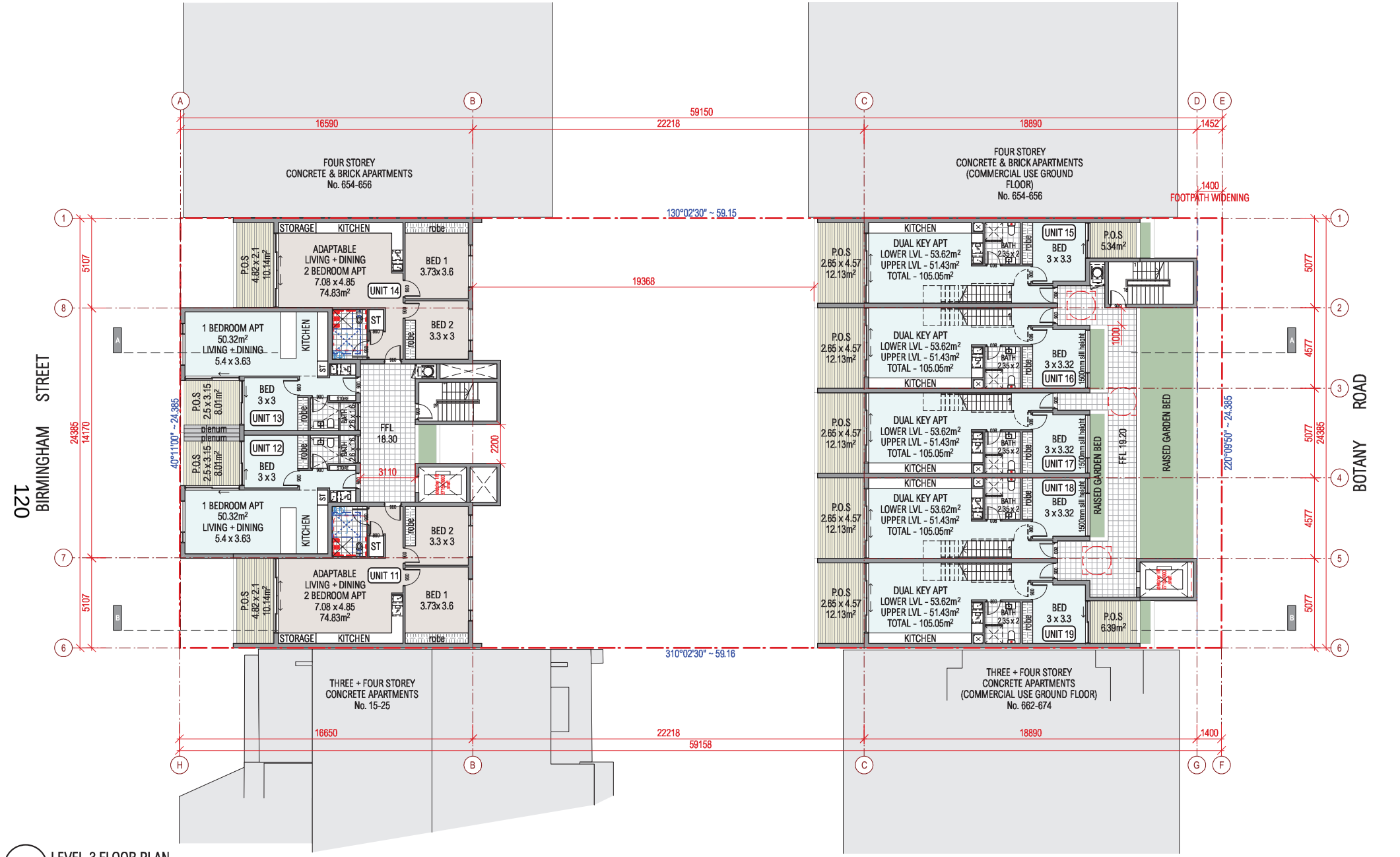
LEVEL 2 FLOOR PLAN
1:200 @ A3

notes	rev	date	amendment	rev	date	amendment
all work to be carried out in accordance with bca, saa codes and conditions of council. measurements in mm's unless noted. use figured dimensions. do not scale drawings. site measure before starting work. refer all discrepancies to the architect.	A	01.05.18	issue for information	E	16.04.19	issue to council (DA)
	A	18.06.18	issue to council (DA)	F	16.09.19	issue for information
	B	05.11.18	issue for information	G	27.09.19	issue for information
	C	23.11.18	issue to council (DA)	H	02.10.19	issue for information
	D	04.03.19	issue for information			
	D	19.03.19	issue for information			
	D	21.03.19	issue for information			
	D	22.03.19	issue to council (DA)			

0 2.0 4.0 6.0m

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architects registration number 6239

project	location	drawing	stage	project no.	dwg no.
SHOP TOP HOUSING	658-660 BOTANY RD 11 BIRMINGHAM ST	FLOOR PLAN	D.A.	928	103
for/client	at	drawing	chkd / drwn	date	revision
HOUSE OF INDONESIA	ALEXANDRIA	LEVEL 2	TW / OZ KR	02/10/19	H



LEVEL 3 FLOOR PLAN
1:200 @ A3

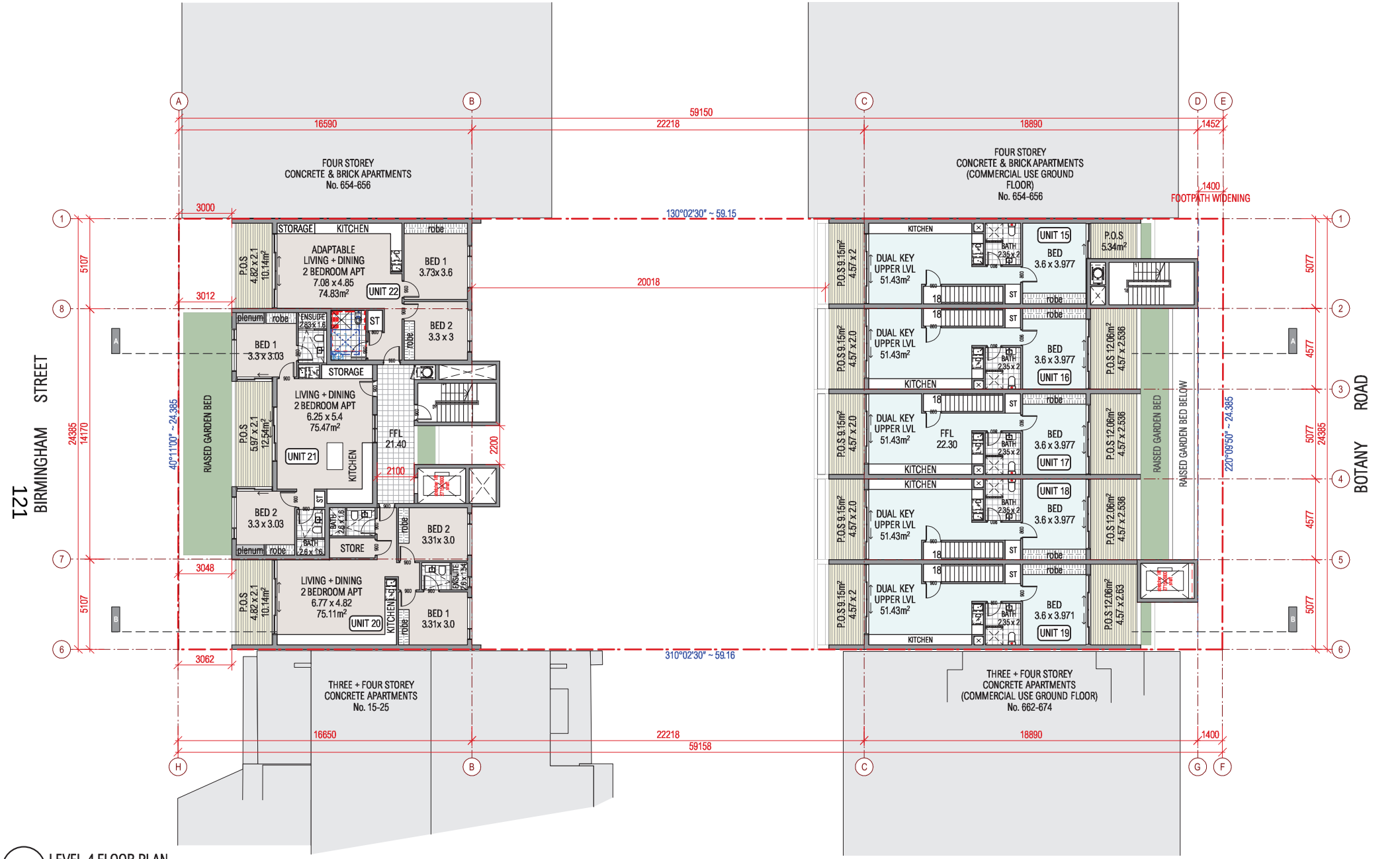
rev	date	amendment
A	01.05.18	issue for information
A	18.06.18	issue to council (DA)
B	05.11.18	issue for information
C	23.11.18	issue to council (DA)
D	04.03.19	issue for information
D	19.03.19	issue for information
D	21.03.19	issue for information
D	22.03.19	issue to council (DA)
E	16.04.19	issue to council (DA)
F	16.09.19	issue for information
G	27.09.19	issue for information
H	02.10.19	issue for information

notes
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0 2.0 4.0 6.0m

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architects registration number 6239

project: SHOP TOP HOUSING	location: 658-660 BOTANY RD 11 BIRMINGHAM ST	drawing: FLOOR PLAN	stage: D.A.	project no.: 928	dwg no.: 104		
for/client: HOUSE OF INDONESIA	at: ALEXANDRIA	drawing: LEVEL 3	chkd: TW	drwn: OZ KR	date: 02/10/19	revision: H	



LEVEL 4 FLOOR PLAN
1:200 @ A3

0 2.0 4.0 6.0m

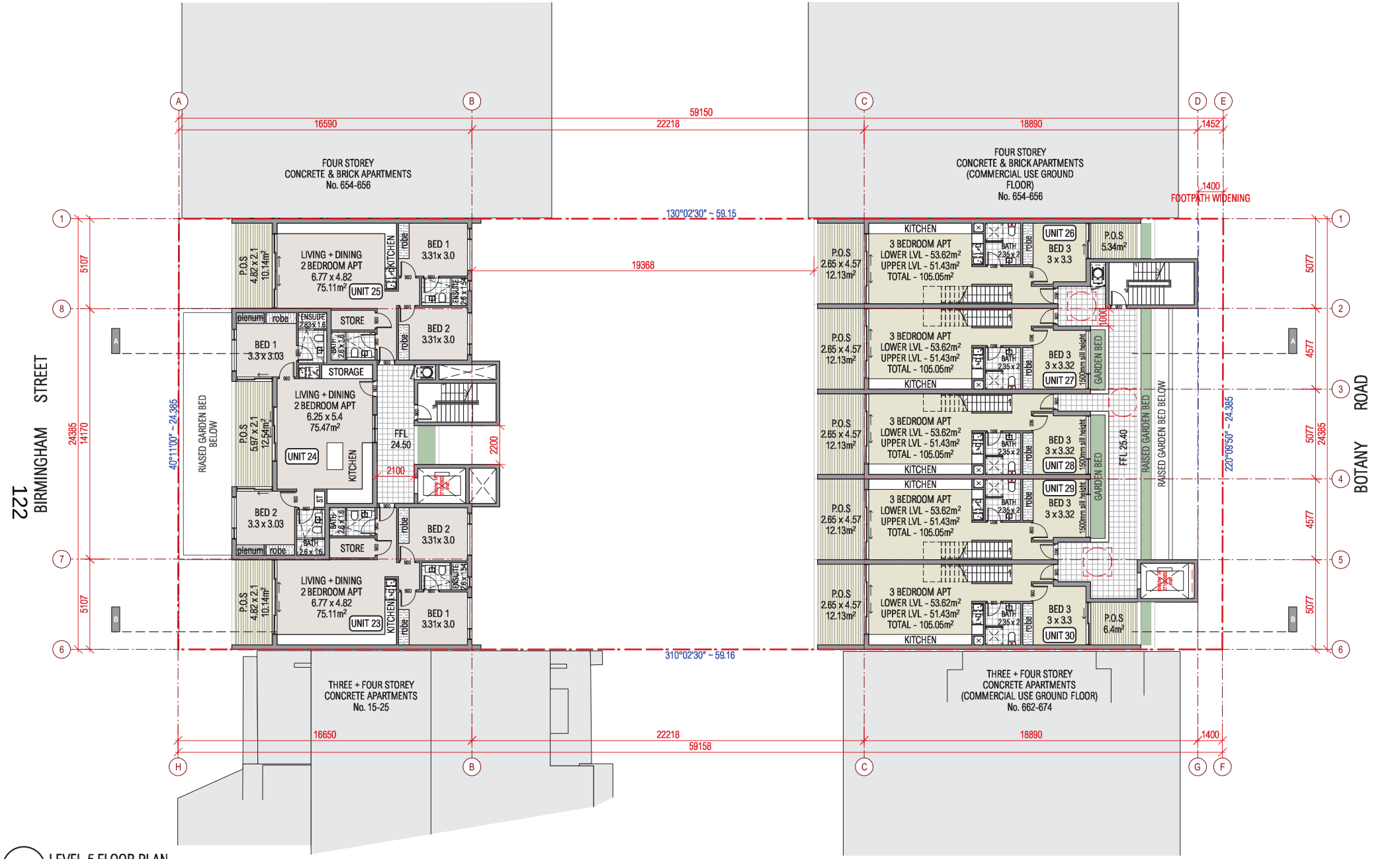
notes

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rev	date	amendment
A	01.05.18	issue for information
A	18.06.18	issue to council (DA)
B	05.11.18	issue for information
C	23.11.18	issue to council (DA)
D	04.03.19	issue for information
D	19.03.19	issue for information
D	21.03.19	issue for information
D	22.03.19	issue to council (DA)
E	16.04.19	issue to council (DA)
F	16.09.19	issue for information
G	27.09.19	issue for information
H	02.10.19	issue for information

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architects registration number 6239

project: SHOP TOP HOUSING	location: 658-660 BOTANY RD 11 BIRMINGHAM ST	drawing: FLOOR PLAN	stage: D.A.	project no.: 928	dwg no.: 105	
for/client: HOUSE OF INDONESIA	at: ALEXANDRIA	drawing: LEVEL 4	chkd: TW	drwn: OZ KR	date: 02/10/19	revision: H

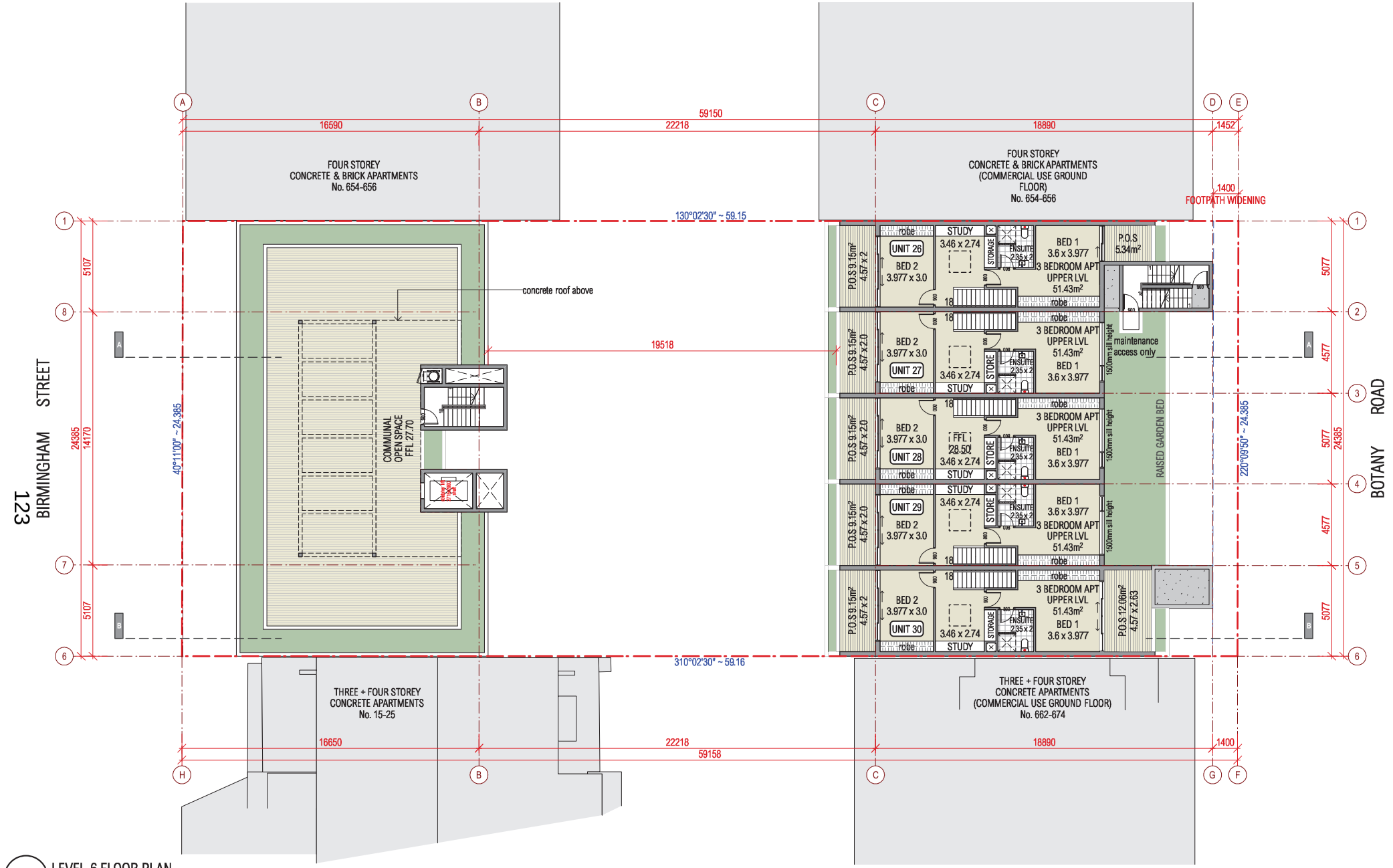


LEVEL 5 FLOOR PLAN
1:200 @ A3

notes	rev	date	amendment	rev	date	amendment
all work to be carried out in accordance with bca, saa codes and conditions of council. measurements in mm's unless noted. use figured dimensions. do not scale drawings. site measure before starting work. refer all discrepancies to the architect.	A	01.05.18	issue for information	E	16.04.19	issue to council (DA)
	A	18.06.18	issue to council (DA)	F	16.09.19	issue for information
	B	05.11.18	issue for information	G	27.09.19	issue for information
	C	23.11.18	issue to council (DA)	H	02.10.19	issue for information
	D	04.03.19	issue for information			
	D	19.03.19	issue for information			
	D	21.03.19	issue for information			
	D	22.03.19	issue to council (DA)			

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architects registration number 6239

project	location	drawing	stage	project no.	dwg no.
SHOP TOP HOUSING	658-660 BOTANY RD 11 BIRMINGHAM ST	FLOOR PLAN	D.A.	928	106
for/client	at	drawing	chkd / drwn	date	revision
HOUSE OF INDONESIA	ALEXANDRIA	LEVEL 5	TW / OZ KR	02/10/19	H

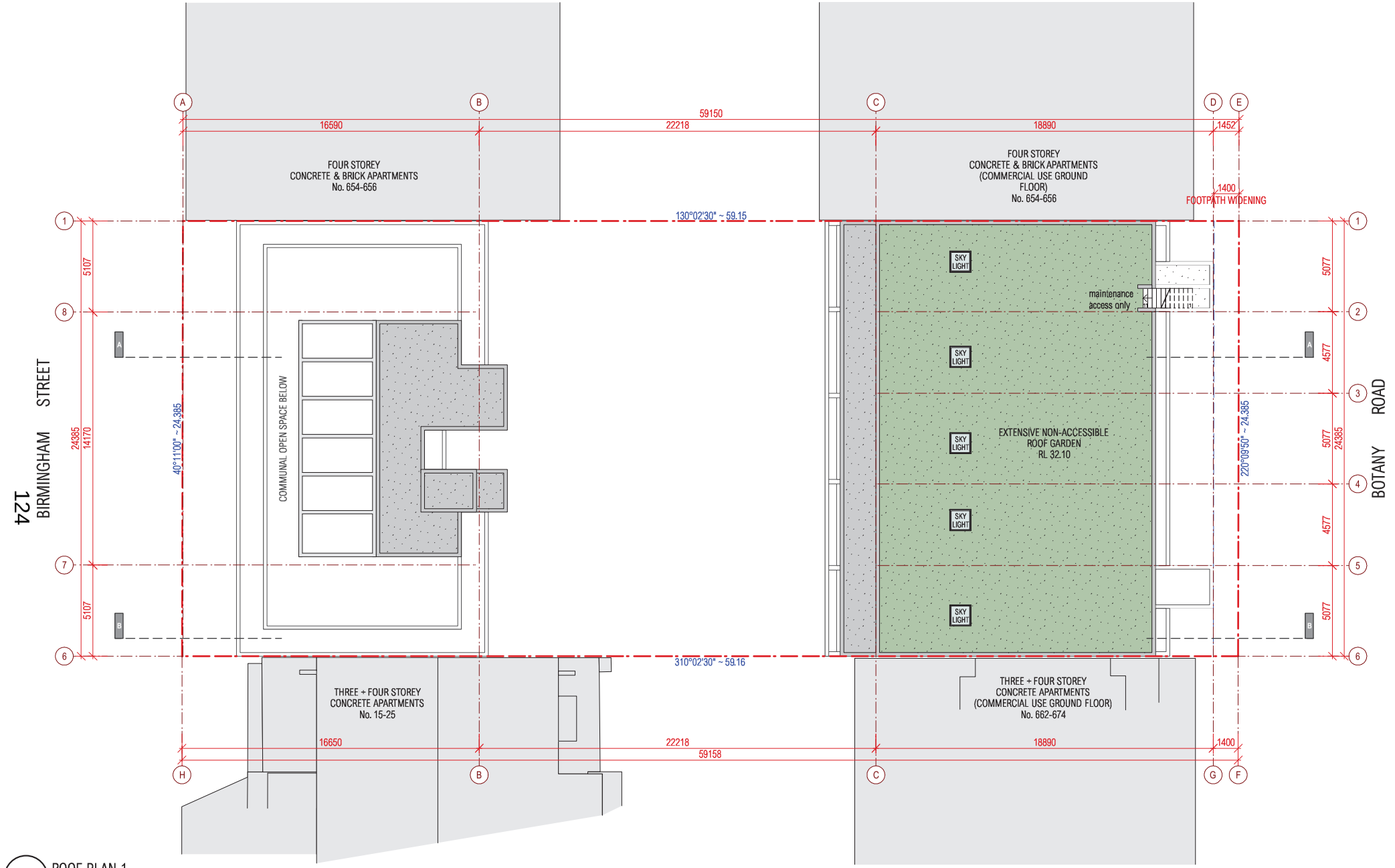


LEVEL 6 FLOOR PLAN
1:200 @ A3

notes	rev	date	amendment	rev	date	amendment
all work to be carried out in accordance with bca, saa codes and conditions of council. measurements in mm's unless noted. use figured dimensions. do not scale drawings. site measure before starting work. refer all discrepancies to the architect.	A	01.05.18	issue for information	E	16.04.19	issue to council (DA)
	A	18.06.18	issue to council (DA)	F	16.09.19	issue for information
	B	05.11.18	issue for information	G	27.09.19	issue for information
	C	23.11.18	issue to council (DA)			
	D	04.03.19	issue for information			
	D	19.03.19	issue for information			
	D	21.03.19	issue for information			
	D	22.03.19	issue to council (DA)			

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architects registration number 6239

project	location	drawing	stage	project no.	dwg no.
SHOP TOP HOUSING	658-660 BOTANY RD 11 BIRMINGHAM ST	FLOOR PLAN	D.A.	928	107
for/client	at	drawing	chkd / drwn	date	revision
HOUSE OF INDONESIA	ALEXANDRIA	LEVEL 6	TW / OZ KR	27/09/19	G



ROOF PLAN 1
1:200 @ A3

0 2.0 4.0 6.0m

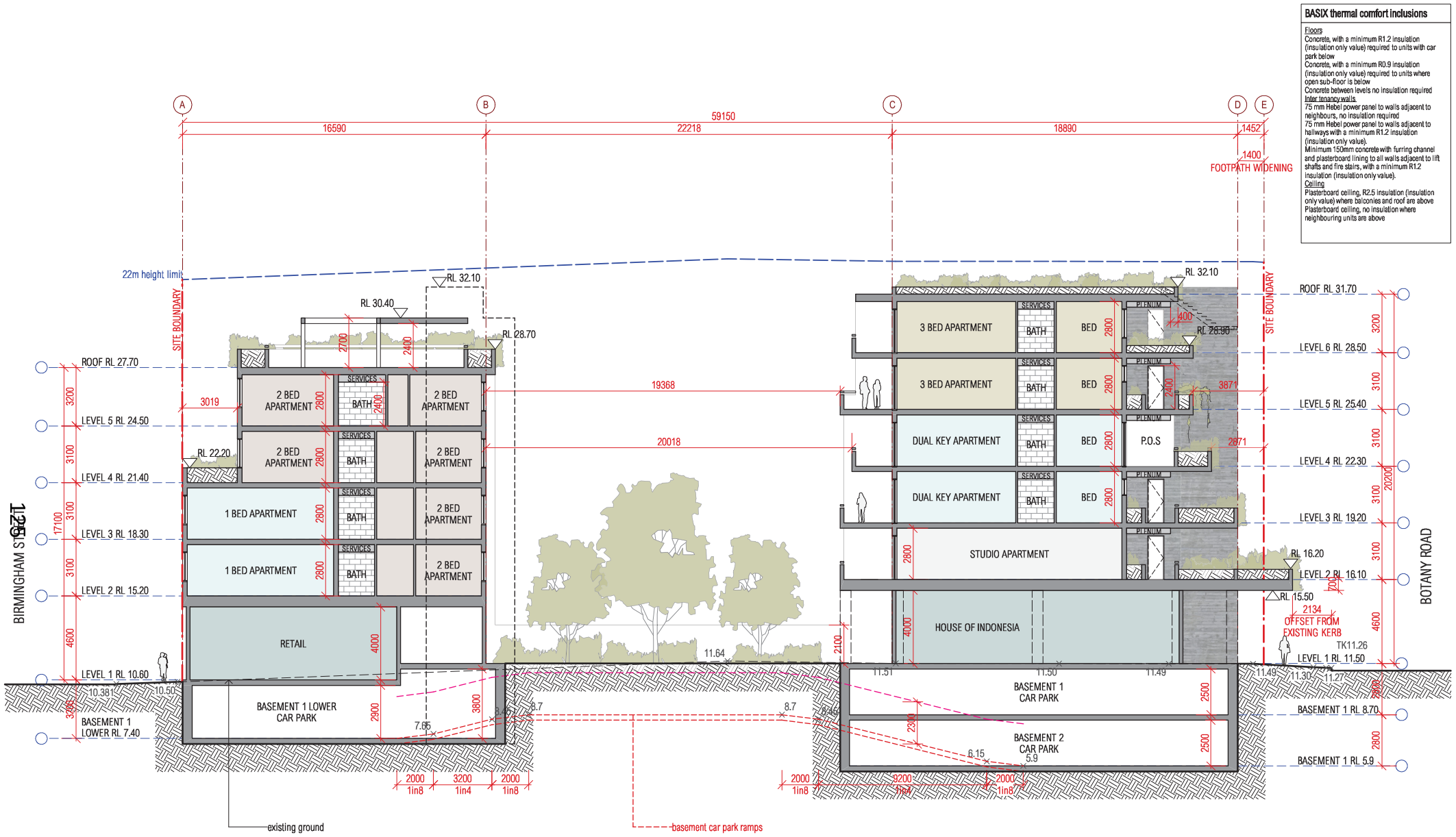
notes

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B	05.11.18	issue for information
C	23.11.18	issue to council (DA)
D	04.03.19	issue for information
D	19.03.19	issue for information
D	21.03.19	issue for information
D	22.03.19	issue to council (DA)
E	16.04.19	issue to council (DA)
F	16.09.19	issue for information

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architects registration number 6239

project: SHOP TOP HOUSING	location: 658-660 BOTANY RD 11 BIRMINGHAM ST	drawing: ROOF PLAN 1	stage: D.A.	project no.: 928	dwg no.: 110
for/client: HOUSE OF INDONESIA	at: ALEXANDRIA	drawing:	chkd: TW drwn: OZ KR	date: 16/09/19	revision: F



BASIX thermal comfort inclusions

Floors
Concrete, with a minimum R1.2 insulation (insulation only value) required to units with car park below
Concrete, with a minimum R0.9 insulation (insulation only value) required to units where open sub-floor is below
Concrete between levels no insulation required
Inter tenancy walls
75 mm Hebel power panel to walls adjacent to neighbours, no insulation required
75 mm Hebel power panel to walls adjacent to hallways with a minimum R1.2 insulation (insulation only value).
Minimum 150mm concrete with furring channel and plasterboard lining to all walls adjacent to lift shafts and fire stairs, with a minimum R1.2 insulation (insulation only value).
Ceiling
Plasterboard ceiling, R2.5 insulation (insulation only value) where balconies and roof are above
Plasterboard ceiling, no insulation where neighbouring units are above

SECTION A
1:200 @ A3

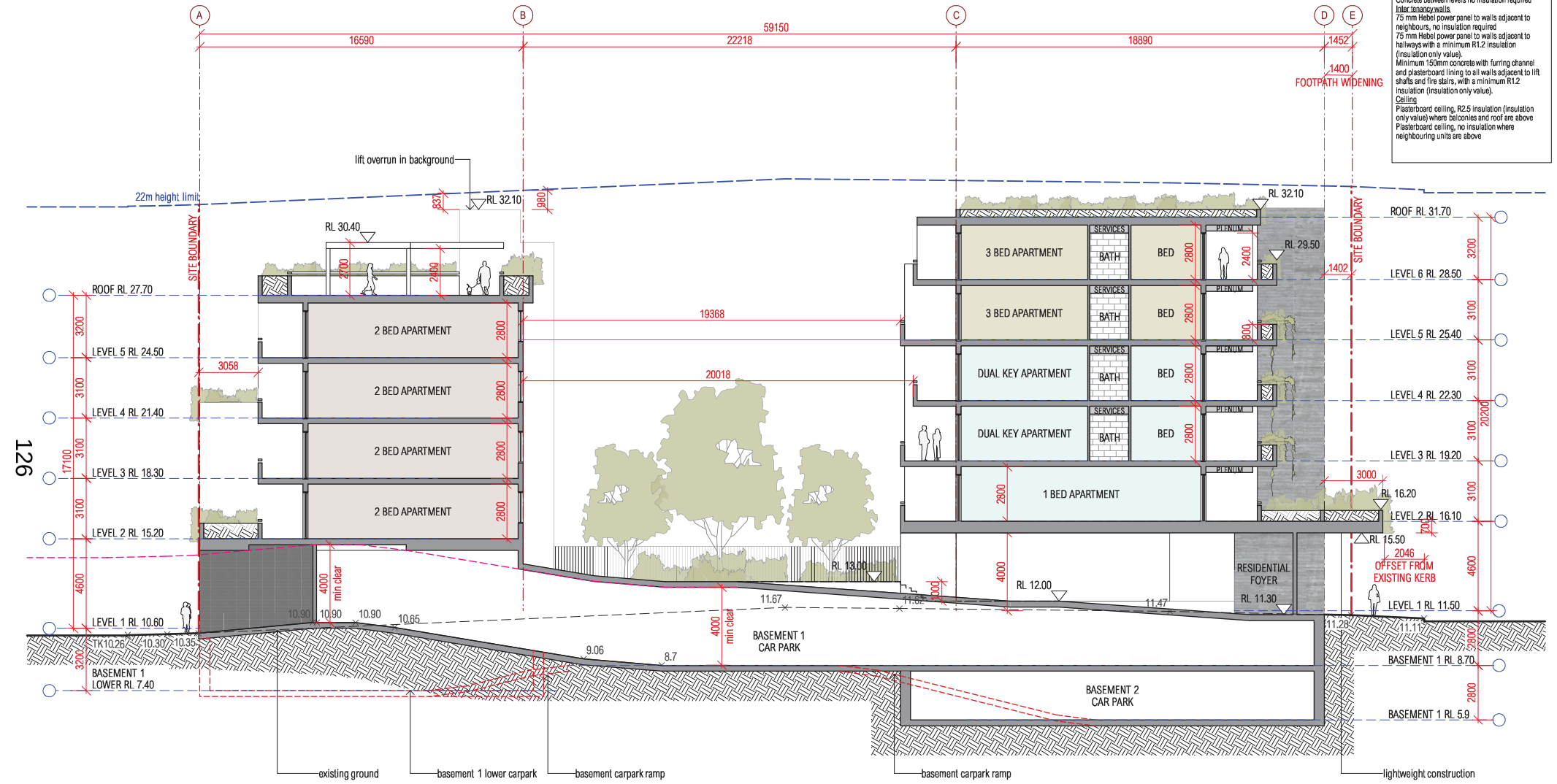
0 2.0 4.0 6.0m

notes
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D	19.03.19	issue for information
D	21.03.19	issue for information
D	22.03.19	issue to council (DA)
E	16.04.19	issue to council (DA)
F	16.09.19	issue for information

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architects registration number 6239

project: SHOP TOP HOUSING	location: 658-660 BOTANY RD 11 BIRMINGHAM ST	drawing: SECTION A	stage: D.A.	project no.: 928	dwg no.: 120	
for/client: HOUSE OF INDONESIA	at: ALEXANDRIA	drawing	chkd: TW	drwn: OZ KR	date: 16/09/19	revision: F



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BASIX thermal comfort inclusions

Floors
Concrete, with a minimum R1.2 insulation (insulation only value) required to units with car park below
Concrete, with a minimum R0.9 insulation (insulation only value) required to units where open sub-floor is below
Concrete between levels no insulation required
Inter tenancy walls
75 mm Hebel power panel to walls adjacent to neighbours, no insulation required
75 mm Hebel power panel to walls adjacent to hallways with a minimum R1.2 insulation (insulation only value).
Minimum 150mm concrete with furring channel and plasterboard lining to all walls adjacent to lift shafts and fire stairs, with a minimum R1.2 insulation (insulation only value).
Ceiling
Plasterboard ceiling, R2.5 insulation (insulation only value) where balconies and roof are above
Plasterboard ceiling, no insulation where neighbouring units are above

SECTION B
1:200 @ A3

0 2.0 4.0 6.0m

notes
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D	19.03.19	issue for information
D	21.03.19	issue for information
D	22.03.19	issue to council (DA)
E	16.04.19	issue to council (DA)
F	16.09.19	issue for information

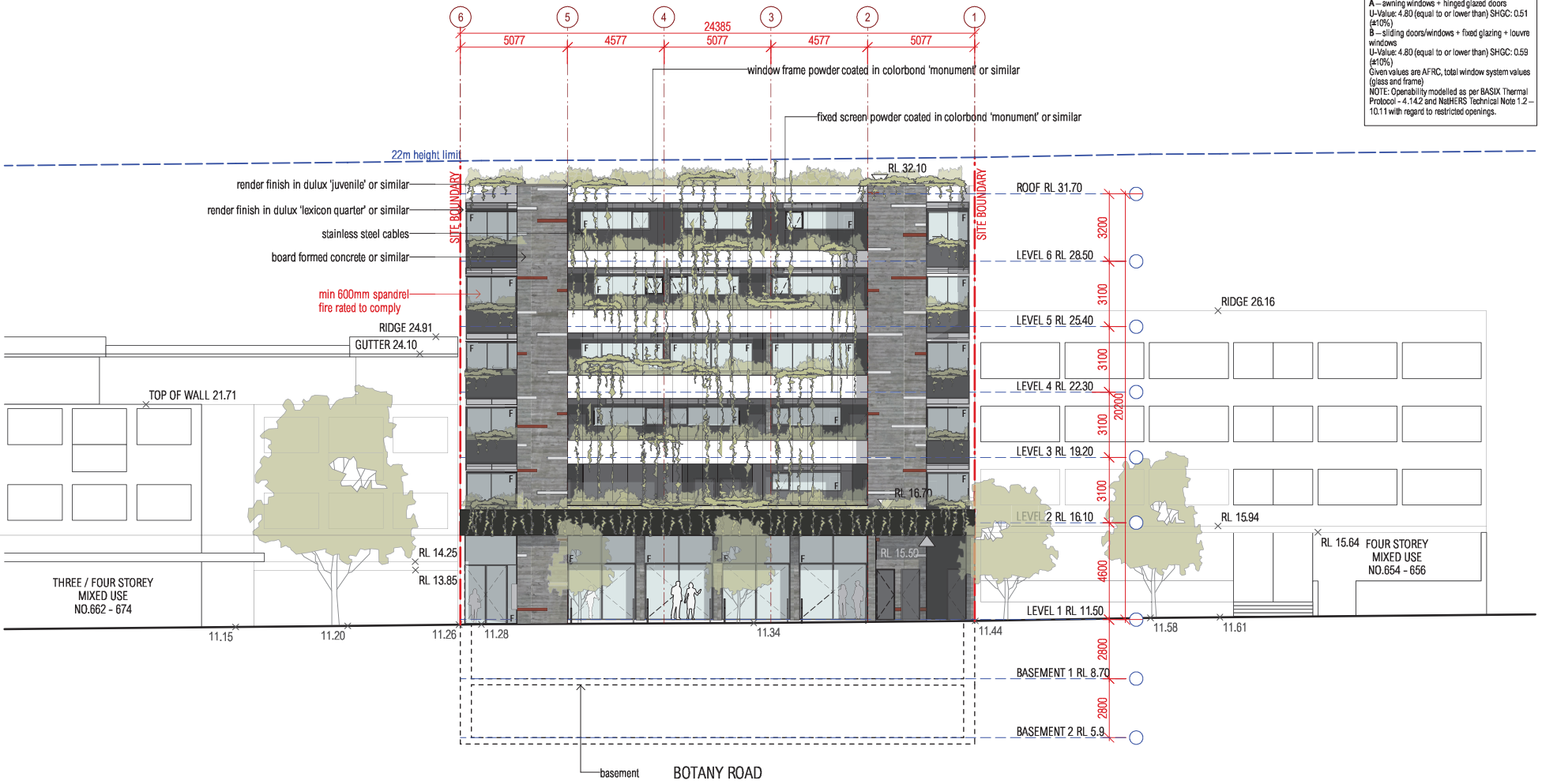
environa studio
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t: 02 9332 1211 f: 02 9332 1355
w: www.environastudio.com.au
architects registration number 6239

project: SHOP TOP HOUSING	location: 658-660 BOTANY RD 11 BIRMINGHAM ST	drawing: SECTION B	stage: D.A.	project no.: 928	dwg no.: 121
for/client: HOUSE OF INDONESIA	at: ALEXANDRIA	drawing:	chkd: TW drwn: OZ KR	date: 16/09/19	revision: F

BASIX thermal comfort inclusions

Glazing doors + windows

Aluminium framed single clear glazing:
A – awning windows + hinged glazed doors
U-Value: 6.70 (equal to or lower than) SHGC: 0.57 (±10%)
B – sliding doors/windows + fixed glazing + louvres windows
U-Value: 6.70 (equal to or lower than) SHGC: 0.70 (±10%)
Aluminium framed clear performance glazing to **units 26 & 32 as per assessor certificate**:
A – awning windows + hinged glazed doors
U-Value: 4.80 (equal to or lower than) SHGC: 0.51 (±10%)
B – sliding doors/windows + fixed glazing + louvre windows
U-Value: 4.80 (equal to or lower than) SHGC: 0.59 (±10%)
Given values are AFRC, total window system values (glass and frame)
NOTE: Openability modelled as per BASIX Thermal Protocol - 4.14.2 and NatHERS Technical Note 1.2 – 10.11 with regard to restricted openings.



SOUTH EAST ELEVATION
1:200 @ A3

0 2.0 4.0 6.0m

notes

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A	18.06.18	issue to council (DA)
B	05.11.18	issue for information
C	23.11.18	issue to council (DA)
D	04.03.19	issue for information
D	19.03.19	issue for information
D	21.03.19	issue for information
D	22.03.19	issue to council (DA)
E	16.04.19	issue to council (DA)
F	16.09.19	issue for information

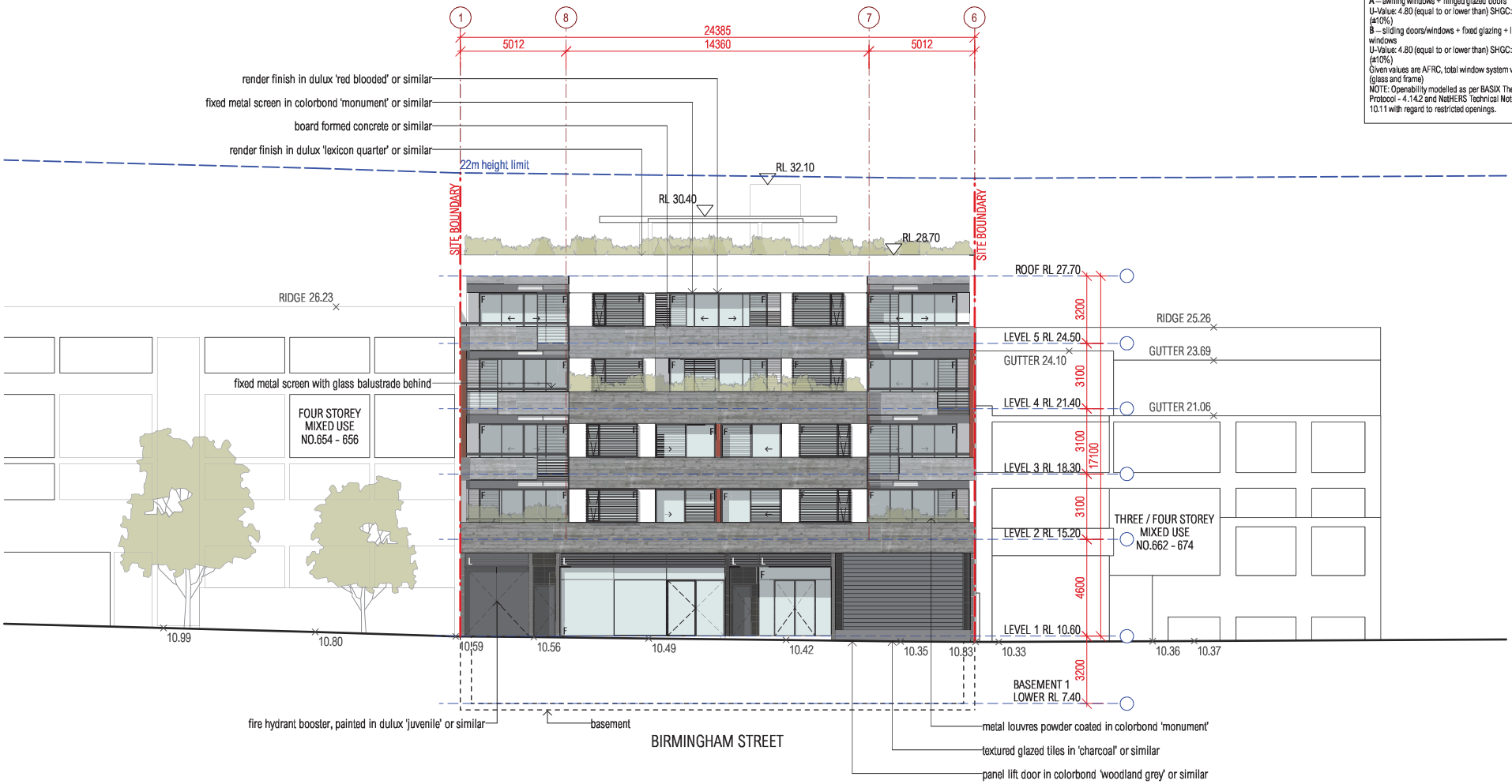
environa studio
224 riley st surry hills 2010
t: 02 9332 1211 f: 02 9332 1355
w: www.environastudio.com.au
architects registration number 6239

project: SHOP TOP HOUSING	location: 658-660 BOTANY RD 11 BIRMINGHAM ST	drawing: ELEVATION	stage: D.A.		project no.: 928	dwg no.: 130
for/client: HOUSE OF INDONESIA	at: ALEXANDRIA	drawing: SOUTH EAST	chkd: TW	drwn: OZ KR	date: 16/09/19	revision: F

BASIX thermal comfort inclusions

Glazing doors + windows

Aluminium framed single clear glazing:
A – awning windows + hinged glazed doors
U-Value: 6.70 (equal to or lower than) SHGC: 0.57 (±10%)
B – sliding doors/windows + fixed glazing + louvres windows
U-Value: 6.70 (equal to or lower than) SHGC: 0.70 (±10%)
Aluminium framed clear performance glazing to **units 26 & 32 as per assessor certificate**:
A – awning windows + hinged glazed doors
U-Value: 4.80 (equal to or lower than) SHGC: 0.51 (±10%)
B – sliding doors/windows + fixed glazing + louvre windows
U-Value: 4.80 (equal to or lower than) SHGC: 0.59 (±10%)
Given values are AFRC, total window system values (glass and frame)
NOTE: Openability modelled as per BASIX Thermal Protocol - 4.14.2 and NatHERS Technical Note 1.2 – 10.11 with regard to restricted openings.



NORTH WEST ELEVATION
1:200 @ A3

0 2.0 4.0 6.0m

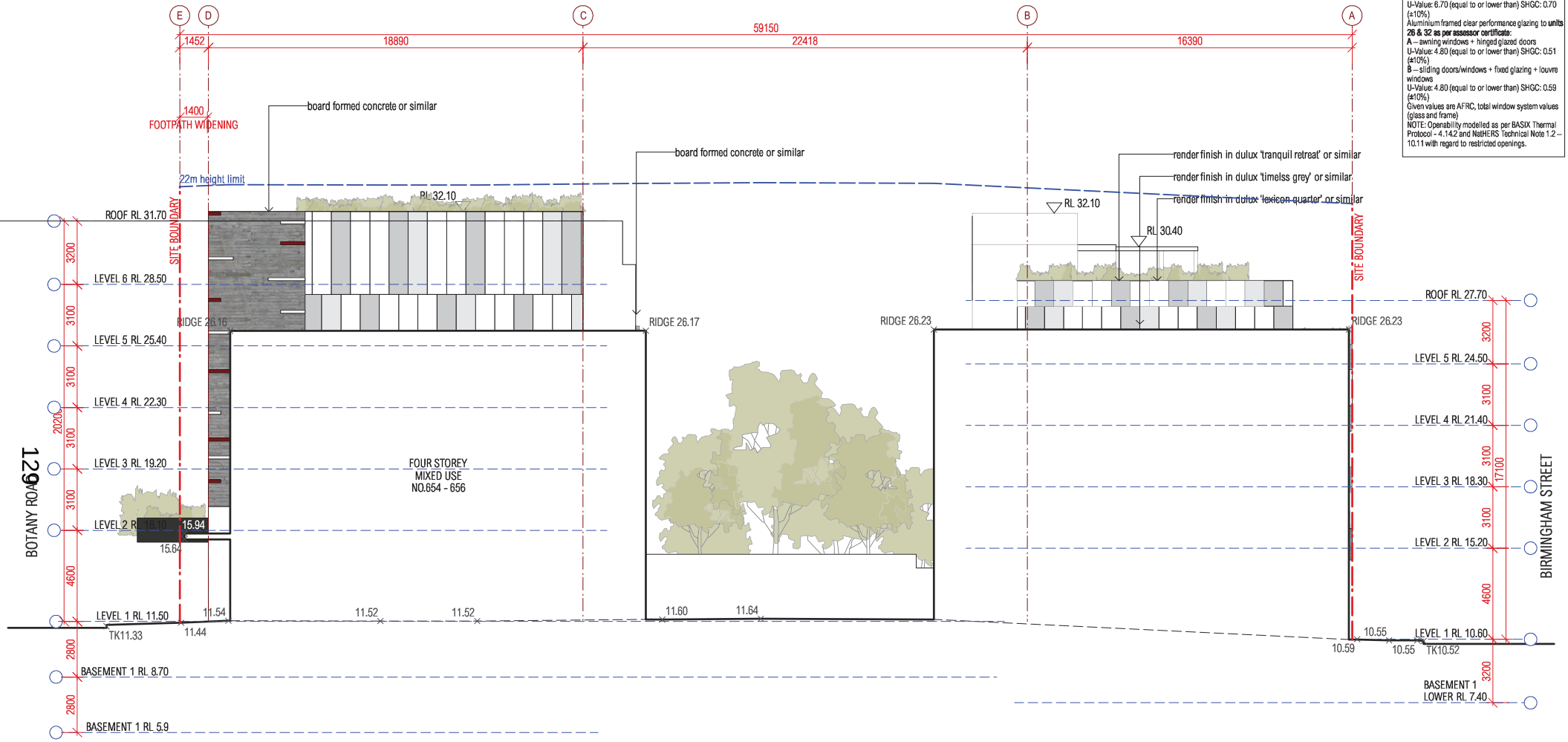
notes

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A	01.05.18	issue for information
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D	19.03.19	issue for information
D	21.03.19	issue for information
D	22.03.19	issue to council (DA)
E	16.04.19	issue to council (DA)
F	16.09.19	issue for information

environa studio
224 riley st surry hills 2010
t: 02 9332 1211 f: 02 9332 1355
w: www.environastudio.au
architects registration number 6239

project: SHOP TOP HOUSING	location: 658-660 BOTANY RD 11 BIRMINGHAM ST	drawing: ELEVATION	stage: D.A.	project no.: 928	dwg no.: 131
for/client: HOUSE OF INDONESIA	at: ALEXANDRIA	drawing: NORTH WEST	chkd: TW drwn: OZ KR	date: 16/09/19	revision: F



BASIX thermal comfort inclusions

Glazing doors + windows

Aluminium framed single clear glazing:
A – awning windows + hinged glazed doors
U-Value: 6.70 (equal to or lower than) SHGC: 0.57 (±10%)
B – sliding doors/windows + fixed glazing + louvres windows
U-Value: 6.70 (equal to or lower than) SHGC: 0.70 (±10%)
Aluminium framed clear performance glazing to **units 26 & 32 as per assessor certificate**:
A – awning windows + hinged glazed doors
U-Value: 4.80 (equal to or lower than) SHGC: 0.51 (±10%)
B – sliding doors/windows + fixed glazing + louvre windows
U-Value: 4.80 (equal to or lower than) SHGC: 0.59 (±10%)
Given values are AFRC, total window system values (glass and frame)
NOTE: Openability modelled as per BASIX Thermal Protocol - 4.14.2 and NatHERS Technical Note 1.2 – 10.11 with regard to restricted openings.

NORTH EAST ELEVATION
1:200 @ A3

0 2.0 4.0 6.0m

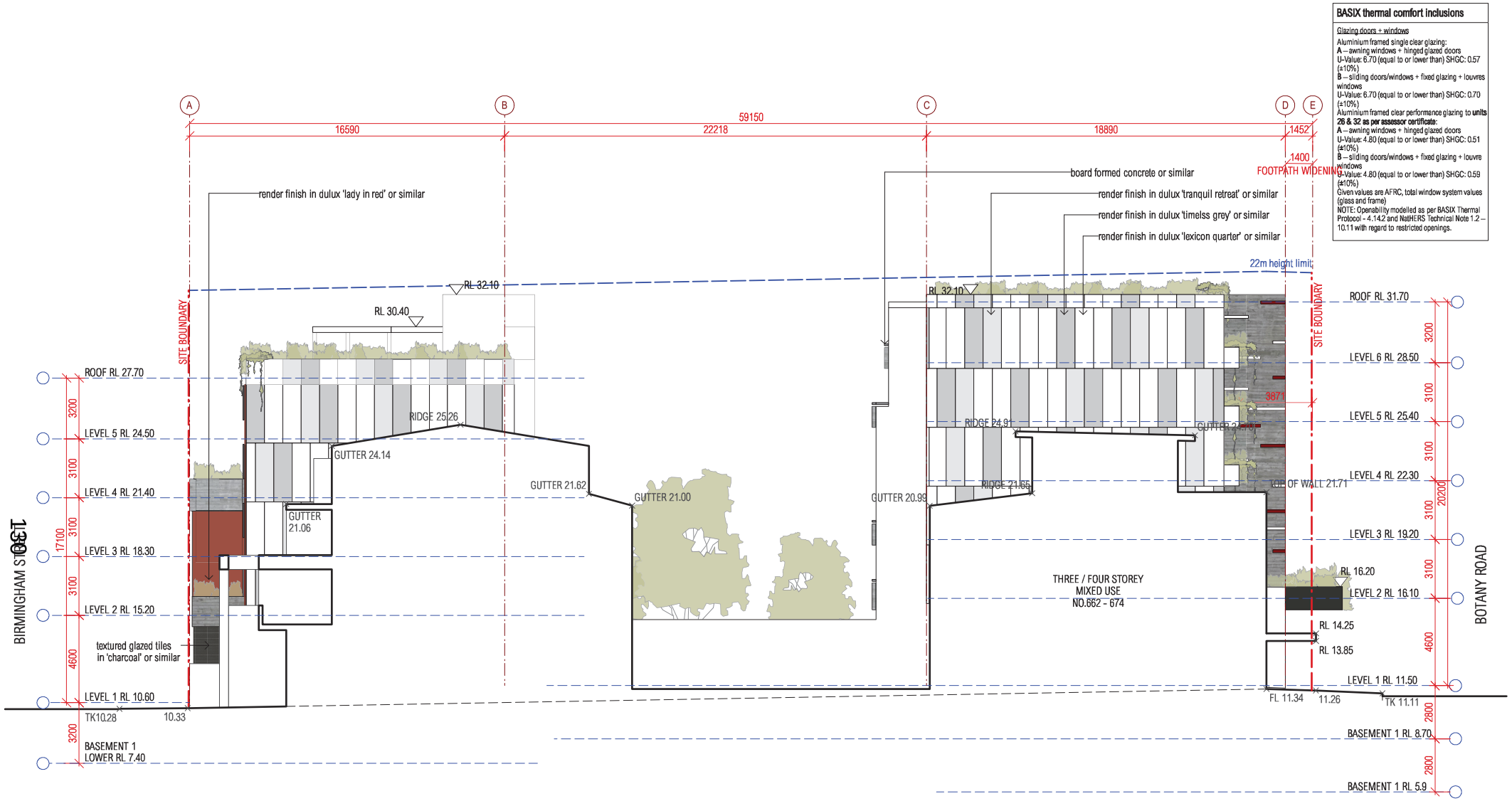
notes

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A	01.05.18	issue for information
A	18.06.18	issue to council (DA)
B	05.11.18	issue for information
C	23.11.18	issue to council (DA)
D	04.03.19	issue for information
D	19.03.19	issue for information
D	21.03.19	issue for information
D	22.03.19	issue to council (DA)
E	16.04.19	issue to council (DA)
F	16.09.19	issue for information

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224 riley st surry hills 2010
t: 02 9332 1211 f: 02 9332 1355
w: www.environastudio.com.au
architects registration number 6239

project: SHOP TOP HOUSING	location: 658-660 BOTANY RD 11 BIRMINGHAM ST	drawing: ELEVATION	stage: D.A.	project no.: 928	dwg no.: 132	
for/client: HOUSE OF INDONESIA	at: ALEXANDRIA	drawing: NORTH EAST	chkd: TW	drwn: OZ KR	date: 16/09/19	revision: F



BASIX thermal comfort inclusions

Glazing doors + windows

Aluminium framed single clear glazing:
A – awning windows + hinged glazed doors
U-Value: 6.70 (equal to or lower than) SHGC: 0.57 (±10%)
B – sliding doors/windows + fixed glazing + louvres windows
U-Value: 6.70 (equal to or lower than) SHGC: 0.70 (±10%)
Aluminium framed clear performance glazing to **units 26 & 32 as per assessor certificate**:
A – awning windows + hinged glazed doors
U-Value: 4.80 (equal to or lower than) SHGC: 0.51 (±10%)
B – sliding doors/windows + fixed glazing + louvre windows
U-Value: 4.80 (equal to or lower than) SHGC: 0.59 (±10%)
Given values are AFRC, total window system values (glass and frame)
NOTE: Openability modelled as per BASIX Thermal Protocol - 4.14.2 and NatHERS Technical Note 1.2 – 10.11 with regard to restricted openings.

SOUTH WEST ELEVATION
1:200 @ A3

0 2.0 4.0 6.0m

notes

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E	16.04.19	issue to council (DA)
F	16.09.19	issue for information

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architects registration number 6239

project: SHOP TOP HOUSING	location: 658-660 BOTANY RD 11 BIRMINGHAM ST	drawing: ELEVATION	stage: D.A.	project no.: 928	dwg no.: 133	
for/client: HOUSE OF INDONESIA	at: ALEXANDRIA	drawing: SOUTH WEST	chkd: TW	drwn: OZ KR	date: 16/09/19	revision: F



BASIX thermal comfort inclusions

Glazing doors + windows

Aluminium framed single clear glazing:
A – awning windows + hinged glazed doors
U-Value: 6.70 (equal to or lower than) SHGC: 0.57 (±10%)
B – sliding doors/windows + fixed glazing + louvres windows
U-Value: 6.70 (equal to or lower than) SHGC: 0.70 (±10%)
Aluminium framed clear performance glazing to **units 26 & 32 as per assessor certificate**:
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B – sliding doors/windows + fixed glazing + louvre windows
U-Value: 4.80 (equal to or lower than) SHGC: 0.59 (±10%)
Given values are AFRC, total window system values (glass and frame)
NOTE: Openability modelled as per BASIX Thermal Protocol - 4.14.2 and NatHERS Technical Note 1.2 – 10.11 with regard to restricted openings.

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NORTH WEST INTERNAL ELEVATION
1:200 @ A3

0 2.0 4.0 6.0m

notes

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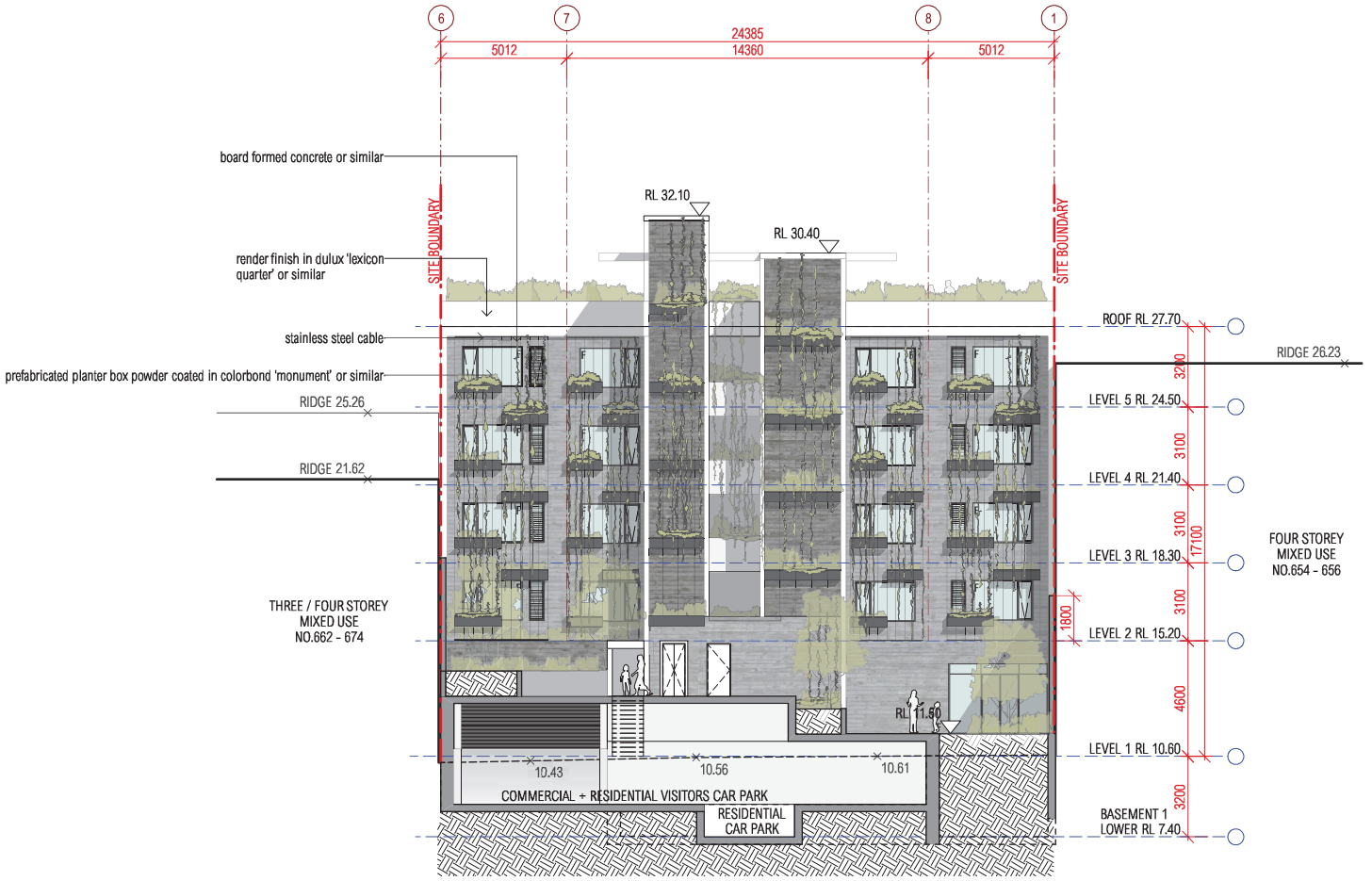
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224 riley st surry hills 2010
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w: www.environastudio.com.au
architects registration number 6239

project: SHOP TOP HOUSING	location: 658-660 BOTANY RD 11 BIRMINGHAM ST	drawing: ELEVATION	stage: D.A.	project no.: 928	dwg no.: 134
for/client: HOUSE OF INDONESIA	at: ALEXANDRIA	drawing: NORTH WEST INTERNAL	chkd: TW drwn: OZ KR	date: 16/09/19	revision: F

BASIX thermal comfort inclusions

Glazing doors + windows

Aluminium framed single clear glazing:
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B – sliding doors/windows + fixed glazing + louvre windows
U-Value: 4.80 (equal to or lower than) SHGC: 0.59 (±10%)
Given values are AFRC, total window system values (glass and frame)
NOTE: Openability modelled as per BASIX Thermal Protocol - 4.14.2 and NatHERS Technical Note 1.2 – 10.11 with regard to restricted openings.



132

SOUTH EAST INTERNAL ELEVATION
1:200 @ A3

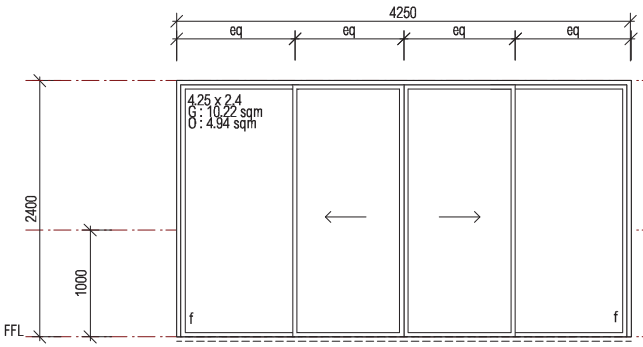
0 2.0 4.0 6.0m

notes
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E	16.04.19	issue to council (DA)
F	16.09.19	issue for information

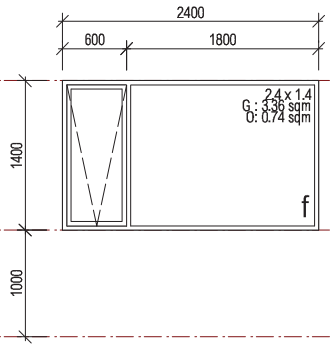
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w: www.environastudio.com.au
architects registration number 6239

project: SHOP TOP HOUSING	location: 658-660 BOTANY RD 11 BIRMINGHAM ST	drawing: ELEVATION	stage: D.A.	project no.: 928	dwg no.: 135
for/client: HOUSE OF INDONESIA	at: ALEXANDRIA	drawing: SOUTH EAST INTERNAL	chkd: TW drwn: OZ KR	date: 16/09/19	revision: F

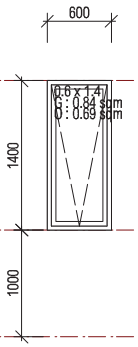


sliding door
2 BED APARTMENT (Birmingham St)

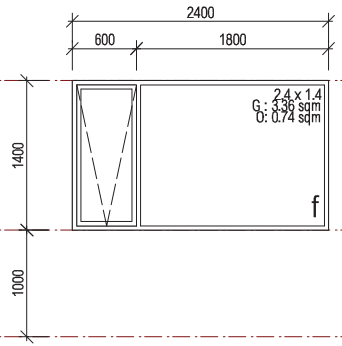
UNIT 01 | UNIT 04 | UNIT 11 | UNIT 14 | UNIT 20 | UNIT 23 | UNIT 24 | UNIT 27



awning / fixed
2 BED APARTMENT (Birmingham St)



awning
2 BED APARTMENT (Birmingham St)
translucent glass unit 24, unit 27



awning / fixed
2 BED APARTMENT (Birmingham St)

WINDOW SPECIFICATION:

Windows + Doors: Glass thickness and specification as per acoustic report by West & Associates.

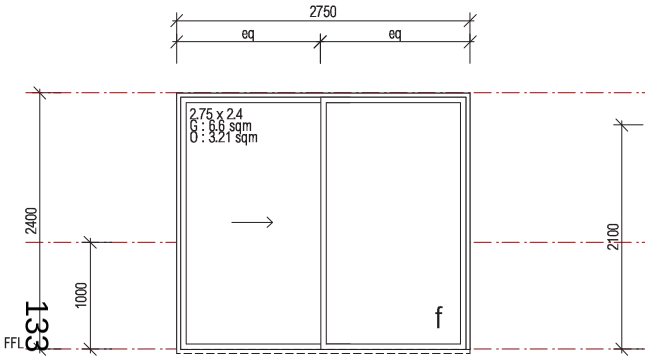
All aluminium frames to be powdercoat finish, refer finishes schedule for colour.
Fit with minimum CLEAR 6.38 laminated glass or as required by Australian Standard.
Handles: Colour matched to frames. keyed alike to front door
Locks: Colour matched to frames. keyed alike to front door

Windows: refer finishes schedule for colour. keyed locks to all

Aluminium flywire screens to be installed over all operable windows.
All glazing to be clear unless otherwise noted. All bathroom and toilet windows for each dwelling shall have frosted or translucent glass installed.

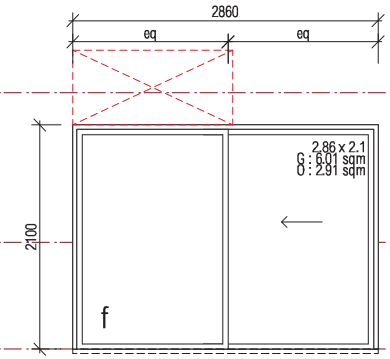
Aluminium framed single clear glazing:
A – awning windows + hinged glazed doors
U-Value: 6.70 (equal to or lower than) SHGC: 0.57 (±10%)
B – sliding doors/windows + fixed glazing + louvres windows
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Aluminium framed clear performance glazing to **units 26 & 32 as per assessor certificate:**
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U-Value: 4.80 (equal to or lower than) SHGC: 0.59 (±10%)
Given values are AFRC, total window system values (glass and frame)
NOTE: Operability modelled as per BASIX Thermal Protocol - 4.14.2 and NatHERS Technical Note 1.2 – 10.11 with regard to restricted openings.

WINDOW POSITIONS ARE FROM EXTERIOR OF BUILDING
ALL DIMENSIONS AND OPENINGS TO BE CHECKED ON SITE PRIOR TO MANUFACTURE
*** DOOR TRACKS RECESSED INTO SLAB SHOWN DOTTED**

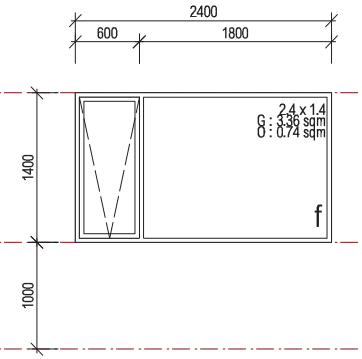


sliding door
1 BED APARTMENT (Birmingham St)

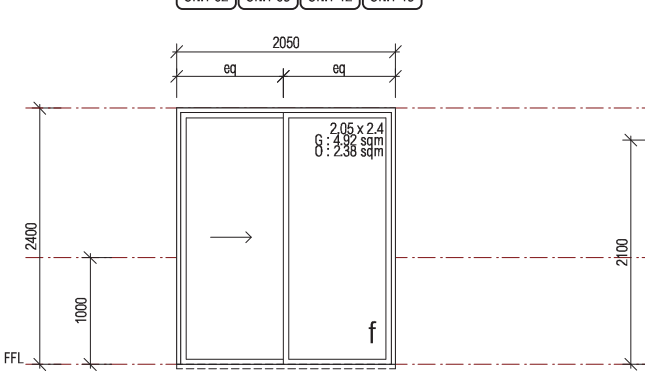
UNIT 02 | UNIT 03 | UNIT 12 | UNIT 13



sliding door (attenuated ventilation above)
1 BED APARTMENT (Birmingham St)

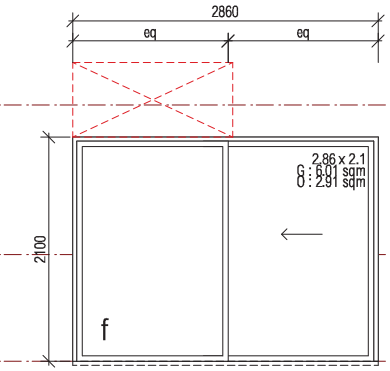


awning / fixed
1 BED APARTMENT (Birmingham St)

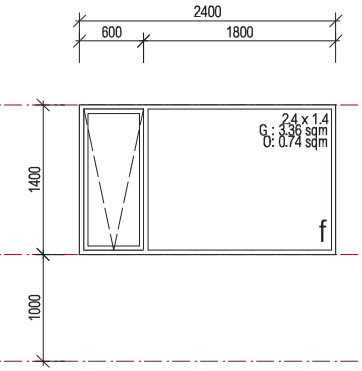


sliding door
STUDIO APARTMENT (Birmingham St)

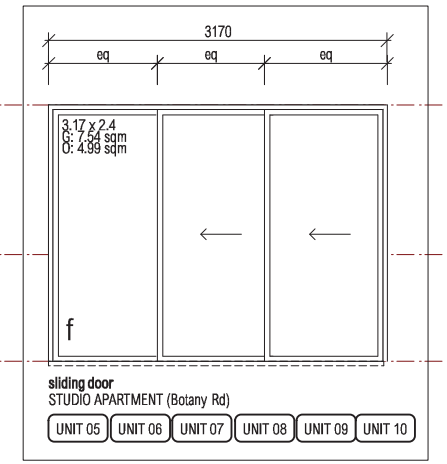
UNIT 21 | UNIT 22 | UNIT 25 | UNIT 26



sliding door (attenuated ventilation above)
STUDIO APARTMENT (Birmingham St)



awning / fixed
STUDIO APARTMENT (Birmingham St)



sliding door
STUDIO APARTMENT (Botany Rd)

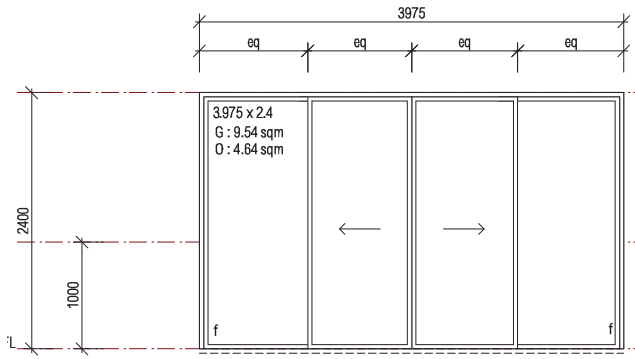
UNIT 05 | UNIT 06 | UNIT 07 | UNIT 08 | UNIT 09 | UNIT 10

133

notes	rev	date	amendment	rev	date	amendment
all work to be carried out in accordance with bca, saa codes and conditions of council. measurements in mm's unless noted. use figured dimensions. do not scale drawings. site measure before starting work. refer all discrepancies to the architect.	A	01.05.18	issue for information	E	16.04.19	issue to council (DA)
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	D	19.03.19	issue for information			
	D	21.03.19	issue for information			
	D	22.03.19	issue to council (DA)			

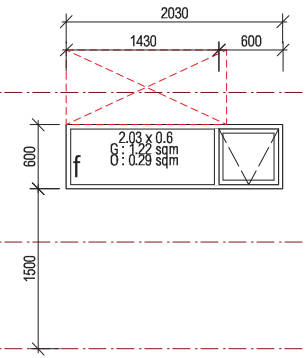
environa studio
224 riley st surry hills 2010
t: 02 9332 1211 f: 02 9332 1355
w: www.environastudio.com.au
architects registration number 6239

project: SHOP TOP HOUSING	location: 658-660 BOTANY RD 11 BIRMINGHAM ST	drawing: WINDOW + DOOR SCHEDULE - SHEET 1	stage: D.A.	project no.: 928	dwg no.: 201	
for/client: HOUSE OF INDONESIA	at: ALEXANDRIA	drawing:	chkd: TW	drwn: OZ KR	date: 16/04/19	revision: E



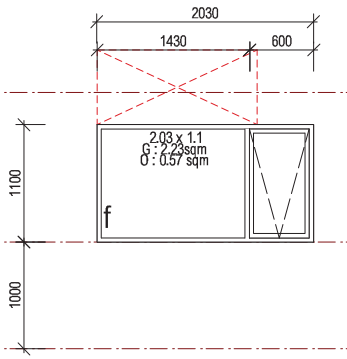
sliding door
DUAL-KEY APARTMENT LOWER (Botany Rd)

UNIT 15 | UNIT 19 | UNIT 28 | UNIT 32



awning / fixed (attenuated ventilation above)
DUAL-KEY APARTMENT LOWER (Botany Rd)

UNIT 19 | UNIT 32



awning / fixed (attenuated ventilation above)
DUAL-KEY APARTMENT LOWER (Botany Rd)

UNIT 15 | UNIT 28

WINDOW SPECIFICATION:

Windows + Doors: Glass thickness and specification as per acoustic report by West & Associates.

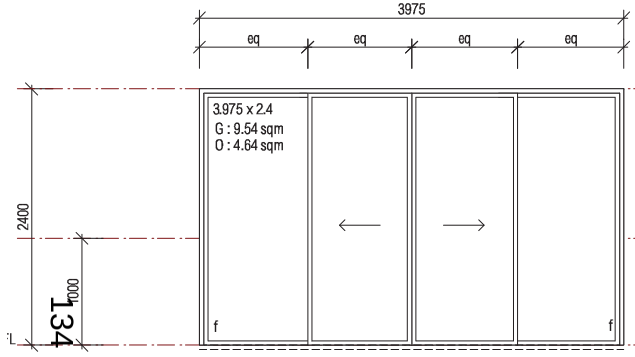
All aluminium frames to be powdercoat finish, refer finishes schedule for colour.
Fit with minimum CLEAR 6.38 laminated glass or as required by Australian Standard.
Handles: Colour matched to frames. keyed alike to front door
Locks: Colour matched to frames. keyed alike to front door

Windows: refer finishes schedule for colour. keyed locks to all

Aluminium flywire screens to be installed over all operable windows.
All glazing to be clear unless otherwise noted. All bathroom and toilet windows for each dwelling shall have frosted or translusent glass installed.

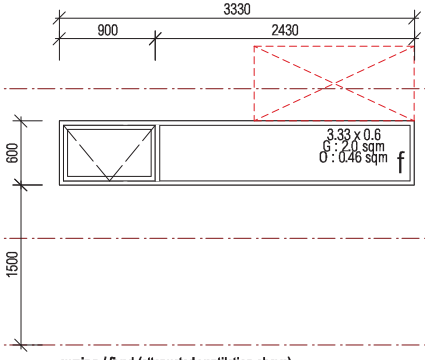
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Given values are AFRC, total window system values (glass and frame)
NOTE: Openability modelled as per BASIX Thermal Protocol - 4.14.2 and NatHERS Technical Note 1.2 – 10.11 with regard to restricted openings.

WINDOW POSITIONS ARE FROM EXTERIOR OF BUILDING
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*** DOOR TRACKS RECESSED INTO SLAB SHOWN DOTTED**

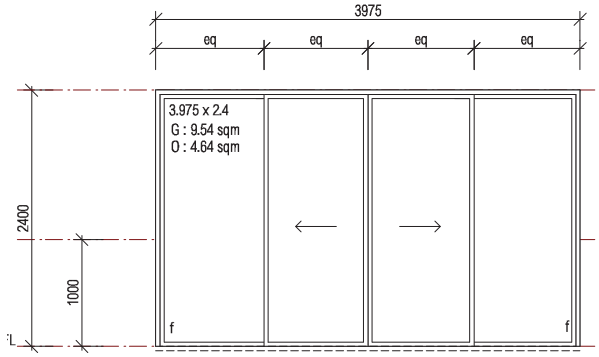


sliding door
DUAL-KEY APARTMENT LOWER (Botany Rd)

UNIT 16 | UNIT 17 | UNIT 18 | UNIT 29 | UNIT 30 | UNIT 31

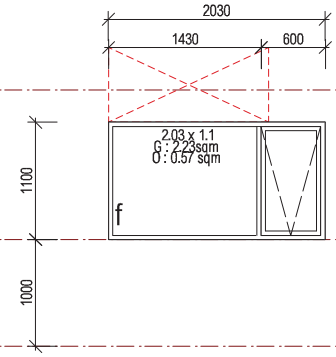


awning / fixed (attenuated ventilation above)
DUAL-KEY APARTMENT LOWER (Botany Rd)

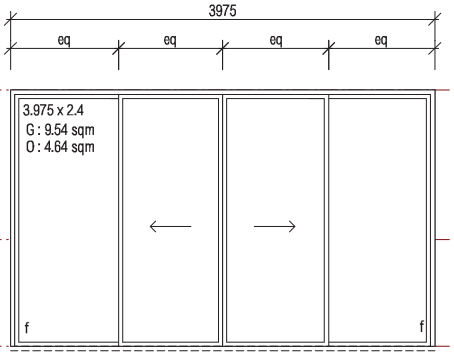


sliding door
DUAL-KEY APARTMENT UPPER (Botany Rd)

UNIT 15 | UNIT 19 | UNIT 28 | UNIT 32

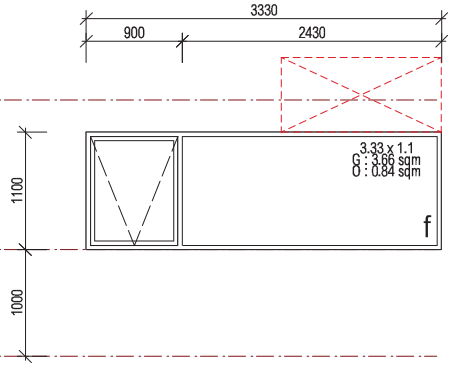


awning / fixed (attenuated ventilation above)
DUAL-KEY APARTMENT UPPER (Botany Rd)



sliding door
DUAL-KEY APARTMENT UPPER (Botany Rd)

UNIT 16 | UNIT 17 | UNIT 18 | UNIT 29 | UNIT 30 | UNIT 31



awning / fixed (attenuated ventilation above)
DUAL-KEY APARTMENT UPPER (Botany Rd)

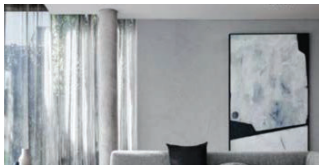
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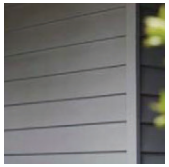
environa studio
224 riley st surry hills 2010
t: 02 9332 1211 f: 02 9332 1355
w: www.environastudio.com.au
architects registration number 6239

project	location	drawing	stage	project no.	dwg no.
SHOP TOP HOUSING	658-660 BOTANY RD 11 BIRMINGHAM ST	WINDOW + DOOR SCHEDULE - SHEET 2	D.A.	928	202
for/client	at	drawing	chkd / drwn	date	revision
HOUSE OF INDONESIA	ALEXANDRIA		TW / OZ KR	16/04/19	E

	EXTERNAL ITEM	MATERIAL	COLOUR CODE (NAME)
	WALL	RENDER FINISH	dulux 'lexicon quarter' PN2D1 or similar
	WALL	RENDER FINISH	dulux 'tranquil retreat' PG1F1 or similar
	WALL	RENDER FINISH	dulux 'teahouse' PG1F6 or similar
	WALL	RENDER FINISH	dulux 'juvenile' PG1E1 or similar
	WALL	RENDER FINISH	dulux 'red blooded' P04G8
	WALL	BROAD FORMED CONCRETE	natural
	WALL	TEXTURED GLAZED TILES	'charcoal' or similar
	PANEL LIFT DOOR	COLORBOND STEEL	'woodland grey' or similar
	DECKING	MODWOOD	natural grain collection - silver gum
	DOOR FRAMES + WINDOW FRAMES + FIXED SCREENS	POWDER COATED ALUMINIUM	'monument' or similar



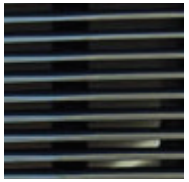










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architects registration number 6239

project	location	drawing	stage	project no.	dwg no.
SHOP TOP HOUSING	658-660 BOTANY RD 11 BIRMINGHAM ST	MATERIALS + FINISHES SCHEDULE	D.A.	928	210
for/client	at	drawing	chkd / drwn	date	revision
HOUSE OF INDONESIA	ALEXANDRIA		TW / OZ	22/03/19	D

TERMS AND ABBREVIATIONS

Abbreviations used on the drawings and in the specifications and schedules are as follows:

AFS	As further specified
BWB	Block / Brickwork - Bagged
BWR	Block / Brickwork - Rendered
BCA	Building Code of Australia
BC	Bright Chrome
CCA	Copper/Chrome/Arsenate treated timber
CCR	Corrugated Colorbond Roofing
CCW	Corrugated Colorbond Wall Sheeting
CFC	Compressed Fibre Cement sheet
CIS	Concrete in situ
CT	Ceramic Tiles
cts	Centres
DP	Downpipe
EPS	Expanded Polystyrene (insulation)
F	Fixed glass
FC	Fibre Cement (painted sheets)
FCR	Fibre Cement Rendered (Harditex)
FFL	Finished floor level
GB	Glass blockwork
\GPO	General Power Outlet
HW	Hardwood
HDG	Hot Dipped Galvanised
HDPE	High Density Polyethylene (piping)
HPP	Hebel Power Panel
HSF	Hebel Sound Floor
HTP	Harditex cladding
HWS	Hot water service
L	Glass Louvres (in windows)
LFC	Linoleum floor covering
LSOP	Light Oil Solvent Preservative = 'Gold' Treated timber
LVL	Laminated Veneer Lumber
MDF	Medium density fibreboard = customwood
MGP	Machine Graded Pine framing (Wall/Roof)
MI	Manufacturer's instructions
NIC	Not in Contract
OFC	Off form concrete
PB	Plasterboard
PCC	Pre cast concrete
PFC	Parallel Flange Channel
PRF	Pirelli rubber floori covering
PS	Provisional Sum
PTB	Particle Board
RFL	Reflective foil laminate
RHS	Rectangular hollow section
RP	Radiata Pine
S+I	Supply and Install
SC	Satin Chrome
SHS	Square Hollow section
SS	Stainless Steel
T+G	Tongue and grooved (flooring/walling)
TBA	To be advised
TR	Towel rail
TRH	Tiolet roll holderz
TT	Terracotta Tile
UB	Universal Beam
UC	Universal Column
UNO	Unless noted otherwise
VOS	Verify on site
VR	Veneer
WRC	Western Red Cedar (timber)

NOTES

All work as shown in the drawings and schedule, including all necessary work even if not drawn or scheduled.
Refer all queries and discrepancies to the architects. All measurements in mm unless noted otherwise.

Standard of Work and Regulations
All work to be carried out in accordance with:
- Building Code of Australia 2006
- AS Codes
- Conditions of Council
- Conditions of service supply authorities
- All relevant Australian Standards including, but not limited to the standards listed below.

Site Survey
Provide registered surveyor report at bearer + joist stage.

Demolition and Recycled Material
Demolition in accordance with Metro. Waste Board Guide.

Site management
No building activities on Council land.
Establish sediment controls as required by all aurthorities

Earthworks and excavation
All work to be carried out in accordance with the following:
BCA Part 3.1.1
Australian Standard AS2870

Stormwater Disposal
All work to be carried out in accordance with the following:
BCA Part 3.1.2 and BCA Part 3.5.2
Australian Standard AS/NZ3500.3.2

Termite Protection
All work to be carried out in accordance with the following:
BCA Part 3.1.3
Termite protection in accordance AS3660.1

Footings, Slab Design and Retaining Walls
All work to be carried out in accordance with the engineer's drawings and specifications and the following,
BCA Part 3.2
Australian Standard AS2870

Masonry Construction
All work to be carried out in accordance with the following:
BCA Part 3.3
Australian Standard AS3700

Structural Steel Framing
All work to be carried out in accordance with the engineer's drawings and specifications and the following:
BCA Part 3.4.2
Australian Standard AS1250 and AS3623

Timber Framing
All work to be carried out in accordance with the following:
BCA Part 3.4.3
Australian Standard AS1684
All timber to be from sustainable sources as follows: plantation and/or recycled timbers, the framing shall be in plantation Radiata Pine or NZ Douglas Fir, all structural timer shall be plantation grown glue laminated timber and all flooring shall be from recycled timber or bamboo T+G flooring.

Roof Cladding
All work to be carried out in accordance with the following:
BCA Part 3.5.1,
Australian Standard AS1562.1

Gutters and downpipes
All work to be carried out in accordance with the following:
BCA Part 3.5.2,
Australian Standard AS3500.3.2.

Wall Cladding
All work to be carried out in accordance with the following:
BCA Part 3.5.3

Windows and Doors and Installation of Glazing
All work to be carried out in accordance with the following:
BCA Part 3.6,
Australian Standard AS1288 or AS2047.

External Windows and Doors
All work to be carried out in accordance with the following:
BCA Part 3.5.4 and BCA Part 3.6,
Australian Standard AS 2047,

Ventilation and Exhaust Fans
All work to be carried out in accordance with:
BCA Part 2.4, BCA Part 3.8.5
Australian Standard AS1668.2

Construction of Roof, Walls and Floor
All work to be carried out in accordance with the following:
BCA Part 3.5, BCA Part 3.12

Hot Water Supply System
All work to be carried out in accordance with the following:
BCA Part 3.12.5, Australian Standard AS/NZS 3500.4 9section 8) or cl. 3.38 of AS/NZ 3500.5.

Fire Separation
All work to be carried out in accordance with the following:
BCA Part 3.7.1

Smoke Alarms
All work to be carried out in accordance with the following:
BCA Part 3.7.2, and Australian Standard AS 3786

Building Fabric Thermal Insulation
All work to be carried out in accordance with the following:
BCA NSW Clause 2.3.1
Australian Standard AS/NZS4859.1
BASIX compliance

Sound Insulation
All work to be carried out in accordance with the following:
BCA Part 3.8.6

Waterproofing of Wet Areas
All work to be carried out in accordance with the following:
BCA Part 3.8.1, and Australian Standard AS3740

Facilities (Health and Amenity)
All work to be carried out in accordance with the following:
BCA Part 3.8.3
Australian Standard AS 1668.2

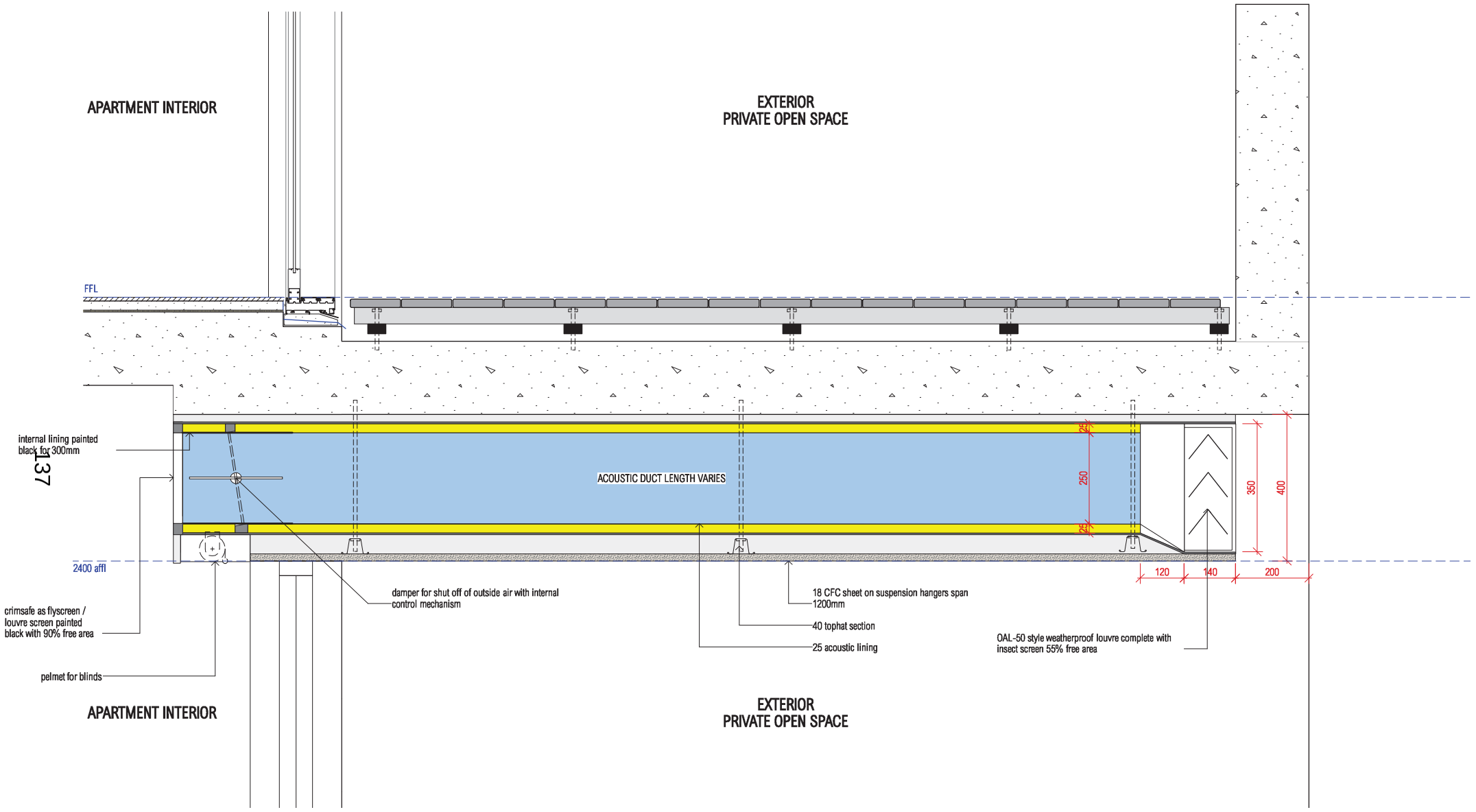
Hydraulics
Hot water service pipes shall be provided with insulation in accordance with BCA Part 3.12.1
Australian Standard AS 3500

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architects registration number 6239

project: SHOP TOP HOUSING	location: 658-660 BOTANY RD 11 BIRMINGHAM ST	drawing: TERMS + ABBREVIATIONS SUMMARY	stage: D.A.		project no.: 928	dwg no.: 211
for/client: HOUSE OF INDONESIA	at: ALEXANDRIA	drawing	chkd: TW	drwn: OZ	date: 22/03/19	revision: D



REFER TO ACOUSTIC REPORT BY WEST & ASSOCIATES FOR FURTHER INFORMATION

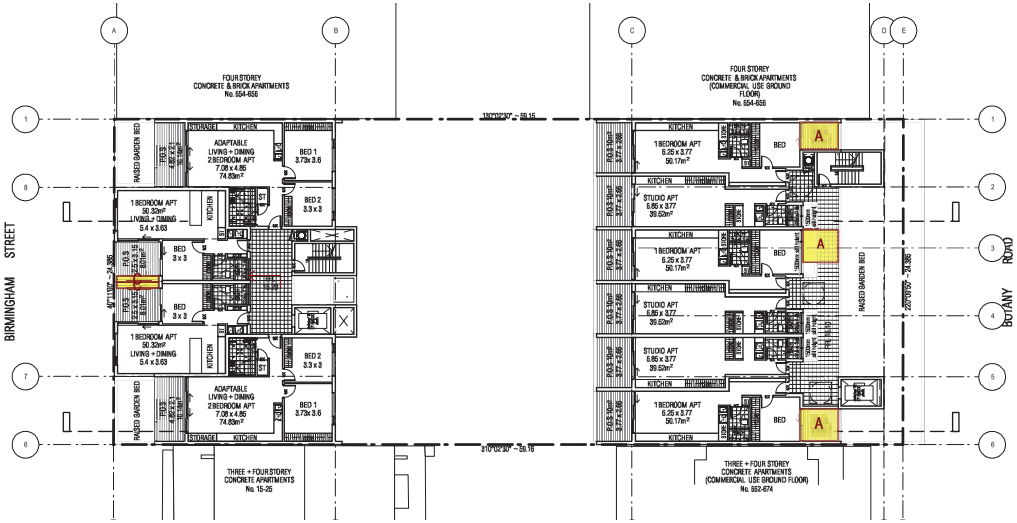
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D	22.03.19	issue to council (DA)
E	16.04.19	issue to council (DA)
F	16.09.19	issue for information
G	27.09.19	issue for information
H	02.10.19	issue for information

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project: SHOP TOP HOUSING	location: 658-660 BOTANY RD 11 BIRMINGHAM ST	drawing: EXTERNAL DETAILS	stage: D.A.		project no.: 928	dwg no.: 610
for/client: HOUSE OF INDONESIA	at: ALEXANDRIA	drawing: VENTILATION DETAILS	chkd: TW	drwn: OZ KR	date: 02/10/19	revision: H



VENTILATION DIAGRAM L2
1:400 @ A3

BIRMINGHAM ST WEST FACADE
NIGHT NOISE LEVEL 58db(A) (WEST TABLE 10)

TYPE C - BIRMINGHAM WEST FACADE
SINGLE-SIDED 1 BEDROOM
MINIMUM OPEN AREA 0.60m² RDA = 0.30 X 2 DEVICES
TABLE 5 RDA <0.33
VERTICAL PLAIN PLENUM MIN. SIZE 2.44H x 0.23W x 1.57L

TYPE D - BIRMINGHAM WEST FACADE
SINGLE-SIDED 2 BEDROOM
MINIMUM OPEN AREA 0.90m² RDA = 0.225 X 4 DEVICES
TABLE 5 RDA ≤0.25
VERTICAL PLAIN PLENUM MIN. SIZE 1.99H x 0.23W x 1.37L

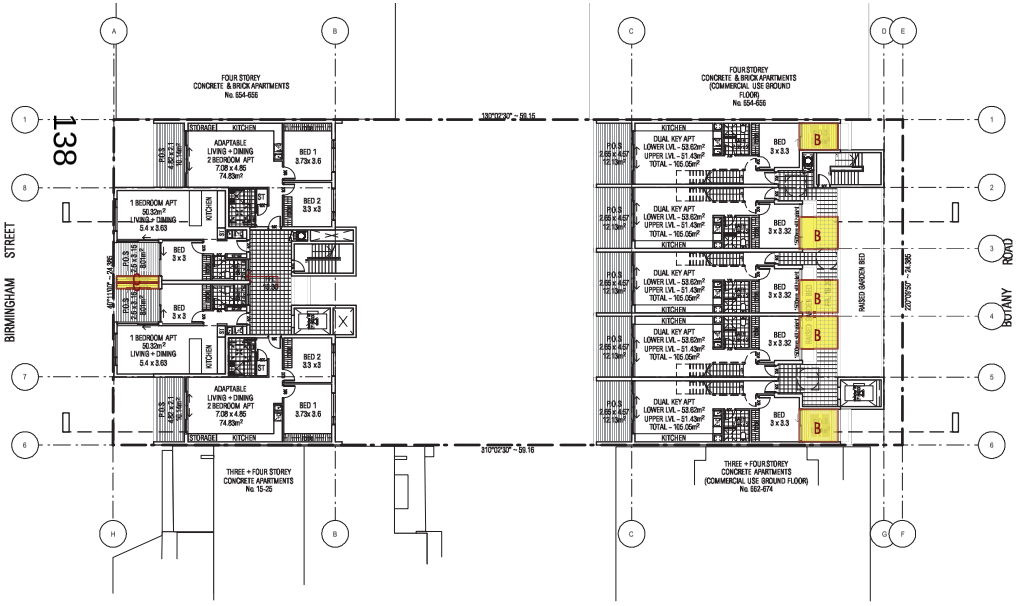
BOTANY RD EAST FACADE
NIGHT NOISE LEVEL 63db(A) (WEST TABLE 10)

TYPE A - BOTANY RD EAST FACADE
CROSS-THROUGH 1 BEDROOM
MINIMUM OPEN AREA 0.17m² RDA = 0.17
TABLE 6 RDA ≤0.20
HORIZONTAL PLAIN PLENUM MIN. SIZE 0.35H x 2.32W x 2.37L

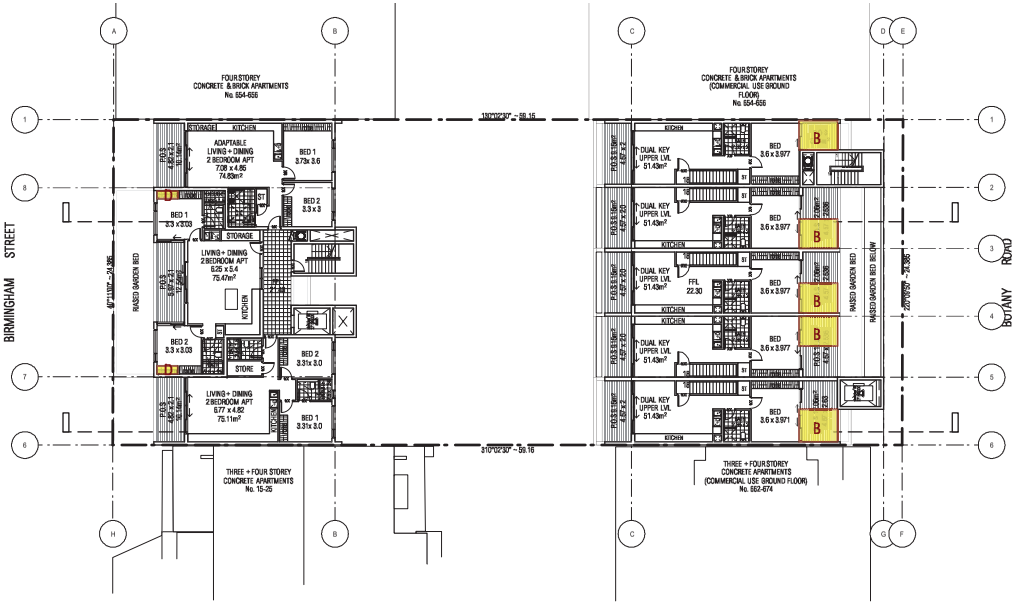
TYPE B - BOTANY RD EAST FACADE
CROSS-THROUGH 3 BEDROOM / 2 BED >100m²
MINIMUM OPEN AREA 0.33m² RDA = 0.175 X 2 DEVICES
TABLE 6 RDA ≤0.20
HORIZONTAL PLAIN PLENUM MIN. SIZE 0.35H x 1.87W x 2.17L

DEVICE DIMENSION TO SUIT BALCONY

REFER TO ACOUSTIC / MECHANICAL REPORT 'TABLE 13' FOR FURTHER DETAIL AND SPECIFICATION



VENTILATION DIAGRAM (TYPICAL LOWER)
1:400 @ A3



VENTILATION DIAGRAM (TYPICAL UPPER)
1:400 @ A3

notes	rev	date	amendment	rev	date	amendment
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project	location	drawing	stage	project no.	dwg no.
SHOP TOP HOUSING	658-660 BOTANY RD 11 BIRMINGHAM ST	EXTERNAL DETAILS	D.A.	928	611
for/client	**at**	**drawing**	**chkd / drwn**	**date**	**revision**
HOUSE OF INDONESIA	ALEXANDRIA	VENTILATION DIAGRAM	TW / OZ KR	02/10/19	H

Attachment C

Photomontages



notes

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architects registration number 6239

project: SHOP TOP HOUSING	location: 658-660 BOTANY RD 11 BIRMINGHAM ST	drawing: PHOTOMONTAGE 1	stage: D.A.	project no.: 928	dwg no.: 001	
for/client: HOUSE OF INDONESIA	at: ALEXANDRIA	drawing:	chkd: TW	drwn: OZ KR	date: 16/09/19	revision: F



notes

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project: SHOP TOP HOUSING	location: 658-660 BOTANY RD 11 BIRMINGHAM ST	drawing: PHOTOMONTAGE 2	stage: D.A.	project no.: 928	dwg no.: 002	
for/client: HOUSE OF INDONESIA	at: ALEXANDRIA	drawing:	chkd: TW	drwn: OZ KR	date: 16/09/19	revision: F

Item 5.

Development Application: 82 City Road, Chippendale - D/2019/822

File No.: D/2019/822

Summary

Date of Submission:	1 August 2019
Applicant:	Merbell Pty Ltd c/: LK Planning
Designer:	Cubitor Design And Drafting
Owner:	Merbell Pty Ltd
Cost of Works:	$481,651
Zoning:	R1 General Residential. The proposed use as a boarding house is permissible in the zone.
Proposal Summary:	The application seeks consent for alterations and additions to the existing 10 room boarding house at No.82 City Road, Chippendale. The works consist of excavation, partial demolition of the rear of the building, internal alterations, rear ground floor extension, rear facing dormer window and a new rear lane structure. The proposal will result in no additional rooms and will accommodate a maximum of 11 people. The application is being assessed concurrently with an identical proposal for the neighbouring property at No.84 City Road (D/2019/823), which is under the same ownership as the subject site. The application is reported to the Local Planning Panel as the development is accompanied by a Clause 4.6 request which seeks a waiver of the requirement for motorcycle parking under Clause 30(1)(h) of State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP AH). The development is required to provide 2 parking spaces. No spaces are proposed to be provided. A written request has been provided seeking a 100% variation from this development standard in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012 (SLEP). The request to vary the development standard is supported in this instance for the reasons outlined in this report.

The proposal exceeds the 9 metre building height development standard pursuant to Clause 4.3 of the SLEP by 1.14m or 12%. A written request has been provided seeking a variation to the height development standard in accordance with Clause 4.6 of the SLEP. The request to vary the development standard is supported in this instance for reasons outlined in this report.

The application was notified for a period of 14 days between 8 August 2019 and 23 August 2019. A total of 5 submissions were received. The issues raised relate to the bulk and scale of the proposal, compliance with Council's controls and the appropriate management of the site.

The proposal generally complies with the requirements of the SEPP AH, SLEP and Sydney Development Control Plan 2012 (SDCP) in terms of amenity, accommodation size, solar access and character of the local area.

The development is considered to exhibit design excellence, is in keeping with the desired future character of the area and is considered to be in the public interest.

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

Development Controls:

(i) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)

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

(iii) State Environmental Planning Policy (Infrastructure) 2007

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

(v) Sydney Local Environmental Plan 2012

(vi) Sydney Development Control Plan 2012

(vii) City of Sydney Development Contributions Plan 2015

Attachments:

A. Recommended Conditions of Consent

B. Selected Drawings

C. Clause 4.6 - Height of Building

D. Clause 4.6 - Motorcycle Parking

E. Plan of Management

Recommendation

It is resolved that:

(A) the written variation request to Clause 30(1)(h) - Motorcycle Parking of the State Environmental Planning Policy - Affordable Rental Housing in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be supported in this instance;

(B) the written variation request to Clause 4.3 - Height of Buildings in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be supported in this instance; and

(C) consent be granted to Development Application No. D/2019/822 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

(A) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the Motorcycle Parking development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 30(1)(h) of the SEPP - Affordable Rental Housing 2009; and

(B) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the height of buildings development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 4.3 of the Sydney LEP 2012; and

(C) the proposal is in the public interest because it is consistent with the objectives of the R1 - General Residential zone and the motorcycle parking and height of buildings development standards.

(D) the proposal is considered appropriate within its setting and is generally compliant with the relevant planning controls contained in the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.

(E) the proposed use is compatible with the predominant residential nature of the area and it is considered that the use will not result in unreasonable impacts to nearby residential properties, subject to the attached conditions.

Background

The Site and Surrounding Development

1. The site at No.82 City Road is legally known as Lot 15 of DP 260527 and has an area of 213.4sqm. The site has a street frontage to City Road of 6.1m and a secondary frontage of 6.2m to Maze Lane.

2. A two storey plus attic Victorian terrace building currently exists on the site and is being used as a boarding house. The main portion of the building is rendered masonry with a gabled roof and rendered chimneys. The building includes a first floor timber verandah which has been enclosed with aluminium windows. The building also includes a part two storey part one storey skillion wing to the rear.

3. The building is the northern most building of a mostly intact pair with No.84 City Road (subject to a separate application - D/2019/823) and is contained within a larger group of 4 terraces (No.80-86 City Road), all of which remain largely intact.

4. There is a fall of approximately 2m from City Road to Maze Lane and the site contains 2 large trees within the front setback which are proposed to be retained.

5. The site is not a heritage item but is identified as being a contributory building within the Chippendale Conservation Area (C9). This site is not identified as being subject to flooding.

6. Surrounding land uses are a mix of single dwellings, boarding houses/student accommodation and multi-dwelling housing. The built form is typically comprised of 2 and 3 storey terraces with 1 and 2 storey skillion wing additions to the rear. The majority of the buildings in the immediate vicinity are original buildings with minimal new constructions towards the north of the site.

7. Maze Lane has an evolving character dominated by garages and outbuildings servicing the terraces. There are a number of laneway buildings on Maze Lane predominately located on the opposite (eastern) side of the lane. A number of recent approvals for the eastern side of the lane have seen first floor studios and secondary dwellings with gabled roofs constructed fronting the lane.

8. On the western side of City Road, opposite the subject site is Victoria Park.

9. A site visit was carried out on 21 August 2019. Photos of the site and surrounds are provided below.



Figure 1: Aerial image of subject site and surrounding area



Figure 2: Site viewed from City Road



Figure 3: The front façade of the building as viewed from City Road



Figure 4: Looking east from the attic of No.82 City Road



Figure 5: The rear of the existing building



Figure 6: Looking at the subject site from the rear lane with the adjoining property at No.84 City Road (D/2019/823)



Figure 7: Looking south along Maze Lane with location of site identified by a red arrow



Figure 8: Looking north along Maze Lane with location of site identified by a red arrow

Proposal

10. The application seeks consent for alterations and additions to the existing boarding house. The development proposed will comprise of:

    (a) Demolition of the rear of the existing building and derelict outbuildings

    (b) Partial excavation at the rear of the site to a maximum depth of 1.3m

    (c) Alterations and additions to provide:

        Ground floor:

        (i) 3 rooms including 1 accessible room

        First floor:

        (ii) 4 rooms

        (iii) 1 shared toilet and shower

    (d) Second (attic) floor:

        (i) 2 rooms with front and rear dormer windows

    (e) Rear lane structure comprising of:

        (i) Separate ground floor communal living area, kitchen and laundry; and

        (ii) First floor double boarding room

(f) The proposal will result in a total of 10 rooms on the site accommodating a maximum of 11 people

(g) Parking for 4 bicycles within the front setback

(h) Facade upgrades to the City Road frontage including repair and maintenance of the building and landscaping works

11. It is noted that the proposal is a mirror image of the proposal for alterations at No.84 City Road (D/2019/823) which is being assessed concurrently and the subject of a separate report to the Local Planning Panel.

12. Plans of the proposed development are provided below

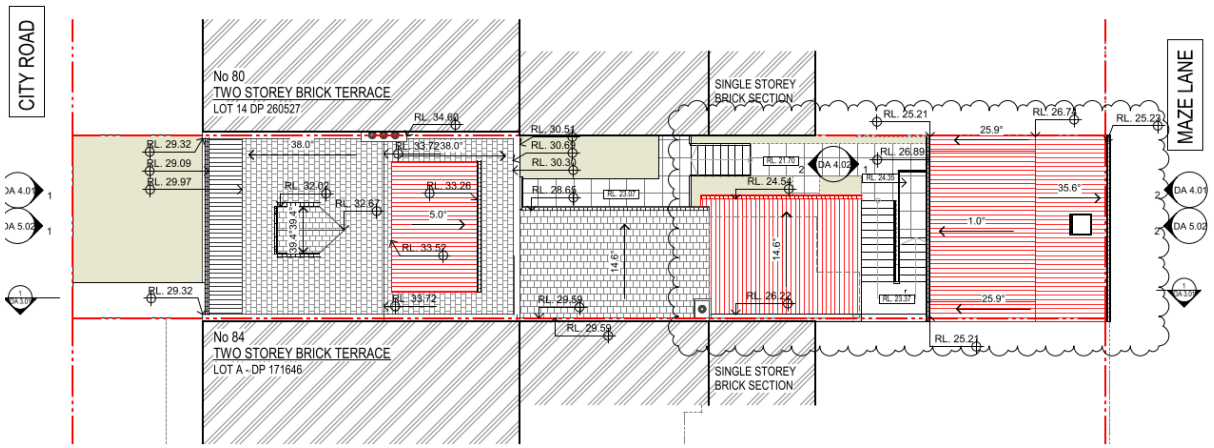


Figure 9: Proposed roof plan

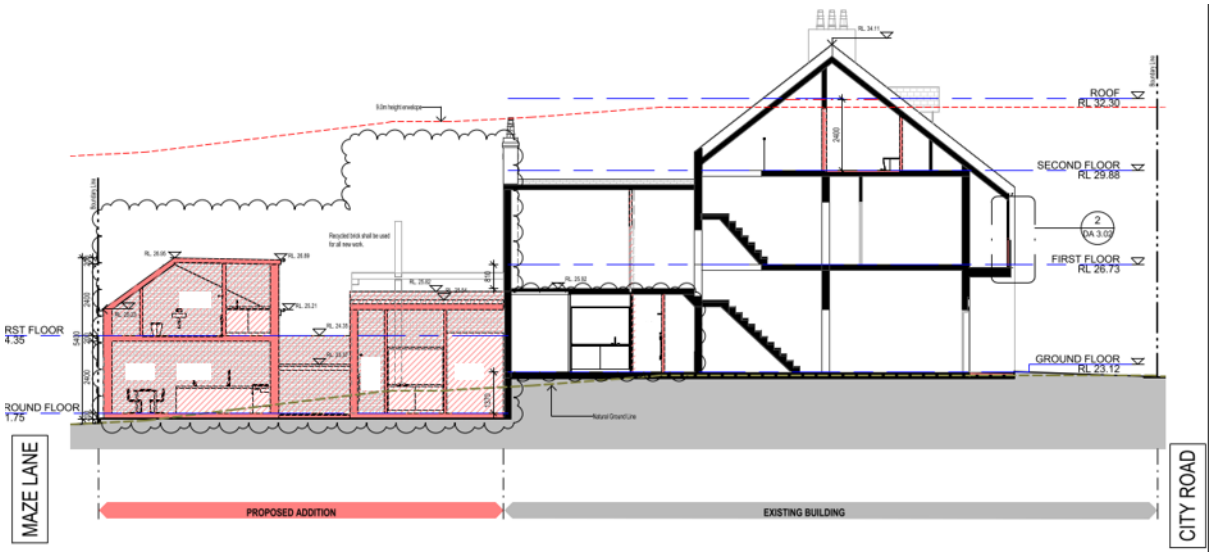


Figure 10: Section

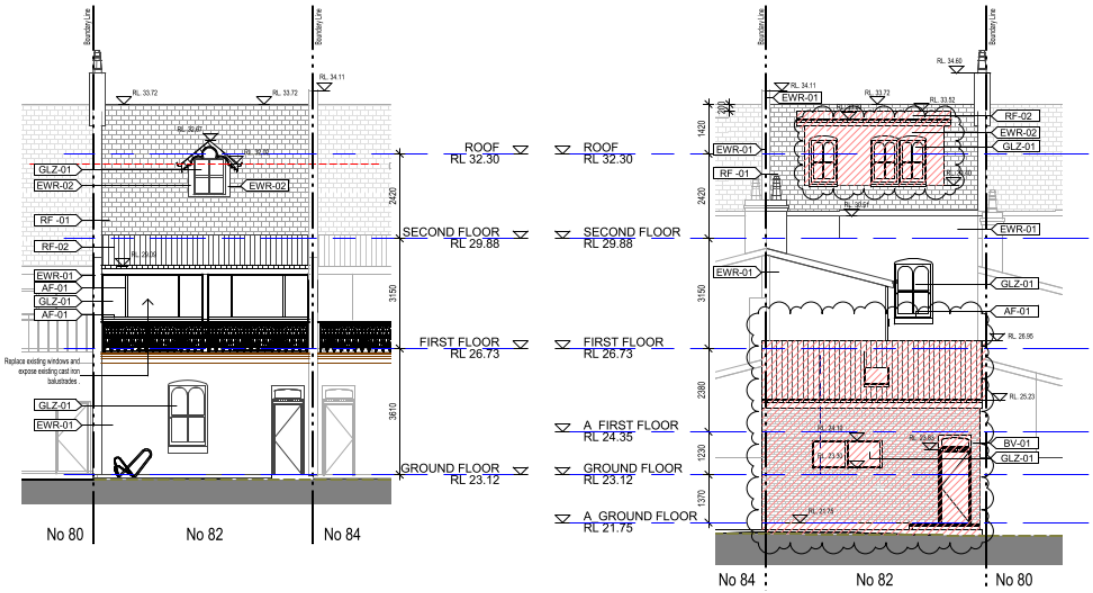


Figure 11: Front (west) and rear (east) elevations

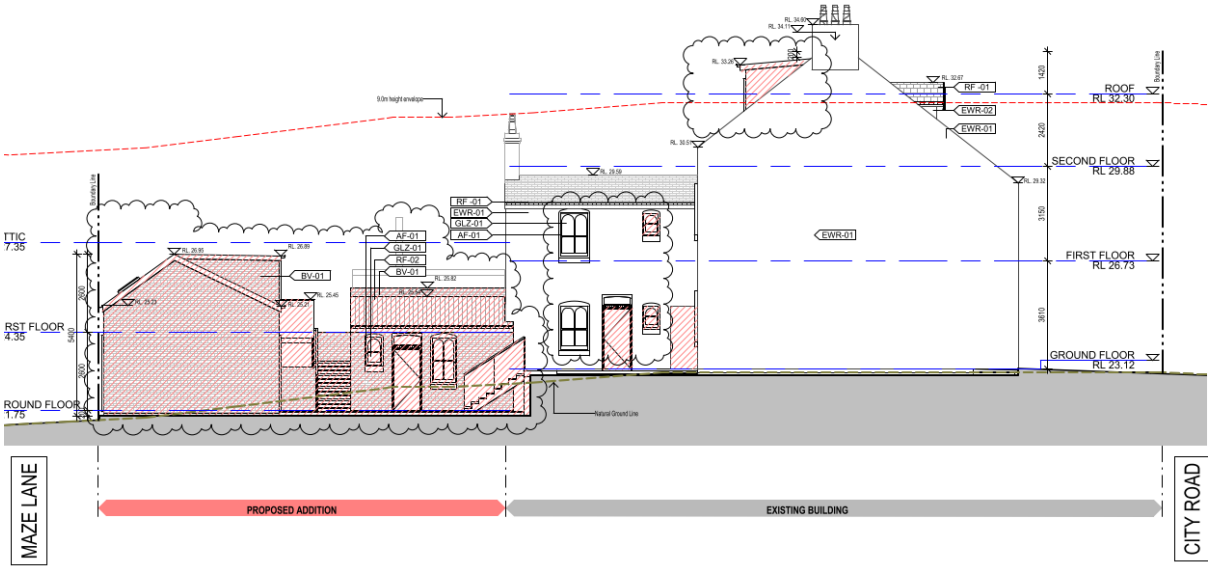


Figure 12: North elevation

History Relevant to the Development Application

13. Council's records indicate that the site has been used as a licensed boarding house since 1982 (Council's Licensed Boarding House Inspection Card 1982-1990).

14. D/2017/1742 for alterations and additions to the existing boarding houses at No.82-84 City Road was withdrawn by the applicant.

15. D/2018/842 for alterations and additions to the existing boarding house at No.82 City road was refused by the Local Planning Panel on 30 January 2019. The reasons for refusal were due to the proposal's non-compliance with the *State Environmental Planning Policy (Affordable Rental Housing) 2009*, unsympathetic addition in the conservation area, non-compliance with the Sydney DCP 2012 in terms of amenity impacts and failure to demonstrate design excellence.

Economic/Social/Environmental Impacts

16. The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:

    (a) Environmental Planning Instruments and DCPs.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)

17. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.

18. The Sydney Harbour Catchment Planning Principles must be considered in the carrying out of development within the catchment. The key relevant principles include:

    (a) protect and improve hydrological, ecological and geomorphologic processes;

    (b) consider cumulative impacts of development within the catchment;

    (c) improve water quality of urban runoff and reduce quantity and frequency of urban run-off;

    (d) protect and rehabilitate riparian corridors and remnant vegetation.

19. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development.

20. The development is consistent with the controls contained within the deemed SEPP.

State Environmental Planning Policy (Infrastructure) 2007

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

Clause 45

22. The application is subject to Clause 45 (Subdivision 2 Development likely to affect an electricity transmission or distribution network) of the SEPP as the development:

    (a) Is to be carried out within 5m of an exposed overhead electricity power line

23. In accordance with the Clause, the application was referred to AusGrid for a period of 21 days. The application was supported subject to conditions which have been included in the Recommended Conditions of Consent.

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

24. The BASIX Certificate has been submitted with the development application (Certificate No. A319485_02).

25. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal.

State Environmental Planning Policy (Affordable Rental Housing) 2009

26. The SEPP aims to provide a consistent planning regime for the provision of affordable rental housing and to facilitate the delivery of new affordable rental housing by providing incentives by way of identifying non-discretionary development standards.

27. Under Clause 29, compliance with any of the following standards must not be used to refuse consent.

Clause 29 – Standards that cannot be used to refuse a boarding house		
Standard	**Complies**	**Comment**
1(c)(i) – Density and scale expressed as FSR cannot be refused with FSR of 1.25:1 plus 0.5:1	Yes	The development proposes a floor space ratio of 1.16:1.
2(a) Building height The proposed building height must not exceed the maximum permitted under an EPI	No	The application includes a variation to the maximum permitted height limit of 9m by 12% or 1.14m due to the proposed dormer window. See Clause 4.6 discussion later in this report.
2(b) Landscaped area Front setback to be consistent with streetscape	Yes	The building has a consistent front setback with neighbouring terraces, and a large landscaped area and private open space exists at the rear of each site.
2(c) Solar access Min. 1 communal living area to receive min. 3 hours direct sunlight between 9:00am and 3:00pm in midwinter.	Yes	The communal living area located at the rear of the site will receive solar access between 9am and 12pm.

Clause 29 – Standards that cannot be used to refuse a boarding house		
2(d) Private open space (i) Min. 20sqm with min. 3m width	No	An area of 35.2sqm of open space has been provided within the side and rear setback of the property with a minimum dimension of 2.2m. Notwithstanding, the applicant has identified the site's proximity to Victoria Park will provide the residents of the site with sufficient outdoor space.
2(e) Parking (i) 0.2 parking spaces provided for each boarding house room for sites in an accessible area. (iii) Not more than 1 parking space for the on-site manager.	Acceptable	No car parking is proposed.
2(f) Accommodation size (i) Min.12sqm for single lodger rooms (ii) Min.16sqm for double lodgers rooms (excluding any area used as a private kitchen/ bathroom)	No	As shown in Figure 13, rooms 2, 6, 7, 9 and 10 do not meet the minimum size requirements for a single occupancy room as they are existing rooms within the terrace. It is noted that for all but 3 of the rooms, there is an increase in the overall size of the rooms, inclusive of facilities as compared to the existing situation. Given the constraints of the existing building, the proposed variation to this requirement is acceptable. All rooms have been provided with a wardrobe.

Room	Existing room size	Total area	Living area (12sqm)	Wardrobe (1sqm)	Kitchen (2sqm)	Ensuite inc. shower (2.9sqm)	Laundry (1.1sqm)
1	19.6sqm	38sqm	20sqm	1.3sqm	2.6sqm	7.3sqm	1.6sqm
2	15.4sqm	16.5sqm	*11.3sqm*	1.3sqm	2sqm	3.1sqm	n/a
3	12.1sqm	18.7sqm	14.7sqm	1.3sqm	2sqm	3.5sqm	n/a
4	9.2sqm	13.9sqm	12.7sqm	1.3sqm	2sqm	n/a	n/a
5	18.5sqm	18.3sqm	13.5sqm	*0.5sqm*	*1.2sqm*	3.2sqm	n/a
6	13.9sqm	15.6sqm	*10.5sqm*	*0.7sqm*	2sqm	2.9sqm	n/a
7	15.3sqm	12.0sqm	*11.1sqm*	*0.4sqm*	2sqm	n/a	n/a
8	n/a	24.1sqm	20sqm	5.6sqm	*1.6sqm*	2.9sqm	n/a
9	18.8sqm	14.7sqm	*10.2sqm*	*0.7sqm*	*1.5sqm*	3.6sqm	n/a
10	10.5sqm	8.1sqm	*7.3sqm*	*0.7sqm*	*1.5sqm*	n/a	n/a

Figure 13: Breakdown of individual room sizes for No.82 City Road. Note that dimensions emphasised do not comply with the minimum requirements detailed in brackets.

28. Clause 30 states that a consent authority must not grant development consent to which Division 3 applies unless it is satisfied of each of the following:

Clause 30 – Standards for boarding house		
1(a) At least one communal living room is to be provided	Yes	The building contains a communal living room on the ground floor at the rear of the site.
1(b) No boarding room is to have a gross floor area (excluding private kitchen or bathroom facilities) of more than 25m²	Yes	All boarding rooms are less than 25sqm.
1(c) No boarding room to be occupied by more than 2 adult lodgers	Yes	Each of the boarding rooms will be occupied by a maximum of two adult lodgers with the majority being single rooms.

Clause 30 – Standards for boarding house		
1(d) Adequate bathroom and kitchen facilities available for use of each lodger	Yes	The site includes a kitchen in each boarding room and all but 3 have separate ensuites. One shared toilet and shower is provided for these rooms as required.
(1e) A boarding room or on-site dwelling to be provided for a boarding house manager if boarding house has a capacity of 20 or more lodgers	N/A	The boarding house will have fewer than 20 lodgers (max 11).
1(g) If the boarding house is zoned primarily for commercial purposes, no part of the ground floor that fronts a street will be used for residential purposes except where permitted under an EPI.	N/A	The land is zoned for residential development.
1(h) At least 1 bicycle and 1 motorcycle parking space to be provided for every 5 rooms.	No	No motorcycle parking is provided. A minimum of 2 spaces is required. Parking for 4 bicycles is provided within the front setback. See discussion under the heading Issues.

Clause 30A – Character of the local area

29. Clause 30A states that a consent authority must not grant development consent for a boarding house unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

30. The proposal involves significant alterations to the rear of the existing building. As detailed above, the site is located within an area with a clear built form character being traditional terrace style dwelling/buildings with rear wing additions and small outbuildings. The proposal includes a rear ground floor addition in line with the predominant rear building line. The proposed rear addition results in acceptable bulk and scale with limited amenity impacts to adjoining properties. Overall, the proposal is compatible with the character of the surrounding area as viewed from Maze Lane and is consistent with Clause 30A of the SEPP.

Sydney Local Environmental Plan 2012

31. The site is located within the R1 General Residential zone. The proposed works include alterations and additions to an existing boarding house and are permissible.

32. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Development Control	Compliance	Comment
4.3 Height of Buildings	No	A maximum height of 9m is permitted. A height of 10.14m is proposed which is a 12% exceedance. The application has been accompanied by a Clause 4.6 Variation Request. See discussion under the heading Issues.
4.4 Floor Space Ratio	Yes	A maximum FSR of 1.75:1 is permitted inclusive of the 0.5:1 FSR allowed by the SEPP AH. A FSR of 1.16:1 is proposed.
4.6 Exceptions to development standards	Yes	The proposal seeks to vary the development standard prescribed under Clause 4.3 in relation to building height by 12% or 1.14m. The proposal also seeks a waiver of the requirement for motorcycle parking under Clause 30(1)(h) of SEPP AH, resulting in a 100% variation from the development standard See discussion under the heading Issues.
5.10 Heritage conservation	Yes	The subject site is identified as being a contributory building within the conservation area. See discussion under the heading Issues.

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
Division 4 Design excellence	Yes	The proposed development is of a high standard, utilising materials and detailing which are compatible with existing development along the City Road and Maze Lane and is in keeping with the desired character for future development in this area. The proposed development is considered to meet the design excellence criteria and as such satisfies Clause 6.21 of the Sydney LEP 2012.

Part 7 Local Provisions - General	Compliance	Comment
7.14 Acid Sulphate Soils	Yes	The site is identified as containing class 5 Acid Sulfate Soils. As the works do not involve excavation within 500m of Class 1-4 soils, no further action is required.

Sydney Development Control Plan 2012

33. The relevant matters to be considered under Sydney Development Control Plan 2012 for the proposed development are outlined below.

2. Locality Statements – 2.3.1 - Chippendale
The subject site is located in the Chippendale locality. The proposed alterations and additions are considered to be in keeping with the unique character of the area and design principles as the proposal responds to the height, massing and proportions of contributory buildings within the conservation area including the subject site.

3. General Provisions	Compliance	Comment
3.5.3 Tree management	Yes	The proposal involves the retention of 2 large weeping bottlebrushes at the front of the site. Council's Tree Management Unit has reviewed the application and supports the retention and pruning of the trees, subject to conditions. It is noted that the submitted plans incorrectly notate the trees for removal - this is to be corrected by conditions.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.9 Heritage	Yes	The existing building is identified as being a contributory building within the conservation area. See discussion under the heading Issues for other heritage matters.
3.11 Transport and Parking	Yes	The subject proposal does not involve the provision of any car or motorcycle parking. Bicycle parking has been provided in accordance with the provisions of SEPP AH.
3.12 Accessible Design	Yes	The proposal includes 1 fully contained accessible room on the ground floor.
3.14 Waste	No	The submitted Waste Management Plans does not adequately address the requirements of the City of Sydney Code for Waste Minimisation in New Development 2005, in that the proposal does not provide for a bulky waste area. However, given the site constraints, the variation of this requirement is considered acceptable.

4. Development Types **4.2 Residential Flat, Commercial and Mixed Use Developments**	**Compliance**	**Comment**
4.2.1 Building height	Yes	The site has a maximum height of 2 storeys. The definition of storey does not include an attic. The proposal seeks no change to the existing 2 storeys plus attic building and the new extension complies with these provisions.
4.2.2 Building setbacks	Yes	See discussion under the heading Issues.
4.2.3 Amenity	Yes	The site accommodates 21sqm or 10% of deep soil within the front setback of the site complying with Section 4.2.3.6. Each room is naturally ventilated and are of a depth so as to enable adequate ventilation. The subject application has been accompanied by an Acoustic Report which has been assessed and deemed acceptable. All recommendations within the report are to be implemented. Solar access is discussed in detail under the heading Issues.
4.2.5 Types of development 4.2.5.3 Development on busy roads	Yes	The subject site is located on City Road which is identified as being a road with over 40,000 vehicles per day. An acoustic report has been provided and reviewed. In addition, the development does not provide any additional openings to the front of the site, and proposes acoustically treated glazing behind the balconies on City Road for Rooms 4 and 5 on the first floor.

4. Development Types **4.4.1 Boarding Houses**	**Compliance**	**Comment**
4.4.1.1 Subdivision	Yes	Subdivision is not proposed.
4.4.1.2 Bedrooms	No	The DCP requires bedroom sizes to be a minimum of 12sqm for single occupants and 16sqm for double occupants. As shown in Figure 13, rooms 2, 6, 7, 9 and 10 do not meet the minimum size requirements for a single occupancy room. It is noted that for all but 3 of the rooms, there is an increase in the overall size of the rooms, inclusive of facilities as compared to the existing situation. Given the constraints of the existing building being a terrace house, the proposed variation to this requirement is acceptable. All rooms have been provided with a wardrobe.
4.4.1.3 Communal kitchen areas	Yes	A communal kitchen is provided at ground floor level of the site in the rear building.
4.4.1.4 Communal Living Areas and Open Space	No	The communal living room does not comply with the minimum area of 20sqm, with 12sqm provided. The communal living and kitchen are located in the same room with a combined area of 20.7sqm. The variation to the room size is considered acceptable given the open plan nature of the space and the compatible uses within the room. An area of 35.2sqm of open space has been provided within the property. The site's proximity to Victoria Park will provide the future occupants with adequate open space.

4. Development Types **4.4.1 Boarding Houses**	**Compliance**	**Comment**
4.4.1.5 Bathroom, laundry and drying facilities	Partial compliance	A dryer has been provided within the shared laundry. Adequate shared bathroom facilities are proposed for the 3 rooms without individual facilities. The proposal does not include an area for external drying facilities however there is adequate space within the communal area to accommodate a clothesline.
4.4.1.6 Amenity, safety and privacy	Yes	*Visual privacy* Rooms 2, 3, 6, 7 and 9 windows are orientated into the external common access ways. Given the low use of these walkways this is acceptable. *Acoustic privacy* A Plan of Management has been submitted which restricts the use of the outdoor areas to 10.00pm daily to ensure neighbourhood amenity is maintained. Indoor noise is also restricted. This is considered to be acceptable. *Safety* The location of the communal living room at the rear of the site with a window provides passive surveillance over the surrounding area.
4.4.1.7 Plan of Management	Yes	A Plan of Management has been submitted with the application and addresses the operation and maintenance of the development.

Issues

Clause 4.6 request to vary a development standard - height

34. The site is subject to a maximum height control of 9m. The proposed development involves the addition of a new rear facing dormer window at a height of 10.14m. The existing building has a height of 11m to the ridge line.

35. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

    (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and

    (b) That there are sufficient environmental planning grounds to justify contravening the standard.

36. A copy of the applicant's written request is provided at Attachment D.

Applicants Written Request - Clause 4.6(3)(a) and (b)

37. The applicant seeks to justify the contravention of the height development standard on the following basis:

    (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the proposal complies with the objectives of the development standard and the zone:

        Compliance with objectives of Clause 4.3

        (i) Objective (a) - to ensure the height of development is appropriate to the condition of the site and its context

        The height breach in this case is caused by a replacement dormer window at the rear of a terrace building that forms part of a contributory group of buildings. A dormer window is anticipated on terraces with high vaulted ceilings and/or attics and in this case has been designed to meet the criteria in the Council's DCP, having a set down from the principal ridge of the roof of 200mm and set in from the edges of the building by 975mm so that it extends 4 metres across the roof plane.

        The dormer responds to the condition of the site to allow for an improvement to the amenity of the attic level rooms and stairwell by introducing additional light, ventilation and internal ceiling heights to the existing boarding rooms in the attic. The dormer responds to the surrounding context of contributory buildings by its complementary design to other dormer extensions in the conservation area. The extension remains below the maximum height of the existing building, noting the ridge is 200mm above the dormer and the parapet walls on either side are another 390mm above the ridge. As such, the proposal does not alter the actual maximum height of the building.

        In this regard, the proposed dormer achieves this objective.

(ii) Objective (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas

The Heritage Impact Statement accompanying the application concludes that:

The proposal will have a limited and acceptable impact on the significance of the place, the surrounding conservation area and the heritage items in the vicinity and largely complies with the relevant heritage controls in the SDCP.

There are also no view impacts or adverse shadow impacts caused by the proposed dormer.

The existing built form transitions down from the front of the site to the rear laneway. The proposed dormer retains this transition despite the height breach and is read as a subservient feature in the roofscape.

In this regard, the proposed dormer achieves this objective.

(iii) Objective (c) to promote the sharing of views

There are no views across the site and the dormer is located entirely within the foreground of the existing pitched roof.

In this regard, the proposed dormer achieves this objective.

(iv) Objective (d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas

The maximum height of the building remains unchanged by the proposal and the minor additional volume it occupies does not affect the general transition of building height from Central Sydney to the adjoining area.

In this regard, the proposed dormer achieves this objective.

Compliance with objectives of the R1 - General Residential zone

(i) *provides for the housing needs of the community* in that it retains and improves an existing boarding house and therefore meets the housing need of affordable rental accommodation in areas of high amenity;

(ii) *provides for a variety of housing types and densities* by including a range of room sizes within the boarding house, in a setting amongst other boarding houses, share houses, single dwellings and apartments;

(iii) whilst it does not provide for *other land uses that provide facilities or services to meet the day to day needs of residents,* it is focussed on housing choice and therefore does not contravene this objective; and

(iv) *maintains the existing land use pattern of predominantly residential uses* by retaining the boarding house use that has existed on the site for over 100 years.

Varying the height control in this instance has no negative public interest implications, does not undermine the integrity of the Council controls and does not set an undesirable precedent.

(a) That there are sufficient environmental planning grounds to justify contravening the standard:

(i) The feature of the proposal that breaches the height development standard is limited to the dormer window addition. These traditional extensions to terrace buildings are typically, as is evident in this case, without material impact upon the surrounding properties in terms of solar access, overlooking, views or bulk/scale generally.

(ii) Despite the lack of impact on their surroundings, the dormers significantly increase the amenity afforded to the building through increased ceiling heights, solar access and ventilation. The bulk of the structure is consistent with the desired character of the area, noting its form aligns with the DCP controls that require it to be set behind and below the main roof form and in from the edges.

Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

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

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

(b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

39. The written request states that the development is consistent with the objectives of the height development standard as the area of non-compliance is located below the existing ridgeline and is appropriate to the condition of the site and its context.

40. In accordance with the justifications set out in Wehbe v Pittwater Council (2007) 156 LGERA 446, the written request has demonstrated that the objectives of the height development standard are achieved notwithstanding the non-compliance with the standard. Accordingly, it is considered that the applicant has adequately demonstrated that strict compliance with the height development standard is considered unreasonable and unnecessary in the circumstances of the subject application.

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

41. The written request has demonstrated that the non-compliance associated with the dormer window will result in an outcome that generates no visual impact to the streetscape, is under the height of the existing ridgelines, and will not result in adverse privacy or overshadowing impacts. Accordingly, it has been demonstrated that there are sufficient environmental planning grounds to justify contravening the standard.

Is the development in the public interest?

42. The objectives of the height of buildings development standard include:

    (i) To ensure the height of the development is appropriate to the condition of the site and its context;

    (ii) To ensure appropriate height transitions between new development and heritage items; and

    (iii) To promote the sharing of views.

43. The existing building has a ridge height of 11m. The application includes the addition of a rear facing dormer window, which has a maximum height of 10.14m. The design and form of the dormer is subservient to the host building and is consistent in height, scale and form to the neighbouring buildings which feature rear dormers. The proposal will not impact on views.

44. The objectives of the R1 General Residential zone relevant to the proposal include:

    (i) To provide for the housing needs of the community

    (ii) To provide for a variety of housing types and densities

    (iii) To maintain the existing land use pattern of predominantly residential uses

45. The proposed dormer window would improve the amenity and functionality of the existing boarding house room, while maintaining the amenity of the neighbouring properties. The dormer window is consistent with various other contemporary dormer additions in the immediate vicinity. The addition of the dormer will significantly improve the amenity of room 11.

Conclusion

46. For the reasons provided above the requested variation to the height of buildings development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Clause 4.3 Height of Buildings and the R1 - General Residential zone.

Clause 4.6 request to vary a development standard – Clause 30(1)(h) – SEPP AH - Motorcycle parking

47. The development is required to provide a total of 2.2 motorcycle parking spaces (rounded to 2 spaces) under SEPP AH. The proposal does not provide any motorcycle parking and so a waiver for 100% departure from the development standard is sought.

48. The application has provided a written request in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

    (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and

    (b) That there are sufficient environmental planning grounds to justify contravening the standard.

49. A copy of the applicant's written request is provided at Attachment E.

Applicants Written Request - Clause 4.6(3)(a) and (b)

50. The applicant seeks to justify the contravention of the motorcycle parking development standard on the following basis:

    (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the proposal complies with the objectives of the development standard and the zone:

        Compliance with objectives of Clause 30(1)(h)

        (i) Whilst there is no stated objective to the development standard itself, the aims of the SEPP (ARH) are achieved by the proposal despite the lack of motorcycle parking given that the renovation of the existing boarding house provides for the introduction of greater amenity and communal facilities for the benefit of the occupants. This goes directly to Aims (c), (e), (f) and (g):

            (c) to facilitate the retention and mitigate the loss of existing affordable rental housing,

            (e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,

            (f) to support local business centres by providing affordable rental housing for workers close to places of work,

            (g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.

        (ii) In accordance with advice provided by Council motorcycle parking, if proposed, must enter the site from the rear lane (and the proposition must be accepted), then to achieve both compliance with this standard and the provision of new communal facilities would require either a reduction in the size of the communal facilities or a relocation of the communal facilities into the main building to allow sufficient space for motorcycle parking.

(iii) The existing boarding house has 10 rooms that are in a dilapidated and unrenovated state. The proposal is to retain the existing number of rooms whilst introducing a higher level of amenity. Part of that amenity is the provision of a communal kitchen/living/dining area and laundry at the rear of the site. It is accepted that the rear of the site is the only area from which on-site motorcycle parking may be provided as it would be highly objectionable to create a motorcycle parking area in the front landscaped courtyard of a contributory building within a heritage conservation zone. It would also pose safety risks to riders and pedestrians.

(iv) If the communal facilities were reduced in size they would not comply with the relevant controls for minimum communal room sizes. If they were internalised within the main building, the net result would be the loss of 2 boarding rooms. Strict compliance with the development standard would therefore have the effect of either:

1. Retaining the number of rooms (10) and providing motorcycle parking in the rear yard with no new communal facilities; or

2. Reducing the number of rooms to 8 to provide communal facilities within the main building, providing motorcycle parking in the rear yard.

(v) The first option inappropriately places a higher threshold of importance on providing motorcycle parking for up to 2 lodgers than providing new communal facilities for the occupants of all 10 rooms. The second option disincentivises increasing the amenity to the existing rooms as the 10 rooms, which have existing for over 100 years, would reduce to 8 rooms, contravening the Aims of the SEPP (ARH).

(vi) Both of these scenarios would result in an undesirable planning outcome. Imposing strict compliance with the development standard, despite there being no net increase in the number of existing rooms from this renovation, would be unnecessary (as the Aim of the SEPP is achieved anyway) and unreasonable (as it would serve the purpose of discouraging or diminishing the quality of the renovation of the building).

Compliance with objectives of the R1 - General Residential zone

(i) *provides for the housing needs of the community* in that it retains and improves an existing boarding house and therefore meets the housing need of affordable rental accommodation in areas of high amenity;

(ii) *provides for a variety of housing types and densities* by including a range of room sizes within the boarding house, in a setting amongst other boarding houses, share houses, single dwellings and apartments;

(iii) whilst it does not provide for *other land uses that provide facilities or services to meet the day to day needs of residents,* it is focussed on housing choice and therefore does not contravene this objective; and

(iv) *maintains the existing land use pattern of predominantly residential uses* by retaining the boarding house use that has existed on the site for over 100 years.

Varying the motorcycle control in this instance has no negative public interest implications, does not undermine the integrity of the SEPP (ARH) and does not set an undesirable precedent. There are various examples noted in Council's Register of Development Standard Variations where 100% variations have been granted to the motorcycle parking control, many of which have similar characteristics to the subject site with heritage overlay and rear lane access.

(a) That there are sufficient environmental planning grounds to justify contravening the standard:

(i) There are sufficient environmental planning grounds to support the variation as the absence of motorcycle parking allows for a refined design of the laneway structure at the rear of the site and an increased provision of communal living/kitchen/dining and laundry facilities in the least impactful location on the site. The provision of 2 motorcycle spaces would significantly diminish or eliminate the ability to accommodate these improvements onto the site without reducing the overall capacity of the boarding house below the rates that have existed for over 100 years.

(ii) The upgraded boarding house will contribute to the viability of local centres by retaining affordable housing within a location that is well serviced by public and active transport infrastructure, and within close proximity to employment opportunities and educational facilities and therefore the use of a motorcycle is not necessarily required.

(iii) To offset the motorcycle parking deficit, the proposal seeks an alternative solution to provide commuter parking opportunities on the site, by providing double the bicycle parking spaces than is required by the controls within the front setback zone. The 4 bicycle spaces mean that 40% of the rooms have access to a dedicated and secure parking space for their bicycle. This promotes the use of active transport, aligning with City of Sydney's Liveable Green Network, in a way that does not compromise the visual aesthetic of this contributory building. In this respect, the proposal is considered to achieve a better planning outcome than compliance with the development standard.

Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

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

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

(b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

52. The written request submitted states that the development is consistent with the objectives of the motorcycle parking development standard as the non-compliance is appropriate to the condition of the site and its context. It is noted that there are no specific objectives for the motorcycle parking development standard contained within Clause 30(h) of the SEPP AH, and as such the request addresses the aims of the SEPP AH

53. In accordance with the justifications set out in Wehbe v Pittwater Council (2007) 156 LGERA 446, the written request has stated that the aims of the SEPP AH are achieved notwithstanding the non-compliance with the standard contained within Clause 30. Therefore the request is considered to adequately demonstrate that compliance with the development standard is unnecessary or unreasonable.

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

54. The written request has demonstrated that the non-compliance associated with the motorcycle parking will result in an outcome that will result in a better urban design outcome and will have minimal amenity impacts to the future occupants of the subject site. Accordingly, it has been demonstrated that there are sufficient environmental planning grounds to justify contravening the standard.

Is the development in the public interest?

55. The objectives of Clause 30 of SEPP AH include:

    (a) to provide a consistent planning regime for the provision of affordable rental housing,

    (b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,

    (c) to facilitate the retention and mitigate the loss of existing affordable rental housing,

    (d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,

    (e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,

    (f) to support local business centres by providing affordable rental housing for workers close to places of work,

    (g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.

56. The objectives of the R1 General Residential zone relevant to the proposal include:

    (a) To provide for the housing needs of the community

(b) To provide for a variety of housing types and densities

(c) To maintain the existing land use pattern of predominantly residential uses

57. The proposed development is not contrary to the objectives of the development standard or the relevant zone.

58. Under the previous development application, D/2018/842, the non-compliance with Clause 30(1)(h) was identified as a reason for refusal based on the cumulative non-compliances of the previous scheme. The current application has been reduced in scale and no longer intensifies the use on the site.

59. The required motorcycle parking would only be possible within the rear setback of the property access from Maze Lane. Provision for the parking would result in a loss of the communal facilities, overall reducing the proposed improved amenity provided for the future occupants of the site.

60. The non-compliance with the development standard is considered to be in the public interest due to the environmental planning grounds for its variation as detailed above.

Conclusion

61. For the reasons provided above the requested variation to the motorcycle parking development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Clause 30(1)(h) Motorcycle Parking of the SEPP AH and the R1 - General Residential zone.

Heritage

62. The site is a contributory building located within a Conservation Area and is therefore subject to the heritage provisions of this DCP. The proposed additions are located at the rear of the site and are subservient to the original dwelling.

63. The proposal involves works to the front façade of the building including restoration of the first floor balustrade, repainting of the façade and restoration of the windows. The balcony is currently enclosed with aluminium framed windows attached to the top of the existing balustrade. It is proposed to maintain the enclosure but have the new windows be set behind the restored balustrade as opposed to on top as existing. Council's heritage provisions encourage the removal of detracting features of contributory buildings, balcony encloses are considered to be detracting elements. The proposals continued enclosure of the balcony is considered to be acceptable in this instance as the proposal will result in an improved heritage outcome subject to the use of 'sashless' windows with the vertical mullions minimised. This requirement has been imposed as a recommended condition of consent. The site's location on City Road, a high volume traffic street will ensure the balcony area is usable and will improve the amenity of these front facing rooms for the future occupants.

64. The proposed materials and finishes are supported and in keeping with the period of the building. The proposal involves the retention of significant heritage fabric including the original fireplaces and chimneys.

65. The development proposes a 1.3m excavation at the rear of the site to accommodate the rear ground floor extension and to level the site. The application has been accompanied by a Geotechnical Report and the excavation is supported. Conditions of consent have been recommended to require dilapidation reports be completed prior to construction commencing.

66. The proposal will result in sympathetic additions to the existing building. Overall, the proposal is considered to be compliant with the relevant aims, objectives and controls of the SLEP and SDCP.

Building setbacks

67. Section 4.2.2 of the SDCP provides the requirements for building setbacks within the municipality. The relevant objective of Section 4.2.2 states:

    (a) Ensure development:

        (i) is generally consistent with existing, adjacent patterns of building setbacks on the street; and

        (ii) maintains the setting of heritage items and is consistent with building setbacks in heritage conservation areas.

68. In addition to the above, Section 4.2.2.1 states that where no setback is identified on the Building setback and alignment map, the development must be consistent with the setback and alignment of adjoining buildings.

69. The existing and proposed rear building setbacks are detailed below in Figure 14. There are clear ground and first floor building lines within the vicinity, both of which the existing building contributes to. In addition, as detailed above, the site is located within a smaller group of 4 dwellings which have a very consistent building line.

70. The more recent developments to the north and the renovations to properties to the south have conformed to the predominant rear building lines.

71. The proposed development includes a rear ground extension of 5.4m, 1.5m beyond the existing building line. As demonstrated in Figure 14 below, this will result in a variation to the established rear setback.

72. The proposed ground floor addition will not be visible from the public domain and will not result in any additional overshadowing to adjoining properties. The proposed FSR does not rely upon the additional FSR allowable in SEPP AH and is well within that allowed by the LEP. The proposed variation is considered acceptable in this instance.

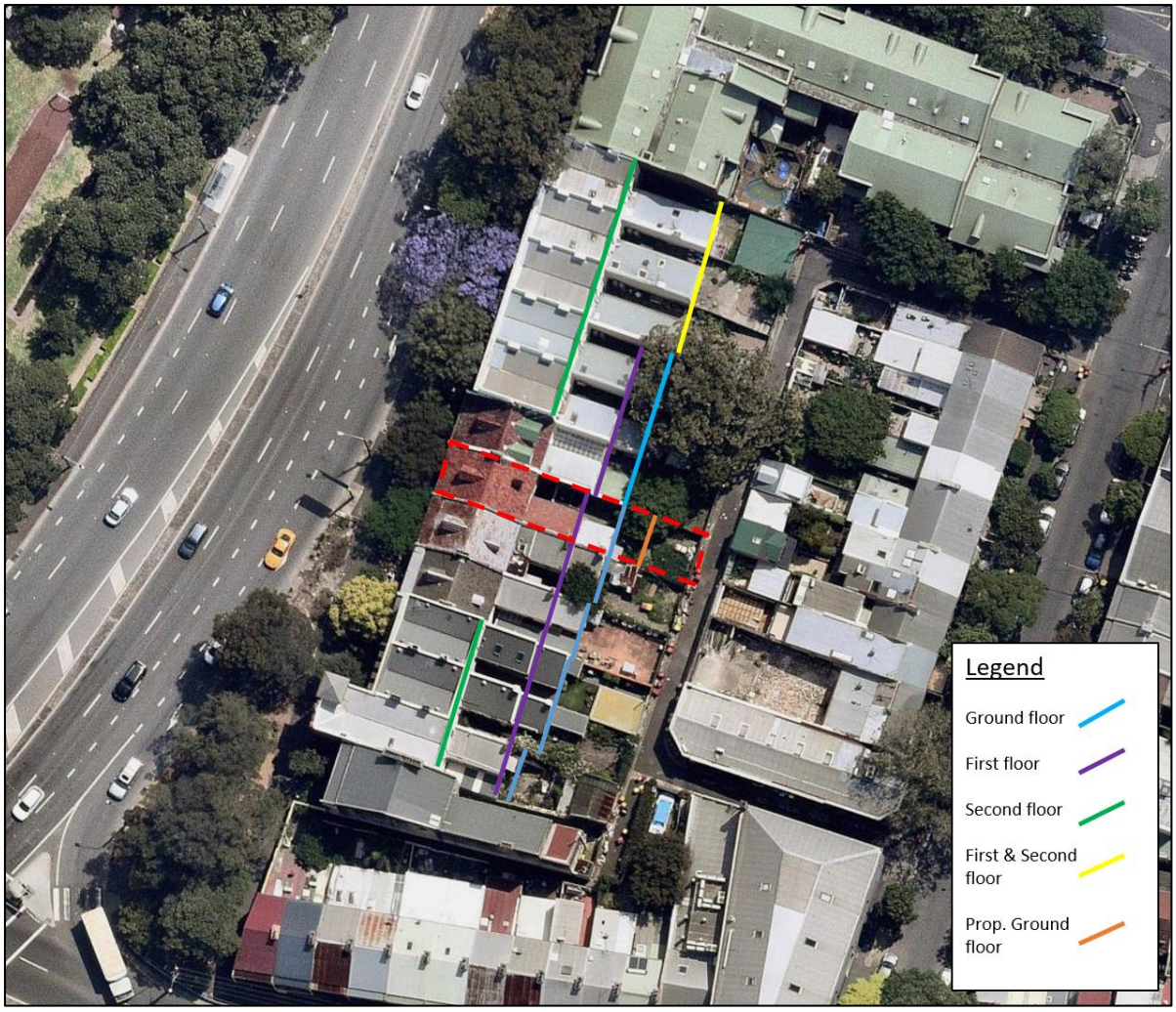


Figure 14: Existing and proposed rear setbacks (Source: Nearmap 2018)

Solar Access

73. Section 4.2.3 of the Sydney DCP 2012 requires that adjoining areas of private open space receive a minimum of 2 hours of direct sunlight between the hours of 9am and 3pm. Traditional shadow diagrams as well as sun's eye views and elevational shadow diagrams have been provided as part of the application.

74. The submitted solar access diagrams show that the proposal will result in additional overshadowing to No.84 City Road and the adjoining site will not achieve the minimum solar access requirements. No.84 City Road is subject to a similar development application being assessed concurrently. The solar access to No.84 is assessed in D/2019/823.

75. The proposal will result in a minor increase in the overshadowing to No.86 City Road at 1pm due to the pitch of the rear lane building however will retain 2 hours of solar access between 10am and 1pm.

Rear lane built form

76. Section 4.1.6 of SDCP 2012 contains provisions relating to secondary dwellings at the rear of a primary dwelling or on rear lanes. While this section does not strictly apply to the proposed development as the works do not relate to a self-contained secondary dwelling, the provisions of this clause can be used as a guide for appropriate built forms on laneways.

77. The rear laneway development proposed has a total height of 5.4m as measured from the lane in keeping with the maximum permissible height of 5.4m. The roof pitch is at 40 degrees with an internally facing dormer which is set in from the side boundaries and down from the ridge line. The proposal will read as a single storey laneway structure as per the objectives of the DCP provision. The proposed laneway structure is compliant with the Sydney DCP 2012.

Other Impacts of the Development

78. The proposed development is capable of complying with the BCA.

79. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

Suitability of the site for the Development

80. The proposal is of a nature in keeping with the overall function of the site. The premises are in a residential surrounding and amongst similar uses to that proposed.

Internal Referrals

81. The application was discussed with the Heritage and Urban Design Specialists; Building Services Unit; Environmental Health; Safe City; Tree Management and Waste Management; who advised that the proposal is acceptable subject to the recommended conditions as discussed above.

82. Where relevant, the conditions of other sections of Council have been included in the proposed conditions.

External Referrals

Notification, Advertising and Delegation

83. In accordance with Schedule 1 the Sydney DCP 2012, the proposed development is required to be notified. As such the application was notified for a period of 14 days between 8 August 2019 and 23 August 2019. As a result of this notification a total of 26 properties were notified and there were 5 submissions were received.

- Maze Lane building

    (i) Will change the character of the lane by being 2 stories.

    (ii) Will increase noise to adjoining residents.

    (iii) Should not be used for communal areas.

(iv) Grossly exceeds the 9m height limit resulting in a loss of privacy to adjoining properties.

(v) Will be used as the main entrance/exit due to proximity of nearby pubs, etc.

(vi) Putting the kitchen at the rear of the site is not practical for the future residents.

(vii) Does not activate the lane enough.

(viii) Should be deleted.

Response: The rear lane building complies with the Sydney DCP provision for laneway structures and has a maximum height of 5.4m. The use of the rear building as a communal area is the only location on the site available for these uses. The applicant has stated that access to and from the rear lane building will be the secondary access however there is no way to prevent occupants of the site using a public lane. Overall, the laneway building will provide amenity for the future occupants of the site and is in keeping with the provisions of the SDCP 2012.

- Motorcycle and bicycle parking in the front setback will cause the loss of the existing trees which assist with reducing the impacts of City Road.

Response: The proposal does not provide any motorcycle parking. Bicycle parking in the front setback is a practical solution and will be located on the existing front path so as to not damage the landscaping. The location of the existing trees in the north-western corner, away from the existing path and bike parking will provide protection for the trees. It is noted that the bike parking is located on the existing front verandah with no additional paving proposed.

- The additional will exacerbate existing stormwater runoff issues in the area due to the increase in the built up area.

Response: The development will have to comply with the City of Sydney and Sydney Water's requirements regarding connection to the stormwater and sewerage systems.

- Management concerns relating to the operation of the site including consumption of alcohol, uncleanliness of the premises, no on-site manager or contact details provided,

Response: The submitted Plan of Management has been reviewed and is considered to be acceptable.

- Removal of the waste bins via the communal laundry is unhealthy.

Response: There is unfortunately no alternative within the existing site however their removal though the laundry will not have impacts to public health as this is not an area for food preparation or sleeping.

- The proposal will overshadowing the adjoining dwellings fronting Rose Street which has not been detailed in the submitted information.

Response: The submitted shadow diagram show that the proposal will not result in any additional overshadowing to the private properties fronting Rose Street.

- No parking provided will increase demand for existing on-street parking.

Response: The City of Sydney does not require private car parking to be provided for any development within the municipality.

- No private open space for the future residents.

Response: As discussed above there is communal space at the front of the building and landscaped area that lead to the rooms. This is considered acceptable in this instance.

- The new dormer window will result in a loss of privacy.

Response: The new dormer window at the attic level is located 21m behind the subject site's rear property boundary and is a replacement of the existing dormer window. A site inspection carried out by the City of Sydney Officers shows that no additional overlooking will be created by the proposal.

- The site should not exceed 10 occupants.

Response: The proposal is for a maximum of 11 occupants within 10 rooms. The occupancy of the site is considered to be acceptable given the size of the rooms and will only result in 1 additional person as compared to the existing situation.

- Proposed CCTV cameras will not deter anti-social behaviour.

- CCTV cameras will impact the privacy of other residents using the lane

Response: Council consent is not required for CCTV cameras however the applicant has proposed this feature to address previously raised concerns regarding anti-social behaviour. The lane is a public space and the applicant will have to comply with the relevant privacy provisions under NSW and Australian Law.

- Demolition of the existing rear, single storey toilet is a loss of contributory heritage fabric as well as loss of heritage fabric (fireplaces, chimneys, etc)

Response: The existing single storey toilet at the rear of the site is not structurally sound nor is it an original feature of the building. Its demolition is supported. The proposal will restore and retain a number of heritage features including the chimneys and fireplaces as shown on the plans.

- The additional storey is not supported under the DCP.

Response: The proposal does not include an additional storey.

- Will obstruct views/outlooks for adjoining properties.

Response: The proposal will not exceed the height of the adjoining properties, retaining city view sightlines. Sightlines to adjoining properties may be lost due to the proposal however these outlooks are not protected and are a feature of living in a changing urban environment.

- Failure to restore the front balcony is unacceptable.

Response: The enclosing glazing is acceptable given the busy road that the site fronts. The heritage impacts of this aspect of the proposal is discussed in greater details above.

- Fails to provide adequate communal shower and toilets to rooms without ensuites.

Response: As detailed above, the communal facilities regarding toilets, etc are compliant with 3 residents sharing 1 toilet/shower.

Public Interest

84. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

S7.11 Contribution

85. The development is subject of a S7.11 contribution under the provisions of the City of Sydney Development Contributions Plan 2015. This contribution is calculated on the basis of the development's net increase in resident, worker and/or visitor populations.

86. Credits have been applied for the most recent use of the site as a 10 room boarding house. As the proposal will not result in a net increase in boarding rooms, no contribution is payable.

Relevant Legislation

87. The Environmental Planning and Assessment Act 1979.

Conclusion

88. The application seeks consent for alterations and additions to the existing 10 room boarding house at No.82 City Road, Chippendale. The works consist of excavation, partial demolition of the rear of the building, internal alterations, rear ground floor extension, rear facing dormer window and a new rear lane structure. The proposal will result in no additional rooms and will accommodate a maximum of 11 people. The application is being assessed concurrently with an identical proposal for the neighbouring property at 84 City Road (D/2019/823), which is under the same ownership as the subject site.

89. The application is reported to the Local Planning Panel as the development is accompanied by a Clause 4.6 request which seeks a waiver of the requirement for motorcycle parking under Clause 30(1)(h) of State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP AH). The development is required to provide 2 parking spaces. No spaces are proposed to be provided. A written request has been provided seeking a 100% variation from this development standard in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012 (SLEP). The request to vary the development standard is supported in this instance for the reasons outlined in this report.

90. The proposal exceeds the 9 metre building height development standard pursuant to Clause 4.3 of the SLEP by 1.14m or 12%. A written request has been provided seeking a variation to the height development standard in accordance with Clause 4.6 of the SLEP. The request to vary the development standard is supported in this instance for reasons outlined in this report.

91. The application was notified for a period of 14 days between 8 August 2019 and 23 August 2019. A total of 5 submissions were received. The issues raised relate to the bulk and scale of the proposal, compliance with Council's controls and the appropriate management of the site.

92. The proposal generally complies with the requirements of the SEPP AH, SLEP and Sydney Development Control Plan 2012 (SDCP) in terms of amenity, accommodation size, solar access and character of the local area.

93. The development is considered to exhibit design excellence, is in keeping with the desired future character of the area and is considered to be in the public interest.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Jemima Royall, Specialist Planner

Attachment A

Recommended Conditions of Consent

CONDITIONS OF CONSENT

SCHEDULE 1A

APPROVED DEVELOPMENT/DESIGN MODIFICATIONS/COVENANTS AND CONTRIBUTIONS/USE AND OPERATION

Note: Some conditions in Schedule 1A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

(1) APPROVED DEVELOPMENT

(a) Development must be in accordance with Development Application No. D/2019/822 dated 1 August 2019 and the following drawings prepared by Cubitor Design and drafting:

Drawing Number	Drawing Name	Date
DA 2.01 Revision G	Proposed Ground Floor Plan	15 April 2019
DA 2.02 Revision G	Proposed First Floor Plan	15 April 2019
DA 2.03 Revision G	Proposed Second Floor Plan	15 April 2019
DA 2.04 Revision G	Proposed Roof Plan	15 April 2019
DA 3.01 Revision G	Sections - Long	15 April 2019
DA 3.02 Revision G	Sections - Short	15 April 2019
DA 4.01 Revision G	Street/Maze Elevations	15 April 2019
DA 4.02 Revision G	Internal Elevations	15 April 2019
DA 4.03 Revision G	Side Elevations	15 April 2019
-	Schedule of Finishes	February 2018

and as amended by the conditions of this consent.

(b) In the event of any inconsistency between the approved plans and supplementary documentation, the drawings will prevail.

(2) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

(a) The glazing to the front, first floor balcony is to be “sashless” glazing with minimal vertical mullions. The vertical mullions should be dark in colour (not black).

(b) The existing front fence, timber front door and window joinery are all to be retained and should be noted on the plans.

The modifications are to be submitted to and approved by Council’s Area Coordinator Planning Assessments/Area Planning Manager prior to the issue of a Construction Certificate.

(3) COMPLIANCE WITH SUBMITTED MATERIALS AND SAMPLES BOARD

The design details of the proposed building facade including all external finishes, colours and glazing must be in accordance with the materials schedule and sample board, and specifications prepared by Cubitor Design and Drafting dated February 2018.

(4) BOARDING HOUSE - USE AND OPERATION

The use and operation of the premises must comply with the requirements of Schedule 2 (Standards for Places of Shared Accommodation) of the Local Government (General) Regulation, 2005 under the Local Government Act 1993, the Public Health Act, 2010, the Boarding Houses Act 2012 and regulations thereunder and the *Sydney Development Control Plan 2012 – 4.4.1*.

(5) ACCOMMODATION - REGISTRATION AND CARETAKER

Prior to the issuing of an Occupation Certificate or occupation with an Interim Occupation Certificate (whichever is earlier), Council's Health and Building Unit must be advised in writing of the business name, address, owner or company name, 24 hour contact details for the site manager, and the number of occupants approved for the premises. A caretaker/manager must be contactable 24 hours a day.

(6) HEALTH DATABASE REGISTRATION

The business is to be registered with Council's Health and Building Unit prior to the issue of an Occupation Certificate, or the issue of an interim occupation certificate. Registration forms are available on Council's website www.cityofsydney.nsw.gov.au or by calling Council's Health Unit on 02 9265 9333.

(7) SIGN DISPLAYING CONTACT DETAILS FOR BOARDING HOUSE MANAGER

(a) A sign must be placed in a clearly visible position at the boarding house entrance displaying the name of the manager and mobile phone number. The signage text shall be written in bold letters with a height of no less than 25mm on a contrasting background that can be read without entering the premises.

(b) Details of the sign design, content and location within the site must be submitted to and approved by Council's Area Coordinator Planning Assessments / Area Planning Manager prior to the issue of a Construction Certificate.

(8) NEIGHBOURHOOD AMENITY

(a) Signs must be placed in clearly visible positions within the premises requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area. The signage shall be in bold letters not less than 25mm in height on a contrasting background.

(b) The management must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood.

(9) PLAN OF MANAGEMENT

The use must always be operated / managed in accordance with the "Operational Plan of Management – 82 City Road, Chippendale" dated August 2019 that has been approved by Council. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

(10) USE OF INTRUSIVE APPLIANCES – NOT APPROVED

This development consent does not extend to the use of appliances which emit noise of a highly intrusive nature (such as pile - drivers and hydraulic hammers) or are not listed in Groups B, C, D, E or F of Schedule 1 of the City of Sydney Code of Practice for Construction Hours/Noise 1992".

A separate Section 4.55 application must be submitted to the Council for the use of any equipment of a highly intrusive nature (such as pile - drivers and hydraulic hammers) or are not listed in Groups B, C, D, E or F of Schedule 1 of the *City of Sydney Code of Practice for Construction Hours/Noise 1992*.

SCHEDULE 1B

PRIOR TO CONSTRUCTION CERTIFICATE/COMMENCEMENT OF WORK/HEALTH AND BUILDING

(11) DILAPIDATION REPORT – MINOR

Subject to the receipt of permission of the affected landowner, dilapidation report/s of adjoining buildings are to be prepared by an appropriately qualified practising structural engineer and submitted for the approval of the Principal Certifier:

(a) prior to the commencement of demolition/excavation works; and

(b) on completion of construction demolition/excavation works.

(12) EROSION AND SEDIMENT CONTROL - LESS THAN 250SQM

Where less than 250 square metres are being disturbed, no formal plan is required however, the site is to be provided with sediment control measures and these must

be implemented so that sediment, including soil, excavated material, building material or other materials cannot fall, descend, percolate, be pumped, drained, washed or allowed to flow to the street, stormwater system or waterways.

(13) NUMBER OF ADULTS PER ROOM

(a) No more than two adult people shall permanently occupy any bedroom and no bedroom shall contain more than two beds. This excludes children and children's beds, cots or bassinets.

(b) The total number of adults residing in one unit shall not exceed twice the number of approved bedrooms.

(14) FLOOR TO CEILING HEIGHT

Prior to a Construction Certificate being issued, the Principal Certifier must ensure that all living rooms and bedrooms in sole occupancy units must have a minimum finished floor to ceiling height of not less than 2.7 metres.

(15) ASBESTOS REMOVAL WORKS

(a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with Safework NSW, holding either a Friable (Class A) or a Non- Friable (Class B) Asbestos Removal Licence which ever applies.

A copy of the relevant licence shall be made available to any authorised Council officer on request within 24 hours.

(b) Five days prior to the commencement of licensed asbestos removal, Safework NSW must be formally notified of the works. All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification must identify the licensed asbestos removal contractor and include a contact person for the site together with telephone number and email address.

(c) All work must be carried out in accordance with the *Work Health and Safety Regulation 2011* and the NSW Government and Work Cover document entitled *How to manage and control asbestos in the work place: Code of Practice (Safework NSW)* December 2011 and the *City of Sydney Managing Asbestos Policy dated 21 October 2013 and associated guidelines.*

(d) The asbestos removalist must use signs and barricades to clearly indicate the area where the asbestos removal work is being performed. Signs must be placed in positions so that people are aware of where the asbestos removal work area is and should remain in place until removal is completed and clearance to reoccupy has been granted. Responsibilities for the security and safety of the asbestos removal site and removal must be specified in the asbestos removal control plan (where required). This includes inaccessible areas that are likely to contain asbestos.

(e) Warning signs must be placed so they inform all people nearby that asbestos removal work is taking place in the area. Signs must be placed at all of the main entry points to the asbestos removal work area where asbestos is

present. These signs must be weatherproof, constructed of light-weight material and adequately secured so they remain in prominent locations. The signs must be in accordance with AS 1319 -1994 *Safety Signs for the Occupational Environment* for size, illumination, location and maintenance.

(f) Asbestos waste must only be transported and disposed of at an EPA licensed waste facility.

(g) No asbestos products are to be reused on the site (i.e. packing pieces, spacers, formwork or fill etc).

(h) No asbestos laden skips or bins are to be left in any public place without the written approval of Council.

(i) A site notice board must be located at the main entrance to the site in a prominent position and must have minimum dimensions of 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size.

The site notice board must include the following:

(i) contact person for the site;

(ii) telephone and facsimile numbers and email address; and

(iii) site activities and time frames.

(16) STOCKPILES

(a) No stockpiles of soil or other materials shall be placed on footpaths or nature strips unless prior approval has been obtained from the City's Construction Regulation Unit.

(b) All stockpiles of soil or other materials shall be placed away from drainage lines, gutters or stormwater pits or inlets.

(c) All stockpiles of soil or other materials likely to generate dust or odours shall be covered.

(d) All stockpiles of contaminated soil shall be stored in a secure area and be covered if remaining more than 24 hours

(17) WASTE AND RECYCLING MANAGEMENT - MINOR

The proposal must comply with the relevant provisions of Council's *Guidelines for Waste Management in New Developments 2018* which requires facilities to minimise and manage waste and recycling generated by the proposal.

(18) WASTE/RECYCLING COLLECTION

(a) The collection of waste and recycling must only occur during the designated zone collection times as outlined in the City's Waste Policy – Local Approvals Policy for Managing Waste in Public Places 2017.

(b) Garbage and recycling must not be placed on the street for collection more than half an hour before the scheduled collection time. Bins and containers are to be removed from the street within half an hour of collection.

(19) BCA COMPLIANCE - ALTERATIONS AND ADDITIONS - UPGRADE OF WHOLE BUILDING IS REQUIRED

(a) Pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000 an assessment of the development proposal has been undertaken and:

(i) As more than 50 percent of the volume of the building is proposed to be altered or has been altered over the previous 3 year period; and/or

(ii) The measures contained in the building are inadequate to protect persons using the building and to facilitate their egress from the building in the event of fire, or to restrict the spread of fire from the building to other buildings nearby,

It has been determined that the whole building must be brought into total conformity with the *Building Code of Australia*.

(b) If compliance with (a) above cannot be achieved through the deemed-to-satisfy pathway, an alternative solution in accordance with Part A0 of the BCA must be prepared and submitted to the Principal Certifier illustrating how the relevant performance provisions are to be satisfied, and must form part of the approval prior to a Construction Certificate being issued.

(20) STRUCTURAL CERTIFICATION FOR EXISTING BUILDING – ALTERATIONS AND ADDITIONS

A qualified practising certified structural engineer must provide structural certification to Council (where Council is the Principal Certifier) verifying that the existing structure can adequately support the proposed new loads and the structural design complies with the Structural Provisions of Part B1 (Vol 1) and Part 2.1 (Vol 2) of the *Building Code of Australia* prior to a Construction Certificate being issued. The proposed additional loads and/or alterations must not cause a decrease in the existing structural performance of the building including its performance under earthquake actions (AS1170.4).

(21) STRUCTURAL CERTIFICATION FOR PARTY WALLS

Prior to a Construction Certificate being issued, a certificate from a qualified practising structural engineer in accordance with Clause A2.2(a)(iii) of the *Building Code of Australia* must be submitted to the satisfaction of Council (where Council is the Principal Certifier). The Certificate must verify the structural integrity of the existing 'Party Wall(s)' as consequence of the additional loads imposed thereon by the proposal.

(22) FLASHINGS TO BOUNDARY WALLS

A flashing must be provided to prevent water entering between the proposed and existing external boundary walls of the adjoining properties.

Note: Attachments or connections to party walls may require the consent of the adjoining property owner/s.

(23) ANNUAL FIRE SAFETY STATEMENT FORM

An annual Fire Safety Statement must be given to Council and the NSW Fire Brigade commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued or the use commencing, whichever is earlier.

(24) TREES THAT MUST BE RETAINED

(a) The existing trees detailed in Table 1 below must be retained and protected in accordance with the conditions of consent throughout the construction and development.

Table 1 – Tree Retention:

Tree No	Species/Common Name	Location
2, 3	*Callistemon viminalis* / Weeping Bottlebrush	Front yard

NOTE: Reference should be made to Arboricultural Impact Assessment Report prepared by 'EziGrow' dated 6 May 2019 for tree numbering and locations.

(25) TREES ON NEIGHBOURING LAND THAT MUST BE PROTECTED

(a) The existing trees on neighbouring land detailed in Table 2 below must be protected in accordance with the conditions of consent throughout the construction and development.

Table 2 – Trees on Neighbouring Land:

Tree No	Species/Common Name	Location
1	*Ficus coronata* / Sandpaper Fig	Rear yard of 80 City Road

NOTE: Reference should be made to Arboricultural Impact Assessment Report prepared by 'EziGrow' dated 6 May 2019 for tree numbering and locations.

(26) TREE PROTECTION PLANS

(a) All detailed architectural, building, engineering (structural, stormwater and drainage services) and landscape documentation submitted for the Construction Certificate shall clearly show on all drawings the retention of trees as required by these conditions of consent, the position of their trunks, full diameter of their canopies, Structural Root Zones (SRZs) and Tree Protection Zones (TPZs).

(27) TREE PROTECTION ZONE

(a) Table 3 below shows the Tree Protection Zones (TPZ) that have been calculated for trees to be retained and protected.

Table 3 – TPZ Schedule:

Tree No	Species Name	Location	Radius (m) From Trunk
1	*Ficus coronata* / Sandpaper Fig	Rear yard of 80 City Road	3.6
2	*Callistemon viminalis* / Weeping Bottlebrush	Front yard	3.0
3	*Callistemon viminalis* / Weeping Bottlebrush	Front yard	3.0

(b) Tree protection must be installed and maintained in accordance with the Australian Standard 'AS4970:2009 Protection of Trees on Development Sites', and as follows:

(c) The ground surface must be protected if construction access is required through any TPZ, as follows:

(i) Protective boarding (ie scaffolding board or plywood sheeting or similar material) must placed over a layer of 75 mm layer of mulch which has been laid over geotextile fabric;

(ii) The protective boarding must be left in place for the duration of the construction and development.

(d) The following works must be excluded from within any TPZs:

(i) Excavation;

(ii) Soil cut or fill including trenching;

(iii) Soil cultivation, disturbance or compaction;

(iv) Stockpiling, storage or mixing of materials;

(v) The parking, storing, washing and repairing of tools, equipment and machinery;

(vi) The disposal of liquids and refuelling;

(vii) The disposal of building materials;

(viii) The siting of offices or sheds;

(ix) Any action leading to the impact on tree health or structure.

(d) Any trenching works for services / hydraulics / drainage etc must not be undertaken within any Tree Protection Zone (TPZ). Alternative installation methods for services, such as directional boring/drilling, or redirection of services shall be employed.

(e) All work undertaken within or above the TPZ must be:

(i) Carried out in accordance with a work methodology statement prepared by an Arborist (AQF Level 5 minimum) which has obtained written approval from Council's Tree Management Officer before its implementation; and

(ii) Supervised by a qualified Consultant Arborist (AQF Level 5 minimum).

(28) TREE TRUNK PROTECTION

Trees 2 and 3 must be protected in accordance with the Australian Standard 'AS4970:2009 Protection of Trees on Development Sites' during the construction works, as follows:

(a) Tree trunk and major limb protection shall be undertaken prior to the issuing of the Construction Certificate. The protection shall be installed by a qualified Arborist (AQF 3 minimum) and must include;

(i) Tree trunk/s and/or major branches must be protected by wrapped hessian or similar material to limit damage, and

(ii) Timber planks (50mm x 100mm or similar) shall be placed around tree trunk/s. The timber planks shall be spaced at 100mm intervals, and must be fixed against the trunk with tie wire, or strapping. The hessian and timber planks must not be fixed to the tree in any instance, or in any fashion.

(iii) Tree trunk and major branch protection is to remain in place for the duration of construction and development works, and shall be removed at the completion of the project.

(29) TREE ROOT PROTECTION

(a) Table 4 below shows the Structural Root Zones (SRZ) that have been calculated for trees to be retained and protected;

Table 4 – SRZ Schedule:

Tree No	Species Name	Location	Radius (m) From Trunk
1	*Ficus coronata* / Sandpaper Fig	Rear yard of 80 City Road	2.1
2	*Callistemon viminalis* / Weeping Bottlebrush	Front yard	2.0
3	*Callistemon viminalis* / Weeping Bottlebrush	Front yard	2.0

(b) Excavation must not occur within the SRZ. If excavation is proposed within this zone, the Council's Tree Management Officer must be contacted immediately and the excavation must be carried out in accordance with Council's direction.

(c) [Without prejudice to clause (a) above] any excavations within the SRZ must be undertaken using non-destructive methods (such as by hand or with an Airspade) to ensure no tree roots greater than 40mm diameter are damaged, pruned or removed.

(d) Footings shall be relocated / realigned if any tree root greater than 40mm in diameter is encounter during excavations. A minimum of 150mm clearance shall be provided between the tree root and footing.

(e) Any trenching works for services / hydraulics / drainage etc must not be undertaken within any SRZ. Alternative installation methods for services, such as directional boring/drilling, or redirection of services shall be employed.

(f) All excavations located within the TPZ must be must be supervised by a qualified Consultant Arborist (AQF Level 5 minimum).

(g) All root pruning which has been approved by Council's Tree Management Officer must be undertaken by a qualified Arborist (AQF Level 3 minimum).

(30) SITE SUPERVISION AND REPORTING

(a) A qualified Consultant Arborist (AQF Level 5 minimum) must oversee various stages of work within the Tree Protection Zone of any tree listed for retention. The Arborist must certify compliance with each key milestone as detailed below:

(i) Installation of tree protection measures;

(ii) During demolition of any ground surface materials (paving, concrete, grass etc) within the Tree Protection Zone (TPZ) of any tree to be retained and protected;

(iii) During construction of any new structures within the Tree Protection Zone (TPZ) of any tree to be retained and protected;

(iv) During any excavation and trenching which has been approved by Council within the TPZ of any tree to be retained and protected;

(v) During any Landscape works within the TPZ of any tree to be retained and protected.

(b) An Arboricultural Compliance Report which includes photographic evidence and details of the health and condition of trees, must be submitted to Council's Area Planning Manager at each hold-point listed below:

(i) Certification that tree protection measures have been installed in accordance with the conditions prior to the commencement of works;

(ii) Certification of compliance with each key milestone listed above within 48 hours of completion;

(iii) Monthly reporting for the duration of construction and development within the site;

(iv) Details of any other works undertaken on any tree to be retained or within TPZ/s of any tree to be retained and protected;

(v) A final compliance report shall be submitted prior to the issuing of the Occupation Certificate.

(31) TREE PRUNING

(a) A 'Pruning Specification Report' prepared by a qualified Arborist (AQF Level 5 minimum) must be submitted to and approved by Council's Area Planning Manager prior to the issuing of the Construction Certificate. The report must include:

(i) Number of branches and orientation, branch diameter, percentage of canopy to be pruned/removed.

(ii) Photos with individual branches which are recommended for pruning/removal to be clearly marked. (Please note reports which include photos with a single vertical line as the area recommended for pruning will not be accepted).

(iii) A maximum of 5% canopy removal and maximum of 100mm diameter branches will be permitted by Council.

(iv) Pruning work must be specified in accordance with the Australian Standard 'AS4373:2007 Pruning of Amenity Trees'.

(v) Tree removal must not be recommended in this report.

(b) All approved tree pruning works must be carried out by a qualified Arborist (AQF Level 3 minimum), and in accordance with WorkSafe NSW's 'Code of Practice – Amenity Tree Industry'.

(c) Any pruning works carried out under this consent must not result in the death of the tree, the creation of a hazard or in excessive or inappropriate amounts of pruning, which result in the overall shape of the tree becoming unbalanced and/or unstable.

(d) This consent does not authorise the applicant, or the contractor engaged to do the tree works to enter a neighbouring property.

(e) All tree works must be undertaken from within the subject property unless consent from the neighbour is obtained to enter their property.

(f) The consent from Council's Tree Management Officer must be obtained prior to the undertaking of any additional tree pruning works or pruning of any tree roots greater than 40mm in diameter.

SCHEDULE 1C

DURING CONSTRUCTION/PRIOR TO OCCUPATION/COMPLETION

(32) BASIX

All commitments listed in each relevant BASIX Certificate for the development must be fulfilled prior to an Occupation Certificate being issued.

(33) HOURS OF WORK AND NOISE – OUTSIDE CBD

The hours of construction and work on the development must be as follows:

(a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.

(b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.

(c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a permit being issued by Council under Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993.

Note: Works may be undertaken outside of hours, where it is required to avoid the loss of life, damage to property, to prevent environmental harm and/or to avoid structural damage to the building. Written approval must be given by the Construction Regulation Unit, prior to works proceeding

The *City of Sydney Code of Practice for Construction Hours/Noise 1992* allows extended working hours subject to the approval of an application in accordance with the Code and under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

(34) ENCROACHMENTS – NEIGHBOURING PROPERTIES

No portion of the proposed structure shall encroach onto the adjoining properties.

(35) ENCROACHMENTS – PUBLIC WAY

No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach upon Council's footpath area.

(36) SURVEY

All footings, walls and floor slabs adjacent to a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report, prepared by a Registered Surveyor, must be submitted to the Principal Certifier indicating the position of external walls in relation to the boundaries of the

allotment. Any encroachments by the subject building over adjoining boundaries or roads must be removed prior to continuation of building construction work.

(37) SURVEY CERTIFICATE AT COMPLETION

A Survey Certificate prepared by a Registered Surveyor must be submitted at the completion of the building work certifying the location of the building in relation to the boundaries of the allotment.

(38) CONNECTION TO SEWERS OF SYDNEY WATER CORPORATION

Waste water arising from the use must be directed to the sewers of the Sydney Water Corporation (SWC) under a Trade Waste License Agreement. The pre-treatment of wastewater may be a requirement of the Corporation prior to discharge to the sewer. Details of the Corporation's requirements should be obtained prior to the commencement of construction work.

(39) COVERING OF LOADS

All vehicles involved in the excavation and/or demolition process and departing the property with demolition materials, spoil or loose matter must have their loads fully covered before entering the public roadway.

(40) EROSION AND SEDIMENT CONTROL

The Soil and Water Management Plan (SWMP) or Erosion and Sediment Control Plan (ESCP) which has been approved by the Principal Certifier must be implemented in full during the construction period.

During the construction period;

(a) erosion and sediment controls must be regularly inspected, repaired and maintained in working order sufficient for a 10 year Average Recurrence Interval (ARI) rainfall event;

(b) erosion and sediment control signage available from Council must be completed and attached to the most prominent structure visible at all times when entering the site for the duration of construction; and

(c) building operations and stockpiles must not be located on the public footway or any other locations which could lead to the discharge of materials into the stormwater system.

(41) OCCUPATION CERTIFICATE TO BE SUBMITTED

An Occupation Certificate must be obtained from the Principal Certifier and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

(42) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

(a) All loading and unloading associated with construction activity must be accommodated on site, where possible.

(b) If, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.

(c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.

(d) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate approval under Section 68 of the Local Government Act 1993 must be obtained.

(43) NO OBSTRUCTION OF PUBLIC WAY

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by Council to stop all work on site.

(44) USE OF MOBILE CRANES

The following requirements apply:

(a) Mobile cranes operating from the road must not be used as a method of demolishing or constructing a building.

(b) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes, permits must be obtained from Council for the use of a mobile crane. The permits must be obtained 48 hours beforehand for partial road closures which, in the opinion of Council will create minimal traffic disruptions and 4 weeks beforehand in the case of full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.

(c) The use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes outside of approved hours of construction can occur, subject to a permit being issued by Council under Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993.

SCHEUDLE 3

AUSGRID CONDITIONS

(45) PROXIMITY TO EXISTING NETWORK ASSETS – OVERHEAD POWERLINES

(a) There are existing overhead electricity network assets in Maze Lane. Safework NSW Document – Work Near Overhead Powerlines: Code of

Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

(b) The "as constructed" minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website, www.ausgrid.com.au.

(c) The proposed development may encroach the statutory clearances of nearby powerlines as per the requirements set out in AS7000 and Ausgrid Standard NS220. The developer is required to either:

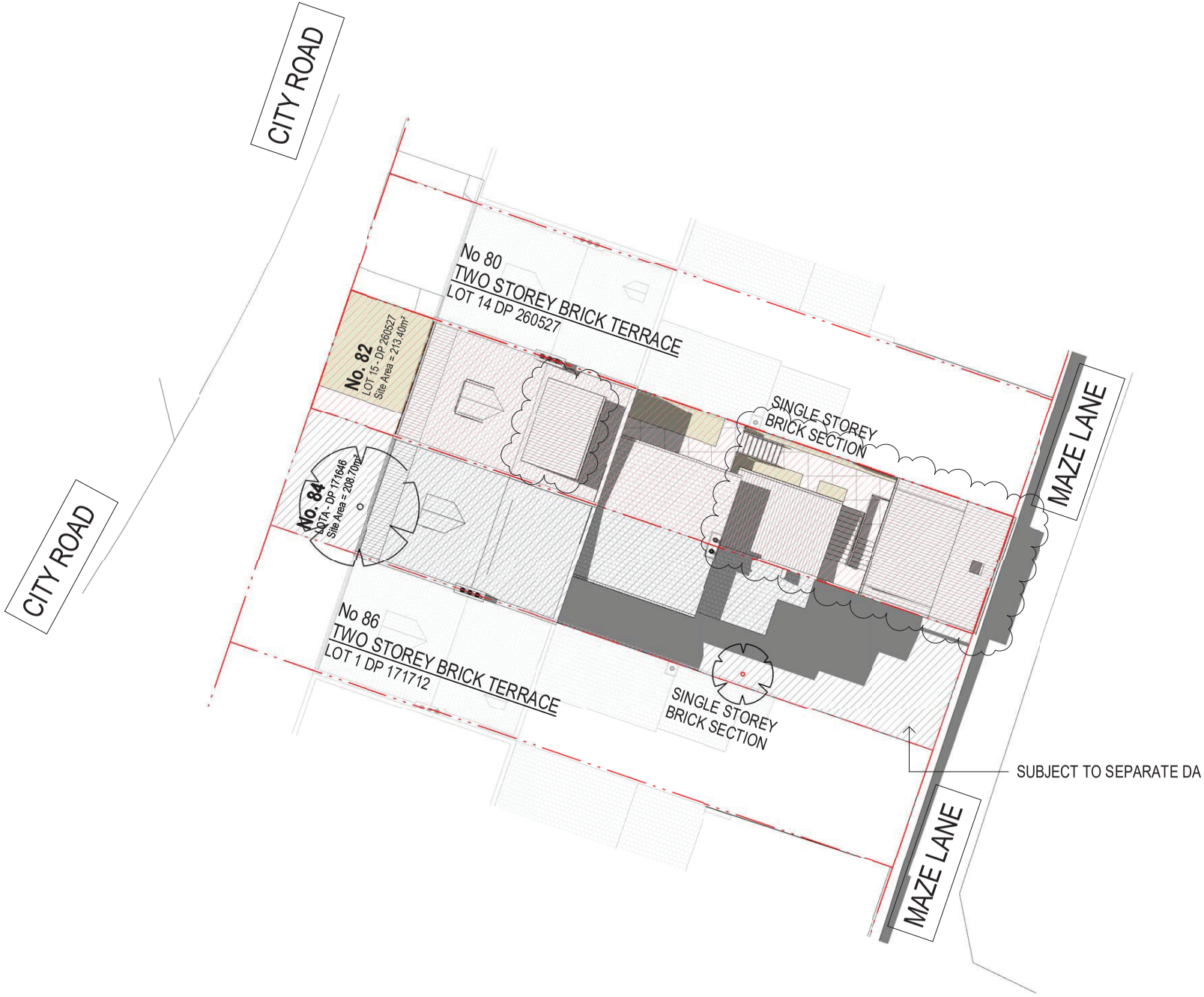
(i) Engage an Accreditted Service Provider Level 3 (ASP3) to confirm that the development does maintain the statutory clearances to the powerlines (this must include wind impacts). If the ASP3 determines that the proposed structure does encroach the statutory clearances, suitable arrangments must be made to ensure that the structure will not encroach the powerline statutory clearance either by redesign of the encroaching structure or relocation of the powerlines away from the proposed structure.

(ii) Make suitable arrangements to have powerlines relocated prior to the commencement of construction so that statutory clearances are not encroached.

(d) Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost. It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site

Attachment B

Selected Drawings



2 Plan

Site Plan 1 : 200

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A	FOR INFO			26.02.2018
B	FOR INFO			28.02.2018
C	FOR INFO			08.03.2018
D	FOR ISSUE			24.04.2018
E	DA Submission			30.08.2018
F	DA Submission			15.04.2019

PROJECT PHASE
DEVELOPMENT APPLICATION

STATUS
PRELIMINARY

PROJECT NO.
P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
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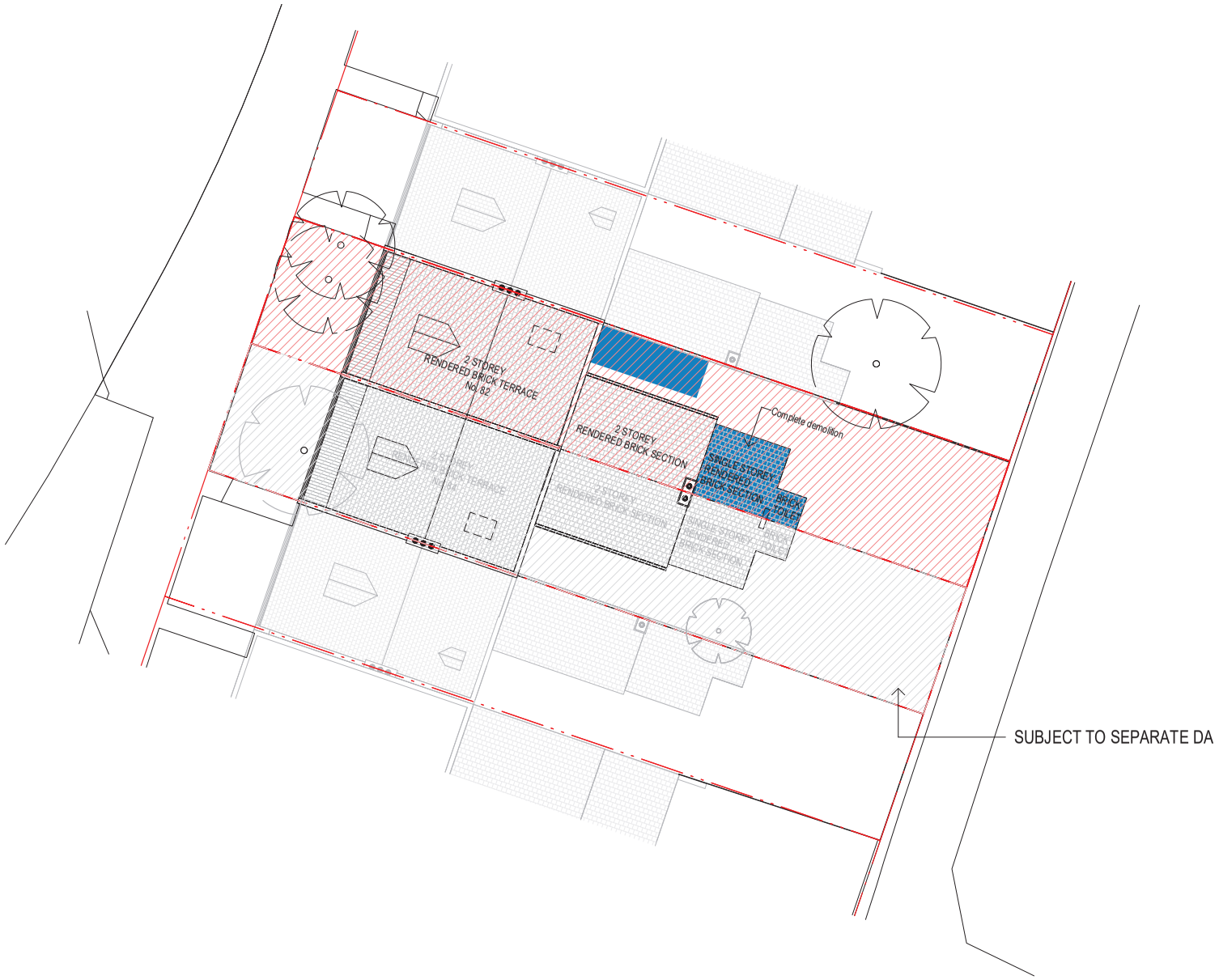
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DRAWING SERIES
DA 1 Site Information

DRAWING TITLE
Site - Roof Plan

DRAWING NO.
DA 1.05

REVISION
F



LEGEND:

- SITE
- PROPOSED DEMOLISHED STRUCTURES
- EXISTING TREES TO BE REMOVED
- EXISTING TREES

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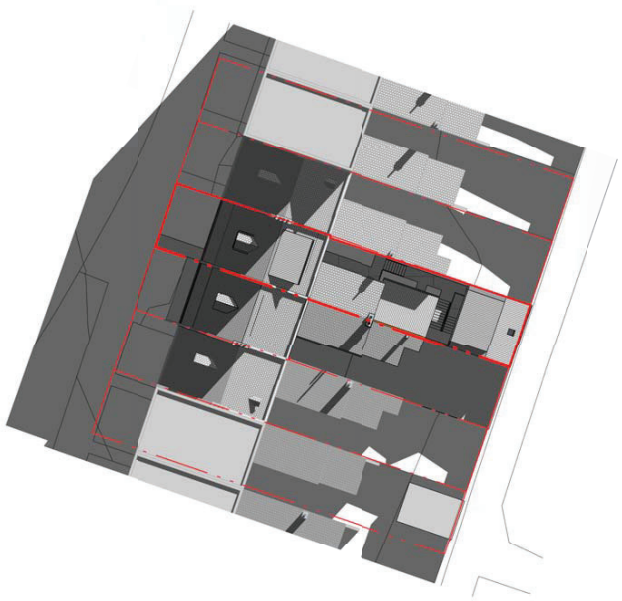
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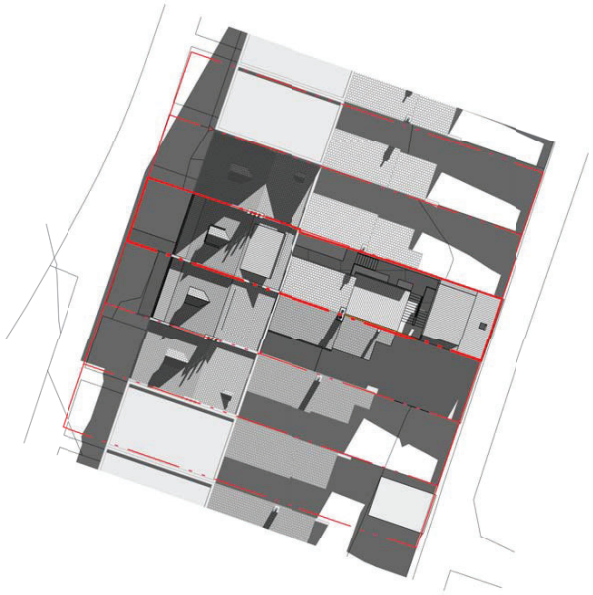
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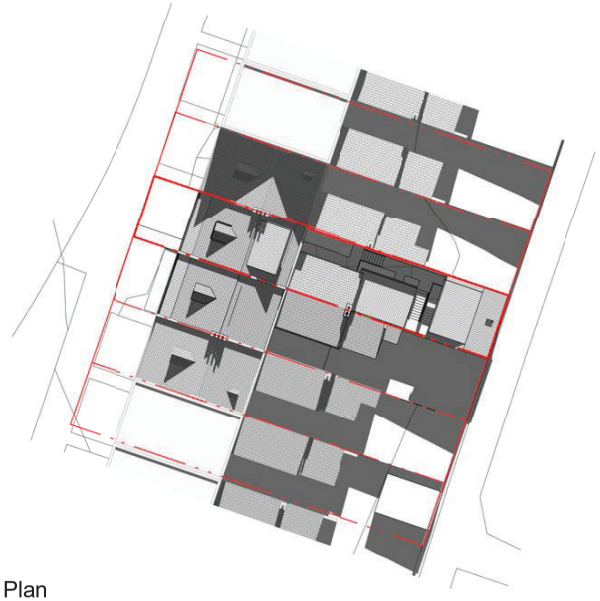
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Solar Analysis - Overshadowing - 9AM 1 : 500
31 June



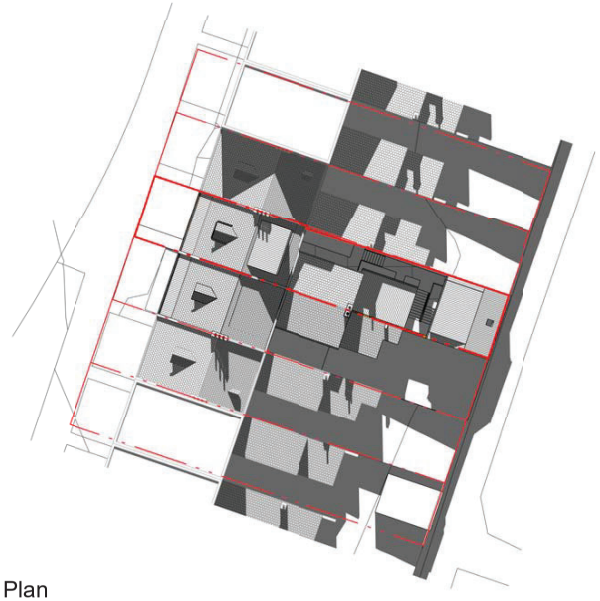
2 Plan

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31 June



3 Plan

Solar Analysis - Overshadowing - 11AM 1 : 500
31 June



4 Plan

Solar Analysis - Overshadowing - 12PM 1 : 500
31 June

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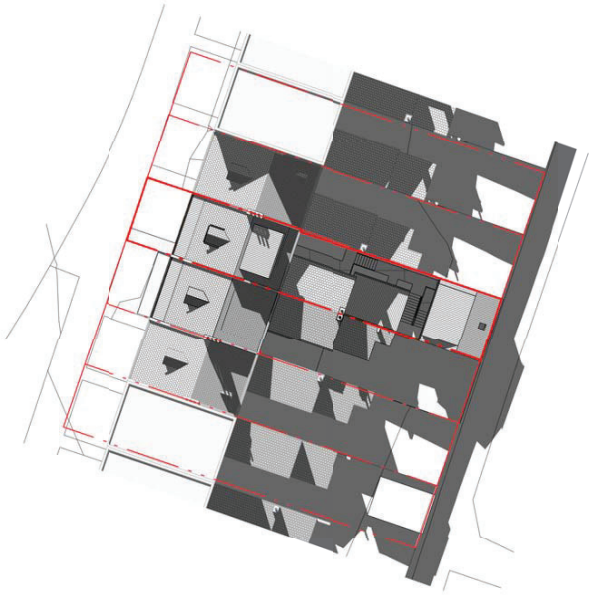
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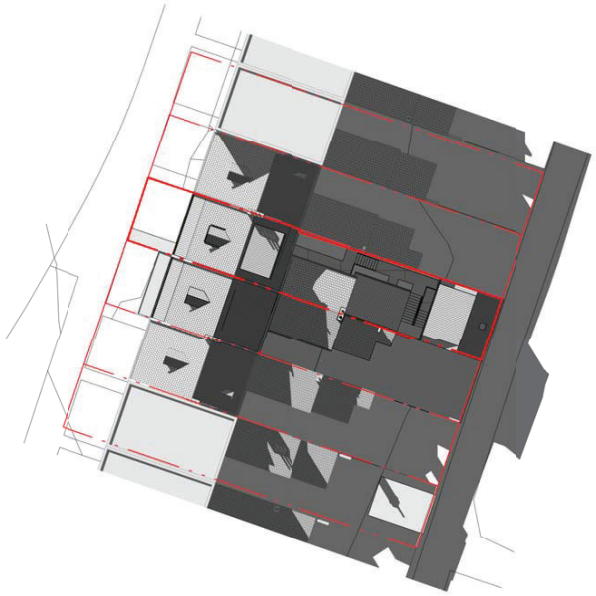
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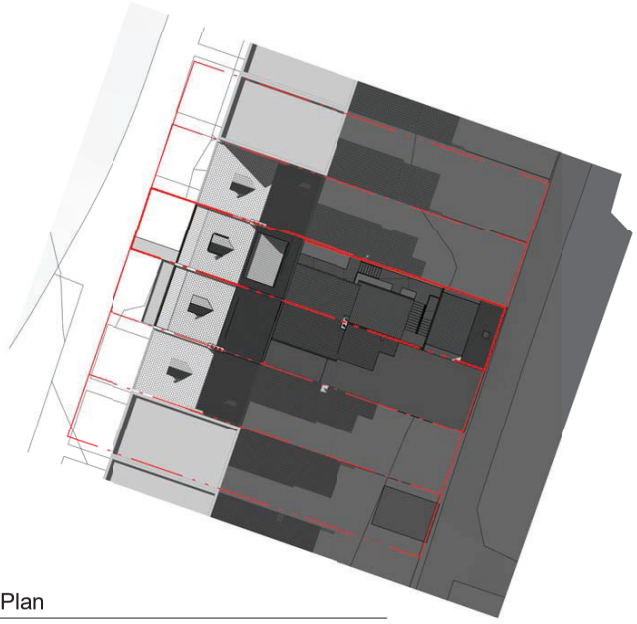
REVISION
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1 Plan
Solar Analysis - Overshadowing - 1PM 1 : 500
31 June



2 Plan
Solar Analysis - Overshadowing - 2PM 1 : 500
31 June



3 Plan
Solar Analysis - Overshadowing - 3PM 1 : 500
31 June

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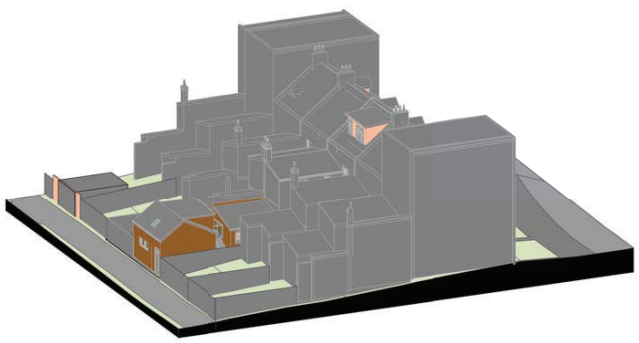
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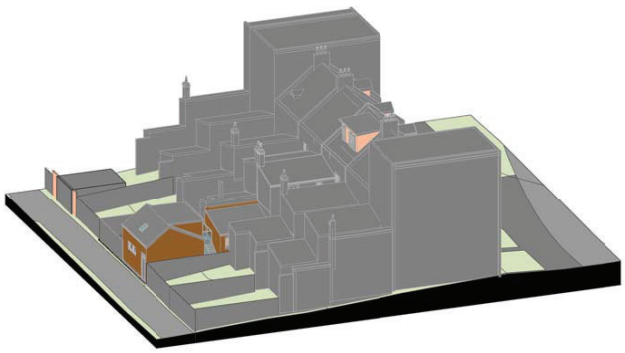
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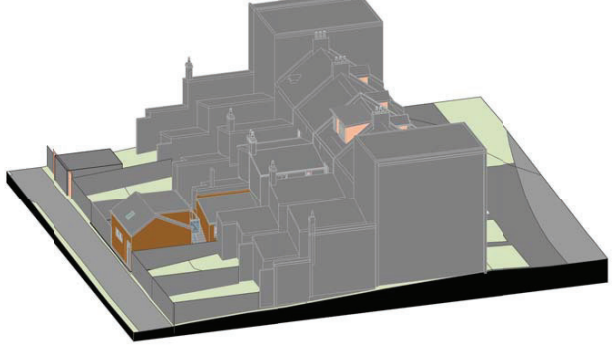
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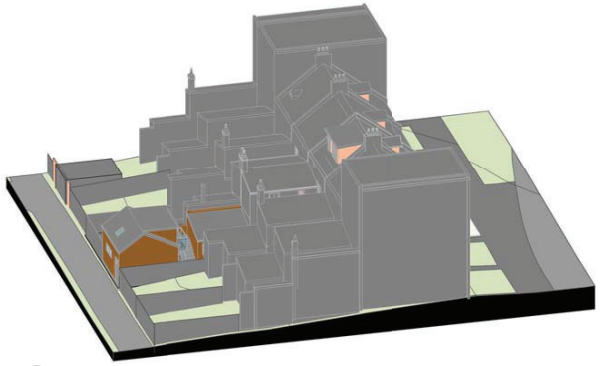
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9:00 AM



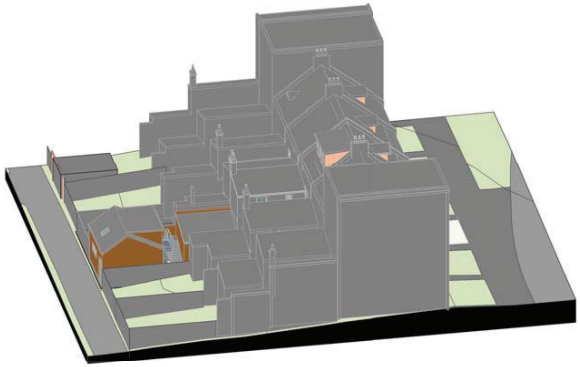
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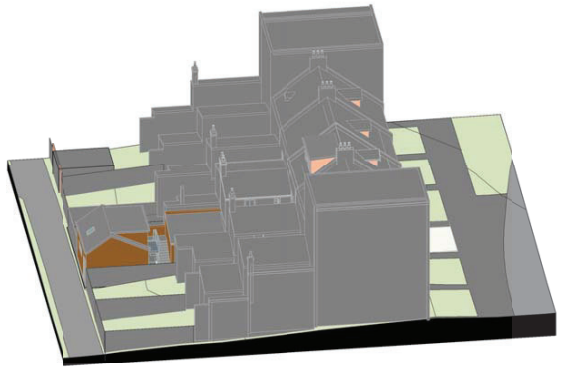
3 3D - Sun Eye
9:30 AM



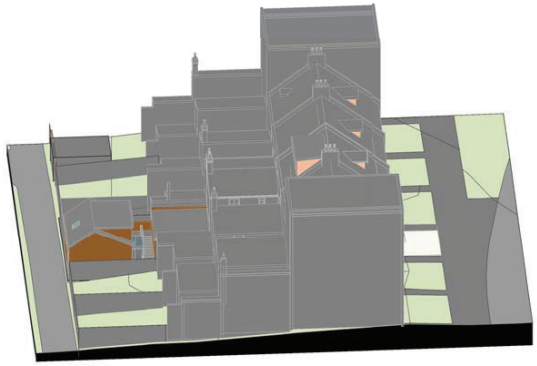
4 3D - Sun Eye
9:45 AM



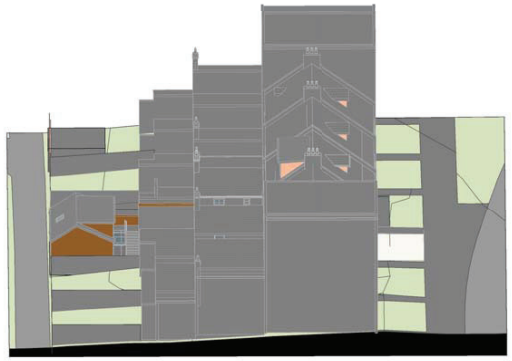
5 3D - Sun Eye
10:00 AM



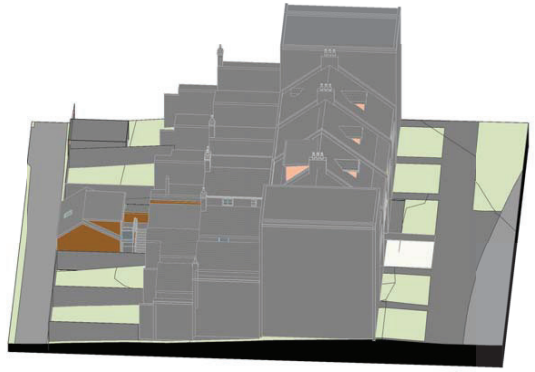
6 3D - Sun Eye
10:15 AM



7 3D - Sun Eye
10:30 AM



8 3D - Sun Eye
10:45 AM



9 3D - Sun Eye
11:00 AM

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REV	DESCRIPTION	CHK	APR	DATE
A	DA Submission			15.04.2019

PROJECT PHASE
DEVELOPMENT APPLICATION

STATUS
PRELIMINARY

PROJECT NO.
P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
@A3

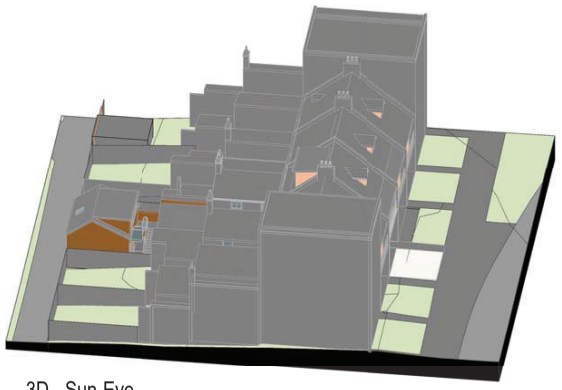
SCALE BAR
0m 2 4

DRAWING SERIES
DA 1 Site Information

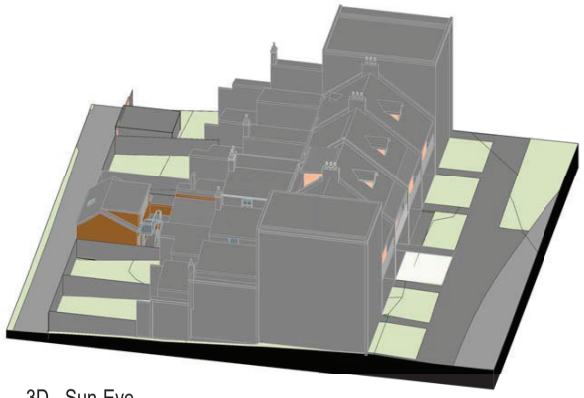
DRAWING TITLE
Solar Analysis - Sun Eye

DRAWING NO.
DA 1.07

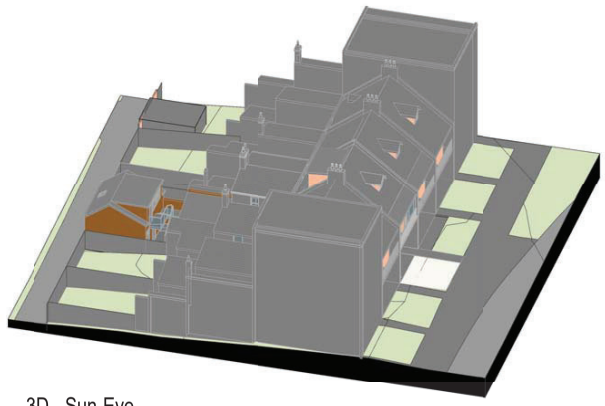
REVISION
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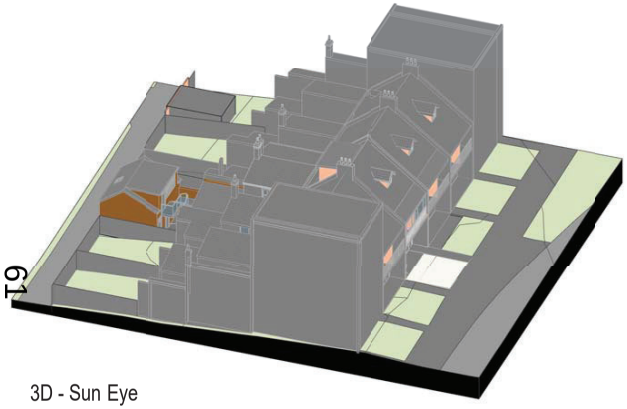
1 3D - Sun Eye
11:15 AM



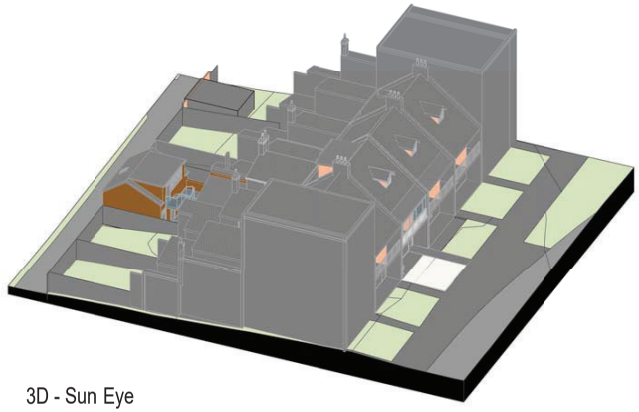
2 3D - Sun Eye
11:30 AM



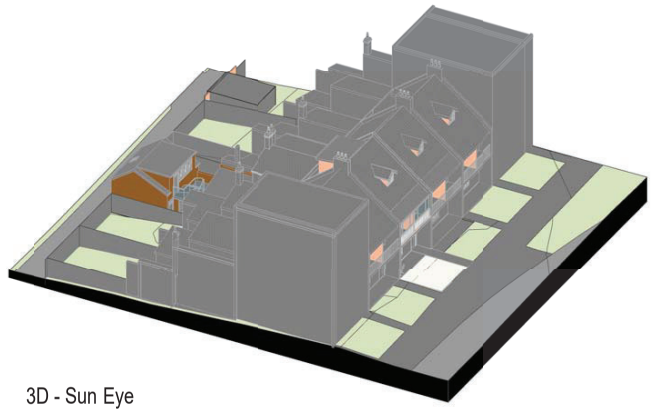
3 3D - Sun Eye
11:45 AM



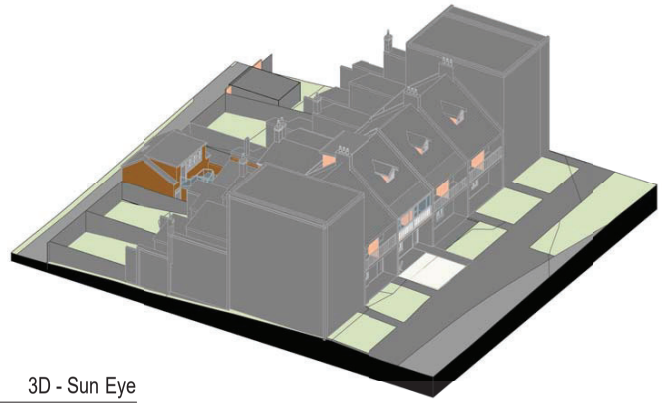
4 3D - Sun Eye
12:00 PM



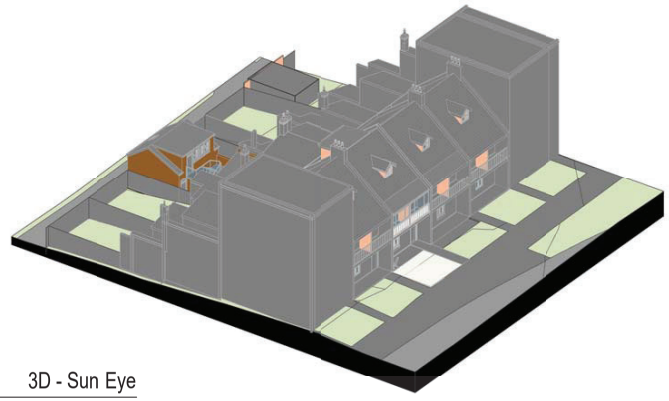
5 3D - Sun Eye
12:15 PM



6 3D - Sun Eye
12:30 PM



7 3D - Sun Eye
12:45 PM



8 3D - Sun Eye
01:00 PM



9 3D - Sun Eye
01:15 PM

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A	DA Submission			15.04.2019

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DEVELOPMENT APPLICATION

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P.A-013

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PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
@A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 1 Site Information

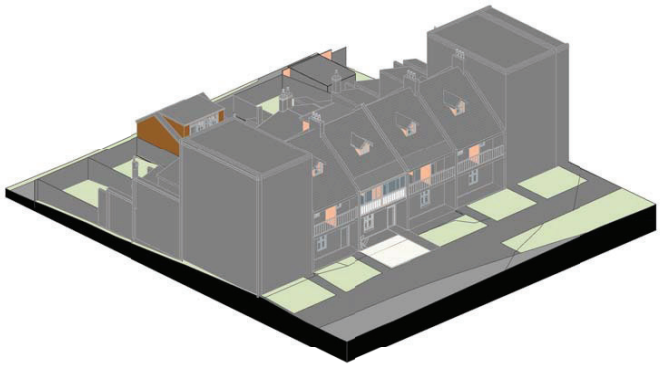
DRAWING TITLE
Solar Analysis - Sun Eye

DRAWING NO.
DA 1.08

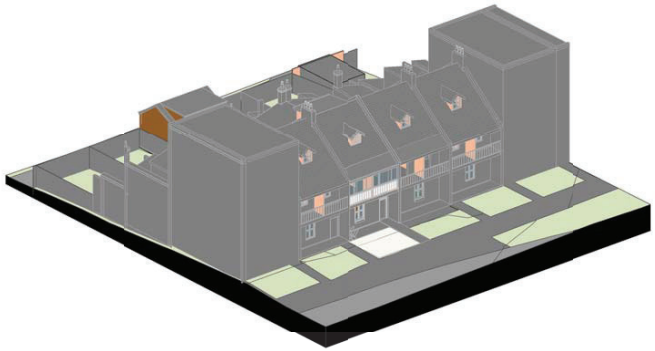
REVISION
A



1 3D - Sun Eye
01:30 PM



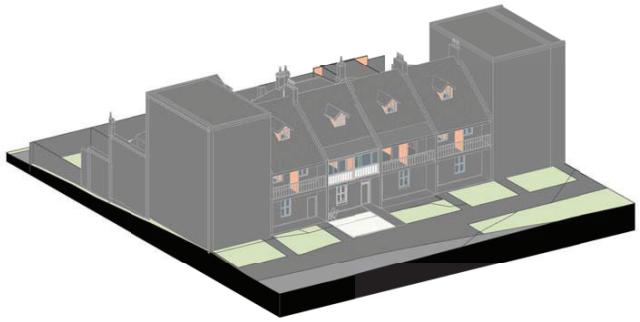
2 3D - Sun Eye
01:45 PM



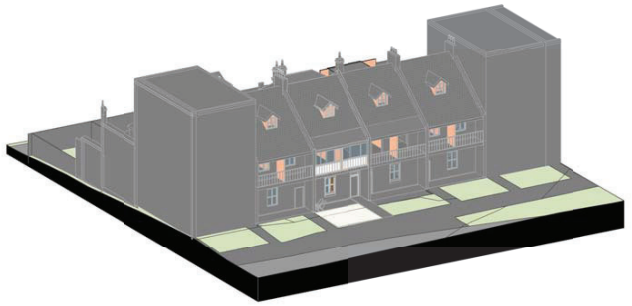
3 3D - Sun Eye
02:00 PM



4 3D - Sun Eye
02:15 PM



5 3D - Sun Eye
02:30 PM



6 3D - Sun Eye
02:45 PM



7 3D - Sun Eye
03:00 PM

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DEVELOPMENT APPLICATION

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P.A-013

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PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
@A3

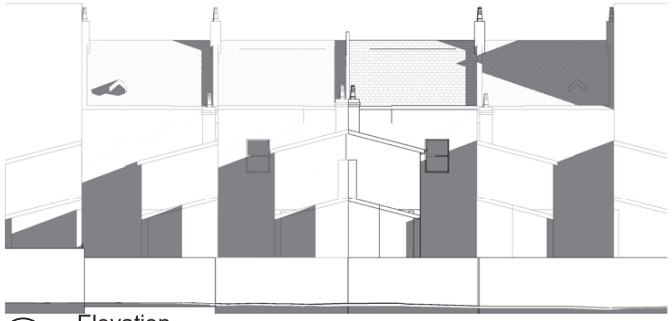
SCALE BAR
0m 2 4

DRAWING SERIES
DA 1 Site Information

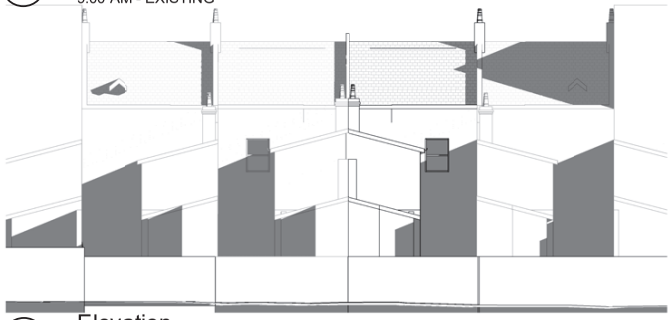
DRAWING TITLE
Solar Analysis - Sun Eye

DRAWING NO.
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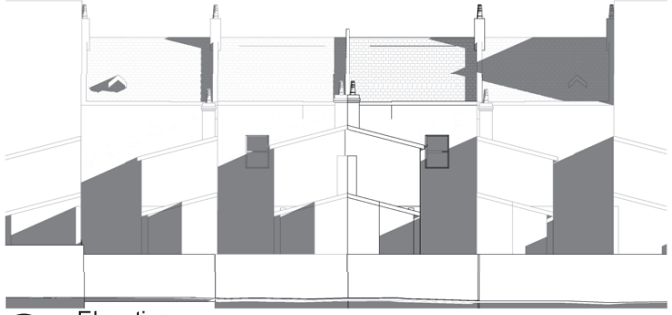
REVISION
A



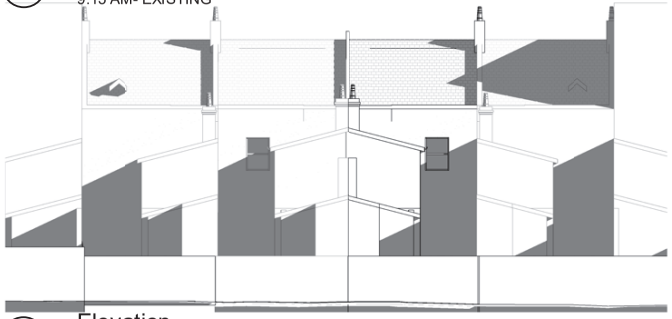
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9:00 AM - EXISTING



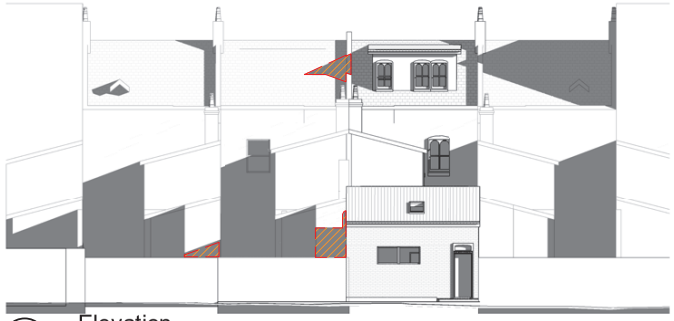
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9:15 AM- EXISTING



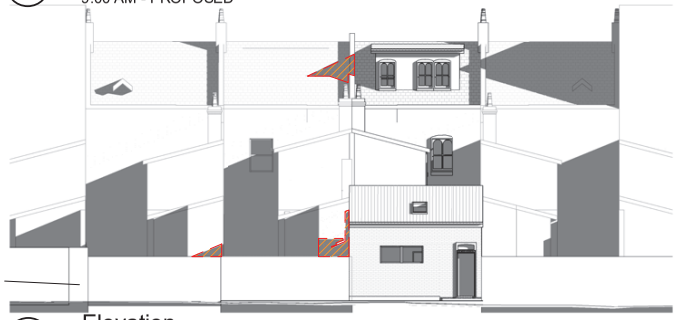
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9:15 AM- EXISTING



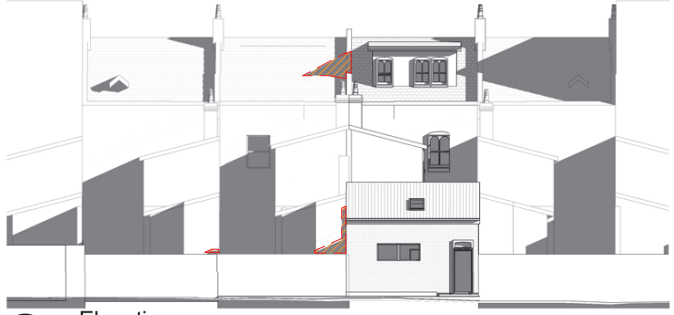
4 Elevation
9:45 AM - EXISTING



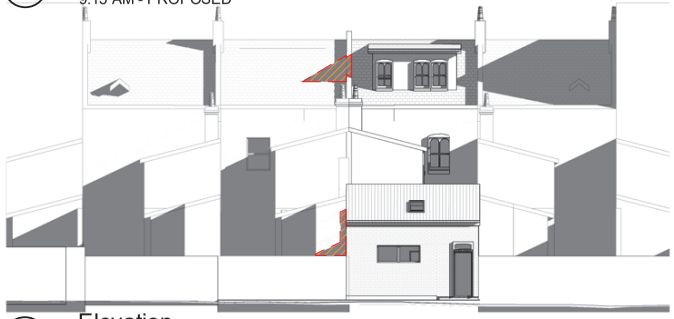
5 Elevation
9:00 AM - PROPOSED



6 Elevation
9:15 AM - PROPOSED



7 Elevation
9:15 AM - PROPOSED



8 Elevation
9:45 AM - PROPOSED

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DEVELOPMENT APPLICATION

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PROJECT NO.
P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 200 @A3

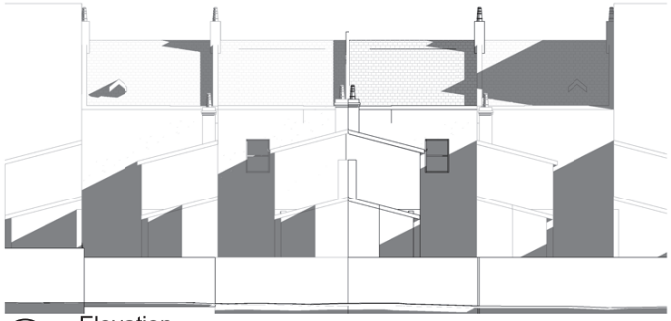
SCALE BAR
0m 2 4

DRAWING SERIES
DA 1 Site Information

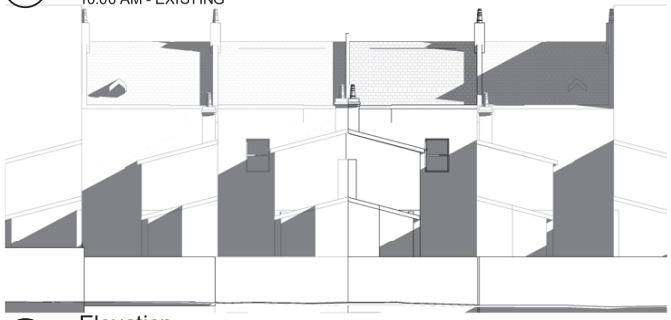
DRAWING TITLE
Elevation Shadow Diagrams

DRAWING NO.
DA 1.10

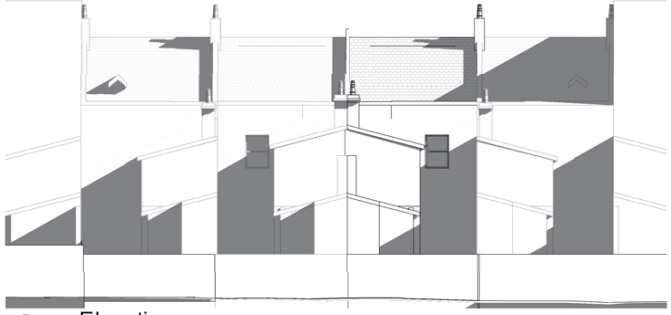
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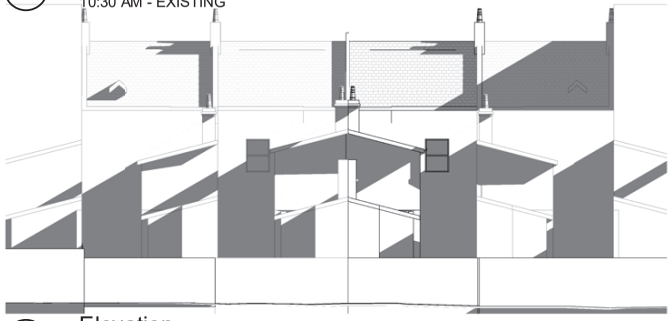
1 Elevation
10:00 AM - EXISTING



2 Elevation
10:15 AM - EXISTING



3 Elevation
10:30 AM - EXISTING



4 Elevation
10:45 AM - EXISTING



5 Elevation
10:00 AM - PROPOSED



6 Elevation
10:15 AM - PROPOSED



7 Elevation
10:30 AM - PROPOSED



8 Elevation
10:45 AM - PROPOSED

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PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 200 @A3

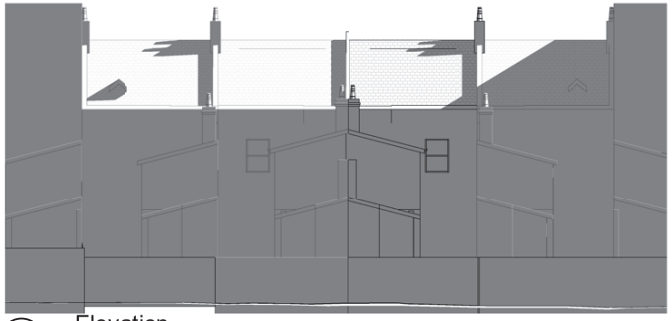
SCALE BAR
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DRAWING SERIES
DA 1 Site Information

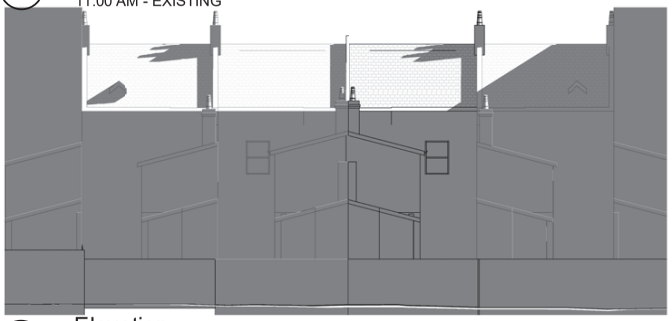
DRAWING TITLE
Elevation Shadow Diagrams

DRAWING NO.
DA 1.11

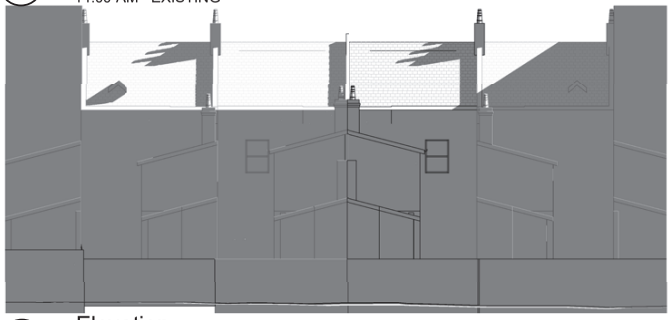
REVISION
A



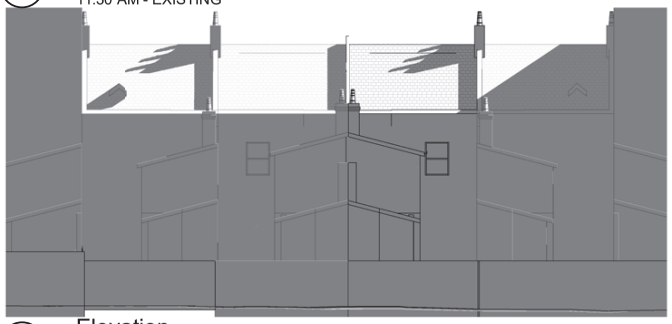
1 Elevation
11:00 AM - EXISTING



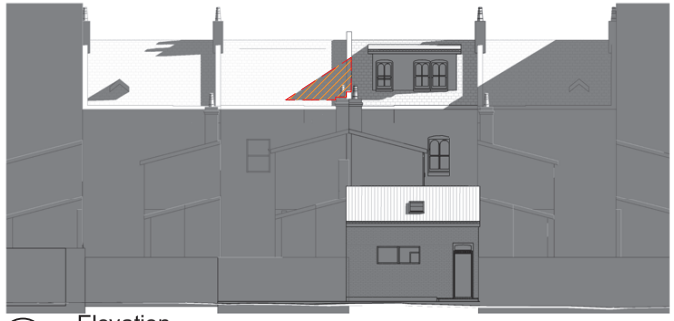
2 Elevation
11:00 AM - EXISTING



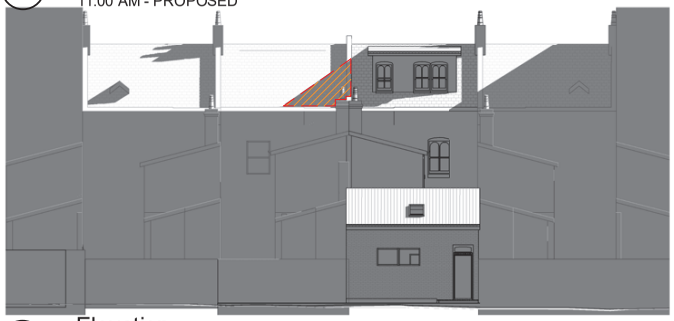
3 Elevation
11:30 AM - EXISTING



4 Elevation
11:45 AM - EXISTING



5 Elevation
11:00 AM - PROPOSED



6 Elevation
11:15 AM - PROPOSED



7 Elevation
11:30 AM - PROPOSED



8 Elevation
11:45 AM - PROPOSED

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SCALE
1 : 200 @A3

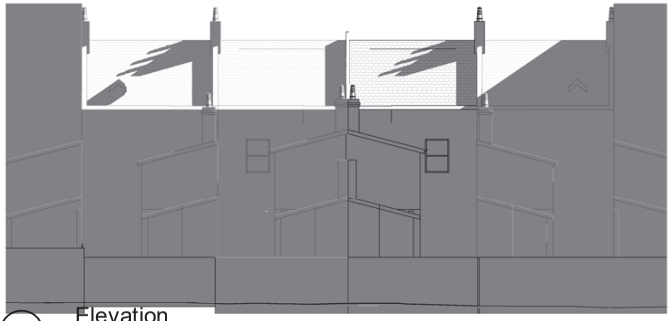
SCALE BAR
0m 2 4

DRAWING SERIES
DA 1 Site Information

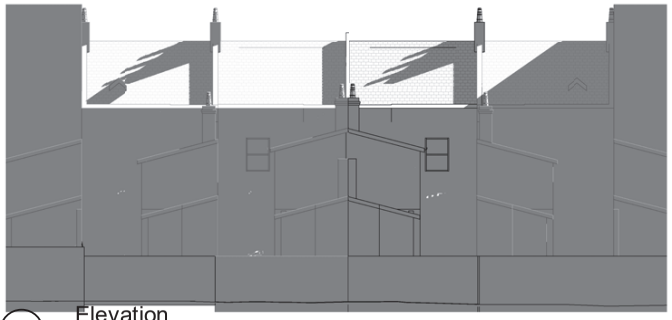
DRAWING NO.
DA 1.12

DRAWING TITLE
Elevation Shadow Diagrams

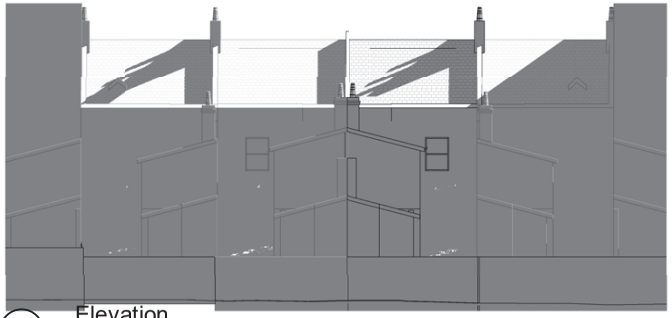
REVISION
A



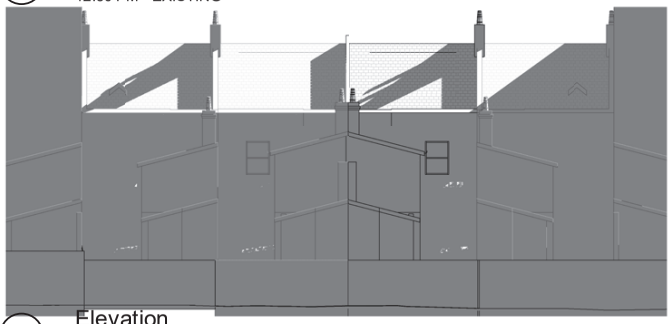
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112:00 PM - EXISTING



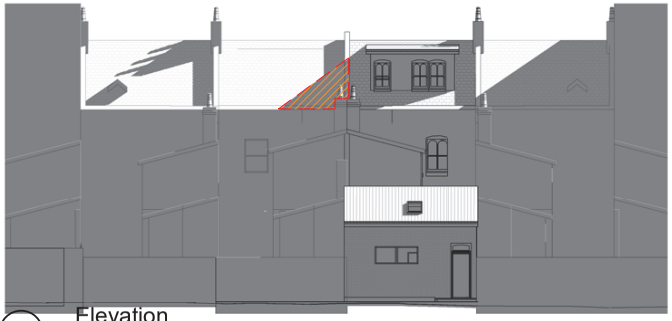
2 Elevation
12:15 PM - EXISTING



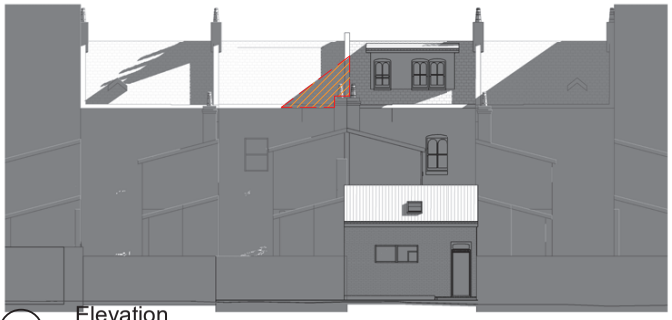
3 Elevation
12:30 PM - EXISTING



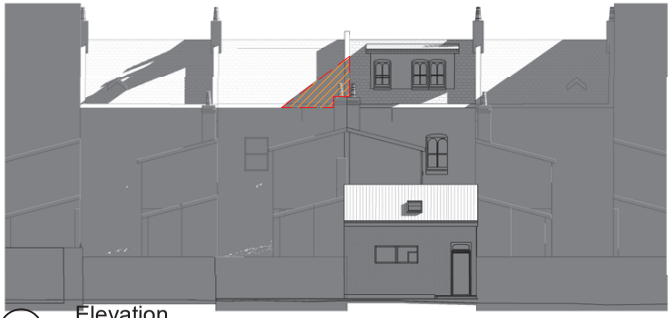
4 Elevation
12:45 PM - PROPOSED



5 Elevation
12:15 PM - PROPOSED



6 Elevation
12:15 PM - PROPOSED



7 Elevation
12:30 PM - PROPOSED



8 Elevation
12:45 PM - PROPOSED

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REV	DESCRIPTION	CHK	APR	DATE
A	DA Submission			15.04.2019

PROJECT PHASE
DEVELOPMENT APPLICATION

STATUS
PRELIMINARY

PROJECT NO.
P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 200 @A3

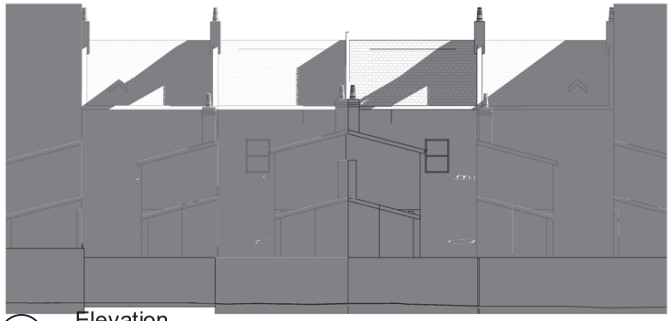
SCALE BAR
0m 2 4

DRAWING SERIES
DA 1 Site Information

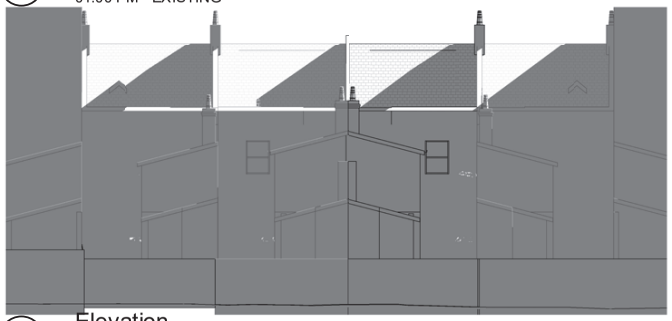
DRAWING TITLE
Elevation Shadow Diagrams

DRAWING NO.
DA 1.13

REVISION
A



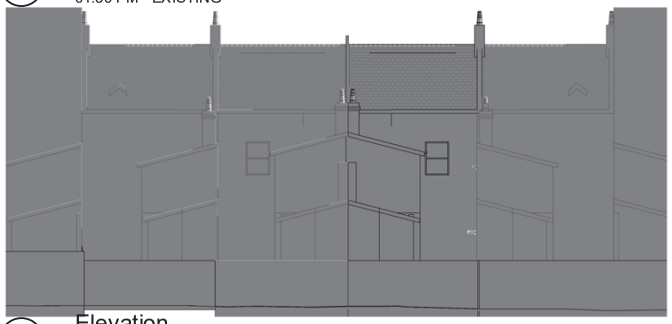
1 Elevation
01:00 PM - EXISTING



2 Elevation
01:15 PM - EXISTING



3 Elevation
01:30 PM - EXISTING



4 Elevation
01:45 PM - EXISTING



5 Elevation
01:00 PM - PROPOSED



6 Elevation
01:15 PM - PROPOSED



7 Elevation
01:30 PM - PROPOSED



8 Elevation
01:45 PM - PROPOSED

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PROJECT PHASE
DEVELOPMENT APPLICATION

STATUS
PRELIMINARY

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P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 200 @A3

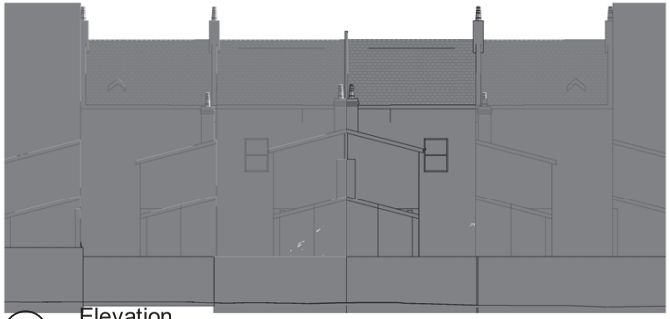
SCALE BAR
0m 2 4

DRAWING SERIES
DA 1 Site Information

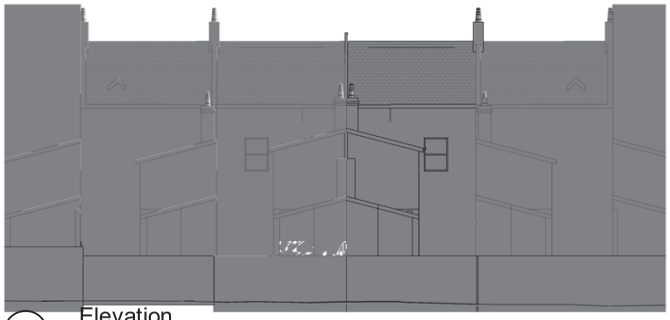
DRAWING TITLE
Elevation Shadow Diagrams

DRAWING NO.
DA 1.14

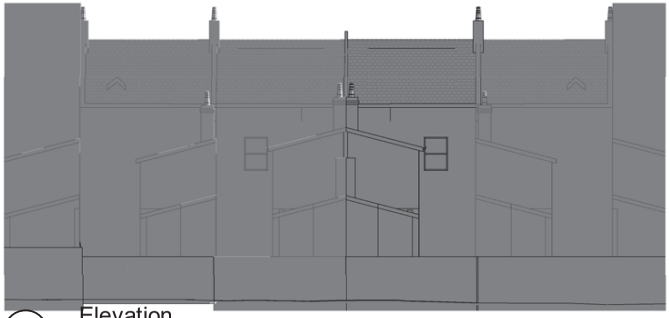
REVISION
A



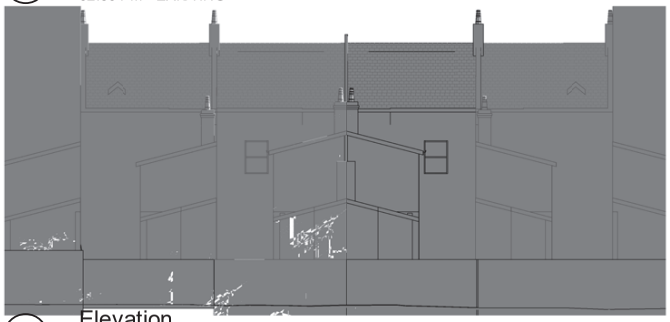
1 Elevation
02:00 PM - EXISTING



2 Elevation
02:15 PM - EXISTING



3 Elevation
02:30 PM - EXISTING



4 Elevation
02:45 PM - EXISTING



8 Elevation
02:00 PM - PROPOSED



5 Elevation
02:15 PM - PROPOSED



6 Elevation
02:30 PM - PROPOSED



7 Elevation
02:45 PM - PROPOSED

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A	DA Submission			15.04.2019

PROJECT PHASE
DEVELOPMENT APPLICATION

STATUS
PRELIMINARY

PROJECT NO.
P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
@A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 1 Site Information

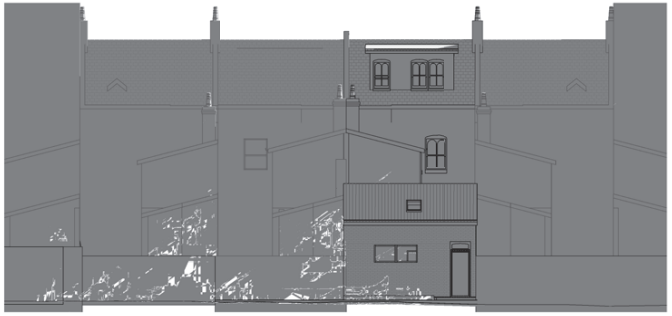
DRAWING TITLE
Elevation Shadow Diagrams

DRAWING NO.
DA 1.15

REVISION
A



1 Elevation
Maze Lane_15 00_E_82



2 Elevation
Maze Lane_15 00_82

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PROJECT PHASE

STATUS

PROJECT NO.
P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
@A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 1 Site Information

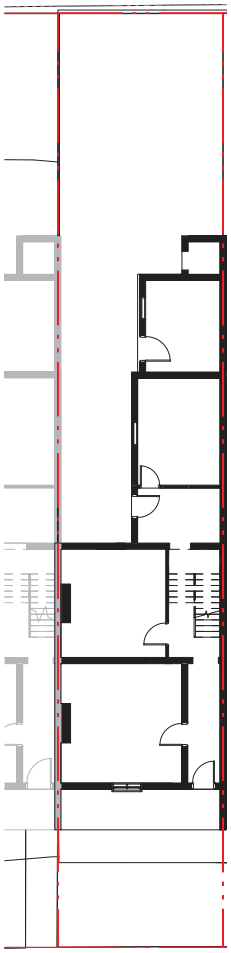
DRAWING NO.
DA 1.16

DRAWING TITLE
Elevation Shadow Diagrams

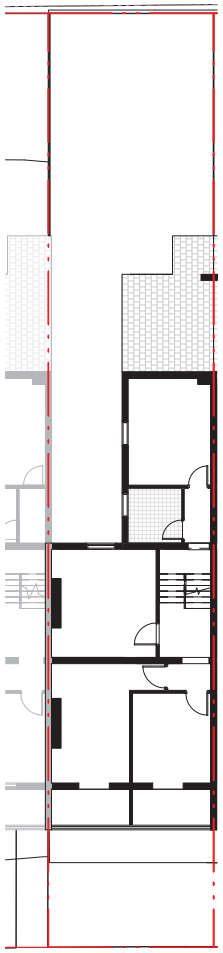
REVISION
A

NOTE :
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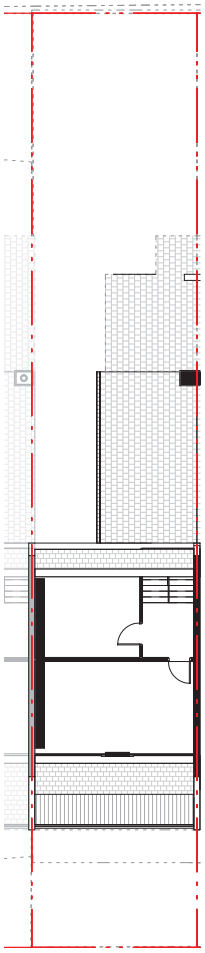
70



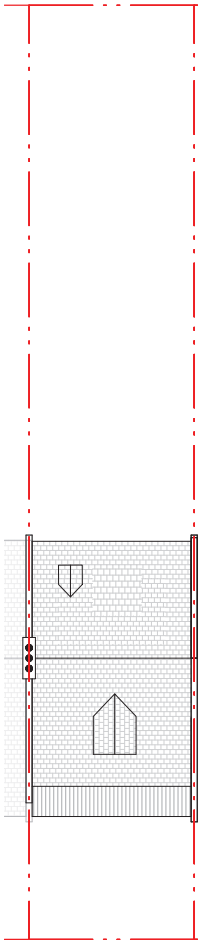
1 Plan
Existing Ground Floor 1 : 200



2 Plan
Existing First Floor 1 : 200



3 Plan
Existing Second Floor 1 : 200



4 Plan
Existing Roof Plan 1 : 200

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E	FOR ISSUE			24.04.2018
F	DA Submission			30.08.2018
G	DA Submission			15.04.2019

PROJECT PHASE
DEVELOPMENT APPLICATION

STATUS
PRELIMINARY

PROJECT NO.
P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 200 @A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 2 Plan

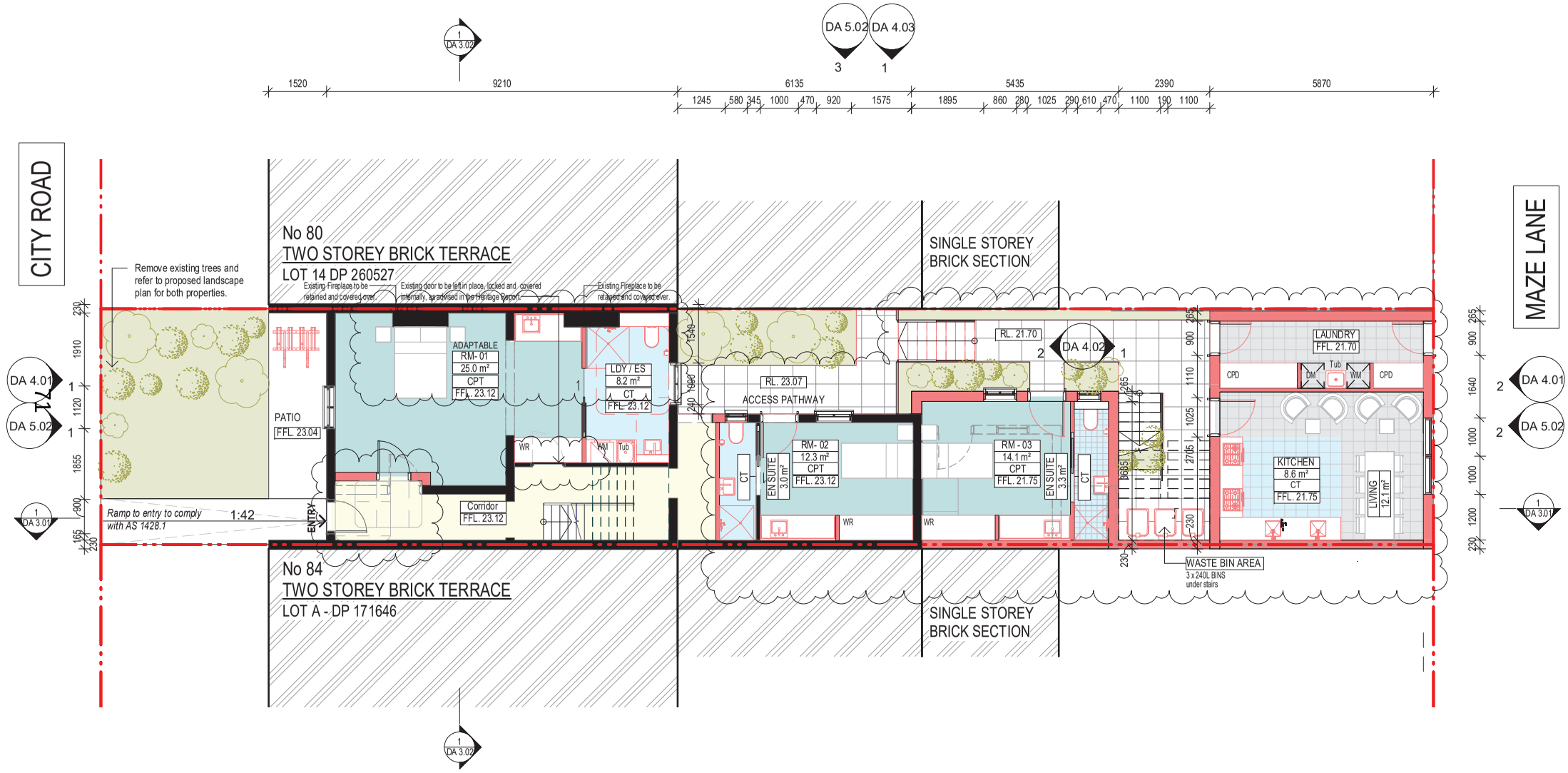
DRAWING TITLE
Existing Plans

DRAWING NO.
DA 2.00

REVISION
G

NOTE :
• This drawing shall be read in conjunction with the survey drawing. Position of walls relative to boundaries are only approximate. Correct wall positions for the proposed additions shall be established by survey.

• All existing balustrades to be replaced to meet BCA requirement for height.



Legend:

CPT Carpet
CT Ceramic Tile

Legend:

- EXISTING
- PROPOSED
- DEMOLISHED

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G	DA Submission			15.04.2019

PROJECT PHASE
DEVELOPMENT APPLICATION

STATUS
PRELIMINARY

PROJECT NO.
P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 100 @A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 2 Plan

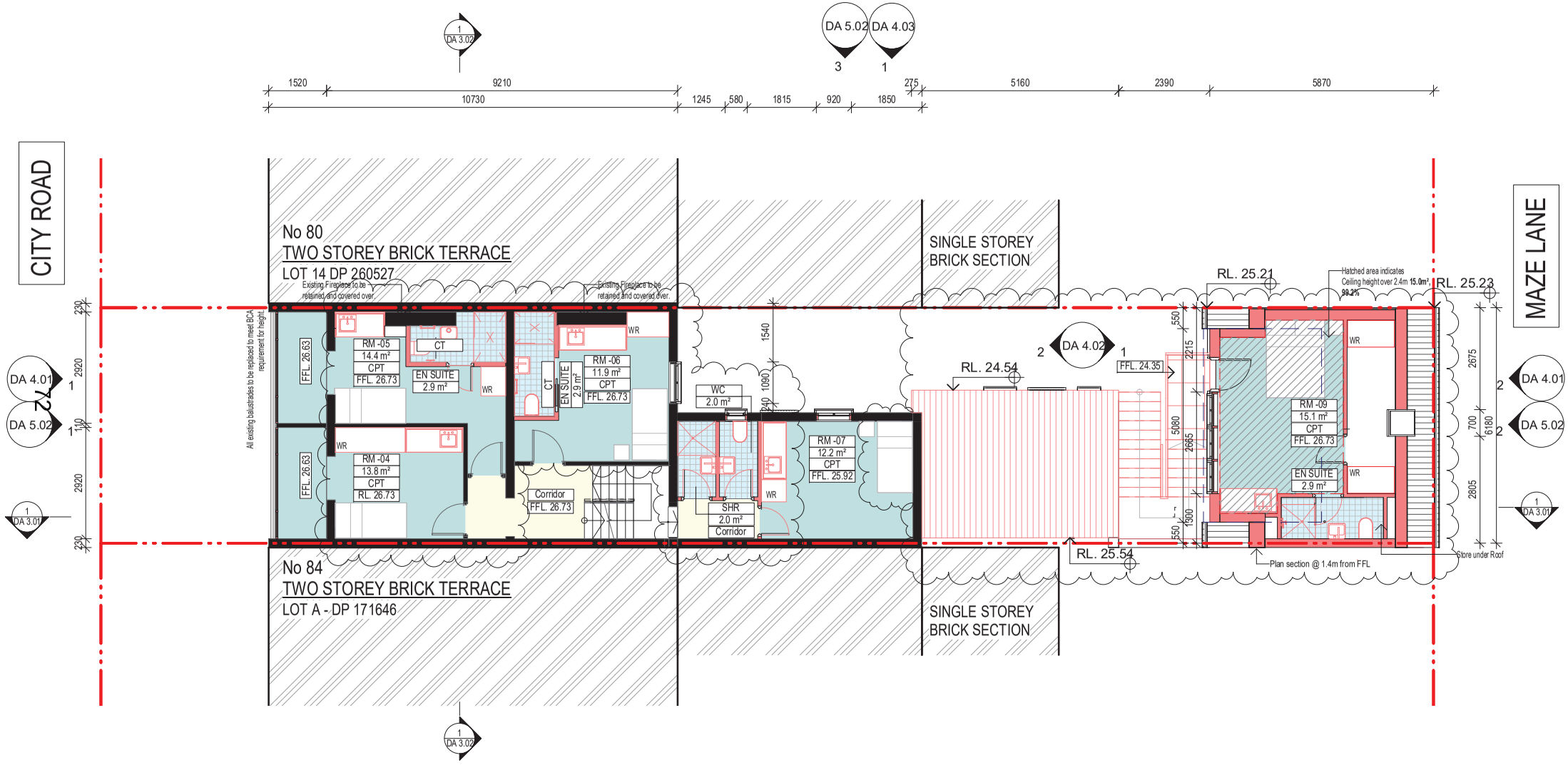
DRAWING TITLE
Proposed Ground Floor Plan

DRAWING NO.
DA 2.01

REVISION
G

NOTE :
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• All existing balustrades to be replaced to meet BCA requirement for height.



Legend:

CPT Carpet
CT Ceramic Tile

Legend:

- EXISTING
- PROPOSED
- DEMOLISHED

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PROJECT PHASE
DEVELOPMENT APPLICATION

STATUS
PRELIMINARY

PROJECT NO.
P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 100 @A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 2 Plan

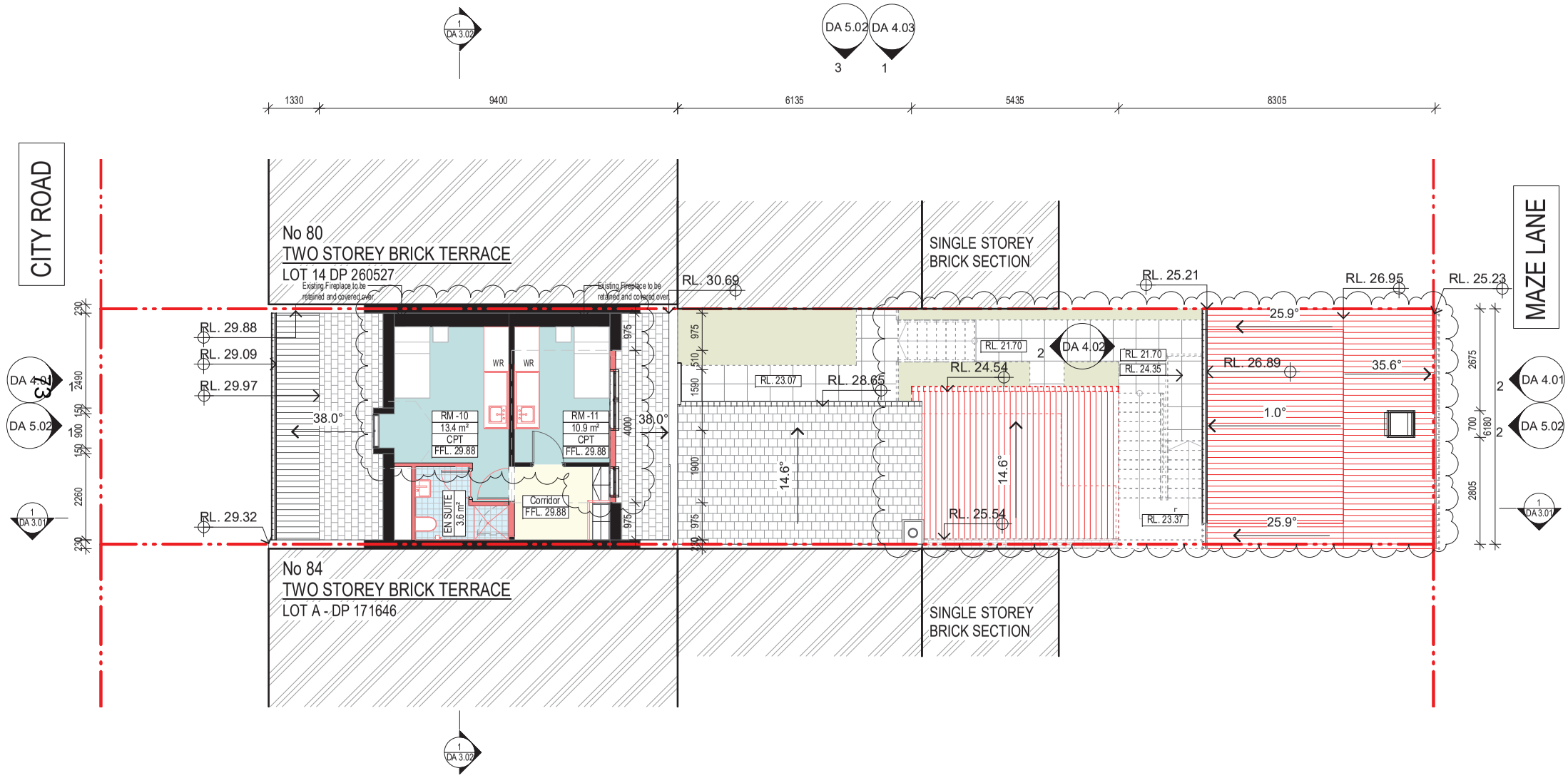
DRAWING TITLE
Proposed First Floor Plan

DRAWING NO.
DA 2.02

REVISION
G

NOTE :
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• All existing balustrades to be replaced to meet BCA requirement for height.



Legend:

CPT	Carpet
CT	Ceramic Tile

Legend:

- EXISTING
- PROPOSED
- DEMOLISHED

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PROJECT PHASE
DEVELOPMENT APPLICATION

STATUS
PRELIMINARY

PROJECT NO.
P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 100 @A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 2 Plan

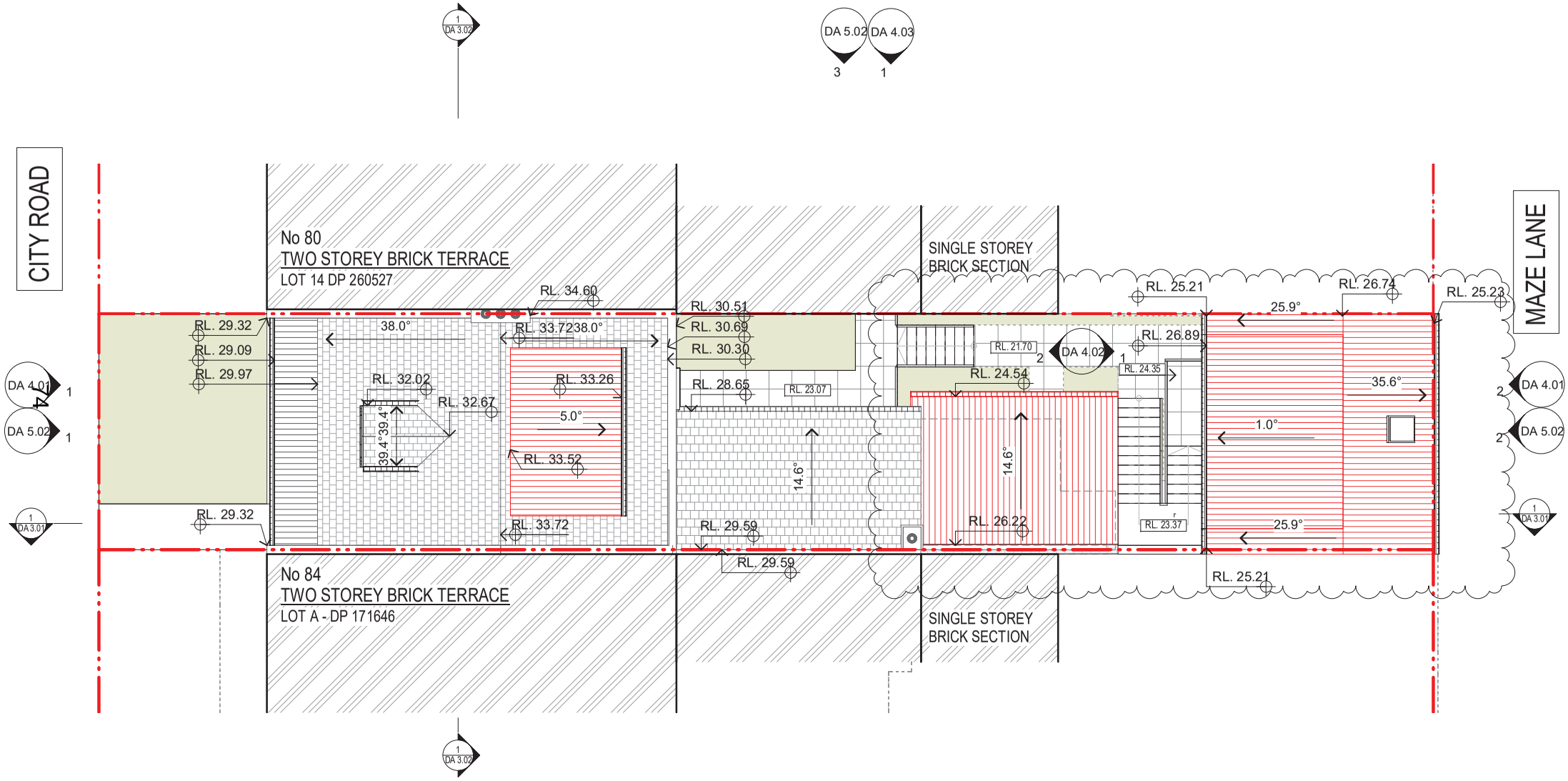
DRAWING TITLE
Proposed Second Floor Plan

DRAWING NO.
DA 2.03

REVISION
G

NOTE :
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• All existing balustrades to be replaced to meet BCA requirement for height.



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PROJECT PHASE
DEVELOPMENT APPLICATION

STATUS
PRELIMINARY

PROJECT NO.
P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 100 @A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 2 Plan

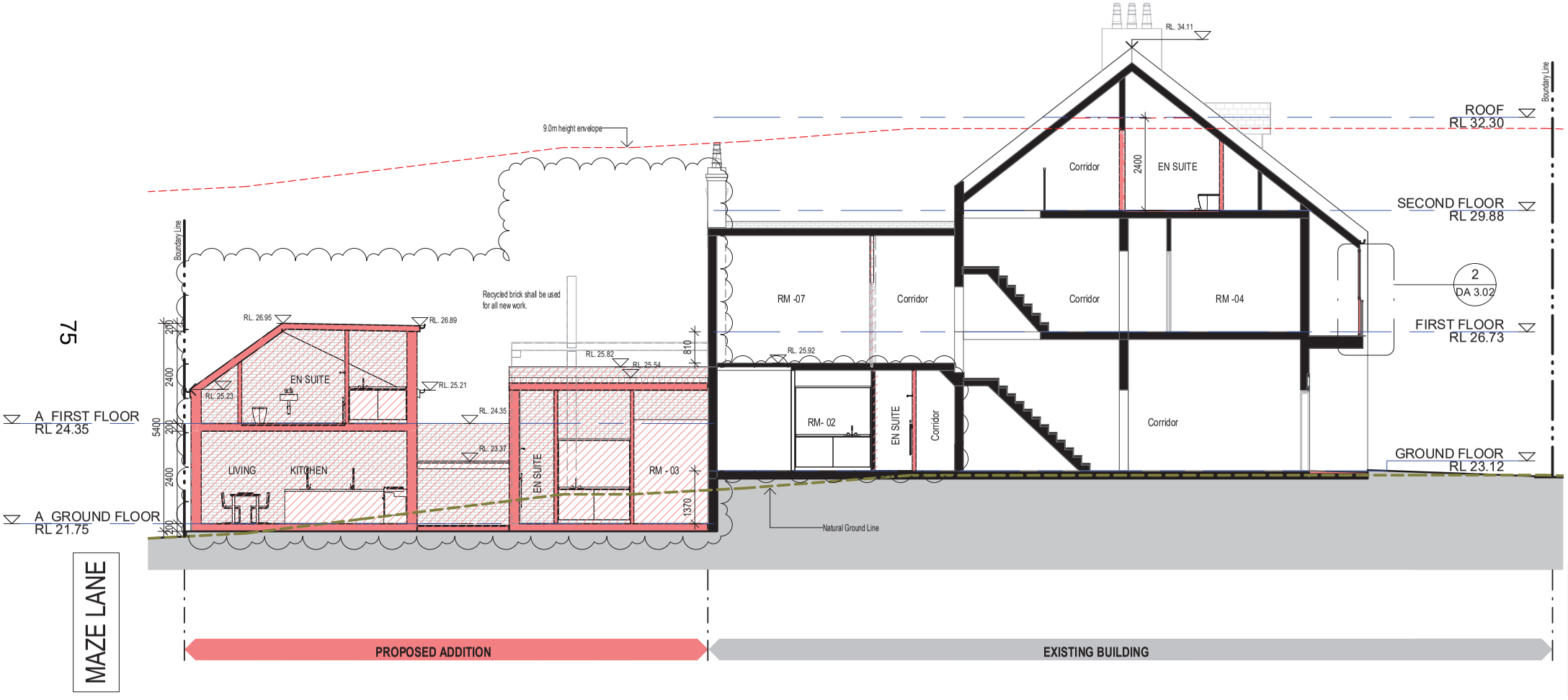
DRAWING TITLE
Proposed Roof Plan

DRAWING NO.
DA 2.04

REVISION
G

• Proposed changes to building elements shall be in compliance with Cl.8 of the City of Sydney Heritage DCP 2006

• All existing balustrades to be replaced to meet BCA requirement for height.



75

1 Section

Long Section 1 1 : 100

Legend:

CPT Carpet
CT Ceramic Tile

Legend:

- EXISTING
- PROPOSED
- DEMOLISHED

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PROJECT PHASE
DEVELOPMENT APPLICATION

STATUS
PRELIMINARY

PROJECT NO.
P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 100 @A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 3 Section

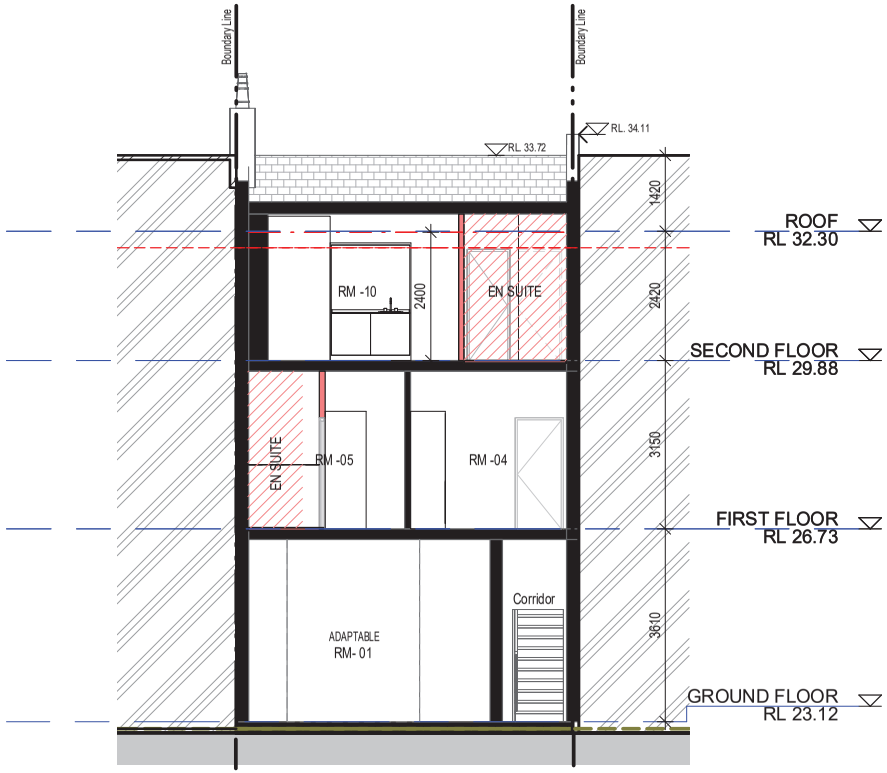
DRAWING TITLE
Sections - Long

DRAWING NO.
DA 3.01

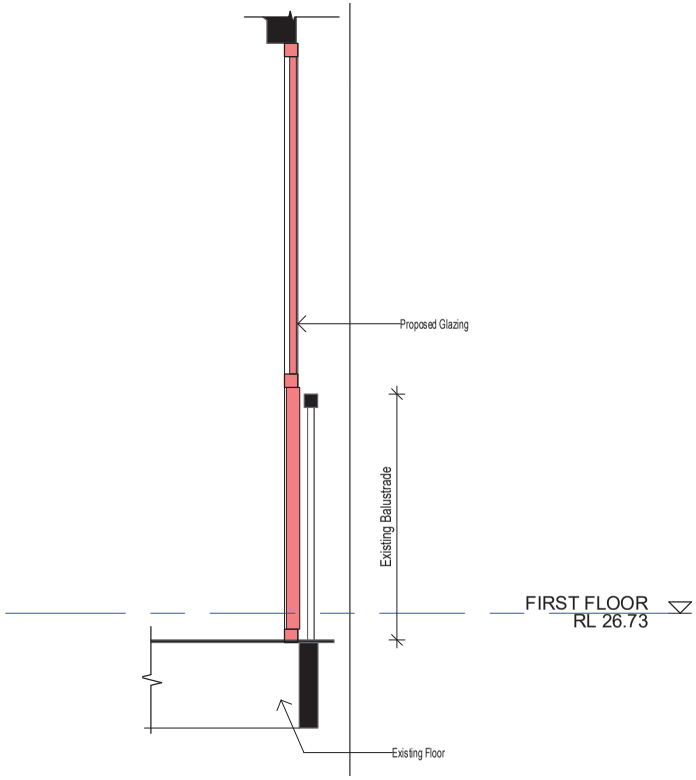
REVISION
G

• Proposed changes to building elements shall be in compliance with Cl.8 of the City of Sydney Heritage DCP 2006

• All existing balustrades to be replaced to meet BCA requirement for height.



1 Section
Short Section 1 : 100



2 Section
Balustrade Detail 1 : 20

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A	FOR INFO			17.02.2018
B	FOR INFO			26.02.2018
C	FOR INFO			28.02.2018
D	FOR INFO			08.03.2018
E	FOR ISSUE			24.04.2018
F	DA Submission			30.08.2018
G	DA Submission			15.04.2019

PROJECT PHASE
DEVELOPMENT APPLICATION

STATUS
PRELIMINARY

PROJECT NO.
P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
As indicated @A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 3 Section

DRAWING TITLE
Sections - Short

DRAWING NO.
DA 3.02

REVISION
G

Legend:

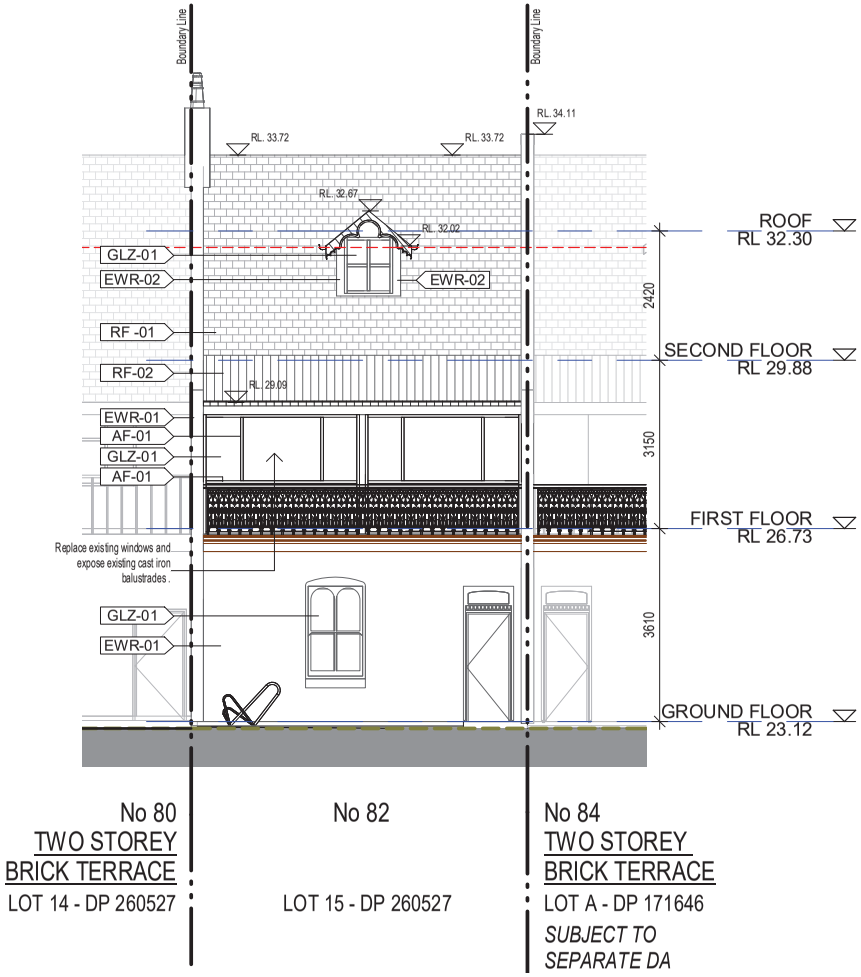
CPT	Carpet
CT	Ceramic Tile

Legend:

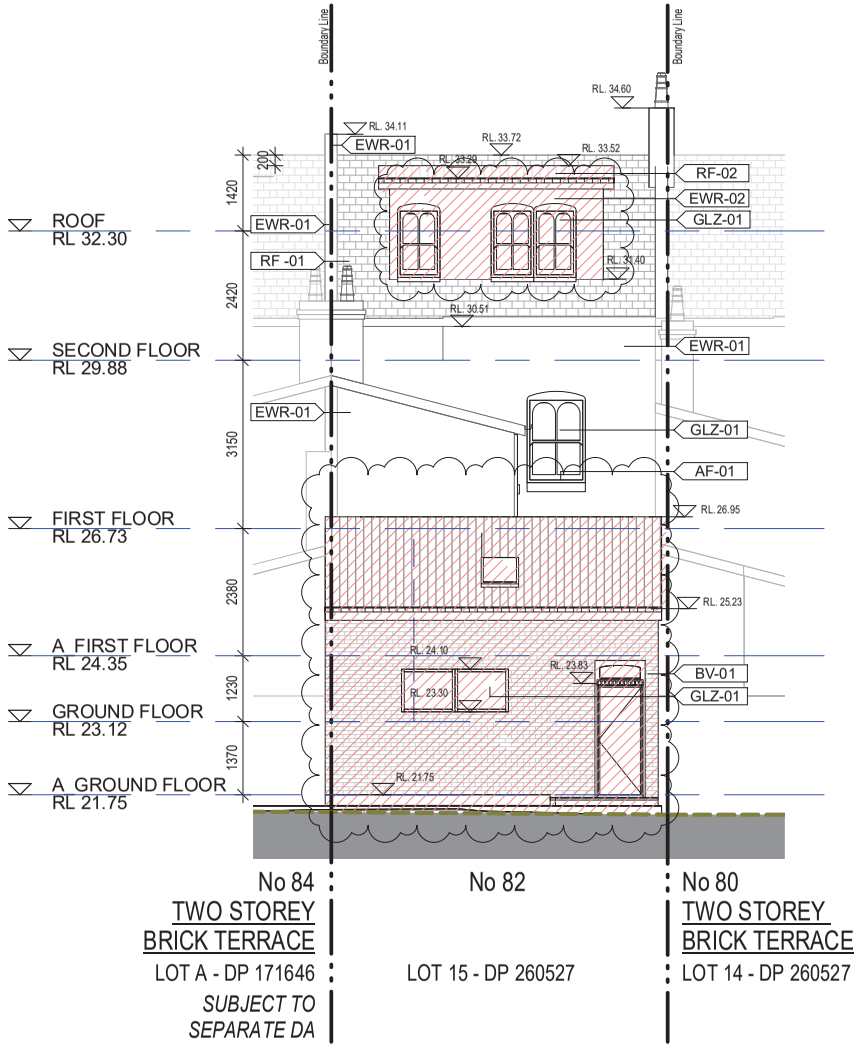
- EXISTING
- PROPOSED
- DEMOLISHED

• Proposed changes to building elements shall be in compliance with Cl.8 of the City of Sydney Heritage DCP 2006

• All existing balustrades to be replaced to meet BCA requirement for height.



1 Elevation
West Elevation 1 : 100



2 Elevation
East Elevation 1 : 100

Material Legend:

EWR-01	- White Painted Render - For existing 230mm walls
EWR-02	- Grey Painted Render - For existing 110mm walls
BR-01	- Brick Veneer - for new exterior walls
FM-01	- Aluminium - for existing and proposed window framing
GLZ-01	- Glazing - for existing and proposed windows
RF-01	- Slate - Existing roof
RF-02	- Colorbond, Grey - for proposed roof

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DEVELOPMENT APPLICATION

STATUS
PRELIMINARY

PROJECT NO.
P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 100 @A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 4 Elevation

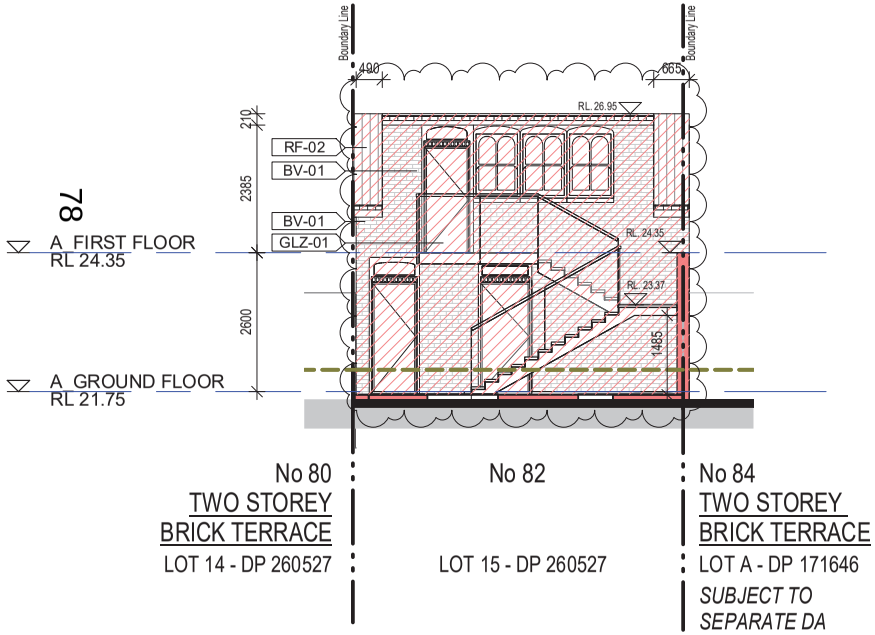
DRAWING TITLE
Street / Maze Elevations

DRAWING NO.
DA 4.01

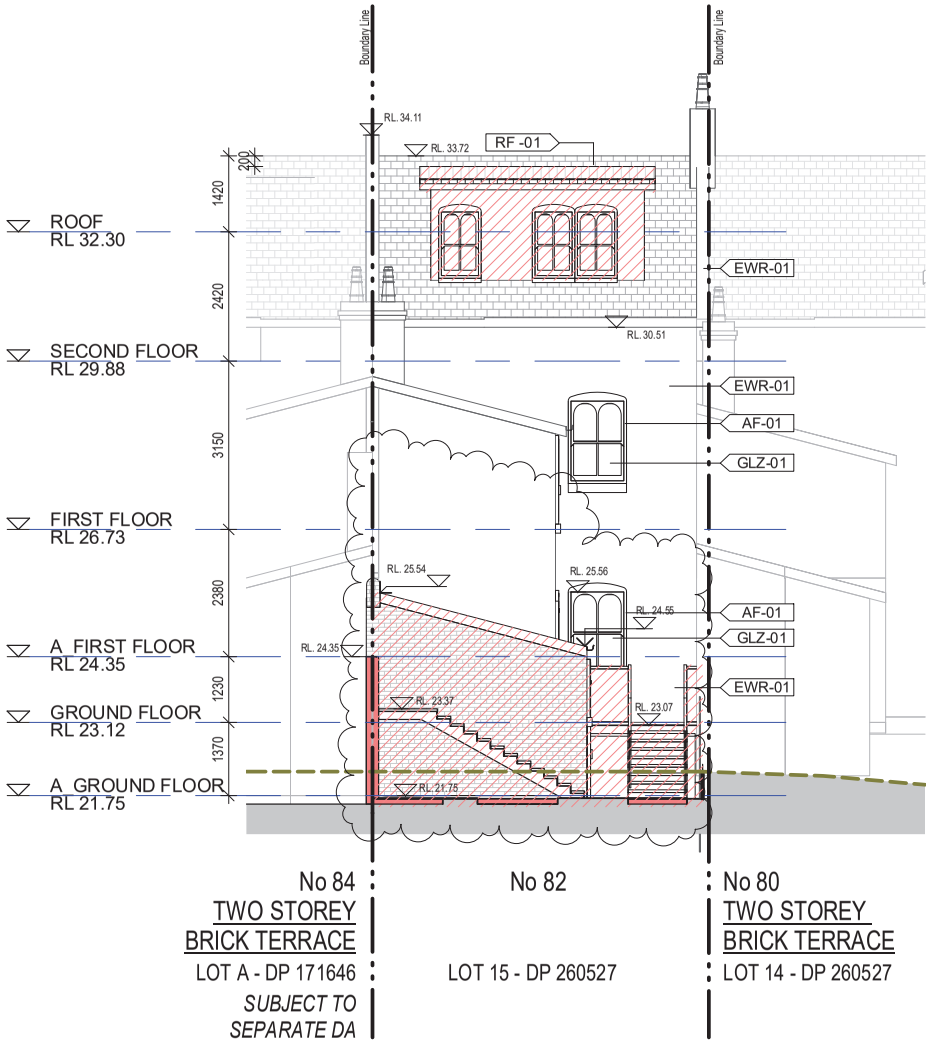
REVISION
G

• Proposed changes to building elements shall be in compliance with Cl.8 of the City of Sydney Heritage DCP 2006

• All existing balustrades to be replaced to meet BCA requirement for height.



1 Elevation
West - Internal Elevation 1 : 100



2 Elevation
East - Internal Elevation 1 : 100

Material Legend:

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DEVELOPMENT APPLICATION

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P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 100 @A3

SCALE BAR
0m 2 4

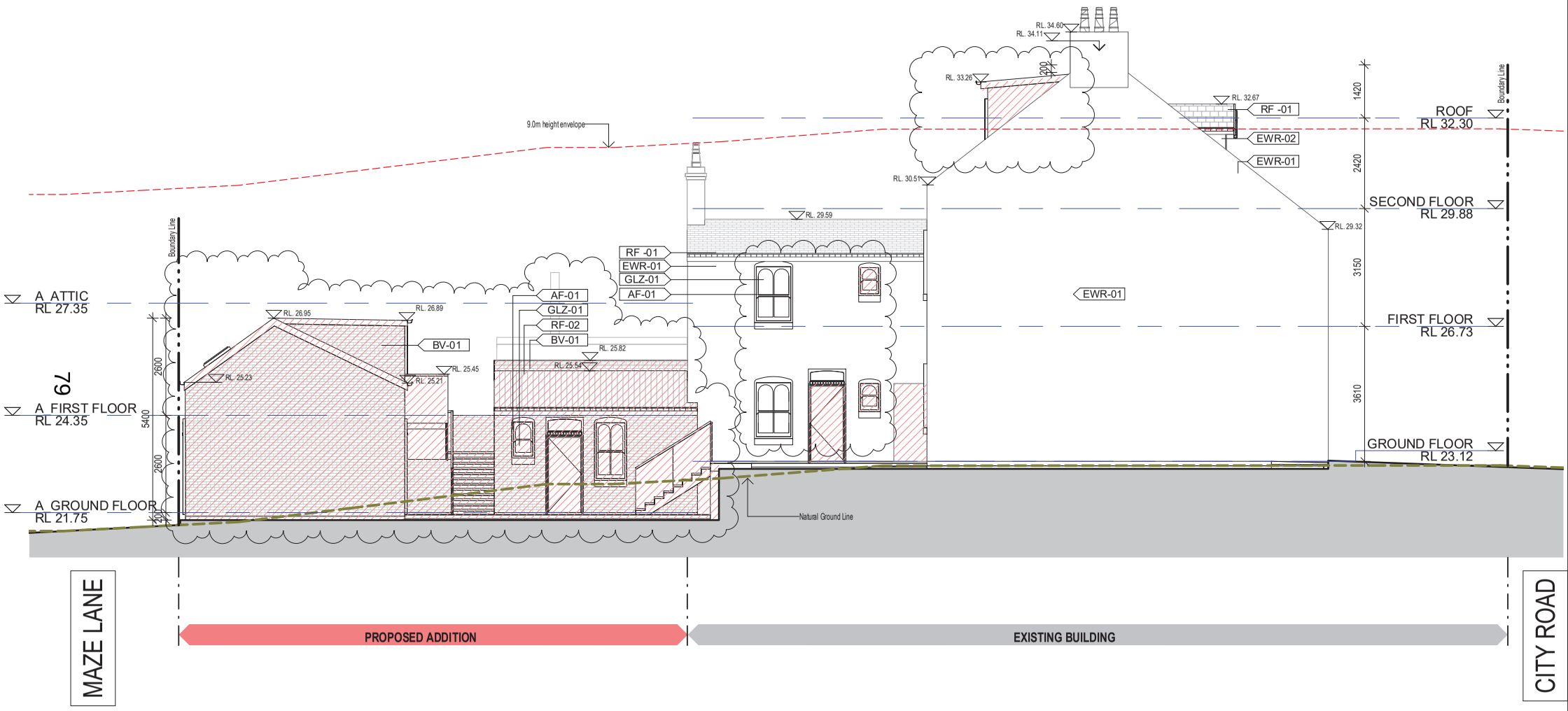
DRAWING SERIES
DA 4 Elevation

DRAWING TITLE
Internal Elevations

DRAWING NO.
DA 4.02

REVISION
G

Proposed changes to building elements shall be in compliance with Cl.8 of the City of Sydney Heritage DCP 2006



1 Elevation

North Elevation 1 : 100

Material Legend:

EWR-01	- White Painted Render - For existing 230mm walls
EWR-02	- Grey Painted Render - For existing 110mm walls
BR-01	- Brick Veneer - for new exterior walls
FM-01	- Aluminium - for existing and proposed window framing
GLZ-01	- Glazing - for existing and proposed windows
RF-01	- Slate - Existing roof
RF-02	- Colorbond, Grey - for proposed roof

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PROJECT PHASE
DEVELOPMENT APPLICATION

STATUS
PRELIMINARY

PROJECT NO.
P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 100 @A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 4 Elevation

DRAWING TITLE
Side Elevations

DRAWING NO.
DA 4.03

REVISION
G

Schedule of Finishes – External

Subject Site: 82-84 City Road, Chippendale

Building detail	Material	Colour
Streetscape – City Rd		
Windows along front	Timber – existing	Dulux – Vivid white
Boundary fence finish	Metal – existing	Wattyl – Night sky
Front Door (main)	Timber	Wattyl – Night sky
Roof	Corrugated aluminium	Shale Grey
Guttering and fascia	Aluminium	Wattyl – Night sky
Downpipes	Aluminium	Wattyl – Night sky
Balustrades and lacework	Existing and Aluminium	Wattyl – Night sky
Walls	Rendered – painted	Dulux – Lime White
Main building		
Walls - rear within property	Rendered – painted	Dulux – Lime White
Windows	Powder coated aluminium	Wattyl – Night sky (matched)
Rear dormer	Timber – painted	Dulux – Lime White
Windows frames	powder coated aluminium	Wattyl – Night sky

Laneway development			
Roof	Hiland tray or similar	Armour Grey	
Rear Door	Timber	Wattyl – Night sky	
External walls	recycled bricks	N/a	
Windows frames	powder coated aluminium	Wattyl – Night sky	
Downpipes	Aluminium	Wattyl – Night sky	
Guttering and fascia	Aluminium	Wattyl – Night sky	

Dated: February 2018 – prepared for DA submission



Handrail for balcony balustrade

Attachment C

Clause 4.6 – Height of Buildings

LK PLANNING

Clause 4.6 Variation
Height of Buildings

82 City Road Chippendale

DEVELOPMENT STANDARD ATTRIBUTES	
Environmental Planning Instrument	Sydney Local Environmental Plan 2012[1]
Zoning	R1 – General Residential
Standard to be varied	Height of Buildings - Clause 4.3
Development Standard	Maximum height 9m
Proposal	Maximum height 10.4m
Variation	1.4m or 15.6%

OBJECTIVES	
Zone Objectives	• To provide for the housing needs of the community. • To provide for a variety of housing types and densities. • To enable other land uses that provide facilities or services to meet the day to day needs of residents. • To maintain the existing land use pattern of predominantly residential uses.
Development Standard Objectives **(Height of Buildings)**	(a) to ensure the height of development is appropriate to the condition of the site and its context, (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas, (c) to promote the sharing of views, (d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas, (e) in respect of Green Square: (i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and (ii) to ensure the built form contributes to the physical definition of the street network and public spaces.

[1] NSW Government Legislation website – legislation.nsw.gov.au
Current version for 8 March 2019 to date (accessed 10 May 2019)

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Clause 4.6(3)
(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating: *(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and* *(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Cl.4.6(3)(a) - Unreasonable or unnecessary

The position that compliance with the development standard is unreasonable or unnecessary may be demonstrated in one or more of the ways offered by *Wehbe V Pittwater Council (2007) NSWLEC 827 Preston CJ.* In this particular case, consistent with that decision, it can be demonstrated that the objectives of the development standard are achieved notwithstanding non-compliance with the standard, as below (emphasis added):

> *"43 The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)." Wehbe V Pittwater Council (2007) NSWLEC 827 Preston CJ*

The achievement of the specific objectives is outlined below:

Objective (a) - to ensure the height of development is appropriate to the condition of the site and its context

> The height breach in this case is caused by a replacement dormer window at the rear of a terrace building that forms part of a contributory group of buildings. A dormer window is anticipated on terraces with high vaulted ceilings and/or attics and in this case has been designed to meet the criteria in the Council's DCP, having a set down from the principal ridge of the roof of 200mm and set in from the edges of the building by 975mm so that it extends 4 metres across the roof plane.
>
> The dormer responds to the condition of the site to allow for an improvement to the amenity of the attic level rooms and stairwell by introducing additional light, ventilation and internal ceiling heights to the existing boarding rooms in the attic. The dormer responds to the surrounding context of contributory buildings by its complementary design to other dormer extensions in the conservation area. The extension remains below the maximum height of the existing building, noting the ridge is 200mm above

the dormer and the parapet walls on either side are another 390mm above the ridge. As such, the proposal does not alter the actual maximum height of the building.

In this regard, the proposed dormer achieves this objective of the zone.

Objective (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas

The Heritage Impact Statement accompanying the application concludes that:

The proposal will have a limited and acceptable impact on the significance of the place, the surrounding conservation area and the heritage items in the vicinity and largely complies with the relevant heritage controls in the SDCP.

There are also no view impacts or adverse shadow impacts caused by the proposed dormer.

The existing built form transitions down from the front of the site to the rear laneway. The proposed dormer retains this transition despite the height breach and is read as a subservient feature in the roofscape.

In this regard, the proposed dormer achieves this objective of the zone.

Objective (c) to promote the sharing of views

There are no views across the site and the dormer is located entirely within the foreground of the existing pitched roof.

In this regard, the proposed dormer achieves this objective of the zone.

Objective (d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas

The maximum height of the building remains unchanged by the proposal and the minor additional volume it occupies does not affect the general transition of building height from Central Sydney to the adjoining area.

In this regard, the proposed dormer achieves this objective of the zone.

Objective (e) in respect of Green Square:
(i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and
(ii) to ensure the built form contributes to the physical definition of the street network and public spaces.

Not applicable.

Cl.4.6(3)(b) - Sufficient environmental planning grounds

The feature of the proposal that breaches the height development standard is limited to the dormer window addition. These traditional extensions to terrace buildings are typically, as is evident in this case, without material impact upon the surrounding properties in terms of solar access, overlooking, views or bulk/scale generally.

Despite the lack of impact on their surroundings, the dormers significantly increase the amenity afforded to the building through increased ceiling heights, solar access and ventilation. The bulk of the structure is consistent with the desired character of the area, noting its form aligns with the DCP controls that require it to be set behind and below the main roof form and in from the edges.

Clause 4.6(4)
(4) Development consent must not be granted for development that contravenes a development standard unless: (a) the consent authority is satisfied that: (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and (b) the concurrence of the Secretary has been obtained.

Cl.4.6(4)(a)(i) - Adequately addressing subclause 3

The Council can be satisfied that the reasons expressed above in this request adequately address the matters required by subclause 3.

Cl.4.6(4)(a)(ii) - The public interest

The proposal is in the public interest as it has been demonstrated that it is consistent with the objectives of the standard for the reasons previously expressed.

Zone objectives
In relation to the objectives of the zone, the proposal:

- "provides for the housing needs of the community" in that it retains and improves an existing boarding house and therefore meets the housing need of affordable rental accommodation in areas of high amenity;
- "provides for a variety of housing types and densities" by including a range of room sizes within the boarding house, in a setting amongst other boarding houses, share houses, single dwellings and apartments;
- whilst it does not provide for "other land uses that provide facilities or services to meet the day to day needs of residents", it is focussed on housing choice and therefore does not contravene this objective; and
- "maintains the existing land use pattern of predominantly residential uses" by retaining the boarding house use that has existed on the site for over 100 years.

Varying the height control in this instance has no negative public interest implications, does not undermine the integrity of the Council controls and does not set an undesirable precedent.

Cl.4.6(4)(b) - Concurrence of the Secretary

The Council may assume the required Director-General's concurrence provided that it has considered all of the relevant matters under Clause 4.6 as expressed above.

Conclusion

This statement demonstrates that in this particular case a variation pursuant to clause 4.6 of the LEP is justified as there are sufficient environmental planning grounds to exceed the standard and that strict compliance would be unreasonable and unnecessary. As such, the consent authority can be satisfied that the above justification adequately addresses clause 4.6(3) of the LEP, as required by clause 4.6(4)(a)(i).

The proposal will be in the public interest because it is consistent with the objectives of the Height of Buildings standard and the objectives of the R1 zone and provides a reasonable environmental planning outcome for the site, satisfying clause 4.6(4)(a)(ii).

There are no matters of State or regional planning significance as a result of the non-compliance, satisfying clause 4.6(5)(a). There is also no public benefit in maintaining the development standard in this particular case given the proposal meets the zone and development standard objectives and has no unreasonable impact on the amenity of the locality generally or the adjoining properties, satisfying clause 4.6(5)(b).

The variation therefore is acceptable having regards to the considerations under clause 4.6 of the LEP.

Attachment D

Clause 4.6 – Motorcycle Parking

LK PLANNING

Clause 4.6 Variation
Motorcycle Parking

82 City Road Chippendale

DEVELOPMENT STANDARD ATTRIBUTES	
Environmental Planning Instrument	State Environmental Planning Policy (Affordable Rental Housing) 2009[1]
Zoning	R1 – General Residential
Standard to be varied	Motorcycle Parking - Clause 30(1)(h)
Development Standard	"At least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms"
Proposal	4 bicycle spaces (exceeds the minimum of 2) and; Nil motorcycle spaces (does not comply)
Variation	100%

OBJECTIVES	
Zone Objectives	• To provide for the housing needs of the community. • To provide for a variety of housing types and densities. • To enable other land uses that provide facilities or services to meet the day to day needs of residents. • To maintain the existing land use pattern of predominantly residential uses.
Development Standard Objectives **(Motorcycle Parking)**	There are no objectives to the development standard. More broadly, the stated 'Aims' of the SEPP (ARH) 2009 are: (a) to provide a consistent planning regime for the provision of affordable rental housing, (b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards, (c) to facilitate the retention and mitigate the loss of existing affordable rental housing, (d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,

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Development Standard Objectives cont…	(e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing, (f) to support local business centres by providing affordable rental housing for workers close to places of work, (g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.

[1] NSW Government Legislation website – legislation.nsw.gov.au
Current version for 28 February 2019 to date (accessed 11 May 2019)

Clause 4.6(3)
(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating: *(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and* *(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Cl.4.6(3)(a) - Unreasonable or unnecessary

The position that compliance with the development standard is unreasonable or unnecessary may be demonstrated in one or more of the ways offered by *Wehbe V Pittwater Council (2007) NSWLEC 827 Preston CJ.* In this particular case, consistent with that decision, it can be demonstrated that the objectives of the development standard are achieved notwithstanding non-compliance with the standard, as below (emphasis added):

> *"43 The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)." Wehbe V Pittwater Council (2007) NSWLEC 827 Preston CJ*

It is important to note that under clause 30(2) of the SEPP (ARH) the development standards do not apply to minor alterations or additions to an existing boarding house and in those cases there would be no consideration of motorcycle parking rates. With the exception of the new laneway structure, the renovation to the existing boarding house itself would easily classify as 'minor alterations and additions' as the scope of works is essentially to provide an ensuite, kitchenette and wardrobe fit-out within the existing rooms with minor associated additions.

Even with the laneway structure, the proposal may *still* be classified as minor additions to a boarding house as there is no net increase in the number of boarding rooms and the substantial building on the site is being essentially retained as is.

Nevertheless, for the purpose of abundant caution a request to vary the development standard is provided.

Whilst there is no stated objective to the development standard itself, the aims of the SEPP (ARH) are achieved by the proposal despite the lack of motorcycle parking given that the renovation of the existing boarding house provides for the introduction of greater amenity and communal facilities for the benefit of the occupants. This goes directly to Aims (c), (e), (f) and (g):

(c) to facilitate the retention and mitigate the loss of existing affordable rental housing,
(e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,
(f) to support local business centres by providing affordable rental housing for workers close to places of work,
(g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.

In the previous DA, a request to vary this development standard was not accepted by the Council. The applicant's written request suggested that the only area capable of providing motorcycle parking was in the front yard area due to the provision of a laneway building at the rear, and that this was undesirable. The Council's assessment report provided a contrary view:

> *"The site is sufficiently unencumbered so as to be able to provide some if not all of the required motorcycle parking accessed from the rear lane. Fundamentally, it is due to the built form and overall scale of the proposal that the motorcycle parking has not been provided."*

Accepting the Council's view, and accepting the premise that motorcycle parking, if proposed, must enter the site from the rear lane (and the proposition must be accepted), then to achieve both compliance with this standard and the provision of new communal facilities would require either a reduction in the size of the communal facilities or a relocation of the communal facilities into the main building to allow sufficient space for motorcycle parking.

The existing boarding house has 10 rooms that are in a dilapidated and unrenovated state. The proposal is to retain the existing number of rooms whilst introducing a higher level of amenity. Part of that amenity is the provision of a communal kitchen/living/dining area and laundry at the rear of the site. It is accepted that the rear of the site is the only area from which on-site motorcycle parking may be provided as it would be highly objectionable to create a motorcycle parking area in the front landscaped courtyard of a contributory building within a heritage conservation zone. It would also pose safety risks to riders and pedestrians.

If the communal facilities were reduced in size they would not comply with the relevant controls for minimum communal room sizes. If they were internalised within the main building, the net result would be the loss of 2 boarding rooms. Strict compliance with the development standard would therefore have the effect of either:

1. Retaining the number of rooms (10) and providing motorcycle parking in the rear yard with no new communal facilities; or
2. Reducing the number of rooms to 8 to provide communal facilities within the main building, providing motorcycle parking in the rear yard.

The first option inappropriately places a higher threshold of importance on providing motorcycle parking for up to 2 lodgers than providing new communal facilities for the occupants of all 10 rooms. The second option disincentivises increasing the amenity to the existing rooms as the 10 rooms, which have existing for over 100 years, would reduce to 8 rooms, contravening the Aims of the SEPP (ARH).

Both of these scenarios would result in an undesirable planning outcome. Imposing strict compliance with the development standard, despite there being no net increase in the number of existing rooms from this renovation, would be unnecessary (as the Aim of the SEPP is achieved anyway) and unreasonable (as it would serve the purpose of discouraging or diminishing the quality of the renovation of the building).

Cl.4.6(3)(b) - Sufficient environmental planning grounds

There are sufficient environmental planning grounds to support the variation as the absence of motorcycle parking allows for a refined design of the laneway structure at the rear of the site and an increased provision of communal living/kitchen/dining and laundry facilities in the least impactful location on the site. The provision of 2 motorcycle spaces would significantly diminish or eliminate the ability to accommodate these improvements onto the site without reducing the overall capacity of the boarding house below the rates that have existed for over 100 years.

The upgraded boarding house will contribute to the viability of local centres by retaining affordable housing within a location that is well serviced by public and active transport infrastructure, and within close proximity to employment opportunities and educational facilities and therefore the use of a motorcycle is not necessarily required.

To offset the motorcycle parking deficit, the proposal seeks an alternative solution to provide commuter parking opportunities on the site, by providing double the bicycle parking spaces than is required by the controls within the front setback zone. The 4 bicycle spaces mean that 40% of the rooms have access to a dedicated and secure parking space for their bicycle. This promotes the use of active transport, aligning with City of Sydney's Liveable Green Network, in a way that does not compromise the visual aesthetic of this contributory building. In this respect, the proposal is considered to achieve a better planning outcome than compliance with the development standard.

Clause 4.6(4)
(4) Development consent must not be granted for development that contravenes a development standard unless: (a) the consent authority is satisfied that: (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and (b) the concurrence of the Secretary has been obtained.

Cl.4.6(4)(a)(i) - Adequately addressing subclause 3

The Council can be satisfied that the reasons expressed above in this request adequately address the matters required by subclause 3.

Cl.4.6(4)(a)(ii) - The public interest

The proposal is in the public interest as it has been demonstrated that it is consistent with the Aims of the SEPP (ARH) for the reasons previously expressed.

Zone objectives
In relation to the objectives of the zone, the proposal:

- "provides for the housing needs of the community" in that it retains and improves an existing boarding house and therefore meets the housing need of affordable rental accommodation in areas of high amenity;

- "provides for a variety of housing types and densities" by including a range of room sizes within the boarding house, in a setting amongst other boarding houses, share houses, single dwellings and apartments;

- whilst it does not provide for "other land uses that provide facilities or services to meet the day to day needs of residents", it is focussed on housing choice and therefore does not contravene this objective; and

- "maintains the existing land use pattern of predominantly residential uses" by retaining the boarding house use that has existed on the site for over 100 years.

Precedent
Varying the motorcycle control in this instance has no negative public interest implications, does not undermine the integrity of the SEPP (ARH) and does not set an undesirable precedent. There are various examples noted in Council's Register of Development Standard Variations where 100% variations have been granted to the motorcycle parking control, many of which have similar characteristics to the subject site with heritage overlay and rear lane access:

D/2012/568 - 304-308 King Street Newtown – 100% variation – approved 15/10/2012
"Variation acceptable due to being close to public transport, a new vehicle crossover would result in negative heritage impact"

D/2014/446 - 5 Hudson Street Redfern - 100% variation – approved 15/09/2014
"Variations meet the zone objectives"

D/2015/56 - 50 Bray Street Erskineville - 100% variation - approved 14/12/2015
"Public transport is sufficiently close to support the variation in motorcycle parking"

D/2016/1347 - 461 Harris Street Ultimo - 100.0% variation – approved 11/01/2017
"The proposal is considered not to have unreasonable impact on the amenity of the adjoining properties or the street scape"

D/2017/363 - 89 Crown Street Darlinghurst - 100.0% variation – approved 18/09/2017
"The proximity of the site to public transport and amenities does not warrant the provision of motorbike parking in this instance"

D/2016/1604 - 437 Wattle Street Ultimo - 100% variation – approved 13/11/2017
"The proposed alterations are integrated with the existing heritage character of the building and the area, and will create minimal amenity impacts to nearby dwellings"

D/2018/132 - 638 King Street Erskineville - 100.0% variation - approved 23/05/2018
"The proposal is considered not to have unreasonable impact on the amenity of the adjoining properties or the street scape"

D/2017/1648 - 26 Lower Fort St Dawes Point – 100% variation – approved 19/06/2018
"The proposal is considered not to have unreasonable impact on the amenity of the adjoining properties or the street scape"

D/2018/759 - 175 St Johns Road Glebe - 100% variation – approved 10/10/2018
"The proposal is considered not to have unreasonable impact on the amenity of the adjoining properties or the street scape"

Cl.4.6(4)(b) - Concurrence of the Secretary

The Council may assume the required Director-General's concurrence provided that it has considered all of the relevant matters under Clause 4.6 as expressed above.

Conclusion

This statement demonstrates that in this particular case a variation pursuant to clause 4.6 of the LEP is justified as there are sufficient environmental planning grounds to exceed the standard and that strict compliance would be unreasonable and unnecessary. As such, the consent authority can be satisfied that the above justification adequately addresses clause 4.6(3) of the LEP, as required by clause 4.6(4)(a)(i).

The proposal will be in the public interest because it is consistent with the Aims of the SEPP (ARH) and the objectives of the R1 zone and provides a reasonable environmental planning outcome for the site, satisfying clause 4.6(4)(a)(ii).

There are no matters of State or regional planning significance as a result of the non-compliance, satisfying clause 4.6(5)(a). There is also no public benefit in maintaining the development standard in this particular case given the proposal meets the zone and development standard objectives and has no unreasonable impact on the amenity of the locality generally or the adjoining properties, satisfying clause 4.6(5)(b).

The variation therefore is acceptable having regards to the considerations under clause 4.6 of the LEP.

Attachment E

Plan of Management

Operational Plan of Management
82 City Road Chippendale

Introduction

This Operational Plan of Management (OPM) accompanies a Development Application for an existing boarding house at 82 City Road, Chippendale. This OPM outlines how the premises will operate. Three of the rooms use shared bathroom facilities and two of them have their own self-contained bathroom. The operator of the boarding house will comply with this OPM and with conditions of development consent that may be issued for the boarding house by City of Sydney Council.

Objectives

- Maintain the safety and comfort of residents
- Outline use of the facilities across the site
- Manage noise impact or disturbances to adjoining properties
- Outline measures to ensure the property is well maintained

The boarding house operates as a registered premises under the NSW Boarding Houses Act 2012 and the operation of the boarding house is to be in compliance with that Act at all times.

Responsibilities of management include:

A. Liaising with existing and potential guests
B. Enforcing Guest policy
C. Maintaining the daily operational functions of the building
D. Addressing complaints (internal and external)

A. Liaising with existing and potential guests

Showing rooms, rentals transactions, identity checks, addressing individual room request and general enquires.

B. Enforcing Guest policy

This policy is displayed alongside the fire evacuation procedures displayed in each room and communal areas.

1. No overnight visitors permitted to stay in any rooms. Only registered guests
2. No smoking is permitted in any internal areas
3. Use of candles, open flames, bar heaters, incense or similar is prohibited
4. No cooking is permitted in any rooms other than a microwave
5. Noise levels should be kept to a minimum. Drunken or disorderly behaviour will not be tolerated.
6. Minimum stay of 3 months.
7. Rent must be paid on time. Please contact management for electronic transfers to obtain your rent code
8. Please keep all share facilities clean and tidy after use.
9. To hang items on walls, please contact management for free blue-tack.
10. All waste is to be placed in bins provided in the communal bin storage area.
11. Please notify management at least 1 week prior to your expected checkout to arrange deposit refund.

12. For lockouts 24 hours a day / 7 days a week please contact the following numbers: ######.
13. The use of the outdoor communal area is restricted to 8:00 am to 10:00pm daily.

Note: Entrances and communal areas are fitted with surveillance cameras to maintain the safety and security of all guests.

Guest policy is reviewed on *(date): #/#/#*

C. Maintaining the daily operational functions of the building

Fire Safety

Ensure fire safety measures are up to date at all times.

Maintain an emergency evacuation plan prepared by a competent person shall be prepared and that emergency evacuation plan shall be displayed in each boarding room and in the foyer.

Security

CCTV cameras will be installed at the front building entrance (City Road) and the rear door (Maze Lane) to provide appropriate level of security. Cameras at the rear will be positioned to face each direction of Maze Lane to monitor doors, yet more importantly support a reduction of illegal dumping and antisocial behaviour currently present in the lane. Access to CCTV footage will be made available to Police, City of Sydney Council or other government authorities via written request.

Liaising with police, fire brigade, Council and contractors as required.

Waste

Rooms are kept clean by guests and that all waste is removed to bins provided at an appropriate location within the property. Intermittent room inspections are to be undertaken to ensure cleanliness and room condition.

Move waste bins for weekly collection

Bins are to be taken to the established street collection point for collection as required.

Maintenance

Routine maintenance of the premises for internal and external upkeep shall be carried out. The premises are to be kept in a clean and tidy state at all times.

Preparation of rooms for new residents

Administer occupancy agreements.

If a room becomes vacant, the boarding house manager is to clean that room and ensure that the fixtures, fittings and furniture are in good order and otherwise replace or repair items as required.

General maintenance

If basic repairs are required, such as new light bulbs required to common areas and such like, the boarding house manager is to attend to those. A small toolkit and small and basic supplies will be provided to the boarding house manager by the property owner if required.

Listed contractors engaged with other boarding houses will be sent across for service calls and maintenance.

Common areas

Cleaners are contracted to visit the property and clean communal areas. This includes bathroom, laundry, hallways and stairs, courtyards and landscaping.

The common bathroom facilities are to be cleaned and sanitised daily.

D. Addressing complaints (internal and external)

A complaints register is administered on the property

If residents, either within the development or from surrounding residents, have complaints of enquiries, the boarding house manager will listen to and address those. If required, the boarding house manager will liaise between residents and the owner of the property.

Date	Issue	Raised by	Progress/ Resolution	Status
1/1/2016	Loud noise from Room 3 past midnight disturbing multiple rooms - music	Int – Rooms 2 +6	Issued warning to room 3	Closed
…				

Item 6.

Development Application: 84 City Road, Chippendale - D/2019/823

File No.: D/2019/823

Summary

Date of Submission:	1 August 2019
Applicant:	Merbell Pty Ltd c/: LK Planning Pty Ltd
Designer:	Cubitor Design and Drafting
Owner:	Merbell Pty Ltd
Cost of Works:	$481,651
Zoning:	R1 General Residential. The proposed alterations and additions to the existing boarding house are permissible.
Proposal Summary:	The application seeks consent for alterations and additions to the existing 10 room boarding house at No.84 City Road, Chippendale. The works consist of tree removal, excavation, partial demolition of the rear of the building, internal alterations, rear ground floor extension, rear facing dormer window and a new rear lane structure. The proposal will result in no additional rooms and will accommodate a maximum of 11 people. The application is being assessed concurrently with an identical proposal for the neighbouring property at No.82 City Road (D/2019/822), which is under the same ownership as the subject site. The application is reported to the Local Planning Panel as the development is accompanied by a Clause 4.6 request which seeks a waiver of the requirement for motorcycle parking under Clause 30(1)(H) of State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP AH). The development is required to provide 2 parking spaces. No spaces are proposed to be provided. A written request has been provided seeking a 100% variation from this development standard in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012 (SLEP). The request to vary the development standard is supported in this instance for the reasons outlined in this report.

The proposal exceeds the 9 metre building height development standard pursuant to Clause 4.3 of the SLEP by 1.48m or 16%. A written request has been provided seeking a variation to the height development standard in accordance with Clause 4.6 of the SLEP. The request to vary the development standard is supported in this instance for reasons outlined in this report.

The application was notified for a period of 14 days between 8 August 2019 and 23 August 2019. A total of 4 submissions were received. The issues raised relate to the bulk and scale of the proposal, compliance with Council's controls and the appropriate management of the site.

The proposal generally complies with the requirements of the SEPP AH, SLEP and Sydney Development Control Plan 2012 (SDCP) in terms of amenity, accommodation size, solar access and character of the local area.

The development is considered to exhibit design excellence, is in keeping with the desired future character of the area and is considered to be in the public interest.

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

Development Controls:

(i) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)

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

(iii) State Environmental Planning Policy (Infrastructure) 2007

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

(v) Sydney Local Environmental Plan 2012

(vi) Sydney Development Control Plan 2012

(vii) City of Sydney Development Contributions Plan 2015

Attachments:

A. Recommended Conditions of Consent

B. Selected Drawings

C. Clause 4.6 - Height of Building

D. Clause 4.6 - Motorcycle Parking

E. Plan of Management

Recommendation

It is resolved that:

(A) the written variation request to Clause 30(1)(h) - Motorcycle Parking of the State Environmental Planning Policy - Affordable Rental Housing in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be supported in this instance;

(B) the written variation request to Clause 4.3 - Height of Buildings in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be supported in this instance; and

(C) consent be granted to Development Application No. D/2019/823 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

(A) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the Motorcycle Parking development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 30(1)(h) of the SEPP - Affordable Rental Housing 2009; and

(B) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the height of buildings development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 4.3 of the Sydney LEP 2012; and

(C) the proposal is in the public interest because it is consistent with the objectives of the R1 - General Residential zone and the motorcycle parking and height of buildings development standards.

(D) the proposal is considered appropriate within its setting and is generally compliant with the relevant planning controls contained in the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.

(E) the proposed use is compatible with the predominant residential nature of the area and it is considered that the use will not result in unreasonable impacts to nearby residential properties, subject to the attached conditions.

Background

The Site and Surrounding Development

1. The site at No.84 City Road is legally known as Lot A of DP 171646 and has an area of 208.7sqm. The site has a street frontage to City Road of 6.1m and a secondary frontage of 5.9m to Maze Lane.

2. A two storey plus attic Victorian terrace building currently exists on the site and is being used as a boarding house. The main portion of the building is rendered masonry with a gabled roof and rendered chimneys. The building includes a first floor timber verandah which has been enclosed with aluminium windows. The building also includes a part two storey part one storey skillion wing to the rear.

3. The building is the southern building of a mostly intact pair with No.82 City Road (subject to a separate application - D/2019/822) and are the centre 2 buildings contained within a larger group of 4 terraces (No.80-86 City Road), all of which remain largely intact.

4. There is a fall of approximately 2m from City Road to Maze Lane and the site contains 2 large trees within the front and rear setbacks which are proposed to be removed.

5. The site is not a heritage item but is identified as being a contributory building within the Chippendale Conservation Area (C9). This site is not identified as being subject to flooding.

6. Surrounding land uses are a mix of single dwellings, boarding houses/student accommodation and multi-dwelling housing. The built form is typically comprised of 2 and 3 storey terraces with 1 and 2 storey skillion wing additions to the rear. The majority of the buildings in the immediate vicinity are original buildings with minimal new constructions towards the north of the site.

7. Maze Lane has an evolving character dominated by garages and outbuildings servicing the terraces. There are minimal laneway buildings on Maze Lane and all but one are located on the opposite (eastern) side of the lane. A number of recent approvals for the eastern side of the lane have seen first floor studios and secondary dwellings with gabled roofs constructed fronting the lane.

8. On the western side of City Road, opposite the subject site is Victoria Park.

9. A site visit was carried out on 21 August 2018. Photos of the site and surrounds are provided below.



Figure 1: Aerial image of subject site and surrounding area



Figure 2: Site viewed from City Road



Figure 3: The front façade of the building as viewed from City Road.



Figure 4: Looking east from the attic of No.82 City Road



Figure 5: The rear of the existing building



Figure 6: Looking at the subject site from the rear lane with the adjoining property at No.82 City Road (D/2019/822)



Figure 7: Looking south along Maze Lane with location of site identified by a red arrow



Figure 8: Looking north along Maze Lane with location of site identified by a red arrow

Proposal

10. The application seeks consent for alterations and additions to the existing boarding house. The development proposed will comprise of:

    (a) Demolition of the rear of the existing building and derelict outbuildings

    (b) Partial excavation at the rear of the site to a maximum depth of 1.3m

    (c) Alterations and additions to provide:

    (d) Ground floor:

        (i) 3 rooms including 1 accessible room

    (e) First floor:

        (i) 4 rooms

        (ii) 1 shared toilet and shower

    (f) Second (attic) floor:

        (i) 2 rooms with front and rear dormer windows

    (g) Rear lane structure comprising of:

        (i) Separate ground floor communal living area, kitchen and laundry; and

        (ii) First floor double boarding room

(h) The proposal will result in a total of 10 rooms on the site, accommodating a maximum of 11 occupants

(i) Parking for 2 bicycles within the front setback

(j) Facade upgrades to the City Road frontage including repair and maintenance of the building and landscaping works

(k) Removal of 1 Calliandra sp. / Powder Puff tree within the front setback and 1 fruit tree within the rear of the site. Replacement planting with 1 tree at the front of the site

11. It is noted that the proposal is a mirror image of the proposal for alterations at No.82 City Road (D/2019/822) which is being assessed concurrently and the subject of a separate report to the Local Planning Panel.

12. Plans of the proposed development are provided below

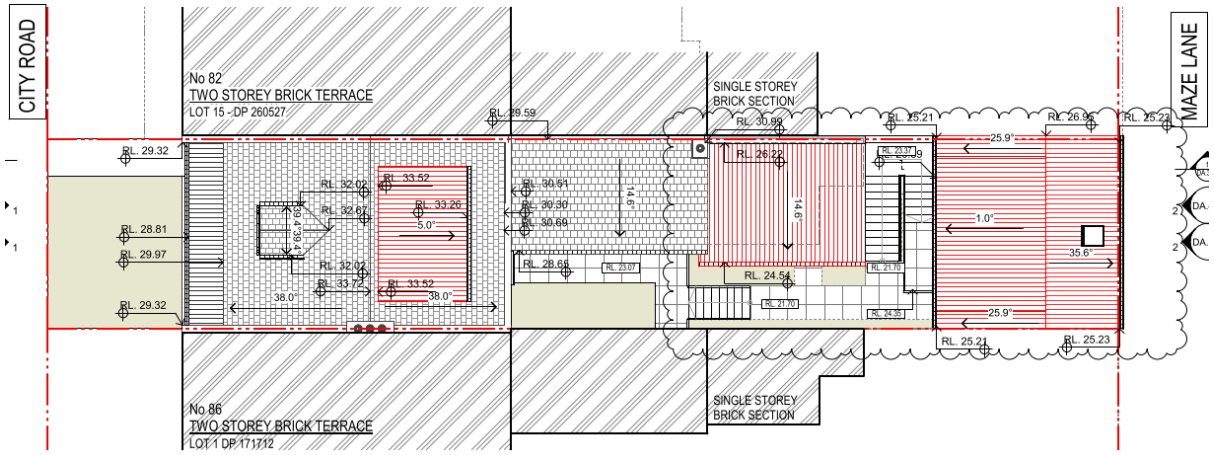


Figure 9: Roof plan

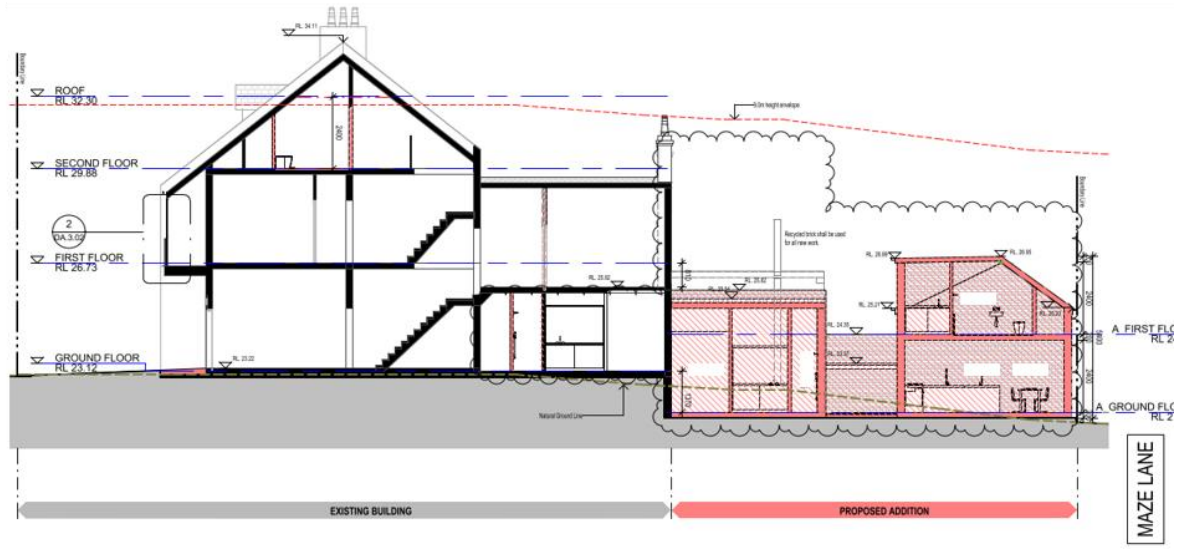


Figure 10: Section

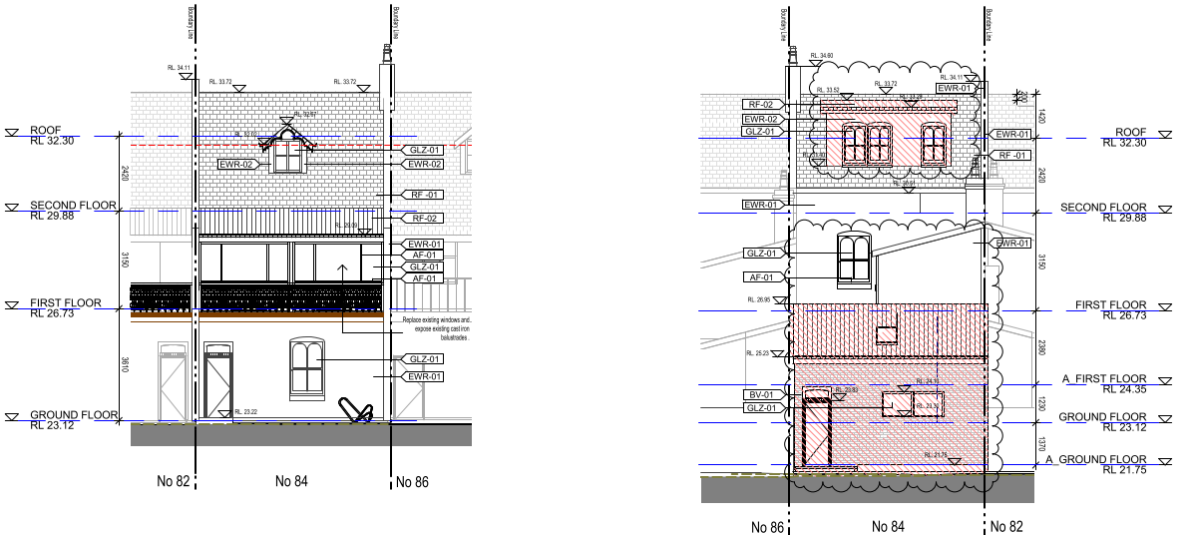


Figure 11: City Road and Maze Lane elevations

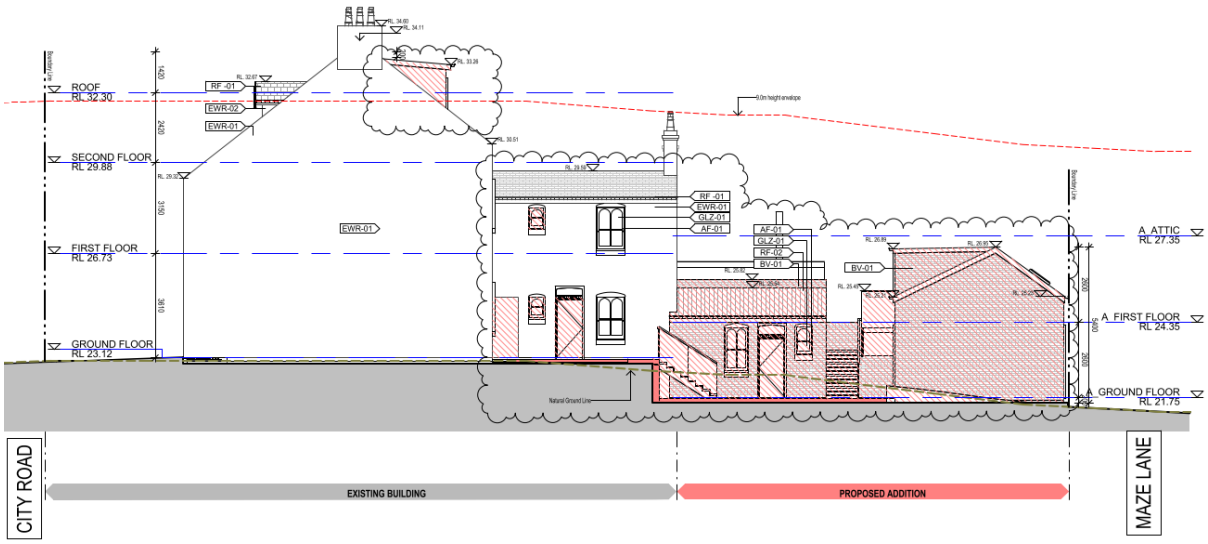


Figure 12: South elevation

History Relevant to the Development Application

13. Council's records indicate that the site has been used as a licensed boarding house since at least 1982 (Council's Licensed Boarding House Inspection Card 1982-1990).

14. D/2017/1742 for alterations and additions to the existing boarding houses at No.82-84 City Road was withdrawn by the applicant.

15. D/2018/841 for alterations and additions to the existing boarding house at No.84 City road was refused by the Local Planning Panel on 30 January 2019. The reasons for refusal were due to the proposal's non-compliance with the State Environmental Planning Policy (Affordable Rental Housing) 2009, unsympathetic addition in the conservation area, non-compliance with the Sydney DCP 2012 in terms of amenity impacts and failure to demonstrate design excellence.

Economic/Social/Environmental Impacts

16. The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:

    (a) Environmental Planning Instruments and DCPs.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)

17. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.

18. The Sydney Harbour Catchment Planning Principles must be considered in the carrying out of development within the catchment. The key relevant principles include:

    (a) protect and improve hydrological, ecological and geomorphologic processes;

    (b) consider cumulative impacts of development within the catchment;

    (c) improve water quality of urban runoff and reduce quantity and frequency of urban run-off;

    (d) protect and rehabilitate riparian corridors and remnant vegetation.

19. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development.

20. The development is consistent with the controls contained within the deemed SEPP.

State Environmental Planning Policy (Infrastructure) 2007

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

    Clause 45

22. The application is subject to Clause 45 (Subdivision 2 Development likely to affect an electricity transmission or distribution network) of the SEPP as the development:

    (a) Is to be carried out within 5m of an exposed overhead electricity power line

23. In accordance with the Clause, the application was referred to AusGrid for a period of 21 days. The application was supported subject to conditions which have been included in the Recommended Conditions of Consent.

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

24. The BASIX Certificate has been submitted with the development application (Certificate No. A319541_02).

25. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal.

State Environmental Planning Policy (Affordable Rental Housing) 2009

26. The SEPP aims to provide a consistent planning regime for the provision of affordable rental housing and to facilitate the delivery of new affordable rental housing by providing incentives by way of identifying non-discretionary development standards.

27. Under Clause 29, compliance with any of the following standards must not be used to refuse consent.

Clause 29 – Standards that cannot be used to refuse a boarding house		
Standard	Complies	Comment
1(c)(i) – Density and scale expressed as FSR cannot be refused with FSR of 1.25:1 plus 0.5:1	Yes	The development proposes a floor space ratio of 1.06:1.
2(a) Building height The proposed building height must not exceed the maximum permitted under an EPI	No	The application includes a variation to the maximum permitted height limit of 9m by 16% or 1.48m due to the proposed dormer window. See Clause 4.6 discussion later in this report.
2(b) Landscaped area Front setback to be consistent with streetscape	Yes	The building has a consistent front setback with neighbouring terraces, and a large landscaped area and private open space exists at the rear of each site.
2(c) Solar access Min. 1 communal living area to receive min. 3 hours direct sunlight between 9:00am and 3:00pm in midwinter.	Yes	The communal living area located at the rear of the site will receive solar access between 9am and 12pm.
2(d) Private open space (i) Min. 20sqm with min. 3m width	No	An area 35.2sqm of open space is provided within the side and rear setback of the property with a minimum dimension of 2.2m. Notwithstanding, the applicant has identified the site's proximity to Victoria Park will provide the residents of the site with sufficient outdoor space.

Clause 29 – Standards that cannot be used to refuse a boarding house		
2(e) Parking (i) 0.2 parking spaces provided for each boarding house room for sites in an accessible area. (iii) Not more than 1 parking space for the on-site manager.	Acceptable	No car parking is proposed.
2(f) Accommodation size (i) Min.12sqm for single lodger rooms (ii) Min.16sqm for double lodgers rooms (excluding any area used as a private kitchen/ bathroom)	No	As shown in Figure 13, rooms 2, 6, 7 and 10 do not meet the minimum size requirements for a single occupancy room as they are contained within the existing terrace. It is noted that for all but 4 of the rooms, there is an increase in the overall size of the rooms, inclusive of facilities as compared to the existing situation. Given the constraints of the existing building, the proposed variation to this requirement is acceptable. All rooms have been provided with a wardrobe.

Room	Existing room size	Total area	Living area (12sqm)	Wardrobe (1sqm)	Kitchen (2sqm)	Ensuite inc. shower (2.9sqm)	Laundry (1.1sqm)
1	19.8sqm	35.4sqm	23.6sqm	1.3sqm	2.6sqm	7.3sqm	1.6sqm
2	15.4sqm	15.2sqm	*11.3sqm*	1.3sqm	2sqm	3.1sqm	n/a
3	18.3sqm	17.3sqm	14.1sqm	1.3sqm	2sqm	3.5sqm	n/a
4	9.1sqm	14.1sqm	12.7sqm	1.3sqm	2sqm	n/a	n/a
5	18.5sqm	18.7sqm	14.4sqm	*0.5sqm*	*1.2sqm*	3.2sqm	n/a
6	14.1sqm	15.8sqm	*11.9sqm*	*0.7sqm*	2sqm	2.9sqm	n/a
7	15.4sqm	12.0sqm	*11.1sqm*	*0.4sqm*	2sqm	n/a	n/a
8	n/a	24.3sqm	20sqm	5.6sqm	*1.6sqm*	2.9sqm	n/a
9	18.8sqm	15.9sqm	13.4sqm	*0.7sqm*	*1.5sqm*	3.6sqm	n/a
10	10.2sqm	8.9sqm	*7.3sqm*	*0.7sqm*	*1.5sqm*	n/a	n/a

Figure 13: Breakdown of individual room sizes for No.84 City Road. Note that dimensions emphasised do not comply with the minimum requirements detailed in brackets.

28. Clause 30 states that a consent authority must not grant development consent to which Division 3 applies unless it is satisfied of each of the following:

Clause 30 – Standards for boarding house		
1(a) At least one communal living room is to be provided	Yes	The building contains a communal living room on the ground floor at the rear of the site.
1(b) No boarding room is to have a gross floor area (excluding private kitchen or bathroom facilities) of more than 25m²	Yes	All boarding rooms are less than 25sqm.
1(c) No boarding room to be occupied by more than 2 adult lodgers	Yes	Each of the boarding rooms will be occupied by a maximum of two adult lodgers with the majority being single rooms.

Clause 30 – Standards for boarding house		
1(d) Adequate bathroom and kitchen facilities available for use of each lodger	Yes	The site includes a kitchen in each boarding room and all but 3 have separate ensuites. One shared toilet and shower is provided for these rooms as required.
(1e) A boarding room or on-site dwelling to be provided for a boarding house manager if boarding house has a capacity of 20 or more lodgers	N/A	The boarding house will have fewer than 20 lodgers (max 11).
1(g) If the boarding house is zoned primarily for commercial purposes, no part of the ground floor that fronts a street will be used for residential purposes except where permitted under an EPI.	N/A	The land is zoned for residential development.
1(h) At least 1 bicycle and 1 motorcycle parking space to be provided for every 5 rooms.	No	No parking is provided with a minimum of 2 spaces required. Parking for 2 bicycles is provided within the front setback. See discussion under the heading Issues.

Clause 30A – Character of the local area

29. Clause 30A states that a consent authority must not grant development consent for a boarding house unless it has taken into consideration whether the design of the development is compatible with the character of the local area.

30. The proposal involves significant alterations to the rear of the existing building. As detailed above, the site is located within an area with a clear built form character being traditional terrace style dwelling/buildings with rear wing additions and small outbuildings. The proposal includes a rear ground floor addition in line with the predominant rear building line. The proposed rear addition results in acceptable bulk and scale with limited amenity impacts to adjoining properties. Overall, the proposal is compatible with the character of the surrounding area as viewed from Maze Lane and is consistent with Clause 30A of the SEPP.

Sydney Local Environmental Plan 2012

31. The site is located within the R1 General Residential zone. The proposed works include alterations and additions to an existing boarding house and are permissible.

32. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	No	A maximum height of 9m is permitted. A height of 10.48m is proposed which is a 16% exceedance. See discussion under the heading Issues.
4.4 Floor Space Ratio	Yes	A maximum FSR of 1.75:1 is permitted inclusive of the 0.5:1 FSR allowed by the SEPP AH. A FSR of 1.06:1 is proposed.
4.6 Exceptions to development standards	Yes	The proposal seeks to vary the development standard prescribed under Clause 4.3 in relation to building height by 16% or 1.48m. The proposal also seeks a waiver of the requirement for motorcycle parking under Clause 30(1)(h) of SEPP AH, resulting in a 100% variation from the development standard See discussion under the heading Issues.
5.10 Heritage conservation	Yes	The subject site is identified as being a contributory building within the conservation area. See discussion under the heading Issues.

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
Division 4 Design excellence	Yes	The proposed development is of a high standard, utilising materials and detailing which are compatible with existing development along the City Road and Maze Lane and is in keeping with the desired character for future development in this area. The proposed development is considered to meet the design excellence criteria and as such satisfies Clause 6.21 of the Sydney LEP 2012.

Part 7 Local Provisions - General	Compliance	Comment
7.14 Acid Sulphate Soils	Yes	The site is identified as containing class 5 Acid Sulfate Soils. As the works do not involve excavation within 500m of Class 1-4 soils, no further action is required.

Sydney Development Control Plan 2012

33. The relevant matters to be considered under Sydney Development Control Plan 2012 for the proposed development are outlined below.

2. Locality Statements – 2.3.1 - Chippendale
The subject site is located in the Chippendale locality. The proposed alterations and additions are considered to be in keeping with the unique character of the area and design principles as the proposal responds to the height, massing and proportions of contributory buildings within the conservation area including the subject site.

3. General Provisions	Compliance	Comment
3.5.3 Tree management	Yes	The proposal involves the removal of 2 trees, 1 x Calliandra sp. / Powder Puff located in the front setback and 1 x Prunus sp. / Unidentified stone fruit located in the rear yard of the site. Council's Tree Management Unit has reviewed the application and supports the removal of the trees due to their poor health, subject to conditions. A recommended condition of consent requires that the replacement tree planting achieve a minimum of 15% tree canopy cover with a minimum height of 8m. To achieve the required canopy cover, the tree will be expected to achieve a canopy diameter of 5m. The site has been assessed as being suitable for a tree of this size located within the front setback landscaped area.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.9 Heritage	Yes	The existing building is identified as being a contributory building within the conservation area. See discussion under the heading Issues for other heritage matters.
3.11 Transport and Parking	Yes	The subject proposal does not involve the provision of any car or motorcycle parking. Bicycle parking has been provided in accordance with the provisions of SEPP AH.
3.12 Accessible Design	Yes	The proposal includes 1 fully contained accessible room on the ground floor.

3. General Provisions	Compliance	Comment
3.14 Waste	No	The submitted Waste Management Plans does not adequately address the requirements of the City of Sydney Code for Waste Minimisation in New Development 2005 in that the proposal does not provide for a bulky waste area. However, given the site constraints, the variation of this requirement is considered acceptable.

4. Development Types 4.2 Residential Flat, Commercial and Mixed Use Developments	Compliance	Comment
4.2.1 Building height	Yes	The site has a maximum height of 2 storeys. The definition of storey does not include an attic. The proposal seeks no change to the existing 2 storeys plus attic building and the new extension complies with these provisions.
4.2.2 Building setbacks	Yes	See discussion under the heading Issues.
4.2.3 Amenity	Yes	The site accommodates 21.5sqm or 10% of deep soil within the front setback of the site complying with Section 4.2.3.6. Each room is naturally ventilated and are of a depth so as to enable adequate ventilation. The subject application has been accompanied by an Acoustic Report which has been assessed and deemed acceptable. All recommendations within the report are to be implemented. Solar access is discussed in detail under the heading Issues.

4. Development Types **4.2 Residential Flat, Commercial and Mixed Use Developments**	**Compliance**	**Comment**
4.2.5 Types of development 4.2.5.3 Development on busy roads	Yes	The subject site is located on City Road which is identified as being a road with over 40,000 vehicles per day. An acoustic report has been provided and reviewed. In addition, the development does not provide any additional openings to the front of the site, and proposes acoustically treated glazing behind the balconies on City Road for Rooms 4 and 5 on the first floor.

4. Development Types **4.4.1 Boarding Houses**	**Compliance**	**Comment**
4.4.1.1 Subdivision	Yes	Subdivision is not proposed.
4.4.1.2 Bedrooms	No	The DCP requires bedroom sizes to be a minimum of 12sqm for single occupants and 16sqm for double occupants. As shown in Figure 13, rooms 2, 6, 7 and 10 do not meet the minimum size requirements for a single occupancy room as they are contained within the existing terrace. It is noted that for all but 4 of the rooms, there is an increase in the overall size of the rooms, inclusive of facilities as compared to the existing situation. Given the constraints of the existing building, the proposed variation to this requirement is acceptable. All rooms have been provided with a wardrobe.

4. Development Types **4.4.1 Boarding Houses**	**Compliance**	**Comment**
4.4.1.3 Communal kitchen areas	Yes	A communal kitchen is provided at ground floor level of the site in the rear building.
4.4.1.4 Communal Living Areas and Open Space	No	The communal living room does not comply with the minimum area of 20sqm, with 12sqm provided. The communal living and kitchen are located in the same room with a combined area of 20.7sqm. The variation to the room size is considered acceptable given the open plan nature of the space and the compatible uses within the room. An area of 35.2sqm of open space has been provided within the property. The site's proximity to Victoria Park will provide the future occupants with adequate open space.
4.4.1.5 Bathroom, laundry and drying facilities	Partial compliance	A dryer has been provided within the shared laundry. Adequate shared bathroom facilities are proposed for the 3 rooms without individual facilities. The proposal does not include an area for external drying facilities however there is adequate space within the communal area to accommodate a clothesline.
4.4.1.6 Amenity, safety and privacy	Yes	*Visual privacy* Rooms 2, 3, 6, 7 and 9 windows are orientated into the external common access ways. Given the low use of these walkways this is acceptable. *Acoustic privacy* A Plan of Management has been submitted which restricts the use of the outdoor areas to 10.00pm daily to ensure neighbourhood amenity is maintained. Indoor noise is also restricted. This is considered to be acceptable.

4. Development Types 4.4.1 Boarding Houses	Compliance	Comment
		Safety The location of the communal living room at the rear of the site with a window provides passive surveillance over the surrounding area.
4.4.1.7 Plan of Management	Yes	A Plan of Management has been submitted with the application and addresses the operation and maintenance of the development.

Issues

Clause 4.6 request to vary a development standard - height

34. The site is subject to a maximum height control of 9m. The proposed development involves the addition of a new rear facing dormer window at a height of 10.48m. The existing building has a height of 11m to the ridge line.

35. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

    (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and

    (b) That there are sufficient environmental planning grounds to justify contravening the standard.

36. A copy of the applicant's written request is provided at Attachment D.

Applicants Written Request - Clause 4.6(3)(a) and (b)

37. The applicant seeks to justify the contravention of the height development standard on the following basis:

    (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the proposal complies with the objectives of the development standard and the zone:

        Compliance with objectives of Clause 4.3

        (i) Objective (a) - to ensure the height of development is appropriate to the condition of the site and its context

The height breach in this case is caused by a replacement dormer window at the rear of a terrace building that forms part of a contributory group of buildings. A dormer window is anticipated on terraces with high vaulted ceilings and/or attics and in this case has been designed to meet the criteria in the Council's DCP, having a set down from the principal ridge of the roof of 200mm and set in from the edges of the building by 975mm so that it extends 4 metres across the roof plane.

The dormer responds to the condition of the site to allow for an improvement to the amenity of the attic level rooms and stairwell by introducing additional light, ventilation and internal ceiling heights to the existing boarding rooms in the attic. The dormer responds to the surrounding context of contributory buildings by its complementary design to other dormer extensions in the conservation area. The extension remains below the maximum height of the existing building, noting the ridge is 200mm above the dormer and the parapet walls on either side are another 390mm above the ridge. As such, the proposal does not alter the actual maximum height of the building.

In this regard, the proposed dormer achieves this objective.

(ii) Objective (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas

The Heritage Impact Statement accompanying the application concludes that:

The proposal will have a limited and acceptable impact on the significance of the place, the surrounding conservation area and the heritage items in the vicinity and largely complies with the relevant heritage controls in the SDCP.

There are also no view impacts or adverse shadow impacts caused by the proposed dormer.

The existing built form transitions down from the front of the site to the rear laneway. The proposed dormer retains this transition despite the height breach and is read as a subservient feature in the roofscape.

In this regard, the proposed dormer achieves this objective.

(iii) Objective (c) to promote the sharing of views

There are no views across the site and the dormer is located entirely within the foreground of the existing pitched roof.

In this regard, the proposed dormer achieves this objective.

(iv) Objective (d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas

The maximum height of the building remains unchanged by the proposal and the minor additional volume it occupies does not affect the general transition of building height from Central Sydney to the adjoining area.

In this regard, the proposed dormer achieves this objective.

Compliance with objectives of the R1 - General Residential zone

(i) *provides for the housing needs of the community* in that it retains and improves an existing boarding house and therefore meets the housing need of affordable rental accommodation in areas of high amenity;

(ii) *provides for a variety of housing types and densities* by including a range of room sizes within the boarding house, in a setting amongst other boarding houses, share houses, single dwellings and apartments;

(iii) whilst it does not provide for *other land uses that provide facilities or services to meet the day to day needs of residents,* it is focussed on housing choice and therefore does not contravene this objective; and

(iv) *maintains the existing land use pattern of predominantly residential uses* by retaining the boarding house use that has existed on the site for over 100 years.

Varying the height control in this instance has no negative public interest implications, does not undermine the integrity of the Council controls and does not set an undesirable precedent.

(b) That there are sufficient environmental planning grounds to justify contravening the standard:

(i) The feature of the proposal that breaches the height development standard is limited to the dormer window addition. These traditional extensions to terrace buildings are typically, as is evident in this case, without material impact upon the surrounding properties in terms of solar access, overlooking, views or bulk/scale generally.

(ii) Despite the lack of impact on their surroundings, the dormers significantly increase the amenity afforded to the building through increased ceiling heights, solar access and ventilation. The bulk of the structure is consistent with the desired character of the area, noting its form aligns with the DCP controls that require it to be set behind and below the main roof form and in from the edges.

Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

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

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

(b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

39. The written request states that the development is consistent with the objectives of the height development standard as the area of non-compliance is located below the existing ridgeline and is appropriate to the condition of the site and its context.

40. In accordance with the justifications set out in Wehbe v Pittwater Council (2007) 156 LGERA 446, the written request has demonstrated that the objectives of the height development standard are achieved notwithstanding the non-compliance with the standard. Accordingly, it is considered that the applicant has adequately demonstrated that strict compliance with the height development standard is considered unreasonable and unnecessary in the circumstances of the subject application.

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

41. The written request has demonstrated that the non-compliance associated with the dormer window will result in an outcome that generates no visual impact to the streetscape, is under the height of the existing ridgelines, and will not result in adverse privacy or overshadowing impacts. Accordingly, it has been demonstrated that there are sufficient environmental planning grounds to justify contravening the standard.

Is the development in the public interest?

42. The objectives of the height of buildings development standard include:

(i) To ensure the height of the development is appropriate to the condition of the site and its context;

(ii) To ensure appropriate height transitions between new development and heritage items; and

(iii) To promote the sharing of views.

43. The existing building has a ridge height of 11m. The application includes the addition of a rear facing dormer window, which has a maximum height of 10.48m. The design and form of the dormer is subservient to the host building and is consistent in height, scale and form to the neighbouring buildings which feature rear dormers. The proposal will not impact on views.

44. The objectives of the R1 General Residential zone relevant to the proposal include:

(i) To provide for the housing needs of the community

(ii) To provide for a variety of housing types and densities

(iii) To maintain the existing land use pattern of predominantly residential uses

45. The proposed dormer window would improve the amenity and functionality of the existing boarding house room, while maintaining the amenity of the neighbouring properties. The dormer window is consistent with various other contemporary dormer additions in the immediate vicinity. The addition of the dormer will significantly improve the amenity of room 11

Conclusion

46. For the reasons provided above the requested variation to the height of buildings development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Clause 4.3 Height of Buildings and the R1 - General Residential zone.

Clause 4.6 request to vary a development standard – Clause 30(1)(h) – SEPP AH - Motorcycle parking

47. The development is required to provide a total of 2.2 motorcycle parking spaces (rounded to 2 spaces) under SEPP AH. The proposal does not provide any motorcycle parking and so a waiver for 100% departure from the development standard is sought.

48. The application has provided a written request in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

    (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and

    (b) That there are sufficient environmental planning grounds to justify contravening the standard.

49. A copy of the applicant's written request is provided at Attachment E.

Applicants Written Request - Clause 4.6(3)(a) and (b)

50. The applicant seeks to justify the contravention of the motorcycle parking development standard on the following basis:

    (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case as the proposal complies with the objectives of the development standard and the zone:

        Compliance with objectives of Clause 30(1)(h)

        (i) Whilst there is no stated objective to the development standard itself, the aims of the SEPP (AH) are achieved by the proposal despite the lack of motorcycle parking given that the renovation of the existing boarding house provides for the introduction of greater amenity and communal facilities for the benefit of the occupants. This goes directly to Aims (c), (e), (f) and (g):

            (c) to facilitate the retention and mitigate the loss of existing affordable rental housing,

            (e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,

            (f) to support local business centres by providing affordable rental housing for workers close to places of work,

(g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.

(ii) In accordance with advice provided by Council motorcycle parking, if proposed, must enter the site from the rear lane (and the proposition must be accepted), then to achieve both compliance with this standard and the provision of new communal facilities would require either a reduction in the size of the communal facilities or a relocation of the communal facilities into the main building to allow sufficient space for motorcycle parking.

(iii) The existing boarding house has 10 rooms that are in a dilapidated and unrenovated state. The proposal is to retain the existing number of rooms whilst introducing a higher level of amenity. Part of that amenity is the provision of a communal kitchen/living/dining area and laundry at the rear of the site. It is accepted that the rear of the site is the only area from which on-site motorcycle parking may be provided as it would be highly objectionable to create a motorcycle parking area in the front landscaped courtyard of a contributory building within a heritage conservation zone. It would also pose safety risks to riders and pedestrians.

(iv) If the communal facilities were reduced in size they would not comply with the relevant controls for minimum communal room sizes. If they were internalised within the main building, the net result would be the loss of 2 boarding rooms. Strict compliance with the development standard would therefore have the effect of either:

1. Retaining the number of rooms (10) and providing motorcycle parking in the rear yard with no new communal facilities; or

2. Reducing the number of rooms to 8 to provide communal facilities within the main building, providing motorcycle parking in the rear yard.

(v) The first option inappropriately places a higher threshold of importance on providing motorcycle parking for up to 2 lodgers than providing new communal facilities for the occupants of all 10 rooms. The second option disincentives increasing the amenity to the existing rooms as the 10 rooms, which have existing for over 100 years, would reduce to 8 rooms, contravening the Aims of the SEPP (AH).

(vi) Both of these scenarios would result in an undesirable planning outcome. Imposing strict compliance with the development standard, despite there being no net increase in the number of existing rooms from this renovation, would be unnecessary (as the Aim of the SEPP is achieved anyway) and unreasonable (as it would serve the purpose of discouraging or diminishing the quality of the renovation of the building).

Compliance with objectives of the R1 - General Residential zone

(i) *provides for the housing needs of the community* in that it retains and improves an existing boarding house and therefore meets the housing need of affordable rental accommodation in areas of high amenity;

(ii) *provides for a variety of housing types and densities* by including a range of room sizes within the boarding house, in a setting amongst other boarding houses, share houses, single dwellings and apartments;

(iii) whilst it does not provide for *other land uses that provide facilities or services to meet the day to day needs of residents,* it is focussed on housing choice and therefore does not contravene this objective; and

(iv) *maintains the existing land use pattern of predominantly residential uses* by retaining the boarding house use that has existed on the site for over 100 years.

Varying the motorcycle control in this instance has no negative public interest implications, does not undermine the integrity of the SEPP (ARH) and does not set an undesirable precedent. There are various examples noted in Council's Register of Development Standard Variations where 100% variations have been granted to the motorcycle parking control, many of which have similar characteristics to the subject site with heritage overlay and rear lane access.

(b) That there are sufficient environmental planning grounds to justify contravening the standard:

(i) There are sufficient environmental planning grounds to support the variation as the absence of motorcycle parking allows for a refined design of the laneway structure at the rear of the site and an increased provision of communal living/kitchen/dining and laundry facilities in the least impactful location on the site. The provision of 2 motorcycle spaces would significantly diminish or eliminate the ability to accommodate these improvements onto the site without reducing the overall capacity of the boarding house below the rates that have existed for over 100 years.

(ii) The upgraded boarding house will contribute to the viability of local centres by retaining affordable housing within a location that is well serviced by public and active transport infrastructure, and within close proximity to employment opportunities and educational facilities and therefore the use of a motorcycle is not necessarily required.

(iii) To offset the motorcycle parking deficit, the proposal seeks an alternative solution to provide commuter parking opportunities on the site, by providing double the bicycle parking spaces than is required by the controls within the front setback zone. The 4 bicycle spaces mean that 40% of the rooms have access to a dedicated and secure parking space for their bicycle. This promotes the use of active transport, aligning with City of Sydney's Liveable Green Network, in a way that does not compromise the visual aesthetic of this contributory building. In this respect, the proposal is considered to achieve a better planning outcome than compliance with the development standard.

Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

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

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

    (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

52. The written request submitted states that the development is consistent with the objectives of the motorcycle parking development standard as the non-compliance is appropriate to the condition of the site and its context. It is noted that there are no specific objectives for the motorcycle parking development standard contained within Clause 30(h) of the SEPP AH, and as such the request addresses the aims of the SEPP AH

53. In accordance with the justifications set out in Wehbe v Pittwater Council (2007) 156 LGERA 446, the written request has stated that the aims of the SEPP AH are achieved notwithstanding the non-compliance with the standard contained within Clause 30. Therefore the request is considered to adequately demonstrate that compliance with the development standard is unnecessary or unreasonable.

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

54. The written request has demonstrated that the non-compliance associated with the motorcycle parking will result in an outcome that will result in a better urban design outcome and will have minimal amenity impacts to the future occupants of the subject site. Accordingly, it has been demonstrated that there are sufficient environmental planning grounds to justify contravening the standard.

Is the development in the public interest?

55. The objectives of Clause 30 of SEPP AH include:

    (a) to provide a consistent planning regime for the provision of affordable rental housing,

    (b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,

    (c) to facilitate the retention and mitigate the loss of existing affordable rental housing,

    (d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,

(e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,

(f) to support local business centres by providing affordable rental housing for workers close to places of work,

(g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.

56. The objectives of the R1 General Residential zone relevant to the proposal include:

(a) To provide for the housing needs of the community

(b) To provide for a variety of housing types and densities

(c) To maintain the existing land use pattern of predominantly residential uses

57. The proposed development is not contrary to the objectives of the development standard or the relevant zone.

58. Under the previous development application, D/2018/841, the non-compliance with Clause 30(1)(h) was identified as a reason for refusal based on the cumulative non-compliances of the previous scheme. The current application has been reduced in scale and no longer intensifies the use on the site.

59. The required motorcycle parking would only be possible within the rear setback of the property access from Maze Lane. Provision for the parking would result in a loss of the communal facilities, overall reducing the proposed improved amenity provided for the future occupants of the site.

60. The non-compliance with the development standard is considered to be in the public interest due to the environmental planning grounds for its variation as detailed above.

Conclusion

61. For the reasons provided above the requested variation to the motorcycle parking development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Clause 30(1)(h) Motorcycle Parking of the SEPP AH and the R1 - General Residential zone.

Heritage

62. The site is a contributory building located within a Conservation Area and is therefore subject to the heritage provisions of this DCP. The proposed additions are located at the rear of the site and are subservient to the original dwelling.

63. The proposal involves works to the front façade of the building including restoration of the first floor balustrade, repainting of the façade and restoration of the windows. The balcony is currently enclosed with aluminium framed windows attached to the top of the existing balustrade. It is proposed to maintain the enclosure but have the new windows be set behind the restored balustrade as opposed to on top as existing. Council's heritage provisions encourage the removal of detracting features of contributory buildings, balcony encloses are considered to be detracting elements. The proposals continued enclosure of the balcony is considered to be acceptable in this instance as the proposal will result in an improved heritage outcome subject to the use of 'sashless' windows with the vertical mullions minimised. This requirement has been imposed as a recommended condition of consent. The site's location on City Road, a high volume traffic street will ensure the balcony area is usable and will improve the amenity of these front facing rooms for the future occupants.

64. The proposed materials and finishes are supported and in keeping with the period of the building. The proposal involves the retention of significant heritage fabric including the original fireplaces and chimneys.

65. The development proposes a 1.3m excavation at the rear of the site to accommodate the rear ground floor extension and to level the site. The application has been accompanied by a Geotechnical Report and the excavation is supported. Conditions of consent have been recommended to require dilapidation reports be completed prior to construction commencing.

66. The proposal will result in sympathetic additions to the existing building. Overall, the proposal is considered to be compliant with the relevant aims, objectives and controls of the SLEP and SDCP.

Building setbacks

67. Section 4.2.2 of the SDCP provides the requirements for building setbacks within the municipality. The relevant objective of Section 4.2.2 states:

    (a) Ensure development:

        (i) is generally consistent with existing, adjacent patterns of building setbacks on the street; and

        (ii) maintains the setting of heritage items and is consistent with building setbacks in heritage conservation areas.

68. In addition to the above, Section 4.2.2.1 states that where no setback is identified on the Building setback and alignment map, the development must be consistent with the setback and alignment of adjoining buildings.

69. The existing and proposed rear building setbacks are detailed below in Figure 14. There are clear ground and first floor building lines within the vicinity, both of which the existing building contributes to. In addition, as detailed above, the site is located within a smaller group of 4 dwellings which have a very consistent building line.

70. The more recent developments to the north and the renovations to properties to the south have conformed to the predominant rear building lines.

71. The proposed development includes a rear ground extension of 5.4m, 1.5m beyond the existing building line. As demonstrated in Figure 14 below, this will result in a variation to the established rear setback.

72. The proposed ground floor addition will not be visible from the public domain and will not result in any additional overshadowing to adjoining properties. The proposed FSR does not rely upon the additional FSR allowable in SEPP AH and is well within that allowed by the LEP. The proposed variation is considered acceptable in this instance.

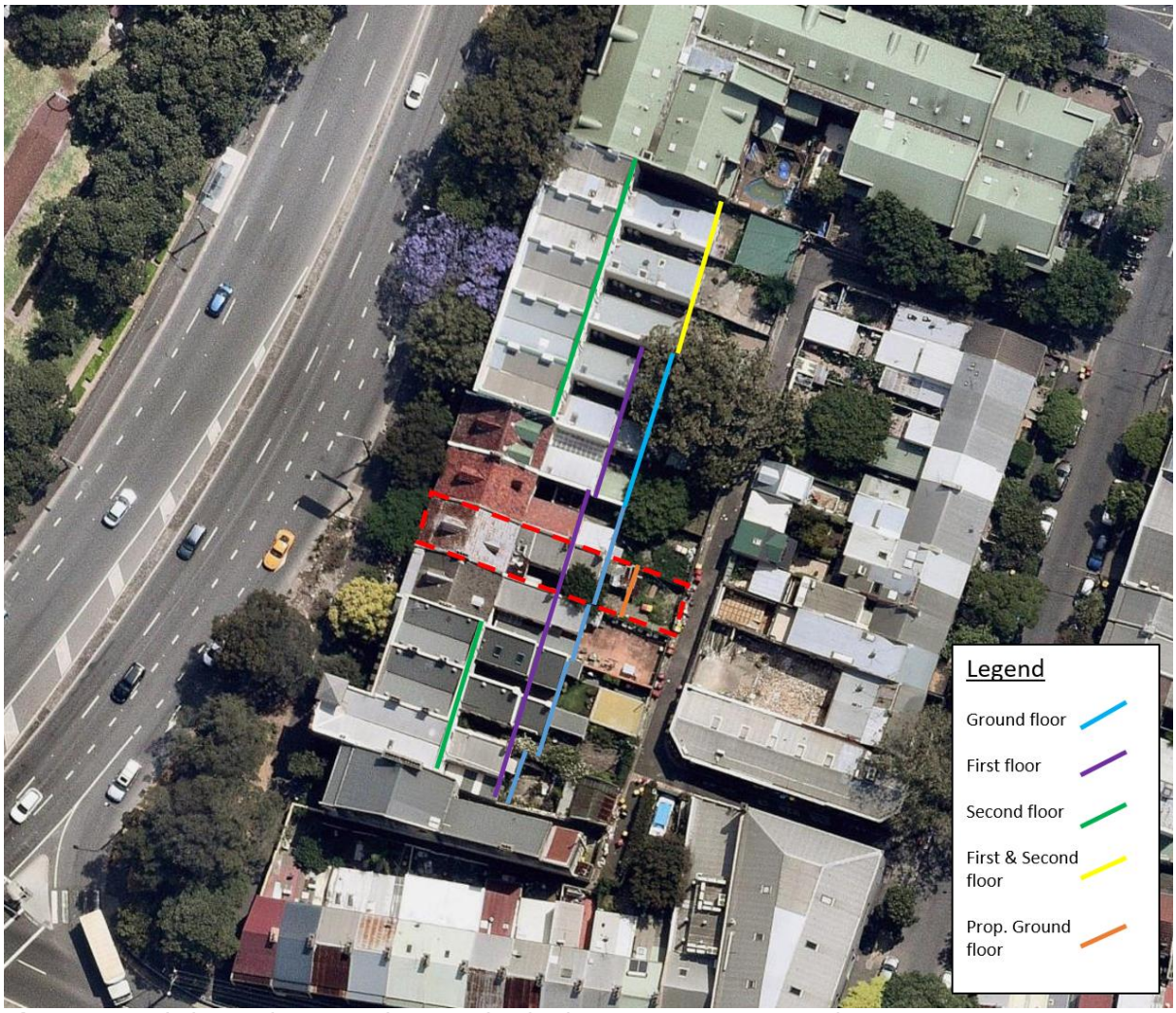


Figure 14: Existing and proposed rear setbacks (Source: Nearmap 2018)

Solar Access

73. Section 4.2.3 of the Sydney DCP 2012 requires that adjoining areas of private open space receive a minimum of 2 hours of direct sunlight between the hours of 9am and 3pm. Traditional shadow diagrams as well as sun's eye views and elevational shadow diagrams have been provided as part of the application.

74. The submitted solar access diagrams show that the proposal will result in additional overshadowing to No.86 City Road, however, the adjoining property will retain 2 hours of solar access between 11am and 1pm.

75. The proposal complies with the solar access provisions of SDCP 2012.

Rear lane built form

76. Section 4.1.6 of SDCP 2012 contains provisions relating to secondary dwellings at the rear of a primary dwelling or on rear lanes. While this section does not strictly apply to the proposed development as the works do not relate to a self-contained secondary dwelling, the provisions of this clause can be used as a guide for appropriate built forms on laneways.

77. The rear laneway development proposed has a total height of 5.4m as measured from the lane in keeping with the maximum permissible height of 5.4m. The roof pitch is at 40 degrees with an internally facing dormer which is set in from the side boundaries and down from the ridge line. The proposal will read as a single storey laneway structure as per the objectives of the DCP provision. The proposed laneway structure is compliant with the Sydney DCP 2012.

Other Impacts of the Development

78. The proposed development is capable of complying with the BCA.

79. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

Suitability of the site for the Development

80. The proposal is of a nature in keeping with the overall function of the site. The premises are in a residential surrounding and amongst similar uses to that proposed.

Internal Referrals

81. The application was discussed with the Heritage and Urban Design Specialists; Building Services Unit; Environmental Health; Safe City; Tree Management and Waste Management; who advised that the proposal is acceptable subject to the recommended conditions as discussed above.

82. Where relevant, the conditions of other sections of Council have been included in the proposed conditions.

External Referrals

Notification, Advertising and Delegation

83. In accordance with Schedule 1 the Sydney DCP 2012, the proposed development is required to be notified. As such the application was notified for a period of 14 days between 8 August 2019 and 23 August 2019. As a result of this notification a total of 25 properties were notified and there were 4 submissions received.

- Maze Lane building

    (i) Will change the character of the lane by being 2 stories.

    (ii) Will increase noise to adjoining residents.

    (iii) Should not be used for communal areas.

(iv) Grossly exceeds the 9m height limit resulting in a loss of privacy to adjoining properties.

(v) Will be used as the main entrance/exit due to proximity of nearby pubs, etc.

(vi) Putting the kitchen at the rear of the site is not practical for the future residents.

(vii) Does not activate the lane enough.

(viii) Should be deleted.

Response: The rear lane building complies with the Sydney DCP provision for laneway structures and has a maximum height of 5.4m. The use of the rear building as a communal area is the only location on the site available for these uses. The applicant has stated that access to and from the rear lane building will be the secondary access however there is no way to prevent occupants of the site using a public lane. Overall, the laneway building will provide amenity for the future occupants of the site and is in keeping with the provisions of the SDCP 2012.

- Motorcycle and bicycle parking in the front setback will cause the loss of the existing trees which assist with reducing the impacts of City Road.

Response: The proposal does not provide any motorcycle parking. Bicycle parking in the front setback is a practical solution and will be located on the existing front path so as to not damage the landscaping. The proposal does involve the removal of 1 dead tree within the front setback but is required to replace this tree with a large replacement tree. The bike parking is to be located on the existing front verandah with no additional paving proposed, thus protecting the root area of the new tree.

- The proposal will exacerbate existing stormwater runoff issues in the area due to the increase in the built up area.

Response: The development will have to comply with the City of Sydney and Sydney Water's requirements regarding connection to the stormwater and sewerage systems.

- Management concerns relating to the operation of the site including consumption of alcohol, uncleanliness of the premises, no on-site manager or contact details provided,

Response: The submitted Plan of Management has been reviewed and is considered to be acceptable.

- Removal of the waste bins via the communal laundry is unhealthy.

Response: The removal of the bins though the laundry will not have impacts to public health as this is not an area for food preparation or sleeping.

- The proposal will overshadowing the adjoining dwellings fronting Rose Street which has not been detailed in the submitted information.

Response: The submitted shadow diagram show that the proposal will not result in any additional overshadowing to the private properties fronting Rose Street.

- No parking provided will increase demand for existing on-street parking.

Response: The City of Sydney does not require private car parking to be provided for any development within the municipality.

- No private open space for the future residents.

Response: As discussed above, this is considered acceptable in this instance.

- The new dormer window will result in a loss of privacy.

Response: The new dormer window at the attic level is located 21m behind the subject site's rear property boundary and is a replacement of the existing dormer window. A site inspection carried out by the City of Sydney Officers shows that no additional overlooking will be created by the proposal.

- The site should not exceed 10 occupants.

Response: The proposal is for a maximum of 11 occupants within 10 rooms. The occupancy of the site is considered to be acceptable given the size of the rooms and will only result in 1 additional person as compared to the existing situation.

- Proposed CCTV cameras will not deter anti-social behaviour.

Response: Council consent is not required for CCTV cameras however the applicant has proposed this feature to address previously raised concerns regarding anti-social behaviour. The lane is a public space and the applicant will have to comply with the relevant privacy provisions under NSW and Australian Law.

- Demolition of the existing rear, single storey toilet is a loss of contributory heritage fabric as well as loss of heritage fabric (fireplaces, chimneys, etc)

Response: The existing single storey toilet at the rear of the site is not structurally sound nor is it an original feature of the building. Its demolition is supported. The proposal will restore and retain a number of heritage features including the chimneys and fireplaces as shown on the plans.

- The additional storey is not supported under the DCP.

Response: The proposal does not include an additional storey.

- Will obstruct views/outlooks for adjoining properties.

Response: The proposal will not exceed the height of the adjoining properties, retaining city view sightlines. Sightlines to adjoining properties may be lost due to the proposal however these outlooks are not protected and are a feature of living in a changing urban environment.

- Failure to restore the front balcony is unacceptable.

Response: The enclosing glazing acceptable given the busy road the site fronts and will be improved from the existing situation, subject to conditions.

- Fails to provide adequate communal shower and toilets to rooms without ensuites.

Response: As detailed above, the communal facilities regarding toilets, etc are compliant with 3 residents sharing 1 toilet/shower.

Public Interest

84. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

S7.11 Contribution

85. The development is subject of a S7.11 contribution under the provisions of the City of Sydney Development Contributions Plan 2015. This contribution is calculated on the basis of the development's net increase in resident, worker and/or visitor populations.

86. Credits have been applied for the most recent use of the site as a 10 room boarding house. As the proposal will not result in a net increase in boarding rooms, no contribution is payable.

Relevant Legislation

87. The Environmental Planning and Assessment Act 1979.

Conclusion

88. The application seeks consent for alterations and additions to the existing 10 room boarding house at No.84 City Road, Chippendale. The works consist of tree removal, excavation, partial demolition of the rear of the building, internal alterations, rear ground extension, rear facing dormer window and a new rear lane structure. The proposal will result in no additional rooms and will accommodate a maximum of 11 people. The application is being assessed concurrently with an identical proposal for the neighbouring property at No.82 City Road (D/2019/822), which is under the same ownership as the subject site.

89. The application is reported to the Local Planning Panel as the development is accompanied by a Clause 4.6 request which seeks a waiver of the requirement for motorcycle parking under Clause 30(1)(H) of State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP AH). The development is required to provide 2 parking spaces. No spaces are proposed to be provided. A written request has been provided seeking a 100% variation from this development standard in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012 (SLEP). The request to vary the development standard is supported in this instance for the reasons outlined in this report.

90. The proposal exceeds the 9 metre building height development standard pursuant to Clause 4.3 of the SLEP by 1.48m or 16%. A written request has been provided seeking a variation to the height development standard in accordance with Clause 4.6 of the SLEP. The request to vary the development standard is supported in this instance for reasons outlined in this report.

91. The application was notified for a period of 14 days between 8 August 2019 and 23 August 2019. A total of 4 submissions were received. The issues raised relate to the bulk and scale of the proposal, compliance with Council's controls and the appropriate management of the site.

92. The proposal generally complies with the requirements of the SEPP AH, SLEP and Sydney Development Control Plan 2012 (SDCP) in terms of amenity, accommodation size, solar access and character of the local area.

93. The development is considered to exhibit design excellence, is in keeping with the desired future character of the area and is considered to be in the public interest.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Jemima Royall, Specialist Planner

Attachment A

Recommended Conditions of Consent

CONDITIONS OF CONSENT

SCHEDULE 1A

APPROVED DEVELOPMENT/DESIGN MODIFICATIONS/COVENANTS AND CONTRIBUTIONS/USE AND OPERATION

Note: Some conditions in Schedule 1A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

(1) APPROVED DEVELOPMENT

(a) Development must be in accordance with Development Application No. D/2019/823 dated 1 August 2019 and the following drawings prepared by Cubitor Design and drafting:

Drawing Number	Drawing Name	Date
DA 2.01 Revision G	Proposed Ground Floor Plan	15 April 2019
DA 2.02 Revision G	Proposed First Floor Plan	15 April 2019
DA 2.03 Revision G	Proposed Second Floor Plan	15 April 2019
DA 2.04 Revision G	Proposed Roof Plan	15 April 2019
DA 3.01 Revision G	Sections - Long	15 April 2019
DA 3.02 Revision G	Sections - Short	15 April 2019
DA 4.01 Revision G	Street/Maze Elevations	15 April 2019
DA 4.02 Revision G	Internal Elevations	15 April 2019
DA 4.03 Revision G	Side Elevations	15 April 2019
-	Schedule of Finishes	February 2018

and as amended by the conditions of this consent.

(b) In the event of any inconsistency between the approved plans and supplementary documentation, the drawings will prevail.

(2) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

(a) The glazing to the front, first floor balcony is to be “sashless” glazing with minimal vertical mullions. The vertical mullions should be dark (not black).

(b) The existing front fence, timber front door and window joinery are all to be retained and should be noted on the plans.

The modifications are to be submitted to and approved by Council’s Area Coordinator Planning Assessments/Area Planning Manager prior to the issue of a Construction Certificate.

(3) COMPLIANCE WITH SUBMITTED MATERIALS AND SAMPLES BOARD

The design details of the proposed building facade including all external finishes, colours and glazing must be in accordance with the materials schedule and sample board, and specifications prepared by Cubitor Design and Drafting dated February 2018.

(4) BOARDING HOUSE - USE AND OPERATION

The use and operation of the premises must comply with the requirements of Schedule 2 (Standards for Places of Shared Accommodation) of the Local Government (General) Regulation, 2005 under the Local Government Act 1993, the Public Health Act, 2010, the Boarding Houses Act 2012 and regulations thereunder and the *Sydney Development Control Plan 2012 – 4.4.1*.

(5) ACCOMMODATION - REGISTRATION AND CARETAKER

Prior to the issuing of an Occupation Certificate or occupation with an Interim Occupation Certificate (whichever is earlier), Council's Health and Building Unit must be advised in writing of the business name, address, owner or company name, 24 hour contact details for the site manager, and the number of occupants approved for the premises. A caretaker/manager must be contactable 24 hours a day.

(6) HEALTH DATABASE REGISTRATION

The business is to be registered with Council's Health and Building Unit prior to the issue of an Occupation Certificate, or the issue of an interim occupation certificate. Registration forms are available on Council's website www.cityofsydney.nsw.gov.au or by calling Council's Health Unit on 02 9265 9333.

(7) SIGN DISPLAYING CONTACT DETAILS FOR BOARDING HOUSE MANAGER

(a) A sign must be placed in a clearly visible position at the boarding house entrance displaying the name of the manager and mobile phone number. The signage text shall be written in bold letters with a height of no less than 25mm on a contrasting background that can be read without entering the premises.

(b) Details of the sign design, content and location within the site must be submitted to and approved by Council’s Area Coordinator Planning

Assessments / Area Planning Manager prior to the issue of a Construction Certificate.

(8) NEIGHBOURHOOD AMENITY

(a) Signs must be placed in clearly visible positions within the premises requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area. The signage shall be in bold letters not less than 25mm in height on a contrasting background.

(b) The management must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood.

(9) PLAN OF MANAGEMENT

The use must always be operated / managed in accordance with the "Operational Plan of Management – 84 City Road" dated August 2019 that has been approved by Council. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

(10) USE OF INTRUSIVE APPLIANCES – NOT APPROVED

This development consent does not extend to the use of appliances which emit noise of a highly intrusive nature (such as pile - drivers and hydraulic hammers) or are not listed in Groups B, C, D, E or F of Schedule 1 of the City of Sydney Code of Practice for Construction Hours/Noise 1992".

A separate Section 4.55 application must be submitted to the Council for the use of any equipment of a highly intrusive nature (such as pile - drivers and hydraulic hammers) or are not listed in Groups B, C, D, E or F of Schedule 1 of the *City of Sydney Code of Practice for Construction Hours/Noise 1992*.

SCHEDULE 1B

PRIOR TO CONSTRUCTION CERTIFICATE/COMMENCEMENT OF WORK/HEALTH AND BUILDING

(11) DILAPIDATION REPORT – MINOR

Subject to the receipt of permission of the affected landowner, dilapidation report/s of adjoining buildings are to be prepared by an appropriately qualified practising structural engineer and submitted for the approval of the Principal Certifier:

(a) prior to the commencement of demolition/excavation works; and

(b) on completion of construction demolition/excavation works.

(12) EROSION AND SEDIMENT CONTROL - LESS THAN 250SQM

Where less than 250 square metres are being disturbed, no formal plan is required however, the site is to be provided with sediment control measures and these must be implemented so that sediment, including soil, excavated material, building

material or other materials cannot fall, descend, percolate, be pumped, drained, washed or allowed to flow to the street, stormwater system or waterways.

(13) NUMBER OF ADULTS PER ROOM

(a) No more than two adult people shall permanently occupy any bedroom and no bedroom shall contain more than two beds. This excludes children and children's beds, cots or bassinets.

(b) The total number of adults residing in one unit shall not exceed twice the number of approved bedrooms.

(14) FLOOR TO CEILING HEIGHT

Prior to a Construction Certificate being issued, the Principal Certifier must ensure that all living rooms and bedrooms in sole occupancy units must have a minimum finished floor to ceiling height of not less than 2.7 metres.

(15) ASBESTOS REMOVAL WORKS

(a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with Safework NSW, holding either a Friable (Class A) or a Non- Friable (Class B) Asbestos Removal Licence which ever applies.

A copy of the relevant licence shall be made available to any authorised Council officer on request within 24 hours.

(b) Five days prior to the commencement of licensed asbestos removal, Safework NSW must be formally notified of the works. All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification must identify the licensed asbestos removal contractor and include a contact person for the site together with telephone number and email address.

(c) All work must be carried out in accordance with the *Work Health and Safety Regulation 2011* and the NSW Government and Work Cover document entitled *How to manage and control asbestos in the work place: Code of Practice (Safework NSW)* December 2011 and the *City of Sydney Managing Asbestos Policy dated 21 October 2013 and associated guidelines.*

(d) The asbestos removalist must use signs and barricades to clearly indicate the area where the asbestos removal work is being performed. Signs must be placed in positions so that people are aware of where the asbestos removal work area is and should remain in place until removal is completed and clearance to reoccupy has been granted. Responsibilities for the security and safety of the asbestos removal site and removal must be specified in the asbestos removal control plan (where required). This includes inaccessible areas that are likely to contain asbestos.

(e) Warning signs must be placed so they inform all people nearby that asbestos removal work is taking place in the area. Signs must be placed at all of the main entry points to the asbestos removal work area where asbestos is present. These signs must be weatherproof, constructed of light-weight

material and adequately secured so they remain in prominent locations. The signs must be in accordance with AS 1319 -1994 *Safety Signs for the Occupational Environment* for size, illumination, location and maintenance.

(f) Asbestos waste must only be transported and disposed of at an EPA licensed waste facility.

(g) No asbestos products are to be reused on the site (i.e. packing pieces, spacers, formwork or fill etc).

(h) No asbestos laden skips or bins are to be left in any public place without the written approval of Council.

(i) A site notice board must be located at the main entrance to the site in a prominent position and must have minimum dimensions of 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size.

The site notice board must include the following:

(i) contact person for the site;

(ii) telephone and facsimile numbers and email address; and

(iii) site activities and time frames.

(16) STOCKPILES

(a) No stockpiles of soil or other materials shall be placed on footpaths or nature strips unless prior approval has been obtained from the City's Construction Regulation Unit.

(b) All stockpiles of soil or other materials shall be placed away from drainage lines, gutters or stormwater pits or inlets.

(c) All stockpiles of soil or other materials likely to generate dust or odours shall be covered.

(d) All stockpiles of contaminated soil shall be stored in a secure area and be covered if remaining more than 24 hours

(17) WASTE AND RECYCLING MANAGEMENT - MINOR

The proposal must comply with the relevant provisions of Council's *Guidelines for Waste Management in New Developments 2018* which requires facilities to minimise and manage waste and recycling generated by the proposal.

(18) WASTE/RECYCLING COLLECTION

(a) The collection of waste and recycling must only occur during the designated zone collection times as outlined in the City's Waste Policy – Local Approvals Policy for Managing Waste in Public Places 2017.

(b) Garbage and recycling must not be placed on the street for collection more than half an hour before the scheduled collection time. Bins and containers are to be removed from the street within half an hour of collection.

(19) BCA COMPLIANCE - ALTERATIONS AND ADDITIONS - UPGRADE OF WHOLE BUILDING IS REQUIRED

(a) Pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000 an assessment of the development proposal has been undertaken and:

(i) As more than 50 percent of the volume of the building is proposed to be altered or has been altered over the previous 3 year period; and/or

(ii) The measures contained in the building are inadequate to protect persons using the building and to facilitate their egress from the building in the event of fire, or to restrict the spread of fire from the building to other buildings nearby,

It has been determined that the whole building must be brought into total conformity with the *Building Code of Australia*.

(b) If compliance with (a) above cannot be achieved through the deemed-to-satisfy pathway, an alternative solution in accordance with Part A0 of the BCA must be prepared and submitted to the Principal Certifier illustrating how the relevant performance provisions are to be satisfied, and must form part of the approval prior to a Construction Certificate being issued.

(20) STRUCTURAL CERTIFICATION FOR EXISTING BUILDING – ALTERATIONS AND ADDITIONS

A qualified practising certified structural engineer must provide structural certification to Council (where Council is the Principal Certifier) verifying that the existing structure can adequately support the proposed new loads and the structural design complies with the Structural Provisions of Part B1 (Vol 1) and Part 2.1 (Vol 2) of the *Building Code of Australia* prior to a Construction Certificate being issued. The proposed additional loads and/or alterations must not cause a decrease in the existing structural performance of the building including its performance under earthquake actions (AS1170.4).

(21) STRUCTURAL CERTIFICATION FOR PARTY WALLS

Prior to a Construction Certificate being issued, a certificate from a qualified practising structural engineer in accordance with Clause A2.2(a)(iii) of the *Building Code of Australia* must be submitted to the satisfaction of Council (where Council is the Principal Certifier). The Certificate must verify the structural integrity of the existing 'Party Wall(s)' as consequence of the additional loads imposed thereon by the proposal.

(22) FLASHINGS TO BOUNDARY WALLS

A flashing must be provided to prevent water entering between the proposed and existing external boundary walls of the adjoining properties.

Note: Attachments or connections to party walls may require the consent of the adjoining property owner/s.

(23) ANNUAL FIRE SAFETY STATEMENT FORM

An annual Fire Safety Statement must be given to Council and the NSW Fire Brigade commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued or the use commencing, whichever is earlier.

(24) TREES APPROVED FOR REMOVAL

(a) All trees detailed in Table 1 below are approved for removal. Tree removal must not occur until the Construction Certificate has been issued.

Table 1 – Tree Removal:

Tree No	Botanical/Common Name	Location
1	*Calliandra sp.* / Powder Puff	Front yard
2	*Prunus sp.* / Unidentified stone fruit	Rear yard

(b) All tree removal works must be carried out by a qualified Arborist (AQF Level 3 minimum), and in accordance with WorkSafe NSW's 'Code of Practice – Amenity Tree Industry'.

(25) LANDSCAPING OF THE SITE

(a) The Landscape Plan prepared by 'Zenith Landscape Designs Pty Ltd' dated 4 April 2019 (Revision A) is not approved. A detailed landscape plan, drawn to scale, by a qualified landscape architect or landscape designer, must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate. The plan must include:

(i) Location of existing and proposed structures on the site including, but not limited to, existing and proposed trees, paved areas, planted areas on slab, planted areas in natural ground, lighting and other features;

(ii) Details of earthworks and soil depths including mounding and retaining walls and planter boxes (if applicable). The minimum soil depths for planting on slab must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers;

(iii) Location, numbers, type and supply of plant species, with reference to the relevant Australian Standard;

(iv) The design must provide a minimum 15% canopy coverage across the site, provided by trees that will reach a minimum height of eight (8) metres. Palms, fruit trees and species recognised to have a short life span will not be accepted as suitable replacements;

(v) New tree/s must be planted in natural ground with adequate soil volumes to allow maturity to be achieved. Planter boxes will not be accepted for tree planting;

(vi) New tree/s must be appropriately located away from existing buildings and structures to allow maturity to be achieved without restriction;

(vii) Details of planting procedure and maintenance;

(viii) Details of drainage, waterproofing and watering systems.

(b) Prior to the issue of a Construction Certificate, a maintenance plan is to be submitted to and approved by the Principal Certifying Authority. The maintenance plan is to be complied with during occupation of the property.

(c) All landscaping in the approved plan is to be completed prior to an Occupation Certificate being issued.

SCHEDULE 1C

DURING CONSTRUCTION/PRIOR TO OCCUPATION/COMPLETION

(26) BASIX

All commitments listed in each relevant BASIX Certificate for the development must be fulfilled prior to an Occupation Certificate being issued.

(27) HOURS OF WORK AND NOISE – OUTSIDE CBD

The hours of construction and work on the development must be as follows:

(a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.

(b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.

(c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a permit being issued by Council under Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993.

Note: Works may be undertaken outside of hours, where it is required to avoid the loss of life, damage to property, to prevent environmental harm and/or to avoid structural damage to the building. Written approval must be given by the Construction Regulation Unit, prior to works proceeding

The *City of Sydney Code of Practice for Construction Hours/Noise 1992* allows extended working hours subject to the approval of an application in accordance with the Code and under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

(28) ENCROACHMENTS – NEIGHBOURING PROPERTIES

No portion of the proposed structure shall encroach onto the adjoining properties.

(29) ENCROACHMENTS – PUBLIC WAY

No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach upon Council's footpath area.

(30) SURVEY

All footings, walls and floor slabs adjacent to a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report, prepared by a Registered Surveyor, must be submitted to the Principal Certifier indicating the position of external walls in relation to the boundaries of the allotment. Any encroachments by the subject building over adjoining boundaries or roads must be removed prior to continuation of building construction work.

(31) SURVEY CERTIFICATE AT COMPLETION

A Survey Certificate prepared by a Registered Surveyor must be submitted at the completion of the building work certifying the location of the building in relation to the boundaries of the allotment.

(32) CONNECTION TO SEWERS OF SYDNEY WATER CORPORATION

Waste water arising from the use must be directed to the sewers of the Sydney Water Corporation (SWC) under a Trade Waste License Agreement. The pre-treatment of wastewater may be a requirement of the Corporation prior to discharge to the sewer. Details of the Corporation's requirements should be obtained prior to the commencement of construction work.

(33) COVERING OF LOADS

All vehicles involved in the excavation and/or demolition process and departing the property with demolition materials, spoil or loose matter must have their loads fully covered before entering the public roadway.

(34) EROSION AND SEDIMENT CONTROL

The Soil and Water Management Plan (SWMP) or Erosion and Sediment Control Plan (ESCP) which has been approved by the Principal Certifier must be implemented in full during the construction period.

During the construction period;

(a) erosion and sediment controls must be regularly inspected, repaired and maintained in working order sufficient for a 10 year Average Recurrence Interval (ARI) rainfall event;

(b) erosion and sediment control signage available from Council must be completed and attached to the most prominent structure visible at all times when entering the site for the duration of construction; and

(c) building operations and stockpiles must not be located on the public footway or any other locations which could lead to the discharge of materials into the stormwater system.

(35) OCCUPATION CERTIFICATE TO BE SUBMITTED

An Occupation Certificate must be obtained from the Principal Certifier and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

(36) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

(a) All loading and unloading associated with construction activity must be accommodated on site, where possible.

(b) If it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.

(c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.

(d) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate approval under Section 68 of the Local Government Act 1993 must be obtained.

(37) NO OBSTRUCTION OF PUBLIC WAY

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by Council to stop all work on site.

(38) USE OF MOBILE CRANES

The following requirements apply:

(a) Mobile cranes operating from the road must not be used as a method of demolishing or constructing a building.

(b) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes, permits must be obtained from Council for the use of a mobile crane. The permits must be obtained 48 hours beforehand for partial road closures which, in the opinion of Council will create minimal traffic disruptions and 4 weeks beforehand in the case of full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.

(c) The use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes outside of approved hours of construction can occur, subject to a permit being issued by Council under Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993.

SCHEUDLE 3

AUSGRID CONDITIONS

(39) PROXIMITY TO EXISTING NETWORK ASSETS – OVERHEAD POWERLINES

(a) There are existing overhead electricity network assets in Maze Lane. Safework NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

(b) The "as constructed" minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website, www.ausgrid.com.au.

(c) The proposed development may encroach the statutory clearances of nearby powerlines as per the requirements set out in AS7000 and Ausgrid Standard NS220. The developer is required to either:

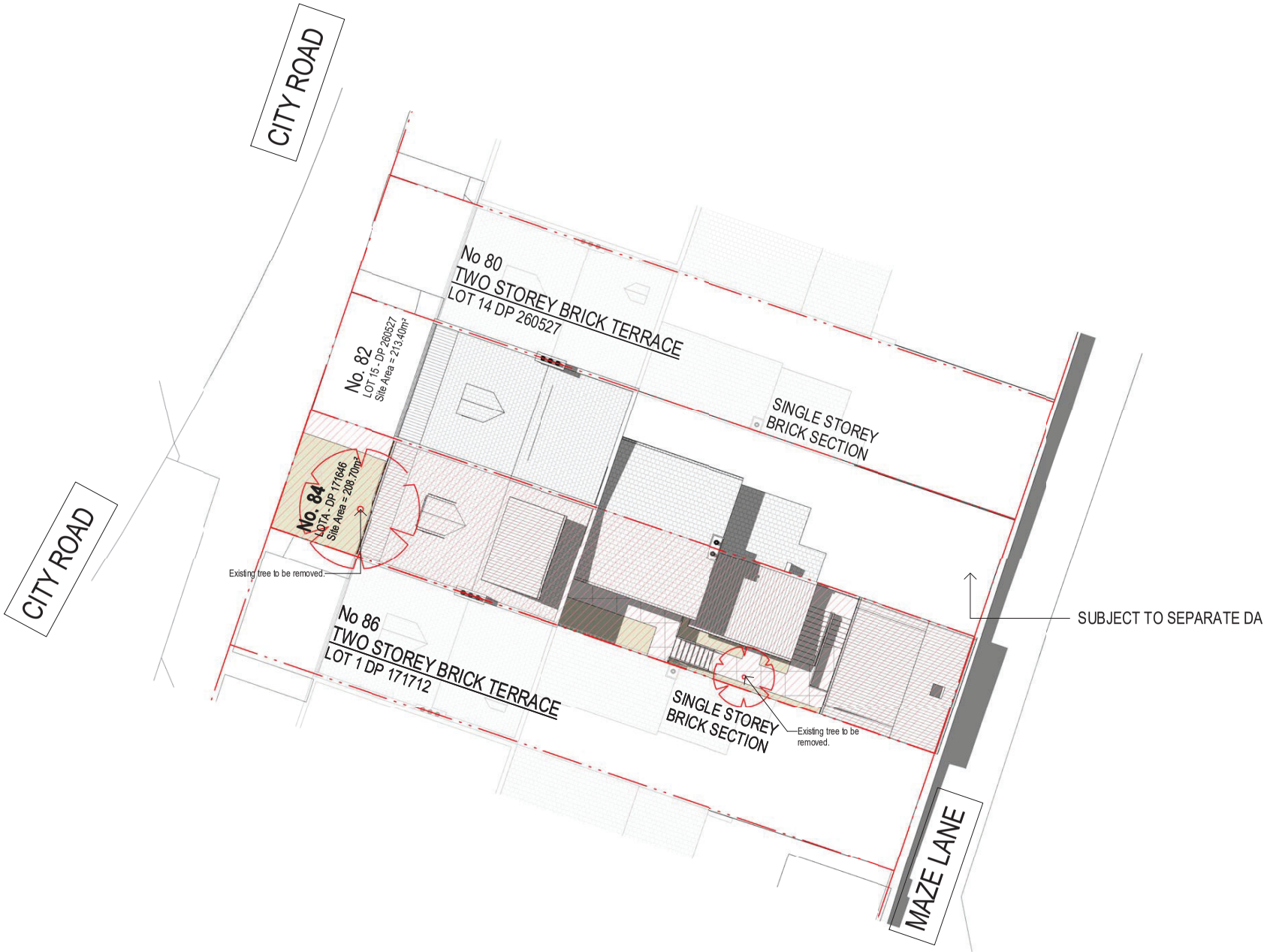
(i) Engage an Accreditted Service Provider Level 3 (ASP3) to confirm that the development does maintain the statutory clearances to the powerlines (this must include wind impacts). If the ASP3 determines that the proposed structure does encroach the statutory clearances, suitable arrangments must be made to ensure that the structure will not encroach the powerline statutory clearance either by redesign of the encroaching structure or relocation of the powerlines away from the proposed structure.

(ii) Make suitable arrangements to have powerlines relocated prior to the commencement of construction so that statutory clearances are not encroached.

(d) Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost. It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site

Attachment B

Selected Drawings



CUBITOR

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- All dimensions in millimeters unless otherwise shown.
- Use figured dimensions only.
- Do not scale from drawings.
- Check all dimensions on site prior to construction.
- To be read in conjunction with all other documents.
- Report any discrepancies to Cubitor Design and Drafting.
- All boundary dimensions and bearings to be verified by licensed surveyor prior to proceeding with work.

REV	DESCRIPTION	CHK	APR	DATE
A	FOR INFO			26.02.2018
B	FOR INFO			28.02.2018
C	FOR INFO			08.03.2018
D	FOR ISSUE			24.04.2018
E	DA Submission			30.08.2018
F	DA Submission			15.04.2019

PROJECT PHASE
DEVELOPMENT APPLICATION

STATUS
PRELIMINARY

PROJECT NO.
P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 200 @A3

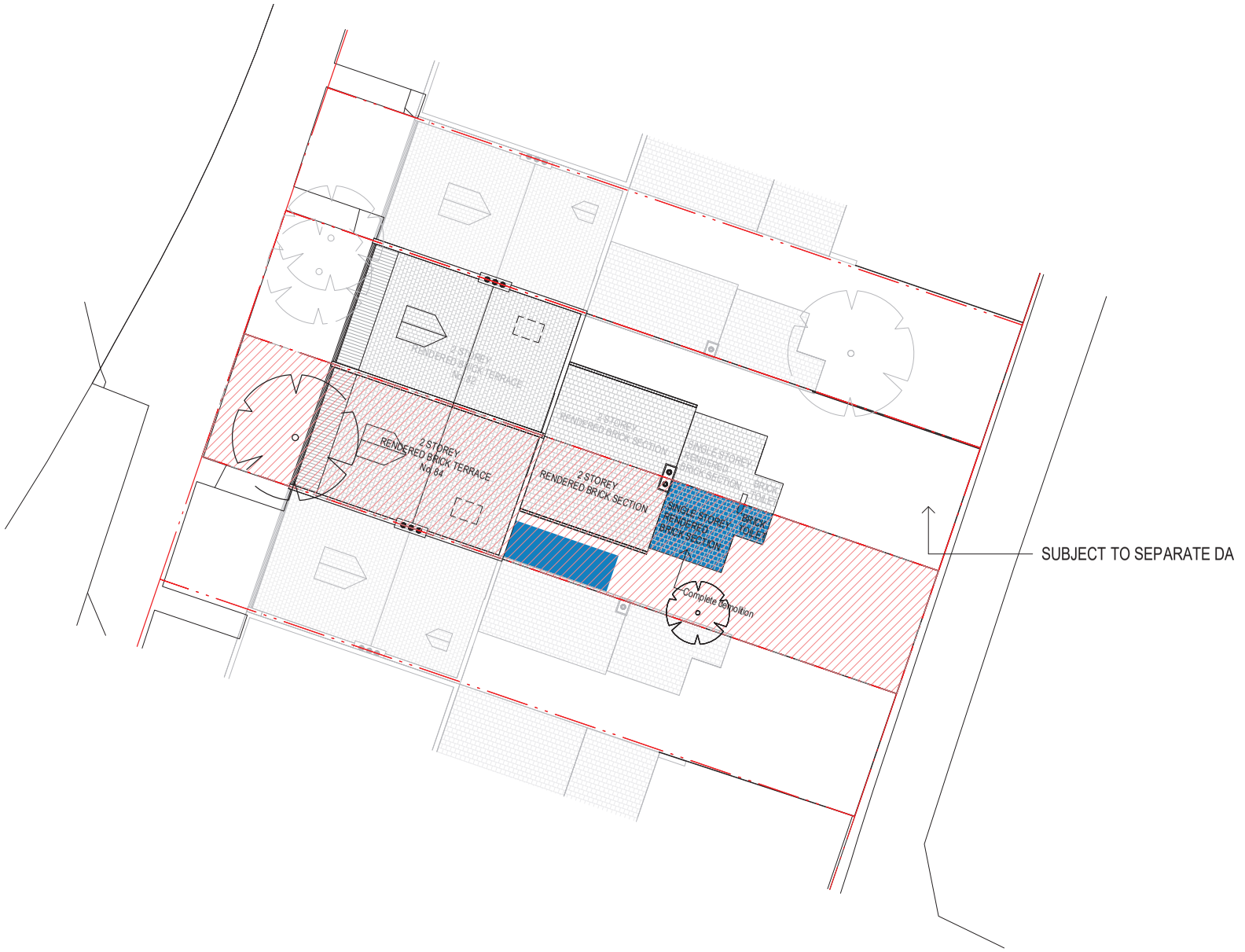
SCALE BAR
0m 2 4

DRAWING SERIES
DA 1 Site Information

DRAWING TITLE
Site - Roof Plan

DRAWING NO.
DA.1.05

REVISION
F



LEGEND:

- SITE
- PROPOSED DEMOLISHED STRUCTURES
- EXISTING TREES TO BE REMOVED
- EXISTING TREES

CUBITOR

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PROJECT PHASE
DEVELOPMENT APPLICATION

STATUS
PRELIMINARY

PROJECT NO.
P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 200 @A3

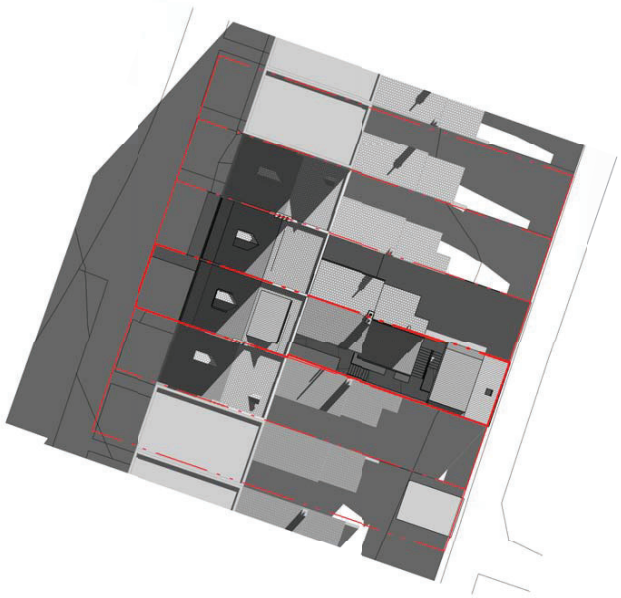
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0m 2 4

DRAWING SERIES
DA 1 Site Information

DRAWING TITLE
Demolition Plan

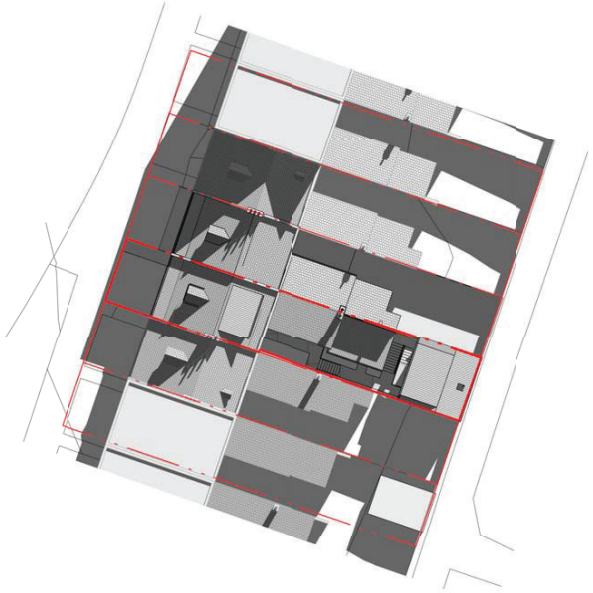
DRAWING NO.
DA.1.01

REVISION
F



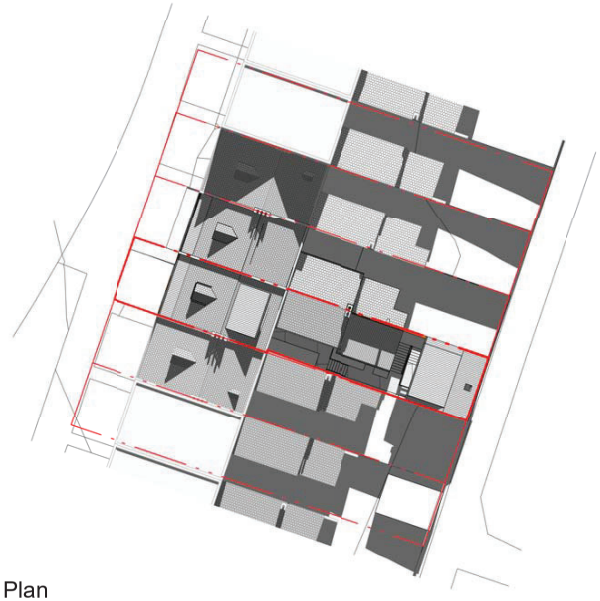
1 Plan

Solar Analysis - Overshadowing - 9AM 1 : 500
31 June



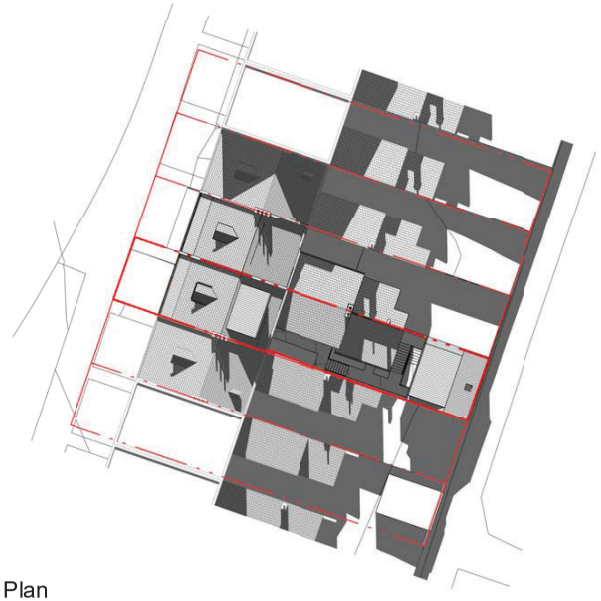
2 Plan

Solar Analysis - Overshadowing - 10 AM 1 : 500
31 June



3 Plan

Solar Analysis - Overshadowing - 11AM 1 : 500
31 June



4 Plan

Solar Analysis - Overshadowing - 12PM 1 : 500
31 June

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REV	DESCRIPTION	CHK	APR	DATE
A	FOR INFO			26.02.2018
B	FOR INFO			28.02.2018
C	FOR INFO			09.03.2018
D	FOR ISSUE			24.04.2018
E	DA Submission			30.08.2018
F	DA Submission			15.04.2019

PROJECT PHASE
DEVELOPMENT APPLICATION

STATUS
PRELIMINARY

PROJECT NO.
P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 500 @A3

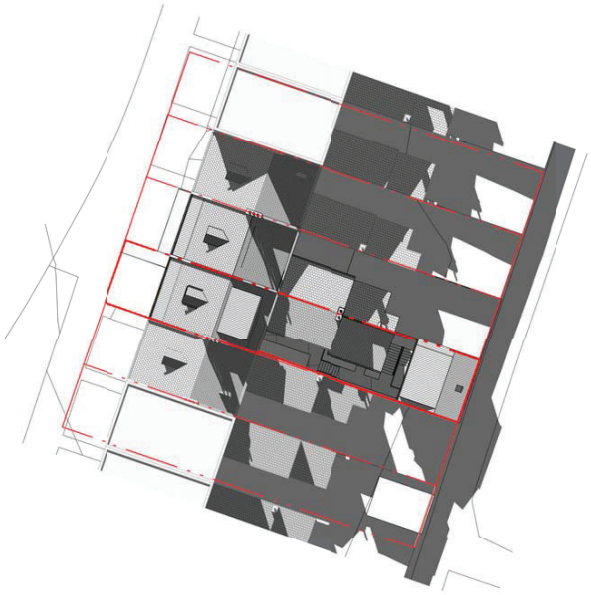
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DRAWING SERIES
DA 1 Site Information

DRAWING TITLE
Solar Analysis - Overshadowing 9am-12pm

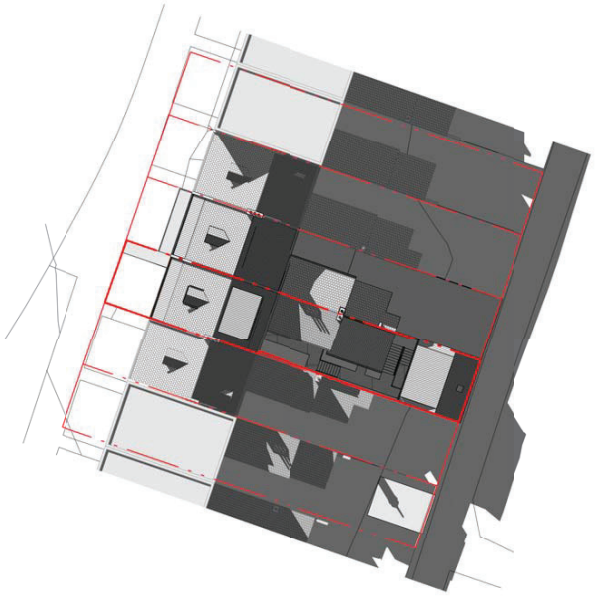
DRAWING NO.
DA.1.03

REVISION
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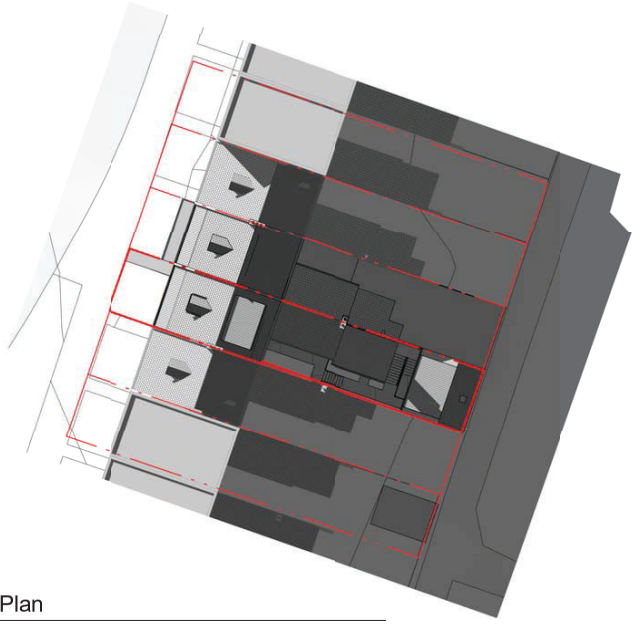
1 Plan

Solar Analysis - Overshadowing - 1PM 1 : 500
31 June



2 Plan

Solar Analysis - Overshadowing - 2PM 1 : 500
31 June



3 Plan

Solar Analysis - Overshadowing - 3PM 1 : 500
31 June

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DEVELOPMENT APPLICATION

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CLIENT
MERBELL PTY LTD

SCALE
1 : 500 @A3

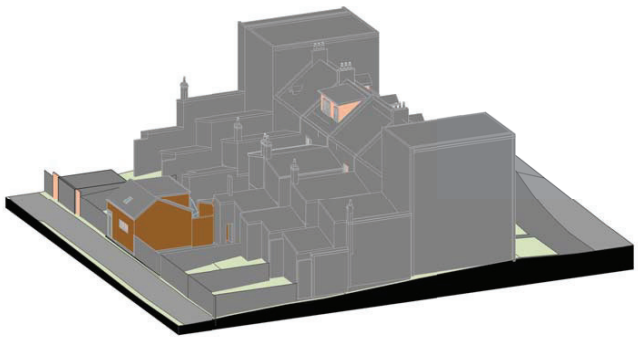
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DRAWING SERIES
DA 1 Site Information

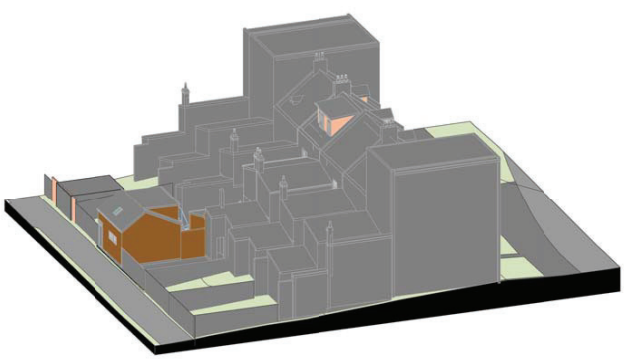
DRAWING TITLE
Solar Analysis - Overshadowing 1pm-3pm

DRAWING NO.
DA.1.04

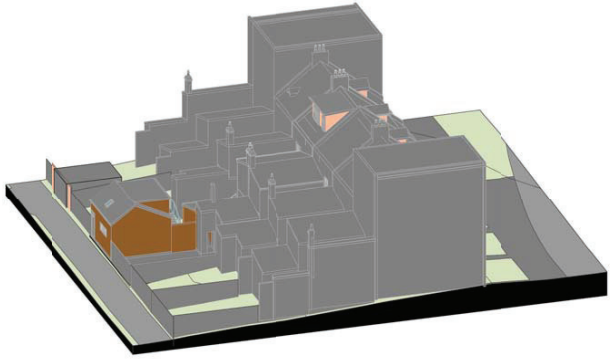
REVISION
F



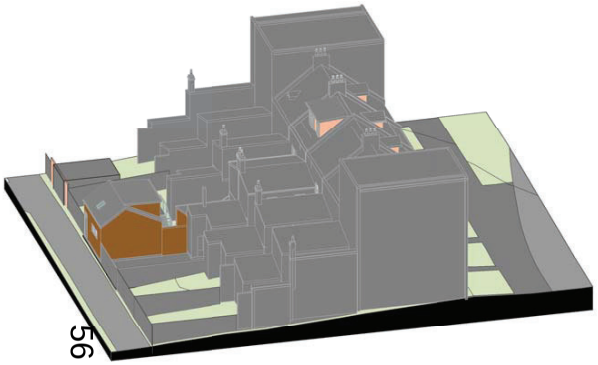
1 3D - Sun Eye
9:00 AM



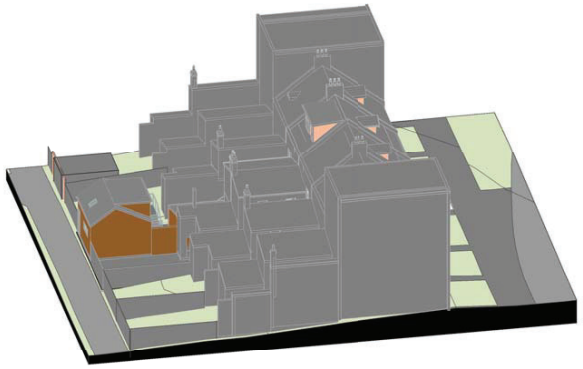
2 3D - Sun Eye
9:15 AM



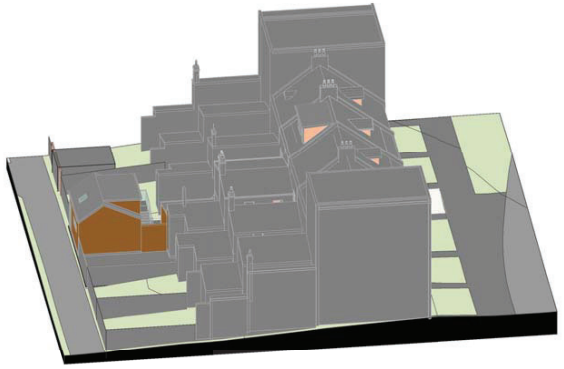
3 3D - Sun Eye
9:30 AM



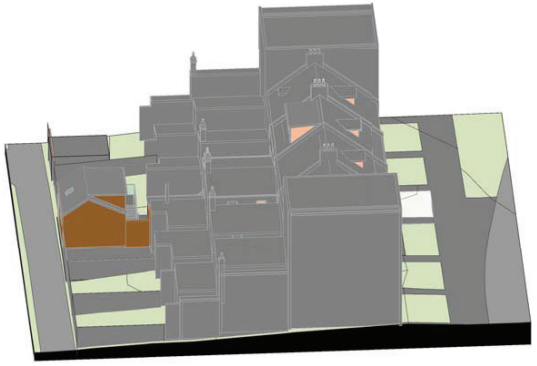
4 3D - Sun Eye
9:45 AM



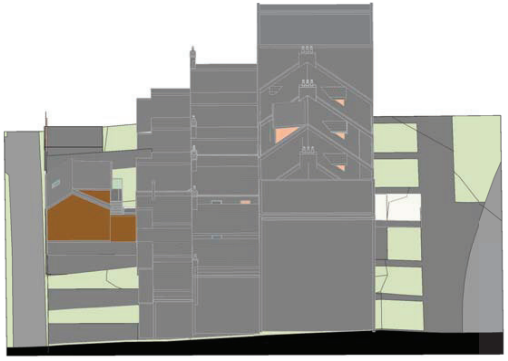
5 3D - Sun Eye
10:00 AM



6 3D - Sun Eye
10:15 AM



7 3D - Sun Eye
10:30 AM



8 3D - Sun Eye
10:45 AM



9 3D - Sun Eye
11:00 AM

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A	DA Submission			15.04.2019

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DEVELOPMENT APPLICATION

STATUS
PRELIMINARY

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P.A-013

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PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERIBELL PTY LTD

SCALE
@A3

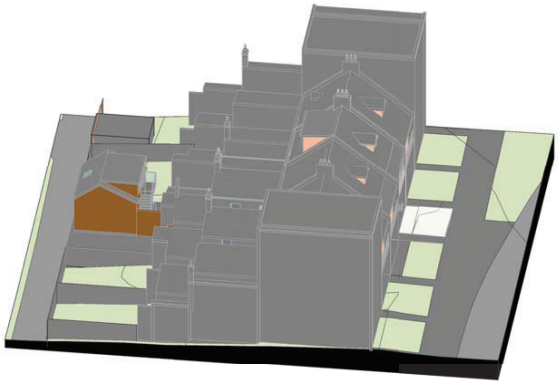
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DRAWING SERIES
DA 1 Site Information

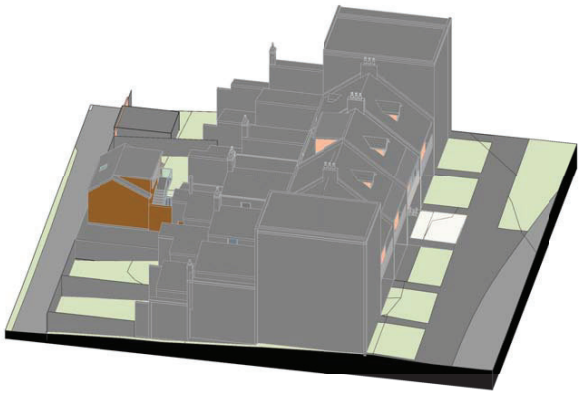
DRAWING TITLE
Solar Analysis - Sun Eye

DRAWING NO.
DA.1.07

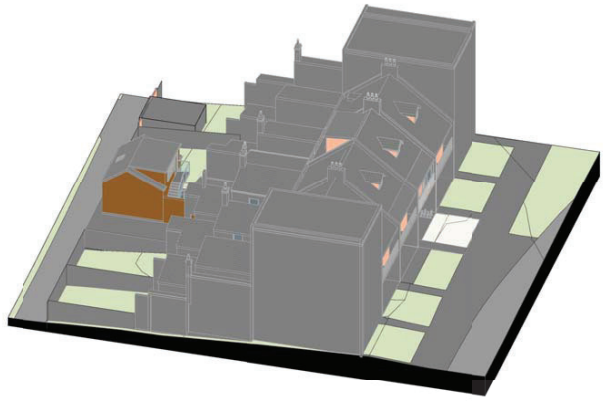
REVISION
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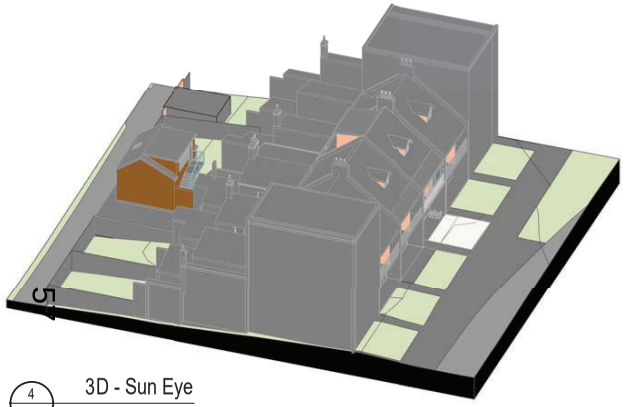
1 3D - Sun Eye
11:15 AM



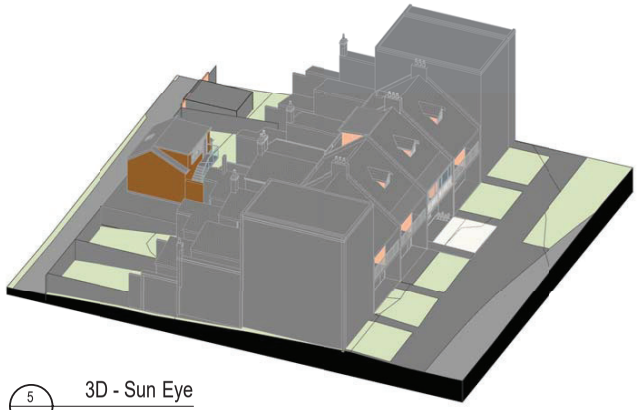
2 3D - Sun Eye
11:30 AM



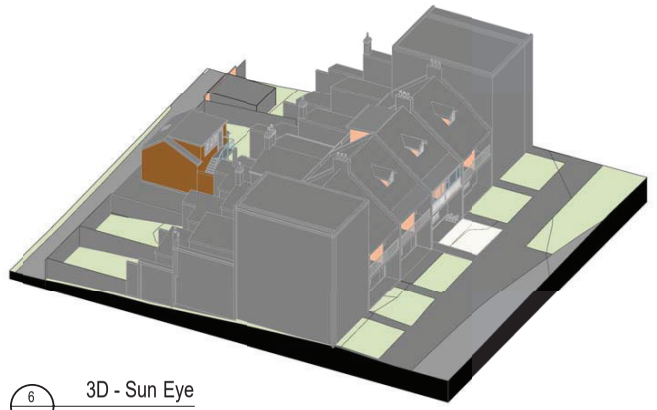
3 3D - Sun Eye
11:45 AM



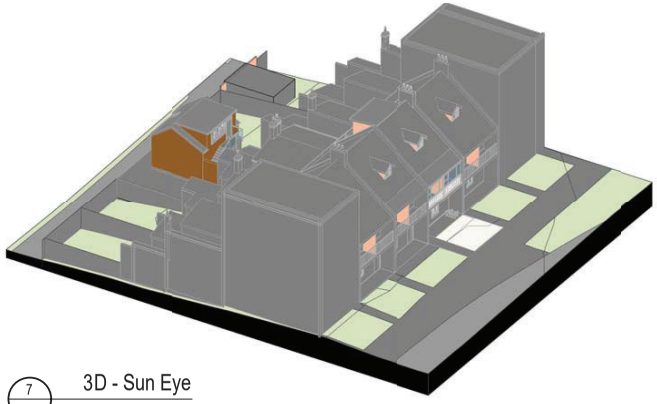
4 3D - Sun Eye
12:00 PM



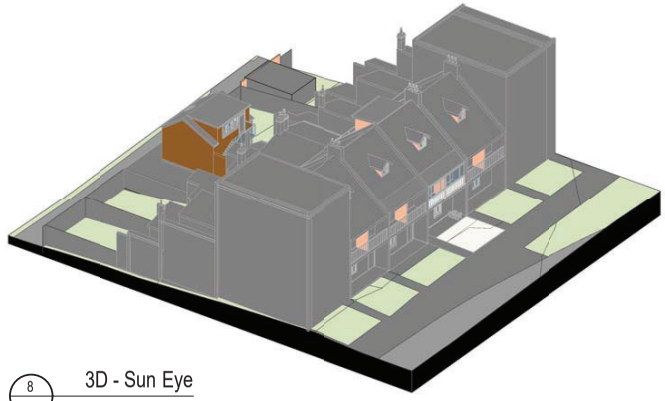
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12:15 PM



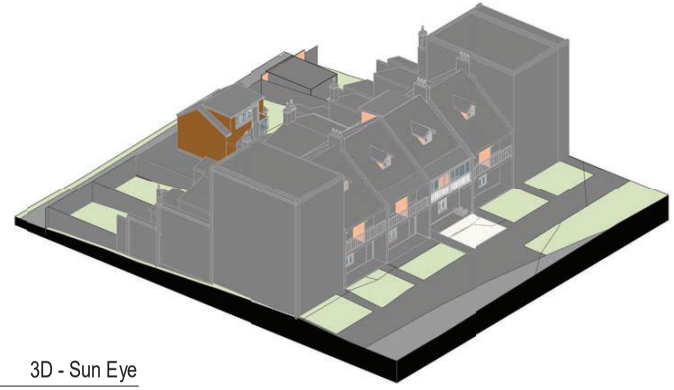
6 3D - Sun Eye
12:30 PM



7 3D - Sun Eye
12:45 PM



8 3D - Sun Eye
01:00 PM



9 3D - Sun Eye
01:15 PM

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CLIENT
MERIBELL PTY LTD

SCALE
@A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 1 Site Information

DRAWING TITLE
Solar Analysis - Sun Eye

DRAWING NO.
DA.1.08

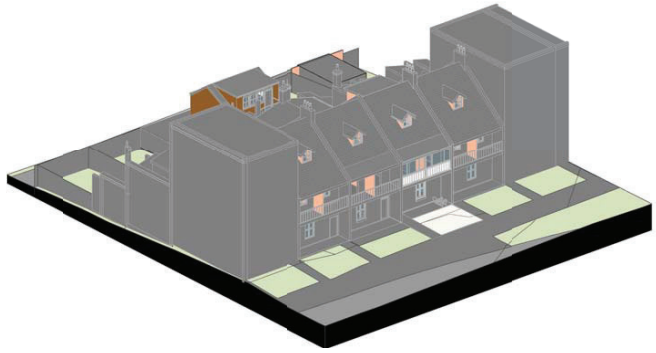
REVISION
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1 3D - Sun Eye
01:30 PM



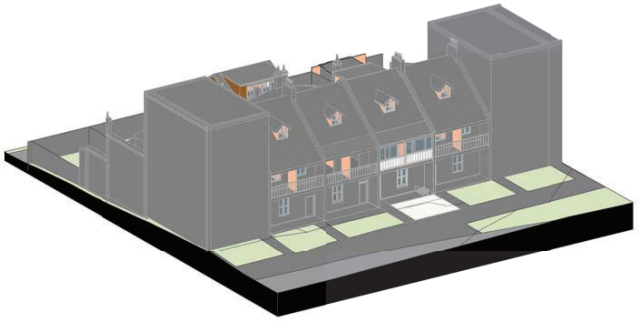
2 3D - Sun Eye
01:45 PM



3 3D - Sun Eye
02:00 PM



4 3D - Sun Eye
02:15 PM



5 3D - Sun Eye
02:30 PM



6 3D - Sun Eye
02:45 PM



7 3D - Sun Eye
03:00 PM

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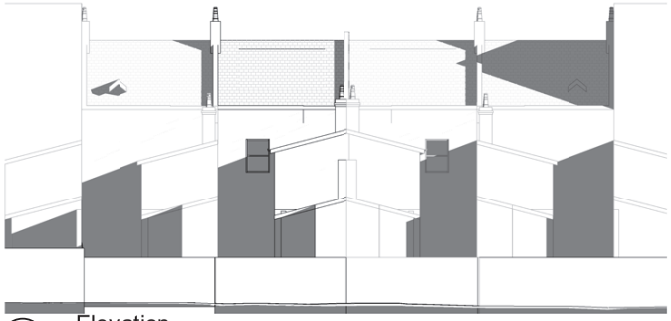
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DRAWING SERIES
DA 1 Site Information

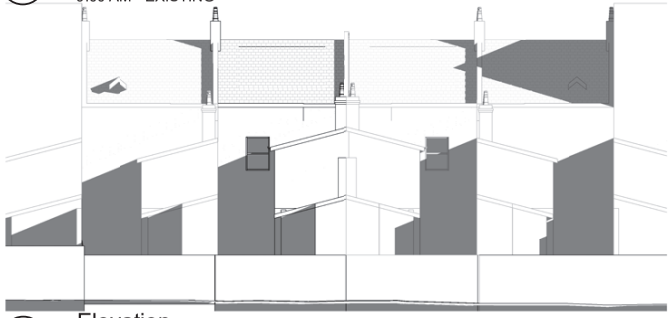
DRAWING TITLE
Solar Analysis - Sun Eye

DRAWING NO.
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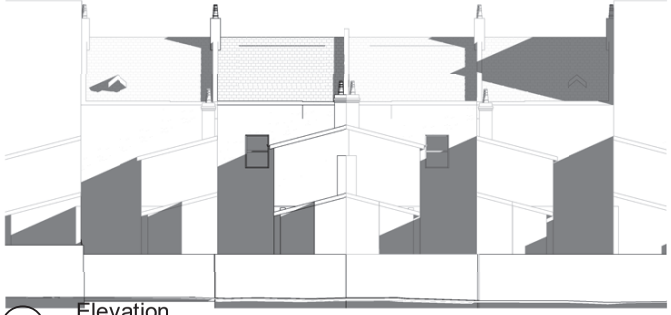
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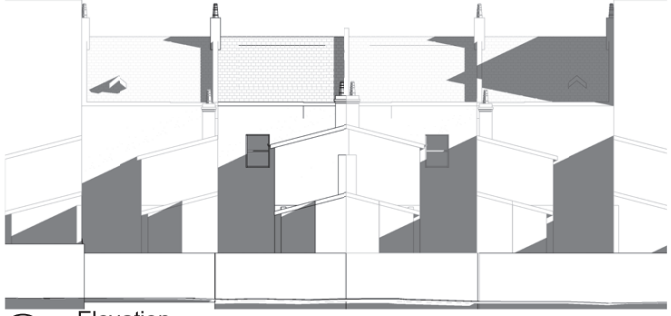
1 Elevation
9:00 AM - EXISTING



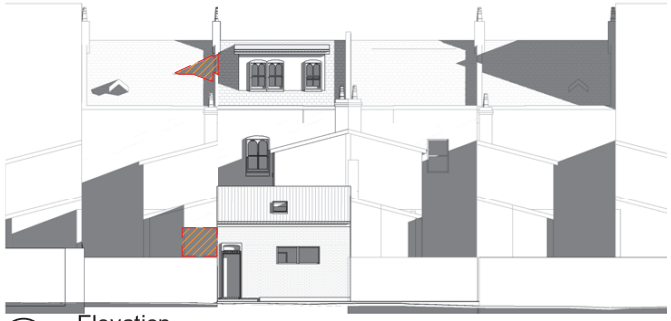
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9:15 AM- EXISTING



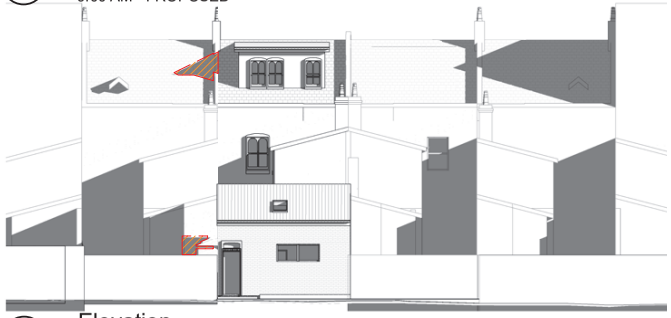
3 Elevation
9:15 AM- EXISTING



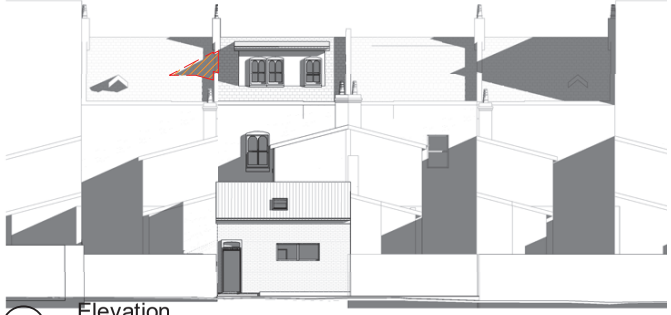
4 Elevation
9:45 AM - EXISTING



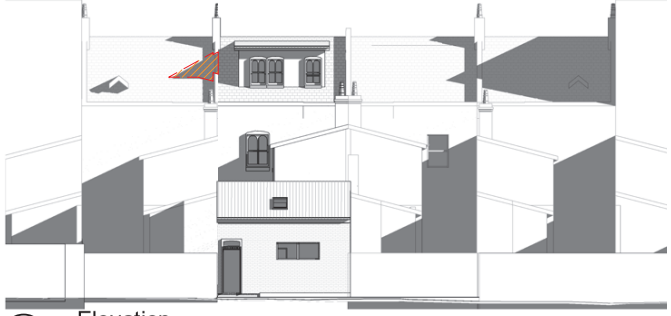
5 Elevation
9:00 AM - PROPOSED



6 Elevation
9:15 AM - PROPOSED



7 Elevation
9:15 AM- EXISTING



8 Elevation
9:45 AM - PROPOSED

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1 : 200 @A3

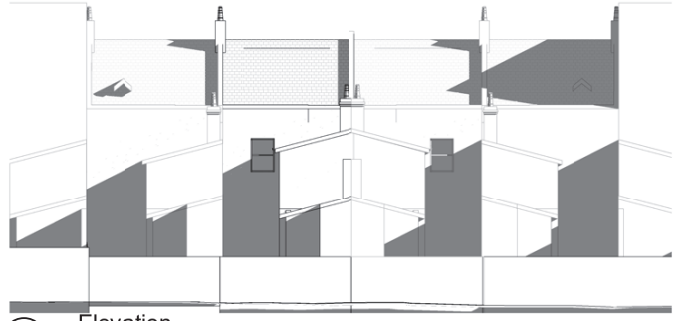
SCALE BAR
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DRAWING SERIES
DA 1 Site Information

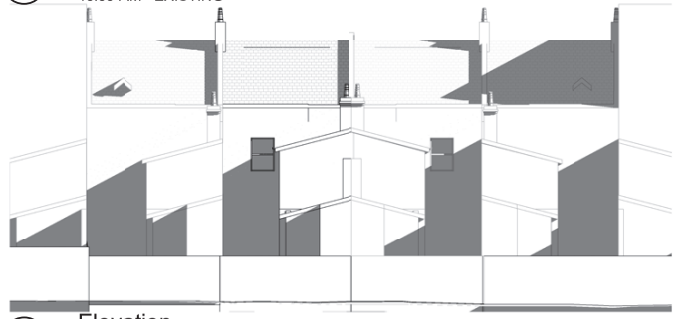
DRAWING TITLE
Elevation Shadow Diagrams

DRAWING NO.
DA.1.10

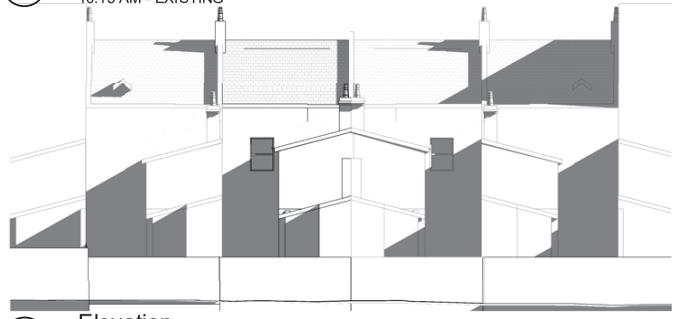
REVISION
A



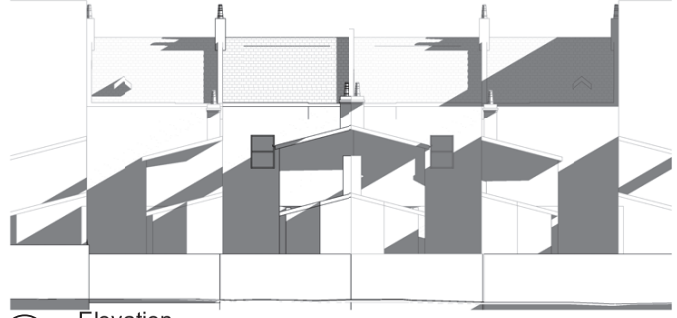
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10:00 AM - EXISTING



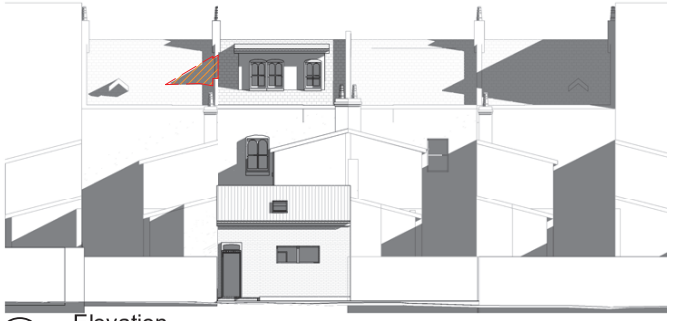
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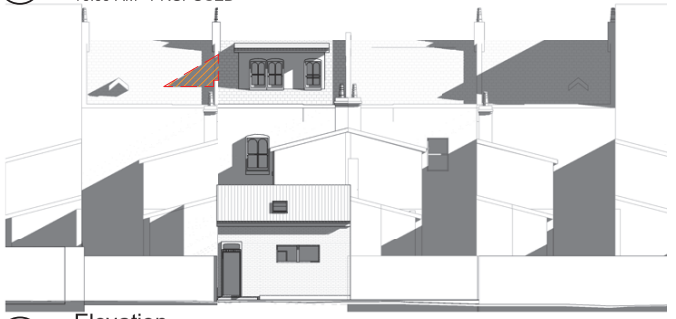
3 Elevation
10:30 AM - EXISTING



4 Elevation
10:45 AM - EXISTING



5 Elevation
10:00 AM - PROPOSED



6 Elevation
10:15 AM - PROPOSED



7 Elevation
10:30 AM - PROPOSED



8 Elevation
10:45 AM - PROPOSED

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REV	DESCRIPTION	CHK	APR	DATE
A	DA Submission			15.04.2019

PROJECT PHASE
DEVELOPMENT APPLICATION

STATUS
PRELIMINARY

PROJECT NO.
P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 200 @A3

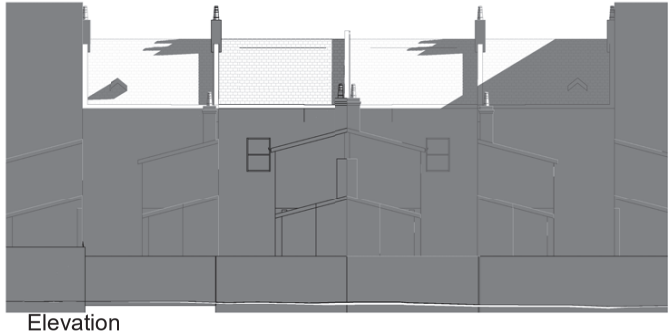
SCALE BAR
0m 2 4

DRAWING SERIES
DA 1 Site Information

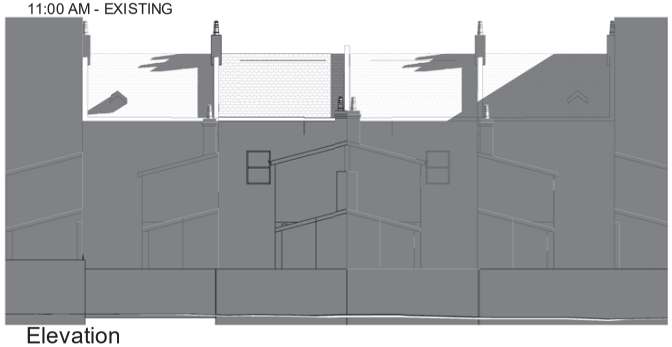
DRAWING TITLE
Elevation Shadow Diagrams

DRAWING NO.
DA.1.11

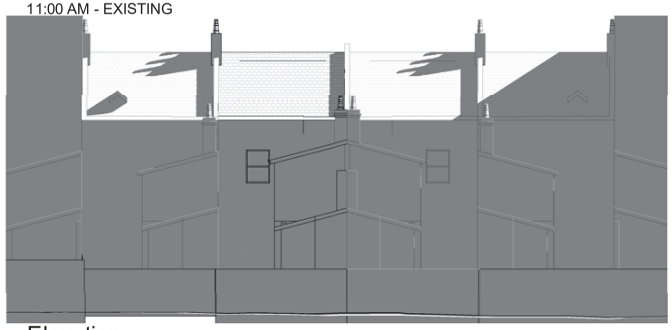
REVISION
A



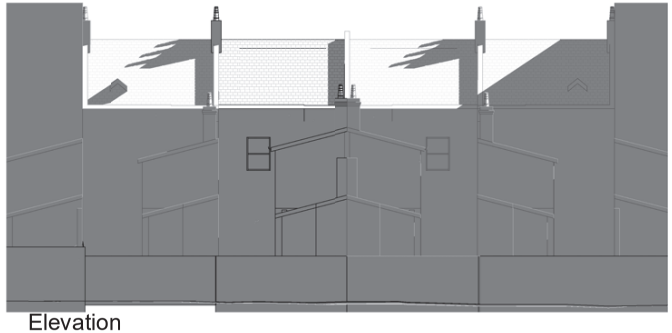
1 Elevation
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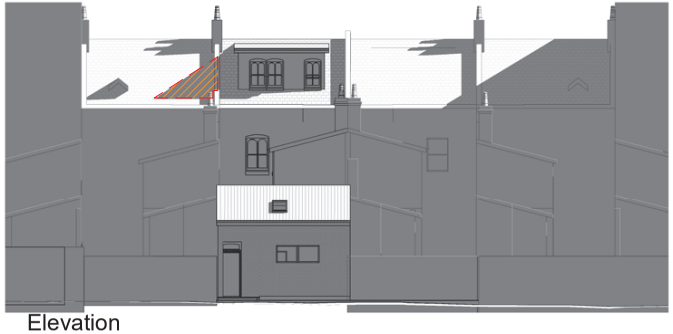
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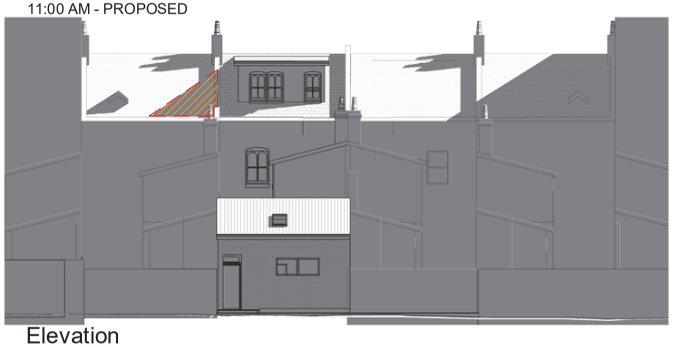
3 Elevation
11:30 AM - EXISTING



4 Elevation
11:45 AM - EXISTING



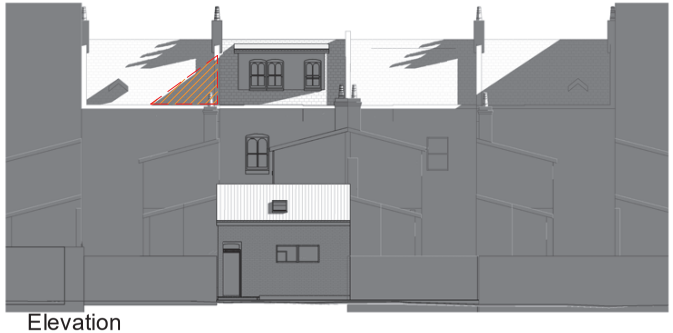
5 Elevation
11:00 AM - PROPOSED



6 Elevation
11:15 AM - PROPOSED



7 Elevation
11:30 AM - PROPOSED



8 Elevation
11:45 AM - PROPOSED

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DEVELOPMENT APPLICATION

STATUS
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P.A-013

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PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 200 @A3

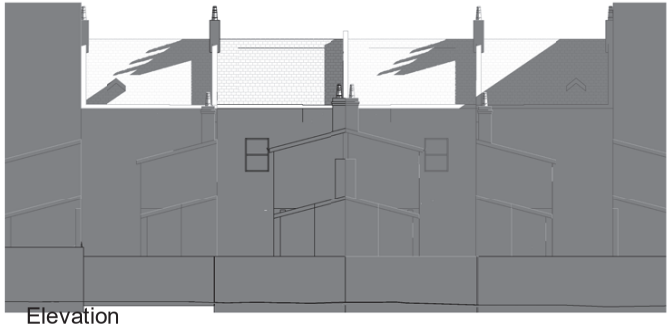
SCALE BAR
0m 2 4

DRAWING SERIES
DA 1 Site Information

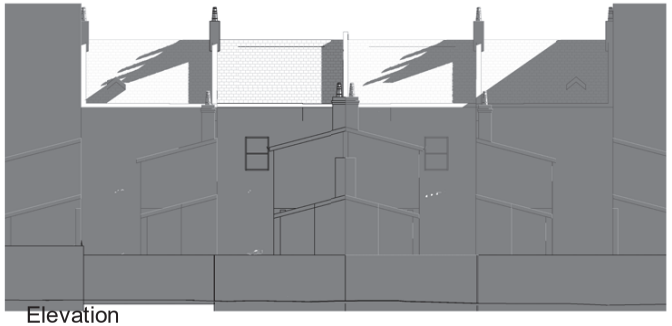
DRAWING TITLE
Elevation Shadow Diagrams

DRAWING NO.
DA.1.12

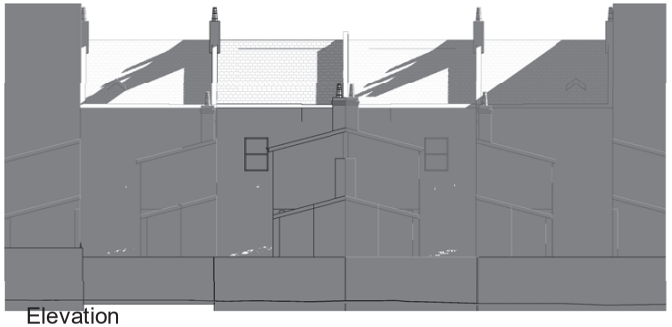
REVISION
A



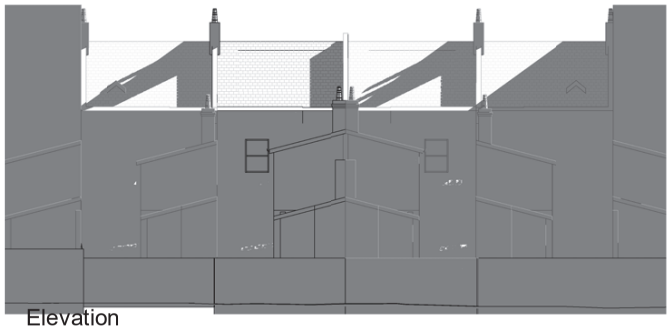
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112:00 PM - EXISTING



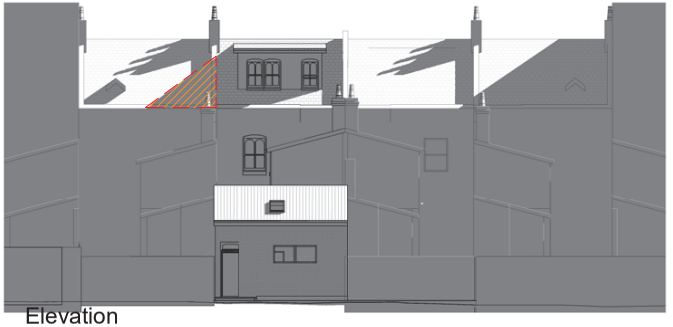
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12:15 PM - EXISTING



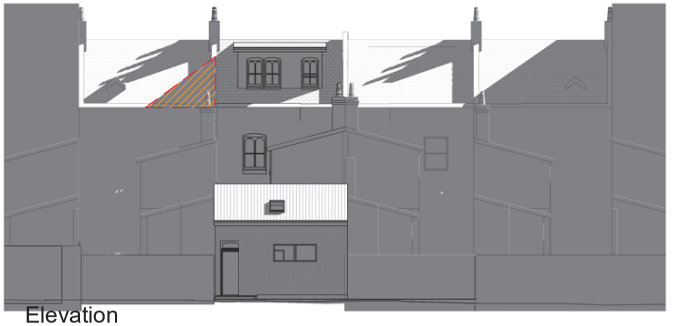
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12:30 PM - EXISTING



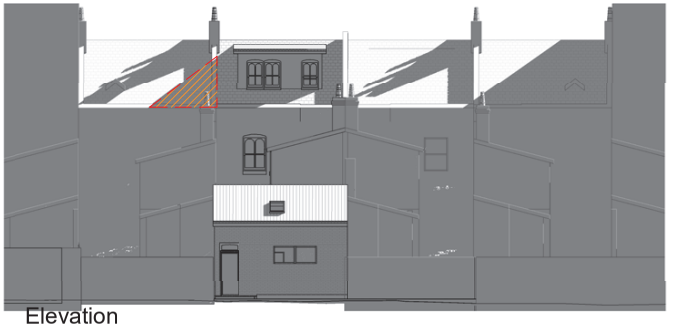
4 Elevation
12:45 PM - PROPOSED



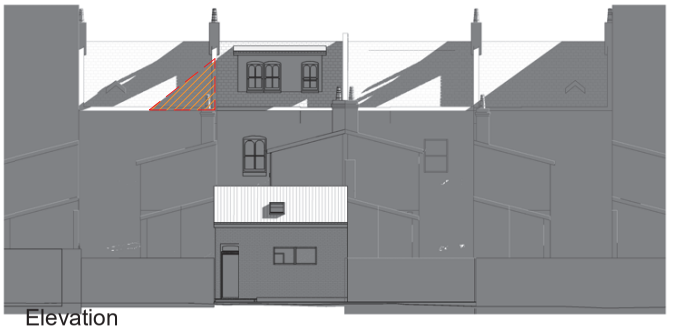
5 Elevation
12:15 PM - PROPOSED



6 Elevation
12:15 PM - PROPOSED



7 Elevation
12:30 PM - PROPOSED



8 Elevation
12:45 PM - PROPOSED

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A	DA Submission			15.04.2019

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DEVELOPMENT APPLICATION

STATUS
PRELIMINARY

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P.A-013

PROJECT
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PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 200 @A3

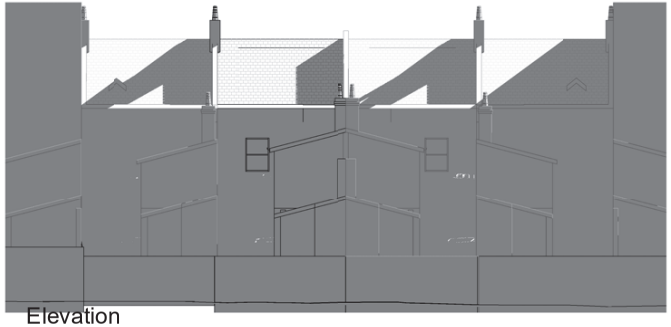
SCALE BAR
0m 2 4

DRAWING SERIES
DA 1 Site Information

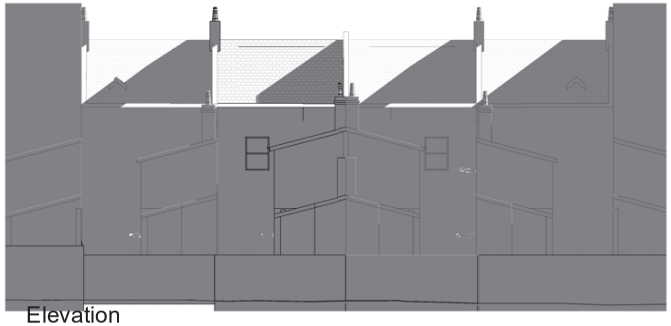
DRAWING TITLE
Elevation Shadow Diagrams

DRAWING NO.
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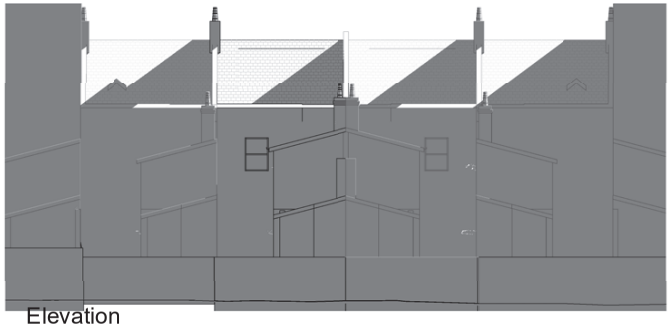
REVISION
A



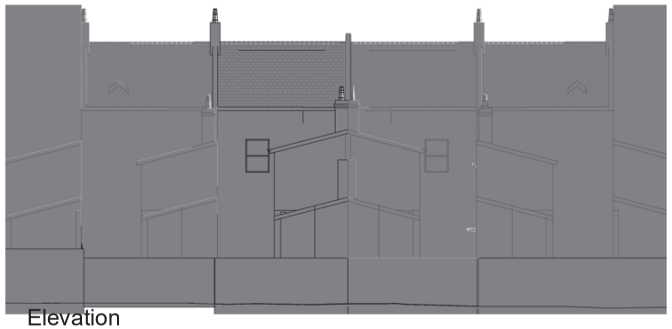
1 Elevation
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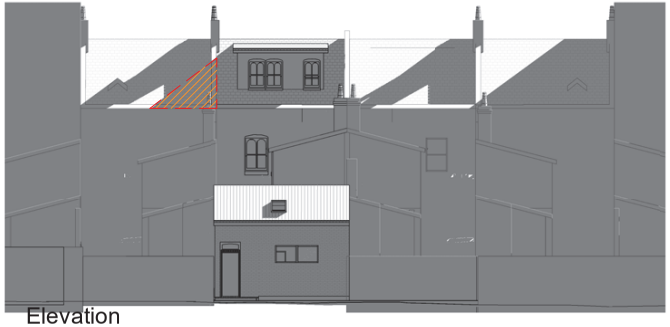
2 Elevation
01:15 PM - EXISTING



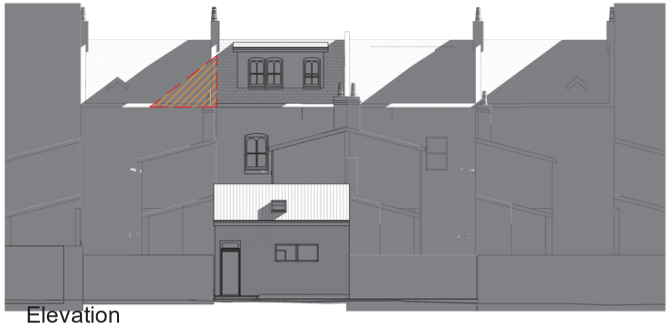
3 Elevation
01:30 PM - EXISTING



4 Elevation
01:45 PM - EXISTING



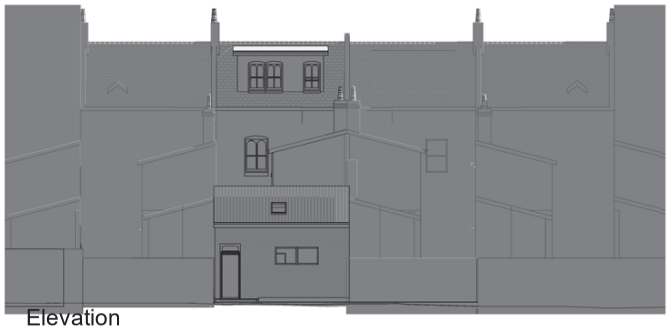
5 Elevation
01:00 PM - PROPOSED



6 Elevation
01:15 PM - PROPOSED



7 Elevation
01:30 PM - PROPOSED



8 Elevation
01:45 PM - PROPOSED

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DEVELOPMENT APPLICATION

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PROJECT
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PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 200 @A3

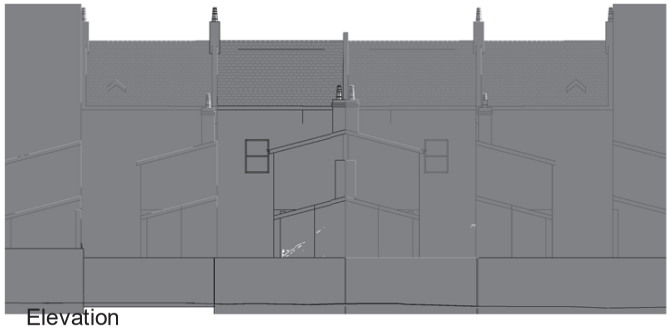
SCALE BAR
0m 2 4

DRAWING SERIES
DA 1 Site Information

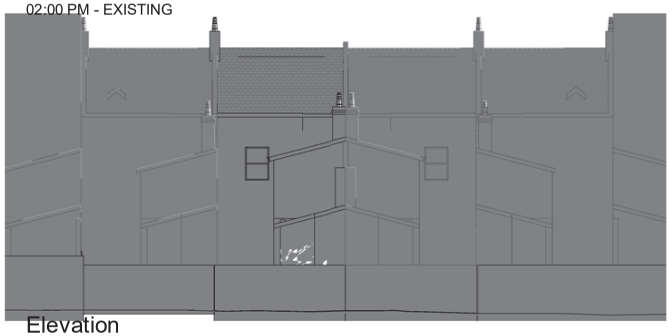
DRAWING TITLE
Elevation Shadow Diagrams

DRAWING NO.
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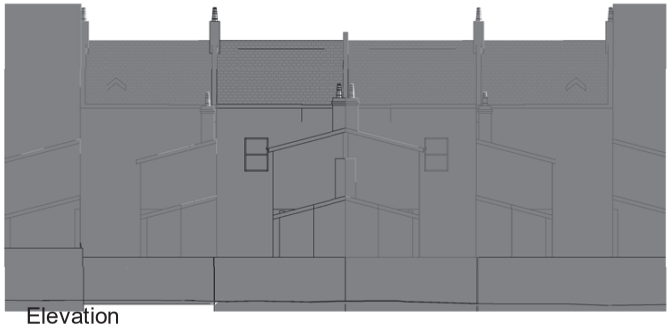
REVISION
A



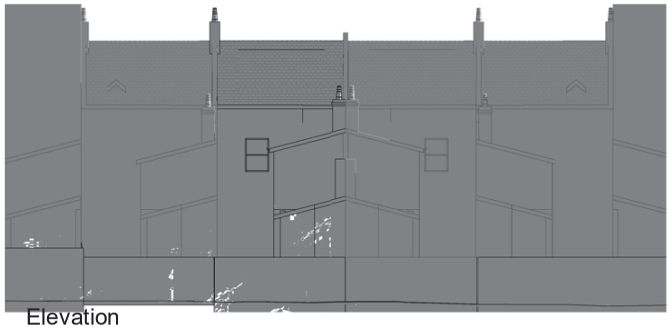
1 Elevation
02:00 PM - EXISTING



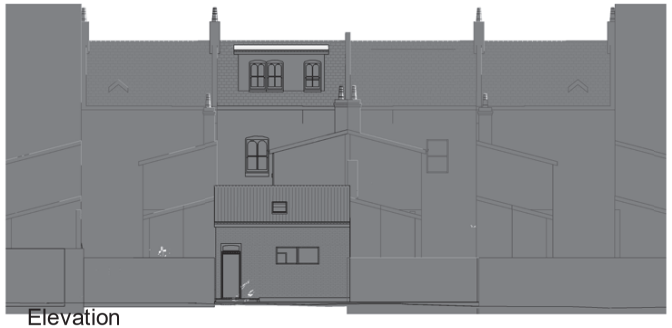
2 Elevation
02:15 PM - EXISTING



3 Elevation
02:30 PM - EXISTING



4 Elevation
02:45 PM - EXISTING



5 Elevation
02:00 PM - PROPOSED



6 Elevation
02:15 PM - PROPOSED



7 Elevation
02:30 PM - PROPOSED



8 Elevation
02:45 PM - PROPOSED

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82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
@A3

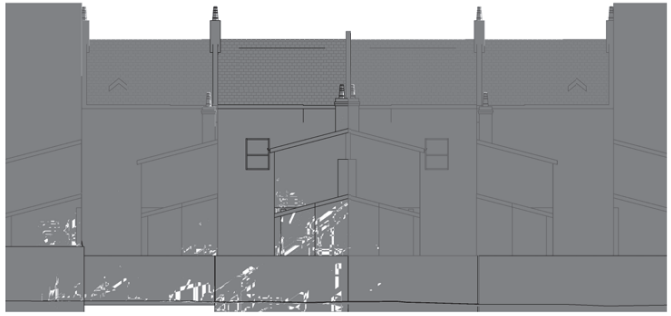
SCALE BAR
0m 2 4

DRAWING SERIES
DA 1 Site Information

DRAWING TITLE
Elevation Shadow Diagrams

DRAWING NO.
DA.1.15

REVISION
A



1 Elevation
Maze Lane_15 00_E_84



2 Elevation
Maze Lane_15 00_84

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82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
@A3

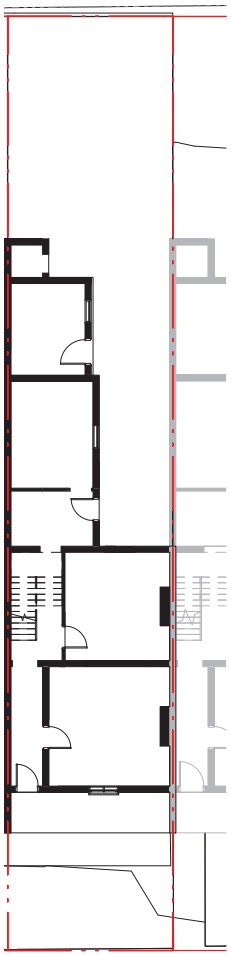
SCALE BAR
0m 2 4

DRAWING SERIES
DA 1 Site Information

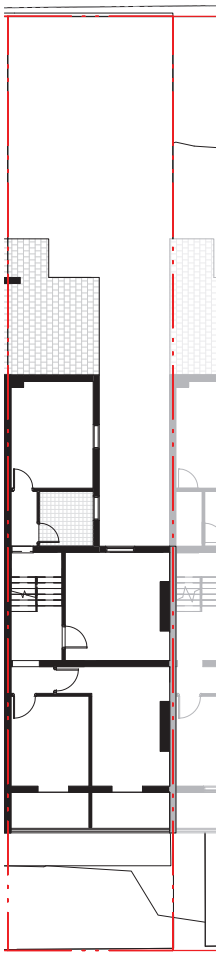
DRAWING TITLE
Elevation Shadow Diagrams

DRAWING NO.
DA.1.16

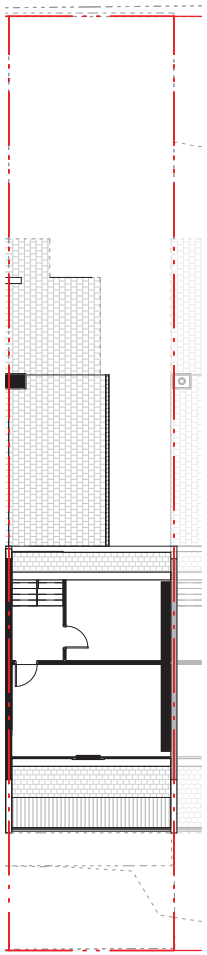
REVISION
A



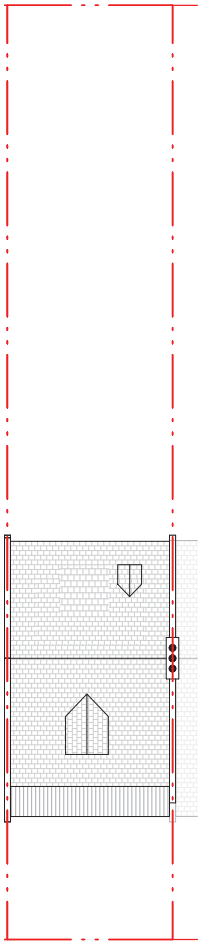
1 Plan
Existing Ground Floor 1 : 200



2 Plan
Existing First Floor 1 : 200



3 Plan
Existing Second Floor 1 : 200



4 Plan
Existing Roof Plan 1 : 200

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REV	DESCRIPTION	CHK	APR	DATE
A	FOR INFO			17.02.2018
B	FOR INFO			26.02.2018
C	FOR INFO			28.02.2018
D	FOR INFO			08.03.2018
E	FOR ISSUE			24.04.2018
F	DA Submission			30.08.2018
G	DA Submission			15.04.2019

PROJECT PHASE
DEVELOPMENT APPLICATION

STATUS
PRELIMINARY

PROJECT NO.
P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 200 @A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 2 Plan

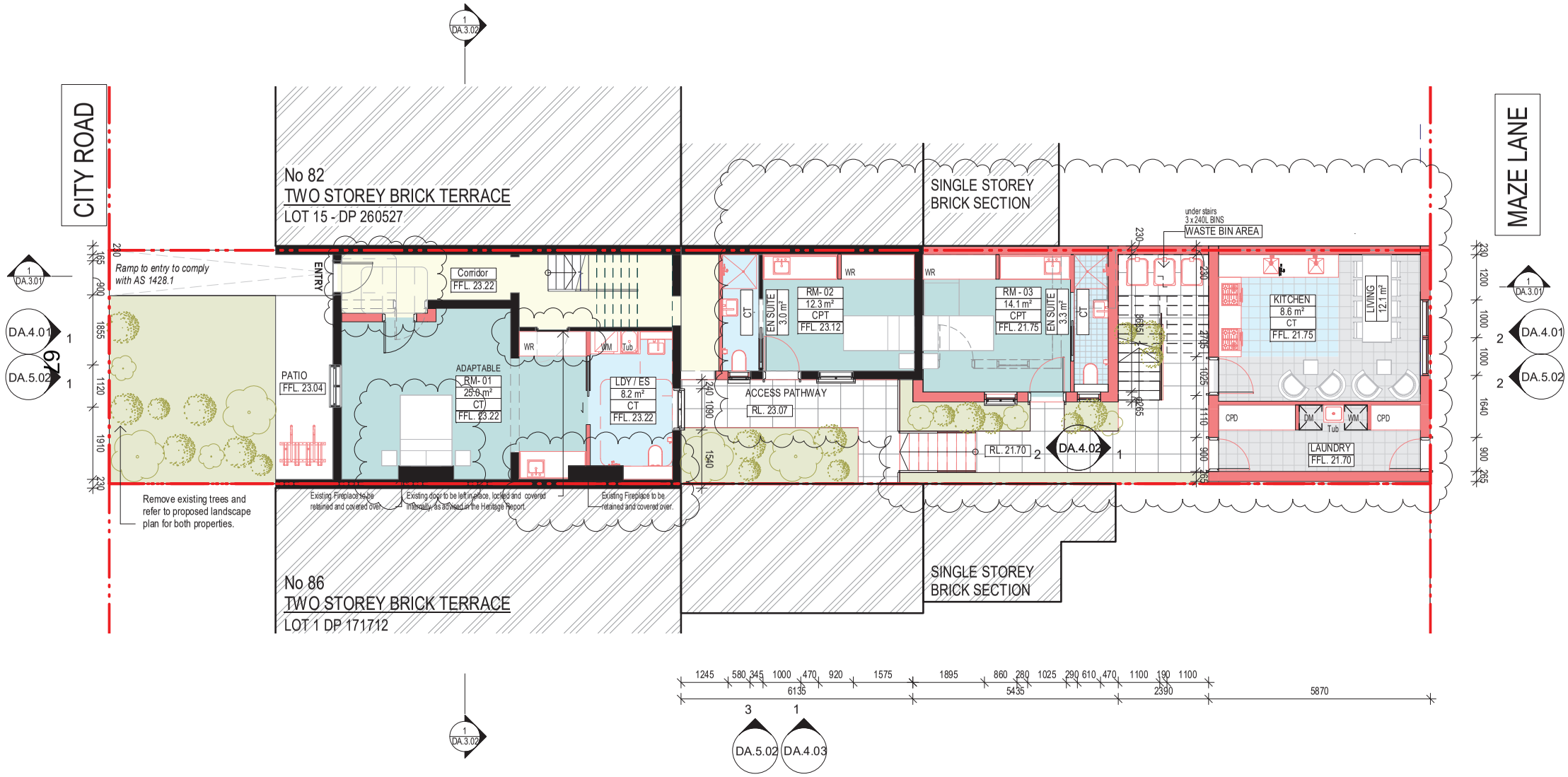
DRAWING TITLE
Existing Plans

DRAWING NO.
DA.2.00

REVISION
G

NOTE :
• This drawing shall be read in conjunction with the survey drawing. Position of walls relative to boundaries are only approximate. Correct wall positions for the proposed additions shall be established by survey.

• All existing balustrades to be replaced to meet BCA requirement for height.



Legend:

CPT	Carpet
CT	Ceramic Tile

Legend:

- EXISTING
- PROPOSED
- DEMOLISHED

CUBITOR

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PROJECT PHASE
DEVELOPMENT APPLICATION

STATUS
PRELIMINARY

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P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 100 @A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 2 Plan

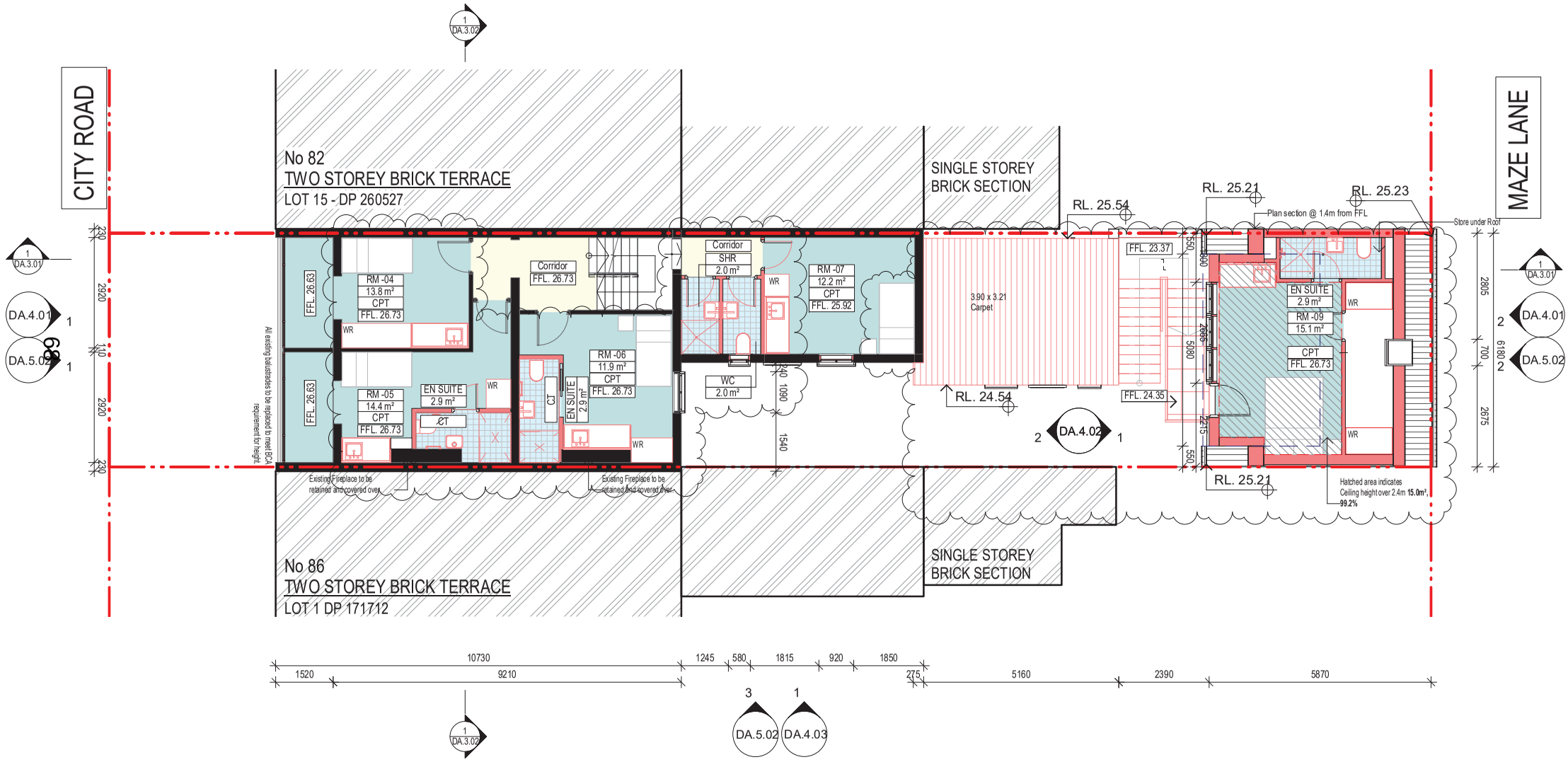
DRAWING TITLE
Proposed Ground Floor Plan

DRAWING NO.
DA.2.01

REVISION
G

NOTE :
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Legend:

CPT	Carpet
CT	Ceramic Tile

Legend:

- EXISTING
- PROPOSED
- DEMOLISHED

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82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 100 @A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 2 Plan

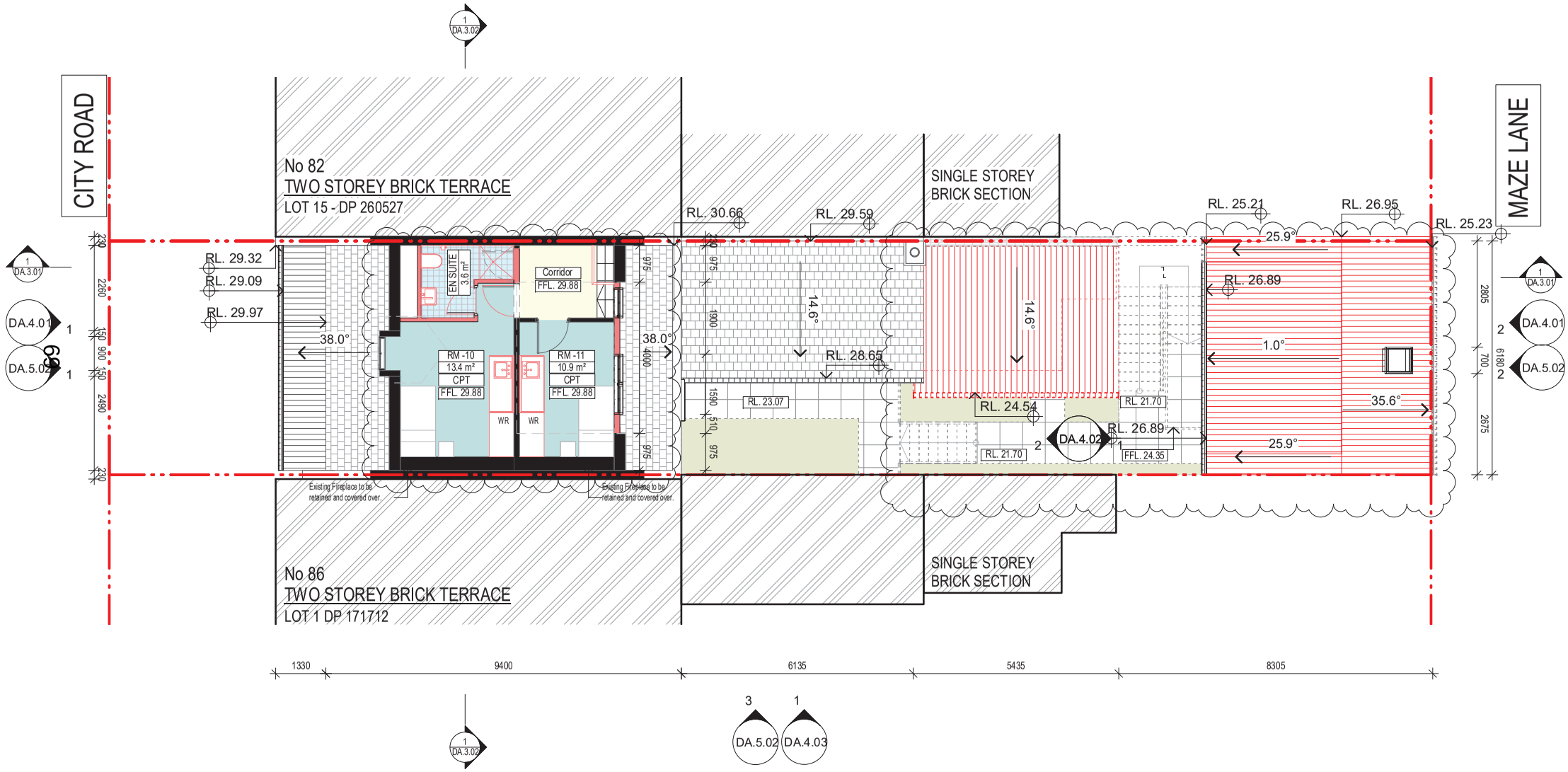
DRAWING TITLE
Proposed First Floor Plan

DRAWING NO.
DA.2.02

REVISION
G

NOTE :
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DEVELOPMENT APPLICATION

STATUS
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P.A-013

PROJECT
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PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 100 @A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 2 Plan

DRAWING TITLE
Proposed Second Floor Plan

DRAWING NO.
DA.2.03

REVISION
G

Legend:

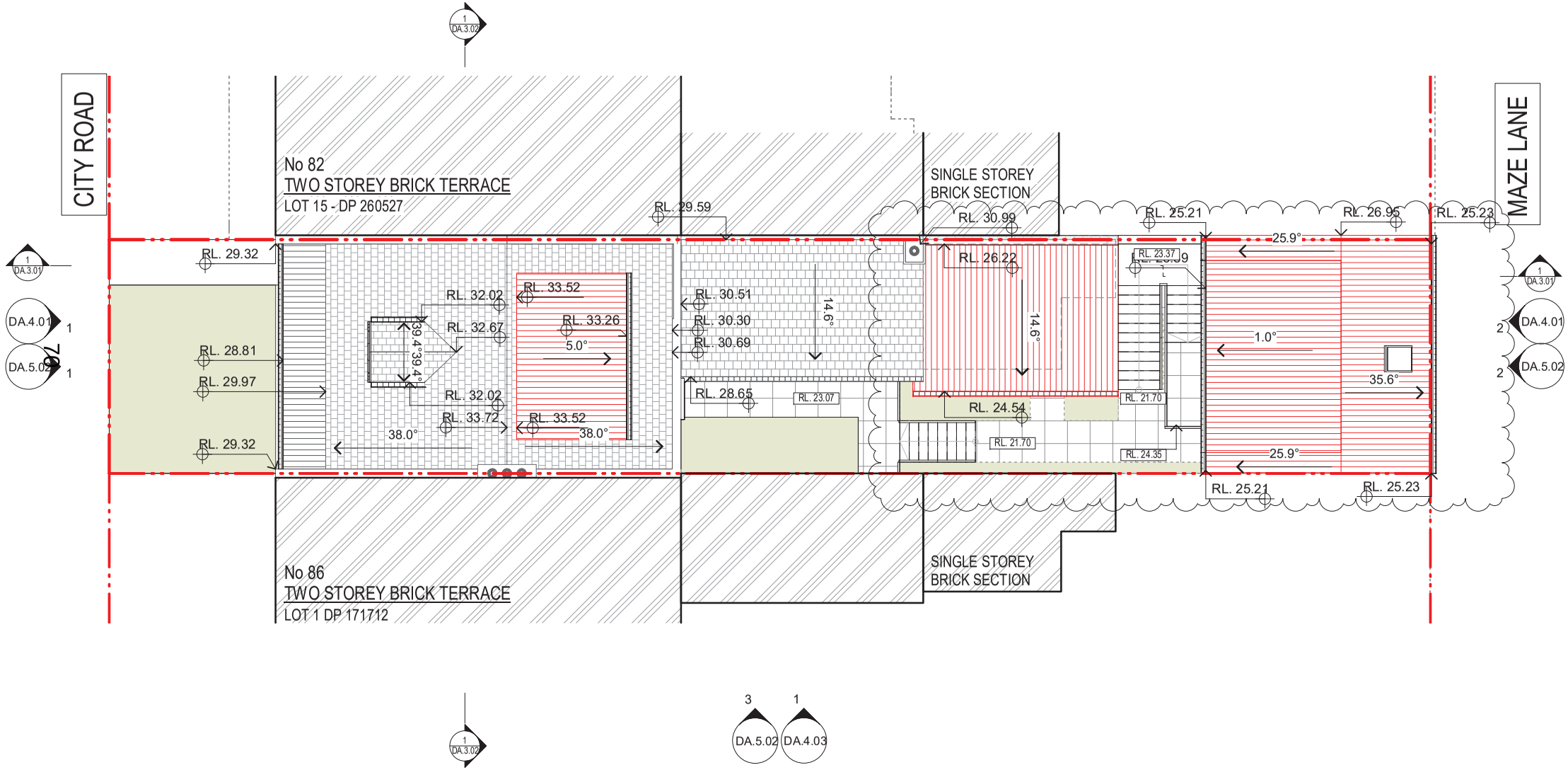
CPT Carpet
CT Ceramic Tile

Legend:

- EXISTING
- PROPOSED
- DEMOLISHED

NOTE :
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• All existing balustrades to be replaced to meet BCA requirement for height.



Legend:

CPT	Carpet
CT	Ceramic Tile

Legend:

- EXISTING
- PROPOSED
- DEMOLISHED

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P.A-013

PROJECT
PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 100 @A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 2 Plan

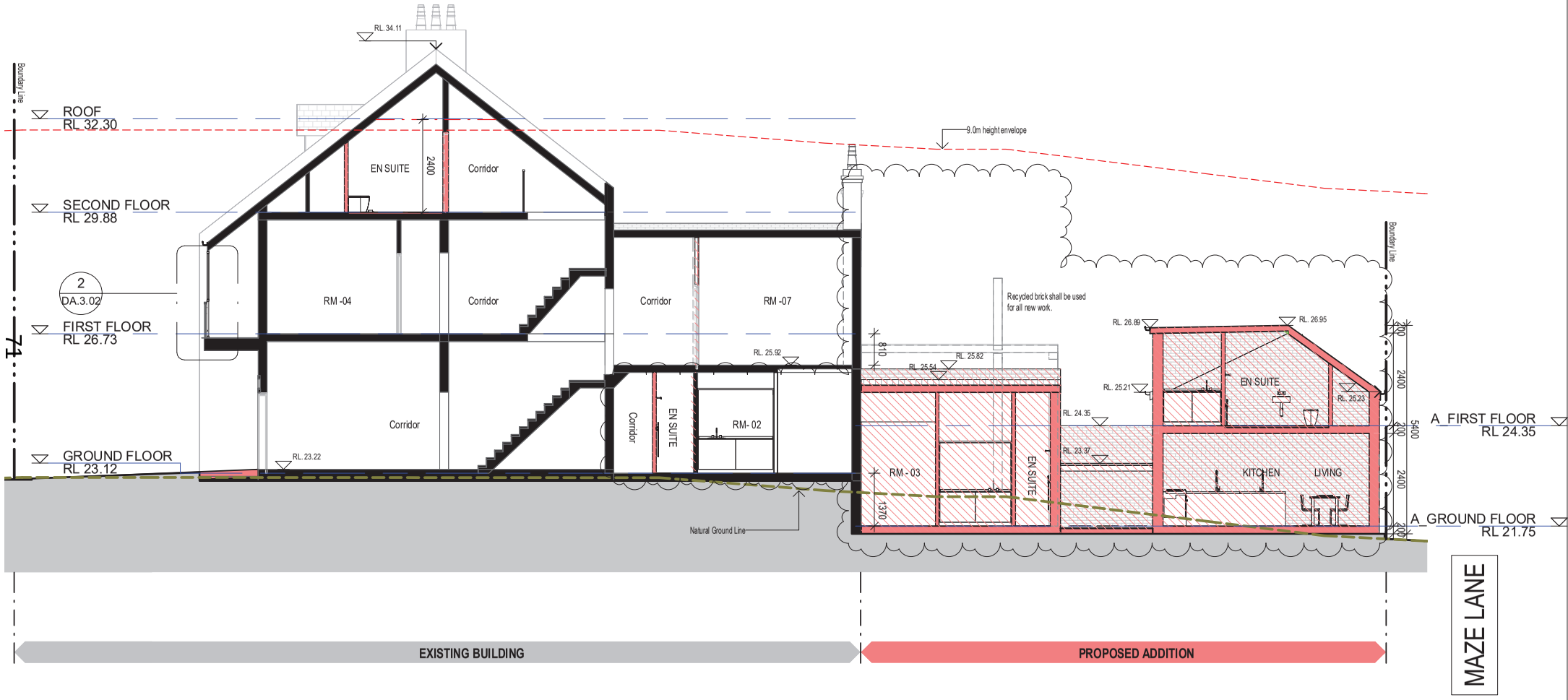
DRAWING TITLE
Proposed Roof Plan

DRAWING NO.
DA.2.04

REVISION
G

• Proposed changes to building elements shall be in compliance with Cl.8 of the City of Sydney Heritage DCP 2006

• All existing balustrades to be replaced to meet BCA requirement for height.



1 Section

Long Section 1 1 : 100

Legend:

CPT Carpet
CT Ceramic Tile

Legend:

- EXISTING
- PROPOSED
- DEMOLISHED

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PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 100 @A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 3 Section

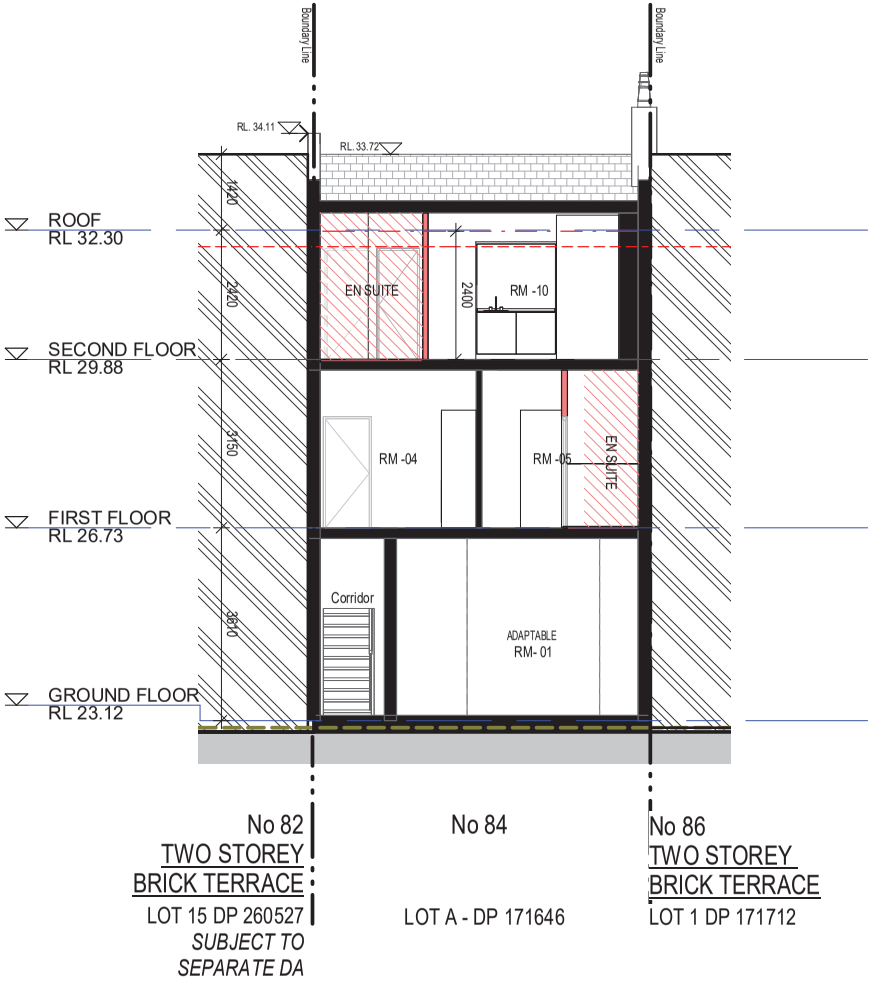
DRAWING TITLE
Sections - Long

DRAWING NO.
DA.3.01

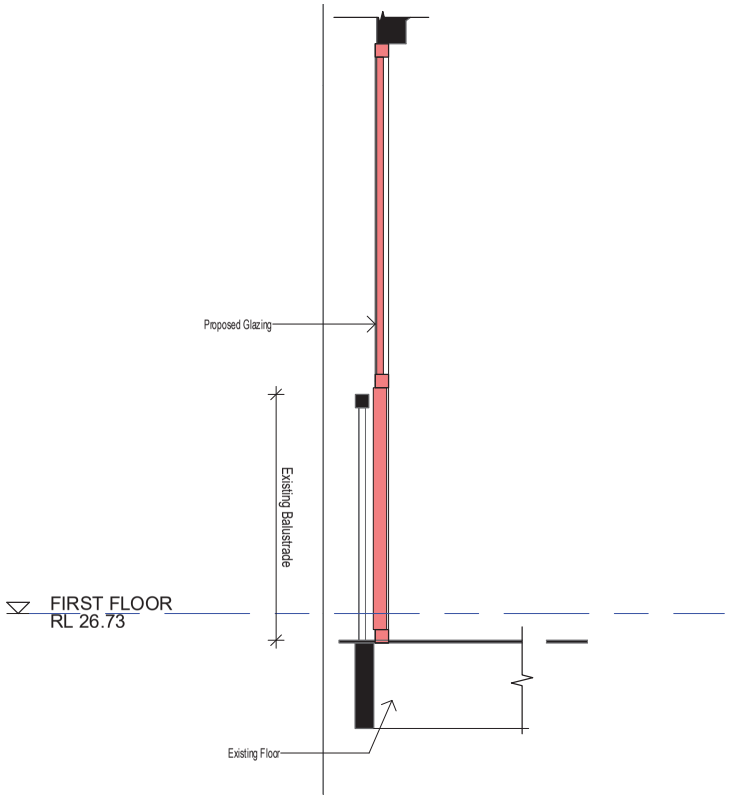
REVISION
G

• Proposed changes to building elements shall be in compliance with Cl.8 of the City of Sydney Heritage DCP 2006

• All existing balustrades to be replaced to meet BCA requirement for height.



1 Section
Short Section 1 : 100



2 Section
Balustrade Detail 1 : 20

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PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BOARDING HOUSE

PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
As indicated @A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 3 Section

DRAWING TITLE
Sections - Short

DRAWING NO.
DA.3.02

REVISION
G

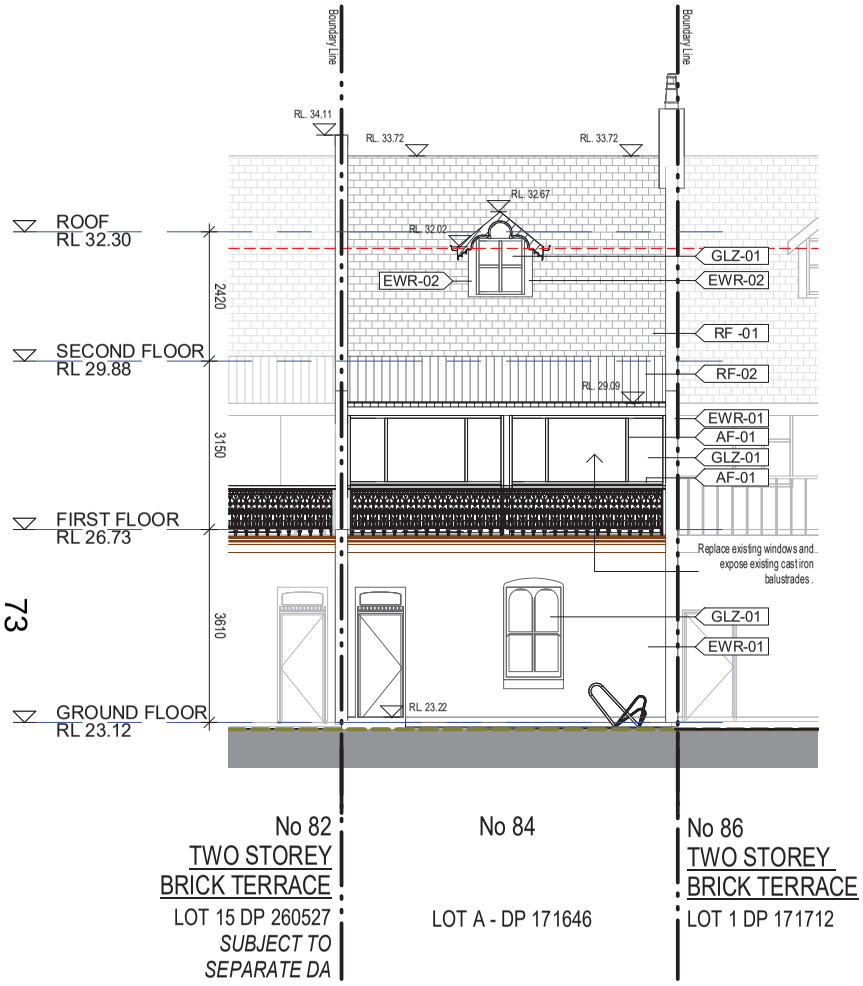
Legend:

CPT Carpet
CT Ceramic Tile

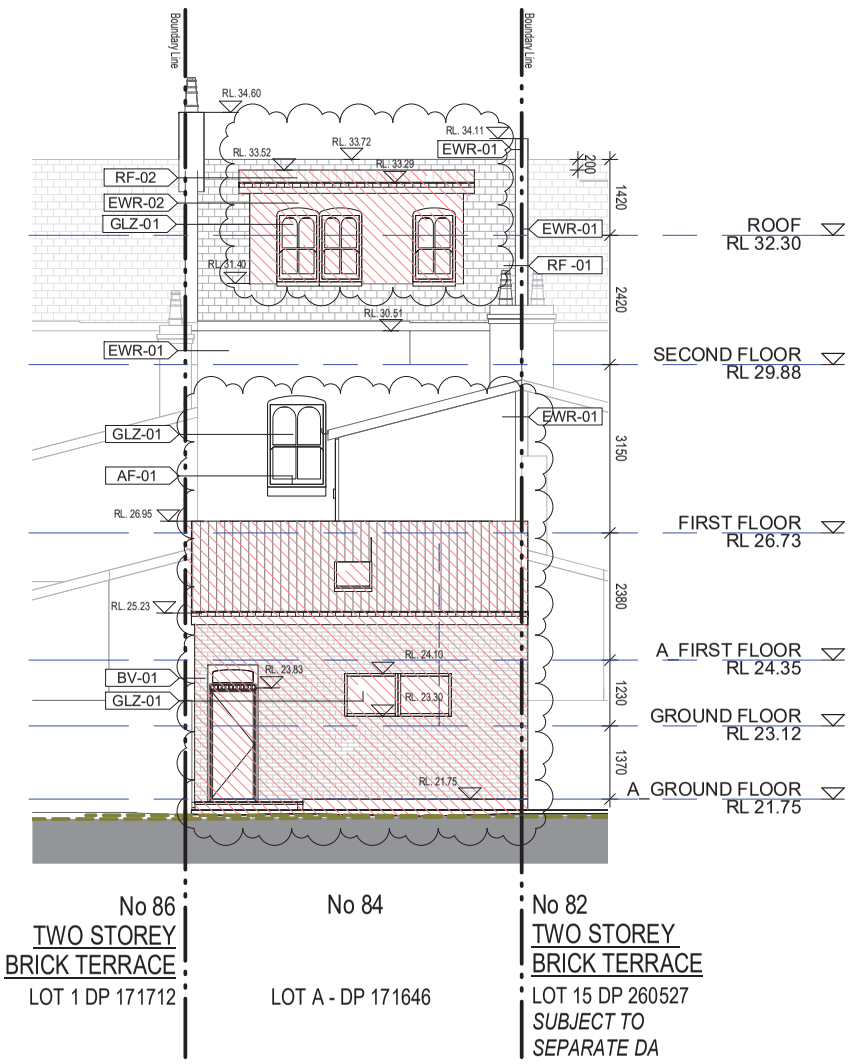
Legend:

- EXISTING
- PROPOSED
- DEMOLISHED

- Proposed changes to building elements shall be in compliance with Cl.8 of the City of Sydney Heritage DCP 2006
- All existing balustrades to be replaced to meet BCA requirement for height.



1 Elevation
West Elevation 1 : 100



2 Elevation
East Elevation 1 : 100

Material Legend:

EWR-01	- White Painted Render - For existing 230mm walls
EWR-02	- Grey Painted Render - For existing 110mm walls
BR-01	- Brick Veneer - for new exterior walls
FM-01	- Aluminium - for existing and proposed window framing
GLZ-01	- Glazing - for existing and proposed windows
RF-01	- Slate - Existing roof
RF-02	- Colorbond, Grey - for proposed roof

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PROJECT
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PROJECT LOCATION
82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 100 @A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 4 Elevation

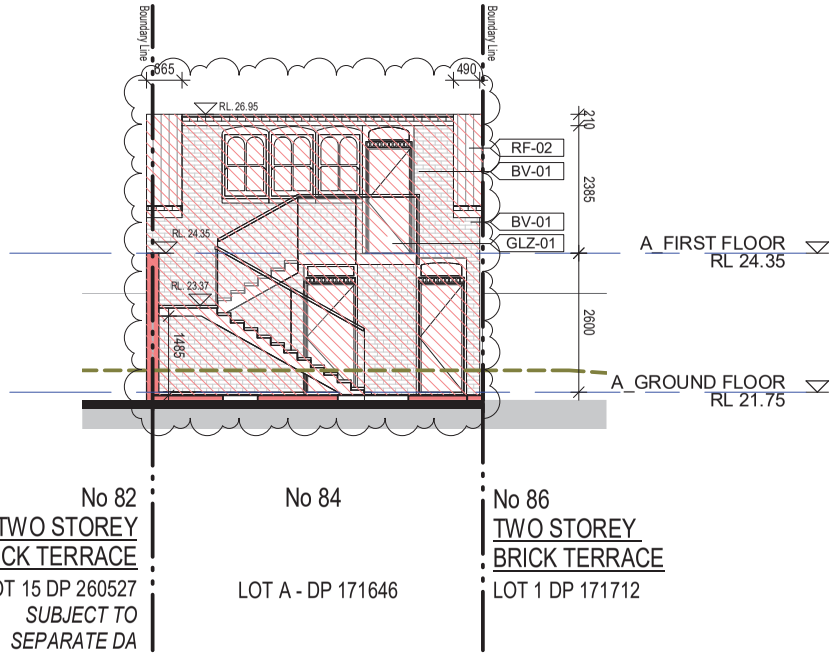
DRAWING TITLE
Street / Maze Elevations

DRAWING NO.
DA.4.01

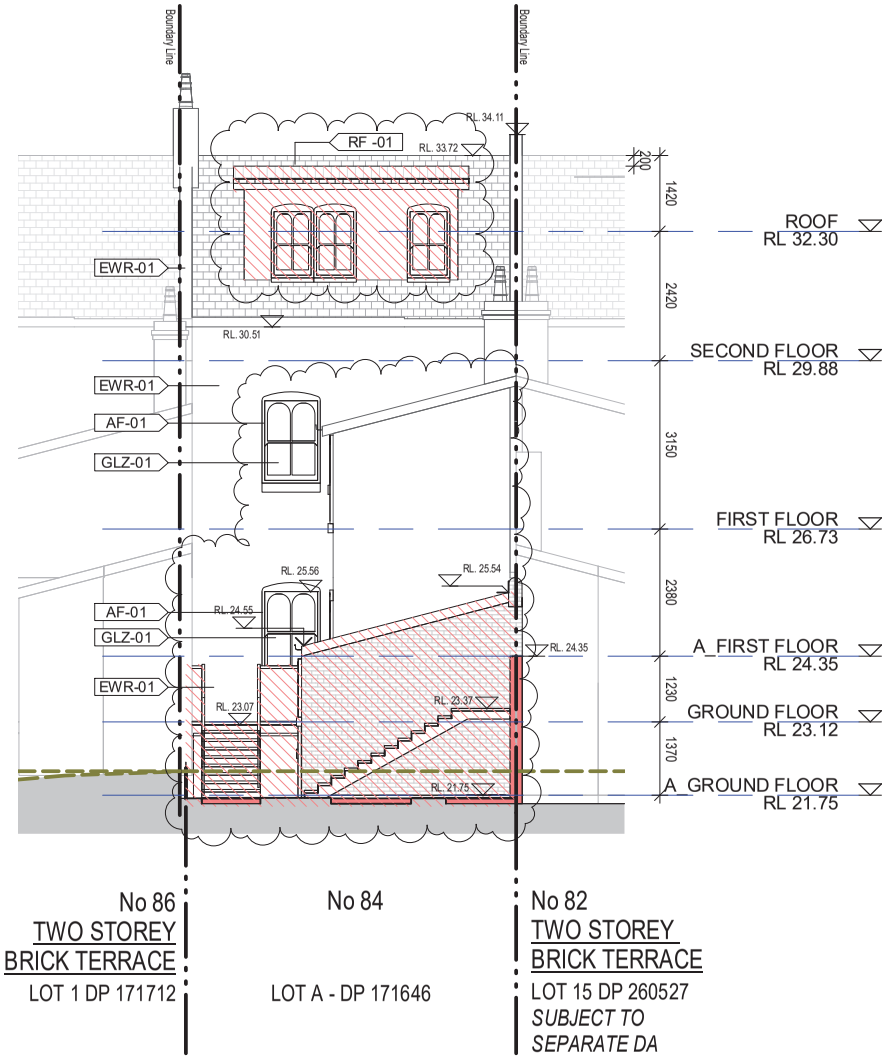
REVISION
G

• Proposed changes to building elements shall be in compliance with Cl.8 of the City of Sydney Heritage DCP 2006

• All existing balustrades to be replaced to meet BCA requirement for height.



1 Elevation
West - Internal Elevation 1 : 100



2 Elevation
East - Internal Elevation 1 : 100

Material Legend:

EWR-01	- White Painted Render - For existing 230mm walls
EWR-02	- Grey Painted Render - For existing 110mm walls
BR-01	- Brick Veneer - for new exterior walls
FM-01	- Aluminium - for existing and proposed window framing
GLZ-01	- Glazing - for existing and proposed windows
RF-01	- Slate - Existing roof
RF-02	- Colorbond, Grey - for proposed roof

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82 CITY ROAD - CHIPPENDALE, NSW

CLIENT
MERBELL PTY LTD

SCALE
1 : 100 @A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 4 Elevation

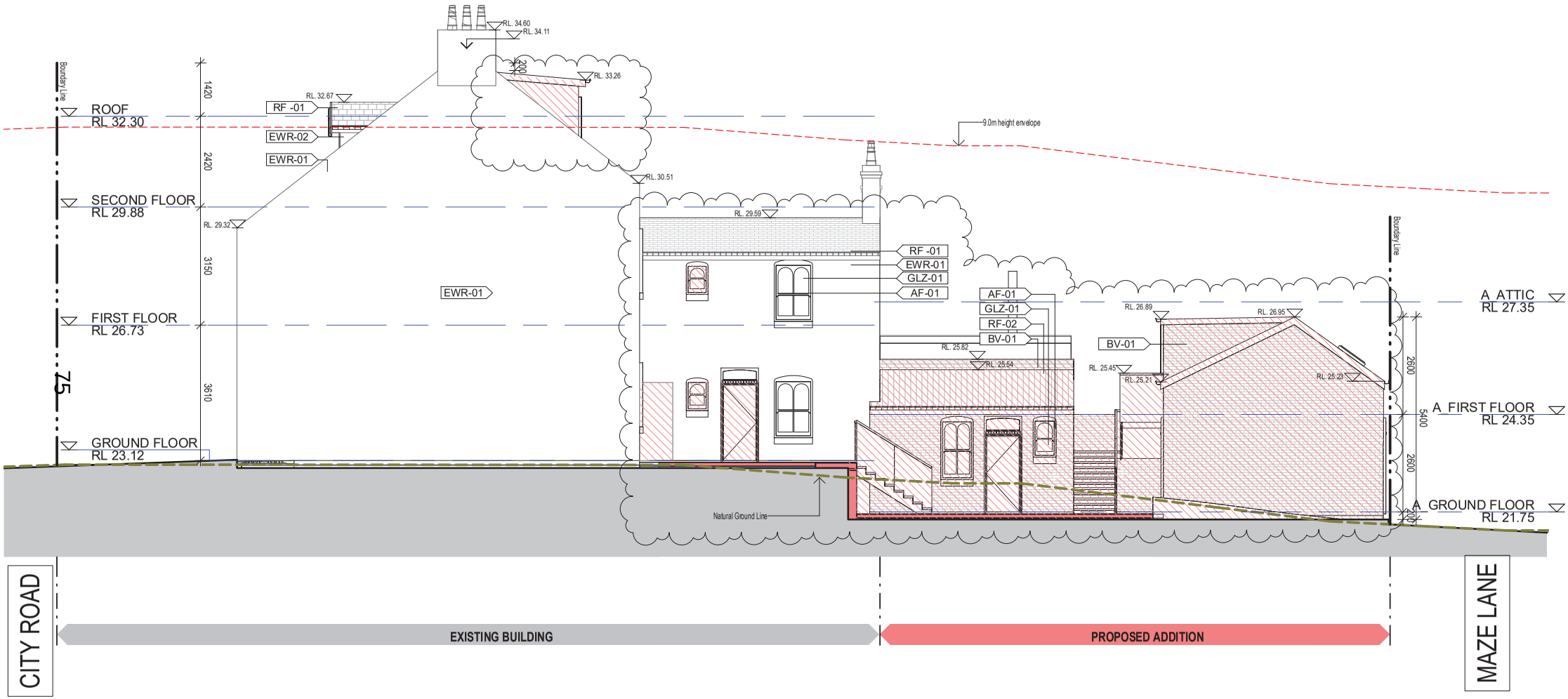
DRAWING TITLE
Internal Elevations

DRAWING NO.
DA.4.02

REVISION
G

• Proposed changes to building elements shall be in compliance with Cl.8 of the City of Sydney Heritage DCP 2006

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1 Elevation

South Elevation 1 : 100

Material Legend:

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EWR-02	- Grey Painted Render - For existing 110mm walls
BR-01	- Brick Veneer - for new exterior walls
FM-01	- Aluminium - for existing and proposed window framing
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RF-01	- Slate - Existing roof
RF-02	- Colorbond, Grey - for proposed roof

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MERBELL PTY LTD

SCALE
1 : 100 @A3

SCALE BAR
0m 2 4

DRAWING SERIES
DA 4 Elevation

DRAWING TITLE
Side Elevations

DRAWING NO.
DA.4.03

REVISION
G

Schedule of Finishes – External

Subject Site: 82-84 City Road, Chippendale

Building detail	Material	Colour
Streetscape – City Rd		
Windows along front	Timber – existing	Dulux – Vivid white
Boundary fence finish	Metal – existing	Wattyl – Night sky
Front Door (main)	Timber	Wattyl – Night sky
Roof	Corrugated aluminium	Shale Grey
Guttering and fascia	Aluminium	Wattyl – Night sky
Downpipes	Aluminium	Wattyl – Night sky
Balustrades and lacework	Existing and Aluminium	Wattyl – Night sky
Walls	Rendered – painted	Dulux – Lime White
Main building		
Walls - rear within property	Rendered – painted	Dulux – Lime White
Windows	Powder coated aluminium	Wattyl – Night sky (matched)
Rear dormer	Timber – painted	Dulux – Lime White
Windows frames	powder coated aluminium	Wattyl – Night sky

Laneway development			
Roof	Hiland tray or similar	Armour Grey	
Rear Door	Timber	Wattyl – Night sky	
External walls	recycled bricks	N/a	
Windows frames	powder coated aluminium	Wattyl – Night sky	
Downpipes	Aluminium	Wattyl – Night sky	
Guttering and fascia	Aluminium	Wattyl – Night sky	

Dated: February 2018 – prepared for DA submission



Handrail for balcony balustrade

Attachment C

Clause 4.6 – Height of Buildings

LK PLANNING

Clause 4.6 Variation
Height of Buildings

84 City Road Chippendale

DEVELOPMENT STANDARD ATTRIBUTES	
Environmental Planning Instrument	Sydney Local Environmental Plan 2012[1]
Zoning	R1 – General Residential
Standard to be varied	Height of Buildings - Clause 4.3
Development Standard	Maximum height 9m
Proposal	Maximum height 10.4m
Variation	1.4m or 15.6%

OBJECTIVES	
Zone Objectives	• To provide for the housing needs of the community. • To provide for a variety of housing types and densities. • To enable other land uses that provide facilities or services to meet the day to day needs of residents. • To maintain the existing land use pattern of predominantly residential uses.
Development Standard Objectives **(Height of Buildings)**	(a) to ensure the height of development is appropriate to the condition of the site and its context, (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas, (c) to promote the sharing of views, (d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas, (e) in respect of Green Square: (i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and (ii) to ensure the built form contributes to the physical definition of the street network and public spaces.

[1] NSW Government Legislation website – legislation.nsw.gov.au
Current version for 8 March 2019 to date (accessed 10 May 2019)

Clause 4.6(3)
(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating: *(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and* *(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Cl.4.6(3)(a) - Unreasonable or unnecessary

The position that compliance with the development standard is unreasonable or unnecessary may be demonstrated in one or more of the ways offered by *Wehbe V Pittwater Council (2007) NSWLEC 827 Preston CJ.* In this particular case, consistent with that decision, it can be demonstrated that the objectives of the development standard are achieved notwithstanding non-compliance with the standard, as below (emphasis added):

> *"43 The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)."*
> *Wehbe V Pittwater Council (2007) NSWLEC 827 Preston CJ*

The achievement of the specific objectives is outlined below:

Objective (a) - to ensure the height of development is appropriate to the condition of the site and its context

The height breach in this case is caused by a replacement dormer window at the rear of a terrace building that forms part of a contributory group of buildings. A dormer window is anticipated on terraces with high vaulted ceilings and/or attics and in this case has been designed to meet the criteria in the Council's DCP, having a set down from the principal ridge of the roof of 200mm and set in from the edges of the building by 975mm so that it extends 4 metres across the roof plane.

The dormer responds to the condition of the site to allow for an improvement to the amenity of the attic level rooms and stairwell by introducing additional light, ventilation and internal ceiling heights to the existing boarding rooms in the attic. The dormer responds to the surrounding context of contributory buildings by its complementary design to other dormer extensions in the conservation area. The extension remains below the maximum height of the existing building, noting the ridge is 200mm above

the dormer and the parapet walls on either side are another 390mm above the ridge. As such, the proposal does not alter the actual maximum height of the building.

In this regard, the proposed dormer achieves this objective of the zone.

Objective (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas

The Heritage Impact Statement accompanying the application concludes that:

The proposal will have a limited and acceptable impact on the significance of the place, the surrounding conservation area and the heritage items in the vicinity and largely complies with the relevant heritage controls in the SDCP.

There are also no view impacts or adverse shadow impacts caused by the proposed dormer.

The existing built form transitions down from the front of the site to the rear laneway. The proposed dormer retains this transition despite the height breach and is read as a subservient feature in the roofscape.

In this regard, the proposed dormer achieves this objective of the zone.

Objective (c) to promote the sharing of views

There are no views across the site and the dormer is located entirely within the foreground of the existing pitched roof.

In this regard, the proposed dormer achieves this objective of the zone.

Objective (d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas

The maximum height of the building remains unchanged by the proposal and the minor additional volume it occupies does not affect the general transition of building height from Central Sydney to the adjoining area.

In this regard, the proposed dormer achieves this objective of the zone.

Objective (e) in respect of Green Square:
(i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and
(ii) to ensure the built form contributes to the physical definition of the street network and public spaces.

Not applicable.

Cl.4.6(3)(b) - Sufficient environmental planning grounds

The feature of the proposal that breaches the height development standard is limited to the dormer window addition. These traditional extensions to terrace buildings are typically, as is evident in this case, without material impact upon the surrounding properties in terms of solar access, overlooking, views or bulk/scale generally.

Despite the lack of impact on their surroundings, the dormers significantly increase the amenity afforded to the building through increased ceiling heights, solar access and ventilation. The bulk of the structure is consistent with the desired character of the area, noting its form aligns with the DCP controls that require it to be set behind and below the main roof form and in from the edges.

Clause 4.6(4)
(4) Development consent must not be granted for development that contravenes a development standard unless: (a) the consent authority is satisfied that: (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and (b) the concurrence of the Secretary has been obtained.

Cl.4.6(4)(a)(i) - Adequately addressing subclause 3

The Council can be satisfied that the reasons expressed above in this request adequately address the matters required by subclause 3.

Cl.4.6(4)(a)(ii) - The public interest

The proposal is in the public interest as it has been demonstrated that it is consistent with the objectives of the standard for the reasons previously expressed.

Zone objectives
In relation to the objectives of the zone, the proposal:

- "provides for the housing needs of the community" in that it retains and improves an existing boarding house and therefore meets the housing need of affordable rental accommodation in areas of high amenity;
- "provides for a variety of housing types and densities" by including a range of room sizes within the boarding house, in a setting amongst other boarding houses, share houses, single dwellings and apartments;
- whilst it does not provide for "other land uses that provide facilities or services to meet the day to day needs of residents", it is focussed on housing choice and therefore does not contravene this objective; and
- "maintains the existing land use pattern of predominantly residential uses" by retaining the boarding house use that has existed on the site for over 100 years.

Varying the height control in this instance has no negative public interest implications, does not undermine the integrity of the Council controls and does not set an undesirable precedent.

Cl.4.6(4)(b) - Concurrence of the Secretary

The Council may assume the required Director-General's concurrence provided that it has considered all of the relevant matters under Clause 4.6 as expressed above.

Conclusion

This statement demonstrates that in this particular case a variation pursuant to clause 4.6 of the LEP is justified as there are sufficient environmental planning grounds to exceed the standard and that strict compliance would be unreasonable and unnecessary. As such, the consent authority can be satisfied that the above justification adequately addresses clause 4.6(3) of the LEP, as required by clause 4.6(4)(a)(i).

The proposal will be in the public interest because it is consistent with the objectives of the Height of Buildings standard and the objectives of the R1 zone and provides a reasonable environmental planning outcome for the site, satisfying clause 4.6(4)(a)(ii).

There are no matters of State or regional planning significance as a result of the non-compliance, satisfying clause 4.6(5)(a). There is also no public benefit in maintaining the development standard in this particular case given the proposal meets the zone and development standard objectives and has no unreasonable impact on the amenity of the locality generally or the adjoining properties, satisfying clause 4.6(5)(b).

The variation therefore is acceptable having regards to the considerations under clause 4.6 of the LEP.

Attachment D

Clause 4.6 – Motorcycle Parking

LK PLANNING

Clause 4.6 Variation
Motorcycle Parking

84 City Road Chippendale

DEVELOPMENT STANDARD ATTRIBUTES	
Environmental Planning Instrument	State Environmental Planning Policy (Affordable Rental Housing) 2009[1]
Zoning	R1 – General Residential
Standard to be varied	Motorcycle Parking - Clause 30(1)(h)
Development Standard	"At least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms"
Proposal	4 bicycle spaces (exceeds the minimum of 2) and; Nil motorcycle spaces (does not comply)
Variation	100%

OBJECTIVES	
Zone Objectives	• To provide for the housing needs of the community. • To provide for a variety of housing types and densities. • To enable other land uses that provide facilities or services to meet the day to day needs of residents. • To maintain the existing land use pattern of predominantly residential uses.
Development Standard Objectives **(Motorcycle Parking)**	There are no objectives to the development standard. More broadly, the stated 'Aims' of the SEPP (ARH) 2009 are: (a) to provide a consistent planning regime for the provision of affordable rental housing, (b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards, (c) to facilitate the retention and mitigate the loss of existing affordable rental housing, (d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,

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Development Standard Objectives cont…	(e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing, (f) to support local business centres by providing affordable rental housing for workers close to places of work, (g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.

[1] NSW Government Legislation website – legislation.nsw.gov.au
Current version for 28 February 2019 to date (accessed 11 May 2019)

Clause 4.6(3)
(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating: *(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and* *(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Cl.4.6(3)(a) - Unreasonable or unnecessary

The position that compliance with the development standard is unreasonable or unnecessary may be demonstrated in one or more of the ways offered by *Wehbe V Pittwater Council (2007) NSWLEC 827 Preston CJ.* In this particular case, consistent with that decision, it can be demonstrated that the objectives of the development standard are achieved notwithstanding non-compliance with the standard, as below (emphasis added):

> *"43 The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)." Wehbe V Pittwater Council (2007) NSWLEC 827 Preston CJ*

It is important to note that under clause 30(2) of the SEPP (ARH) the development standards do not apply to minor alterations or additions to an existing boarding house and in those cases there would be no consideration of motorcycle parking rates. With the exception of the new laneway structure, the renovation to the existing boarding house itself would easily classify as 'minor alterations and additions' as the scope of works is essentially to provide an ensuite, kitchenette and wardrobe fit-out within the existing rooms with minor associated additions.

Even with the laneway structure, the proposal may *still* be classified as minor additions to a boarding house as there is no net increase in the number of boarding rooms and the substantial building on the site is being essentially retained as is.

Nevertheless, for the purpose of abundant caution a request to vary the development standard is provided.

Whilst there is no stated objective to the development standard itself, the aims of the SEPP (ARH) are achieved by the proposal despite the lack of motorcycle parking given that the renovation of the existing boarding house provides for the introduction of greater amenity and communal facilities for the benefit of the occupants. This goes directly to Aims (c), (e), (f) and (g):

(c) to facilitate the retention and mitigate the loss of existing affordable rental housing,
(e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,
(f) to support local business centres by providing affordable rental housing for workers close to places of work,
(g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.

In the previous DA, a request to vary this development standard was not accepted by the Council. The applicant's written request suggested that the only area capable of providing motorcycle parking was in the front yard area due to the provision of a laneway building at the rear, and that this was undesirable. The Council's assessment report provided a contrary view:

> *"The site is sufficiently unencumbered so as to be able to provide some if not all of the required motorcycle parking accessed from the rear lane. Fundamentally, it is due to the built form and overall scale of the proposal that the motorcycle parking has not been provided."*

Accepting the Council's view, and accepting the premise that motorcycle parking, if proposed, must enter the site from the rear lane (and the proposition must be accepted), then to achieve both compliance with this standard and the provision of new communal facilities would require either a reduction in the size of the communal facilities or a relocation of the communal facilities into the main building to allow sufficient space for motorcycle parking.

The existing boarding house has 10 rooms that are in a dilapidated and unrenovated state. The proposal is to retain the existing number of rooms whilst introducing a higher level of amenity. Part of that amenity is the provision of a communal kitchen/living/dining area and laundry at the rear of the site. It is accepted that the rear of the site is the only area from which on-site motorcycle parking may be provided as it would be highly objectionable to create a motorcycle parking area in the front landscaped courtyard of a contributory building within a heritage conservation zone. It would also pose safety risks to riders and pedestrians.

If the communal facilities were reduced in size they would not comply with the relevant controls for minimum communal room sizes. If they were internalised within the main building, the net result would be the loss of 2 boarding rooms. Strict compliance with the development standard would therefore have the effect of either:

1. Retaining the number of rooms (10) and providing motorcycle parking in the rear yard with no new communal facilities; or
2. Reducing the number of rooms to 8 to provide communal facilities within the main building, providing motorcycle parking in the rear yard.

The first option inappropriately places a higher threshold of importance on providing motorcycle parking for up to 2 lodgers than providing new communal facilities for the occupants of all 10 rooms. The second option disincentivises increasing the amenity to the existing rooms as the 10 rooms, which have existing for over 100 years, would reduce to 8 rooms, contravening the Aims of the SEPP (ARH).

Both of these scenarios would result in an undesirable planning outcome. Imposing strict compliance with the development standard, despite there being no net increase in the number of existing rooms from this renovation, would be unnecessary (as the Aim of the SEPP is achieved anyway) and unreasonable (as it would serve the purpose of discouraging or diminishing the quality of the renovation of the building).

Cl.4.6(3)(b) - Sufficient environmental planning grounds

There are sufficient environmental planning grounds to support the variation as the absence of motorcycle parking allows for a refined design of the laneway structure at the rear of the site and an increased provision of communal living/kitchen/dining and laundry facilities in the least impactful location on the site. The provision of 2 motorcycle spaces would significantly diminish or eliminate the ability to accommodate these improvements onto the site without reducing the overall capacity of the boarding house below the rates that have existed for over 100 years.

The upgraded boarding house will contribute to the viability of local centres by retaining affordable housing within a location that is well serviced by public and active transport infrastructure, and within close proximity to employment opportunities and educational facilities and therefore the use of a motorcycle is not necessarily required.

To offset the motorcycle parking deficit, the proposal seeks an alternative solution to provide commuter parking opportunities on the site, by providing double the bicycle parking spaces than is required by the controls within the front setback zone. The 4 bicycle spaces mean that 40% of the rooms have access to a dedicated and secure parking space for their bicycle. This promotes the use of active transport, aligning with City of Sydney's Liveable Green Network, in a way that does not compromise the visual aesthetic of this contributory building. In this respect, the proposal is considered to achieve a better planning outcome than compliance with the development standard.

Clause 4.6(4)
(4) Development consent must not be granted for development that contravenes a development standard unless: (a) the consent authority is satisfied that: (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and (b) the concurrence of the Secretary has been obtained.

Cl.4.6(4)(a)(i) - Adequately addressing subclause 3

The Council can be satisfied that the reasons expressed above in this request adequately address the matters required by subclause 3.

Cl.4.6(4)(a)(ii) - The public interest

The proposal is in the public interest as it has been demonstrated that it is consistent with the Aims of the SEPP (ARH) for the reasons previously expressed.

Zone objectives
In relation to the objectives of the zone, the proposal:

- "provides for the housing needs of the community" in that it retains and improves an existing boarding house and therefore meets the housing need of affordable rental accommodation in areas of high amenity;

- "provides for a variety of housing types and densities" by including a range of room sizes within the boarding house, in a setting amongst other boarding houses, share houses, single dwellings and apartments;

- whilst it does not provide for "other land uses that provide facilities or services to meet the day to day needs of residents", it is focussed on housing choice and therefore does not contravene this objective; and

- "maintains the existing land use pattern of predominantly residential uses" by retaining the boarding house use that has existed on the site for over 100 years.

Precedents
Varying the motorcycle control in this instance has no negative public interest implications, does not undermine the integrity of the SEPP (ARH) and does not set an undesirable precedent. There are various examples noted in Council's Register of Development Standard Variations where 100% variations have been granted to the motorcycle parking control, many of which have similar characteristics to the subject site with heritage overlay and rear lane access:

D/2012/568 - 304-308 King Street Newtown – 100% variation – approved 15/10/2012
"Variation acceptable due to being close to public transport, a new vehicle crossover would result in negative heritage impact"

D/2014/446 - 5 Hudson Street Redfern - 100% variation – approved 15/09/2014
"Variations meet the zone objectives"

D/2015/56 - 50 Bray Street Erskineville - 100% variation - approved 14/12/2015
"Public transport is sufficiently close to support the variation in motorcycle parking"

D/2016/1347 - 461 Harris Street Ultimo - 100.0% variation – approved 11/01/2017
"The proposal is considered not to have unreasonable impact on the amenity of the adjoining properties or the street scape"

D/2017/363 - 89 Crown Street Darlinghurst - 100.0% variation – approved 18/09/2017
"The proximity of the site to public transport and amenities does not warrant the provision of motorbike parking in this instance"

D/2016/1604 - 437 Wattle Street Ultimo - 100% variation – approved 13/11/2017
"The proposed alterations are integrated with the existing heritage character of the building and the area, and will create minimal amenity impacts to nearby dwellings"

D/2018/132 - 638 King Street Erskineville - 100.0% variation - approved 23/05/2018
"The proposal is considered not to have unreasonable impact on the amenity of the adjoining properties or the street scape"

D/2017/1648 - 26 Lower Fort St Dawes Point – 100% variation – approved 19/06/2018
"The proposal is considered not to have unreasonable impact on the amenity of the adjoining properties or the street scape"

D/2018/759 - 175 St Johns Road Glebe - 100% variation – approved 10/10/2018
"The proposal is considered not to have unreasonable impact on the amenity of the adjoining properties or the street scape"

Cl.4.6(4)(b) - Concurrence of the Secretary

The Council may assume the required Director-General's concurrence provided that it has considered all of the relevant matters under Clause 4.6 as expressed above.

Conclusion

This statement demonstrates that in this particular case a variation pursuant to clause 4.6 of the LEP is justified as there are sufficient environmental planning grounds to exceed the standard and that strict compliance would be unreasonable and unnecessary. As such, the consent authority can be satisfied that the above justification adequately addresses clause 4.6(3) of the LEP, as required by clause 4.6(4)(a)(i).

The proposal will be in the public interest because it is consistent with the Aims of the SEPP (ARH) and the objectives of the R1 zone and provides a reasonable environmental planning outcome for the site, satisfying clause 4.6(4)(a)(ii).

There are no matters of State or regional planning significance as a result of the non-compliance, satisfying clause 4.6(5)(a). There is also no public benefit in maintaining the development standard in this particular case given the proposal meets the zone and development standard objectives and has no unreasonable impact on the amenity of the locality generally or the adjoining properties, satisfying clause 4.6(5)(b).

The variation therefore is acceptable having regards to the considerations under clause 4.6 of the LEP.

Attachment E

Plan of Management

Operational Plan of Management
84 City Road Chippendale

Introduction

This Operational Plan of Management (OPM) accompanies a Development Application for an existing boarding house at 84 City Road, Chippendale. This OPM outlines how the premises will operate. Three of the rooms use shared bathroom facilities and two of them have their own self-contained bathroom. The operator of the boarding house will comply with this OPM and with conditions of development consent that may be issued for the boarding house by City of Sydney Council.

Objectives

- Maintain the safety and comfort of residents
- Outline use of the facilities across the site
- Manage noise impact or disturbances to adjoining properties
- Outline measures to ensure the property is well maintained

The boarding house operates as a registered premises under the NSW Boarding Houses Act 2012 and the operation of the boarding house is to be in compliance with that Act at all times.

Responsibilities of management include:

A. Liaising with existing and potential guests
B. Enforcing Guest policy
C. Maintaining the daily operational functions of the building
D. Addressing complaints (internal and external)

A. Liaising with existing and potential guests

Showing rooms, rentals transactions, identity checks, addressing individual room request and general enquires.

B. Enforcing Guest policy

This policy is displayed alongside the fire evacuation procedures displayed in each room and communal areas.

1. No overnight visitors permitted to stay in any rooms. Only registered guests
2. No smoking is permitted in any internal areas
3. Use of candles, open flames, bar heaters, incense or similar is prohibited
4. No cooking is permitted in any rooms other than a microwave
5. Noise levels should be kept to a minimum. Drunken or disorderly behaviour will not be tolerated.
6. Minimum stay of 3 months.
7. Rent must be paid on time. Please contact management for electronic transfers to obtain your rent code
8. Please keep all share facilities clean and tidy after use.
9. To hang items on walls, please contact management for free blue-tack.
10. All waste is to be placed in bins provided in the communal bin storage area.
11. Please notify management at least 1 week prior to your expected checkout to arrange deposit refund.

12. For lockouts 24 hours a day / 7 days a week please contact the following numbers: ######.
13. The use of the outdoor communal area is restricted to 8:00 am to 10:00pm daily.

Note: Entrances and communal areas are fitted with surveillance cameras to maintain the safety and security of all guests.

Guest policy is reviewed on *(date): #/#/#*

C. Maintaining the daily operational functions of the building

Fire Safety

Ensure fire safety measures are up to date at all times.

Maintain an emergency evacuation plan prepared by a competent person shall be prepared and that emergency evacuation plan shall be displayed in each boarding room and in the foyer.

Security

CCTV cameras will be installed at the front building entrance (City Road) and the rear door (Maze Lane) to provide appropriate level of security. Cameras at the rear will be positioned to face each direction of Maze Lane to monitor doors, yet more importantly support a reduction of illegal dumping and antisocial behaviour currently present in the lane. Access to CCTV footage will be made available to Police, City of Sydney Council or other government authorities via written request.

Liaising with police, fire brigade, Council and contractors as required.

Waste

Rooms are kept clean by guests and that all waste is removed to bins provided at an appropriate location within the property. Intermittent room inspections are to be undertaken to ensure cleanliness and room condition.

Move waste bins for weekly collection

Bins are to be taken to the established street collection point for collection as required.

Maintenance

Routine maintenance of the premises for internal and external upkeep shall be carried out. The premises are to be kept in a clean and tidy state at all times.

Preparation of rooms for new residents

Administer occupancy agreements.

If a room becomes vacant, the boarding house manager is to clean that room and ensure that the fixtures, fittings and furniture are in good order and otherwise replace or repair items as required.

General maintenance

If basic repairs are required, such as new light bulbs required to common areas and such like, the boarding house manager is to attend to those. A small toolkit and small and basic supplies will be provided to the boarding house manager by the property owner if required.

Listed contractors engaged with other boarding houses will be sent across for service calls and maintenance.

Common areas

Cleaners are contracted to visit the property and clean communal areas. This includes bathroom, laundry, hallways and stairs, courtyards and landscaping.

The common bathroom facilities are to be cleaned and sanitised daily.

D. Addressing complaints (internal and external)

A complaints register is administered on the property

If residents, either within the development or from surrounding residents, have complaints of enquiries, the boarding house manager will listen to and address those. If required, the boarding house manager will liaise between residents and the owner of the property.

Date	Issue	Raised by	Progress/ Resolution	Status
1/1/2016	Loud noise from Room 3 past midnight disturbing multiple rooms - music	Int – Rooms 2 +6	Issued warning to room 3	Closed
…				

Item 7.

Development Application: 901/ 13-15 Bayswater Road Potts Point - D/2019/646

File No.: D/2019/646

Summary

Date of Submission:	20 June 2019 with amended plans and details received 11 September 2019
Applicant:	Space Landscape Designs Pty Ltd
Architect/Designer:	Space Landscape Design Pty Ltd
Owner:	Michelle M Mulligan, Phillip A J Beniac, and Strata Plan No. 55899
Cost of Works:	$147,450
Zoning:	B2 Local Centre zone. The proposal comprises alterations to an existing residential flat building which is permissible with consent.
Proposal Summary:	Alterations and additions to the existing rooftop terrace of Unit 901 of the Hampton building. The works include the erection of a 3.4m high pergola; a new 1.2m wide x 3m deep structure on the south-western corner of the terrace to accommodate plant with metal louvre sliding doors; landscaping, including the provision of planters and seating areas; new 300mm high timber decking to the northern side of the terrace; replacement of existing steel louvre door to the existing plant room with a fibre cement wall and conversion of the existing plant room to a bathroom. The application is reported to the Local Planning Panel as the proposal exceeds the height and floor space ratio development standards of the Sydney Local Environmental Plan (LEP) 2012 by more than 10%. The proposal exceeds the 27m building height development standard pursuant to Clause 4.3 of the Sydney Local Environmental Plan (LEP) 2012 by 5m or 18.5%.

The proposal exceeds the 5:1 floor space ratio (FSR) standard pursuant to Clause 4.4 of the Sydney LEP 2012. As the existing building currently exceeds the FSR, the proposed addition of 7sqm of floor space results in an overall exceedance of 1325.5sqm or 15.6%.

Written requests have been provided seeking variations to the height development standard and the floor space ratio development standard in accordance with Clause 4.6 of the Sydney LEP 2012. The requests to vary the height and floor space ratio development standards are supported.

The application was notified for a period of 14 days between 21 June 2019 and 6 July 2019. No submissions were received.

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

Development Controls:

(i) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)

(ii) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)

(iii) Sydney Development Control Plan (DCP) 2012 (in force on 14 December 2012, as amended)

Attachments:

A. Recommended Conditions of Consent

B. Selected Drawings

C. Clause 4.6 Height Variation Request

D. Clause 4.6 Floor Space Ratio Variation Request

Recommendation

It is resolved that:

(A) the written requests seeking to vary the height development standard and floor space ratio development standard be supported in this instance, pursuant to Clause 4.6 of Sydney Local Environmental Plan 2012; and

(B) consent be granted to Development Application No. D/2019/646 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

(A) Subject to conditions, the proposed development will be consistent with the aims and objectives of the B2 - Local Centre zone.

(B) The proposal will not impact on the character and heritage significance of the subject contributory building and the heritage conservation area.

(C) The proposed development will not adversely impact neighbouring residential amenity and will improve the residential amenity of the subject unit.

(D) The proposal is considered to be suitable for the site.

(E) The proposal will have no detrimental effect on the public interest, subject to appropriate conditions.

(F) Subject to conditions, the proposed development is considered to achieve design excellence in accordance with Clause 6.21 of the Sydney LEP 2012.

(G) Subject to conditions, the proposal generally satisfies the relevant strategy, objectives and provisions of the Sydney LEP 2012 and the Sydney DCP 2012.

(H) The requested variation to the Clause 4.3 Sydney LEP 2012 'Height of buildings' Standard is upheld. The consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6(3) of the Sydney LEP 2012, that compliance with the 27m height development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 of the Sydney LEP 2012. Based upon the material available, the consent authority is satisfied that the proposal is in the public interest because it is consistent with the objectives of the B2- Local Centre zone and the Height development standard.

(I) The requested variation to the Clause 4.4 Sydney LEP 2012 'Floor space ratio' Standard is upheld. The consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6(3) of the Sydney LEP 2012, that compliance with the 5:1 floor space development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.4 of the Sydney LEP 2012. Based upon the material available, the consent authority is satisfied that the proposal is in the public interest because it is consistent with the objectives of the B2- Local Centre zone and the Floor Space Ratio development standard.

Background

The Site and Surrounding Development

1. Site visits were carried out by Council staff on 1 July 2019 and 2 September 2019.

2. The site is irregular in shape, with an area of approximately 1,696sqm. It has a primary street frontage to Bayswater Road to the north and secondary frontages to Pennys Lane to the west and Goderich Lane to the south. The site is located close to the intersection of Bayswater Road and Darlinghurst Road. A nine storey residential flat building with ground level retail is located within the site.

3. The subject development application relates to Unit 901, which is located on Level 9 of the building and benefits from access to a private rooftop terrace, located in the north-eastern corner of the building. It is one of four rooftop terraces on the building. Surrounding land uses are residential and commercial.

4. The site is not a heritage item but is a contributory building within the Potts Point Heritage Conservation Area (C51).

5. Photos of the site and surrounds are provided below:



Figure 1: Aerial image of subject site and surrounding area. The location of the subject rooftop terrace is indicated in red.



Figure 2: View of the subject site from Bayswater Road, with roof terrace indicated by the arrows.



Figure 3: Location of subject terrace as viewed from Bayswater Road.



Figure 4: View to the north-east across the subject roof terrace.



Figure 5: View to the east across the subject roof terrace.



Figure 6: Looking to the south-east across the subject roof terrace.



Figure 7: Looking to the south across the existing roof terrace.



Figure 8: Looking to the south-west across the roof terrace towards the existing plant room and stairwell.

Proposal

6. The application seeks consent for alterations to the existing rooftop terrace associated with Unit 901. The proposed works include:

   (a) The erection of a 3.4 metre high timber and metal pergola with seating underneath;

   (b) The erection of a 3 metre wide by 1.2 metre deep structure with metal louvre sliding doors on the south-western corner of the terrace to accommodate plant (air conditioning and hot water system associated with the subject unit);

   (c) Removal of two existing skylights on the terrace (positioned over a hallway and bathroom within Unit 901) and installation of new pedestal pavers across the whole terrace area;

   (d) Landscaping, including the provision of planters, BBQ and seating areas;

   (e) Raised timber decking (300mm high) to the northern boundary of the terrace;

   (f) Replacement of the steel louvre doors to the existing plant room with fibre cement walls;

   (g) New bathroom within the existing plant room area.

7. During the assessment of the application the proposed pergola was reduced in size, proposed storage rooms were removed and a previously proposed lift was removed from the plans.

8. Plans of the proposed development are provided below.

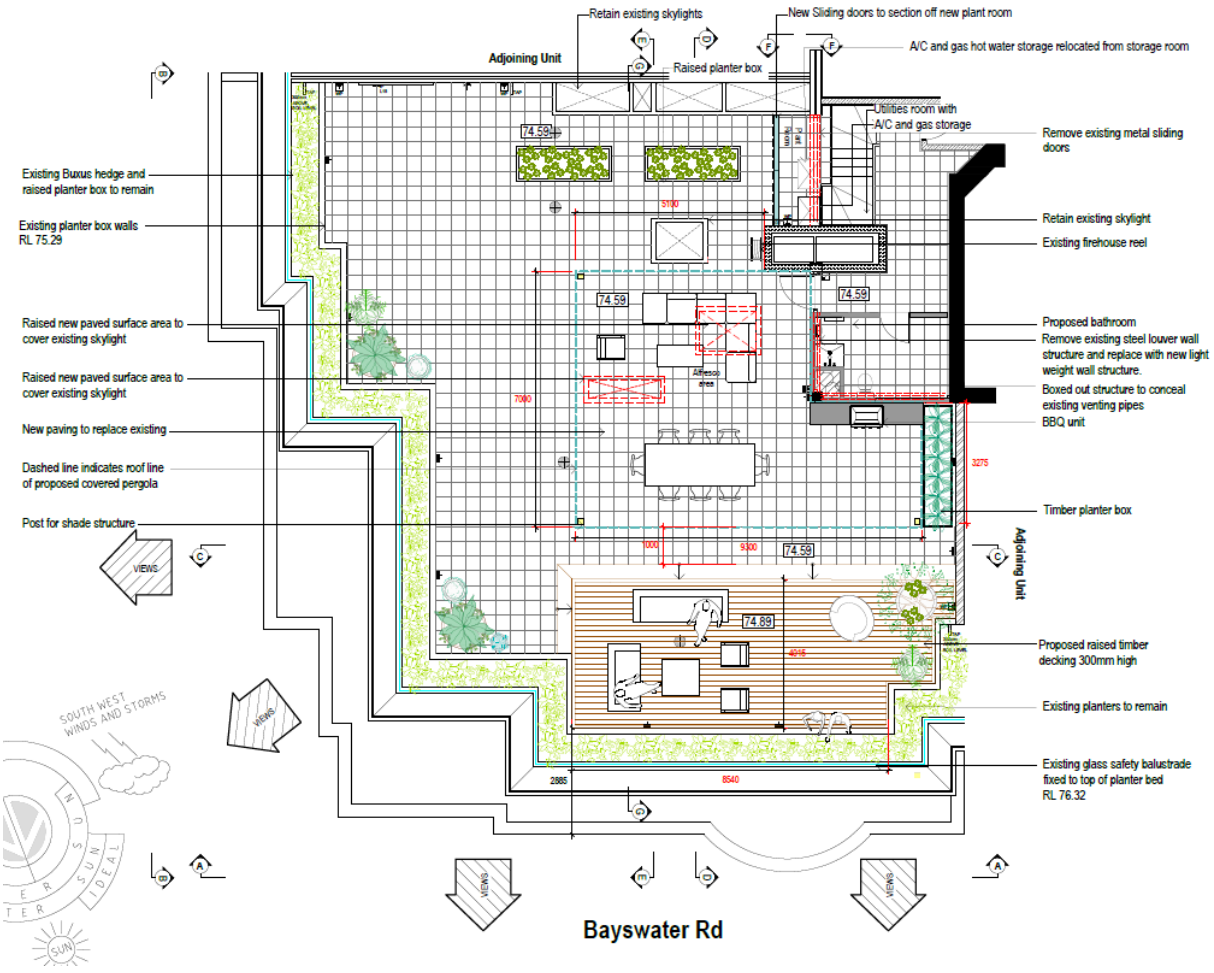


Figure 9: Proposed floor plan of the roof terrace.

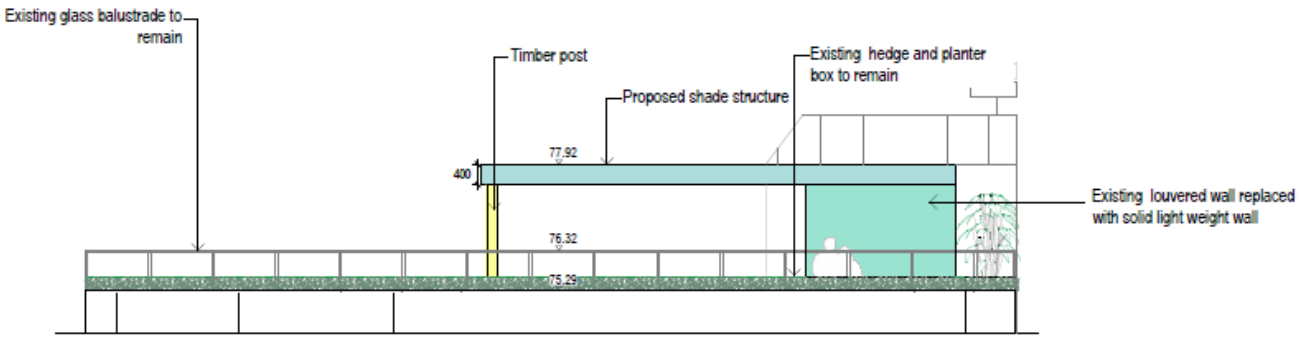


Figure 10: Elevation AA - Northern elevation of pergola and new wall to bathroom.

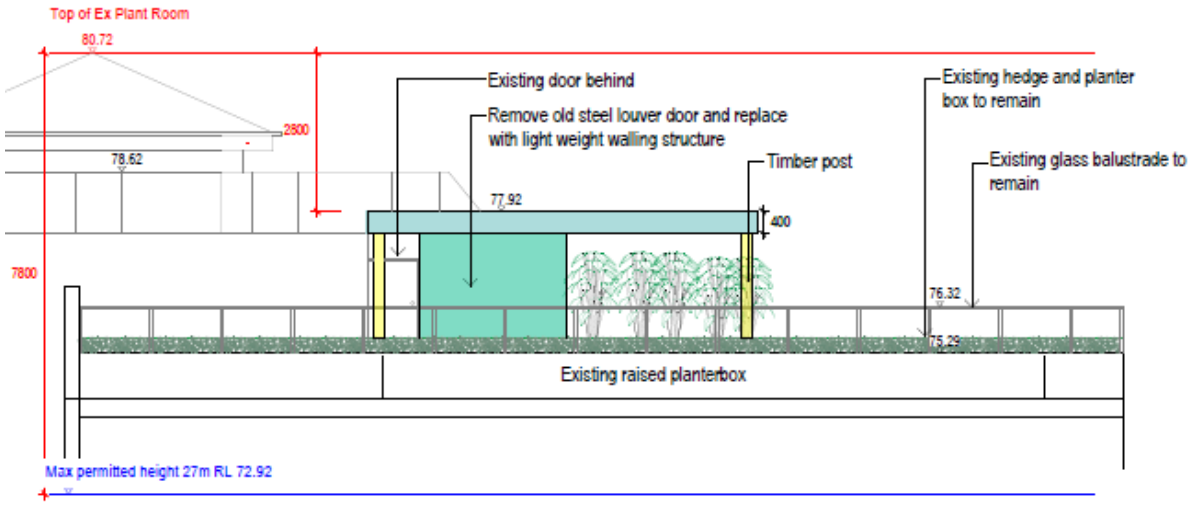


Figure 11: Eastern elevation (BB) of proposed pergola structure and new wall to the bathroom.

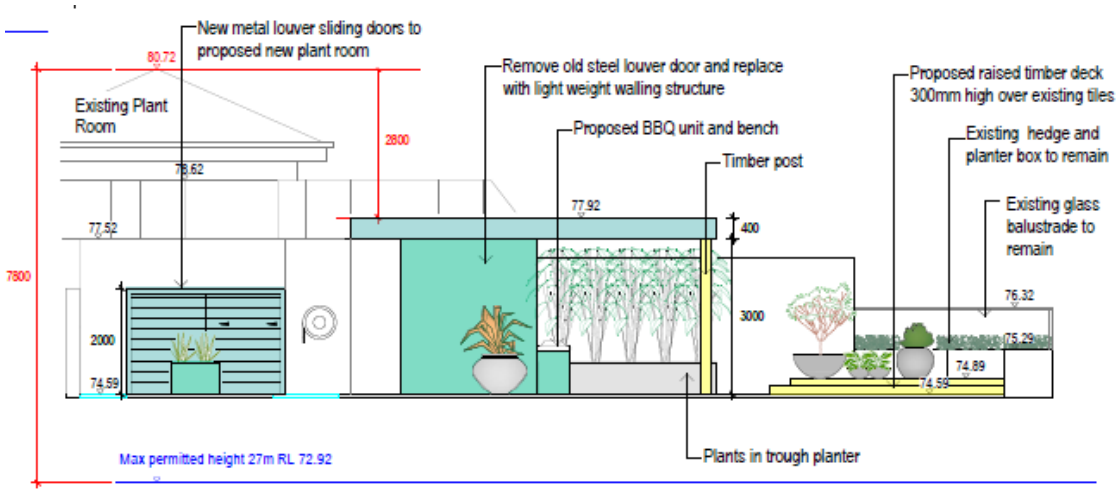


Figure 12: Section DD - Proposed new plant room, pergola structure, new wall to bathroom and new raised decking.

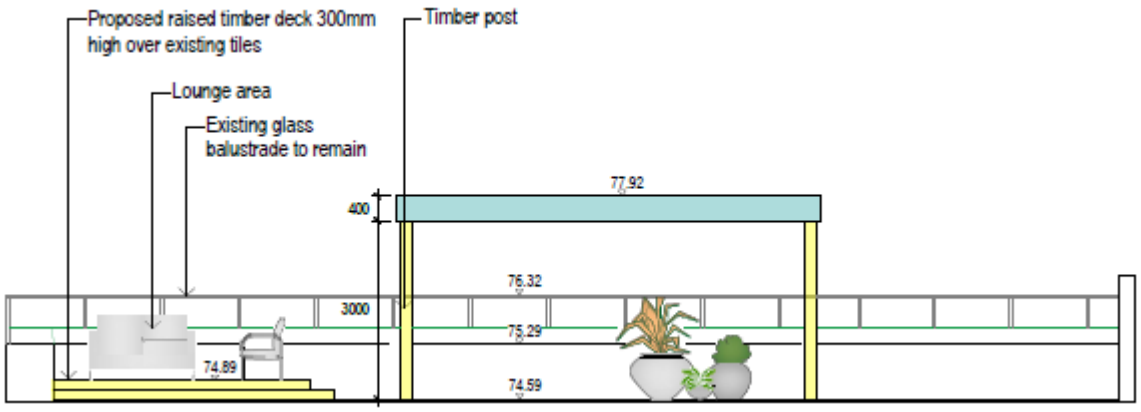


Figure 13: Section EE - Proposed raised decking and pergola looking to the west.

History Relevant to the Development Application

9. There are a number of development applications for the subject site. The following application history is relevant to the subject application:

   (a) D/2018/466 - On 22 June 2018 approval was granted for alterations and additions to the rooftop terrace associated with Unit 903 (north-west corner of the building) including new covered pergola, new raised timber deck and new glazed doors and louvres to replace the existing aluminium louvres to the plant room.

   (b) D/2018/1411 - On 27 February 2019 approval was granted for alterations and additions to the rooftop terrace associated with Unit 902 (south-east corner of the building) including new covered pergola, raised timber deck and new plant room.

Economic/Social/Environmental Impacts

10. The application has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:

   (a) Environmental Planning Instruments and DCPs.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP)

11. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP.

12. The Sydney Harbour Catchment Planning Principles must be considered in the carrying out of development within the catchment. The key relevant principles include:

   (a) protect and improve hydrological, ecological and geomorphologic processes;

   (b) consider cumulative impacts of development within the catchment;

   (c) improve water quality of urban runoff and reduce quantity and frequency of urban run-off; and

   (d) protect and rehabilitate riparian corridors and remnant vegetation.

13. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development. The development is consistent with the controls contained within the deemed SEPP.

Sydney Local Environmental Plan 2012

14. The site is located within the B2 Local Centre zone. The proposed development involves alterations and additions to the existing residential flat building and is permissible.

15. The relevant matters to be considered under Sydney Local Environmental Plan 2012 for the proposed development are outlined below.

Compliance Tables

Development Control	Compliance	Comment
4.3 Height of Buildings	No	A maximum height of 27m is permitted. The proposed pergola is 3.4m in height above the existing terrace floor level. The overall height of the pergola is 32m, as measured above ground level along Bayswater Road.
4.4 Floor Space Ratio	No	A maximum FSR of 5:1 is permitted. The existing building has a FSR of 5.77:1. The proposal involves an additional 7sqm of gross floor area which will result in an overall FSR of 5.78:1 for the building.
4.6 Exceptions to development standards	Yes	The proposal seeks to vary the height and floor space ratio development standards prescribed under Clause 4.3 and 4.4 of the Sydney LEP 2012. See discussion under the heading Issues.
5.10 Heritage conservation	Yes	The subject site is not a heritage item but is a contributory building located within the Potts Point heritage conservation area. See discussion under the heading Issues.

Part 6 Local Provisions - Height and Floor Space	Compliance	Comment
Division 4 6.21 Design excellence	Yes	The proposed development satisfies the requirements of this provision. The proposed pergola structure and conversion of the plant room to a bathroom will improve the amenity and useability of the terrace area for Unit 901. Given the separation distances to neighbouring buildings and the lightweight nature of the proposed structures, the development will not adversely impact residential amenity in terms of solar access or outlook, with no significant views being blocked by the proposal. See discussion under the heading Issues.

Sydney Development Control Plan 2012

16. The relevant matters to be considered under Sydney Development Control Plan 2012 for the proposed development are outlined below.

2. Locality Statements – Kings Cross
The subject site is located in the Kings Cross locality. The proposed alterations and additions to the rooftop terrace are considered to be in keeping with the unique character of the area and design principles. The proposed pergola, conversion of the existing plant room to a bathroom and new plant room will not have a detrimental impact on the amenity of the neighbouring rooftop terraces. The proposal will generally not be visible from the public domain and will therefore not impact on the Bayswater streetscape or the Potts Point heritage conservation area.

3. General Provisions	Compliance	Comment
3.2 Defining the Public Domain	Yes	The development is considered to meet the public domain provisions of Section 3.2 of the Sydney DCP 2012. Shadow diagrams have been submitted with the application which demonstrate that the proposed development will not detrimentally impact on solar access to publicly accessible spaces. As the proposed pergola structure will be set back approximately 5.6m from the eastern edge of the terrace and approximately 7.2m from the northern edge of the terrace, the structure will generally not be visible from the public domain. A condition of approval has been recommended to ensure that a separate application would be required to be lodged for any external lighting to the terrace area.
3.9 Heritage	Yes	The existing building is located within the Potts Point heritage conservation area and is identified as a contributory building. The proposal consists of a lightweight pergola structure, landscaping, new plant room and conversion of the existing plant room to a bathroom. As the proposed pergola structure will be set back approximately 5.6m from the eastern edge of the terrace and approximately 7.2m from the northern edge of the terrace, the structure will generally not be visible from the public domain. A condition is recommended requiring that details of all materials and finishes be submitted for the approval of Council's Area Planning Manager prior to the issue of a construction certificate. It is considered that the proposed development will not impact on the character of the existing building or wider Potts Point heritage conservation area.

3. General Provisions	**Compliance**	**Comment**
3.14 Waste	Yes	A condition has been recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.

4. Development Types **4.2 Residential flat, commercial and mixed use developments**	**Compliance**	**Comment**
4.2.1 Building height	No	A maximum of 8 storeys is permitted. The existing building is 9 storeys with an additional plant room level. The proposed pergola, new plant room and bathroom are at the same level as the existing plant room on the terrace and do not change the existing height in storeys of the building. The proposed height of the development is consistent with the scale and form of existing rooftop structures and surrounding buildings in the heritage conservation area and does not detract from the character or significance of the existing building. The proposed development is therefore considered acceptable.
4.2.2 Building setbacks	Yes	The proposed pergola structure is set back approximately 5.6m from the eastern edge of the roof terrace and approximately 7.2m from the northern edge of the terrace. It is also proposed to be set back 1m from the neighbouring rooftop terrace to the west and 5.3m from the adjoining rooftop terrace to the south. The proposed new plant room is set back approximately 1m from the adjoining rooftop terrace to the south. The proposed setbacks to the terrace edges ensure that the pergola and plant room will generally not be visible from the public domain.

4. Development Types **4.2 Residential flat, commercial and mixed use developments**	**Compliance**	**Comment**
		The setbacks are also considered to complement the setbacks of the recently approved pergola structures to the adjoining rooftop area of Unit 902 (adjoining terrace to the south) and Unit 903 (adjoining terrace to the west).
4.2.3 Amenity	Yes	The proposal will ensure a high standard of residential amenity is maintained to the subject dwelling and adjoining terraces. Solar diagrams were submitted with the application which demonstrate that the subject terrace and adjoining terraces will continue to achieve a minimum of 2 hours direct sunlight to 5sqm of open space between 9am and 3pm at mid-winter. This complies with the solar access requirements of Section 4.2.3.1 of the Sydney DCP 2012. A landscape plan and planting schedule were submitted in accordance with the requirements of Section 4.2.3.5 of the Sydney DCP 2012. These were reviewed by Council's Landscaping officer who advised that the plan was acceptable subject to recommended conditions. The subject terrace is located a minimum of 26m away from the nearest residential apartment building. Given the existing separation distances, and the lightweight nature of the proposal, the development is not considered to detrimentally impact on the outlook of neighbouring residential apartments in accordance with Section 4.2.3.10 of the Sydney DCP 2012.

4. Development Types **4.2 Residential flat, commercial and mixed use developments**	**Compliance**	**Comment**
		The use of the subject rooftop terrace, which is currently trafficable, is not considered to be intensified substantially by the proposed development, which is exclusively associated with the residential unit below. Therefore the proposal will not unreasonably impact on levels of neighbouring visual or acoustic privacy. In light of the above, it is considered that the proposed development will not adversely impact neighbouring amenity and is in accordance with the amenity requirements of Section 4.2.3 of the Sydney DCP 2012.
4.2.7 Heating and Cooling Infrastructure	Yes	The existing heating and cooling infrastructure located within the existing plant room is proposed to be relocated to a new plant room located to the south-west corner of the terrace area. As the arrangement is similar to the existing, it is considered acceptable in this instance.

Issues

Height

17. The site is subject to a maximum height of 27m under Clause 4.3 of the Sydney Local Environmental Plan (LEP) 2012. The proposed development has a height of 32m. This exceeds the maximum permitted height by 5m or 18.5%.

18. The additional height is a result of the proposed 3.4m high pergola and plant structure on the existing rooftop terrace. It is noted, however, that these structures are located below the highest point of the existing roof structures on the building which currently reach a height of 34.8m above ground level (7.8m above the 27m height standard).

19. In accordance with Clause 4.6 of the Sydney LEP 2012, the applicant has submitted a written justification seeking an exception to the Height development standard, which is discussed below.

Clause 4.6 request to vary the height development standard

20. The site is subject to a maximum height control of 27m. The proposed works are at a height of 32m, an 18.5% variation to the height control.

21. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:

    (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and

    (b) That there are sufficient environmental planning grounds to justify contravening the standard.

22. A copy of the applicants written request is provided at Attachment C.

Applicants Written Request - Clause 4.6(3)(a) and (b)

23. The applicant seeks to justify the contravention of the height development standard on the following basis:

    (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:

        (i) The applicant contends that compliance with the maximum height development standard is unnecessary in the circumstances of the case as the development meets the objectives of the Height development standard, as summarised below:

            Objectives of the Height Development Standard:

            i. (a) to ensure the height of development is appropriate to the condition of the site and its context.

                - The proposed pergola and plant room will not exceed the height of the existing plant structures at roof level, being 2.8m below the height of the existing plant room. The proposal will also not be visible from the street below (Bayswater Road). Further, Council have recently approved a pergola at a similar height on the adjacent rooftop terrace to the south. The proposal is therefore considered appropriate to the condition of the site and its context.

            ii. (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas.

                - The development respects the existing ridge height of the building, being set 2.8m lower than the existing plant room. The proposed development does not significantly alter the general bulk of the existing building and is therefore considered to provide an appropriate height transition to other buildings within the heritage conservation area.

            iii. (c) to promote the sharing of views.

                - It is considered that the proposed pergola and plant room will continue to promote the sharing of views and will not significantly obstruct existing views due to the following:
                    - There are existing 2m high solid walls along the southern and western boundaries separating the neighbouring roof

terraces which will screen the majority of the proposal when viewed from development to the south and west of the site;
- The proposed pergola is lightweight in nature; and
- There is an existing large separation between the subject terrace and adjoining buildings which will likely minimise the impact on any existing views across the terrace.

iv. (d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas.

- This objective is not applicable to the site.

v. (e) in respect of Green Square - to ensure the amenity of the public domain by restricting taller buildings to only part of the site, and to ensure the built form contributes to the physical definition of the street network and public spaces.

- This objective is not applicable to the site.

(ii) The applicant contends that the objectives of the development standard are achieved notwithstanding the non-compliance. The applicant contends that strict compliance with the height development standard is therefore unnecessary in the circumstances of the case.

(b) The applicant contends that there are sufficient environmental planning grounds to justify contravening the standard:

(i) The applicant contends that, despite the non-compliance, the proposed pergola is consistent with the height of the existing building structures and the character of the area.

(ii) The proposed development will have no detrimental impact to neighbouring properties and will not cause any overshadowing to neighbouring rooftop terraces.

(iii) The development is a lightweight addition to the existing building and is unlikely to significantly obstruct views towards the harbour from properties to the south.

(iv) The roof top terrace is an approved open space area to the apartment and the proposed changes will provide increased amenity to this space.

(v) The existing building already exceeds the maximum 27m height development standard. The proposed pergola is 2.8m below the existing roof structure of the building and will not detract from the form and scale of the existing building.

Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

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

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

(b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

25. The applicant's written request has adequately addressed clause 4.6(3)(a) in that they have demonstrated that compliance with the development standard for Height is unnecessary in the circumstances of this case as the proposed development satisfies the objectives for Height, notwithstanding non-compliance with the standard.

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

26. The applicant has adequately addressed Clause 4.6(3)(b) in that they have identified sufficient environmental planning grounds to justify contravening the development standard. It has been demonstrated that the proposal, despite the non-compliance, will achieve an acceptable development outcome with increased amenity to the residents of the subject unit, whilst maintaining the amenity of neighbouring properties.

Is the development in the public interest?

27. The proposal is considered to be in the public interest as it is consistent with the objectives of the Height development standard and the objectives of the B2 Local Centre zone. The development results in a building height that is appropriate to the condition of the site, maintains appropriate height transitions to surrounding development and continues to promote the sharing of views in accordance with the objectives of the Height development standard (as outlined above at point 23 (a) (i)). The proposal is also consistent with the objectives of the B2 Local Centre zone as outlined below:

    (a) To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.

        (i) The proposal will improve the amenity of the existing rooftop terrace of Unit 901 and will not limit the range of business uses within the local area.

    (b) To encourage employment opportunities in accessible locations.

        (i) The proposal relates to an existing residential flat building and will not limit employment opportunities within the local area.

    (c) To maximise public transport patronage and encourage walking and cycling.

        (i) The proposal will improve amenity for the residents of Unit 901. The residents of the building will continue to live in an area that befits from public transport and easy walking and cycling distances from local amenities.

    (d) To allow appropriate residential uses so as to support the vitality of local centres.

        (i) The proposed development will improve the amenity of the existing rooftop terrace for residents of Unit 901. The existing unit will remain a residential unit and will continue to support the vitality of the local centre.

Conclusion

28. For the reasons provided above, the requested variation to the Height of buildings development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of the Height development standard and the B2 Local Centre zone.

Floor Space Ratio (FSR)

29. The site is subject to a maximum Floor Space Ratio (FSR) of 5:1 under Clause 4.4 of the Sydney LEP 2012.

30. The site area for the building is 1696sqm. The existing building has a floor space area of 9798.5sqm with a FSR of 5.77:1. The existing building currently exceeds the floor space area by 1318.5sqm or 15.5%.

31. The proposed development involves the conversion of the existing plant room, which is not gross floor area under the Sydney LEP 2012 definition, into a bathroom, which does comprise gross floor area under the definition. This results in an addition of 7sqm of gross floor area to the building.

32. As the existing building currently exceeds the FSR development standard for the site, the proposed addition of 7sqm of floor space results in an overall variation of 1325.5sqm or 15.6%. The proposed FSR for the site is 5.78:1.

33. In accordance with Clause 4.6 of the Sydney LEP 2012, the applicant has submitted a written justification seeking to vary the FSR development standard, which is discussed below:

Clause 4.6 request to vary the height development standard

34. The site is subject to a maximum FSR control of 5:1. As the existing building currently exceeds the FSR development standard for the site, the proposed addition of 7sqm of floor space results in an overall variation of 1325.5sqm or 15.6%. The proposed FSR for the site is 5.78:1.

35. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the FSR development standard by demonstrating:

    (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and

    (b) That there are sufficient environmental planning grounds to justify contravening the standard.

36. A copy of the applicant's written request is provided at Attachment D.

Applicants Written Request - Clause 4.6(3)(a) and (b)

37. The applicant seeks to justify the contravention of the FSR development standard on the following basis:

(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:

(i) The applicant contends that compliance with the maximum FSR development standard is unnecessary in the circumstances of the case as the development meets the objectives of the development standard, as summarised below:

Objectives of the Floor Space Ratio Development Standard

i. To provide sufficient floor space to meet the anticipated development needs for the foreseeable future.

- As noted, the existing building currently exceeds the FSR development standard and therefore any addition of floor space to this building will require a variation to the standard. The proposed increase of 7sqm of floor space is a minor departure from the existing FSR of the development, which currently provides sufficient floor space to meet the anticipated residential needs. It is considered that the proposed development will therefore continue to provide sufficient floor space to meet anticipated development needs.

ii. To regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic.

- The proposed bathroom is located on the roof top terrace which is an approved open space area to apartment 901 and will not be visible from the street. The density of people living within the existing building will not be intensified as the proposal will retain the single residential use of the unit and the rooftop will remain as non-habitable. The proposed bathroom will therefore not cause any increase in vehicle or pedestrian traffic within the local area. As the bathroom is proposed to be located within the existing plant room structure, the existing built form of the building will not be significantly altered by the development.

iii. To provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure.

- The proposed alterations and additions are limited to the rooftop of unit 901.The addition of the proposed bathroom will retain the existing single residential use of the unit and will not intensify the number of people living within the dwelling. The proposal will therefore continue to provide a development on site that is commensurate with the capacity of existing and planned infrastructure for the area.

iv. To ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of the locality.

- The proposed conversion of the existing plant room to a bathroom will have a minor impact on the external appearance of the existing building due to the proposed relocation of the plant room to the south west corner of the rooftop terrace. As the proposed plant room is located over 11m from the closest street boundary it will not be visible from Bayswater Road below. The development, which will not be visible from the public domain, will therefore continue to reflect the desired character of the locality in which it is located.
- The proposed bathroom and new plant room will not have any detrimental shadow impact on adjoining terraces and will not significantly impact on existing views across the terrace. The development is therefore considered to minimise adverse impacts on the amenity of the locality.

(ii) The applicant contends that the objectives of the FSR development standard are achieved notwithstanding the non-compliance. The applicant contends that strict compliance with the FSR development standard is therefore unnecessary in the circumstances of the case.

(b) The applicant contends that there are sufficient environmental planning grounds to justify contravening the FSR development standard:

(i) As the existing building exceeds the 5:1 FSR development standard, it is inevitable that any additional floor space required to improve the existing development, including the proposed bathroom, will not comply with the standard.

(ii) The proposed bathroom and new plant room are well set back from the edge of terrace and will not be visible from the public domain at street level.

(iii) The proposed conversion of the existing plant room to a bathroom, generally retains the existing form of the building and is therefore consistent with the character of the area.

(iv) The proposal will have no detrimental impact on the neighbouring properties due to the existing 2m high walls separating the adjoining terraces and will not cause any overshadowing.

(v) The development is a minor modification to the existing building and is not likely to obstruct views due to the lightweight nature of the proposal and existing separation distances to existing buildings to the south which currently benefit from views to the harbour.

(vi) The rooftop terrace is an approved open space area to Unit 901 and will remain a non-habitable area.

(vii) The proposed conversion of the plant room to a bathroom will increase the useability and amenity of the space for the residents of the subject unit.

Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

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

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

    (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

39. The applicant's written request has adequately addressed Clause 4.6(3)(a) in that they have demonstrated that compliance with the development standard for FSR is unnecessary in the circumstances of this case as the proposed development satisfies the objectives for FSR, notwithstanding the non-compliance with the standard.

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

40. The applicant has adequately addressed Clause 4.6(3)(b) in that they have identified sufficient environmental planning grounds to justify contravening the development standard. It has been demonstrated that the conversion of the existing plant room to a 7sqm bathroom and new associated plant room will largely maintain the existing form of the building and maintain the amenity of neighbouring properties, despite the non-compliance.

Is the development in the public interest?

41. The proposal is considered to be in the public interest as it is consistent with the objectives of the FSR development standard and the objectives of the B2 Local Centre zone. The development will not result in an increase of intensity of the existing use of Unit 901 and will not impact on transport usage or the capacity of the overall infrastructure network (as outlined earlier). The proposal is also consistent with the objectives of the B2 Local Centre zone as outlined below:

    (a) To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.

        (i) The proposal will improve the amenity and useability of the existing rooftop terrace and will not limit the range of business uses within the local area.

    (b) To encourage employment opportunities in accessible locations.

        (i) The proposal, which involves the conversion of the existing plant room to a bathroom will not limit employment opportunities within the local area.

    (c) To maximise public transport patronage and encourage walking and cycling.

        (i) The proposal will improve amenity for the residents of Unit 901. The residents of the building will continue to live in an area that benefits from public transport and is within easy walking and cycling distance from local amenities.

(d) To allow appropriate residential uses so as to support the vitality of local centres.

(i) The proposed development will improve amenity of the existing rooftop terrace for residents of Unit 901. The existing unit will remain a residential unit and will continue to support the vitality of the local centre.

Conclusion

42. For the reasons provided above the requested variation to the FSR development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of FSR development standard and the B2 Local Centre zone.

Impact on views

43. Although no formal view impact assessment was submitted with the application, the proposed 3.4m high pergola structure and new plant room to the rooftop of the subject building are not likely to significantly impact on the views of nearby properties. The likely impacts of the proposal on existing views to the harbour from adjoining properties to the south and south-west of the site are discussed below.

44. As the existing overall height of the adjoining residential flat building to the south at 16-20 Kings Cross Road is lower than the subject building, there are currently no views across the subject roof terrace from this building. The proposal will therefore not impact on existing views from this building.

45. Existing views from the hotel to the south west of the subject site at 2-14 Kings Cross Road are likely already obstructed by the existing plant room structure to the centre of the subject building. The proposed pergola, which is set down approximately 2.8m below the existing plant room, is therefore unlikely to impact on existing views from this building, due to the position of the proposed pergola.

46. The existing mixed use building to the south west across Kings Cross Road at 1A Kings Cross Road (shown in Figure 7 of this report) currently benefits from some views across the subject terrace towards the harbour. Views from this building are however not considered to be significantly impacted by the proposal as the building is located approximately 76m from the subject terrace. This separation distance is likely to minimise the impact of the pergola structure on existing views. Council also recently approved a 3.4m high pergola to the southern terrace (D/2018/1411) located between this building and the subject terrace. Due to the above reasons and the lightweight nature of the proposed pergola, views from this building are not considered to be significantly impacted by the proposed development.

47. In light of the above, the proposal is not likely to significantly impact on the views of nearby properties to the south and southwest of the site and is considered acceptable.

Heritage

48. The site is a contributory building within the Potts Point Heritage Conservation Area (C51) and is therefore subject to the heritage provisions of the Sydney DCP 2012. The proposal generally complies with the relevant aims, objectives and controls of the DCP. The proposed works are located at roof level and the pergola is setback approximately 5.6m from the eastern edge of the roof terrace and approximately 7.2m from the northern edge of the terrace such that it will not be readily visible from the public domain. The proposed additions to the rooftop are lightweight in nature, with a combination of timber posts, with metal roofing. The proposed alterations to the existing rooftop of Unit 901 are therefore not considered to have a detrimental impact on the character of the heritage conservation area in accordance with the requirements of the Sydney DCP 2012.

Other Impacts of the Development

49. Compliance with the BCA can be resolved at construction certificate stage.

50. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

Suitability of the site for the Development

51. The proposal is of a nature in keeping with the existing residential function of the site. The premises are in a commercial and residential surrounding and amongst similar uses to that proposed.

Internal Referrals

52. Where relevant, the conditions of other sections of Council have been included in the recommended conditions.

Heritage and Urban Design Specialists

The application was discussed with the Heritage and Urban Design Specialists who originally raised concerns regarding the proposed raised decking and compliance of the existing balustrade with the BCA, the proposed addition of new tiles over the existing terrace tiles, solar access diagrams, proposed drainage of the rooftop and the materials and finishes of the proposed structures. Following a request by Council for further information, the applicant submitted amended plans with RL levels demonstrating that the existing glass balustrades will comply with the BCA and additional information regarding the proposed pedestal tile installation system to allow the development to rely on existing drainage points on the terrace. Conditions requiring the submission of a detailed material and finishes schedule and a drainage methodology for approval by Council prior to issue of a construction certificate, have been recommended in line with the Heritage and Urban Design Specialists comments.

Landscaping Specialist

The application was discussed with the Landscaping Specialist who did not object to the proposal, subject to recommended conditions regarding the submission of a detailed landscape plan. A condition to this effect has been recommended.

Notification, Advertising and Delegation (No Submissions Received)

53. In accordance with Schedule 1 of the Sydney DCP 2012, the proposed development is required to be notified. As such the application was notified for a period of 14 days between 21 June 2019 and 6 July 2019, a total of 872 properties were notified and no submissions were received.

Public Interest

54. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

S7.11 Contribution

55. The development is not subject to a S7.11 development contribution as it is for a pergola on the existing roof terrace of Unit 901, which will not increase the net population of the building. The proposed works are therefore excluded from the need to pay a contribution in accordance with the City of Sydney Development Contributions Plan 2015. A contribution is therefore not payable.

Relevant Legislation

56. The Environmental Planning and Assessment Act 1979.

Conclusion

57. The application proposes alterations and additions to the existing rooftop terrace of Unit 901, which is one of four existing private rooftop terraces on the building. The works include the erection of a timber and metal pergola at the centre of the terrace, a new structure to the south-western corner of the terrace to accommodate plant, landscaping, including the provision of planters and seating, new pedestal tiling over the existing tiles and removal of two existing skylights, raised timber decking to the northern boundary and a new bathroom within the existing plant room.

58. The proposal results in a breach of the 27m building height development standard by 5m or 18.5%.

59. The proposal also exceeds the 5:1 floor space ratio (FSR) development standard. As the existing building currently exceeds the FSR standard, the proposed addition of 7sqm of floor space results in an overall exceedance of 1325.5sqm or 15.6%.

60. Written requests have been provided seeking variations to the height development standard and the floor space ratio development standard in accordance with Clause 4.6 of the Sydney LEP 2012.

61. The requested variations to the height development standard and FSR development standard are recommended to be upheld in this instance because the consent authority is satisfied that the applicant's written requests adequately address the matters required to be addressed by Clause 4.6 of the Sydney LEP 2012. Further, the proposed development is considered to be in the public interest as it is consistent with the objectives of Clause 4.3 Height and Clause 4.4 Floor Space Ratio and the objectives of the B2 Local Centre zone. It is considered that strict compliance with the height of buildings development standard and the FSR development standard is unreasonable or unnecessary in this instance.

62. Subject to the inclusion of recommended conditions, the proposed development is generally consistent with the objectives, standards and guidelines of the relevant planning controls. The proposal will provide additional amenity to the existing rooftop terrace to Unit 901, will not significantly impact on adjoining dwellings in relation to bulk, scale or overshadowing, and will generally not be able to be visible from the public domain. The proposed development is considered to achieve design excellence in accordance with Clause 6.21 of the Sydney LEP 2012.

63. Accordingly, the Development Application is recommended for approval, subject to conditions.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Julia Errington, Planner

Attachment A

Recommended Conditions of Consent

CONDITIONS OF CONSENT

SCHEDULE 1A

APPROVED DEVELOPMENT/DESIGN MODIFICATIONS/COVENANTS AND CONTRIBUTIONS/USE AND OPERATION

Note: Some conditions in Schedule 1A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

(1) APPROVED DEVELOPMENT

(a) Development must be in accordance with Development Application No. D/2019/646 dated 20 June 2019 and the following drawings prepared by Space Landscape Designs:

Drawing Number	Drawing Name	Date
DA-02 Rev A	Existing Roof Terrace Plan	16/05/2019
DA-01 Rev G	Location/ Site Plan	24/09/2019
DA-03 Rev G	Elevation/ Sections	24/09/2019
DA-03A Rev E	Sections	24/09/2019
DA-04 Rev E	Roof Plan/ Plant Room Section	10/09/2019
DA-11 Rev A	Planting Plan	10/09/2019

and as amended by the conditions of this consent.

(b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

(2) APPROVED DESIGN ROOF - TOP PLANT

All roof-top plant and associated equipment must be located within the approved building envelope.

(3) PERGOLA HEIGHT

(a) The height of the rooftop pergola must not exceed RL 77.92 (AHD) to the top of the pergola.

(b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifier.

(4) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

(a) Amended plans are to be provided which demonstrate drainage details for all existing and new roof structures on the rooftop terrace.

The modifications are to be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate.

(5) FLOOR SPACE AREA

The following applies to Floor Space Area:

(a) The Floor Space Area for the new rooftop bathroom must not exceed 7sqm.

(b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total Gross Floor Area of the bathroom utilising the definition under the Sydney Local Environmental Plan 2012, applicable at the time of development consent, to the satisfaction of the Principal Certifier.

(6) PLANT ROOM

The approved plant room is to be used to house plant only and not to be used for storage.

(7) MATERIALS AND SAMPLES SCHEDULE – MINOR DEVELOPMENT

A detailed materials, colours and finishes schedule (including visible rainwater goods and services) keyed to each building elevation must be submitted to and approved by Council's Area Planning Manager prior to a Construction Certificate being issued. The materials and samples schedule/board must not include generic material or colour descriptions, or use terminology such as 'or similar'.

(8) EXTERNAL LIGHTING

A separate development application is required to be lodged and approved prior to any external floodlighting or illumination of the building or site landscaping.

(9) AIR CONDITIONERS GENERALLY

No air-conditioning equipment is to be visible from the public domain. Equipment and associated wiring shall:

(a) Not be located on awnings or attached to the face of the building

(b) Not be located on roofs in such a way that it is visible from any street, footpath or park

(c) Be visually screened if located 1.8 metres above ground level in other locations

(d) Wiring shall be fully concealed.

(10) NO AIR CONDITIONING UNITS TO FACADE OR BALCONIES OF BUILDING

Approval is not granted for the installation of individual air conditioning units to the facade or balconies of the building.

(11) REFLECTIVITY

The Principal Certifier must ensure that the visible light reflectivity from building materials used on the facade of the building does not exceed 20% prior to issue of the Construction Certificate.

SCHEDULE 1B

PRIOR TO CONSTRUCTION CERTIFICATE/COMMENCEMENT OF WORK/HEALTH AND BUILDING

(12) COMPLIANCE WITH BUILDING CODE OF AUSTRALIA

All proposed work must comply with the *Building Code of Australia* (BCA).

(13) STRUCTURAL CERTIFICATION FOR EXISTING BUILDING – ALTERATIONS AND ADDITIONS

A qualified practising certified structural engineer must provide structural certification to Council (where Council is the Principal Certifier) verifying that the existing structure can adequately support the proposed new loads and the structural design complies with the Structural Provisions of Part B1 (Vol 1) and Part 2.1 (Vol 2) of the *Building Code of Australia* prior to a Construction Certificate being issued. The proposed additional loads and/or alterations must not cause a decrease in the existing structural performance of the building including its performance under earthquake actions (AS1170.4).

(14) LANDSCAPE PLAN FOR ROOFTOP

(a) A detailed landscape plan for the rooftop including plans and details drawn to scale, and technical specification, by a qualified landscape architect or landscape designer, must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate. The plan must include:

(i) A statement that includes details of proposed use of the roof terrace, accessibility, and any noise and privacy treatments.

(ii) Location and details of existing and proposed services, walls, balustrades, hard surfaces, timber decking, planter boxes and freestanding pots, furniture, shade pergola structure, fixings and other structural elements that may interrupt waterproofing, including cross-sectional details of all components.

(iii) Engineers report confirming structural capacity of building for proposed roof terrace loads.

(iv) Structural review and evidence that non-penetrative fixings are able to withstand wind effects on the roof terrace.

(v) Details of soil types and depth including any mounding. The minimum soil depths for planting on slab must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers, excluding drainage and mulch layers.

(vi) Details of drainage and irrigation systems, including overflow provisions and water retention cells in the drainage layer.

(vii) Planting details, and location, numbers, type and supply size of plant species, with reference to Australian Standards and preference for drought resistant species that contribute to habitat creation and biodiversity.

(viii) Landscape maintenance plan. This plan is to be complied with during occupation of the property.

(ix) Maintenance methodology for safe working at height including access requirements, location of any anchor points, gates, and transport of materials such as green waste removal.

(b) Prior to the issue of a Construction Certificate, structural and waterproofing certifications for the landscaping and planters are to be submitted to and approved by the Principal Certifying Authority.

(c) All landscaping in the approved plan must be complete prior to the issue of an Occupation Certificate.

(15) APPLICATION FOR HOARDINGS AND SCAFFOLDING INSTALLED ON OR ABOVE A PUBLIC ROAD AND OPERATING HOISTING DEVICES INCLUDING BUILDING MAINTENANCE UNITS OVER A PUBLIC ROAD

(a) A separate application under Section 68 of the *Local Government Act 1993* and Section 138 of the *Roads Act 1993* is to be made to Council to erect a hoarding and/or scaffolding (temporary structures) on or above a public road (footway and/or roadway).

(b) Where an approval (Permit) is granted allowing the placement of temporary structures on or above a public road the structures must comply fully with Council's *Hoarding and Scaffolding Policy; Guidelines for Hoardings and Scaffolding;* and the conditions of approval (Permit) granted including:

(i) maintaining a current and valid approval for the full duration that the temporary structure/s is in place;

(ii) maintaining temporary structure/s in a structurally sound and stable condition for the full duration of installation (Clause 2.11.1);

(iii) bill posters and graffiti being removed within 24 hours of their placement (Clause 2.11.2);

(iv) maintaining temporary structures and the public place adjoining the work site in a clean and tidy condition including repainting and/or repair of graphics (Clauses 2.11.1, 2.11.4, 2.14.1 and 3.9.3);

(v) maintaining a watertight deck (Type B hoardings) to prevent liquids including rainwater, falling onto the footway/roadway surfaces (Clauses 3.9.1 and 3.9.4);

(vi) approved site sheds on the decks of a Type B hoarding being fully screened from the public place (Clause 3.9.5);

(vii) material and equipment not being placed or stored on the deck of Type B hoardings, unless specifically approved by Council (Clause 3.9.4);

(viii) providing and maintaining operational artificial lighting systems under Type B hoardings including at high-bay truck entry points (Clause 3.9.9); and

(ix) ensuring all required signage is provided and maintained (Clauses 3.9.3, 3.9.6, 3.9.8, 3.10.1 and 4.2).

If it is proposed to operate a hoisting device including a building maintenance unit above a public road which swings, hoists material/equipment and/or slews any part of the device over the public road, a separate application under Section 68 of the *Local Government Act 1993* and Section 138 of the *Roads Act 1993* must be made to Council to obtain approval.

Note: 'Building maintenance unit' means a power-operated suspended platform and associated equipment on a building specifically designed to provide permanent access to the faces of the building for maintenance (*Work Health and Safety Regulation 2011*).

(16) WORKS REQUIRING USE OF A PUBLIC PLACE

Where construction/building works require the use of a public place including a road or footpath, approval under Section 138 of the *Roads Act 1993* is to be obtained from Council prior to the commencement of work. Details of any barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

(17) WASTE AND RECYCLING MANAGEMENT - MINOR

The proposal must comply with the relevant provisions of Council's *Guidelines for Waste Management in New Developments 2018* which requires facilities to minimise and manage waste and recycling generated by the proposal.

SCHEDULE 1C

DURING CONSTRUCTION/PRIOR TO OCCUPATION/COMPLETION

(18) OCCUPATION CERTIFICATE TO BE SUBMITTED

An Occupation Certificate must be obtained from the Principal Certifier and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

(19) HOURS OF WORK AND NOISE – OUTSIDE CBD

The hours of construction and work on the development must be as follows:

(a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.

(b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.

(c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a permit being issued by Council under Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993.

Note: Works may be undertaken outside of hours, where it is required to avoid the loss of life, damage to property, to prevent environmental harm and/or to avoid structural damage to the building. Written approval must be given by the Construction Regulation Unit, prior to works proceeding

The *City of Sydney Code of Practice for Construction Hours/Noise 1992* allows extended working hours subject to the approval of an application in accordance with the Code and under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

(20) LIGHTING OF SITE OUTSIDE OF STANDARD CONSTRUCTION HOURS

Lighting of the site while any work is undertaken outside of Council's standard hours of construction must ensure that at no time must the intensity, hours of illumination or location of the lighting cause objectionable glare or injury to the amenity of the neighbourhood or Obtrusive Light in accordance with the definition in Australian Standard AS4282-1997 *Control of the obtrusive effects of outdoor lighting*. If in the opinion of Council, injury is likely to be caused, the

intensity, hours of illumination and location of the lighting must be varied so that it does not cause injury to nearby residents.

(21) ENCROACHMENTS – NEIGHBOURING PROPERTIES

No portion of the proposed structure shall encroach onto the adjoining properties.

(22) ENCROACHMENTS – PUBLIC WAY

No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach upon Council's footpath area.

(23) COVERING OF LOADS

All vehicles involved in the excavation and/or demolition process and departing the property with demolition materials, spoil or loose matter must have their loads fully covered before entering the public roadway.

(24) VEHICLE CLEANSING

Prior to the commencement of work, suitable measures are to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters.

(25) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

(a) All loading and unloading associated with construction activity must be accommodated on site, where possible.

(b) If, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.

(c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.

(d) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate approval under Section 68 of the Local Government Act 1993 must be obtained.

(26) NO OBSTRUCTION OF PUBLIC WAY

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by Council to stop all work on site.

(27) USE OF MOBILE CRANES

The following requirements apply:

(a) Mobile cranes operating from the road must not be used as a method of demolishing or constructing a building.

(b) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes, permits must be obtained from Council for the use of a mobile crane. The permits must be obtained 48 hours beforehand for partial road closures which, in the opinion of Council will create minimal traffic disruptions and 4 weeks beforehand in the case of full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.

(c) The use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes outside of approved hours of construction can occur, subject to a permit being issued by Council under Section 68 of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993.

SCHEDULE 2

PRESCRIBED CONDITIONS

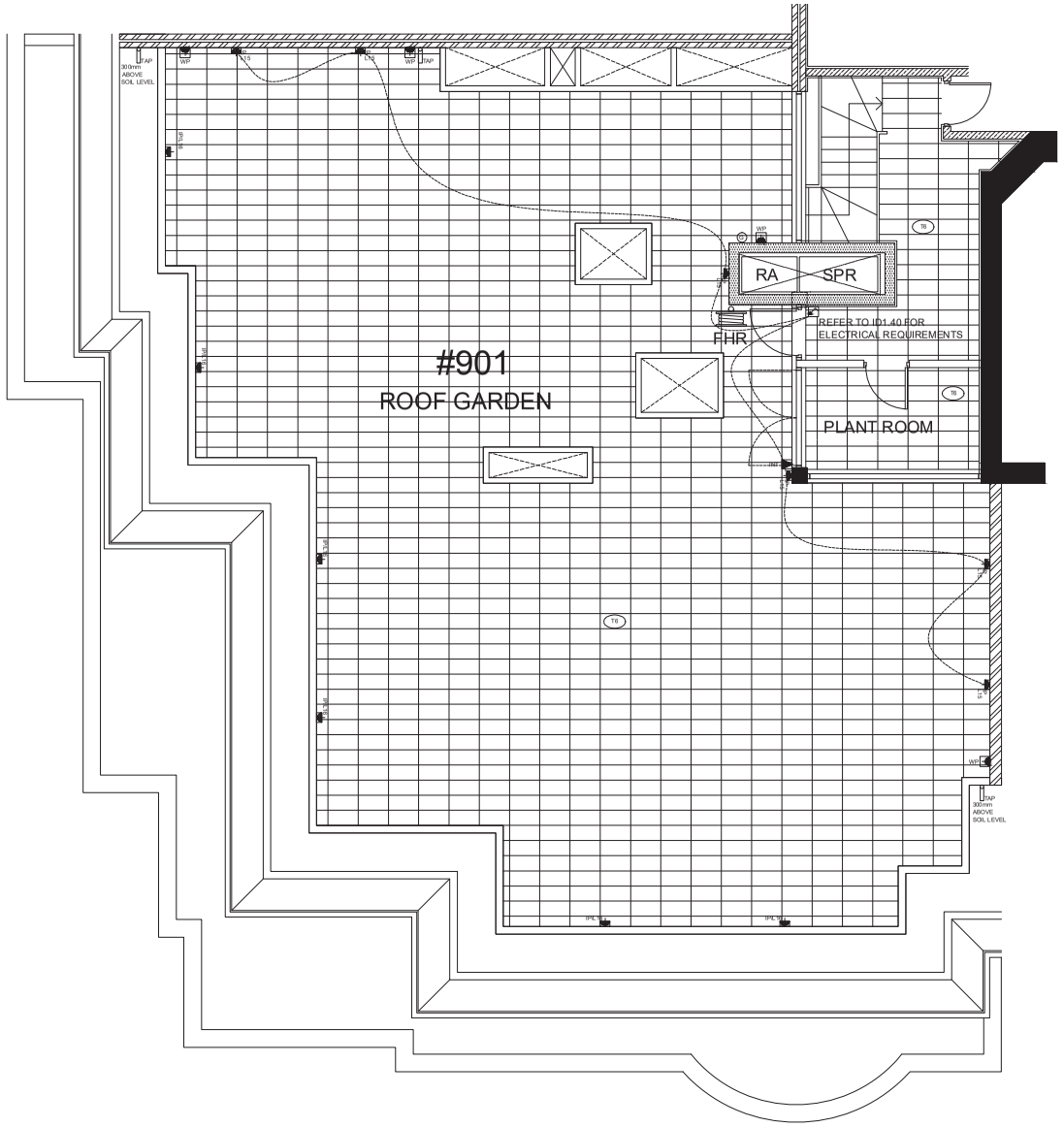
The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation 2000* apply:

Clause 98	Compliance with *Building Code of Australia* and insurance requirements under the *Home Building Act 1989*
Clause 98A	Erection of signs
Clause 98B	Notification of *Home Building Act 1989* requirements
Clause 98C	Conditions relating to entertainment venues
Clause 98D	Conditions relating to maximum capacity signage
Clause 98E	Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the *Environmental Planning and Assessment Regulation 2000*. This can be accessed at: http://www.legislation.nsw.gov.au

Attachment B

Selected Drawings



ROOFTOP PLAN - EXISTING
SCALE 1:100

NOTES:
- Contractors to check and verify all dimensions and all levels on site prior to any works.
- Any discrepancies should be immediately referred to Space Landscape Designs.
- All work to comply with B.C.A. Statutory Authorities and relevent Australian Standards.
- Dimensions recognised over scaling. All measurements are in millimetres.

Rev.	Date	Issue	Checked
A	16/05/19	Preliminary Issue	AE

DRAFT

SPACE
LANDSCAPE DESIGNS

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CLIENT
Phillip Beniac

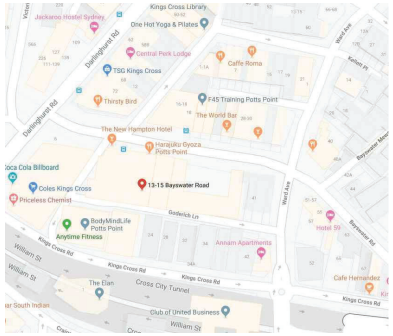
ADDRESS
901 /13-15 Bayswater Rd,
POTTS POINT

DRN: L.Poulton
DATE: 29/04/2019
SCALE: 1:100@A3
PROJECT NO: 191639

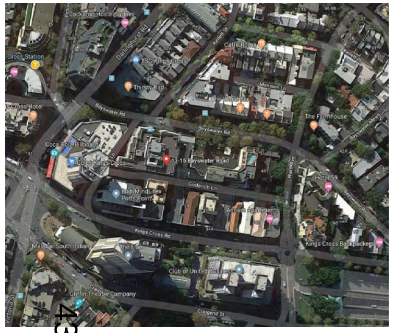
NORTH

EXISTING ROOF TERRACE PLAN

DA-02 Rev A



LOCATION OF SUBJECT SITE
COURTESY OF GOOGLE MAPS

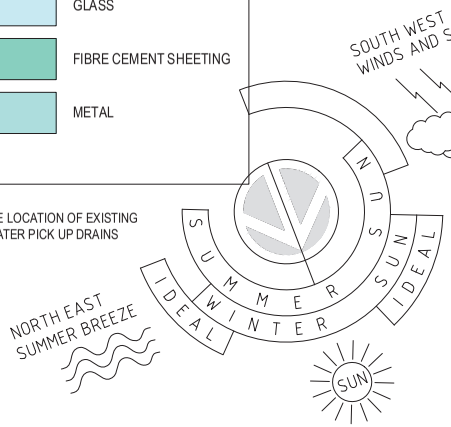


AERIAL VIEW OF PROPOSED WORKS
COURTESY OF GOOGLE MAPS

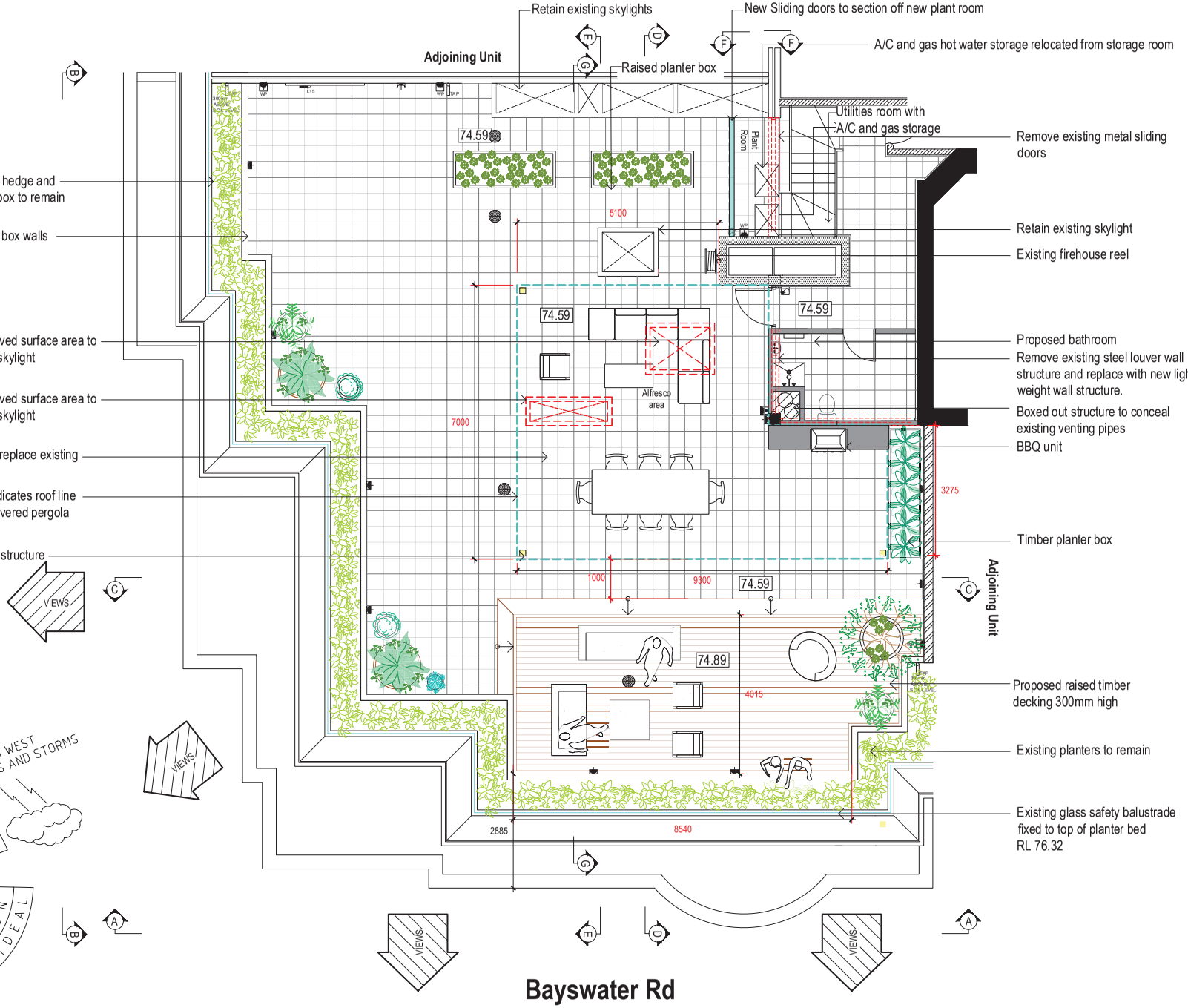
NEW WORKS COLOURS

- TIMBER
- GLASS
- FIBRE CEMENT SHEETING
- METAL

INDICATIVE LOCATION OF EXISTING STORM WATER PICK UP DRAINS



Retain existing skylights
New Sliding doors to section off new plant room
A/C and gas hot water storage relocated from storage room
Adjoining Unit
Raised planter box
Utilities room with A/C and gas storage
Remove existing metal sliding doors
Existing Buxus hedge and raised planter box to remain
Existing planter box walls RL 75.29
Retain existing skylight
Existing firehouse reel
Raised new paved surface area to cover existing skylight
Proposed bathroom
Remove existing steel louver wall structure and replace with new light weight wall structure.
Raised new paved surface area to cover existing skylight
Boxed out structure to conceal existing venting pipes
New paving to replace existing
BBQ unit
Dashed line indicates roof line of proposed covered pergola
Timber planter box
Post for shade structure
Proposed raised timber decking 300mm high
Existing planters to remain
Existing glass safety balustrade fixed to top of planter bed RL 76.32
Adjoining Unit
Bayswater Rd



Lot 118 SP 85899

NOTES:
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- Any discrepancies should be immediately referred to Space Landscape Designs.
- All work to comply with B.C.A. Statutory Authorities and relevant Australian Standards.
- Dimensions recognised over scaling. All measurements are in millimetres.

Rev.	Date	Issue	Checked
A	16/05/19	Preliminary Issue	AE
B	03/06/19	DA Issue	AE
C	25/06/19	DA Issue	AE
D	07/08/19	DA Issue	AE
E	04/09/19	DA Issue	AE
F	10/09/19	DA Issue	AE
G	24/09/19	DA Issues	AE

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CLIENT: Phillip Beniac
ADDRESS: 901 /13-15 Bayswater Rd, POTTS POINT

DRN: L.Poulton
DATE: 29/04/2019
SCALE: 1:100@A3
PROJECT NO: 191639

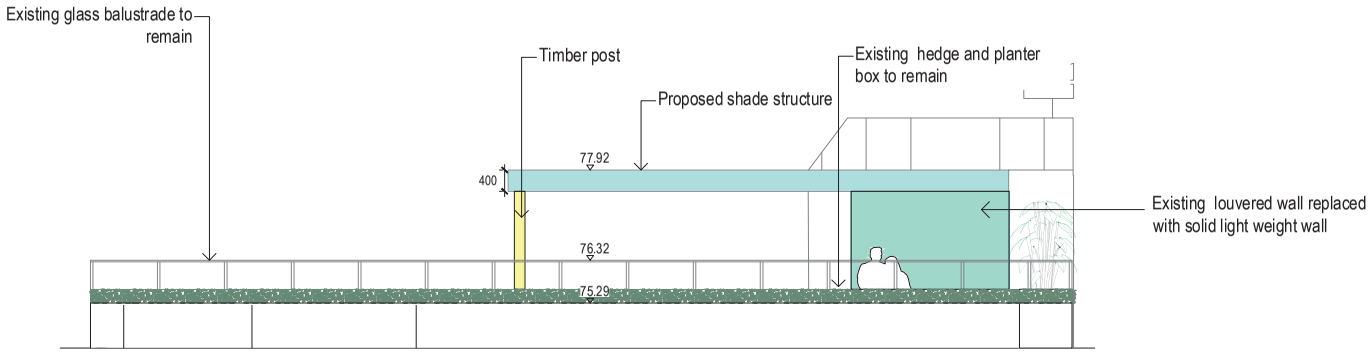
NORTH

LOCATION / SITE PLAN

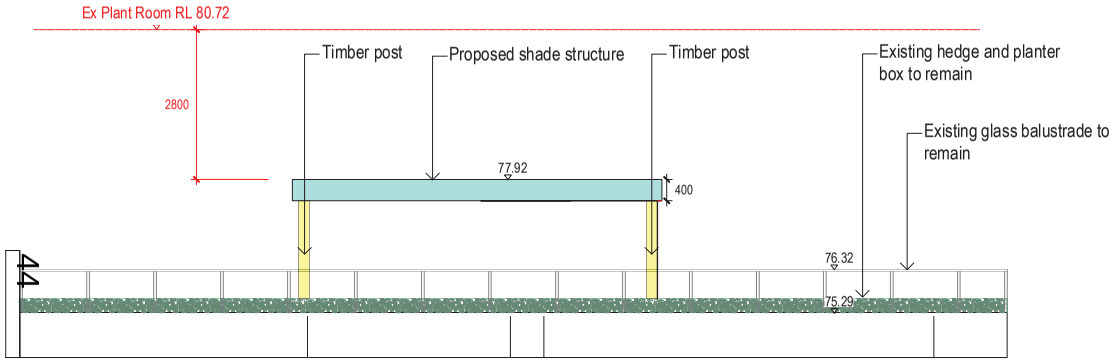
DA-01 Rev G

NEW WORKS COLOURS

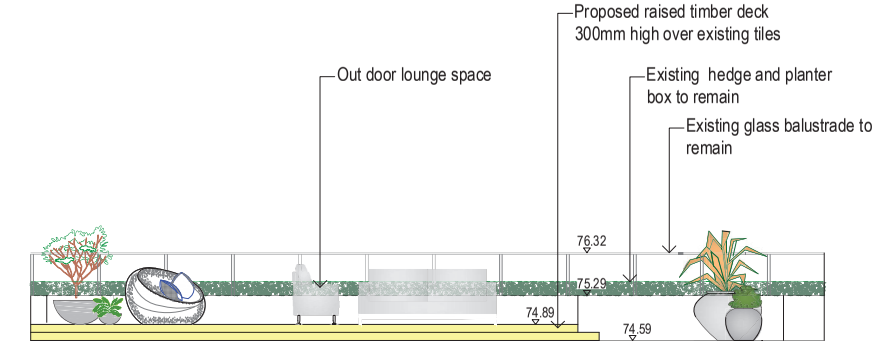
- TIMBER
- GLASS
- FIBRE CEMENT SHEETING
- METAL



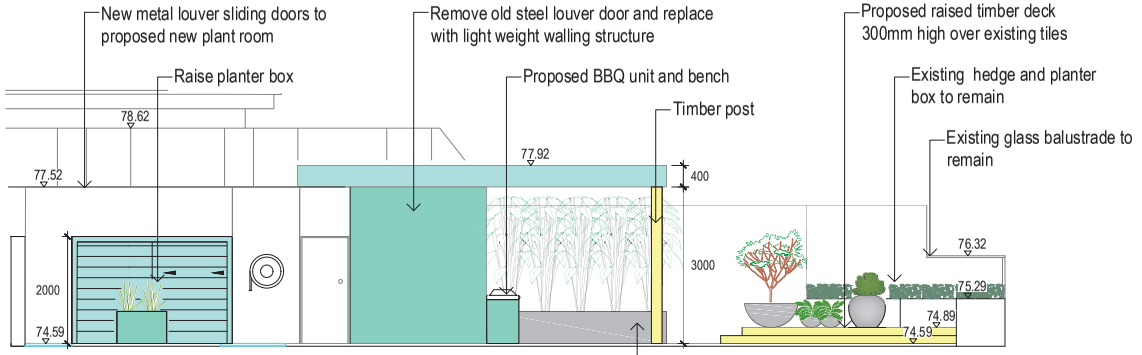
ELEVATION AA - NORTHERN ELEVATION
SCALE 1:100



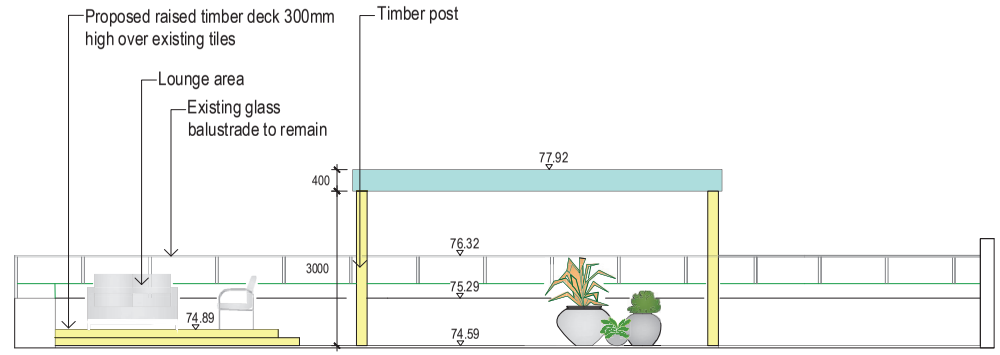
ELEVATION BB - EASTERN VIEW
SCALE 1:100



ELEVATION CC - RAISED DECKING AREA
SCALE 1:100



ELEVATION DD
SCALE 1:100



SECTION EE
SCALE 1:100

Lot 118 SP 85899

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D	26/07/19	DA Issue	AE
E	04/09/19	DA Issue	AE
F	10/09/19	DA Issue	AE
G	24/09/19	DA Issue	AE

SPACE LANDSCAPE DESIGNS

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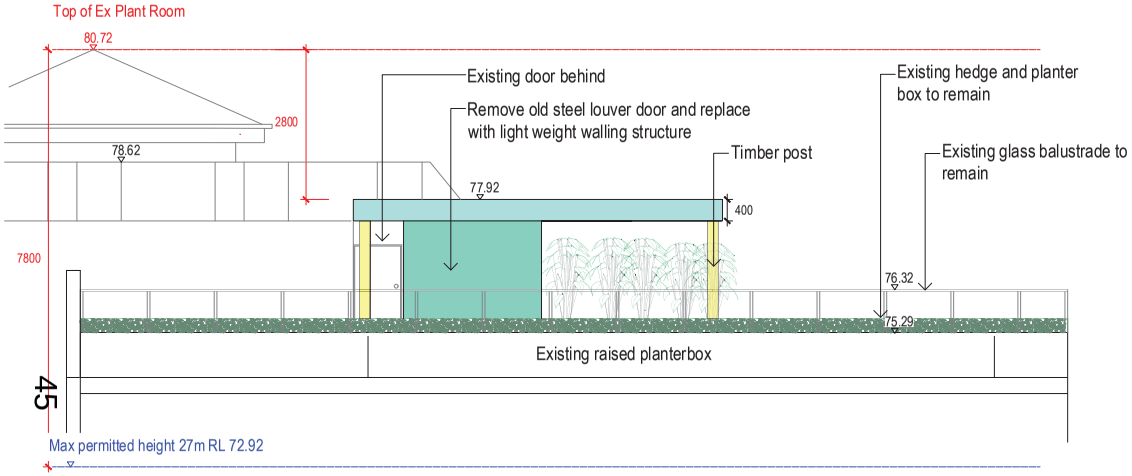
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ADDRESS: 901 /13-15 Bayswater Rd, POTTS POINT

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ELEVATION / SECTIONS
DA-03 Rev G

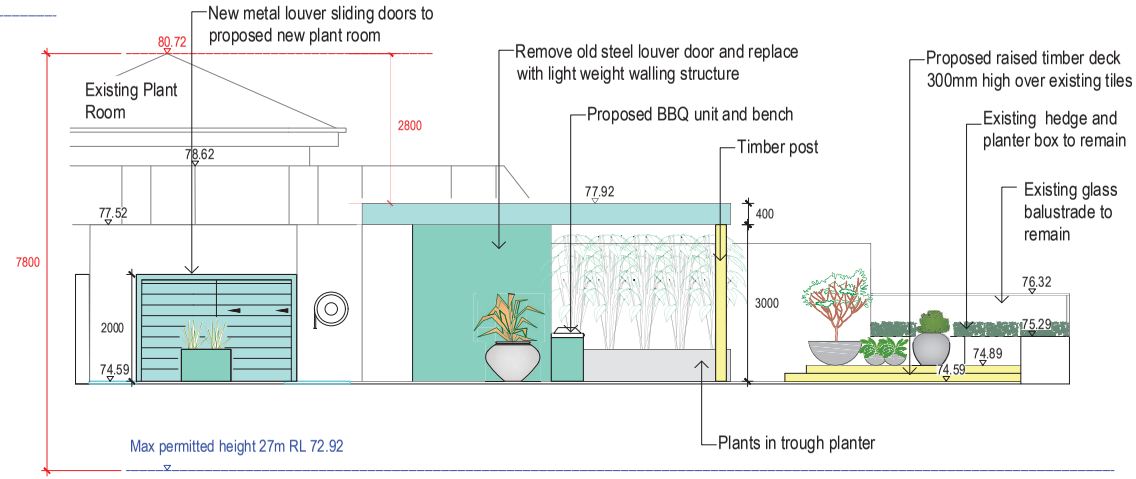
NEW WORKS COLOURS

- TIMBER
- GLASS
- FIBRE CEMENT SHEETING
- METAL



ELEVATION BB - EASTERN VIEW

SCALE 1:100



SECTION DD

SCALE 1:100

Lot 118 SP 85899

NOTES:
- Contractors to check and verify all dimensions and all levels on site prior to any works.
- Any discrepancies should be immediately referred to Space Landscape Designs.
- All work to comply with B.C.A. Statutory Authorities and relevant Australian Standards.
- Dimensions recognised over scaling. All measurements are in millimetres.

Rev.	Date	Issue	Checked
A	26/07/19	DA Issue	AE
B	07/08/19	DA Issue	AE
C	04/09/19	DA Issue	AE
D	10/09/19	Revised DA Issue	AE
E	24/09/19	DA Issue	AE

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CLIENT: Phillip Beniac

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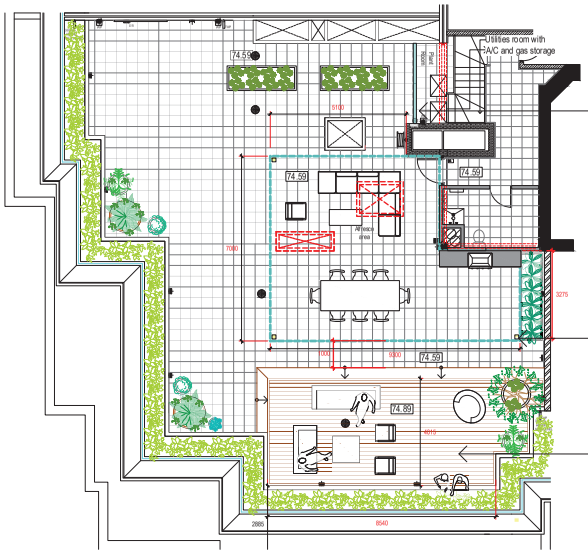
DRN: L.Poulton
DATE: 29/04/2019
SCALE: 1:100@A3
PROJECT NO: 191639

SECTIONS

DA-03A Rev E

NEW WORKS COLOURS

- TIMBER
- GLASS
- FIBRE CEMENT SHEETING
- METAL



MATERIAL SCHEDULE PLAN
SCALE 1:200

PLANT ROOM
Painted the colour of existing building
New lourve doors dark grey to match existing frames

PERGOLA POSTS
Timber clad steel posts

DECKING
Hardwood timber

COLOUR AND MATERIAL SCHEDULE



TIMBER POST



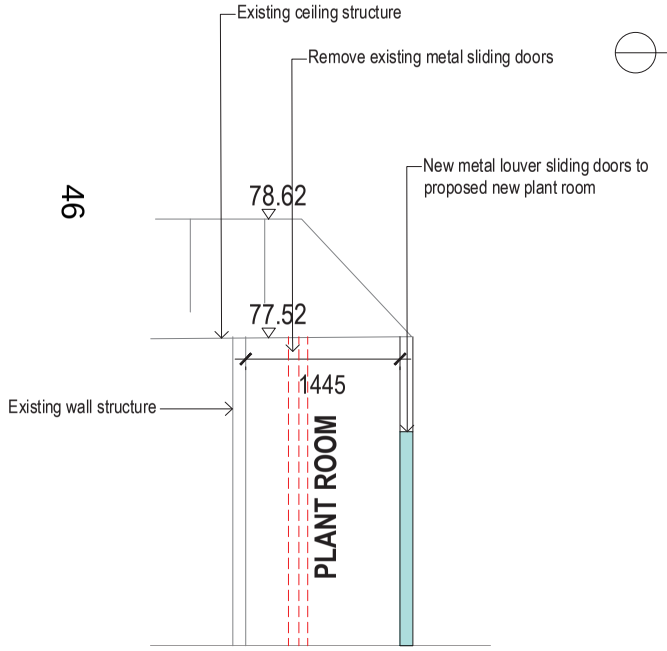
NEW WALLS PAINTED TO MATCH EXISTING



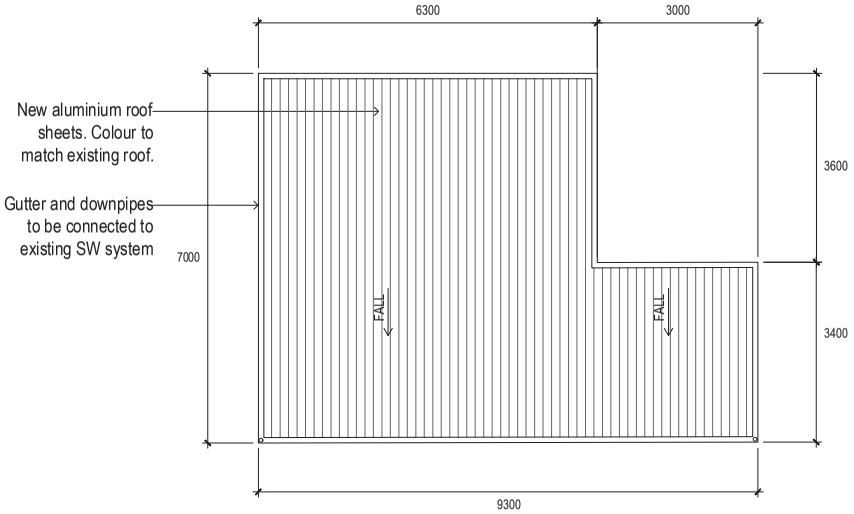
DECKING



NEW ROOF COLOUR TO MATCH EXISTING



SECTION FF - PLANT ROOM
SCALE 1:50



ROOF PLAN - PROPOSED COVERED PERGOLA
SCALE 1:100

Lot 118 SP 85899

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- Dimensions recognised over scaling. All measurements are in millimetres.

Rev.	Date	Issue	Checked
A	16/05/19	Preliminary Issue	AE
B	03/06/19	DA Issue	AE
C	25/06/19	DA Issue	AE
D	04/09/19	DA Issue	AE
E	10/09/19	DA Issue	AE

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CLIENT
Phillip Beniac

ADDRESS
901 /13-15 Bayswater Rd, POTTS POINT

DRN: L.Poulton
DATE: 29/04/2019
SCALE: 1:100@A3
PROJECT NO: 191639

ROOF PLAN / PLANT ROOM SECTION

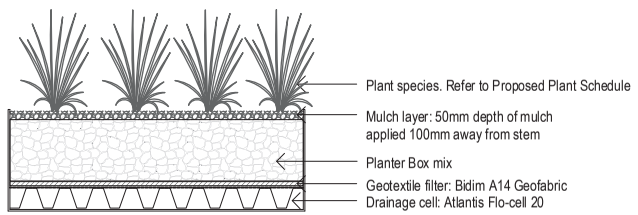
DA-04 Rev E

NEW WORKS COLOURS

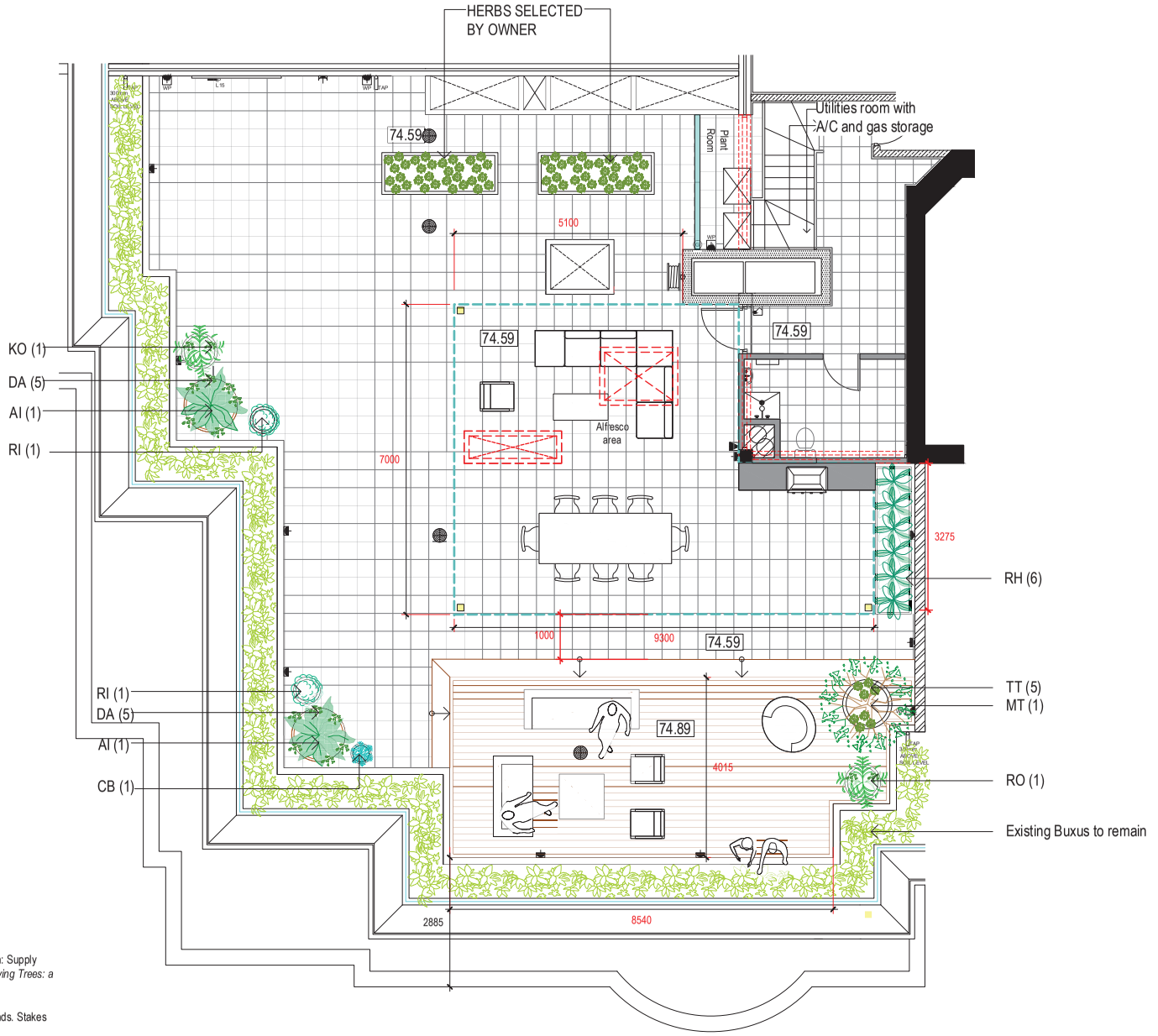
- TIMBER
- GLASS
- FIBRE CEMENT SHEETING
- METAL

PROPOSED PLANT SCHEDULE

KEY	BOTANICAL NAME	COMMON NAME	QTY	MATURE HGT	POT SIZE
	TREES				
MT	MAGNOLIA GRANDIFLORA 'TEDDY BEAR'	TEDDY BEAR MAGNOLIA	1	2.5m	45Ltr
	SHRUBS				
AI	ALCANTAREA IMPERIALIS 'RUBRA'	GIANT BROMELIAD	2	1m	250mm
RH	RHAPHIOLEPIS INDICA 'ORIENTAL PEARL'	ORIENTAL PEARL	6	1m	250mm
RI	RHAPHIOLEPIS INDICA 'BALLERINA'	INDIAN HAWTHORN	2	0.6m	250mm
RO	ROSMARINUS OFFICINALIS	ROSEMARY	1	1m	250mm
	GRASSES / GROUND COVERS				
CB	CRASSULA 'BLUE BIRD'	BLUE BIRD	1	0.6m	200mm
DA	DICHONDRA ARGENTEA	SILVER FALLS	10	0.3m	140mm
KO	KALANCHOE ORGYALIS 'COPPER SPOONS'	COPPER SPOONS	1	0.5m	200mm
TT	TRACHELOSPERMUM 'TRICOLOUR'	TRICOLOUR	5	0.2m	140mm



DETAIL A
PLANTING IN LARGE POTS N.T.S



LANDSCAPE SPECIFICATION NOTES

IMPORTED TOPSOIL

Planting in Planter Boxes: 'Planter Box Mix', as supplied by, ANL p: 02 9450 1444 or approved alternative.

TREE STOCK

Tree stock to be supplied by production nurseries in accordance with AS 2303:2015 Tree Stock for Landscape Use.

Health & Vigour: Supply plants with foilage size, texture & colour consistent with that shown in healthy specimens of the species. Balance of Crown: Supply plants with max. variation in crown bulk on opposite sides of stem axis, +/- 20%. Stock selection should also be based on NATSPEC Guide *Specifying Trees: a Guide to Assessment of Tree Quality*.

STAKING

Install 2 x 1800mm 40x40 hardwood timber stakes with hessian ties to all trees. Provide appropriate support considering exposure to prevailing winds. Stakes and hessian ties to be removed as soon as the tree is self supporting.

MULCHING

Quality system: AS 4454. All planting area impacted by building works to receive 50mm of garden Mulch, Droughtmaster, ANL p: 02 9450 1444 or approved alternative. Keep mulch 100mm away from plant stem & form a well to stop excessive water runoff. Finish 50mm below pot level.

WATERING

Water in immediately after plant installation & allow for soil settlement. For the first 2 to 4 weeks after planting, the root zone & immediate surrounds must be kept moist. Continue watering until plants have established.

Lot 118 SP 85899

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Rev.	Date	Issue	Checked
A	10/09/19	DA Issue	AE

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CLIENT: Phillip Beniac

ADDRESS: 901 /13-15 Bayswater Rd, POTTS POINT

DRN: L.Poulton
DATE: 10/09/2019
SCALE: 1:100@A3
PROJECT NO: 191639

NORTH

PLANTING PLAN

DA-11 Rev A

Attachment C

Clause 4.6 Height Variation Request

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PO Box 4178
North Curl Curl NSW 2099

3 October 2019

Ms Julia Errington
Planner
City of Sydney Council
GPO Box 1591
Sydney NSW 2001

Re: Clause 4.6 Submission for:
Clause 4.3 Height of Buildings of Sydney LEP 2012

To accompany the development application for proposed alterations and additions to Unit 901, 13-15 Bayswater Road, Potts Point

1.0 Introduction

This Clause 4.6 variation request is in relation to alterations and additions to unit 901, 13-15 Bayswater Road, Potts Point.

The request seeks to vary the Building Height Development Standard of 27m height specified in Clause 4.3 of the Sydney LEP 2012.

The height of the proposed pergola is RL77.92 which is 5m above the permitted height. This is a variation of 18.5%. The existing buildings plant room does not comply at 34.8m high (RL80.72). The proposed pergola is 2.8m below the height of the plant room.

2.0 Compliance with the Development Standard is Unreasonable and Unnecessary in the Circumstances of the Case

Clause 4.6(3)(a) requires the applicant to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The existing site does not comply with the required Building Height. Strict compliance for Unit 901, 13-15 Bayswater Road, Potts Point would be therefore considered unreasonable given that the development is 2.8m below the existing Plant Room and neighbouring terraces have 3.4m high pergolas recently approved.

An assessment is provided below in regard to the five part test under *Wehbe v Pittwater Council*. As demonstrated below, there are sufficient environmental planning grounds to justify the variation and compliance with the standard is considered unreasonable and unnecessary in this instance.

As demonstrated below, the proposal satisfies number one of the test established in *Wehbe* and for that reason, the development standard is considered unreasonable and unnecessary in this instance.

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

It is felt the objectives of the standard have been achieved notwithstanding non-compliance with the numerical standard as detailed below.

(a) to ensure the height of development is appropriate to the condition of the site and its context,
The pergola and plant room will not affect the public domain as it is not visible to the street below being located on the rooftop level.

A maximum height of 27m is permitted for the site under the development standard. The existing plant room is RL80.72 (34.8m) in height from natural ground level on Goderich Lane. This is an existing variation of 7.8m or 28.8%. The proposed shade structure is RL 77.92 which is 2.8m below the height of the existing plant room.

It is felt the height of the development is appropriate to the site as council have recently approved a 3.4m high pergola to the adjacent southern rooftop terrace. Rooftop terraces in the surrounding area have covered pergolas and therefore is in context with the surrounding neighbourhood.

Therefore we request a variation for the height of the pergola which is only 5m or 18.5% above the height limit. Due to the height of the existing Plant Room it does not result in an increase in height to the overall building.

(b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,
The development respects the existing ridge height being located lower than the existing plant room. At 2.8m below the existing Plant Room there is an appropriate height transition to other buildings. Being located at a lower level it maintains the general bulk of the existing building therefore it is considered to meet height transitions within the heritage conservation area.

The proposed development would not be visible from the street due to the setback and location of the rooftop.

The proposed development does not encroach into the curtilages of any heritage items due to the distance separating the existing building from any heritage building. The development will not block any public view of a heritage item given it’s location on the rooftop and distance from any heritage building.

(c) to promote the sharing of views,

- The pergola will not obstruct any views from adjacent rooftops. There is an existing 2m high solid wall located on the southern and western boundary separating the neighbouring rooftop terraces. This provides privacy between dwellings and prevents any views between the terraces.
- Council have recently approved a 3.4m high pergola to the southern rooftop terrace.
- The structure will not adversely impact the character of the area as it is not visible from the streetscape and located at the rear of the site.
- The development will not impact any public views due to its location on the rooftop and the distance between the existing building and surrounding buildings. A Residential building located to the south is approximately 76m away and therefore will not be impacted due to the distance between the two sites.

(d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas,
Not applicable.

(e) in respect of Green Square:
(i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and
(ii) to ensure the built form contributes to the physical definition of the street network and public spaces.
Not applicable.

Test 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.
As it has been established the objectives have been meet in Test 1, compliance with Test 2 is not applicable.

Test 3. The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.
As it has been established the objectives have been meet in Test 1, compliance with Test 2 is not applicable.

Test 4. The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.
As it has been established the objectives have been meet in Test 1, compliance with Test 2 is not applicable.

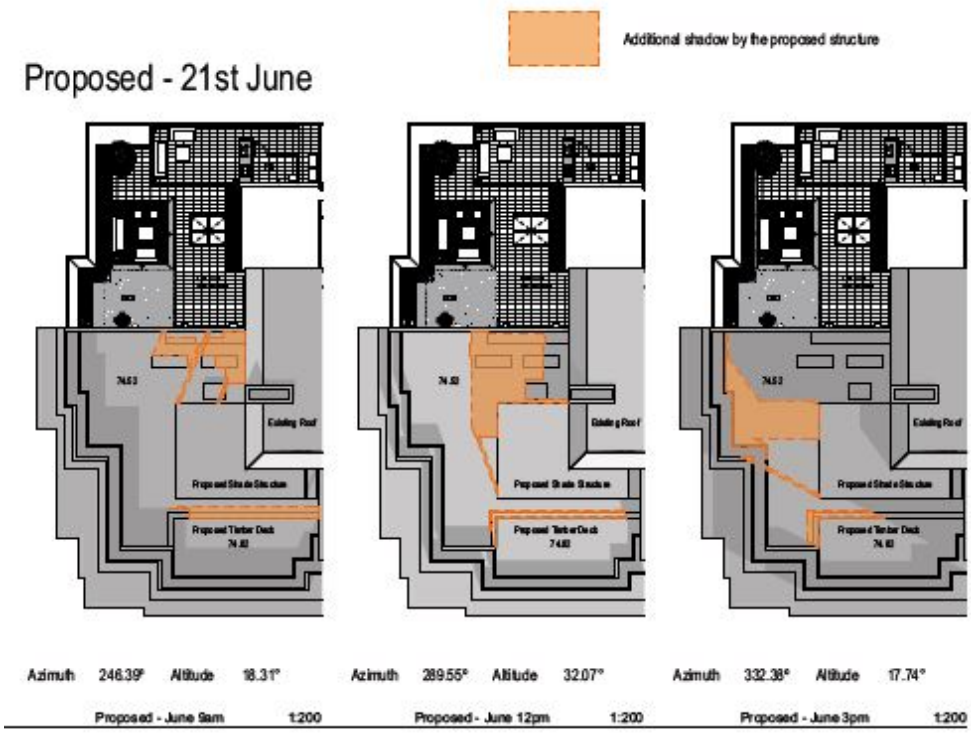
Test 5. The compliance with development standard is unreasonable or inappropriate due to the existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.
As it has been established the objectives have been meet in Test 1, compliance with Test 2 is not applicable.

There are sufficient environmental planning grounds to justify contravening the development standard.

It is submitted that the variation is well founded and worthy of the Council's approval. The request relates to varying the Building Height for the Pergola and Bathroom of the Rooftop terrace.

The height of the proposed pergola and plantroom is 5m or 18.5% above the height limit of 27m. However the existing plant room is RL80.72 - 34.8m in height from natural ground level on Goderich Lane. This is an existing variation of 7.8m or 28.8%. The proposed pergola is RL 77.92 which is 2.8m below the height of the existing plant room.

The shadow diagrams provided that accompany this Development Application show the difference of overshadowing impacts of the existing rooftop versus the proposed.
The shadow diagrams show there is no impact on the neighbouring rooftop. This is due to the proposal impacting the existing site only. The increase in overshadowing is minor and inconsequential as it falls on the existing sites outdoor open tiled area.



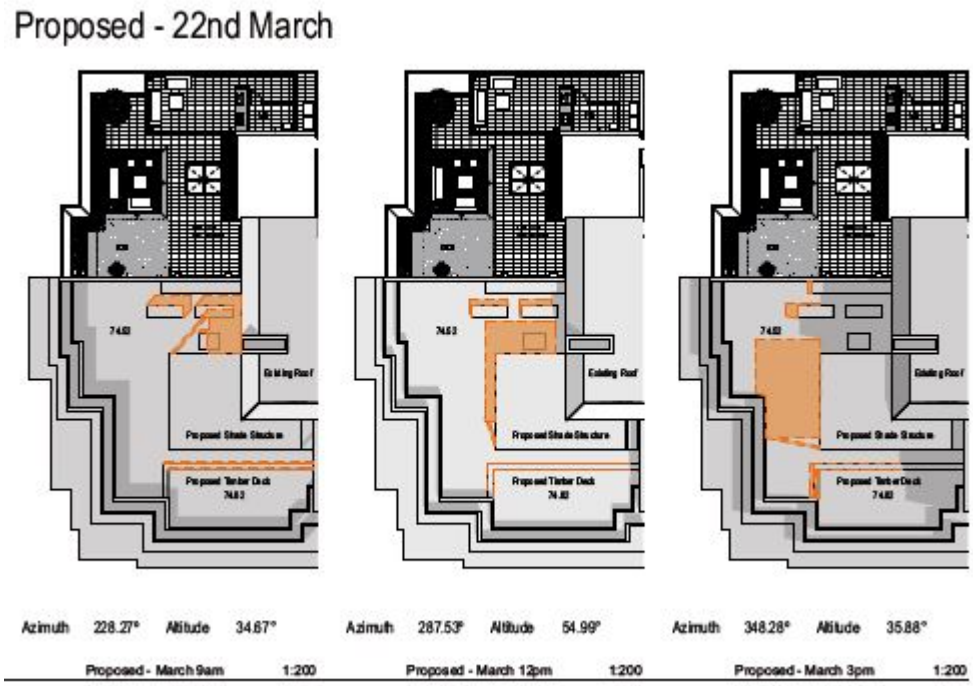


Figure 1 Proposed Pergola showing no impact on neighbouring rooftop

The proposal seeks to provide a covered pergola with bathroom to meet the needs of the owners. It will provide increased amenity and does not result in any adverse impacts on the area.

- The contravention of the height control by the proposal does not give rise to any environmental effect of sufficient significance that would cause concern.
- There is no impact to existing quantity of sunlight to the neighbouring rooftop.
- The additional roof area is reasonable and consistent with neighbouring rooftop pergolas that council have recently approved. It will have minimal effect to the bulk of the existing building.

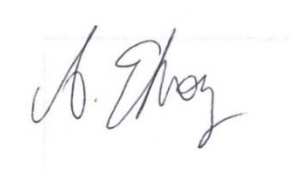
Conclusion

For the reasons provided above, it is felt there is sufficient environmental planning grounds to justify contravening the height of buildings development standard for the pergola and bathroom.

- The proposal is consistent with the objectives of the building height standard
- The proposal is consistent with the character of the area and will have no impact to neighbouring properties and will not cause any overshadowing.
- The development is a minor modification to the existing building and will not obstruct views and as such is consistent with the objective.
- The roof top terrace is an approved open space area to the apartment. It is a non-habitable area. The proposed changes are to provide increased amenity.
- The proposal development is consistent with the objectives for developments within the B2 zone. The shade structure will provide an outdoor covered recreation area for the owners, their family and friends to enjoy.

- The existing building already exceeds the maximum height under the development standard. The shade structure is 2.8m below the existing roof structure of the building. Neighbouring rooftops have all had similar shade structures approved and it will therefore not detract from the form and scale of the existing building.

Based on the reasons outlined above, we request the variation to Clause 4.3 – the height of buildings development standard is supported by council.



Amanda Elboz
Director

Attachment D

Clause 4.6 Floor Space Ratio Variation Request

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PO Box 4178
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3 October 2019

Ms Julia Errington
Planner
City of Sydney Council
GPO Box 1591
Sydney NSW 2001

Re: Clause 4.6 Submission for:
Clause 4.4 Floor Space Ratio of Sydney LEP 2012

To accompany the development application for proposed alterations and additions to Unit 901, 13-15 Bayswater Road, Potts Point

1.0 Introduction

The development standard to which this request for a variation relates is Clause 4.4 of the Sydney LEP 2012 – Floor Space Ratio. A maximum FSR of 5:1 applies to the subject site.

The purpose of this 4.6 submission is to formally seek support for a proposed bathroom 7m2 located on the existing rooftop terrace. The objectives of Clause 4.6 seek to provide appropriate flexibility to the application of developments standards in order to achieve better planning outcomes for the development.

On behalf of the owners, a request is sort in accordance with Clause 4.6 (3)(a) and (b) of the Sydney LEP 2012 seeking a variation of the development standard by demonstrating:
(a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of this case; and
(b) That there are sufficient environmental planning grounds to justify contravening the standard.

The proposal seeks flexibility in the application of the FSR development standard to the development in the circumstance of this particular case as the existing building also breaches the FSR development standard. The works will not unreasonably impact the external appearance of the building and are necessary to enhance the amenity and functionality of the rooftop terrace for Unit 901.

The non-complying element of the proposed development is an additional 7m2 of GFA. The maximum FSR standard is 5:1 (8,480m2). The existing FSR does not comply at 9,798.5m2. This additional numerical breach is considered minor and acceptable as it is the outcome of a well balanced design solution to meet increased amenity.

2.0 Compliance with the Development Standard is Unreasonable and Unnecessary in the Circumstances of the Case

Clause 4.6(3)(a) requires the applicant to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

The existing site does not comply with maximum FSR. Strict compliance for Unit 901, 13-15 Bayswater Road, Potts Point would be therefore considered unreasonable given that the overall increase in FSR is only 7m2.

An assessment is provided below in regard to the five part test under *Wehbe v Pittwater Council*. It was stated that it may be sufficient to establish compliance with only one part of the tests for it to be determined whether a development standard could be considered to be unreasonable or unnecessary.

As demonstrated below, the proposal satisfies number one of the test established in *Wehbe* and for that reason, the development standard is considered unreasonable and unnecessary in this instance.

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

Despite the non-compliance, the proposal is consistent with the desired general residential density character of the area. It is felt the objectives of the standard have been achieved notwithstanding non-compliance with the numerical standard as detailed below.

(a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,

Comment

As noted the existing building exceeds the relevant development standard and therefore any additions to this building would require a variation in the standard.

The proposed increase of the development is only 7m2 which is considered a minor increase. It is a minor departure from the existing FSR. With the existing building meeting the anticipating development needs, therefore this minor increase will also be still meeting these needs.

(b) to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,

Comment

The proposal is located on the roof top terrace which is an approved open space area to the apartment. The density of the existing building will not be intensified as the proposal will remain as a single residential use of the residential flat building. The rooftop will remain as a non-habitable open area for recreational use.

There will be a slight increase to the built form however the building envelope will be similar to the existing as the structure is setback from the boundary and will not be visible from the street.

The proposed development will increase the total GFA on the site and therefore the land use intensity however this is very minor at 7m2. This is appropriate in this circumstance as it will improve the site by providing an increase in the amenity of the rooftop for the owners.

The proposed development does not give rise to any additional impacts from pedestrian or vehicle traffic as it remains as a single unit. Given the proposal is for an additional floor space of 7m2 to the rooftop terrace, the generation of vehicle and pedestrian traffic will not change from that of the existing.

(c) to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure,

Comment
The proposed alterations and additions are limited to the rooftop of unit 901 and limited to an additional 7m2. The proposal will retain the existing single residential use of the unit which will not be intensified. The proposal will continue to provide a development on site that is commensurate with the capacity of existing and planned infrastructure in the surrounding areas.

(d) to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.

Comment
The proposal does not seek to alter the existing use of the site and will provide a well designed outdoor area to complement the existing unit. The development will have a minor impact on the external appearance of the existing building. The bathroom is located adjacent to the existing Plant Room. It is located over 11m from the closest side boundary facing the street. There will be a slight increase to the bulk of the building however this will be minimal due to the large setbacks which ensure it will not be visible from the street below.

The new development reflects the desired character of the area as it is consistent with adjoining rooftop terraces. It will allow the building as a whole to be more uniform. As the proposed non-compliance is minor and located of the rooftop, the works will not result in any adverse impacts on the locality. There will be no adverse impacts on the amenity of the locality as the existing use of the site has not been altered.

Test 2 - The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
As it has been established the objectives have been meet in Test 1, compliance with Test 2 is not applicable.

Test 3- The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.
As it has been established the objectives have been meet in Test 1, compliance with Test 3 is not applicable.

Test 4- The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.
As it has been established the objectives have been meet in Test 1, compliance with Test 4 is not applicable.

Test 5- The compliance with development standard is unreasonable or inappropriate due to the existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.
As it has been established the objectives have been meet in Test 1, compliance with Test 5 is not applicable.

4.0 There are Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard
As the existing building exceeds the 5:1 FSR development standard, it is inevitable that any additional floor space in Unit 901 would also not comply with the standard. However, the proposed alterations and additions are required to bring the development into contemporary amenity expectations and to improve the functionality of the rooftop terrace. The proposed bathroom will not be visible from the street as this will occur on the top floor of the residential building. The proposal will improve a poorly functioning outdoor space with increased amenity. The proposed works will not result in any adverse impacts to neighbouring terraces as there is currently 2m high solid walls located on the boundary to the south and west. Importantly, the works will have no adverse impacts on visual privacy, solar access or views to neighbouring terraces.

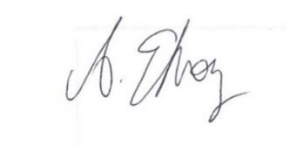
Accordingly, in our opinion, the non-compliance will not be inconsistent with existing and desired future planning objectives for the locality. For the reasons contained in this application, there are sufficient environmental planning grounds to justify the minor variation to the development standard, as required in Clause 4.6(3)(b). The objectives of the Floor Space Ratio standard have been achieved because the minor increase will provide increased amenity and development needs for the foreseeable future, it will have a minor impact on the built form with no increase to traffic, will not change the existing residential single use of the unit and has no impact on neighbouring terraces.

The proposal is not considered to raise any matter of significance for State or regional environmental planning. The extent of additional non-compliance is minor, and will be contained on the existing rooftop terrace. The proposed works are on the tenth level, will not be visible from the street and will enhance the amenity and functionality of the existing terrace without impacting neighbouring properties. There is no public benefit in maintaining the development standard on an existing non-compliant building as it would effectively preclude improvements to the building. Rather, there is a public benefit in allowing improvements to the amenity and functionality of the unit. Accordingly, the proposal is consistent with the matters required to be taken into consideration.

5.0 Conclusion
For the reasons provided above, it is felt this written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. The proposal is consistent with the character of the area and will have no impact

to neighbouring properties and will not cause any overshadowing. The development is a minor modification to the existing building and will not obstruct views.

The roof top terrace is an approved open space area to the apartment. It is a non-habitable area. The proposed changes are to provide increased amenity. The proposal will be in the public interest because it is consistent with the objectives of the standard and the objectives of the B2 Zone pursuant to the LEP. Therefore we request the variation to Clause 4.4 – Floor Space Ratio development standard is supported by council.



Amanda Elboz
Director