

22 July 2020

At 5.00 pm

Local Planning Panel



Agenda

- 1. Disclosures of Interest**
- 2. Confirmation of Minutes**
- 3. Development Application: 1-3 Goddard Street, Erskineville - D/2019/880**
- 4. Development Application: 327-329 George Street, Sydney - D/2019/1277**



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1. Register to speak by calling Secretariat on 9265 9310 or emailing secretariat@cityofsydney.nsw.gov.au before 10.00 am on the day of the meeting.
2. Check the recommendation in the LPP 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.

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Item 1.

Disclosures of Interest

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 of that meeting, are submitted for noting:

Meeting of 1 July 2020

Item 3.**Development Application: 1-3 Goddard Street, Erskineville - D/2019/880**

File No.: D/2019/880

Summary

| | |
|----------------------------|---|
| Date of Submission: | <p>The application was lodged on 13 August 2019.</p> <p>Amended drawings were submitted on 19 November 2019 and 20 March 2020. The amended drawings were re-notified to neighbouring properties.</p> |
| Applicant: | Benson McCormack Architects |
| Architect: | Benson McCormack Architects |
| Developer: | Milijo Developments Pty Ltd. |
| Owner: | Milijo Developments Pty Ltd. |
| Cost of Works: | \$4,467,121 |
| Zoning: | The proposed boarding house is a permissible land use within the B4 Mixed Use zone. |
| Proposal Summary: | <p>The proposal involves the demolition of an existing warehouse building and the construction of a 4 storey boarding house, including a basement level plant room, site works and landscaping.</p> <p>The proposal provides accommodation in the form of 35 double rooms inclusive of a manager's room, for a maximum of 70 residents.</p> <p>The proposal is referred to the Local Planning Panel for determination as the development is reliant on clause 4.6 variation requests in order to vary the building height development standard of the Sydney LEP 2012 and the motorcycle parking space development standard of the Affordable Rental Housing SEPP 2009.</p> <p>The proposed development has a maximum height of 13.56m and exceeds the 12m height of buildings development standard by 1.56m (13%).</p> |

The applicant has lodged a written statement addressing the provisions of clause 4.6 of the Sydney Local Environmental Plan 2012 with regard to non-compliance with the height standard.

The proposed development provides no motorbike parking spaces and does not comply with clause 30(h) of the Affordable Rental Housing SEPP 2009. The clause states that 1 motorbike parking space must be provided for every 5 boarding rooms (7 spaces to comply). The applicant has lodged a written statement addressing the provisions of clause 4.6 of the Sydney Local Environmental Plan 2012 with regard to non-provision of motorbike parking.

In accordance with the Environmental Planning and Assessment Regulation 2000 and the City's Community Participation Plan 2019, the application was advertised for a period of 21 days, between 19 August 2019 and 10 September 2019. 20 submissions were received, including 19 objecting to the proposal and 1 in support.

Issues raised in the submissions include the height and scale of the building, impacts on the amenity of the locality, of neighbouring dwellings and the Kirsova 1 Playground and the lack of on-site parking.

Amended drawings were re-notified to neighbouring properties between 24 April 2020 and 9 May 2020. Key amendments include that the number of boarding rooms has been reduced from 37 to 35 but that all rooms are double rooms (involving an increase from 68 to 70 residents). Internal communal rooms have been reconfigured and changes have been made to external landscaping. The south-western corner of the building has been set back by a further 3m from the western boundary to minimise the extent of pruning required to a tree located within 5 Goddard Street.

3 submissions were received following the re-notification of the amended proposal. Issues raised in the submissions include the height and scale of the building, the character of the locality, overshadowing and impacts on the demand for public transport.

The proposal is generally consistent with the relevant objectives and provisions of the Affordable Rental Housing SEPP 2009 and the Sydney Local Environmental Plan 2012. However, the development results in a shortfall in the number of adaptable dwellings required by the provisions of the Sydney Development Control Plan 2012 as well as a shortfall in bicycle parking spaces required by the Sydney Development Control Plan 2012.

The proposal is recommended for deferred commencement approval to allow for further refinement of the drawings, such that rooms 001 and 002 are consolidated to provide an additional adaptable room at the ground level of the boarding house and an additional bicycle parking area.

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

Development Controls:

- (i) Environmental Planning and Assessment Act 1979 and Regulation 2000;
- (ii) State Environmental Planning Policy No. 55 – Remediation of Land;
- (iii) State Environmental Planning Policy (Infrastructure) 2007;
- (iv) Affordable Rental Housing SEPP 2009 ('ARHSEPP2009');
- (v) Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended) ('SLEP2012');
- (vi) Sydney Development Control Plan 2012 (in force on 14 December 2012, as amended) ('SDCP2012'); and
- (vii) City of Sydney Development Contributions Plan 2015.

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request – Height of Buildings
- D. Clause 4.6 Variation Request – Motorbike Parking

Recommendation

It is resolved that:

- (A) the variation requested to the Sydney LEP 2012 building height development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld;
- (B) the variation requested to the Affordable Rental Housing SEPP 2009 motorbike parking development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (C) deferred commencement consent be granted to Development Application No. D/2019/880 subject to the conditions set out in Attachment A to the report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) the applicant's written requests have 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 and motorbike parking rates is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 of the Sydney Local Environmental Plan 2012 and clause 30(f) of the Affordable Rental Housing SEPP 2009;
- (B) The proposed development is consistent with the objectives of the B4 Mixed Use zone and the height of buildings development standard;
- (C) Having considered the matters in Clause 6.21(4) of the Sydney Local Environmental Plan 2012, the building displays design excellence because:
 - (i) The materials and detailing are appropriate to the building type and location;
 - (ii) The works will not have any significant impacts on the quality of the public domain; and
 - (iii) The proposed bulk, massing and modulation of the subject building is acceptable.
- (D) Subject to conditions, the proposed development will not result in adverse amenity impacts on the surrounding area and will result in a positive contribution to the public domain; and
- (E) Subject to conditions, the proposal will not result in unacceptable amenity impacts on surrounding properties. For this reason and as outlined in this report, the proposed development is in the public interest.

Background

The Site and Surrounding Development

1. The site is legally described as Lot 1 in DP 741276 and has a street address of 1-3 Goddard Street, Erskineville.
2. The site is rectangular, with an area of approximately 552.7sqm. The site has a primary street frontage of 18m to Goddard Street and no secondary street frontages. The site has a frontage of approximately 15.5m to the Kirsova 1 Playground, which is located to the north. The playground is accessed from Macdonald Street. Rail lines are located to the west at the top of a steep embankment. The rail lines are elevated by approximately 5m above the site ground levels.
3. The site contains a 1950s era single storey masonry warehouse building with internal mezzanine offices. The warehouse building has nil setbacks to site boundaries except for an open courtyard and minor setback to the western boundary. The warehouse was constructed by a sheet metal company and has since been used for light industrial and commercial uses.
4. The character of the Ashmore Neighbourhood has progressively changed from an industrial/ commercial character to residential. Sites to the north, east and south of the site now contain residential land uses. There are remnant industrial sites located to the south with frontages to Coulson Street (Figure 2 below).
5. Surrounding land uses include:
 - (a) adjoining the northern boundary and facing Goddard Street is a row of contemporary 3 storey terrace dwellings that were constructed in accordance with DA approval number D/2000/1115 (Figure 6). The terrace houses overlook the Kirsova 1 Playground from their living areas (Figure 7);
 - (b) adjoining the southern boundary and facing Goddard Street is located a single storey detached weatherboard dwelling (Figure 8). Further to the south of that site is located a remnant industrial site at 7-19 Coulson Street (Figure 10);
 - (c) to the north-east and south-east , on the opposite side of Goddard Street are located 6 storey residential apartment buildings that were constructed in accordance with DA approval numbers D/2014/2037 and D/2014/1609 (as amended) (Figure 9);
 - (d) to the west are railway lines, which are elevated above the surrounding locality.
6. The site is not a heritage item and is not located within a heritage conservation area.
7. Site visits were carried out in August 2019 and in April 2020. Photos of the site and surrounds are provided below:



Figure 1: Aerial image of subject site and surrounding area



Figure 2: The site is located within the Ashmore Neighbourhood, which is surrounded on 3 sides by residential land uses. Rail lines are located to the western boundary and remnant industrial uses are located to the south with frontages to Coulson Street.



Figure 3: Site viewed from Goddard Street, looking south-west.



Figure 4: Northern elevation of the subject site, viewed from the Kirsova 1 Playground, looking south from Macdonald Street. The rear facades of terrace dwellings at 1A-1F Goddard Street are visible at the left of picture.



Figure 5: Interior view of the subject warehouse.



Figure 6: 2 storey townhouses adjoining the northern boundary of the site (1A-1F Goddard Street).



Figure 7: Terrace dwellings at 1A-1F Goddard Street, viewed from the Kirsova 1 Playground, looking east.



Figure 8: Single storey dwelling adjoining the southern boundary of the site at 5 Goddard Street.



Figure 9: 6 storey residential apartment buildings located opposite the site on the eastern side of Goddard Street, viewed from Macdonald Street, looking south-east.



Figure 10: Remnant industrial premises with a street frontage to Coulson Street, viewed from the southern end of Goddard Street (7-19 Coulson Street).

Application history for the site and surrounds

8. Subject site: The City's Street Cards show that approval was granted in 1958 for the construction of a light sheet metal factory on the subject site. In 1986, approval was granted for the use of the factory for set construction associated with the film and television industry.
9. To the north at 69 Macdonald Street and 1A-1F Goddard Street are located 7 x 3 storey terrace dwellings (Figures 6 and 7 above). The dwellings were approved on 17 May 2001 under application number D/2000/1115, for the demolition of existing buildings and the construction of 7 x townhouses.
10. Located opposite the site on the eastern side of Goddard Street are 2 x 6 storey residential apartment buildings. The buildings were approved under application numbers D/2014/2037 and D/2014/1609 respectively (Figure 9).
11. There is no recent development application history for the 2 x sites located to the south of the site including 5 Goddard Street (Figure 8) and 7-19 Coulson Street (Figure 10).

Proposal

12. The proposal involves the demolition of an existing warehouse building and the construction of a 4 storey boarding house containing 35 double boarding rooms for up to 70 residents. The proposal provides an on-site managers room, a basement level, site works and landscaping.
13. No land clearing or tree removal is proposed, however some minor pruning of existing trees located within the Kirsova 1 Playground and within 5 Goddard Street to the south of the site will be required.
14. Proposed works include:
 - (a) **Basement Level:**
 - (i) a centrally located basement containing plant rooms.
 - (b) **Ground Floor:**
 - (i) the ground floor level of the building is proposed to be elevated by between 1.4m and 1.6m above existing ground levels in accordance with flood engineer's advice;
 - (ii) 4 x double rooms are proposed at the ground level including 2 x accessible rooms. 2 of the rooms will have direct access from the footpath at Goddard Street. The remaining 2 x double rooms will face west towards communal private open space;
 - (iii) waste bin storage rooms and an internal laundry;
 - (iv) a communal living room is proposed, facing north towards the Kirsova 1 Playground and west towards an outdoor communal terrace. An outdoor clothes drying area is proposed at the northern boundary;

- (v) a bicycle storage area for 10 x resident spaces is proposed at the western edge of the building at ground level. A further 4 x bicycle parking loops are provided at the entry for visitors; and
- (vi) landscaping works are proposed to the north and western setbacks including privacy hedges along the northern boundary, canopy trees at the western boundary and communal herb gardens.

(c) Levels 1 and 2:

- (i) Levels 1 and 2 will each contain 11 x double rooms. Rooms numbered 101-106 and 201-206 are provided with bay windows with external privacy screens (northern and western rooms). Rooms numbered 107-111 are provided with balconies facing east towards Goddard Street; and
- (ii) external circulation corridors are provided with planter boxes and privacy screens at their northern and western ends.

(d) Level 3:

- (i) 9 x double rooms. Rooms numbered 301-306 are provided with bay windows with external privacy screens (northern and western rooms). Rooms numbered 307-309 are provided with balconies separated by divider screens; and
- (ii) external circulation corridors with planter boxes and privacy screens at the northern and western ends.

(e) Roof level:

- (i) Non-trafficable roof and centrally located plant area behind a parapet wall.



Figure 11: Massing diagram showing a masonry facade to Goddard Street, looking west.

Application history and amended proposal

15. The proposal was amended during the course of assessment in response to issues raised by Council. Renders and drawings are provided below in Figures 12-19. A full set of drawings is provided at Attachment B.
16. Key amendments include:
 - (a) The materiality of the building where it faces Goddard Street and the Kirsova 1 Reserve has been changed from metallic panels to face bricks. The west elevation has been amended to be constructed using face bricks rather than rendered masonry (Figures 12-14);
 - (b) External balconies facing Goddard Street have been reduced in depth, to ensure canopy trees can reach maturity within the street setback;
 - (c) Internal and external communal areas have been reconfigured to increase their amenity and reduce visual privacy impacts for neighbouring dwellings to the north. An outdoor terrace area has been relocated from the northern edge of the communal living room to the western edge (Figure 16);
 - (d) The building envelope has been reduced at the south-western corner setback to minimise the extent of tree pruning required to a tree located within 5 Goddard Street;
 - (e) Privacy screens have been provided to boarding room windows where they face north to mitigate visual privacy impacts for existing terrace dwellings at 1A-1F Goddard Street. Privacy screens have been provided at the northern, western and southern ends of circulation corridors to minimise overlooking of potential (future) residential apartments located to the south;
 - (f) A centrally located plant area has been provided at the roof level where originally the building had a flat roof. The height of the building has increased by 500mm as a result of the provision of a parapet that will reduce the visibility of roof plant as viewed from neighbouring sites; and
 - (g) The Plan of Management (POM) has been amended to articulate the maximum number of residents (70) and to limit the hours of operation for the proposed external communal areas to between 7.00am and 10.00pm, daily.



Figure 12: The east elevation of the boarding house, at the time of lodgement and as amended.



Figure 13: The north elevation of the boarding house as viewed from the Kirsova 1 Playground, at the time of lodgement and as amended.



Figure 14: The west elevation of the boarding house as viewed from the rail lines, at the time of lodgement and as amended.

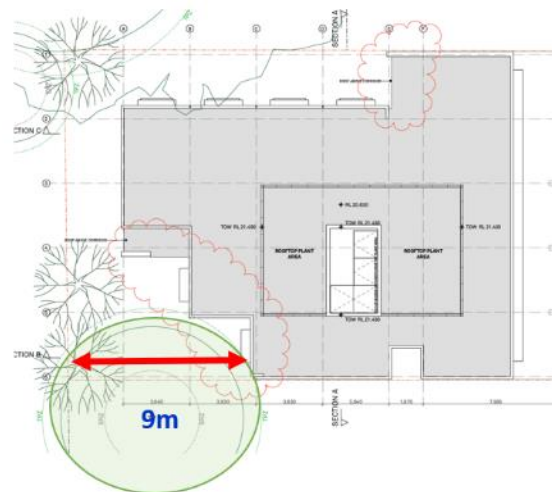
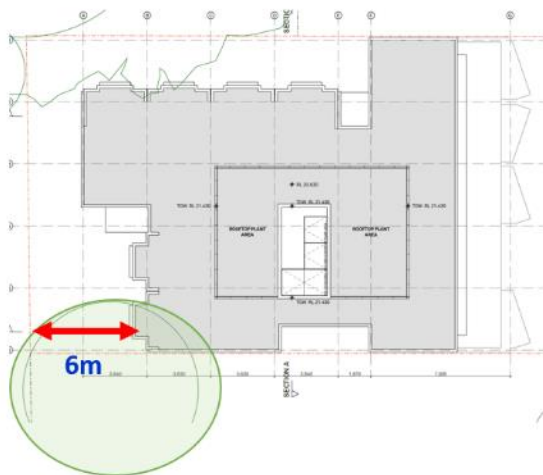


Figure 15: the setback at the western boundary has been increased from 6m to 9m at the south-western corner of the site, to minimise the extent of tree pruning required for a tree located within 5 Goddard Street.

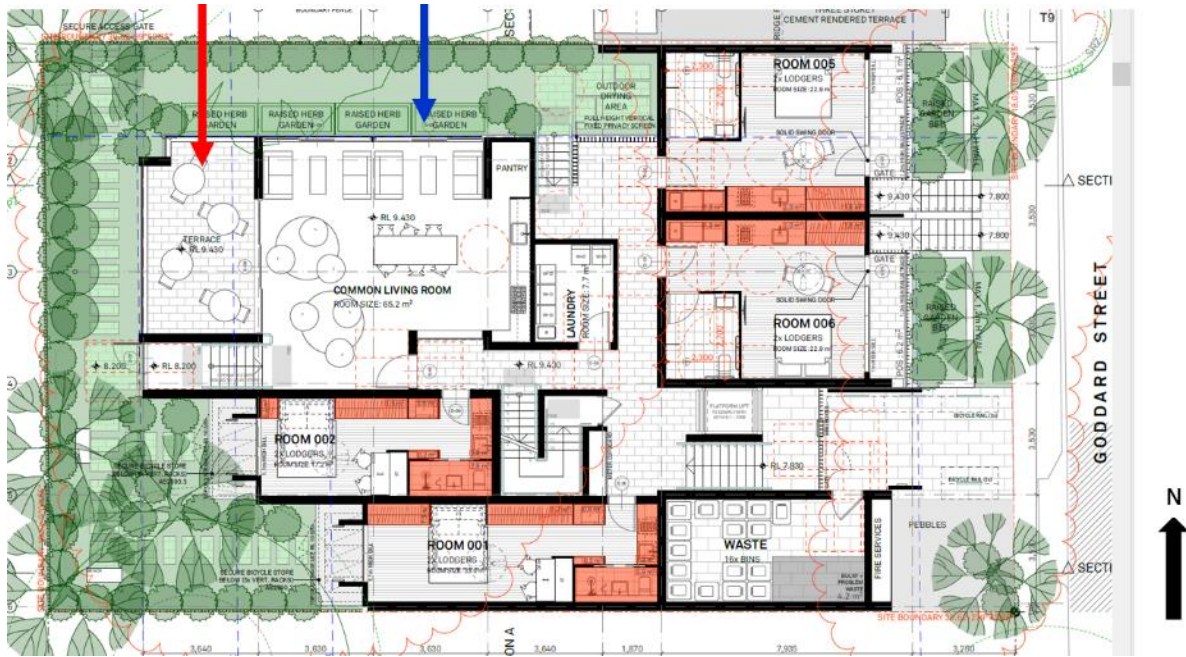


Figure 16: Amended ground level drawing showing an exterior terrace that was originally proposed at the northern edge of the building (blue arrow) has been relocated to the western edge of the building (red arrow) where it is further away from existing dwellings at 1A-1F Goddard Street.

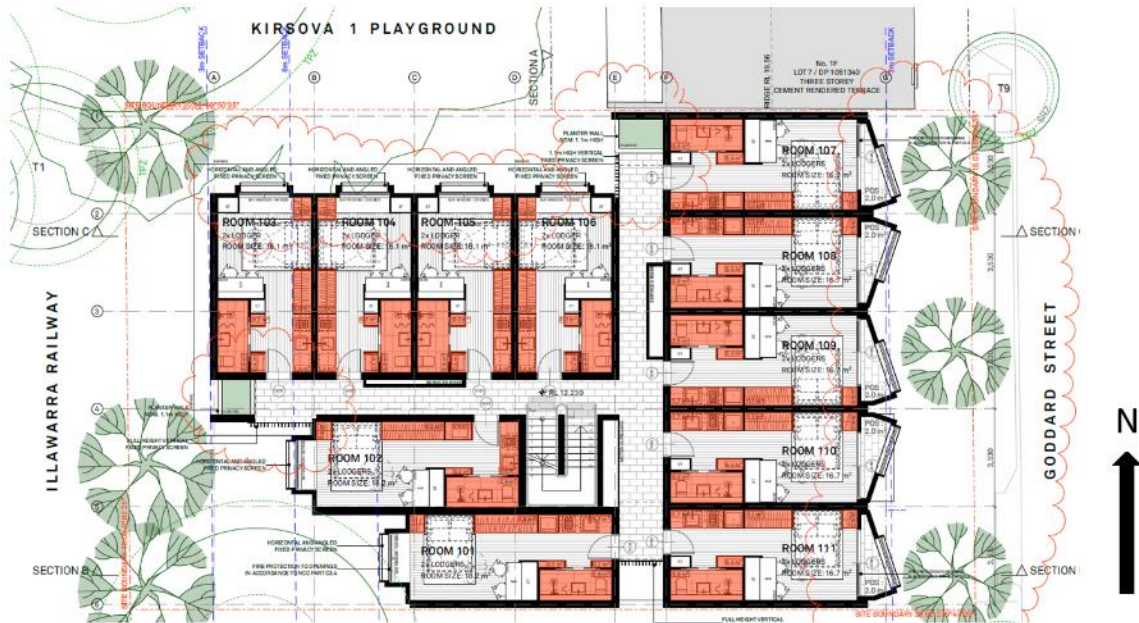


Figure 17: Levels 1 and 2 plan.

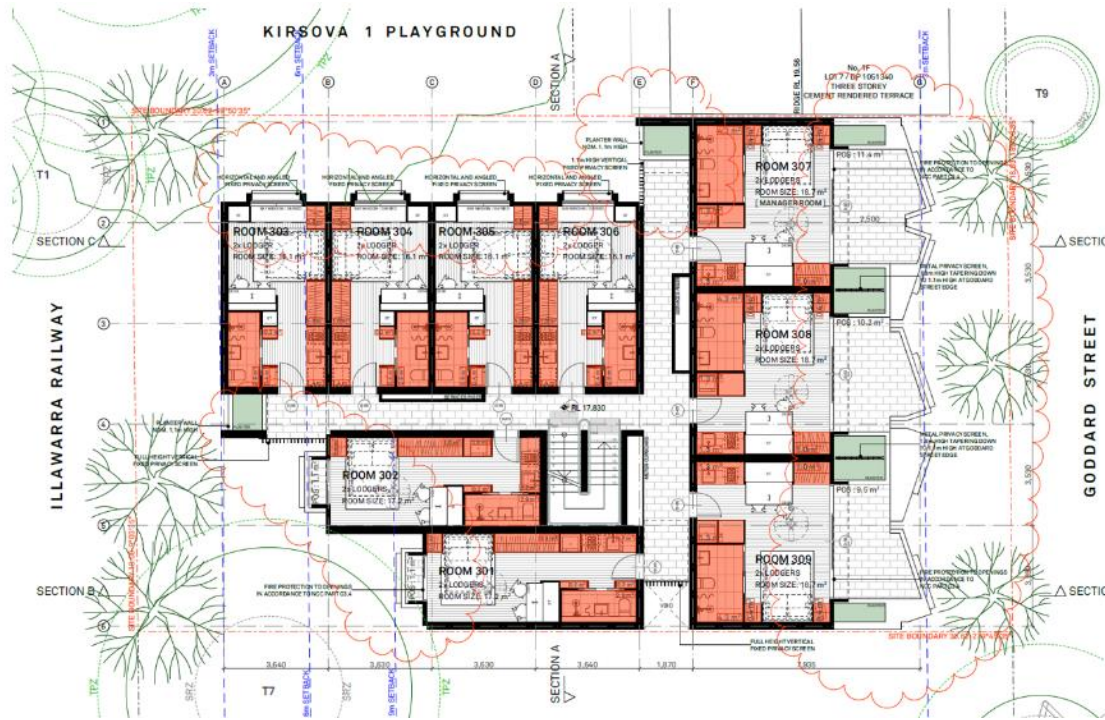


Figure 18: Level 3 plan.



Figure 19: Roof plan.

Economic/Social/Environmental Impacts

17. The application has been assessed against all the criteria outlined in 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

18. 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.
19. The site has been used for a variety of industrial uses and as such, has been subject to several rounds of investigation in relation to site contamination during assessment. The City's health and building specialists have reviewed a Stage 2 Detailed Site Investigation for the site, a Remediation Action Plan (RAP) and a letter of Interim advice prepared by a site auditor.
20. The RAP provides a number of options in relation to the remediation of site soils. The preferred option put forward is the removal of a layer of contaminated site soils (approximately 500mm) and the replacement of the soil with clean fill.
21. The City's Health and Building Unit is satisfied that subject to conditions, the site can be made suitable for the proposed use.

State Environmental Planning Policy (Infrastructure) 2007

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

Clause 45 - Electricity Transmission or Distribution Network

23. The application is not required to be referred to Ausgrid because there are no ground penetration works proposed within 2m of electricity distribution poles and no works are proposed within 5m of an exposed overhead electricity power line.

Clause 86 - Excavation adjacent to rail corridors

24. The application was referred to Sydney Trains on 16 August 2019 given excavation is proposed within 25m of a rail corridor.
25. Concurrence was received from Sydney Trains on 27 September 2019. Sydney Trains raised no objections to the proposal, subject to the inclusion of recommended conditions of consent that are included at Schedule 3 of the notice of determination.
26. Amended drawings were referred to Sydney Trains for comment on 24 April 2020. A response was received on 24 April 2020. No further conditions were recommended.

Clause 87 - Impact of rail noise or vibration on non-rail development

27. Approval must not be granted unless the, the consent authority is satisfied that appropriate measures will be taken to ensure that specified LAeq levels are not exceeded.

28. The proposal satisfies the provisions of the clause. The development presents blank walls to the railway line and will be constructed in accordance with the recommendations of the acoustic report lodged with the application. The report specifies glazing, wall and roof materials that will mitigate noise impacts for residents.

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

29. Clause 3 of the Environmental Planning and Assessment Regulation 2000 defines a BASIX affected building as “any building that contains one or more dwellings, but does not include a hotel or motel”. Sydney LEP 2012 defines a dwelling as “a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile”.
30. Given that all rooms are provided with kitchenettes and ensuite bathrooms, and that they will have their own keyed entry door, they comprise separate domiciles as defined above. A BASIX Certificate is therefore required.
31. A relevant BASIX Certificate has been submitted with the development application. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal. A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.

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

32. The provisions of the SEPP state that a person must not clear vegetation in any non-rural area of the State without the authority conferred by a permit granted by the council.
33. No vegetation is proposed to be cleared, however some minor pruning is proposed in relation to trees located within neighbouring properties. See referrals section below.

State Environmental Planning Policy (Affordable Rental Housing) 2009

34. Division 3 of the ARHSEPP2009 applies to new boarding house development in prescribed zones. As the site is zoned B4 Mixed Use, the ARHSEPP2009 applies to the development.
35. The relevant matters to be considered under Division 3 – Boarding Houses of ARH SEPP are outlined below.

| ARHSEPP2009 Compliance Table | | |
|--|-------------------|---|
| Standards that cannot be used to refuse consent | Compliance | Comment |
| Clause 29(1) – Density / Scale On the grounds of density or scale for a proposal that complies with the maximum total FSR of 2:1. | Yes | The proposed development has a gross floor area of 1,103sqm, resulting in a FSR of 2:1. |

| ARHSEPP2009 Compliance Table | | |
|--|-----|--|
| <p>Clause 29(2)(a) – Building Height</p> <p>If proposal complies with the SLEP2012 Height of Buildings development standard.</p> | No | <p>The proposal has a maximum height of 13.56m and exceeds the 12m height of buildings development standard by 1.56m (a 13% variation).</p> <p>See discussion below in the Issues section.</p> |
| <p>Clause 29(2)(b) – landscaped area</p> <p>If the landscape treatment of the front setback area is compatible with the streetscape.</p> | Yes | <p>The proposal provides a planted setback to Goddard Street. The landscaped area is compatible with existing street plantings located on the opposite side of Goddard Street.</p> |
| <p>Clause 29(2)(c) – solar access</p> <p>If the communal living rooms receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter.</p> | Yes | <p>Communal living areas face north-west and receive direct sunlight in mid-winter.</p> |
| <p>Clause 29(2)(d) – private open space</p> <p>If the following private open space areas are provided:</p> <ul style="list-style-type: none"> - one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers; and - an area is provided adjoining the manager's room of at least 8sqm with a minimum dimension of 2.5 metres. | Yes | <p>An area of approximately 40sqm is provided at the south-western corner of the site. An outdoor terrace is provided at the western end of the indoor communal areas with an area of 20sqm.</p> <p>The manager's room at level 3 is provided with a balcony with an area of approximately 10.6sqm and minimum dimensions of 2.5m.</p> |

| ARHSEPP2009 Compliance Table | | |
|---|-----|--|
| <p>Clause 29(2)(e) – Parking</p> <p>If at least 0.2 parking spaces are provided for each boarding room (7 spaces) and if not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site.</p> | No | <p>Nil parking spaces are provided. The proposal does not provide any off-street parking, which is in accordance with the SLEP2012 controls for maximum parking rates and consistent with the SDCP2012 controls that do not specify a minimum parking rate for boarding houses.</p> <p>The non-provision of off-street parking spaces can be supported on the following basis:</p> <ul style="list-style-type: none"> • the site is well serviced by public transport routes, by way of Erskineville and St Peters train stations and bus lines at King Street, Newtown; • an existing vehicular access driveway is proposed to be removed, resulting in the provision of an additional on-street parking space on Goddard Street (3 in total); and • resident and visitor bicycle parking spaces are provided and additional are required by way of deferred commencement approval. See discussion below in the Issues section |
| <p>Clause 29(2)(f) – accommodation size</p> <p>If each boarding room has a gross floor area of at least 12 square metres in the case of single lodger rooms or 16 square metres in any other case.</p> | Yes | <p>Rooms range in size from 16.1sqm to 22.9sqm.</p> |

| Standards for boarding houses | | |
|---|--------------------|--|
| Standard | Compliance | Comment |
| <p>Clause 30(1)(a) – Communal living room</p> <p>Consent must not be granted unless at least one communal living room is provided.</p> | Yes | A indoor communal room is provided with an area of 65.2sqm. |
| <p>Clause 30(1)(b) - Gross Floor Area</p> <p>Rooms have gross floor areas of less than 25 square metres.</p> | Yes | Rooms range in size from 16.1sqm to 22.9sqm. |
| <p>Clause 30(1)(c) - Occupancy</p> <p>Rooms must not be occupied by more than 2 adult lodgers.</p> | Yes | A condition of consent is recommended to address the maximum occupancy of each room and total number of residents. |
| <p>Clause 30(1)(d) - Bathroom and kitchen</p> <p>Facilities Adequate bathroom and kitchen facilities available within the boarding house for the use of each lodger.</p> | Yes | All rooms are provided with a kitchenette in addition to a communal kitchen at the ground floor level. |
| <p>Clause 30(1)(e) - Accommodation for onsite</p> <p>Manager's room to be provided for a boarding house with a capacity to accommodate 20 or more lodgers.</p> | Yes | A room is provided for a boarding house manager. |
| <p>Clause 30(1)(h) - Bicycle and motorcycle Parking</p> <p>At least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms (requiring 7 motorcycle parking spaces and 7 bicycle parking spaces).</p> | Partial compliance | The proposal complies with the ARHSEPP2009 in relation to bicycle parking (7 spaces required). 10 x resident bicycle parking spaces and 4 x visitor bicycle parking loops are provided (14 in total). Notwithstanding this, a condition is recommended that additional bicycle parking spaces are required to be provided. See discussion below in the Issues section. |

| Standards for boarding houses | | |
|--------------------------------------|--|--|
| | | The development provides no motorcycle parking spaces. The applicant has lodged a written statement addressing the provisions of clause 4.6 of the Sydney Local Environmental Plan 2012 with regard to non-provision of motorbike parking. Refer to further discussion at the issues section of this report. |

| Character of the area | | |
|--|-----|---|
| Clause 30A – Compatibility of the design of the development with the character of the local area. | Yes | <p>The revised proposal is compatible with the character of the local area. The proposed building design is consistent with the existing and desired streetscape for Goddard Street.</p> <p>The local area is characterised by multi-storey residential apartment buildings and by existing terrace dwellings located to the east and north of the site.</p> <p>The revised scheme is sympathetic to the surrounding development in terms of its materiality, massing and proportions. The revised scheme has reduced impacts in relation to privacy as compared to the original scheme. See discussion below in the Issues section</p> |
| <p>Clause 52 – No subdivision of boarding houses</p> <p>A consent authority must not grant consent to the strata subdivision or community title subdivision of a boarding house.</p> | Yes | A suitable condition is recommended preventing the strata subdivision or community title subdivision of the proposed boarding house. |

Sydney Local Environmental Plan 2012

36. The site is located within the B4 Mixed use zone. The proposed boarding house is a permissible land use within the zone.
37. 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 | <p>A maximum height of 12m is permitted.</p> <p>The proposal has a maximum height of 13.56m and exceeds the 12m height of buildings development standard by 1.56m (13%).</p> <p>The applicant has lodged a written statement addressing the provisions of clause 4.6 of the Sydney Local Environmental Plan 2012 with regard to non-compliance with the height standard. See discussion below in the Issues section</p> |
| 4.4 Floor Space Ratio | Yes | <p>The site is subject to a SLEP2012 development standard of 1.5:1. The provisions of ARHSEPP2009 allow the consent authority to approve a 'bonus' FSR amount of 0.5:1, resulting in a maximum permissible FSR for the site of 2:1.</p> <p>The development proposes a maximum FSR of 2:1 and complies with the combined maximum FSR and 'bonus' FSR specified by SLEP2012 and ARHSEPP2009.</p> |
| 4.6 Exceptions to development standards | Yes | <p>The applicant is relying on the provisions of Clause 4.6 of SLEP2012 to seek exceptions to the height of buildings standard and the ARHSEPP2009 standard for motorcycle parking spaces. See further discussion below under the heading Issues.</p> |

| Part 6 Local Provisions - Height and Floor Space | Compliance | Comment |
|--|------------|---|
| 6.21 Design excellence | Yes | <p>Clause 6.21(3) states that development consent must not be granted unless, in the opinion of the consent authority, the proposed development exhibits design excellence.</p> <p>The proposed development will improve the quality and amenity of the public domain and will not detrimentally impact upon any existing view corridors.</p> <p>The proposal will not have any impacts upon heritage sites within the locality and presents a bulk, massing and modulation that provides a transition between existing and future development within adjoining sites.</p> <p>The proposal has a 3 storey street frontage height that is appropriate and will not result in any significant impacts for neighbouring dwellings in relation to overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity.</p> <p>The proposal addresses the principles of ecologically sustainable development by the provision of ceiling fans to all rooms, communal gardens and landscaped areas that can facilitate canopy that will shade the western walls of the development.</p> <p>The proposal does not interfere with the permeability of the pedestrian network and (subject to conditions) can provide adequate bicycle parking for residents.</p> <p>The proposal contributes positively to the public domain and will be constructed using masonry materials that are in keeping with those traditionally used within the Ashmore Neighbourhood. The building achieves an appropriate interface at the ground level between the building and the public domain and provides integrated landscape areas.</p> |

| Part 7 Local Provisions - General | Compliance | Comment |
|---|------------|---|
| Division 1 Car parking ancillary to other development | Yes | <p>The parking provisions of SLEP2012 do not provide a maximum parking rate for a boarding house. However, the ARHSEPP2009 provides a minimum rate for bicycle and motorbike parking spaces.</p> <p>See further discussion of the motorbike parking spaces below under the heading Issues.</p> |
| 7.14 Acid Sulphate Soils | Yes | <p>The site is identified as containing class 3 Acid Sulphate soils. A report addressing acid sulphate soils was submitted during the course of assessment. Council's health and building specialists have reviewed the report and are satisfied that no additional information is required in relation to acid sulphate soils on the site.</p> |
| 7.15 Flood planning | Yes | <p>The submitted Flood Information Report has been reviewed by Council's public domain specialist. Proposed floor levels have been confirmed as being above free board flood levels.</p> |
| 7.16 Airspace operations | Yes | <p>The proposed development will not penetrate the Obstacle Limitation Surface as shown on the Obstacle Limitation Surface Map for the Sydney Airport. CASA approval is not required.</p> |

Sydney Development Control Plan 2012

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

2. Locality Statements – Ashmore Locality

The subject site is located in the Ashmore Locality.

The proposed boarding house is considered to be in keeping with the unique character of the area and design principles in that it is of high quality, and sympathetic to the existing local character and history of Erskineville and its former industrial uses.

The development will contribute towards the coordinated and effectively managed delivery of community facilities and services via levies applicable in accordance with the City's Contributions Plan. The proposal introduces a type of dwelling that will contribute to the mix of dwelling types within the locality.

The proposal will create a strong landscaped character that unites development in Ashmore by setting back the development from the public domain and providing canopy planting that is in accordance with the Council's Landscape Code. The development will have no impacts on any key panoramic views from within the locality.

| 3. General Provisions | Compliance | Comment |
|--------------------------------|------------|--|
| 3.1 Public Domain Elements | Yes | <p>A public domain plan must be submitted for Council approval prior to construction. The public domain plan will address the interface between the development and the Goddard Street frontage of the site, noting that plans have been amended to provide a greater setback for balconies within the front of the site.</p> <p>The proposal to use Kirsova 1 Playground for pedestrian site access is not supported as outlined below in the Issues section.</p> |
| 3.2 Defining the Public Domain | Yes | <p>The proposed development will not overshadow any publicly accessible spaces and will not impede any public views.</p> |

| 3. General Provisions | Compliance | Comment |
|---|------------|--|
| | | The development will contribute to the activity, safety, amenity and quality of the streetscape and the public domain and presents an appropriate frontage to Goddard Street. The development provides a legible and accessible entry at Goddard Street and uses appropriate finishes to contribute to the existing architectural character of Goddard Street. |
| 3.5 Urban Ecology | Yes | The proposed development does not involve the removal of any trees and has been amended to ensure that only minimal pruning of a tree located within a neighbouring site is required. Council's Tree management specialists have reviewed an arborist's report and have recommended conditions of consent. |
| 3.6 Ecologically Sustainable Development | Yes | The proposal satisfies the environmental requirements of the BASIX SEPP. Drawings have been amended to address the principles of Ecologically Sustainable Development. Ceiling fans are provided within all rooms to reduce the reliance on mechanical cooling for the boarding house. Communal gardens are proposed within the northern and western setbacks and canopy trees are proposed that will shade the western walls of the development once mature. |
| 3.7 Water and Flood Management | Yes | The site is identified as being on flood prone land. Council's flooding specialists have reviewed a submitted a flood report lodged with the application and are satisfied no further information is required. |
| 3.8 Subdivision, Strata Subdivision and Consolidation | Yes | Strata subdivision is not proposed. |

| 3. General Provisions | Compliance | Comment |
|--|------------|---|
| 3.10 Significant Architectural Building Types | Yes | <p>The existing building is a post-war era warehouse that is not subject to the planning controls given it is not located within a conservation area.</p> <p>Notwithstanding this, the warehouse has a utilitarian character and does not have any prominent architectural features that are worthy of retaining by way of its adaptive reuse.</p> |
| <p>3.11 Transport and Parking</p> <p>3.11.3 Bike parking and associated facilities</p> <p>3.11.13 Design and location of waste collection points</p> | Yes | <p>The proposal does not provide any off-street parking, which is in accordance with the SLEP2012 and SDCP2012 controls. See discussion below in the Issues section.</p> <p>Part 3.11.3 of SDCP2012 specifies that one bicycle parking space must be provided per residential dwelling (35 spaces). The development has a shortfall of 25 spaces given only 10 Class 2 bicycle parking spaces are proposed to be provided within the rear yard of the site. A deferred commencement approval is recommended to allow for design refinements that can provide additional bicycle parking spaces. See discussion below in the Issues section.</p> <p>Waste collection is proposed to take place from a waste bin holding room that is within 10m of the Goddard Street frontage of the site. This is consistent with the City of Sydney's Guidelines for Waste Management in New Developments, which state that if waste collection and loading cannot take place within a building's basement, it should take place at grade within the building in a dedicated collection or loading bay.</p> <p>Bins may be held in the holding room until collection and will not be required to be stored on the street prior to collection. A condition to this effect has been included in Attachment A.</p> |

| 3. General Provisions | Compliance | Comment |
|--|------------|---|
| 3.12 Accessible Design | Yes | <p>Part 3.12 states that 15% of rooms must be adaptable (5 rooms), however only 2 of the 35 boarding rooms (rooms 005 and 006) are shown as being suitable for occupation and visitation by people with a disability (6%).</p> <p>A deferred commencement approval is recommended to allow for design refinements that can provide additional adaptable boarding rooms. See discussion below in the Issues section.</p> |
| 3.13 Social and Environmental Responsibilities | Yes | <p>The proposed development provides adequate passive surveillance over Goddard Street and the Kirsova 1 Playground and is generally designed in accordance with the CPTED principles.</p> |
| 3.14 Waste | Yes | <p>Waste collection is proposed to take place from a waste bin holding room facing Goddard Street. See discussion above.</p> <p>A condition is recommended to comply with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p> |
| 3.17 Contamination | Yes | <p>The applicant has submitted sufficient information to allow Council to meet its obligations in relation to determining whether the development should be permitted in relation to site contamination. See SEPP55 discussion above.</p> |

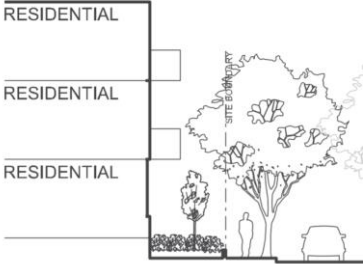
| 4. Development Types 4.4.1 Boarding houses and student accommodation | Compliance | Comment |
|---|------------|--|
| 4.4.1.1 Subdivision | Yes | Pursuant to Clause 52 of the ARHSEPP2009 and clause 4.4.1.1 of SDCP2012, a condition is recommended prohibiting strata subdivision or community title subdivision. |
| 4.4.1.2 Bedrooms | Yes | <p>The proposal complies with the minimum bedroom areas:</p> <ul style="list-style-type: none"> - double rooms exceed 16spm (including 1.5sqm required for wardrobe space); - rooms are provided with additional area for ensuites and showers measuring at least 2.9sqm; - kitchenettes are greater than 2sqm including circulation space and are provided with sufficient area for a small fridge, cupboards, shelves and a microwave. <p>Each bedroom has access to natural light from a window and ceiling heights of 2.5m. A condition is recommended to ensure that bedrooms must not contain double or triple bunks.</p> |
| 4.4.1.3 Communal kitchen areas | Yes | There are no minimum area controls for the communal kitchen given all rooms are provided with kitchenettes. The proposed communal kitchen has an area of approximately 9m including a storage pantry. |
| 4.4.1.4 Communal living areas and open space | Yes | The development provides indoor and outdoor communal living areas with a combined area of approximately 85sqm. The communal indoor living area is adjacent to commonly used internal spaces, including the laundry and entry lobby entry area. The space is adjacent to the communal open space which has an area of 20sqm. |

| 4. Development Types 4.4.1 Boarding houses and student accommodation | Compliance | Comment |
|---|------------|--|
| | | <p>The communal areas are screened from adjoining properties and the public domain by landscape plantings, face north and receive a minimum 2 hours solar access at the winter solstice.</p> <p>Greater than 30% of all bedrooms have access to a private open in the form of a balcony or terrace area (13 of 35 rooms or 37%). Whilst some of the balconies are 2sqm in area (4sqm is the control), they have high amenity for their occupants as they are connected to the living areas of those rooms. All rooms that do not have balconies have bay windows that provide greater internal amenity as compared to standard windows as a result of their increased surface area and articulated design.</p> |
| 4.4.1.5 Bathroom, laundry and drying facilities | Yes | Communal laundry and drying facilities are provided in an accessible location for all residents. There is sufficient space within the communal laundry for 6 washing machines as required by SDCP2012. |
| 4.4.1.6 Amenity, safety and privacy – internal to the site | Yes | <p>Communal spaces, including a laundry and living areas are located in safe and accessible locations.</p> <p>Bedrooms at the ground level of the development are located so that they are separated from noise sources.</p> <p>Clause 87 of the Infrastructure SEPP 2007 is applicable in relation to Noise intrusion from the railway. An acoustic report has been submitted and reviewed by Council's health and building unit. The report details construction and design elements required to achieve the internal noise transmission criteria. Suitable conditions are recommended in relation to achieving the relevant noise criteria during the construction and occupation processes.</p> |

| 4. Development Types 4.4.1 Boarding houses and student accommodation | Compliance | Comment |
|---|------------|--|
| | | The proposal must be constructed in accordance with the submitted BASIX report that details all appliances achieving a high standard in relation to energy star ratings. |
| 4.4.1.6 Amenity, safety and privacy – external to the site | Yes | <p>The proposal has been amended during assessment to address privacy impacts in relation to existing and potential residential development on neighbouring sites.</p> <p>A proposed external communal terrace has been relocated from the northern edge of the communal kitchen to the western edge and a privacy hedge is proposed at the northern boundary. North-facing boarding house rooms are provided with external privacy screens that allow for natural light to enter the rooms but that are fixed and angled to prevent the direct overlooking of neighbouring dwellings and the Kirsova 1 Playground. A condition is recommended requiring 1:20 scale construction drawings for the screens to be submitted for approval.</p> <p>The main entry point to the premises is located at the front of the site, away from side boundaries and sensitive noise receivers that are concentrated at the rear of the site. A condition is recommended that a proposed entry gate to the site from within the Kirsova Playground must be deleted. See discussion below in the Issues section.</p> <p>A condition is recommended that the premises must always be operated / managed in accordance with the 'enhanced' Plan of Management that was submitted during the course of assessment.</p> |

| 4. Development Types 4.4.1 Boarding houses and student accommodation | Compliance | Comment |
|---|------------|--|
| 4.4.1.7 Plan of Management | Yes | <p>An operational Plan of Management (POM) was lodged with the development application. The POM is satisfactory in that it addresses the provisions of SDCP2012 relating to the management of the premises.</p> <p>The POM has been amended to specify the hours of use for external communal areas and to specify the maximum number of residents.</p> <p>The POM specifies that an on-site manager will monitor the behaviour of residents and that outdoor spaces will only be in use between 7.00am and 10.00pm.</p> <p>The Plan of Management is comprehensive and addresses issues raised by objectors in relation to the potential for noise disturbance and anti-social behaviour.</p> <p>A condition is recommended to ensure that the use must always be operated and managed in accordance with the Plan of Management.</p> |

| 5. Specific Areas - Ashmore Neighbourhood | Compliance | Comment |
|---|------------|---|
| 5.5.1 Ashmore urban strategy 5.5.2 Urban design principles | Yes | <p>The proposal is consistent with the Ashmore urban strategy and design principles in that it is sympathetic to the existing surrounding local character and history of Erskineville.</p> <p>The development introduces a mix of dwelling types to provide flexibility and choice and contributes to a high quality streetscape character by setting the development back from the public domain to reduce the perception of scale of buildings at street level.</p> |

| 5. Specific Areas - Ashmore Neighbourhood | Compliance | Comment |
|--|------------|--|
| 5.5.4 Accessibility and amenity in the public domain | Yes | <p>An appropriate setback is provided to the Goddard Street boundary in accordance with Figures 5.110 and 5.119 of SDCP2012 (Figure 20 below). The proposed 3 metre landscaped setback will be installed in accordance with the City’s Landscape Code and will remain in the private domain with the maintenance being the responsibility of the building managers.</p>  <p>Figure 20: extract from Ashmore Neighbourhood controls showing a 3m landscaped setback within the private domain to Goddard Street.</p> |
| 5.5.8 Building layout, form and design | Yes | <p>The proposal provides a building height and typology, and has an architectural style that creates diversity and visual interest.</p> <p>The building has an appropriate length and articulation, and provides individual ground floor entries to reduce the scale of the development as perceived from the public domain.</p> <p>Proposed side and rear building setbacks are provided in a manner that does not impede development on adjoining sites, noting that clause 5.5.6 of SDCP2012 requires that properties at 5 Goddard Street and 7-19 Coulson Street (to the south of the site) must be consolidated into one site prior to a development application being considered for the development of those 2 x sites.</p> |

| 5. Specific Areas - Ashmore Neighbourhood | Compliance | Comment |
|---|--------------------|---|
| | | Residential development can be designed within those sites that can comply with the setback and amenity provisions of the Apartment Design Guide, pursuant to SEPP65 - Design Quality of Residential Apartment Development. |
| 5.5.8.1 Height of buildings | No | The proposed development has a height of 4 storeys and exceeds the maximum number of storeys for the land as shown in the relevant SDCP2012 Ashmore Height in Storeys map (which is shown as 3-storeys for this site). Notwithstanding this, the proposed building height complies with the street height in storeys control and can be supported. See discussion below in the Issues section. |
| 5.5.8.3 Dwelling type and location | No | Figure 5.132 of the Ashmore controls states that the preferred building type for the site is a maisonette or duplex form. Notwithstanding this, the proposal can be supported given it provides public benefit in the way of affordable housing and in that user and streetscape amenity is achieved. See discussion below in the Issues section. |
| 5.5.8.4 Building form and design | Partial compliance | <p>The proposal achieves an architectural diversity that is consistent with the character of the neighbourhood and buildings that are opposite to the site. The proposal has been amended to show a larger proportion of the facades being constructed using masonry, which is required by the controls to reference Ashmore's former industrial heritage.</p> <p>Proposed boarding rooms on the ground floor facing Goddard Street have individual entries from the street and level 3 has been setback by 3.5m.</p> |

| 5. Specific Areas - Ashmore Neighbourhood | Compliance | Comment |
|---|--------------------|---|
| | | Whilst the control states the upper level should be set back by 4m from the primary building line, the proposed 3.5m setback ensures the upper level of the building will be recessed from view, and less visible from the street level. |
| 5.5.8.5 Typical ground floor condition for residential flat buildings | Partial compliance | <p>The proposal complies with the relevant SDCP2012 in relation to setbacks. The primary building setback is set back to full height by 2.5 metres and a deep soil landscape planting area is provided with a depth of 3 metres. Ground floor private open spaces exceed 1.2m in depth and present boundary fences that do not exceed 1.4 metres high (1.2m high is proposed).</p> <p>The controls state that ground floor private open spaces must not be elevated more than 1m above the street level. The proposal to elevate the private open spaces 1.6m above ground levels can be supported given this is in line with required measures to address flood levels for the site.</p> |
| 5.5.8.7 Fences | Yes | Proposed front fences enable passive surveillance over Goddard Street and assist in creating a sense of entry and building identity within the streetscape. The fences provide visual interest to the streetscape through their design and detail and do not exceed 1.4m in height. |
| 5.5.8.8 Building materials | Yes | The proposed external finishes complement and include materials that are predominantly used in the surrounding area including face brick. |
| 5.5.10 Biodiversity | Yes | Amended landscape drawings have been submitted in accordance with the City's Landscape Code. |

Issues

Height, Scale and Bulk

39. The proposed boarding house satisfies the character test at Clause 30A of the ARHSEPP2009, which is whether the design of the development is compatible with the character of the local area.
40. The eastern facade of the development will present as a 3 storey form as viewed from the opposite side of Goddard Street given the fourth storey will be set back from the primary building line (Figures 21 and 22 below).
41. The 3 storey form at the Goddard Street boundary is consistent with the height in storeys control for the lower level of 5 Goddard Street, which is the neighbouring site to the south. Figure 23 below sets out that future development within 5 Goddard Street must also be constructed as a 3 storey development as viewed from Goddard Street, with a 6 storey form able to be approved for the western portion of that site.
42. The proposed 4 storey height for the remainder of the subject development provides a suitable height transition between existing 3 storey terrace dwellings to the north of the site (1A-1F Goddard Street) and potential 6 storey development within 5 Goddard Street.

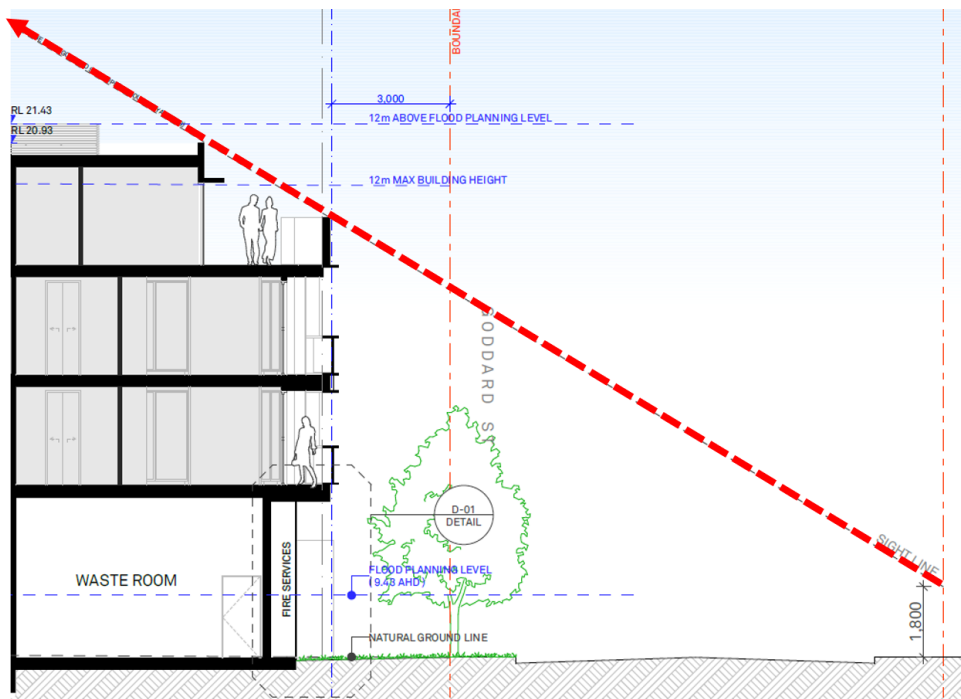


Figure 21: Extract from section drawing showing level 3 being setback from the building line to ensure it is not visible from Goddard Street. The dashed red line provides sightlines from Goddard Street.



Figure 22: Massing plan showing the eastern facade from Goddard Street. Level 3 is setback from the building line to reduce its visibility as viewed from the streetscape. 3-6 storey development is able to be approved on the neighbouring site to the south (5 Goddard Street - shaded grey at left of picture).

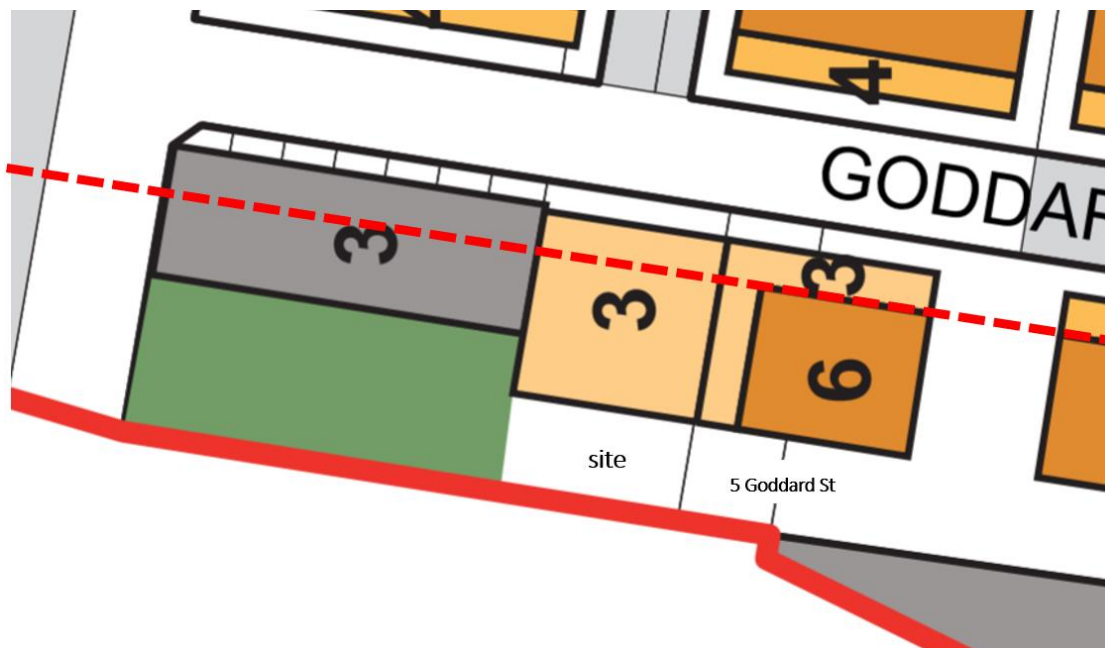


Figure 23: Street frontage heights are not to exceed the maximum height in storeys, shown in Figure 5.129 Ashmore Height in Storeys map. The dashed red line indicates the 3 storey building line for future development to the south of the site. The proposed fourth storey for the subject site (red dashed red line) provides a transition between the 3 storey dwellings to the north and future 6 storey development for 5 Goddard Street to the south.

Solar access and overshadowing

43. Solar access and overshadowing impacts of the proposal have been considered with regard to existing development located to the south and east and with regard to future development that is permissible to the south of the site (5 Goddard Street and 7-19 Coulson Street).
44. Located within 5 Goddard Street to the south is a single storey detached dwelling (Figure 8 above):
- the provisions of part 4.1.3.1 of SDCP2012 specify that neighbouring dwellings are to achieve a minimum of 2 hours direct sunlight between 9.00am and 3.00pm on 21 June onto at least 1sqm of living room windows and at least 50% of the minimum amount of private open space; and that new development must not create any additional overshadowing where solar access is less than two hours between 9.00am and 3.00pm on 21 June.
 - solar diagrams submitted for assessment demonstrate that overshadowing impacts are acceptable with regard to the existing dwelling at 5 Goddard Street:
 - the dwelling receives solar access to the front balcony between 9.00am and 11.00am;
 - 5 Goddard Street is overshadowed for the remainder of the day by the existing warehouse on the subject site; and
 - additional overshadowing caused by the proposed boarding house will fall onto the roof of the dwelling from 2.00pm onwards (Figure 24 below). The rear private open space retains existing solar access in the afternoons from 2.00pm onwards on 21 June.

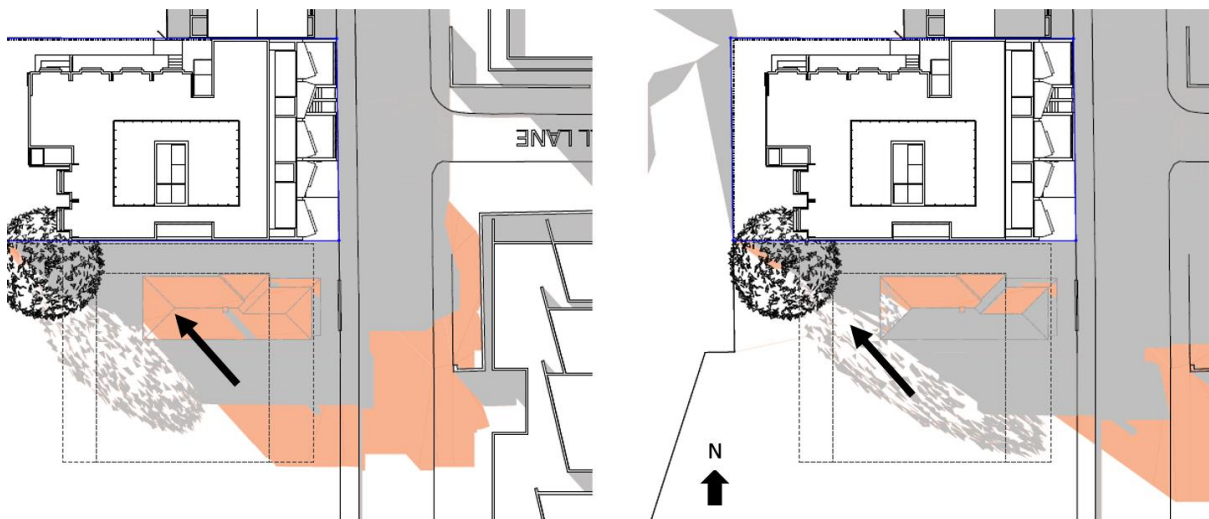


Figure 24: shadow diagrams for 2.00pm and 3.00pm on 21 June, showing that additional shadows will fall on to the roof of the existing dwelling at 5 Goddard Street. Black arrows indicate the roof of the dwelling and solar access retained from 2.00pm.

45. Located to the east at 3 Eve Street is a 6 storey residential apartment building. Whilst the proposed boarding house will overshadow ground level apartments facing Goddard Street from 2.00pm onwards on 21 June, the apartments receive direct solar access between 12.00 midday and 2.00pm. As such, these apartments receive the minimum solar provisions as specified by part 4.2.3.1 of SDCP2012 that are in line with those for part 4.1.3.1 of SDCP2012 outlined above (Figure 25).



Figure 25: solar diagrams show that apartments within 3 Eve Street receive solar access between 12.00 midday and 2.00pm on 21 June.

46. With regard to future development that is permissible within the sites to the south (5 Goddard Street and 7-19 Coulson Street), 'view from the sun' diagrams demonstrate that east-facing apartments will receive solar access between 9.00am and 11.00am on 21 June and that west-facing apartments will receive solar access from 1.00pm onwards on 21 June (Figures 26 and 27).



Figure 26: 'View from the sun' shadow diagrams show that future residential development within 5 Goddard Street will receive solar access to the eastern elevation prior to 11.00am on 21 June.

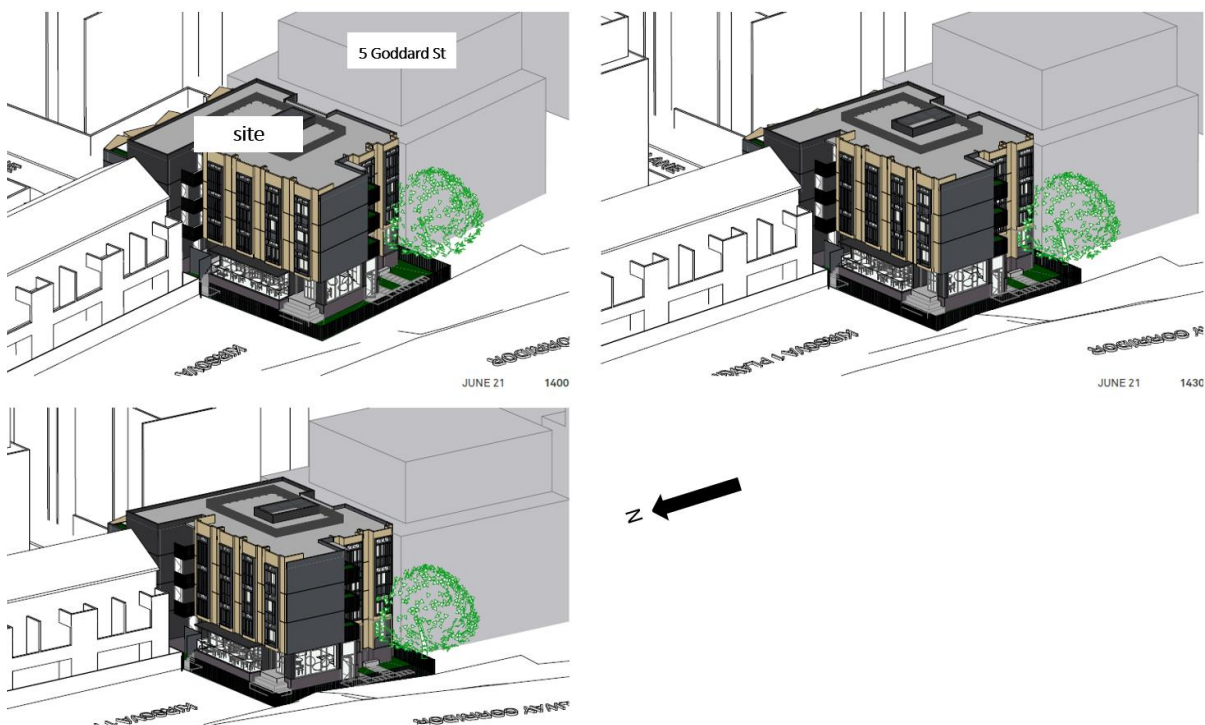


Figure 27: 'View from the sun' shadow diagrams show that future residential development within 5 Goddard Street will receive solar access to the western elevation from 1.00pm onwards.

Height of Buildings development standard – Written clause 4.6 Statement

47. The site is subject to a maximum building height control of 12m. The proposed development has a maximum height of 13.56m and exceeds the control by 1.56m (13%) - see Figure 28 below. The proposed development has a height of 4 storeys and exceeds the maximum 3 storey height control as shown in the relevant SDCP2012 Ashmore Height in Storeys map.

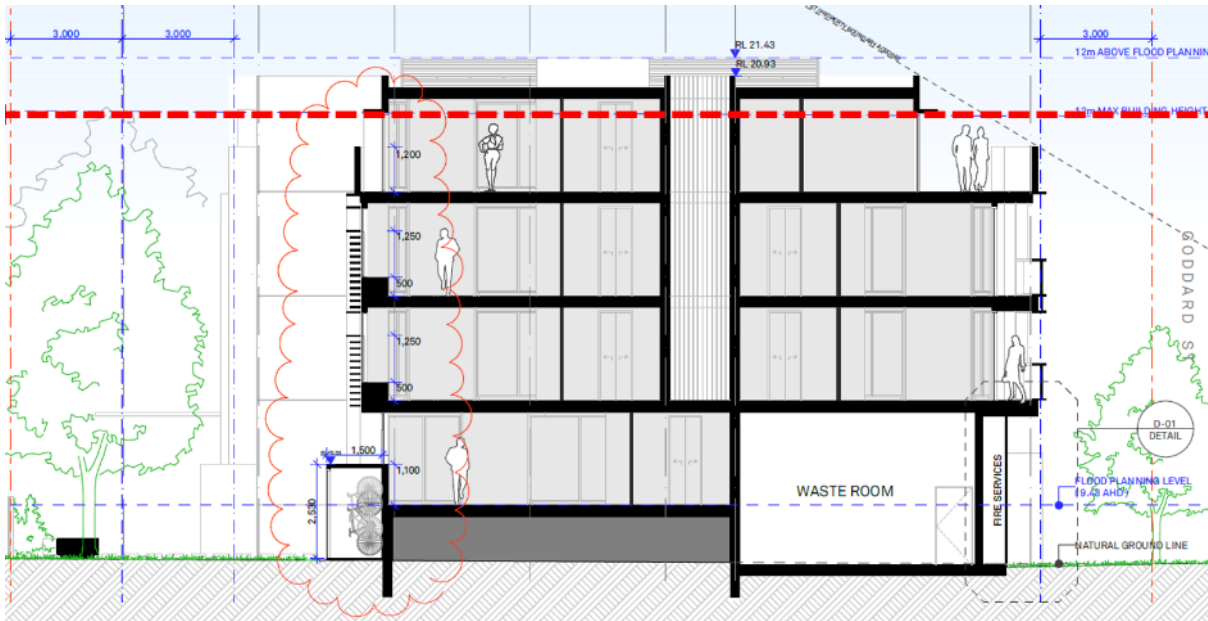


Figure 28: Section plan, showing the proposed building height exceeding the 12m SLEP2012 control (dashed red line added for emphasis). The proposed maximum building height is 12m above the required floor levels as per flood engineer's advice.

48. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
 - That there are sufficient environmental planning grounds to justify contravening the standard
 - The proposed development will be consistent with the objectives of the zone; and
 - The proposed development will be consistent with the objectives of the standard.
49. A copy of the applicants written request is provided at Attachment C.
50. The applicant seeks to justify the contravention of the maximum building height development standard on the following basis:
- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The proposal is consistent with the relevant objectives of clause 4.3(1) of SLEP2012.

- (b) With regard to objective 4.3(1)(a), which is to ensure the height of development is appropriate to the condition of the site and its context:
- (i) the part of the building that exceeds the height standard will have no impact upon the architectural quality of the built form, nor its expression;
 - (ii) the proposal presents itself as a 3 storey building to Goddard Street with the fourth floor having been setback from the street. The fourth storey, and thus the height breach is recessed from Goddard Street; and
 - (iii) a variation to the height of building standard, will still allow for a landscaped front setback to be provided along Goddard Street and will not detract from the proposal's capacity to offer a consistent streetscape presentation.
- (c) With regard to objective 4.3(1)(b), which is to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas:
- (i) the proposed variation will result in a built form that is similar to existing residential apartment buildings that comprise a more contemporary housing typology within the locality. The transition of building heights is therefore not compromised by the proposed variation;
 - (ii) there are no heritage conservation areas or items of heritage which immediately adjoin the subject site. A heritage conservation area (C23) is located on the opposite side of the Rail Corridor but this is at an approximate distance of 85m to the west; and
 - (iii) given the distance of the site from any heritage items and conservation areas, the additional height of 0.56m is not considered to be perceived from such locations.
- (d) With regard to objective 4.3(1)(c), which is to promote the sharing of views:
- (i) There are no significant views to or from the subject site that would be impacted by the proposed variation.
- (e) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) the proposed breach in height is directly related to an environmental constraint at the subject site being its identified as a flood affected lot;
 - (ii) with respect to bulk and scale, the proposed level 4, being where the breach to height occurs, has been designed in a manner that mitigates its visibility to Goddard Street. The breaching elements do not result in a non-compliant FSR which reinforces an appropriate bulk and scale of development;
 - (iii) a flat roof form is proposed for the built form and the breaching elements which harmonises with the more contemporary nature of the proposal whilst also assisting to minimise the impression of bulk and scale from the breach to the neighbouring sites and to the public domain;

- (iv) there are no overshadowing impacts to northern sites. A degree of overshadowing is inevitable with respect to the southern neighbour, however the extent of overshadowing is acceptable;
 - (v) the breaching elements of the built form do not give rise to any adverse visual and acoustic privacy impacts.
51. As above, the applicant provides justification in their written statement addressing clause 4.6 of SLEP2012 that the proposed development will be consistent with the objectives of the height of buildings development standard.
52. In addition, the applicant provides justification in their written statement addressing clause 4.6 of SLEP2012 that the proposed development will be consistent with the objectives of the B4 Mixed Use zone:
- (a) The proposal provides for a residential land use. The surrounding development is also predominantly residential, with significant new housing stock being located within the area. A variation to the maximum height of buildings development standard would not impede upon the proposed use.

As such, the proposal is consistent with the first objective of the B4 zone, which is to provide a mixture of compatible land uses;
 - (b) It benefits from its proximate location to public transport infrastructure being situated approximately 500m walking distance to Erskineville Train Station, 650m walking distance to St Peters Railway Station, and between 350m-650m from a series of bus services.

As such, the proposal is consistent with the second objective of the B4 zone, which is to integrate suitable business, office, residential and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling; and
 - (c) It is located approximately 400m walking distance from the closest B2 Local Centre zone. It is considered that the provision of residential accommodation within walking distance to this local centre zoned land supports the viability and the vitality of the local centre.
 - (d) As such, it is consistent with the third objective of the B4 zone, which is to ensure uses support the viability of centres.
53. 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.

54. The applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. Primarily, the written statement justifies that the objectives of the development standard are achieved notwithstanding non-compliance with the standard.
55. With regard to Clauses 4.6(4) (a) (i) and Clause 4.6 (3) (b), the applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard.
56. With regard to the objectives of Clause 4.3 of SLEP2012 (height of buildings development standard):
- (a) the proposal is consistent with objective (a) of Clause 4.3 of SLEP2012, which is to ensure the height of development is appropriate to site conditions and context:
 - (i) the proposed development presents as a 3 storey building as viewed from Goddard Street. The fourth storey will not be perceivable from street level due to the proposed setback for the fourth storey (Figures 21 and 22 above);
 - (ii) the 3-4 storey development will provide a suitable height transition between existing 3 storey terrace dwellings to the north of the site (1A-1F Goddard Street) and potential 6 storey development at the southern boundary (5 Goddard Street); and
 - (iii) the proposal is appropriate in the context of existing development within the Ashmore Neighbourhood that is flood affected. It has been established for other sites (including those located on the opposite side of Goddard Street), that maximum building heights should be considered as being acceptable if they do not exceed the maximum heights provided by SLEP2012, as measured from the required flood levels rather than from existing ground levels.
 - (b) there are no heritage items located within close proximity to the site and no significant views across the site. As such, the proposal is consistent with objectives (b) and (c) of Clause 4.3 of SLEP2012; and
 - (c) the site is not located within close proximity of Central Sydney and the Green Square Town Centre and clauses 4.3(d) and (e) do not apply.
57. With regard to the zoning objectives of the B4 Mixed Use zone:
- (a) the development provides a type of development that subject to conditions requiring adherence to a suitable plan of management for the premises, is compatible with neighbouring land uses; and
 - (b) it is located in an accessible location and provides suitable bike parking for residents, so as to maximise public transport patronage and encourage walking and cycling.

58. The applicant has by way of their written statement, addressed Clause 4.6 of SLEP2012, demonstrated that there are sufficient environmental planning grounds to justify contravening the standard:
- (a) as discussed in the Issues section below, that part of the development that exceeds the height of buildings control will not result in any significant impacts for neighbouring dwellings in relation to visual and acoustic privacy;
 - (b) that part of the development that exceeds the height of buildings control will not result in any significant impacts for existing and future neighbouring dwellings in relation to solar access (see discussion above); and
 - (c) the proposal will not result in any impacts for neighbouring dwellings in relation to view sharing.
59. The proposal is consistent with both the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. The environmental impacts of the proposal are acceptable. As such, the proposed development is in the public interest.
60. For the reasons provided above, the requested variation to the height development standard is supported. 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 of buildings standard and the B4 Mixed Use zone.

Motorcycle Parking Spaces – Written clause 4.6 Statement

61. Clause 30(1)(h) of ARHSEPP2009 requires the provision of 7 bicycle and 7 motorcycle parking spaces for a boarding house containing 35 rooms. The quantum of bicycle parking spaces is provided however no motorcycle parking spaces are provided.
62. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard
 - (c) The proposed development will be consistent with the objectives of the zone; and
 - (d) The proposed development will be consistent with the objectives of the standard.
63. A copy of the applicants written request is provided at Attachment D.

64. The applicant seeks to justify the contravention of the development standard on the following basis:
- (a) whilst there are no objectives provided for Division 3 of the ARHSEPP2009 (boarding houses), the proposal is consistent with the objectives of the ARHSEPP generally:
 - (i) the proposed variation to motorcycle parking would not impede upon a consistent planning regime to be provided for affordable rental housing. An affordable housing development can still be achieved with an appropriate amenity, notwithstanding the variation. As such, the proposal is consistent with objective (a) of the ARHSEPP2009, which is to provide a consistent planning regime for the provision of affordable rental housing;
 - (ii) no incentives are sought or relied upon with respect to the variation to motorcycle parking. As such, the proposal is consistent with objective (b) of the ARHSEPP2009, which is 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;
 - (iii) the proposed variation does not result in the loss of affordable rental housing and as such, is consistent with objectives (c) and (d) of the ARHSEPP2009, which are to facilitate the retention and mitigate the loss of existing affordable rental housing and 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.
 - (iv) the proponent is not a not-for-profit-provider of affordable rental housing. As such, objective (e) does not apply.
 - (v) the development is located within proximity to an array of local goods, services and amenities which promote employment opportunities within the immediate and broader locality. As such, it is consistent with objective (f) of the ARHSEPP2009, which is to support local business centres by providing affordable rental housing for workers close to places of work.
 - (b) The applicant submits that there are sufficient environmental planning grounds to justify contravening the standard. In particular:
 - (i) providing motorcycle parking would likely require a basement parking level given the proposed building footprint and alignments which are proposed. This would cause a disruption to the overall character of the development and streetscape presentation;
 - (ii) providing motorcycle parking is considered excessive and unwarranted in the context given its proximate location to public transport infrastructure. The site is also proximately located to a series of commuter cycle routes which further encourage the use of alternative transport modes;
 - (iii) adequate bicycle spaces are provided for the proposed development, exceeding the minimum requirement stipulated by the ARHSEPP2009. The additional provision of bicycle parking is deemed appropriate in compensating for the non-provision of motorcycle spaces.

- (iv) The residential amenity for future residents would in no way be impacted through the non-provision of motorcycle spaces as active modes of transport are encouraged through the additional provision of bicycle spaces and the alternative transport options made available in the locality.
65. 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.
66. The applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. Primarily, the written statement justifies that the objectives of the development standard are achieved notwithstanding non-compliance with the standard.
67. The applicant's written rationale justifying the objection to the motorcycle parking development standard is reasonable. Whilst there are no aims or objectives provided for Clause 30(1)(h) of ARHSEPP2009, it is likely the requirement for motorcycle parking spaces is intended to enable alternative forms of transport (to cars) within the development.
68. It is considered that in this instance and given that the development provides 15 bicycle parking spaces, that strict compliance with the motorcycle parking development standard specified by clause 30(1)(h) of ARHSEPP2009 is unreasonable and unnecessary pursuant to Clause 4.6(4)(a). The proposal is consistent with the aims of the ARHSEPP2009 in that it is providing affordable housing close to places of work. As such, it is consistent with the aims of the plan.
69. With regard to the zoning objectives of the B4 Mixed Use zone:
- (a) subject to conditions the development is compatible with neighbouring land uses; and
 - (b) the site is located in an accessible location and provides suitable bike parking, so as to maximise public transport patronage and encourage walking and cycling.
70. There are sufficient environmental planning grounds to justify exceeding the development standard that include:
- (a) close proximity to high-frequency transport nodes including bus and rail services at King Street and Erskineville and St Peters Stations;
 - (b) more than the requisite number of bicycle parking spaces than are required by Clause 30(h) of the ARHSEPP2009, with additional spaces required by way of deferred commencement approval; and

(c) the requirement for motorcycle parking spaces is intended to enable alternative forms of transport within the development to cars, with bicycle and public transport options being available to the residents.

71. For the reasons outlined above, there are sufficient planning grounds to justify the departure from the motorcycle parking development standard specified by ARHSEPP2009. As such, the clause 4.6 statement is acceptable and it is recommended the proposal be supported.
72. For the reasons provided above, the requested variation to the development standard is supported. 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 ARHSEPP2009 and with the B4 Mixed Use zone.

Adaptable housing

73. Only 2 of the 35 boarding rooms (ground level rooms 005 and 006) are capable of being adapted for occupation and visitation by people with a disability (6%). As such, the proposal does not comply with the provisions of Part 3.12 of SDCP2012, which state that 15% of new dwellings must be adaptable (5 dwellings to comply).
74. Adaptable dwellings cannot be provided at the upper levels of the boarding house given the proposal does not include the installation of a lift. However it is possible to maximise the provision of adaptable rooms within the ground level by consolidating boarding rooms numbered 001 and 002.
75. A deferred commencement approval is recommended to address the shortfall in the provision of adaptable dwellings, by way of consolidating boarding rooms 001 and 002 at ground level.
76. This condition will ensure that all ground level rooms are capable of being adaptable and will increase the quantum of adaptable rooms from 6% to 9%. This design refinement will also provide scope for additional bicycle parking spaces. See discussion below and Figure 29.

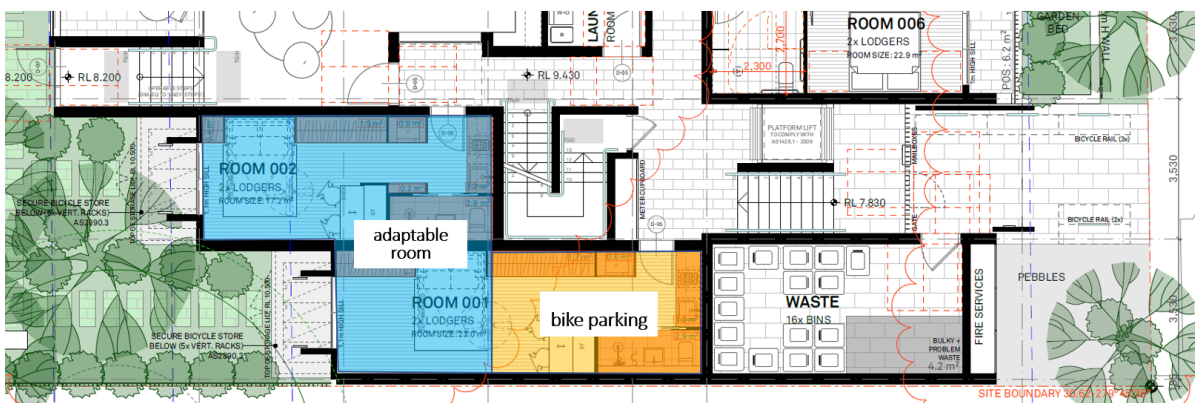


Figure 29: A condition is recommended that rooms 001 and 002 be consolidated to create an additional adaptable boarding room (shaded blue for emphasis) and additional bike parking spaces (shaded yellow for emphasis).

Bicycle parking spaces

77. The provisions of Part 3.11 of SDCP2012 state that one bicycle parking space must be provided per residential dwelling (35 spaces). Only 10 x Class 2 resident bicycle parking spaces are provided within the rear yard of the site. An additional 4 x visitor bike parking loops provided at the entry from Goddard Street.
78. Whilst the development complies with the bicycle parking provisions of the ARHSEPP2009, it proposes a significant shortfall with regard to the SDCP2012 control.
79. Given the proposal involves residential accommodation for a maximum of 70 residents and that no off-street parking spaces are proposed, a deferred commencement approval is recommended to allow for design changes that can provide additional bicycle parking spaces amongst other things.
80. The remnant portion of room 001 at the ground level of the building (where it has been consolidated with room 002 to provide an additional adaptable room) must be used to provide additional bike parking spaces and to maximise the provision of adaptable rooms as set out above.
81. With regard to the proposed 4 x visitor bike parking loops at the building's entrance:
 - (a) the entry to the premises is only 3.5m wide at the ground level, yet bike parking loops are proposed at both the northern and southern edges of the entry. When occupied, the bike parking loops would significantly reduce the width of the entry area, reducing its amenity for residents;
 - (b) the southern bike loop also has the potential to impede access to the fire services cupboard during emergencies. The fire services cupboard is located within the landscaped setback adjoining the southern bike loop.
82. A condition is recommended that the proposed bicycle parking loop located at the southern side of the entry must be deleted.

Access to the site via the Kirsova 1 Playground

83. The Kirsova 1 Playground is a rectangular park that is located at the northern property boundary of the subject site and that is accessed from Macdonald Street. The playground contains seating and play equipment and is substantially covered by canopy trees (Figure 4 above).
84. Existing dwellings at 1A-1F Goddard Street enjoy direct access to the park via gates at their western boundaries (Figure 7).
85. The development provides an access gate at the north-western corner of the subject site, to allow residents of the boarding house with direct access to the Kirsova 1 Playground and Macdonald Street.
86. Direct access to the site via the Kirsova playground is not supported by Council's assessing officers due to a lack of appropriate infrastructure. For example:
 - (a) there are no pathway structures within the playground to connect and service the proposed access gate. This is likely to result in the creation of de facto pathways by residents and other site visitors, and the compaction of tree root zones and other existing green landscaping features; and

- (b) there is insufficient lighting to ensure residents can safely access the park at night.
87. The playground would provide a short cut for the residents of the boarding house as they travel to the site from nearby Erskineville and St Peters railway stations and from King Street bus routes. It is therefore likely that residents would routinely use the playground for access and egress, resulting in significant impacts on the park's infrastructure as outlined above.
88. Conditions are recommended that the proposed access gate at the north-western corner is to be deleted and that the playground must not be used for access during construction works.

Other Impacts of the Development

89. The proposed development is capable of complying with the BCA.
90. 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

91. The proposal is of a nature in keeping with the overall function of the site. The premises are in a commercial/residential surrounding and amongst similar uses to that proposed.

Internal Referrals

92. The application was discussed with the City's:
- (a) Heritage and Urban Design Specialists;
 - (b) Building Services Unit;
 - (c) Environmental Health specialists;
 - (d) Public Domain Unit;
 - (e) Surveyors;
 - (f) Transport and Access specialists; and
 - (g) Tree Management specialists.
93. Where the internal discussions have identified that the proposal is acceptable subject to conditions, those conditions are included in Attachment A.
94. Conditions are recommended to address the following issues raised by the City's urban designer:
- (a) the southern bicycle rail is to be deleted as outlined above;
 - (b) construction drawings are required to articulate proposed external privacy screens to north-facing windows;

- (c) the clear glass balustrade to the ground floor communal room is to be replaced by an opaque material; and
 - (d) the 1.8m high northern side boundary fence is to be solid where it shares a boundary with 1F Goddard Street to the north.
95. Council's Tree Management specialists have reviewed a submitted arborist's report and have advised that the extent of tree pruning is acceptable. Objection was raised to the use of the Kirsova Playground for access as outlined above.
96. The City's Public domain officers advise the site is affected by 700mm depths during flood events at Goddard Street boundary. The proposal has been devised using appropriate flood levels and standard public domain conditions are recommended in Attachment A.

External Referrals

Notification, Advertising and Delegation

97. In accordance with Schedule 1 the Sydney DCP 2012, the proposed development is required to be notified and advertised. The application was notified and advertised for a period of 21 days between 19 August 2019 and 10 September 2019. 820 properties were notified and 20 submissions were received.
98. Amended drawings were re-notified to neighbouring properties between 24 April 2020 and 9 May 2020. 820 properties were notified and 3 submissions were received. The following issues were raised by the submissions.

Building height and shadow impacts

- (a) The proposal exceeds the permissible building height and height in storeys, resulting in overshadowing impacts for surrounding properties.
- (b) The development reads as a 5 storey building because of elevated ground floor level. The 'fifth' storey will result in loss of sunlight access to the future residential flat building at 5 Goddard Street.
- (c) The proposed building should not be permitted to extend beyond the rear building line of residential townhouses to the north.

Response

- (i) The proposed height that exceeds the relevant SLEP2012 and SDCP2012 controls can be supported as outlined in the Issues section above. The development will not have any significant impacts for neighbouring dwellings in relation to overshadowing and the proposal protects sun access for future development that can be located on sites to the southern boundary.
- (ii) Much of the height breach is in response to the flood level constraints that require an elevated ground level, this approach being consistent with recently constructed developments within the Ashmore neighbourhood.

- (iii) The proposal is appropriate in the context of the site in relation to its materiality. The proposal is supported in the context that existing development within close proximity has also been approved with heights that exceed the maximum standard with relevant flood levels informing the required ground levels.
- (iv) It would be suitable for the proposal to adopt the existing rear building line for dwellings at 1A-1F Goddard Street if they shared a common rear boundary. As discussed elsewhere in this report, the proposal has been amended to mitigate its impacts on the dwellings to the north of the site, in relation to visual privacy, landscaping works and its materiality.

Character of Erskineville

- (a) The target resident demographic is unclear for the proposed boarding house. It is unclear who will be managing for the proposed boarding house.
- (b) A boarding house is out of character for this section of Erskineville. The proposal does not complement the existing rental and owner-occupied houses and apartments.
- (c) The proposed development will increase the population density of southern Erskineville dramatically. The area is already densely populated and there is already significant pressure on local infrastructure, especially transport.
- (d) There are no additional car parking spaces proposed. There is already a shortage of parking on local streets.

Response

- (i) Boarding houses are a type of residential development that is permissible within the B4 Mixed Use zone. The proposed density is acceptable with consideration that the development does not exceed the permissible floor space ratio.
- (ii) The City's planning controls support development with no car parking provision that instead utilise alternative means of transport, such as cycling, walking and use of public transportation. Bicycle parking is to be provided and additional bicycle parking is required by way of a deferred commencement approval;
- (iii) an additional on-street parking space will be created by the removal of an existing vehicle crossing. Future residents are not entitled to participate in the City's residential parking permit scheme for on-street parking spaces. The use of street parking will therefore need to adhere to the signposted restrictions in terms of length of stay; and
- (iv) the premises must be operated in accordance with an approved plan of management, prepared to address any issues around noise and the residential amenity of neighbouring properties.

Planning controls relating to boarding houses

- (a) The rooms do not comply with ARHSEPP2009 and SDCP2012 provisions relating to boarding houses. Room sizes are too small, no storage is provided for residents and a communal kitchen is not provided.

Response

- (i) The proposal has been amended during assessment and the revised plans comply with the minimum provisions relating to room sizes, noting there are no controls around storage within boarding rooms and a communal kitchen is provided at the ground level. Individual rooms are provided with kitchenettes and ensuite bathrooms.

Crime, antisocial behaviour and safety within Kirsova 1 Playground

- (a) Children will not be able to independently walk to and from school and use the Kirsova 1 playground;
- (b) Unacceptable to have overlooking of the playground and direct access through it to enter the building;
- (c) Alcohol and drug consumption at the Kirsova 1 playground and smoking in the park, impacting on residents with dwellings that face Goddard Street.

Response

- (i) the proposal to use the Kirsova 1 Playground to access the site is not supported on the basis there is insufficient infrastructure in the park (see discussion above).
- (ii) Overlooking of the playground is addressed by the provision of external privacy screens to the north facing windows of boarding rooms.
- (iii) Antisocial behaviour will be moderated by the application of an approved plan of management.

Visual and acoustic privacy impacts, plan of management

- (a) Higher levels will be able to overlook the open space and living rooms of dwellings at 1A-1F Goddard Street;
- (b) The ground level communal living room and terrace will result in noise impacts for dwellings and the playground;
- (c) The Plan of Management imply that the owner/developer anticipates problems in relation to residents making noise, drinking and drug use;
- (d) The POM contains a clause that the POM may be altered with Council approval without the requirement for an application to Council to vary the conditions of consent. This would make it possible for the owner to reduce the minimum rental agreements to less than 3 months making the residence even more transient in nature.

Response

- (i) amended drawings have been submitted to address the issues of visual and acoustic privacy. Privacy screens are provided and external living areas have been relocated to the western side of the building from the northern side where they impact neighbouring dwellings;
- (ii) conditions are recommended that the approved plan of management is to be adhered to and that the minimum terms for a lease will be 3 months. It would not be possible for the managers of the property to dilute the terms of the plan of management without Council approval.

Tree and landscape issues

- (a) It is unclear whether the proposal will impact on existing trees located within the children's playground.
- (b) Limited green space is provided within the site.

Response

- (i) Council's tree management specialists have provided conditions of consent and are satisfied that minimal tree pruning will be required. The quantum of communal open space is acceptable noting canopy trees can be accommodated and that a landscape plan must be prepared prior to the issue of a construction certificate.

Construction impacts and compliance with building regulations

- (a) The construction management plan has been prepared by an architect rather than a professional builder. A construction traffic management plan has not been lodged with Council.
- (b) The proposal is a four floor walk up with no lift. There is no fire escape shown in the plans, only a central staircase.
- (c) Once the existing northern warehouse wall is removed, the rear courtyard at 1F Goddard Street will be exposed.

Response

- (i) A condition is recommended requiring the submission of a construction traffic management plan prior to construction commencing;
- (ii) conditions are recommended to mitigate impacts for neighbouring properties. The proposal is capable of complying with the NCC, noting a lift is not required to comply; and
- (iii) A condition is recommended that the 1.8m high northern side boundary fence is to be solid where it shares a boundary with 1F Goddard Street to the north.

Public Interest

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

S7.11 Contribution

100. 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 34 rooms (noting the deferred commencement approval recommends reducing the number of rooms).
101. Credits have been applied for the most recent past use of the site as a warehouse used for general industry. A floor area of 501sqm has been used (from the survey) for calculations given existing floor plans have not been provided by the applicant.
102. The following monetary contribution is required towards the cost of public amenities:
- | | |
|---------------------------|--------------|
| (a) Open Space | \$266,154.90 |
| (b) Community Facilities | \$53,589.58 |
| (c) Traffic and Transport | \$53,866.68 |
| (d) Stormwater Drainage | \$21,300.68 |
| Total | \$394,911.84 |

Relevant Legislation

103. Environmental Planning and Assessment Act 1979.

Conclusion

104. The application seeks approval for the demolition of a post-war warehouse and for the construction of a 4 storey contemporary boarding house that is not located within a conservation area.
105. The applicant has submitted 2 written requests, pursuant to Clause 4.6 of SLEP2012, to vary development standards relating to the height of buildings by clause 4.3 of SLEP2012 and the motorbike parking provisions specified by the ARHSEPP2009. The requests to vary the development standards are supported.

106. The proposal has been amended to address a number of issues identified by Council's assessing officers during the assessment of the application. These issues relate to internal amenity for occupants and to the amenity of existing and future residential development on neighbouring sites. The proposal has also been amended in relation to its materiality, and will be in keeping with the character of the streetscape and the Ashmore Neighbourhood.
107. The proposal has a building envelope that is appropriate with consideration for the permissible floor space ratio and is set back at its upper level such that its upper level be not be visually dominating over the streetscape and neighbouring properties.
108. It is recommended that a deferred commencement consent be granted to allow for further refinement of the drawings, such that rooms 001 and 002 are consolidated to provide an additional adaptable room and additional bicycle parking spaces.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

Adrian McKeown, Senior Planner

Attachment A

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|--|
| Recommended Conditions of Consent |
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SCHEDULE 1 - DEFERRED COMMENCEMENT CONDITIONS (CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)

The following deferred commencement conditions must be satisfied prior to the consent becoming operative:

(A) PART A - DEFERRED COMMENCEMENT CONDITIONS

(CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)

The consent is not to operate until the following conditions are satisfied, within **24 months** of the date of this determination:

(1) PROVISION OF ADDITIONAL ADAPTABLE ROOM

- (a) Ground level boarding rooms numbered 001 and 002 must be consolidated and redesigned to be a single, adaptable boarding room facing the western boundary and to provide an additional bicycle parking area:
 - (i) the eastern wall of room 002 must be extended to the southern boundary. Room 002 must be redesigned to be an adaptable room. The eastern portion of room 001 must be redesigned to be an additional enclosed resident bicycle parking area:
 - (ii) the entry to the single adaptable room must be from the door to room 002 as shown on the approved ground level plan number A-0102 (Revision G). The entry to the bike parking room must be from the door for room number 001 as shown on drawing number A-0102 (Revision G); and
 - (iii) the above changes must not result in any changes to the approved building envelope and to the approved bike parking areas at the rear of room numbers 001 and 002.

(2) ADAPTABLE HOUSING

Information from an appropriately qualified access consultant is to be submitted to the Council's assessing officers:

- (a) Confirming that the required 3 x boarding rooms at the ground level of the building 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.

(3) PLAN OF MANAGEMENT

The Plan of Management submitted with the application (Trim reference: 2020/257223), must be amended to reflect a reduction in the number of tenants (from 70 to 68), resulting from the consolidation of rooms 001 and 002.

- (2) 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.
- (3) 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.
- (4) 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) of the subject report.

(B) PART B – 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/2019/880 dated 13 August 2019 and the following drawings prepared by Benson McCormack Architects:

| Drawing Number | Drawing Name | Date |
|-------------------|-------------------------------|----------|
| A-0007 Revision G | Site Plan | May 2020 |
| A-0101 Revision G | Basement Plan | May 2020 |
| A-0102 Revision G | Ground Floor Plan | May 2020 |
| A-0103 Revision G | Level 1 Floor Plan | May 2020 |
| A-0104 Revision G | Level 2 Floor Plan | May 2020 |
| A-0105 Revision G | Level 3 Floor Plan | May 2020 |
| A-0106 Revision G | Roof Plan | May 2020 |
| A-0201 Revision G | North Elevation | May 2020 |
| A-0202 Revision G | South Elevation | May 2020 |
| A-0203 Revision G | East Elevation | May 2020 |
| A-0204 Revision G | West Elevation | May 2020 |
| A-0251 Revision G | Section A | May 2020 |
| A-0252 Revision G | Section B | May 2020 |
| A-0253 Revision G | Section C | May 2020 |
| A-0254 Revision G | Street Section | May 2020 |
| A-2055 Revision G | Section through rooms 5&6 | May 2020 |
| A-1303 Revision G | Finishes & Materials Schedule | May 2020 |

| Drawing Number | Drawing Name | Date |
|-------------------|-----------------|----------|
| A-1319 Revision G | Bicycle Storage | May 2020 |

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) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

- (a) The southern bike loop at the entry to the premises at Goddard Street must be deleted. Product specifications are to be provided for the 3 x bicycle rails located at the northern side of the entry to the premises.
- (b) An NCCC compliant balustrade is to be provided at the entry steps to rooms 005 and 006 to prevent falling or stepping into the adjacent landscape planters. A detailed section through the entry steps detailing the balustrade is to be submitted for approval.
- (c) A detailed 1:20 scale section illustrating a typical privacy screen and planter between rooms 307 - 309 is to be submitted for approval;
- (d) A detailed 1:20 scale section illustrating a typical external privacy screen for windows for rooms 103-106, 203-206 and 303-306 is to be submitted for approval;
- (e) The clear glass balustrade to the ground floor northern elevation of the indoor communal room (BLD-02 on drawing number A201 Revision G) must be constructed using obscure glazing or an alternative obscure material;
- (f) The 1.8m high northern side boundary fence is to be constructed using solid material where it shares a common boundary with the rear yard of 1F Goddard Street;
- (g) The access gate between the subject site and the Kirsova 1 Playground must be deleted; and
- (h) The Finishes & Materials Schedule must be amended to include the substrate of finishes described as: RNP-01 and RNP-02.

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

(3) LANDSCAPING OF THE SITE (TREES)

- (a) Landscape Plan prepared by prepared by “Matthew Higginson” dated 1 May 2020 ‘Revision C’ 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 any 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 cover across the site. This must be provided by 40% of the species having a mature height of 6-8 metres and 60% mature heights of 10-15 metres;
 - (v) New trees 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 trees 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 any Occupation Certificate being issued.

(4) DESIGN MODIFICATIONS - TREES

The design must be modified as follows:

- (a) The existing boundary wall footings within the TPZ of trees numbered 1, 4 and 7 must be retained to limit the impact to existing tree roots.
- (b) The proposed ‘secure access gate’ to Kirsova 1 Playground as detailed in the Landscape Plans by “Matthew Higginson” dated 1 May 2020 ‘Revision C’ must be deleted.

- (c) The design of the rear courtyard must be amended to ensure no level changes occur within the Tree Protection Zones detailed in the TPZ schedule below.

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

(5) 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 | Botanical/Common Name | Location |
|----------------|---|---------------------|
| 8 | <i>Callistemon salignus</i> (White Bottlebrush) | Goddard Street tree |
| 9 | <i>Fraxinus griffithii</i> (Evergreen Ash) | Goddard Street tree |

- (6) Refer to Arboricultural Impact Assessment Report prepared by "TALC" dated 17 December 2019 for tree numbering and location.

(7) TREES THAT MUST BE PROTECTED

- (a) The existing trees detailed in Table 2 below must be protected in accordance with the conditions of consent throughout the construction and development.

Table 2 – Trees to be protected:

| Tree No | Botanical/Common Name | Location |
|----------------|--|-------------------------------|
| 1, 2, 4, 5, 6 | <i>Celtis sinensis</i> (Celtis) | Railway Corridor |
| 3 | <i>Pittosporum undulatum</i> (Pittosporum) | Railway Corridor |
| 7 | <i>Ficus macrophylla</i> (Moreton Bay Fig) | Rear yard of 5 Goddard Street |

- (8) Refer to Arboricultural Impact Assessment Report prepared by "TALC" dated 17 December 2019 for tree numbering and location.

(9) 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).

(10) BICYCLE PARKING AND END OF TRIP FACILITIES

- (a) The minimum number of bicycle parking spaces and end of trip facilities to be provided for the development must comply with the table below.

| Bicycle Parking Type | Minimum Number | Requirements |
|----------------------|----------------|---|
| Resident | 20 | Spaces must be Class 2 bicycle facilities |
| Visitor | 5 | Spaces must be Class 3 bicycle facilities |

Notes:

Australian Standard AS 2890.3:2015 refers to class 1 as class 'A', class 2 as class 'B', and class 3 as class 'C'.

- (b) The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3:2015 Parking Facilities Part 3: Bicycle Parking Facilities. The details must be submitted to and approved by the Principle Certifying Authority confirming prior to the Construction Certificate being issued.

(11) PLAN OF MANAGEMENT

The use must always be operated and managed in accordance with the Plan of Management, that has been approved by Council. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

(12) NO SPEAKERS OR MUSIC OUTSIDE

Speakers and/or noise amplification equipment must not be installed and music must not be played in any of the outdoor areas associated with the premises including the public domain. Speakers located within the premises must not be placed so as to direct the playing of music towards the outdoor areas associated with the premises.

(13) DELIMITATION PLAN – PRIOR TO DEMOLITION

- (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 redefinition plan redefining the boundaries of the subject 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) Prior to the issue of any Staged or Final Occupation Certificate, the redefinition plan shall be completed and lodged with the Office of NSW Land Registry Services, showing the new components of the building and creating any easements as necessary. Evidence of lodgement of the redefinition plan shall be supplied to the Principal Certifier prior to the issue of a Staged or Final Occupation Certificate. It should be noted that, due to the age of the base plan, a redefinition plan will be required by NSW Land Registry Services to be lodged in conjunction with, or prior to, any strata plan for the site. Redefinition of the boundaries prior to construction will minimise the risk of problems with encroachment and consequent significant delays and expense. It is also noted that the redefinition plan will be required by NSW-LRS prior to the registration of a strata plan. Should the registered surveyor form the opinion that registration of the delimitation plan prior to construction is necessary due to the potential for disagreement with the boundary fixation, then the requirements in subclause (b) relating to showing the new components of the building on the plan need not apply.

(14) SURVEY

- (a) AT FOUNDATION STAGE - All footings and walls adjacent to a boundary or setback line must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be submitted to the Principal Certifier indicating the position of external walls in relation to the boundaries of the allotment. Any encroachments of the subject building over the side boundaries must be removed prior to continuation of building construction work, or alternatively a letter supplied from the registered proprietor(s) of the adjoining lot(s) confirming that they are aware of the nature & extent of the encroachment, and undertaking to execute all necessary documentation to permit the creation of an easement to permit the encroachment to remain.
- (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 and is in accordance with approved setbacks. 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, and is compliant with the setbacks approved under this consent.
- (c) AT COMPLETION - Prior to the issue of any staged or final Occupation Certificate for a part or the whole of the building - a Final Identification Survey

prepared 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 external site boundaries or proposed internal boundaries as approved by this consent must be rectified prior to the issue of a staged or final Occupation Certificate for the whole or any part of the building, or suitable easements registered on title

(15) 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, reflective of 34 boarding rooms.

| <u>Contribution Category</u> | <u>Amount</u> |
|------------------------------|---------------|
| Open Space | \$266,154.90 |
| Community Facilities | \$53,589.58 |
| Traffic and Transport | \$53,866.68 |
| Stormwater Drainage | \$21,300.68 |
| Total | \$394,911.84 |

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

$$C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$$

Where:

C_{payment} = Is the contribution at time of payment;

C_{consent} = Is the contribution at the time of consent, as shown above;

CPI_{payment} = 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

CPI_{consent} = Is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being – 117.4 for the March 2010 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.

(16) BUILDING HEIGHT

- (a) The height of the building must not exceed RL 21.43 (AHD) to the top of the building and RL 20.63 (AHD) to the roof of the building.
- (b) Prior to any 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.

(17) 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 approved Finishes & Materials Schedule.

(18) FLOOR SPACE RATIO - ALL OTHER AREAS

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio for the boarding house must not exceed 2:1 calculated in accordance with the provisions of the Sydney Local Environmental Plan 2012. For the purposes of the calculation of FSR, the Gross Floor Area of the premises is 674.43sqm.
- (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 Local Environmental Plan 2012, applicable at the time of development consent, to the satisfaction of the Principal Certifier.

(19) ACCOMMODATION - REGISTRATION AND CARETAKER

Prior to the issuing of any Occupation Certificate, 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.

(20) RESTRICTION ON USE

The building must only be used as a boarding house.

(21) 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*.

(22) PROHIBITION ON THE USE OF RESIDENTIAL TENANCY AGREEMENTS

To ensure the premises does not operate as a residential flat building but as a boarding house, use of Residential Tenancy Agreements (under the Residential Tenancies Act 2010) is prohibited.

(23) RESTRICTION ON STRATA SUBDIVISION

In accordance with the provisions of Clause 52 of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* and the *Sydney Development Control Plan 2012*, the boarding house cannot be strata subdivided or placed on community title.

(24) SINGLE AND DUAL OCCUPANCY

- (a) Pursuant to approved plans, all rooms within the building are to contain a maximum of 2 persons. Bedrooms must not contain double or triple bunks; and
- (b) Drawings prepared for any construction certificate must state the occupancy capacity of each room, as per the approved drawings, to the satisfaction of the Accredited Certifier.

(25) 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.

(26) STUDIO FOR LIVE-IN MANAGER

In accordance with Clause 30(1)(e) of State Environmental Planning Policy (Affordable Rental Housing) 2009, room No. 307 within the development is to be permanently allocated for use by a live-in manager.

(27) SURVEILLANCE CAMERAS

- (a) CCTV surveillance cameras must be installed prior to the issue of any occupation certificate. The CCTV surveillance cameras must be operated and maintained throughout the premises with particular coverage to:
 - (i) principal entrance/s and exits;
 - (ii) all areas within the premise occupied by the public (excluding toilets);
 - (iii) staircases;
 - (iv) basement including bicycle parking areas;
 - (v) roof top communal private open space; and
 - (vi) the area within a 10m radius external to the public entrance(s) to the premise.
- (b) Suitable and clearly visible signage shall be displayed at the principal entrance(s) to the premise and in a prominent position on each floor accessible to the public, in lettering not less than 50mm in height with the words "Closed Circuit Television in use on these premises".
- (c) All CCTV recording equipment and cameras shall be of high grade digital quality capable of establishing the population and identification of tenants, visitors, offenders and incidents within the depth of field view of the cameras. In this respect each surveillance camera shall be capable of recording a minimum rate of 10 frames per second and at high resolution.
- (d) CCTV recording discs or hard drive recordings shall be retained for 28 days before being re-used, destroyed or deleted. Time and date shall be auto recorded on the disc or hard drive. The CCTV recording equipment shall be capable of reproducing a CD, DVD, USB or other appropriate digital copy of recorded footage on demand of Council or Police Officers either immediately or within 12 hours of the request being made. Copy discs must be handed to Council, Police Officer or Special Inspectors as required.
- (e) The CCTV recording device shall be secured within the premises and only be accessible to senior management personnel so as to maintain the integrity of the recorded footage. There must always be at least one staff member present at the premises who is authorised to access the CCTV system and able to immediately review recordings and produce copies.
- (f) Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.

(28) PROHIBITION ON PARTICIPATION IN RESIDENT PARKING PERMIT SCHEME - APPLICATION OF CITY OF SYDNEY PARKING POLICY

All tenants and occupiers of this building are advised that it is the Policy of Council that they are not eligible to participate in any existing or proposed Council on-street resident parking schemes. The owner of the premises must advise all intending tenants of the dwellings of this prohibition in writing at the time of entering into a lease / occupancy agreement.

(29) 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 \(NPfl\)](#) 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 NPfl 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.
- (b) An $L_{Aeq,15 \text{ minute}}$ (noise level) emitted from the development must not exceed the $L_{A90, 15 \text{ minute}}$ (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 NPfl are applicable to relevant noise from the development measured in accordance with this condition, however duration corrections are excluded from commercial noise.

(30) 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 **Acoustic report prepared by Acoustic, Vibration and Noise PTY Ltd dated 13th August 2019 ref : 2019-227 TRIM 2019/405695** 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 accredited certifier.
- (c) Prior to the issue of any Occupation Certificate, a Suitably Qualified Acoustic Consultant* is to provide a written Acoustic Verification Report to the satisfaction of the Principal Certifier 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.

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

- (a) A site specific noise management plan shall be submitted to the Council for comment and approval prior to issue of any Construction Certificate.
- (b) 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.
- (c) The plan must include but not be limited to the following:-
 - (i) identification of noise sensitive receivers near to the site.
 - (ii) 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.
 - (iii) A representative background noise measurement (LA90, 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.
 - (iv) 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.
 - (v) 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.
 - (vi) 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.

(32) COMPLIANCE WITH DEMOLITION, EXCAVATION & CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN

- (a) All works conducted on site which form part of this development must be carried out in accordance with the Demolition, Excavation and Construction Management Plan referred to above.
- (b) Where all such control measures have been implemented and the resultant noise and/ or vibration levels at any sensitive receiver still exceed the council's applicable criteria stated in the Construction Hours/Noise Code 1992 and are giving rise to sustained complaints then the contractor must provide regular, appropriate and sustained periods of respite in consultation with Council's Health and Building unit. Approval to vary the authorised noise and vibration levels must be received in writing by the proponent from Council prior to activities being undertaken that exceed sanctioned emission levels. (Use where respite periods not specified under the approved DEC NMP)

Such periods must be set and agreed to by Council's Health and Building Unit.

(33) RODENT TREATMENT PROGRAMME – PRE DEMOLITION AND/OR EXCAVATION

- (a) Prior to the commencement of any demolition and/or excavation works, a programme of baiting and monitoring of rodent activity is to be put in place at the site.
- (b) A licensed Pest Control Operative must carry out all pest control work and prepare a report, confirming that there is no evidence of any rodent activity at the site prior to the commencement of any works on site. The report must be submitted to and be approved/endorsed by Council's Area Coordinator Planning Assessments/Area Planning Manager.

SCHEDULE 1B

PRIOR TO CONSTRUCTION CERTIFICATE/COMMENCEMENT OF WORK/HEALTH AND BUILDING

(34) 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.

(35) 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.

(36) 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".

(37) EXTERNAL WALLS AND CLADDING FLAMMABILITY

The external walls of the building including attachments must comply with the relevant requirements of the Building Code of Australia (BCA). Prior to the issue of a Construction Certificate and Occupation Certificate the Accredited Certifier and 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 BCA; and
- (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the BCA as proposed and as built.

(38) 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).

(39) 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*.

(40) 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 footway pavement, kerb and gutter, vehicle crossovers, . If an Alignment Levels condition applies to the development, the Public Domain Plan submission must incorporate the approved Alignment Levels.
- (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.

(41) PUBLIC DOMAIN WORKS BOND

Public Domain Works Deposit will be required as security for the public domain works and for repairing damage that may be caused to the public domain in the vicinity of the site, 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 or insurance bond as per the

Council's Performance Bond Policy in favour of Council as security for completion of the obligations under this consent (Guarantee).

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.

The Guarantee will be retained in full until all Public Domain works, including rectification of damage to the public domain, are completed to City of Sydney standards and approval 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 security will be released. The remaining 10% will be retained for the duration of the specified Defects Liability Period.

(42) STORMWATER AND DRAINAGE

- (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.
- (e) A stormwater quality assessment must be undertaken by a suitably qualified drainage engineer to demonstrate how the development will be designed to ensure that the flow of post-development pollutants from the site due to stormwater will be reduced.

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.

(43) DEFECTS LIABILITY PERIOD – PUBLIC DOMAIN WORKS

All works to the City's public domain, including rectification of identified defects, are subject to a 6 month defects liability period from the date of final completion. The date of final completion will be nominated by Council on the Certificate of Practical Completion for public domain works.

(44) DRAINAGE AND SERVICE PIT LIDS

Drainage and service pit lids throughout the public domain shall be heel guard and bicycle safe, finish flush with the adjacent pavement to avoid trip hazards and be clear of obstructions for easy opening and cleaning. Pit lids shall be in accordance with the *City of Sydney's Sydney Streets Design Code* and *Sydney Streets Technical Specification*. Details of drainage and service pit lids shall be submitted and approved by Council prior to a Construction Certificate being issued for the relevant stage of work.

(45) PUBLIC DOMAIN DAMAGE DEPOSIT (MODIFIED)

- (a) A Public Domain Damage Deposit calculated on the basis of 40 square 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 or insurance bond as per the Council's Performance Bond Policy in favour of Council as security for repairing any damage to the public domain in the vicinity of the site (Guarantee).
- (b) The Guarantee must be lodged with Council prior to an approval for demolition being granted or a Construction Certificate being issued, whichever is earlier.
- (c) The Guarantee in this condition will be retained in full until the Public Domain Works Deposit Guarantee if required by this consent is lodged with Council. Upon lodgement of the Public Domain Works Deposit Guarantee, the Guarantee in this condition will be released.
- (d) If no public domain works are required the Guarantee in this condition 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. The Guarantee will be released in full unless rectification works are required where upon 90% of the total securities will be released, with the remaining 10% to be retained for the duration of a 6 months Defect Liability Period.

(46) 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.

(47) FLOOD PLANNING LEVELS

The development shall be constructed to comply with the recommended flood planning levels indicated in the "*Flood Information Report 1-3 Goddard Street, Erskineville*" report " prepared by BMT dated 9 November 2018.

Details shall be submitted to the Principal Certifying authority demonstrating that the development will comply with the recommended flood planning levels prior to issue of a construction certificate.

A certification report prepared by a qualified Civil Engineer shall be submitted to the Principal Certifying Authority prior to issue of any Occupation certificate stating that the development has been constructed in accordance with the recommendations of the report “Flood Information Report 1-3 Goddard Street, Erskineville” report ” prepared by BMT dated 9 November 2018..

(48) DEWATERING

Prior approval must be sought from the City’s Public Domain Unit to discharge any groundwater into the City’s stormwater drainage system. Other options for the disposal of groundwater include disposal to sewer with prior approval from Sydney Water, or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility.

(49) CONSTRUCTION TRAFFIC AND PEDESTRIAN MANAGEMENT PLAN

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>

(50) 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.

(51) WASTE AND RECYCLING COLLECTION CONTRACT

Prior to any Occupation Certificate being issued and/or commencement of the use, whichever is earlier, the building owner must ensure that there is a contract with a licensed contractor for the removal of **all waste**. No garbage is to be placed on the public way, e.g. footpaths, roadways, plazas, reserves, at any time.

(52) MECHANICAL VENTILATION

- (a) The premises must be ventilated in accordance with the *Building Code of Australia* and *AS1668.1 and AS1668.2 - 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 AS1668.2 - 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 and certified in accordance with Clause A5.2(1)(e) of the *Building Code of Australia*, to the satisfaction of the Accredited Certifier prior to the issue of a Construction Certificate.
- (c) Prior to issue of any 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 A5.2(1)(e) of the *Building Code of Australia*, must be submitted to the Principal Certifier.

(53) 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 2017* and the NSW Government and SafeWork NSW 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.

(54) 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, Part 1: 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.

(55) LAND REMEDIATION

The site is to be remediated and validated in accordance with the Remedial Action Plan prepared by Geo-Environmental Engineering, dated 5th June 2020 (Trim reference 2020/254450-01) and the Letter of Interim Advice prepared by David Gregory dated 12 June 2020 (Trim reference 2020/254450-03).

All remediation work carried out shall be conducted in accordance with the guidelines in force from time to time under the Contaminated Land Management Act 1997.

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination must be immediately notified to the Council's Area Planning Manager, the Site Auditor and the Principal Certifier.

Any variations to the approved Remediation Action Plan shall be approved in writing by the Site Auditor and Council's Area Coordinator Planning Assessments / Area Planning Manager prior to the commencement of such work.

(56) 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 shall be notified to Council's Area Planning Manager and the Principal Certifier.

(57) 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 that the site has been remediated in accordance with the approved Remedial Action Plan 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 Unit 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.

(58) 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 Team.
- (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

(59) 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 must 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.

(60) DISCHARGE OF CONTAMINATED GROUNDWATER

Contaminated groundwater shall not be discharged into the City's stormwater drainage system.

Options for the disposal of groundwater include disposal to sewer with prior approval from Sydney Water or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility.

(61) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of 1F Goddard Street and 5 Goddard Street 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 Accredited 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 any 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.

(62) 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.

(63) ROAD OPENING PERMIT

A separate Road Opening Permit under Section 138 of the *Roads Act 1993* must be obtained from Council prior to the commencement of any:

- (a) Excavation in or disturbance of a public way, or
- (b) Excavation on land that, if shoring were not provided, may disturb the surface of a public road (including footpath).

(64) 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.

(65) 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.

(66) WASTE AND RECYCLING MANAGEMENT - RESIDENTIAL

- (a) A Waste and Recycling Management Plan is to be submitted to and approved by Council's Area Coordinator Planning Assessments / Area Planning Manager 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.

- (b) 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

- (c) Prior to any 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.

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SCHEDULE 1C

DURING CONSTRUCTION/PRIOR TO OCCUPATION/COMPLETION

(67) 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.

(68) 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*.

(69) PHYSICAL MODELS

- (a) Prior to the issue of any Occupation Certificate an accurate 1:500 scale model of the development as constructed must be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager 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.

(70) SUBMISSION OF ELECTRONIC CAD MODELS PRIOR TO OCCUPATION CERTIFICATE

- (a) Prior to any Occupation Certificate being issued, an accurate 1:1 electronic CAD model of the completed development must be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager 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.

(71) NOTIFICATION OF EXCAVATION WORKS OR USE OF HIGH NOISE EMISSION APPLIANCES/PLANT

The immediately adjoining neighbours must be given a minimum of 48 hours notice that excavation, shoring or underpinning works or use of high noise emission appliances / plant are about to commence.

(72) 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 1992* and Australian Standard 2436-2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites* is restricted to the hours of :

9:00am – 12:30pm and 2:00pm – 4:00pm

9:00am – 1:00pm on Saturdays;

No work permitted on Sundays or Public Holidays.

- (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*.

(73) 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.

(74) 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.

(75) BASIX

All commitments listed in each relevant BASIX Certificate for the development must be fulfilled prior to any Occupation Certificate being issued.

(76) ENCROACHMENTS – NEIGHBOURING PROPERTIES

No portion of the proposed structure shall encroach onto the adjoining properties.

(77) 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.

(78) 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.

(79) SURVEY CERTIFICATE AT COMPLETION

A Survey Certificate prepared by a Registered Surveyor must be submitted to the Principal Certifier at the completion of the building work certifying the location of the building in relation to the boundaries of the allotment.

(80) HAZARDOUS AND INDUSTRIAL WASTE

Hazardous and/or industrial waste arising from the demolition/operational activities must be removed and/or transported in accordance with the requirements of the NSW Work Cover Authority pursuant to the provisions of the following:

- (a) *Protection of the Environment Operations Act 1997*
- (b) *Protection of the Environment Operations (Waste) Regulation 2005*
- (c) *Waste Avoidance and Resource Recovery Act 2001*
- (d) *Work Health and Safety Act 2011*
- (e) *Work Health and Safety Regulation 2017.*

(81) STREET NUMBERING – SINGLE DWELLINGS/MINOR DEVELOPMENT

Prior to any Occupation Certificate being issued, a street number must be clearly displayed at 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.

(82) 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 and Section 138 of the Roads Act 1993 must be obtained.

(83) 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.

(84) 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.

(85) TREE PROTECTION DURING CONSTRUCTION

All trees adjoining the property must be protected in accordance with the Australian Standard 4970 Protection of Trees on Development Sites and as follows:

- (a) Stockpiling, storage or mixing of materials, washing of equipment, vehicle parking, disposal of liquids, machinery repairs and refuelling, disposal of building materials such as cement slurry, siting of offices or sheds and the lighting of fires, must not occur within the TPZ of any tree to be retained and protected.
- (b) Excavation (except for demolition of the concrete slab) must not occur within the TPZ of any tree to be retained and protected. If excavation is proposed within this zone, then Council's Tree Management Officer must be contacted immediately and the excavation must be carried out in accordance with Council's direction.
- (c) Excavations for the footings where they are within the TPZ of any tree to be retained and protected must be undertaken using non-destructive methods (such as by hand) and supervised by a qualified Consultant Arborist (minimum AQF Level 5) 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) Tree trunk and major limb protection shall be undertaken prior to the commencement of any works. The protection shall be installed and certified by a qualified Arborist (minimum AQF 3) and must include;
- (f) Tree trunk/s and/or major branches must be protected by wrapped hessian or similar material to limit damage, and
 - i. 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.
 - ii. 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.
- (g) The consent from Council's Tree Management Officer must be obtained prior to the undertaking of any tree pruning works, including tree roots greater than 40mm in diameter. Only minor pruning works will be approved by Council.

(86) SITE SUPERVISION AND REPORTING

- (a) An Arborist with minimum qualifications in Arboriculture of Level 5 (under the Australian Qualification Framework) 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. Installation of hoarding/scaffolding within the Tree Protection Zone (TPZ) of any tree to be retained and protected;

- iii. 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;
 - iv. During demolition of the boundary wall within the Tree Protection Zone (TPZ) of any tree to be retained and protected;
 - v. During construction of the new boundary wall and boarding house within the Tree Protection Zone (TPZ) of any tree to be retained and protected;
 - vi. During any excavation and trenching which has been approved by Council within the TPZ of any tree to be retained;
 - vii. During any Landscape works within the TPZ of any tree to be retained.
- (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 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. Quarterly 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;
 - v. A final compliance report shall be submitted prior to the issuing of the Occupation Certificate.

(87) TREE PRUNING SPECIFICATIONS

- (a) All pruning must be carried out by a qualified Arborist (AQF Level 3 Arboriculture) and must be in accordance with AS4373-2007 Australian Standard 'Pruning of Amenity Trees'.
- (b) Pruning of the *Celtis sinensis* (Celtis), Tree 4 is limited to the pruning of two 40mm-50mm diameter branches as specified in the Arboricultural Assessment/ Pruning Report prepared by "TALC" dated 1 May 2020
- (c) All construction methods must be built around the remaining branches of the *Celtis sinensis* (Celtis), Tree 4 as specified in Appendix C of the Arboricultural Assessment/ Pruning Report prepared by "TALC" dated 1 May 2020
- (d) 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. 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. This consent does not

authorise the applicant, or the contractor engaged to do the tree works to enter a neighbouring property. All tree works must be undertaken from within the subject property unless consent from the neighbour is obtained to enter their property.

(88) 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 and certified 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) 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,
 - (iii) 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) Young street trees shall be protection by installing three (3) wooden takes around the edge of the tree pit. Hessian shall be wrapped around the stakes. If existing stakes are already in place, these shall suffice as tree protection.
- (d) Temporary signs, or any other items, shall not be fixed or attached to any street tree.
- (e) 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.
- (f) Any excavation within in any area known to, or suspected of having street tree roots greater than 40mm diameter must be undertaken by hand.
- (g) 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 30mm diameter are encountered during the installation of any services.

- (h) Existing sections of kerbs adjacent to any street tree must not be removed without approval from the Council's Tree Management Officer.
- (i) Any damage sustained to street tree/s as a result of construction activities (including demolition) must be immediately reported to the Council's Tree Management Officer 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 the Environmental Planning and Assessment Act 1979.

(89) STORMWATER AND DRAINAGE

- (a) Any trenching works for services / hydraulics / drainage etc. must not be undertaken within a Tree Protection Zone (TPZ), and be referred to the Site Arborist with regard to tree protection, prior to commencement of any works.
- (b) 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 adjacent to the specified TPZ.

(90) ARCHAEOLOGICAL DISCOVERY DURING EXCAVATION

- (a) Should any relics be unexpectedly discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with section 146 of the Heritage Act 1977.
- (b) Should any Aboriginal objects be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and NSW Government Office of Environment and Heritage is to be informed in accordance with Section 89A of the *National Parks and Wildlife Act 1974*
- (c) Should any archaeological remains or Aboriginal objects be discovered, a copy of recording of the finds and the final archaeological summary report is to be submitted to Council prior to the issue of any Occupational Certificate;
- (d) if the discovery is on Council's land, Council must be informed.

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

CONCURRENCE CONDITIONS – SYDNEY TRAINS

The concurrence conditions as advised by Sydney Trains under the provisions of SEPP (Infrastructure) 2007 are as follows:

1. The proposed development is to comply with the deemed-to-satisfy provisions in the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".
2. Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate. The Principal Certifying Authority must ensure that the recommendations of the electrolysis report are incorporated in the construction drawings and documentation prior to the issuing of the relevant Construction Certificate.
3. No work is permitted within the rail corridor, at any time, unless the prior approval of, or an Agreement with, Sydney Trains/RailCorp has been obtained by the Applicant. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
4. If required by Sydney Trains, prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
5. Prior to the commencement of any works appropriate fencing must be in place along the rail corridor to prevent unauthorised access to the rail corridor during construction works. Details of the type of fencing and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing work being undertaken.
6. The development shall have appropriate fencing fit for the future usage of the development site to prevent unauthorised access to the rail corridor by future occupants of the development. Prior to the issuing of an Occupation Certificate the Applicant shall liaise with Sydney Trains regarding the adequacy of any existing fencing along the rail corridor boundary or design and construction of new fencing. Details of the type of new fencing to be installed and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing work being undertaken.
7. Prior to the issuing of a Construction Certificate the Applicant must submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied

8. The Applicant must ensure that all drainage from the development is adequately disposed of and managed and not allowed to be discharged into the railway corridor unless prior written approval has been obtained from Sydney Trains.
9. There is a need to ensure that the roots and foliage of trees being planted beside the rail corridor do not have an impact on the rail corridor or rail operations. A final landscaping and planting plan demonstrating measures to ensure compliance with this condition must be prepared to the satisfaction of Sydney Trains. No construction certificate can be issued until written confirmation has been received from Sydney Trains confirming that this condition has been complied with.
10. The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Trains in writing), who:
 - oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Trains;
 - acts as the authorised representative of the Applicant; and
 - is available (or has a delegate notified in writing to Sydney Trains that is available) on a 7 day a week basis to liaise with the representative of Sydney Trains, as notified to the Applicant.
11. Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Trains in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Trains in relation to the works.
12. Where a condition of consent requires consultation with Sydney Trains, the Applicant shall forward all requests and/or documentation to the relevant Sydney Trains external party interface team. In this instance the relevant interface team is Illawarra Interface and they can be contacted via email on Illawarra_Interface@transport.nsw.gov.au.
13. Copies of any certificates, drawings, approvals/certification or documents endorsed by, given to or issued by Sydney Trains or RailCorp must be submitted to Council for its records prior to the issuing of the applicable Construction Certificate or Occupation Certificate.
14. Sydney Trains or Transport for NSW (TfNSW), and persons authorised by those entities for the purpose of this condition, must be permitted to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and the requirements of this consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought.
15. Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (eg roof terraces and external fire escapes) that are within 20 metres of, and face, the rail corridor, the development must have measures installed, to the satisfaction of Sydney Trains (eg awning windows, louvres, enclosed balconies, window restrictors etc) which prevent the throwing of objects onto the rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

16. Where a condition of consent requires Sydney Trains or Transport for NSW endorsement the Principal Certifying Authority is not to issue a Construction Certificate or Occupancy Certificate, as the case may be, until written confirmation has been received from those entities that the particular condition has been complied with. The issuing of staged Construction Certificates dealing with specific works and compliance conditions can be issued subject to written agreement from those entities to which the relevant conditions applies.

Attachment B

| |
|-----------------------------------|
| <h2>Selected Drawings</h2> |
|-----------------------------------|

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| B | NOV 19 | PRELIMINARY SUBMISSION |
| C | NOV 19 | DEVELOPMENT APPLICATION / ADD INFO |
| D | MAR 20 | DEVELOPMENT APPLICATION / ADD INFO |
| E | MAR 20 | DEVELOPMENT APPLICATION / ADD INFO |
| F | MAR 20 | DEVELOPMENT APPLICATION / ADD INFO |
| G | MAR 20 | DEVELOPMENT APPLICATION / ADD INFO |

CLIENT
MILLO DEV.
 PO Box 1231
 Manly NSW
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PROJECT DETAILS
1-3 G
 1-3 Boddard Street
 Erskineville NSW 2043

PROJECT NORTH

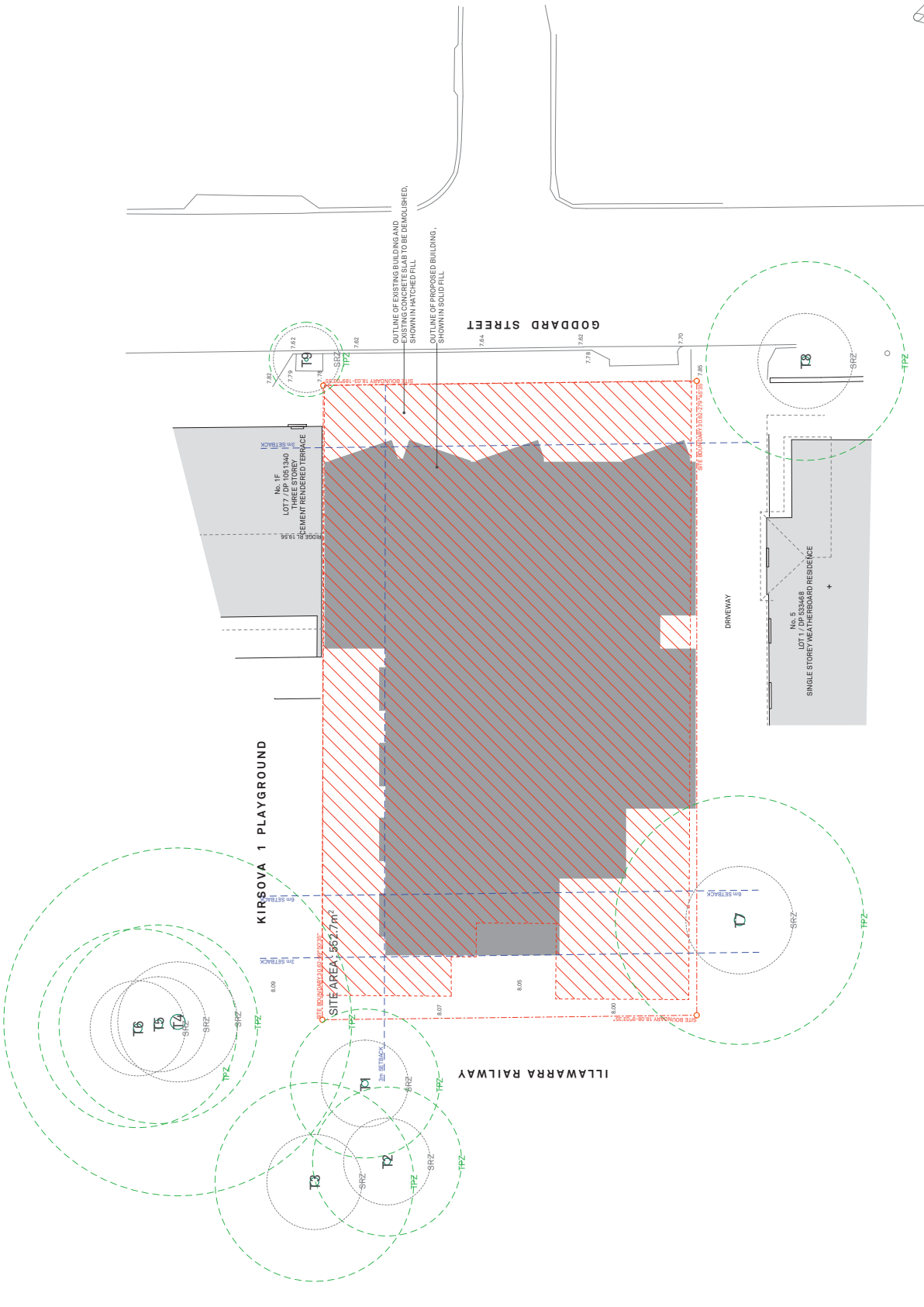

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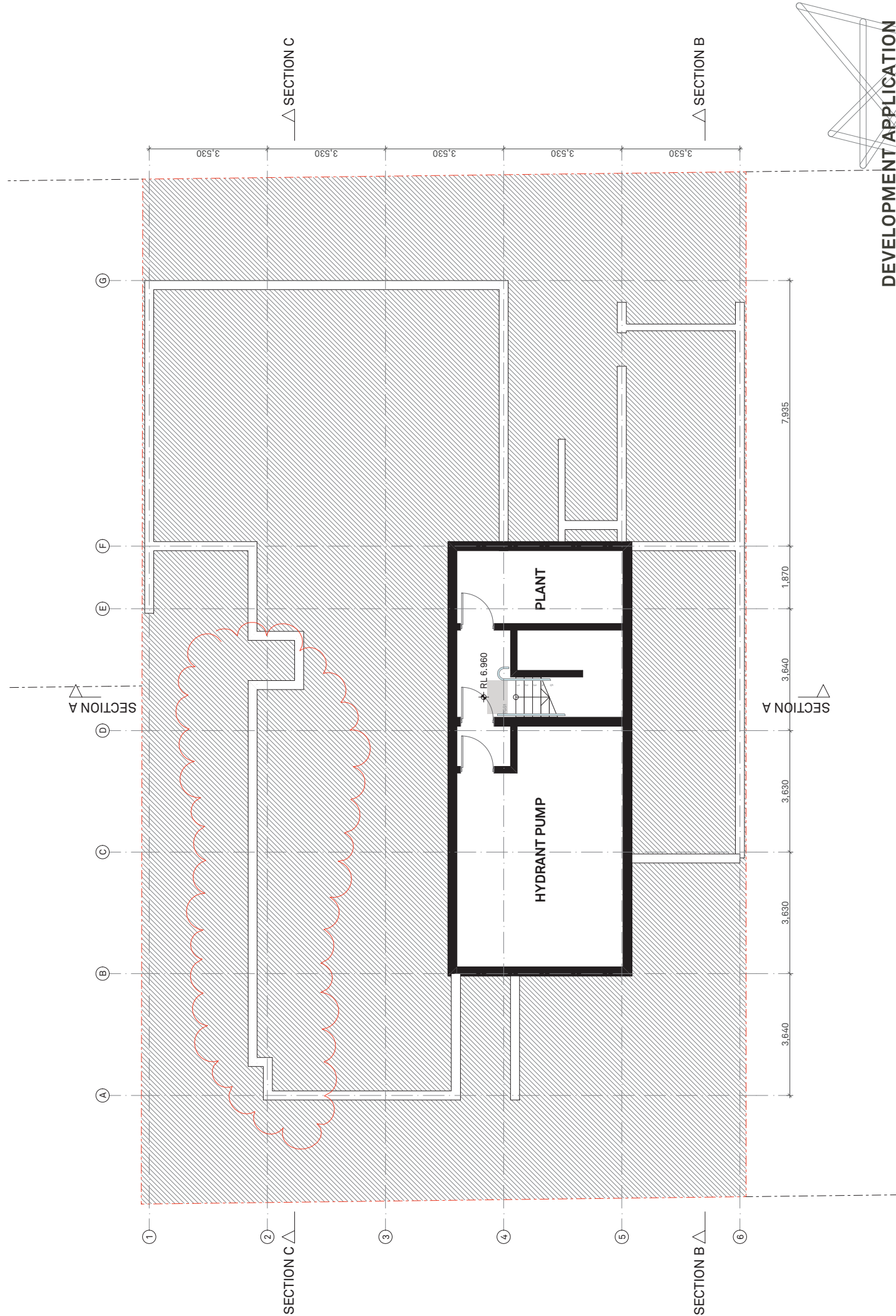
PROJECT NO. 1785A
DRAWING NO. A-0007
DRAWING SITE PLAN

REV **G**

ARCHITECT
 P : + 61 2 9818 0777
 F : + 61 2 9819 0778
 STUDIO 5 505 BACMAN RD
 LILLYFIELD NSW 2040
 AUSA 79 133 133 252
 (NSW 752)

DEVELOPMENT APPLICATION





DEVELOPMENT APPLICATION

**BENSON
McCORMACK
ARCHITECTURE**

ARCHITECT
P: + 61 2 9818 0777
F: + 61 2 9818 0778
STUDIO 5 505 BROADWAY RD
LILYFIELD NSW 2040
ABN: 79 120 152 256

REV **G**

DRAWING NO. **A-0101**

PROJECT NO. **1785A**

SCALE **1:100 @ A3**

PROJECT NORTH

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Erskineville NSW 2043

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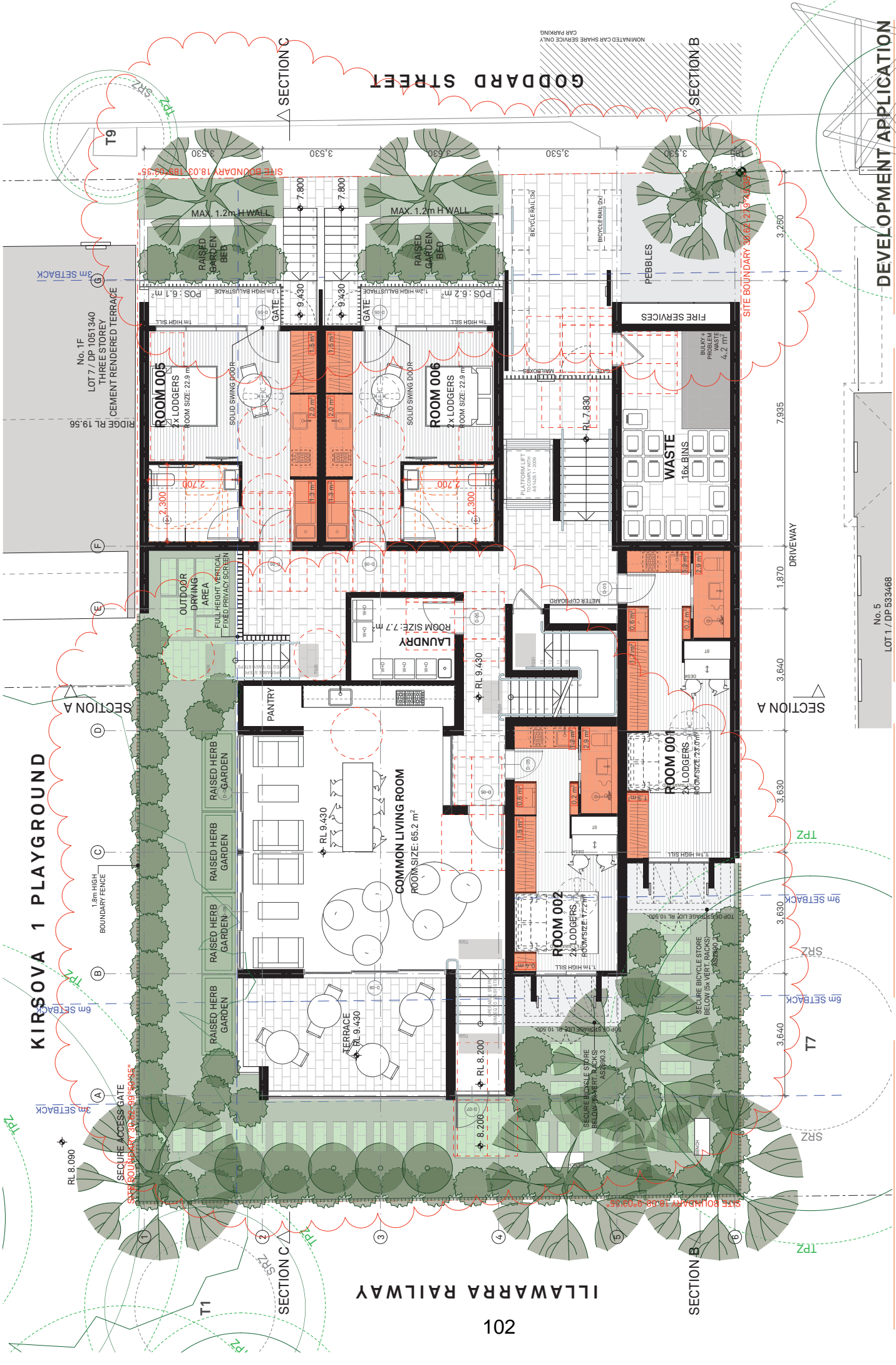
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NOV 19 DEVELOPMENT APPLICATION (DDWO)
MAY 20 DEVELOPMENT APPLICATION (DDWO)
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MAY 20 DEVELOPMENT APPLICATION (DDWO)

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| C | MAR 20 | DEVELOPMENT APPLICATION ADDENDUM |
| D | MAR 20 | DEVELOPMENT APPLICATION ADDENDUM |
| E | MAR 20 | DEVELOPMENT APPLICATION ADDENDUM |
| F | MAR 20 | DEVELOPMENT APPLICATION ADDENDUM |
| G | MAR 20 | DEVELOPMENT APPLICATION ADDENDUM |

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PROJECT NO.
1785A

DRAWING NO.
A-0102

DRAWING
GROUND FLOOR PLAN

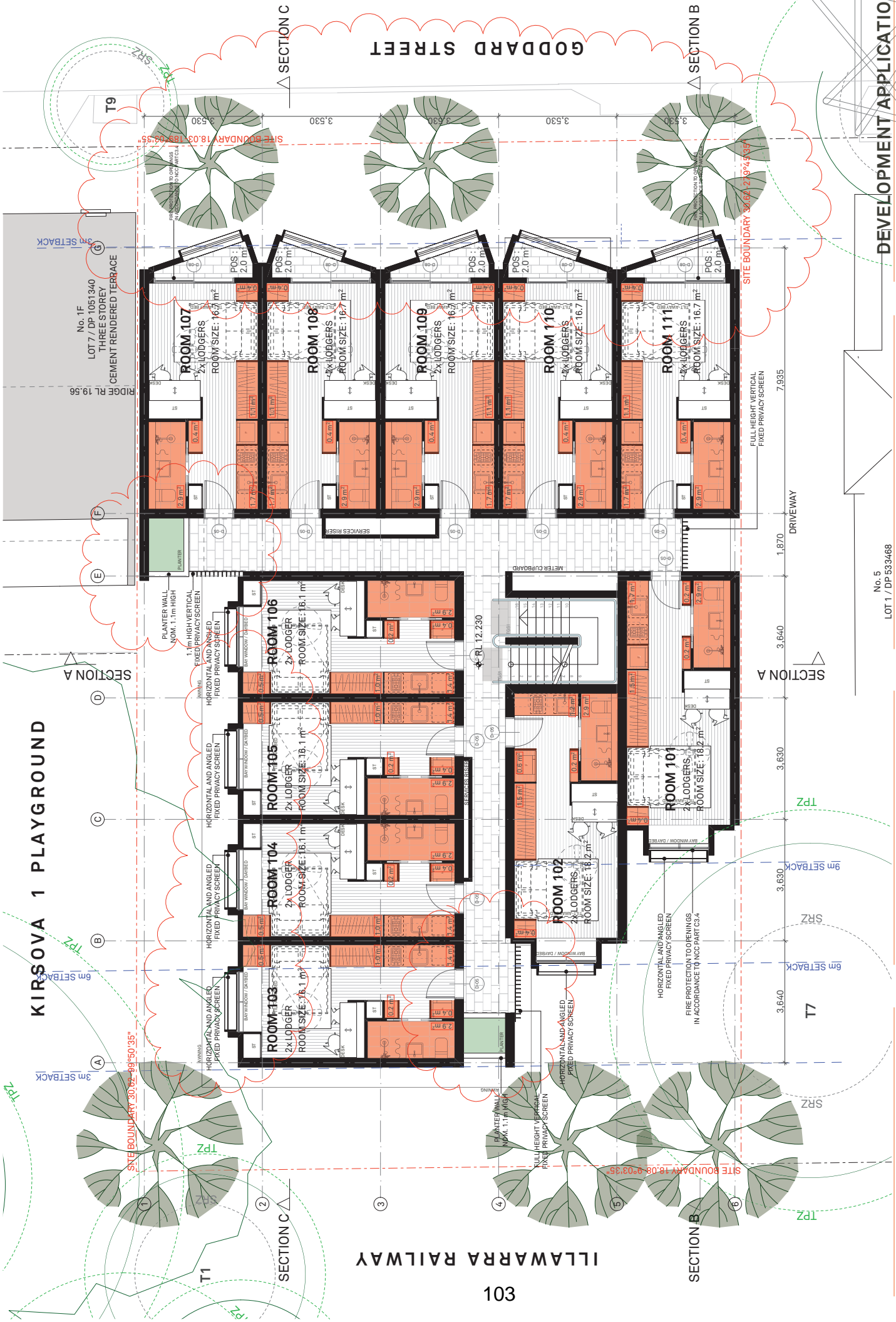
REV
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ARCHITECT
BENSON MCCORMACK ARCHITECTURE
 P: + 61 2 9818 0777
 F: + 61 2 9818 0778
 STUDIO: E 505 BACALLAN RD
 LILYFIELD NSW 2040
 AWA: 79 133 132 200 (NSW)
 79 133 132 200 (VIC)

DEVELOPMENT APPLICATION

No. 5
 LOT 1 / DP 533468

KIRSOVA 1 PLAYGROUND



No. 1F
 LOT 7 / DP 1051340
 THREE STOREY
 CEMENT RENDERED TERRACE

DEVELOPMENT APPLICATION

ARCHITECT
 P : + 61 2 9818 0777
 F : + 61 2 9819 0778
 STUDIO 5 505 BACMAN RD
 LILYFIELD NSW 2040
 NSW 79 133 13 250

REV G

DRAWING NO. A-0103
PROJECT NO. 1785A
SCALE 1:100 @ A3
DRAWING NO. A-0103
LEVEL 1 FLOOR PLAN

PROJECT NORTH

PROJECT DETAILS
 1-3 G
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 Erskineville NSW 2043

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ISSUE
 PRE SUBMISSION
 NOV 18
 DEVELOPMENT APPLICATION APPROVED
 NOV 19
 DEVELOPMENT APPLICATION APPROVED
 MAR 20
 DEVELOPMENT APPLICATION APPROVED
 APR 20
 DEVELOPMENT APPLICATION APPROVED

DATE

REV

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KIRSOVA 1 PLAYGROUND



No. 1F
LOT 7 / DP 1051340
THREE STOREY
CEMENT RENDERED TERRACE

ROOM 207
2x LODGERS
ROOM SIZE: 16.7 m²

ROOM 208
2x LODGERS
ROOM SIZE: 16.7 m²

ROOM 209
2x LODGERS
ROOM SIZE: 16.7 m²

ROOM 210
2x LODGERS
ROOM SIZE: 16.7 m²

ROOM 211
2x LODGERS
ROOM SIZE: 16.7 m²

ROOM 206
2x LODGER
ROOM SIZE: 16.1 m²

ROOM 205
2x LODGER
ROOM SIZE: 16.1 m²

ROOM 204
2x LODGER
ROOM SIZE: 16.1 m²

ROOM 203
2x LODGER
ROOM SIZE: 16.1 m²

ROOM 202
2x LODGERS
ROOM SIZE: 16.2 m²

ROOM 201
2x LODGERS
ROOM SIZE: 16.2 m²

ILLAWARRA RAILWAY

GODDARD STREET

KIRSOVA 1 PLAYGROUND

DEVELOPMENT APPLICATION

ARCHITECT
BENSON
McCORMACK
ARCHITECTURE

REV G

DRAWING NO. A-0104
LEVEL 2 FLOOR PLAN

PROJECT NO. 1785A

SCALE 1:100 @ A3

PROJECT NORTH

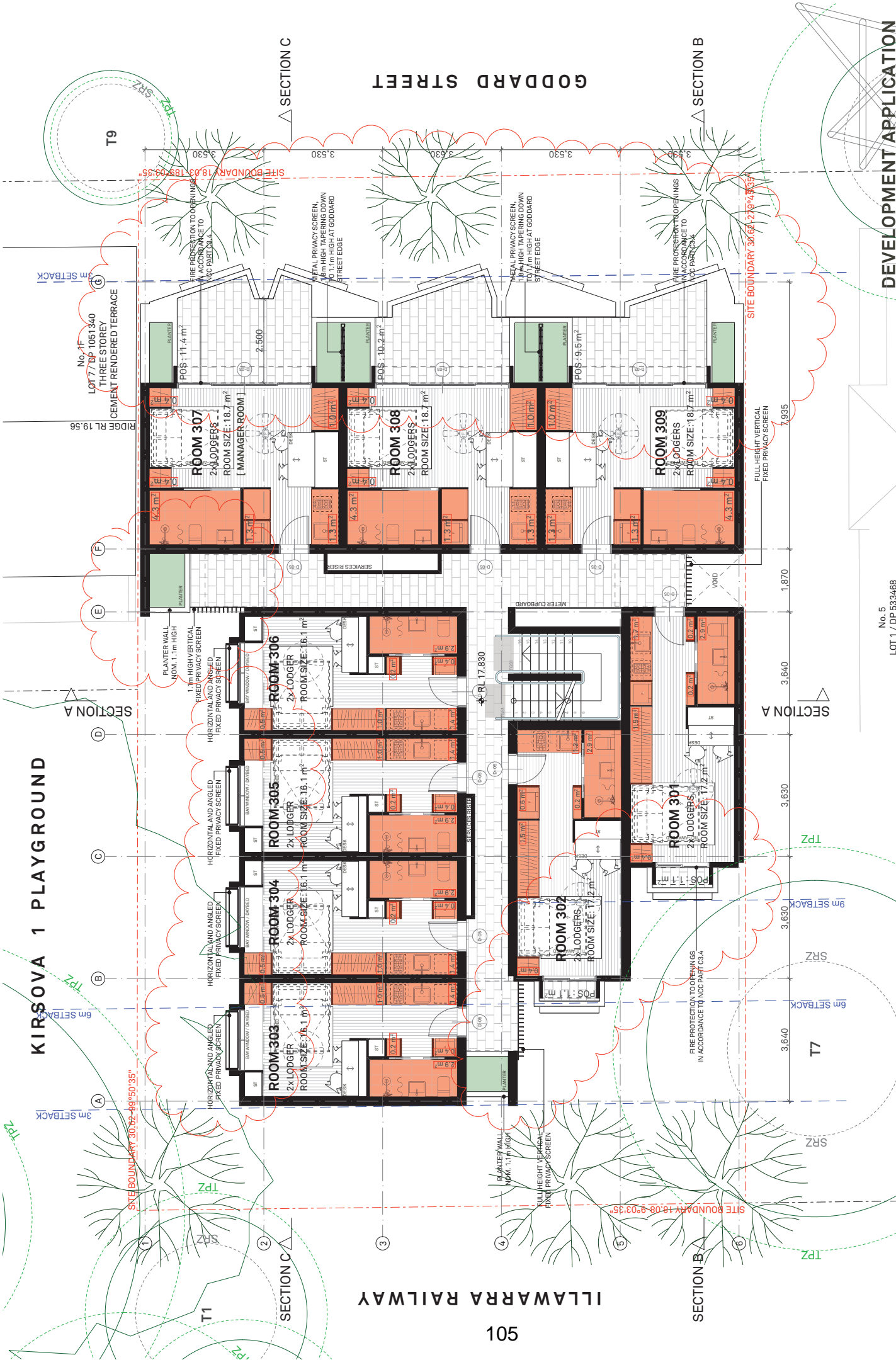
PROJECT DETAILS
1-3 G
1-3 Goddard Street
Erskineville NSW 2043

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PO Box 1231
Manly NSW
2095

ISSUE
PRELIMINARY
DEVELOPMENT APPLICATION (ADDENDUM)
DEVELOPMENT APPLICATION (ADDENDUM)
DEVELOPMENT APPLICATION (ADDENDUM)
DEVELOPMENT APPLICATION (ADDENDUM)

DATE
NOV 18
NOV 19
MAY 20
MAY 20
MAY 20

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KIRSOVA 1 PLAYGROUND

GODDARD STREET

ILLAWARRA RAILWAY

DEVELOPMENT APPLICATION

ARCHITECT
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 F: + 61 2 9819 0778
BENSON MCCORMACK ARCHITECTURE
 STUDIO 5 505 BACON RD
 LILYFIELD NSW 2040
 A.M.A. 191 191 258 (NSW) 191 752

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DRAWING NO. A-0105
PROJECT NO. 1785A
SCALE 1:100 @ A3

PROJECT NORTH
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1-3 G
 1-3 Goddard Street
 Erskineville NSW 2043

CLIENT
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 Manly NSW
 2095

ISSUE
 PRE-DISSEMINATION
 NOV 18
 DEVELOPMENT APPLICATION (ADDENDUM)
 NOV 19
 DEVELOPMENT APPLICATION (ADDENDUM)
 MAR 20
 DEVELOPMENT APPLICATION (ADDENDUM)
 APR 20
 DEVELOPMENT APPLICATION (ADDENDUM)
 MAY 20

DATE
 A
 B
 C
 D
 E
 F

REV

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 LOT 1 / DP 533468

DRAWING NO. A-0105
LEVEL 3 FLOOR PLAN

ARCHITECT
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| F | MAR 20 | DEVELOPMENT APPLICATION (ADDENDUM) |
| G | MAR 20 | DEVELOPMENT APPLICATION (ADDENDUM) |

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PROJECT DETAILS
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 Erskineville NSW 2043

PROJECT NORTH

SCALE
 1:100 @ A3

PROJECT NO. 1785A
DRAWING NO. A-0106
DRAWING ROOFTOP PLAN

REV G

ARCHITECT
 P : + 61 2 9818 0777
 F : + 61 2 9818 0778
 STUDIO E 505 BODDARD RD
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 AWA 79 120 12 250
 BEN 783

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DEVELOPMENT APPLICATION



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| F | APR 20 | DEVELOPMENT APPLICATION (ADD INFO) |

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PROJECT DETAILS
1-3 G
 1-3 Goddard Street
 Erskineville NSW 2043

PROJECT NORTH

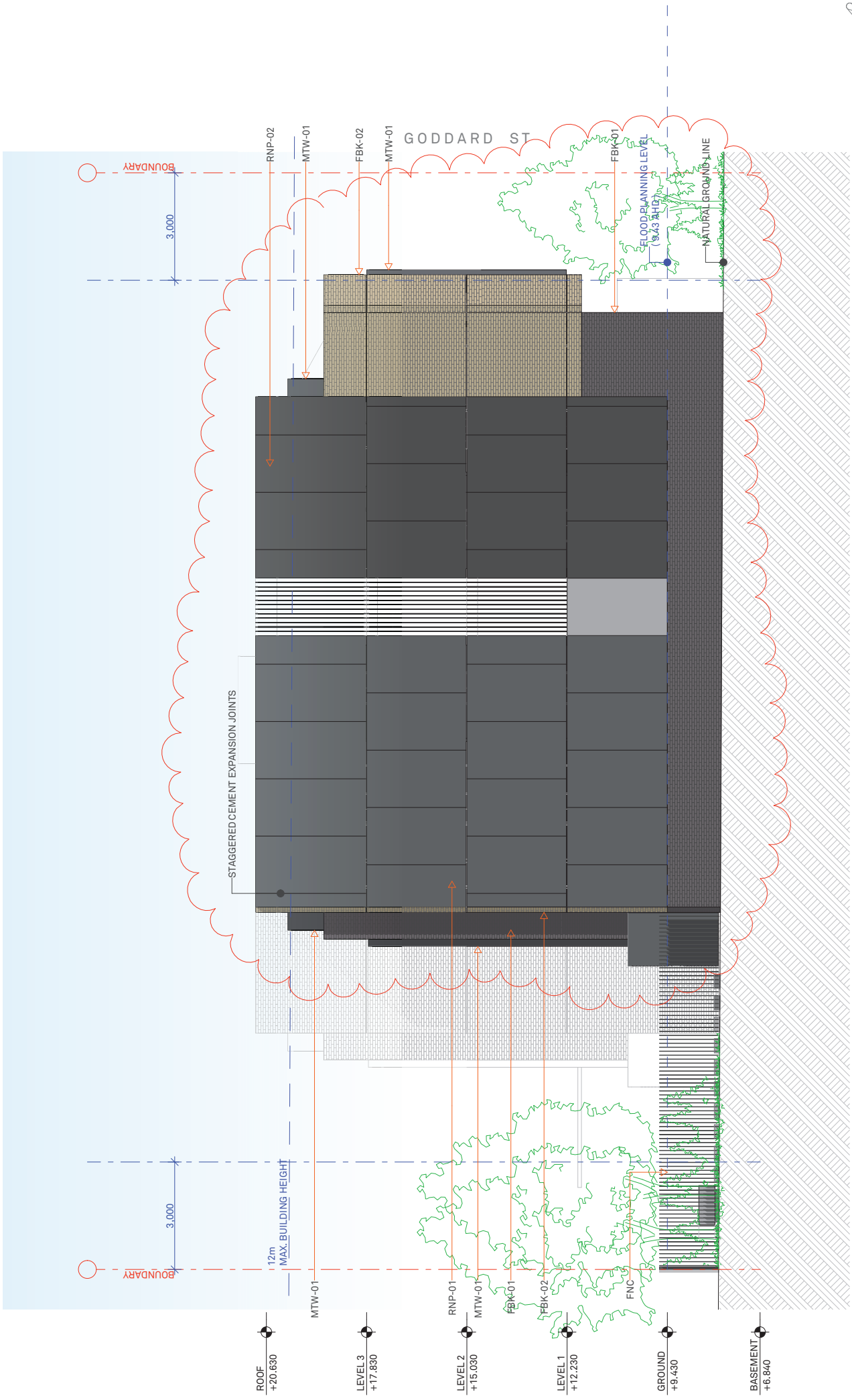
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PROJECT NO. 1785A
DRAWING NO. A-0201
DRAWING NORTH ELEVATION

REV **G**

ARCHITECT
BENSON MCCORMACK ARCHITECTURE
 P : + 61 2 9818 0777
 F : + 61 2 9819 0778
 STUDIO E 505 BACON RD
 LILYFIELD NSW 2040
 AWA 79 123 152 255 FAX 792

DEVELOPMENT APPLICATION



ROOF +20.630
 LEVEL 3 +17.830
 LEVEL 2 +15.030
 LEVEL 1 +12.230
 GROUND +9.430
 BASEMENT +6.840

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PROJECT DETAILS
1-3 G
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 Erskineville NSW 2043

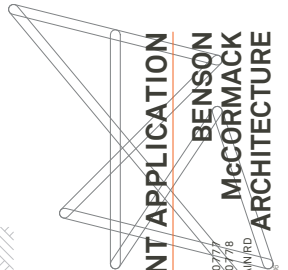
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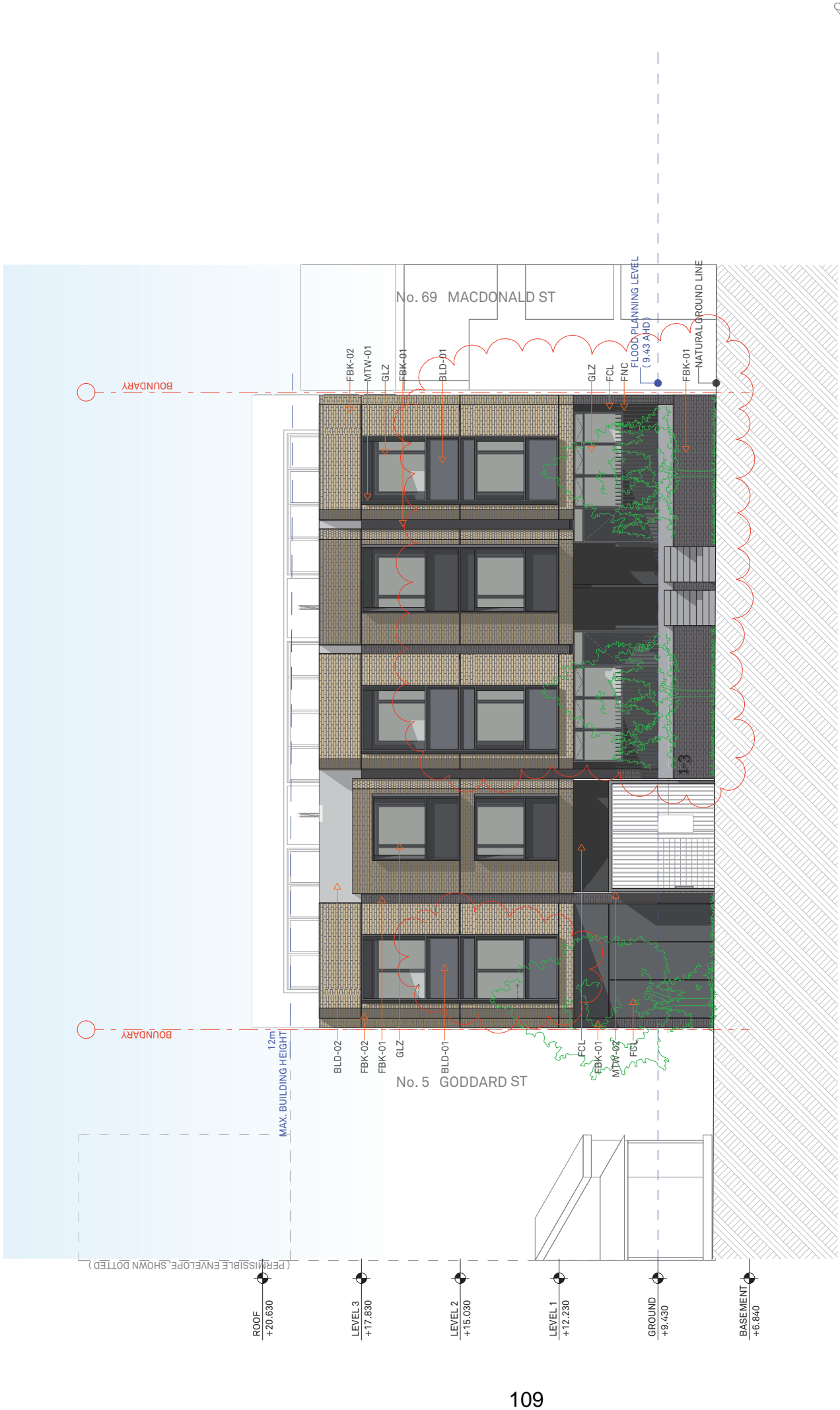
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PROJECT NO. 1785A
DRAWING NO. A-0202
SOUTH ELEVATION

REV
G

ARCHITECT
BENSON MCCORMACK ARCHITECTURE
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 STUDIO 5 505 BRADMORE RD
 LILYFIELD NSW 2040
 AWA 79 120 120 250 750 750





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| E | MAR 20 | DEVELOPMENT APPLICATION (ADDENDUM) |
| F | MAR 20 | DEVELOPMENT APPLICATION (ADDENDUM) |

CLIENT
MILLUO DEV.
 PO Box 1231
 Manly NSW
 2095

PROJECT DETAILS
1-3 G
 1-3 Goddard Street
 Erskineville NSW 2043

PROJECT NORTH

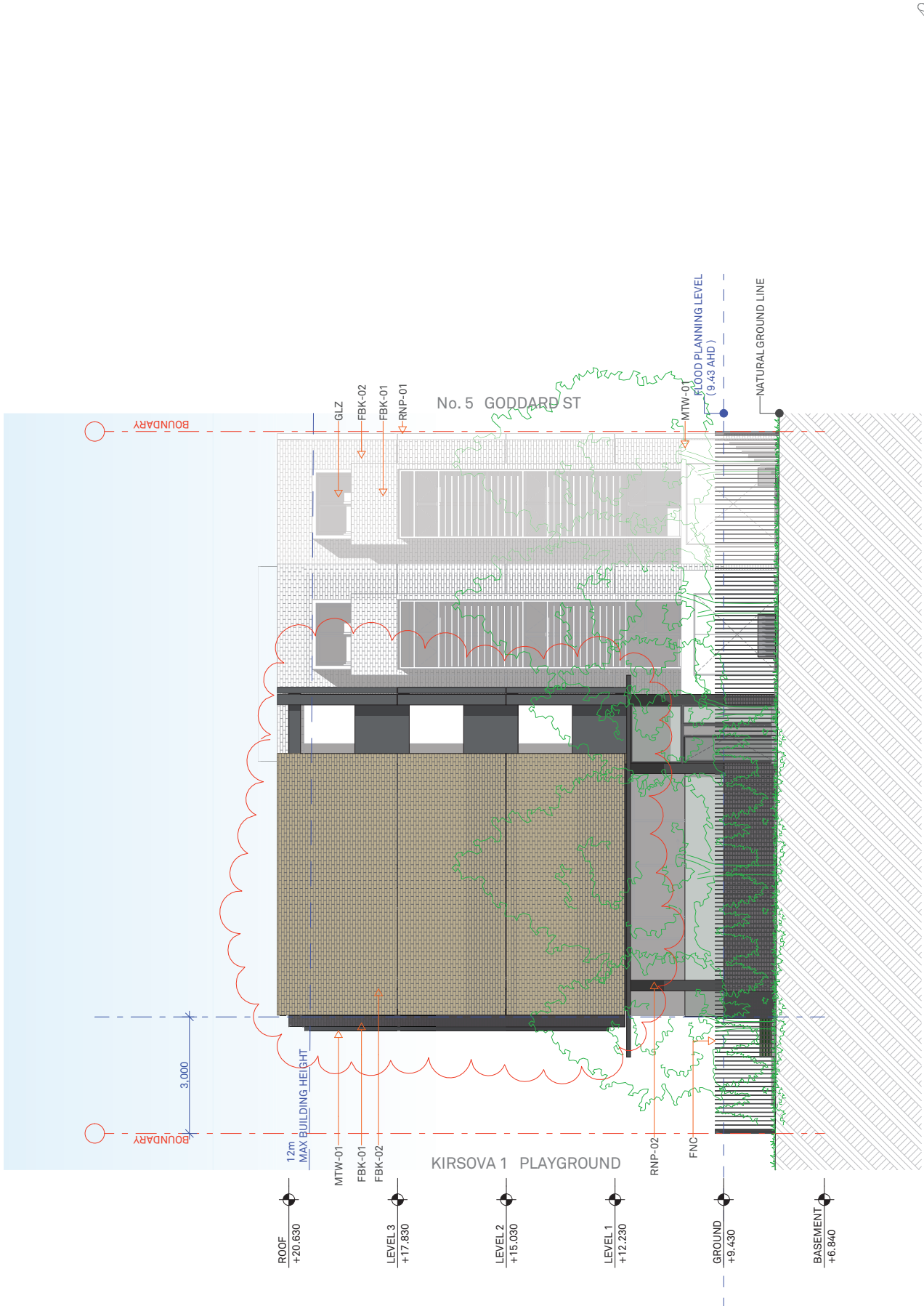
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PROJECT NO. 1785A
DRAWING NO. A-0203
DRAWING EAST ELEVATION

REV **G**

ARCHITECT
 P : + 61 2 9818 0777
 F : + 61 2 9819 0778
 STUDIO 5 505 BACON RD
 LILYFIELD NSW 2040
 AWA 79 123 12 250
 BEN 793

DEVELOPMENT APPLICATION
BENSON MCCORMACK ARCHITECTURE



DEVELOPMENT APPLICATION

**BENSON
McCORMACK
ARCHITECTURE**

ARCHITECT
P: + 61 2 9818 0777
F: + 61 2 9819 0778
STUDIO 5 505 BACALAN RD
LILYFIELD NSW 2040
ABN: 79 120 152 256 FAX: 792

REV **G**

SCALE **1:100 @ A3**

PROJECT NO. **1785A**

DRAWING NO. **A-0204**

DRAWING **WEST ELEVATION**

PROJECT NORTH

PROJECT DETAILS **1-3G**
1-3 Goddard Street
Erskineville NSW 2043

CLIENT **MILUO DEV.**
PO Box 1231
Manly NSW
2095

ISSUE

PRELIMINARY
NOV 18
NOV 19
NOV 20
MAR 20
APR 20
MAY 20

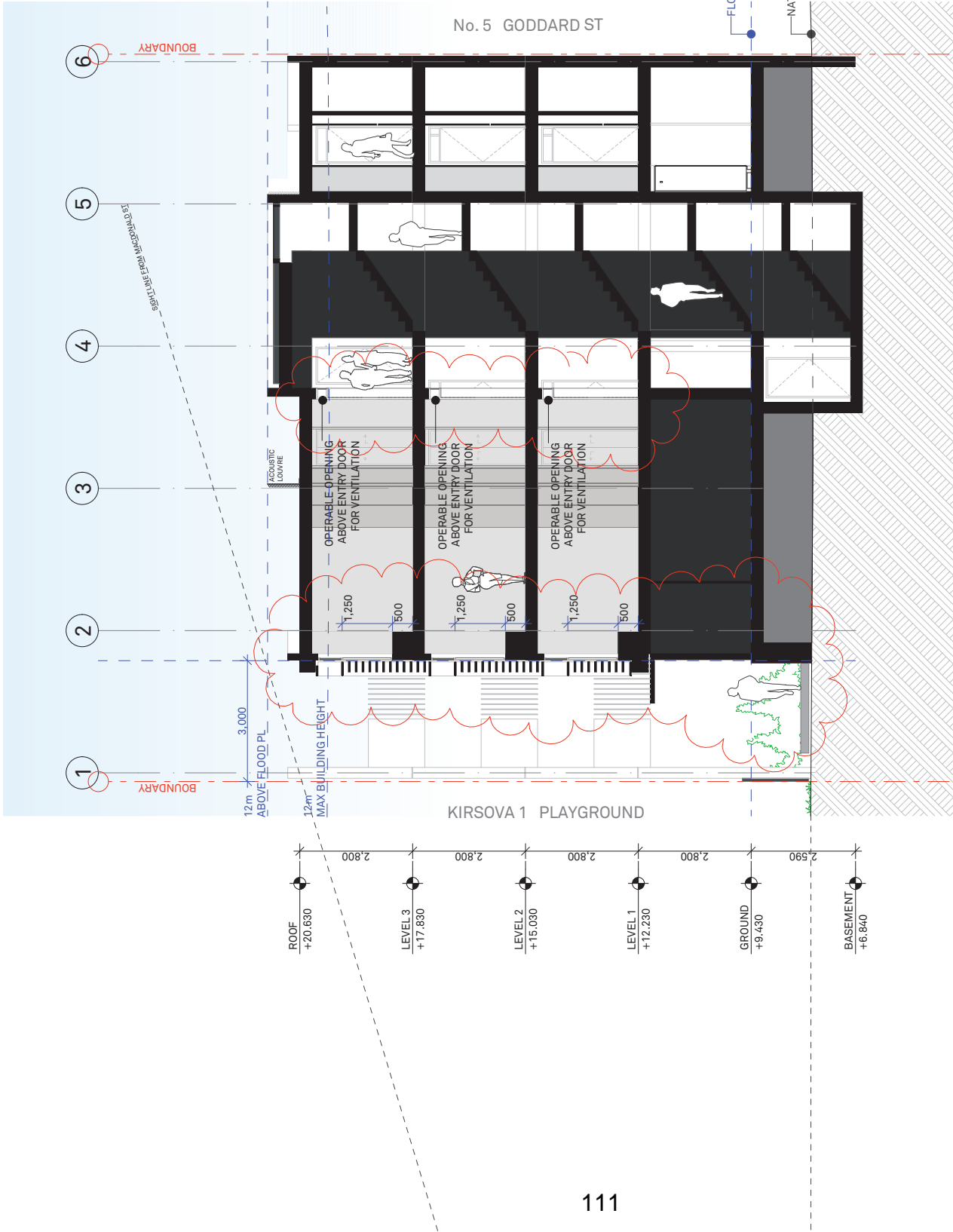
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 LILYFIELD NSW 2040
 AWA 79 133 13 256 981 752

SCALE
 1:100 @ A3

PROJECT NO.
 1785A

DRAWING NO.
 A-0251

DRAWING
 SECTION A

PROJECT NORTH

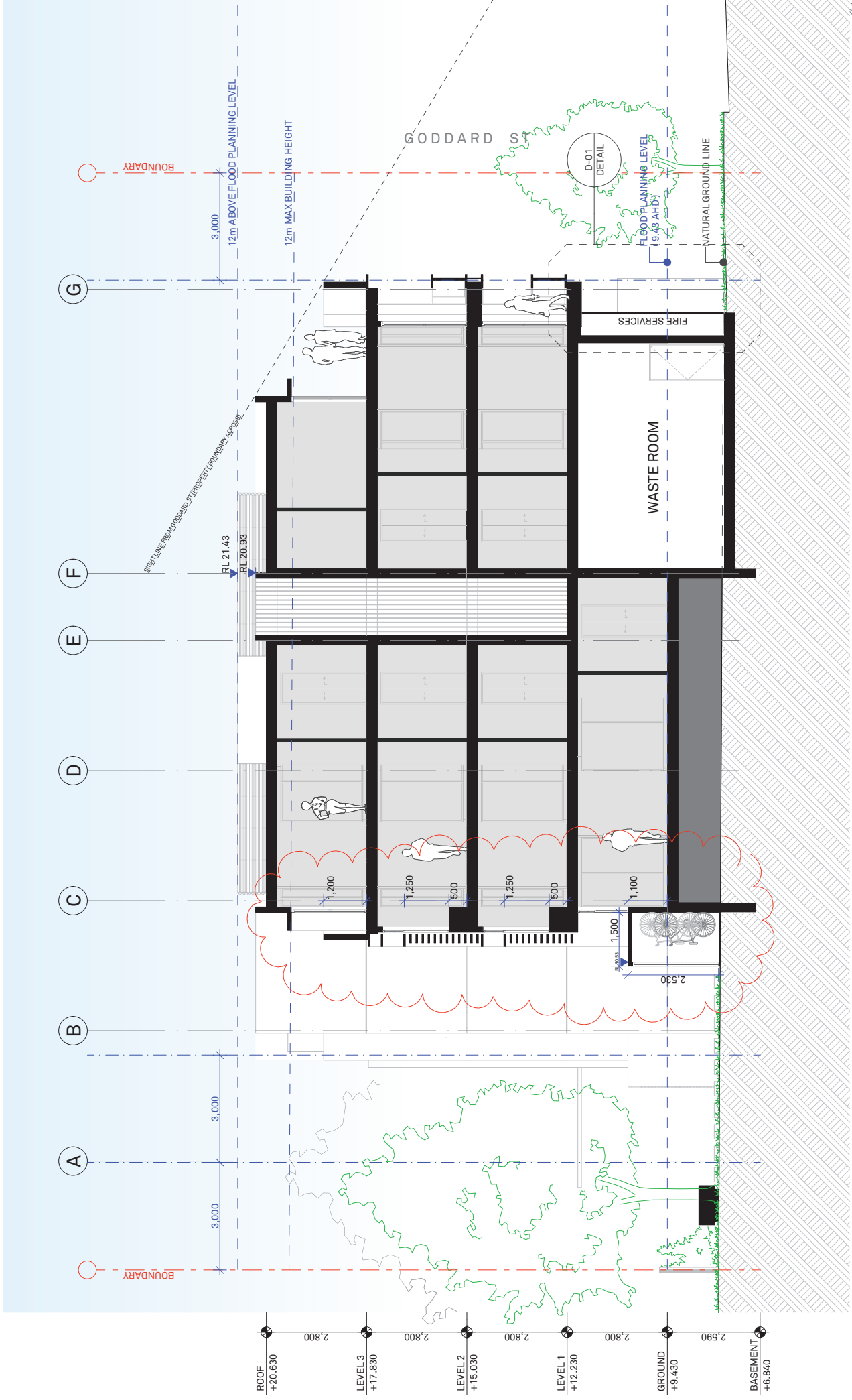
PROJECT DETAILS
 1-3 G
 1-3 Goddard Street
 Erskineville NSW 2043

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| REV | DATE | ISSUE |
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| A | NOV 18 | PRELIMINARY SUBMISSION |
| B | NOV 18 | DEVELOPMENT APPLICATION (ADD INFO) |
| C | NOV 18 | DEVELOPMENT APPLICATION (ADD INFO) |
| D | MAR 20 | DEVELOPMENT APPLICATION (ADD INFO) |
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REV
G

PROJECT NO. 1785A
DRAWING NO. A-0252
SECTION B

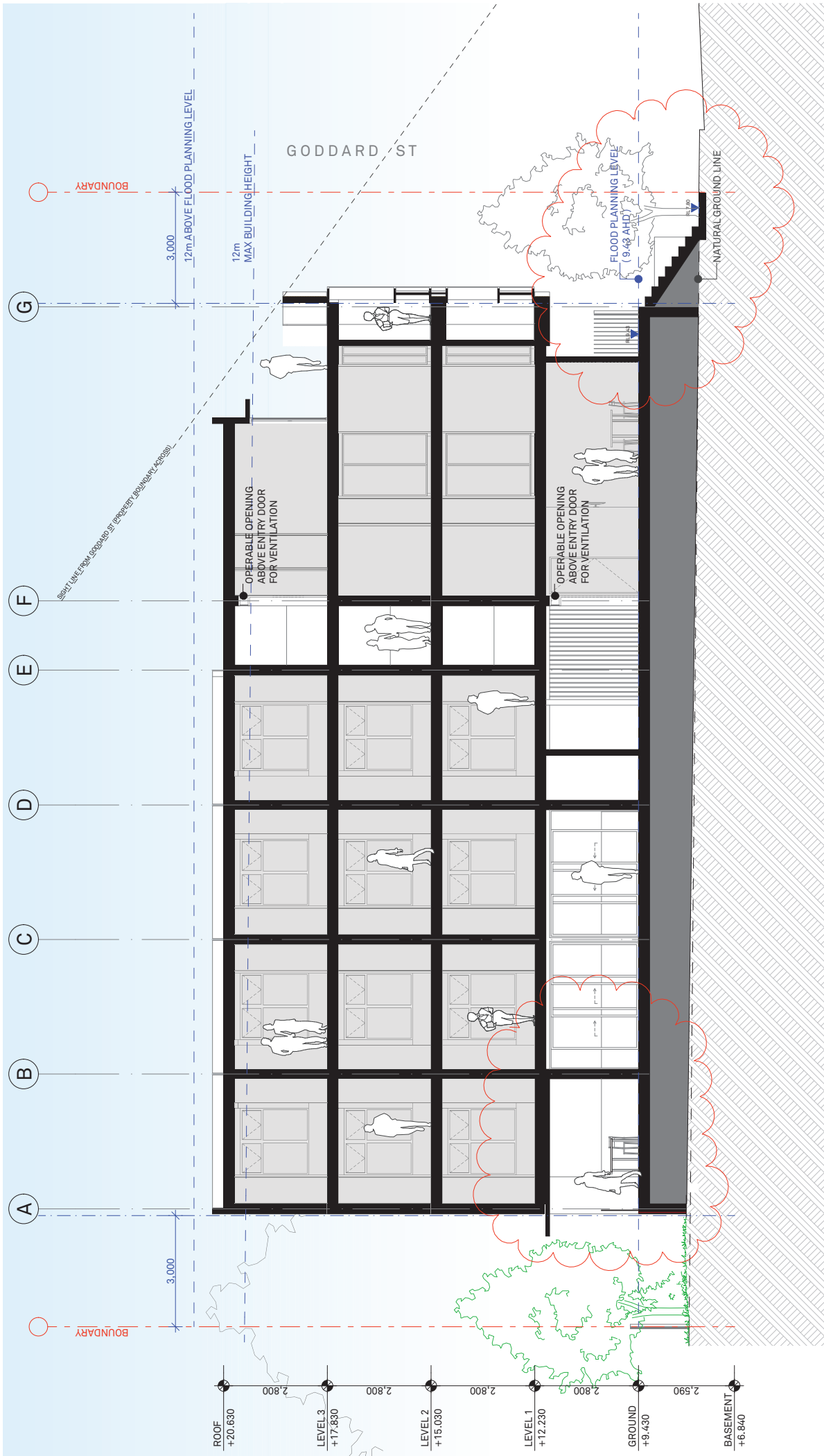
PROJECT NORTH
PROJECT DETAILS
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 1-3 Goddard Street
 Erskineville NSW 2043

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| LEVEL 3 | +17.830 |
| LEVEL 2 | +15.030 |
| LEVEL 1 | +12.230 |
| GROUND | +9.430 |
| BASEMENT | +6.840 |

DEVELOPMENT APPLICATION

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AUSTRALIA 151 231 231

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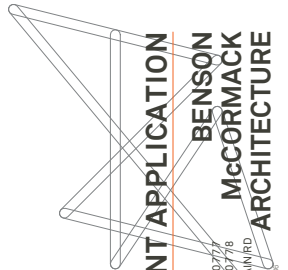
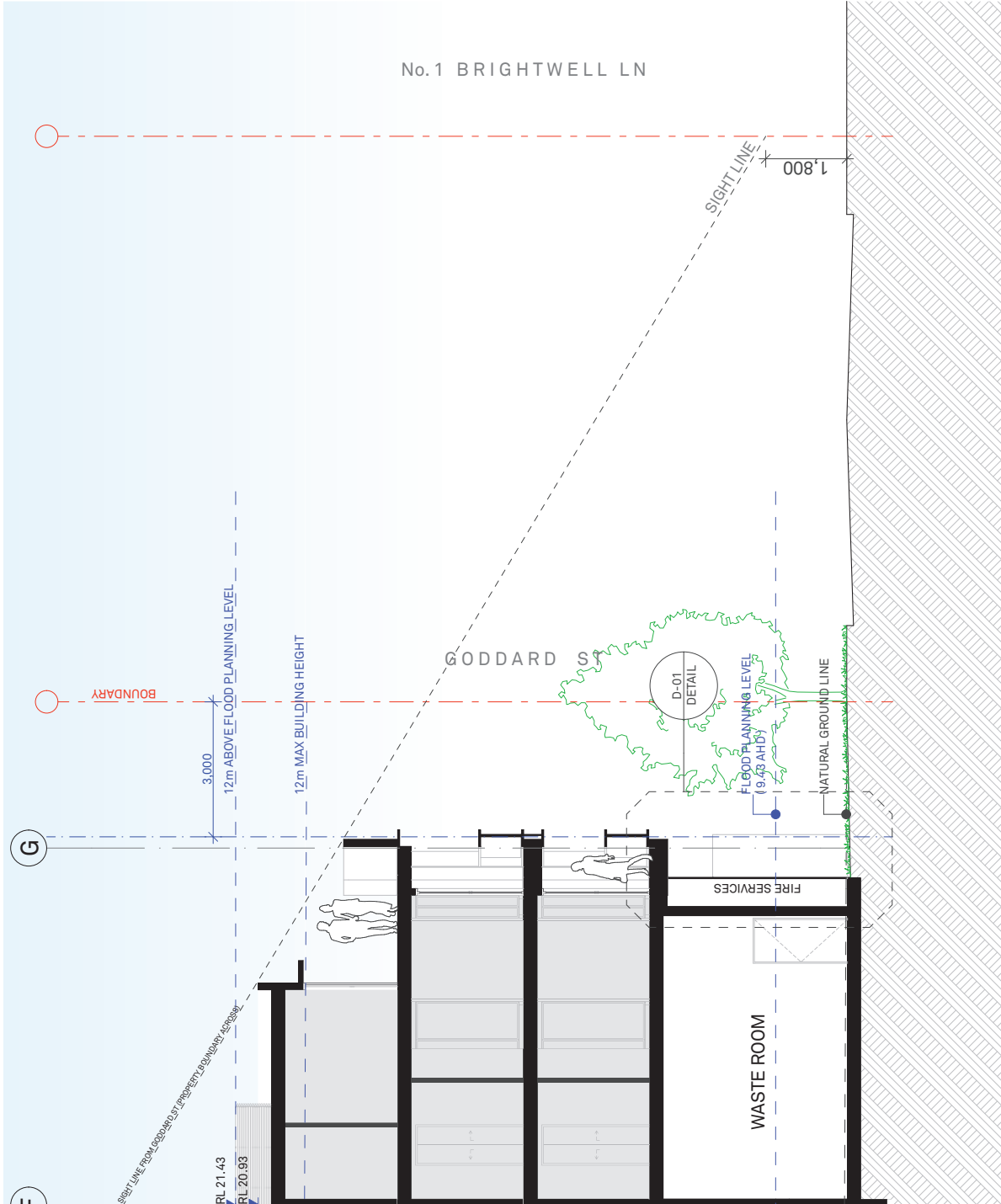
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SECTION **C**

PROJECT DETAILS
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1-3 Goddard Street
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PROJECT NO.
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DRAWING NO.
A-0254

DRAWING
STREET SECTION

PROJECT NORTH

PROJECT DETAILS
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 1-3 Goddard Street
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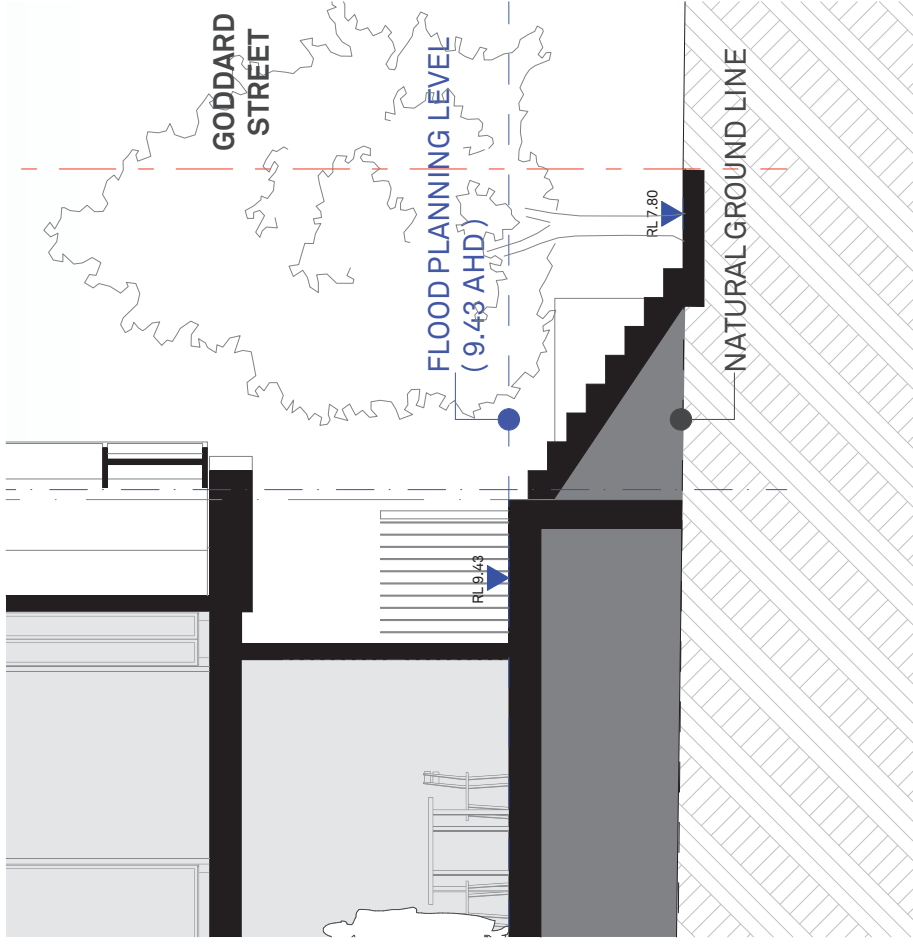
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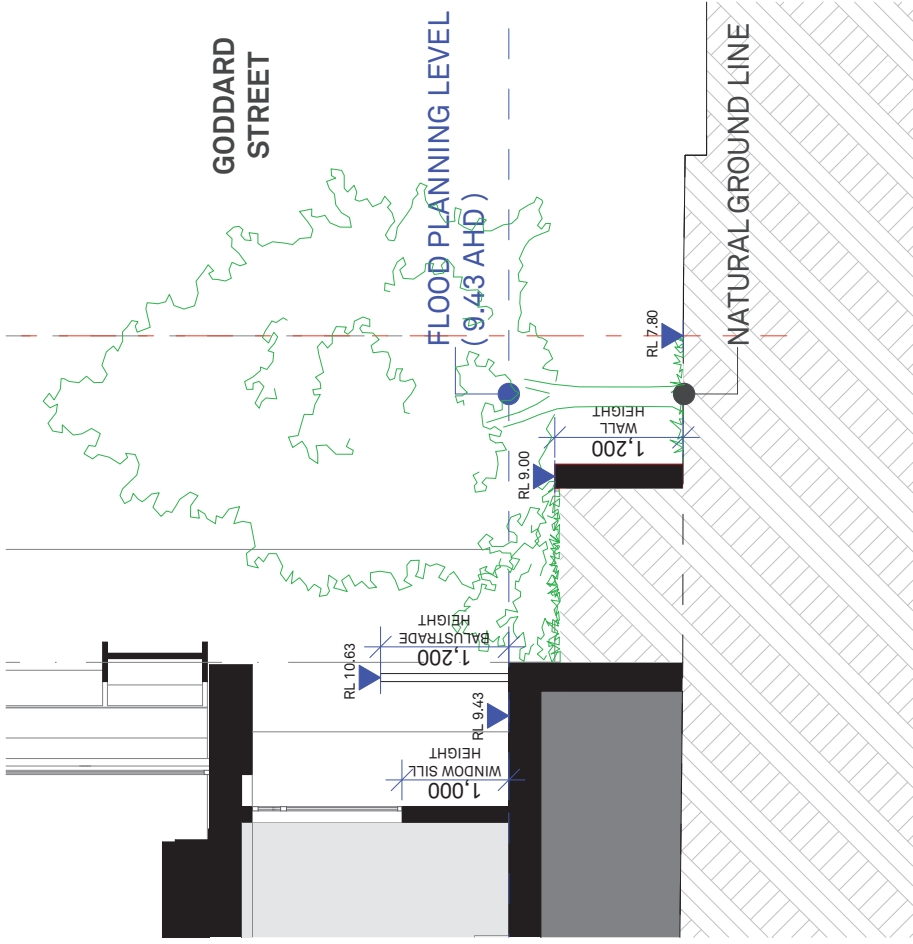
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SECTION OF STREET ACCESS STAIR FROM GODDARD STREET
(ROOMS 005 AND 006)



SECTION OF LANDSCAPE INTERFACE TO GODDARD STREET
(ROOMS 005 AND 006)

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| E | MAR 20 | DEVELOPMENT APPLICATION (ADD) NO |
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Erskineville NSW 2043



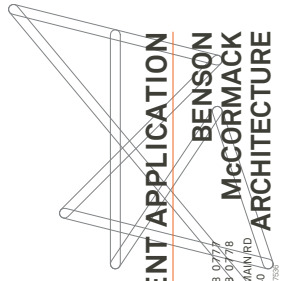
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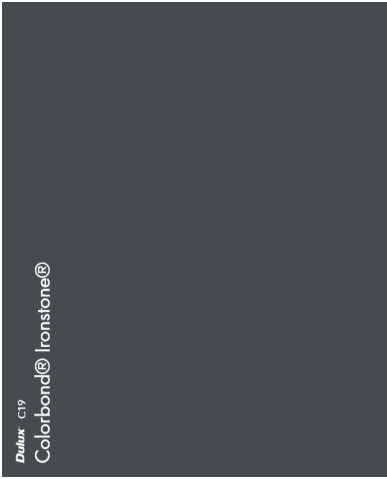
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PROJECT NO. 1785A
DRAWING NO. A-2055
DRAWING SECTION THROUGH ROOMS 005 & 006

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LILYFIELD NSW 2040
A.M.A. 79 123 123 234 567 890 765 432 109 876 543 210
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BLD-01 - BALUSTRADE TYPE 01
SOLID PANEL BALUSTRADE WITH POWDERCOATED FINISH



FBK-01 - FACE BRICKWORK 01
PGH BRICKS DRY PRESSED ARCHITECTURAL 'MOWBRAY BLUE'



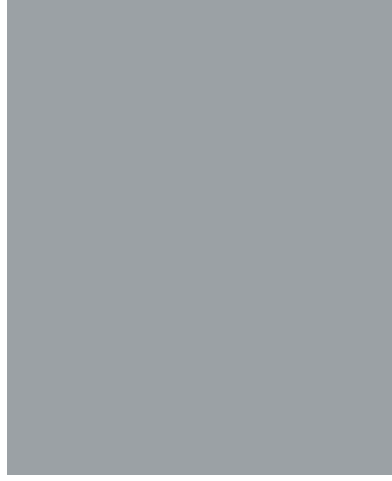
BLD-02 - BALUSTRADE TYPE 02
CLEAR GLAZING BALUSTRADE WITH POWDERCOATED TOP RAIL



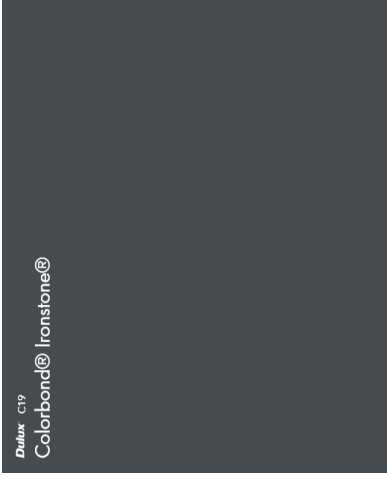
FBK-02 - FACE BRICKWORK 02
PGH BRICKS SMOOTH 'RUSTIC HARVEST CREAM'



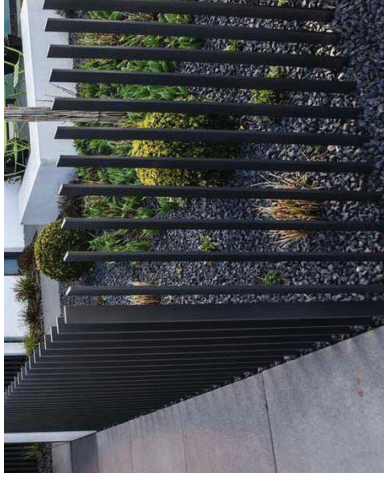
MTW-01 - METALWORKS TYPE 01
POWDERCOAT FINISH - DULUX 'IRONSTONE SATIN'



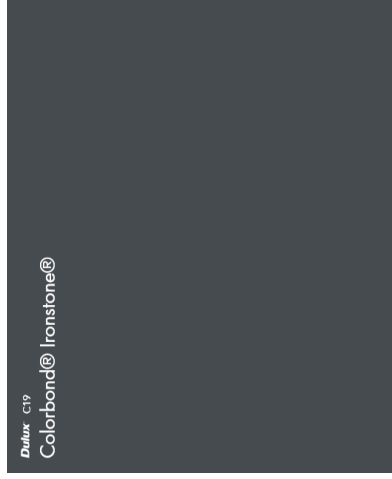
MTW-02 - METALWORKS TYPE 02
POWDERCOAT FINISH - DULUX 'SILVER SATIN'



FCL - FIBRE CEMENT CLADDING
PAINT FINISH - DULUX 'IRONSTONE SATIN'



FNC - FENCING
POWDERCOATED FINISH - DULUX 'IRONSTONE SATIN'



RNP-01 - RENDER & PAINT TYPE 01
DULUX 'IRONSTONE MATT'



GLZ - GLAZING
POWDERCOAT FINISH TO FRAME - DULUX 'IRONSTONE SATIN'



RNP-02 - RENDER & PAINT TYPE 02
DULUX 'MONUMENT'

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| F | MAR 20 | DEVELOPMENT APPLICATION (ADDENDUM) |
| G | MAR 20 | DEVELOPMENT APPLICATION (ADDENDUM) |

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1-3 G
1-3 Boddard Street
Erskineville NSW 2043

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PROJECT NO.
1785A

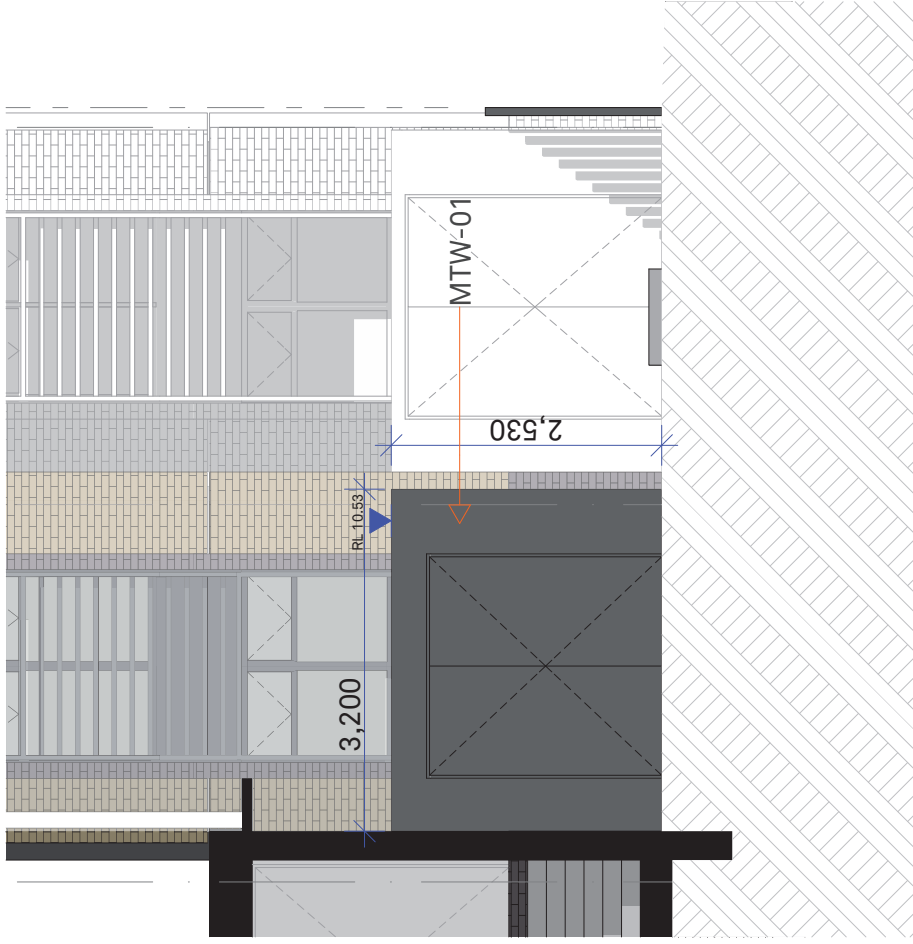
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DRAWING
FINISHES & MATERIALS
SCHEDULE

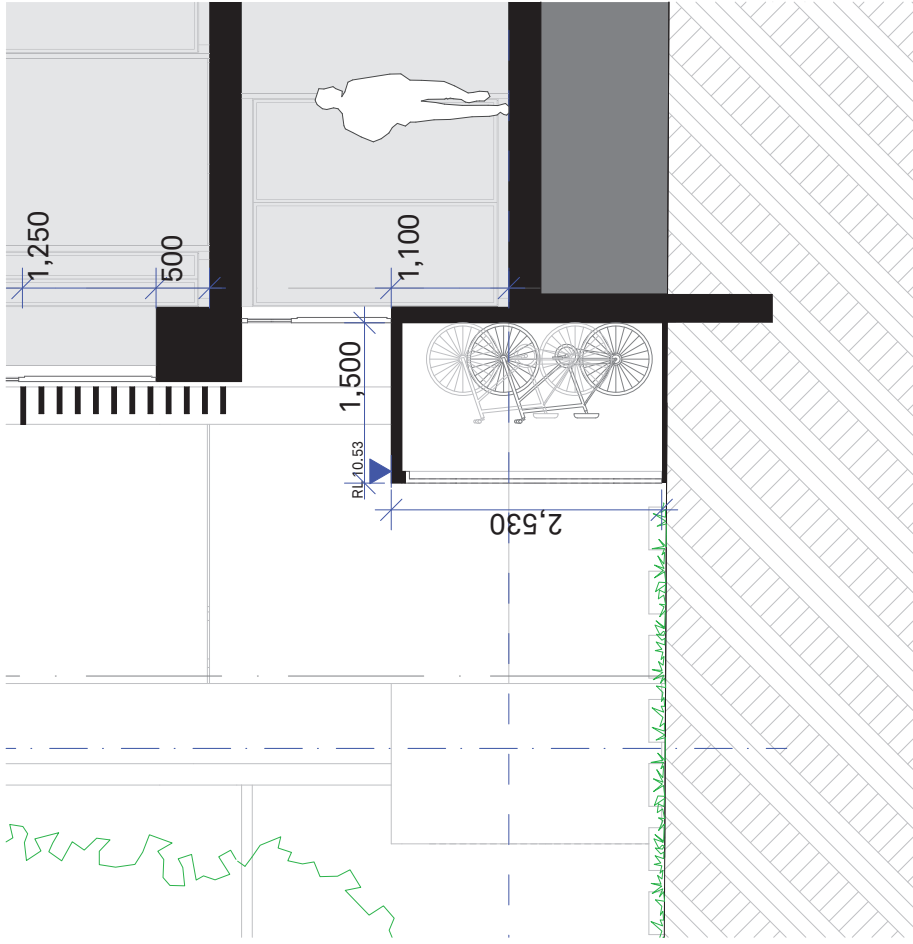
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ARCHITECTURE
STUDIO 5, 505 BROADWAY RD
LILYFIELD NSW 2040
ABN: 79 133 152 256
REG. NO. 752

DEVELOPMENT APPLICATION



FRONT ELEVATION OF PROPOSED BICYCLE SECURE STORAGE CUPBOARDS,
SOLID PANEL ENCLOSURE WITH INTERNAL BICYCLE WALL MOUNTS



SECTION THROUGH PROPOSED BICYCLE SECURE STORAGE CUPBOARDS,
SOLID PANEL ENCLOSURE WITH INTERNAL BICYCLE WALL MOUNTS

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| C | NOV 20 | DEVELOPMENT APPLICATION (ADD/NO) |
| D | MAR 20 | DEVELOPMENT APPLICATION (ADD/NO) |
| E | MAR 20 | DEVELOPMENT APPLICATION (ADD/NO) |
| F | MAR 20 | DEVELOPMENT APPLICATION (ADD/NO) |

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PROJECT DETAILS
1-3 G
1-3 Boddard Street
Erskineville NSW 2043



PROJECT NORTH

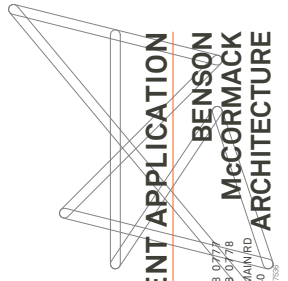
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PROJECT NO. 1785A
DRAWING NO. A-1319
DRAWING BICYCLE STORAGE

REV **G**

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F : + 61 2 9819 0778
STUDIO E 505 BODDARD RD
LILYFIELD NSW 2040
A94/791 133 133 250 (NSW) 752

DEVELOPMENT APPLICATION
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Attachment C

| |
|---|
| <p>Clause 4.6 Variation Request – Height of Building</p> |
|---|

CLAUSE 4.6 VARIATION TO CLAUSE 4.3 – HEIGHT OF BUILDINGS OF THE SYDNEY LOCAL ENVIRONMENTAL PLAN 2012

1. Introduction

This variation statement seeks to address the proposed variation to Clause 4.3 of the Sydney Local Environmental Plan 2012 (SLEP12), which relates to the height of buildings development standard.

This submission is made under Clause 4.6 of the *SLEP12 – Exceptions to development standards* and is a “written request” as referred to in subclause (3).

The submission accompanies a development application incorporating architectural plans prepared by Benson McCormack Architecture Pty Ltd.

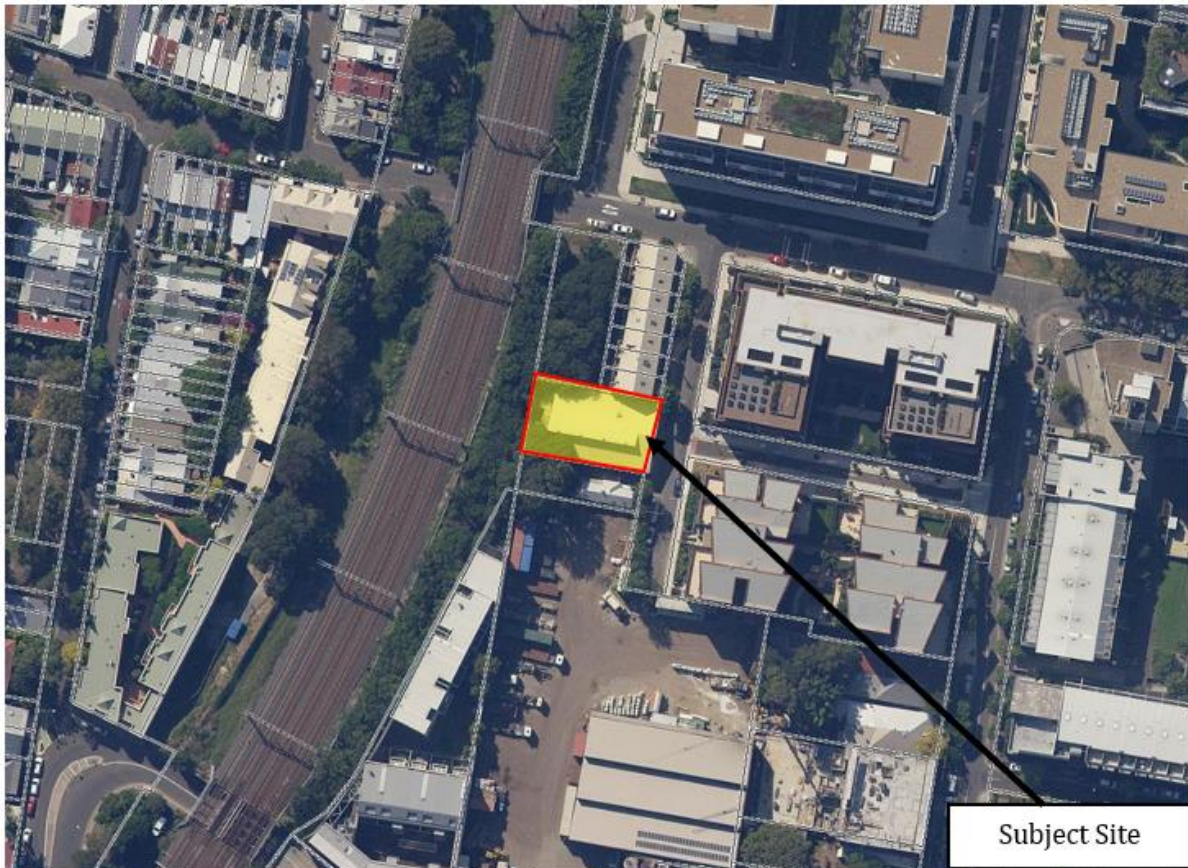
The proposed development seeks for the demolition of all existing structures and redevelopment of the site to contain a four-storey boarding house development containing 35 boarding rooms inclusive of an on-site managers room along with associated site works and landscaping at 1-3 Goddard Street, Erskineville.

As detailed in this written request for a variation to Clause 4.3 Height of buildings under the SLEP 2012, the proposed development meets the requirements prescribed under Clause 4.6 of the SLEP 2012.

2. Site Background

The subject site is located on the western side of Goddard Street. The site is legally known as Lot 1 in Deposited Plan 741276 and is commonly referred to as No. 1-3 Goddard Street, Erskineville.

The site is rectangular in shape with a frontage of 18.03m to Goddard Street, with the rear property boundary measuring 18.08m in its length. Both side boundaries provide for a length of 30.62m, respectively. The overall site area measures 552.7m². Refer to Figure 1 – Site Location Map.



Source: <https://maps.six.nsw.gov.au/>

Figure 1: Site Location Map

Located on the subject site at present is a two-storey disused warehouse built form which is of an older style and character.

Development within the immediate locality is mixed in nature with a series of residential properties located to the north of the site. These are of a more contemporary housing stock. Immediately to the south at No. 5 Goddard Street is a single storey dwelling house which is of an older housing stock. Immediately opposite the subject site is a recently completed 5-storey residential flat building development which addresses nearby McDonald Street. There also several recently completed residential flat buildings within immediate vicinity of the subject site.

Immediately to the north of the subject site is Kirsova 1 Playground which provides for an area of public recreation within proximity of the subject site and for the benefit of the local community. This space is appropriate in facilitating more passive recreational opportunities.

Erskineville Oval along with Harry Noble Reserve are located approximately 480m of the subject site in a north-eastern orientation which provide for more expansive public green open spaces within the locality. These spaces are of an appropriate size and dimension to facilitate a various degree of active and passive recreational opportunities. Sydney Park is located at an approximate distance of 330m south of the subject site which offers a comparable amenity.

Alexandria-Erskineville Bowling Club is located at an approximate distance of 480m north-east of the site which diversifies the recreational opportunities made available within the locality.

Erskineville Public School is situated at an approximate distance of 356m north of the subject site. There are also several goods and services located within the locality namely those along nearby Euston Road.

The subject site is well serviced by public transport being located approximately 500m walking distance to Erskineville Train Station, 650m walking distance to St Peters Railway Station, and between 350m-650m from a series of bus services. These provide regular services to the City, Liverpool, and provide connectivity to the broader Sydney metropolitan rail network. Furthermore, the subject site is situated within proximity to a series of designated commuter and recreational cycle routes and car share pods.

The site is considered to be appropriately located and conducive to the proposed development.

3. Clause 4.6

This submission is made under Clause 4.6 of the Sydney Local Environmental Plan 2012 – Exceptions to development standards. Clause 4.6 states the following:

“4.6 Exceptions to development standards

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (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.*

- (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note. When this Plan was made it did not include all of these zones.

- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (8) This clause does not allow development consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
 - (c) clause 5.4,
 - (ca) clause 4.3 (Height of buildings), but only in relation to land shown as being in Area 1 or Area 2 on the Height of Buildings Map,
 - (cab) clause 4.5A (Balconies on certain residential flat buildings),
 - (cb) clause 5.3A (Development below ground level in Zone RE1),
 - (cc) clause 6.10 (Heritage floor space),
 - (cd) clause 6.11 (Utilisation of certain additional floor space requires allocation of heritage floor space),
 - (cda) clause 6.11A (Temporary alternative heritage arrangements in relation to allocation of heritage floor space),
 - (ce) clause 6.17 (Sun access planes),
 - (cf) clause 6.18 (Exceptions to sun access planes),
 - (cg) clause 6.19 (1) (d)–(h) and (j), unless the additional overshadowing is caused by playground equipment, a shade structure, an awning, a sculpture or artwork, or a community notice or public information sign,
 - (cga) clause 6.26 (AMP Circular Quay precinct),
 - (cgb) clause 6.29 (58–60 Martin Place, Sydney),
 - (cgc) clause 6.33 (230–238 Sussex Street, Sydney),
 - (cgd) clause 6.35 (45 Murray Street, Pyrmont), but only if the development is an alteration or addition to an existing building,
 - (cge) clause 6.36 (12–20 Rosebery Avenue, 22–40 Rosebery Avenue and 108 Dalmeny Avenue, Rosebery),
 - (cgf) clause 6.37 (296–298 Botany Road and 284 Wyndham Street, Alexandria),
 - (cgg) clause 6.41 (7–15 Randle Street, Surry Hills),
 - (cgh) clause 6.42 (102–106 Dunning Avenue, Rosebery),
 - (cgh) clause 6.40 (2–32 Junction Street, Forest Lodge),
 - (ch) Division 1 of Part 7 (Car parking ancillary to other development).

This submission has been prepared having regard to the following guideline judgements:

- Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46;
- Wehbe v Pittwater Council [2007] NSWLEC 827;
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 ('Four2Five No 1');
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 ('Four2Five No 2');
- Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 ('Four2Five No 3');
- Micaul Holdings Pty v Randwick City Council [2015] NSWLEC 1386;
- Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7; and
- Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118.

The use of Clause 4.6 to enable an exception to this development standard is appropriate in this instance and the consent authority may be satisfied that all requirements of Clause 4.6 have been satisfied in terms of the merits of the proposed development and the content in this Clause 4.6 variation request report.

Clause 4.6 Exceptions to development standards establishes the framework for varying development standards applying under a local environmental plan. Subclause 4.6(3)(a) and 4.6(3)(b) requires that a consent authority must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating that:

4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

4.6(3)(b) that there is sufficient environmental planning grounds to justify contravening the development standard.

In addition, 4.6(4)(a)(i) and (ii) requires that development consent must not be granted to a development that contravenes a development standard unless the:

- (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*

The Environmental Planning Instrument to which these variations relate to is the SLEP12. The development standard to which this variation relates is Clause 4.3 – Height of buildings, which reads as follows:

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

- (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.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.
- Note. No maximum height is shown for land in Area 3 on the Height of Buildings Map. The maximum height for buildings on this land are determined by the sun access planes that are taken to extend over the land by clause 6.17.
- (2A) Despite any other provision of this Plan, the maximum height of a building on land shown as Area 1 or Area 2 on the Height of Buildings Map is the height of the building on the land as at the commencement of this Plan.

Council's maps identify a maximum building height on the site of 12m. refer to Figure 2 below:



Source: Sydney Local Environmental Plan 2012

Figure 2: Height of Buildings Map

4. Extent of Non-Compliance

In accordance with Clause 4.3 of the SLEP12, the maximum building height prescribed for the subject site is 12m.

The current proposal seeks a maximum building height of 13.56m. The proposal therefore exceeds the standard by 1.56m or 13%.

It is our submission that the breach to the building height control will not impact on the amenity of the development or adjoining properties, nor will the variation compromise the architecture of the building or the bulk and scale of the development.

A degree of flexibility is considered reasonable in this instance.

5. Is Compliance with the Development Standard Unreasonable or Unnecessary in the Circumstances of the Case?

The proposed variation from the development standard is assessed against the required tests in Clause 4.6. In addition, in addressing the requirements of Clause 4.6(3), the accepted five possible approaches for determining whether compliances are unnecessary or unreasonable was established by the NSW Land and Environment Court in *Wehbe v Pittwater Council* [2007] NSWLEC 827 at [42] – [49].

In the matter of *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1008, Pearson C states:

“...the case law developed in relation to the application of SEPP 1 may be of assistance in applying Clause 4.6. While Wehbe concerned an objection under SEPP 1, in my view the analysis is equally applicable to a variation under Clause 4.6 where Clause 4.6 (3)(a) uses the same language as Clause 6 of SEPP 1.”

In the decision of *Wehbe vs Pittwater Council*, Preston CJ summarised the five (5) different ways in which an objection under SEPP 1 has been well founded and that approval of the objection may be consistent with the aims of the policy. The five possible ways are as set out below:

| | |
|---------------|---|
| First | <i>The most commonly invoked way is to establish that compliance with the development standards is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.</i> <i>The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. If the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary and unreasonable. (applicable)</i> |
| Second | <i>A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary. (not applicable)</i> |
| Third | <i>A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable. (not applicable)</i> |
| Fourth | <i>A fourth way is to establish that 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 (not applicable).</i> |
| Fifth | <i>A fifth way is to establish that “the zoning of particular land” was “unreasonable or inappropriate” so that “a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land” and that “compliance with the standard in that case would also be unreasonable or unnecessary. (not applicable)</i> |

In respect of the height of buildings standard as it applies to the subject property, the first method is invoked.

It is acknowledged that the variation is in part attributed to the availability of the additional floor space as granted by ARH SEPP. It is considered that there must therefore be some flexibility in the application of Council's development standards including height, floor space ratio, and

setbacks. In a decision of the Land and Environment Court, *Abdul-Rahman v Ashfield Council* [2015] NSWLEC 1122, Commissioner O’Neil stated the following:

“I accept the argument put by the applicant that the consequence of the SEPP ARH incentives, which seek to facilitate the effective delivery of new affordable rental housing by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards, is to expand the permissible building envelope for a site in some way, although pursuant to cl 16A of SEPP ARH, any increase of the building envelope has to be compatible with the character of the local area. In this matter, the proposal complies with the FSR development standard in LEP 2013 and does not seek the benefit of the FSR incentive of SEPP ARH at cl 13, however the principle of an expanded building envelope in recognition of the contribution of affordable rental housing made by the proposal is still relevant.”

In keeping in with the above, the proposed variations to the building height are partly attributable to the increased density available on the site. The proposal has achieved compliance with the maximum floor space ratio prescribed for the subject site with the proposed setbacks having no negative impact upon the neighbouring sites nor upon the existing character of the locality.

Compliance with objectives of standard

The objectives supporting the height of buildings control identified in Clause 4.3 are discussed below. Consistency with the objectives and the absence of any environmental impacts, would demonstrate that strict compliance with the standards would be both unreasonable and unnecessary in this instance.

The discussion provided below demonstrates how the proposal is consistent with the objectives of Clause 4.3.

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

- (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.*

Objective

(a) to ensure the height of development is appropriate to the condition of the site and its context,

Comment:

The height variation, which is being sought, would have no impact upon the architectural quality of the built form, nor its expression. As viewed from the street, the proposal presents itself as 3 storeys with the fourth floor having been setback from the street. The breach to height only occurs at the fourth storey, and as such from the streetscape the breach would not be read. The fourth storey, and thus the height breach is recessed from Goddard Street.

In the context of the site a desirable presentation and integration is still being achieved, notwithstanding a variation to height.

The breaching elements do not detract from the visual interest and high architectural quality of the proposal. All elements of the building, inclusive of those which breach the maximum height standard, harmoniously work together to provide for a high-quality architectural expression and visual interest.

A variation to the height of building standard, will still allow for a landscaped front setback to be provided along Goddard Street and will not detract from the proposal's capacity to offer a consistent streetscape presentation.

The additional height will also allow for increases in the provision of affordable rental housing within a locality that is well connected to local amenities, services and public transport infrastructure. A variation will allow for an increased housing choice in the locality and will contribute to the positive residential amenity that is being created.

Objective

(b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,

Comment:

The proposed variation would not result in a built form which is dissimilar to many residential flat building developments which are of a more contemporary housing stock within the locality. These generally provide for heights of between 5-7 storeys. A 4-storey development is proposed in this instance with the variation to height not resulting in a form which is inconsistent with prevailing heights in the area. The transition of building heights is therefore not compromised by the proposed variation.

There are no heritage conservation areas or items of heritage which immediately adjoin the subject site. A heritage conservation area (C23) is located on the opposite site of the Rail Corridor to the west of the subject site. However, this is at an approximate distance of 85m to the west. A heritage conservation area (C3) is also situated to the north of the subject site at an approximate distance of 200m. Heritage conservation area (C2) is located to the east of the subject site at an approximate distance of 370m. The most proximate heritage item is Item No. I2246 which is located at an approximate distance of 100m south-east of the subject site.

Given the distance of the site from any heritage items and conservation areas, the additional height of 0.56m is not considered to be perceived from such locations. The variation, being minimal, would therefore have no adverse impression upon such areas and items.

Objective

(c) to promote the sharing of views,

Comment:

There are no significant views to or from the subject site that would be impacted by the proposed variation. This is not of an extent that would in any way compromise any views or vistas if they were otherwise available.

Objective

(d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas

Comment:

The subject site is not located within Central Sydney nor is it located within Green Square. The objective is therefore not applicable in this instance.

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.*

Comment:

The subject site is not located within Green Square and therefore this objective is not applicable.

6. Are there Sufficient Environmental Planning Grounds?

A contravention of Clause 4.3 of SLEP12 is justified as there are sufficient environmental planning grounds to do so. These grounds, which are particular to the circumstances of the site, are as follows:

It is important to recognise that the site has been identified as flood affected. In designing to the required flood level, this has resulted in the overall building having been raised.

Flooding advice received in this regard for the proposed development indicates that the minimum flood planning level for residential habitable rooms on the subject site is 9.43mAHD. As per the submitted site survey, the existing floor level at the site ranges from between 8.05mAHD to 8.09mAHD. This indicates that the floor level of the proposed development has had to be raised between 1.34m – 1.38m to accommodate for the flooding constraint at the site.

The proposed breach in height is directly related to an environmental constraint at the subject site being its identification as a flood affected lot.

With respect to bulk and scale, proposed level 4, being where the breach to height occurs, has been designed in a manner which mitigates its visibility to Goddard Street. This pertains to its recession from the street. The street frontage height of 3 storeys and parapet achieves compliance with Clause 4.3 of the SLEP12. Compliance is also achieved with the maximum degree of FSR permitted at the site. The breaching elements do not result in a non-compliant FSR which reinforces an appropriate bulk and scale of development at the site.

Notably, a flat roof form is also proposed for the built form and the breaching elements which harmonises with the more contemporary nature of the proposal whilst also assisting to minimise the impression of bulk and scale from the breach to the neighbouring sites and to the public domain.

Given the orientation of the subject site, there are no overshadowing impacts to northern sites. A degree of overshadowing is inevitable with respect to the southern neighbour given the site's location on the western side of the street and the neighbours location to the south of the site.

The submitted shadow diagrams have distinguished between the existing and proposed shadowing impacts.

Between the hours of 9am-11am the immediate neighbour to the south is currently overshadowed, with additional shadows falling on the roof of the southern dwelling. The additional shadows extend beyond the southern neighbour to the vacant portion of the site further to the south where there is no deemed impact as it does not appear there are any sensitive land uses.

Similarly, between 11am and 3pm, additional shadows fall beyond the southern dwelling along the eastern portion of the southern neighbour and towards the street.

Additional shadows impact upon the vacant portion of the site further to the south, with there being no adverse impacts upon any other neighbouring residential dwelling beyond the existing condition.

There is a minor degree of additional shadow cast to the built form on the opposite side of Goddard Street at 3pm, however, there is no additional affectation to this form prior to 3pm. It is therefore considered that appropriate solar access relationships between neighbouring sites are maintained.

There are no expansive areas of glazing which breach the maximum height limit. With these being generally contained within a compliant height limit. Where there are instances of glazing which breach the height limit these are contained to very upper most part of the windows and would be inconsequential. Therefore, the breaching elements of the built form would not give rise to any adverse visual privacy impacts.

With respect to acoustic amenity, there would be no adverse impacts resulting from the breach. Communal areas are located at the ground level and towards the rear of the site.

Therefore, there is no obligation to provide communal space at a roof level, which reduces the potential of acoustic amenity impacts from having part of the roof space breach the maximum height standard.

7. Is the Variation in the Public Interest?

Clause 4.6 states that the development consent must not be granted for development that contravenes a development standard unless 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 to be carried out.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standard under Part 6.

The development as proposed will be in the public interest as it is consistent with the objectives of Clause 4.3.

The variation is not considered to detract from the desired future character of the area, as the breach does not generate an unreasonable bulk or scale when compared to the development character of the area. The variation does not impact upon the capacity of the development to adhere to Council's provisions regarding general design and amenity outcomes, solar access, privacy and landscaping provisions.

The building will therefore contextually align with surrounding properties and there would be no restriction on providing an excellent amenity to residents due to the variation.

Furthermore, it is important to also consider the objectives of the B4 Mixed Use zone in relation to the development. Additional comments with respect to the proposals positive response to each objective are also provide below. The objectives of this zone are as follows:

1 Objectives of zone

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To ensure uses support the viability of centres*

Objective

- *To provide a mixture of compatible land uses.*

Comment:

The proposal provides for a residential land use. The surrounding development is also predominantly residential, with significant new housing stock being located within the area. A variation to the maximum height of buildings development standard would not impede upon the proposed use of the site.

Objective

- *To integrate suitable business, office, residential and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

Comment:

The subject site is benefited by its proximate location to public transport infrastructure being situated approximately 500m walking distance to Erskineville Train Station, 650m walking distance to St Peters Railway Station, and between 350m-650m from a series of bus services. These provide regular services to the City, Liverpool, and provides connectivity to the broader Sydney metropolitan rail network. The subject site is located within close proximity to a series of designated commuter and recreational cycle routes and car share pods. The proposed residential development is therefore well-located to encourage public transport patronage and to encourage walking and cycling.

The additional height will not compromise the sites location to such amenities. Rather, this will allow for a well-designed boarding house to be accommodated at the site that will offer a positive residential amenity for future residents and no detriment to neighbouring sites.

Objective

- *To ensure uses support the viability of centres*

Comment

The subject site is located approximately 400m walking distance from the closest B2 Local Centre zone. It is considered that the provision of residential accommodation within walking distance to this local centre zoned land supports the viability and the vitality of the local centre. The additional building height will allow for a boarding house development that is able to provide

accommodation for additional residents in the locality so that they can utilise the goods and services which are offered in nearby centres.

8. Public Benefit of Maintaining the Standard

It is considered that the public benefit will not be undermined by varying the standard. The proposal provides for a high-quality boarding house development in keeping with the desired land uses and objectives of the B4 Mixed Use zone.

Given the site's orientation, location and context it is considered that the site is well suited for the development.

The development is generally consistent with the current planning controls.

It is not considered that the variation sought raises any matter of significance for State or Regional environmental planning.

The departure from the height of buildings control within the SLEP12 allows for the orderly and economic development of the site in a manner which achieves the outcomes and objectives of the relevant planning controls.

9. Is the Variation Well Founded?

It is considered that this has been adequately addressed in Parts 6 and 7 of this submission. In summary, this Clause 4.6 Variation is well founded as required by Clause 4.6 of the SLEP12 in that:

- ❑ Compliance with the development standard would be unreasonable and unnecessary in the circumstances of the development;
- ❑ There are sufficient environmental planning grounds to justify the departure from the standard;
- ❑ The variation does not undermine the objectives of the standard to be varied (Height of buildings), as well as the objectives of the B4 Mixed Use zoning of the land;
- ❑ The proposed development is in the public interest and there is no public benefit in maintaining the standard;
- ❑ The breach does not raise any matter of State or Regional Significance; and
- ❑ The development submitted aligns with the predominantly residential nature of the neighbourhood noting there are examples of residential flat buildings in the surrounding street which are of a similar height, bulk and scale as to the boarding house development proposed. A variation would not disturb this evolving character of the area.

Based on the above, the variation is considered to be well founded.

10. General

Clause 4.6 also states that:

“(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- (c) **Note.** When this Plan was made it did not include all of these zones.*

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant’s written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

- (a) a development standard for complying development,*
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
- (c) clause 5.4*
- (ca) clause 4.3 (Height of buildings), but only in relation to land shown as being in Area 1 or Area 2 on the Height of Buildings Map,*
- (cab) clause 4.5A (Balconies on certain residential flat buildings),*
- (cb) clause 5.3A (Development below ground level in Zone RE1),*
- (cc) clause 6.10 (Heritage floor space),*
- (cd) clause 6.11 (Utilisation of certain additional floor space requires allocation of heritage floor space),*
- (cda) clause 6.11A (Temporary alternative heritage arrangements in relation to allocation of heritage floor space),*
- (ce) clause 6.17 (Sun access planes),*
- (cf) clause 6.18 (Exceptions to sun access planes),*
- (cg) clause 6.19 (1) (d)–(h) and (j), unless the additional overshadowing is caused by playground equipment, a shade structure, an awning, a sculpture or artwork, or a community notice or public information sign,*
- (cga) clause 6.26 (AMP Circular Quay precinct),*
- (cgb) clause 6.29 (58–60 Martin Place, Sydney),*
- (cgc) clause 6.33 (230–238 Sussex Street, Sydney),*
- (cgd) clause 6.35 (45 Murray Street, Pyrmont), but only if the development is an alteration or addition to an existing building,*
- (cge) clause 6.36 (12–20 Rosebery Avenue, 22–40 Rosebery Avenue and 108 Dalmeny Avenue, Rosebery),*
- (cgf) clause 6.37 (296–298 Botany Road and 284 Wyndham Street, Alexandria),*
- (cgg) clause 6.41 (7–15 Randle Street, Surry Hills),*
- (cgh) clause 6.42 (102–106 Dunning Avenue, Rosebery),*
- (cgh) clause 6.40 (2–32 Junction Street, Forest Lodge),*
- (ch) Division 1 of Part 7 (Car parking ancillary to other development).*

Comment:

This variation does not relate to the subdivision of land. The variation sought is not contrary to subclause (6).

Should the exception to the development standard sought under this submission be supported by Council, the Council must retain a record of the assessment of this submission.

The development proposed is not complying development.

A BASIX certificate has been prepared and submitted with this development application.

The development is not affected by clause 5.4, is not located in Area 1 or 2 on the height of buildings map and is not affected by clauses 4.5A, 5.3A, 6.10, 6.11, 6.11A, 6.17, 6.18, 6.19, 6.26, 6.29, 6.33, 6.35, 6.36, 6.37, 6.41, 6.42, 6.40, Division 1 of Part 7 (car parking ancillary to other development).

11. Conclusion

The proposal does not strictly comply with the maximum building height control as prescribed by Clause 4.3 of the SLEP12. Having evaluated the likely affects arising from this non-compliance, we are satisfied that the objectives of Clause 4.6 of the SLEP12 are satisfied as the breach to the control does not create any adverse environmental impacts.

The variation to the height of buildings standard would not restrict a high-quality development and an architecturally well-designed boarding house on the subject site that will contribute to providing affordable housing in an area well serviced by educational establishments, public transport infrastructure, local amenities and retail/commercial facilities.

Consequently, strict compliance with this development standard is unreasonable and unnecessary in this particular case and that the use of Clause 4.6 of the SLEP12 to vary this development control is appropriate in this instance.

It is considered that there are sufficient environmental planning grounds to vary the standard, as a variation will result in a better environmental planning outcome.

Based on the above, it is sensible to conclude that strict compliance with the height of buildings development standard is not necessary and that a better outcome is achieved for this development by allowing flexibility in the application.

Valdis Aleidzans
Town Planner
GAT & Associates
Plan 3316

Gerard Turrisi
Director

Attachment D

**Clause 4.6 Variation Request – Motorbike
Parking**

**CLAUSE 4.6 VARIATION TO CLAUSE 30(H) – STANDARDS FOR BOARDING HOUSES OF
THE STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING)
2009**

1. Introduction

This variation statement seeks to address the proposed variation to Clause 30(h) of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) as it specifically pertains to the provision of motorcycle parking for boarding house developments.

It should be noted that sufficient bicycle parking is proposed for the development, with the variation specially relating to the non-provision of motorcycle parking spaces.

This submission is made under Clause 4.6 of the *SLEP12 – Exceptions to development standards* and is a “written request” as referred to in subclause (3).

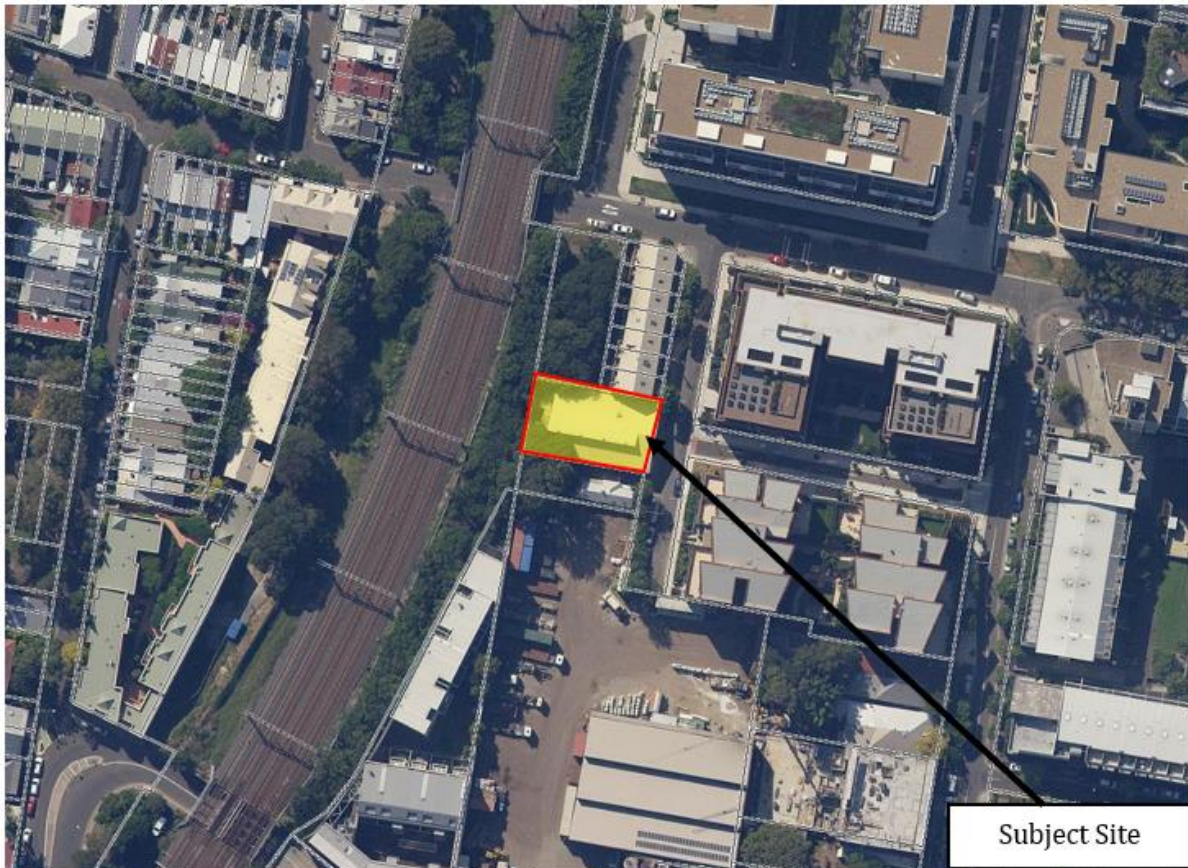
The proposed development seeks for the demolition of all existing structures and redevelopment of the site to contain a four-storey boarding house development containing 35 boarding rooms inclusive of an on-site managers room along with associated site works and landscaping at 1-3 Goddard Street, Erskineville.

As detailed in this written request for a variation to Clause 30(h) Standards for Boarding Houses under SEPP ARH 2009, the proposed development meets the requirements prescribed under Clause 4.6 of the SLEP 2012.

2. Site Background

The subject site is located on the western side of Goddard Street. The site is legally known as Lot 1 in Deposited Plan 741276 and is commonly referred to as No. 1-3 Goddard Street, Erskineville.

The site is rectangular in shape with a frontage of 18.03m to Goddard Street, with the rear property boundary measuring 18.08m in its length. Both side boundaries provide for a length of 30.62m, respectively. The overall site area measures 552.7m². Refer to Figure 1 – Site Location Map.



Source: <https://maps.six.nsw.gov.au/>

Figure 1: Site Location Map

Located on the subject site at present is a two-storey disused warehouse built form which is of an older style and character.

Development within the immediate locality is mixed in nature with a series of residential properties located to the north of the site. These are of a more contemporary housing stock. Immediately to the south at No. 5 Goddard Street is a single storey dwelling house which is of an older housing stock. Immediately opposite the subject site is a recently completed 5-storey residential flat building development which addresses nearby McDonald Street. There are also several recently completed residential flat buildings within an immediate vicinity of the subject site.

Immediately to the north of the subject site is Kirsova 1 Playground which provides for an area of public recreation within proximity of the subject site and for the benefit of the local community. This space is appropriate in facilitating more passive recreational opportunities.

Erskineville Oval along with Harry Noble Reserve are located approximately 480m of the subject site in a north-eastern orientation which provide for more expansive public green open spaces within the locality. These spaces are of an appropriate size and dimension to facilitate a various degree of active and passive recreational opportunities. Sydney Park is located at an approximate distance of 330m south of the subject site which offers a comparable amenity.

Alexandria-Erskineville Bowling Club is located at an approximate distance of 480m north-east of the site which diversifies the recreational opportunities made available within the locality.

Erskineville Public School is situated at an approximate distance of 356m north of the subject site. There are also several goods and services located within the locality namely those along nearby Euston Road.

The subject site is well serviced by public transport, being located approximately 500m walking distance to Erskineville Train Station, 650m walking distance to St Peters Railway Station, and between 350m-650m from a series of bus services. These provide regular services to the City, Liverpool, and provide connectivity to the broader Sydney metropolitan rail network. Furthermore, the subject site is situated within proximity to a series of designated commuter and recreational cycle routes and car share pods.

The site is considered to be appropriately located and conducive to the proposed development.

3. Clause 4.6

This submission is made under Clause 4.6 of the Sydney Local Environmental Plan 2012 – Exceptions to development standards. Clause 4.6 states the following:

“4.6 Exceptions to development standards

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (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.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*
- (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
- (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

Note. When this Plan was made it did not include all of these zones.

- (7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- (8) *This clause does not allow development consent to be granted for development that would contravene any of the following:*
- (a) *a development standard for complying development,*
- (b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
- (c) *clause 5.4,*
- (ca) *clause 4.3 (Height of buildings), but only in relation to land shown as being in Area 1 or Area 2 on the Height of Buildings Map,*
- (cab) *clause 4.5A (Balconies on certain residential flat buildings),*
- (cb) *clause 5.3A (Development below ground level in Zone RE1),*
- (cc) *clause 6.10 (Heritage floor space),*
- (cd) *clause 6.11 (Utilisation of certain additional floor space requires allocation of heritage floor space),*
- (cda) *clause 6.11A (Temporary alternative heritage arrangements in relation to allocation of heritage floor space),*
- (ce) *clause 6.17 (Sun access planes),*
- (cf) *clause 6.18 (Exceptions to sun access planes),*
- (cg) *clause 6.19 (1) (d)–(h) and (j), unless the additional overshadowing is caused by playground equipment, a shade structure, an awning, a sculpture or artwork, or a community notice or public information sign,*
- (cga) *clause 6.26 (AMP Circular Quay precinct),*
- (cgb) *clause 6.29 (58–60 Martin Place, Sydney),*
- (cgc) *clause 6.33 (230–238 Sussex Street, Sydney),*
- (cgd) *clause 6.35 (45 Murray Street, Pyrmont), but only if the development is an alteration or addition to an existing building,*
- (cge) *clause 6.36 (12–20 Rosebery Avenue, 22–40 Rosebery Avenue and 108 Dalmeny Avenue, Rosebery),*
- (cgf) *clause 6.37 (296–298 Botany Road and 284 Wyndham Street, Alexandria),*
- (cgg) *clause 6.41 (7–15 Randle Street, Surry Hills),*
- (cgh) *clause 6.42 (102–106 Dunning Avenue, Rosebery),*
- (cgh) *clause 6.40 (2–32 Junction Street, Forest Lodge),*

(ch) Division 1 of Part 7 (Car parking ancillary to other development).

This submission has been prepared having regard to the following guideline judgements:

- *Winten Property Group Limited v North Sydney Council* [2001] NSWLEC 46;
- *Wehbe v Pittwater Council* [2007] NSWLEC 827;
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 ('Four2Five No 1');
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 ('Four2Five No 2');
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 ('Four2Five No 3');
- *Micaul Holdings Pty v Randwick City Council* [2015] NSWLEC 1386;
- *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7; and
- *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118.

The use of Clause 4.6 to enable an exception to this development standard is appropriate in this instance and the consent authority may be satisfied that all requirements of Clause 4.6 have been satisfied in terms of the merits of the proposed development and the content in this Clause 4.6 variation request report.

Clause 4.6 Exceptions to development standards establishes the framework for varying development standards applying under a local environmental plan. Subclause 4.6(3)(a) and 4.6(3)(b) requires that a consent authority must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating that:

4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

4.6(3)(b) that there is sufficient environmental planning grounds to justify contravening the development standard.

In addition, 4.6(4)(a)(i) and (ii) requires that development consent must not be granted to a development that contravenes a development standard unless the:

- (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*

The Environmental Planning Instrument to which this variation relates is the State Environmental Planning Policy (Affordable Rental Housing) 2009. The development standard to which this variation relates is Clause 30(h) – Standards for boarding houses. The Clause reads as follows:

- (1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following—*
- (a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,*
 - (b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres,*
 - (c) no boarding room will be occupied by more than 2 adult lodgers,*
 - (d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,*

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

(f) (Repealed)

(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,

(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.

(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.

4. Extent of Non-Compliance

As noted in accordance with Clause 30(h) of the SEPP ARH 2009, at least one parking space is to be provided for a motorcycle for every 5 boarding rooms.

In the case of the proposed development, this would generate 6.8 motorcycle parking spaces.

The current proposal seeks a variation to this standard with no motorcycle parking spaces proposed. A 100% variation is sought in this instance.

It is our submission that the variation to the standard will not impact on the amenity of the development nor that of future residents.

A degree of flexibility is considered reasonable in this instance.

5. Is Compliance with the Development Standard Unreasonable or Unnecessary in the Circumstances of the Case?

The proposed variation from the development standard is assessed against the required tests in Clause 4.6. In addition, in addressing the requirements of Clause 4.6(3), the accepted five possible approaches for determining whether compliances are unnecessary or unreasonable was established by the NSW Land and Environment Court in *Wehbe v Pittwater Council* [2007] NSWLEC 827 at [42] – [49].

In the matter of *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1008, Pearson C states:

“...the case law developed in relation to the application of SEPP 1 may be of assistance in applying Clause 4.6. While Wehbe concerned an objection under SEPP 1, in my view the analysis is equally applicable to a variation under Clause 4.6 where Clause 4.6 (3)(a) uses the same language as Clause 6 of SEPP 1.”

In the decision of *Wehbe vs Pittwater Council*, Preston CJ summarised the five (5) different ways in which an objection under SEPP 1 has been well founded and that approval of the objection may be consistent with the aims of the policy. The five possible ways are as set out below:

| | |
|--------------|--|
| First | <i>The most commonly invoked way is to establish that compliance with the development standards is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.</i> |
|--------------|--|

| | |
|---------------|--|
| | <i>The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. If the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary and unreasonable. (applicable)</i> |
| Second | <i>A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary. (not applicable)</i> |
| Third | <i>A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable. (not applicable)</i> |
| Fourth | <i>A fourth way is to establish that 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 (not applicable).</i> |
| Fifth | <i>A fifth way is to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary. (not applicable)</i> |

With respect to the standard which requires motorcycle parking as it applies to the subject property, the first method is invoked.

Compliance with objectives of standard

Whilst there are no objectives stated for the development standard itself, the aims of SEPP ARH have been considered and are achieved by the proposal notwithstanding the variation which is being sought to motorcycle parking. The aims of the SEPP have been discussed individually below.

The aims of this Policy are as follows—

- (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.*

Aim

- (a) to provide a consistent planning regime for the provision of affordable rental housing,*

Comment:

The proposed variation to motorcycle parking would not impede upon a consistent planning regime to be provided for affordable rental housing. An affordable housing development can still be achieved at the site with an appropriate amenity, notwithstanding the variation.

Aim

(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,

Comment:

In the case of not providing any motorcycle spaces for the development, no incentives are sought or relied upon with respect to the variation.

Aim

(c) to facilitate the retention and mitigate the loss of existing affordable rental housing,

Comment:

The proposed variation would not result in the loss of affordable rental housing. Rather through the support of the proposed variation, the provision of affordable rental housing would be facilitated at the subject site.

Aim

(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,

Comment:

The proposed variation would not restrict the provision of affordable rental housing at the subject site.

Aim

(e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,

Comment

Not applicable in this instance.

Aim

(f) to support local business centres by providing affordable rental housing for workers close to places of work,

Comment

The subject site is located within proximity to an array of local goods, services and amenities which promote employment opportunities within the immediate and broader locality. With the subject site being situated within a highly accessible area, this would encourage the use of alternative modes of transport such as walking and cycling. The provision of motorcycle spaces is therefore deemed excessive for the development in its context.

Aim

(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.

Comment

The variation would not prohibit the provision of affordable rental housing at the site. A variation would still allow for diverse housing types and choice in the locality and more broadly within the local government area.

6. Are there Sufficient Environmental Planning Grounds?

A contravention to Clause 30(h) of SEPP ARH is justified as there are sufficient environmental planning grounds to do so. These grounds, which are particular to the circumstances of the site are as follows.

Given the context of the subject site and its flooding affectation, providing onsite motorcycle parking would likely require a basement parking level given the proposed building footprint and alignments which are proposed. To provide motorcycle parking at the ground level would cause a disruption to the overall character of the development and streetscape presentation of the proposal, given there is no opportunity for rear access from a laneway or secondary street. A desirable urban outcome is therefore considered to result through the variation along with a harmonious streetscape presentation.

Providing motorcycle parking is considered excessive and unwarranted in the context of the subject site given its proximate location to public transport infrastructure. The site is located approximately 500m walking distance to Erskineville Railway Station, 650m walking distance to St Peters Railway Station and between 350m-650m walking distance to several bus services within the immediate locality. Each of these provide connections to nearby services, amenities, goods, and to a more expansive public transport network. The site is also proximately located to a series of commuter cycle routes which further encourage the use of alternative transport modes.

It should be noted that the adequate bicycle spaces have been provided for the proposed development with 15 proposed. This exceeds the minimum requirement stipulated by SEPP ARH by 8.2 spaces. The additional provision of bicycle parking at the site is deemed appropriate in compensating for the non-provision of motorcycle spaces. Hence, it would be considered excessive if any motorcycle spaces were provided at the site. This excessiveness is reinforced given the sites accessible location as detailed earlier.

The residential amenity for future residents would in no way be impacted through the non-provision of motorcycle spaces as active modes of transport are encouraged through the additional provision of bicycle spaces and the alternative transport options made available in the locality. This will ensure future residents are able to stay well connected to goods, services and amenities which are offered in the immediate and broader locality.

7. Is the Variation in the Public Interest?

Clause 4.6 states that the development consent must not be granted for development that contravenes a development standard unless 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 to be carried out.

It is considered that this submission provides sufficient environmental planning grounds to justify contravening the development standard under Part 6.

Furthermore, it is important to also consider the objectives of the B4 Mixed Use zone in relation to the development. Additional comments with respect to the proposals positive response to each objective are also provide below. The objectives of the zone are as follows:

1 Objectives of zone

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To ensure uses support the viability of centres*

Objective

- *To provide a mixture of compatible land uses.*

Comment:

The proposal provides for a residential land use. The surrounding development is also predominantly residential, with significant new housing stock being located within the area. The non-provision of motorcycle spaces would not impede upon the proposed use of the site.

Objective

- *To integrate suitable business, office, residential and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

Comment:

The subject site is benefited by its proximate location to public transport infrastructure being situated approximately 500m walking distance to Erskineville Railway Station, 650m walking distance to St Peters Railway Station, and between 350m-650m from a series of bus services. These provide regular services to nearby suburbs, goods, services and amenities along with connectivity to the broader public transport network. The proposed residential development is therefore well-located to encourage public transport patronage and to encourage walking and cycling. The provision of bicycle spaces in excess of the minimum requirement will ensure that residents have the capacity to utilise alternative transport modes and reduce dependence on motorised transport. Motorcycle spaces are deemed excessive in this instance given the highly accessible nature of the site and additional bicycle spaces.

Objective

- *To ensure uses support the viability of centres*

Comment

The subject site is located approximately 400m walking distance from the closest B2 Local Centre zone. It is considered that the provision of residential accommodation within walking distance to this local centre zoned land supports the viability and the vitality of the local centre.

Given the proximate location of a local centre, it is considered that residents will be able to access this via the alternative transport options made available to them. As such motorcycle spaces would be excessive in this context given the alternative transport modes made available and the additional bicycle spaces proposed.

8. Public Benefit of Maintaining the Standard

It is considered that the public benefit will not be undermined by varying the standard. The proposal provides for a high-quality boarding house development in keeping with the desired land uses and objectives of the B4 Mixed Use zone.

Given the site's orientation, location and context it is considered that the site is well suited for the development.

The development is generally consistent with the current planning controls.

It is not considered that the variation sought raises any matter of significance for State or Regional environmental planning.

The departure from the standard which requires motorcycle parking within the SEPP ARH allows for the orderly and economic development of the site in a manner which achieves the outcomes and objectives of the relevant planning controls.

9. Is the Variation Well Founded?

It is considered that this has been adequately addressed in Parts 6 and 7 of this submission. In summary, this Clause 4.6 Variation is well founded as required by Clause 4.6 of the SLEP12 in that:

- ❑ Compliance with the development standard would be unreasonable and unnecessary in the circumstances of the development;
- ❑ There are sufficient environmental planning grounds to justify the departure from the standard;
- ❑ The development meets the objectives of the B4 Mixed Use zoning of the land;
- ❑ The proposed development and variation maintain consistency with the aims of SEPP ARH.
- ❑ The proposed development is in the public interest and there is no public benefit in maintaining the standard;
- ❑ The breach does not raise any matter of State or Regional Significance; and
- ❑ Additional bicycle spaces have been provided which assists in compensating for the reduction in motorcycle parking spaces at the subject site.

Based on the above, the variation is considered to be well founded.

10. General

Clause 4.6 also states that:

“(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- (c) **Note.** When this Plan was made it did not include all of these zones.*

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant’s written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

- (a) a development standard for complying development,*
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
- (c) clause 5.4*
- (ca) clause 4.3 (Height of buildings), but only in relation to land shown as being in Area 1 or Area 2 on the Height of Buildings Map,*
- (cab) clause 4.5A (Balconies on certain residential flat buildings),*
- (cb) clause 5.3A (Development below ground level in Zone RE1),*
- (cc) clause 6.10 (Heritage floor space),*
- (cd) clause 6.11 (Utilisation of certain additional floor space requires allocation of heritage floor space),*
- (cda) clause 6.11A (Temporary alternative heritage arrangements in relation to allocation of heritage floor space),*
- (ce) clause 6.17 (Sun access planes),*
- (cf) clause 6.18 (Exceptions to sun access planes),*
- (cg) clause 6.19 (1) (d)–(h) and (j), unless the additional overshadowing is caused by playground equipment, a shade structure, an awning, a sculpture or artwork, or a community notice or public information sign,*
- (cga) clause 6.26 (AMP Circular Quay precinct),*
- (cgb) clause 6.29 (58–60 Martin Place, Sydney),*
- (cgc) clause 6.33 (230–238 Sussex Street, Sydney),*
- (cgd) clause 6.35 (45 Murray Street, Pyrmont), but only if the development is an alteration or addition to an existing building,*
- (cge) clause 6.36 (12–20 Rosebery Avenue, 22–40 Rosebery Avenue and 108 Dalmeny Avenue, Rosebery),*
- (cgf) clause 6.37 (296–298 Botany Road and 284 Wyndham Street, Alexandria),*
- (cgg) clause 6.41 (7–15 Randle Street, Surry Hills),*
- (cgh) clause 6.42 (102–106 Dunning Avenue, Rosebery),*
- (cgh) clause 6.40 (2–32 Junction Street, Forest Lodge),*
- (ch) Division 1 of Part 7 (Car parking ancillary to other development).*

Comment:

This variation does not relate to the subdivision of land. The variation sought is not contrary to subclause (6).

Should the exception to the development standard sought under this submission be supported by Council, the Council must retain a record of the assessment of this submission.

The development proposed is not complying development.

A BASIX certificate has been prepared and submitted with this development application.

The development is not affected by clause 5.4, is not located in Area 1 or 2 on the height of buildings map and is not affected by clauses 4.5A, 5.3A, 6.10, 6.11, 6.11A, 6.17, 6.18, 6.19, 6.26, 6.29, 6.33, 6.35, 6.36, 6.37, 6.41, 6.42, 6.40, Division 1 of Part 7 (car parking ancillary to other development).

11. Conclusion

The proposal does not strictly comply with Clause 30(h) of the SEPP ARH 2009 as it specifically relates to the provision of motorcycle parking.

Having evaluated the likely affects arising from this non-compliance, we are satisfied that the objectives of Clause 4.6 of the SLEP12 are satisfied as the breach to the control does not create any adverse environmental impacts.

The shortfall in motorcycle spaces will not restrict the provision of a high-quality development and an architecturally well-designed boarding house on the subject site. A variation to the required number of motorcycle spaces will still result in a development which contributes to providing affordable housing in an area well serviced by public transport infrastructure, local amenities and retail/commercial facilities.

Consequently, strict compliance with this development standard is unreasonable and unnecessary in this particular case and that the use of Clause 4.6 of the SLEP12 to vary this development control is appropriate in this instance.

It is considered that there are sufficient environmental planning grounds to vary the standard, as a variation will result in a better environmental planning outcome.

Based on the above, it is sensible to conclude that strict compliance with the development standard is not necessary and that a better outcome is achieved for this development by allowing flexibility in the application.

Valdis Aleidzans
Town Planner
GAT & Associates
Plan 3316

Gerard Turrisi
Director

Item 4.**Development Application: 327- 329 George Street, Sydney - D/2019/1277****File No.: D/2019/1277****Summary**

| | |
|----------------------------|--|
| Date of submission: | 12 November 2019 Amended application received 25 May 2020 |
| Applicant: | Mr Giovanni Cirillo, Planning Lab |
| Architect: | Melocco & Moore |
| Developer: | Ledorli Holdings Pty Ltd |
| Owner: | Ledorli Holdings Pty Ltd |
| Cost of works: | \$13,470,472 |
| Zoning: | The site is zoned B8 - Metropolitan Centre under the Sydney Local Environmental Plan 2012 (SLEP 2012). The proposed use is defined as a 'mixed use development', comprising both 'office premises' and 'retail premises', all of which are permissible with development consent in the zone. |
| Proposal summary: | <p>The development application seeks consent for the demolition of the existing building and construction of a 15 storey building with a maximum height of 56.58 metres, comprising retail premises at the ground level and level 1, office premises and outdoor terrace on the levels above, a loading dock accessed from Wynyard Lane and basement levels containing bicycle parking, end of trip facilities and building services.</p> <p>Clause 6.16 'Erection of tall buildings in Central Sydney' of the Sydney Local Environmental Plan 2012 (SLEP 2012) applies to the development as the proposed building is above 55 metres in height and is located on a site less than 800 square metres in area. This clause requires a freestanding tower to be erected with each face able to be seen from a public place.</p> |

Only three out of four faces/elevations of the building will be seen from a public place due to the physical constraints of the site and the height of an existing adjoining building.

The applicant has submitted a Clause 4.6 written request to vary the development standard under Clause 6.16(3)(a) of the SLEP 2012. The proposed variation has merit and is supported in this instance. The proposed variation request to the subject development standard is a numerical variation of 25% and accordingly, the application is referred to the Local Planning Panel for determination.

In addition to Clause 6.16 of the SLEP 2012, as the proposed building is over 55 metres in height and is located within Central Sydney, the proposal triggers the requirement for the preparation of a site-specific development control plan (DCP) and the undertaking of a competitive design process under the provisions of Clauses 7.20(2)(a) and 6.21(5)(a)(i) of the SLEP 2012, respectively. The applicant seeks a 'waiver' to both of these requirements. The applicant's request that these requirements are unreasonable and unnecessary in the circumstances of this application has merit in this particular case and is supported.

The application was notified and advertised from 5 December 2019 to 16 January 2020 in accordance with the City of Sydney Community Participation Plan 2019.

One submission was received which raised concerns relating to the waiver of a competitive design process, the adequacy of the Clause 4.6 variation request, construction traffic management and impacts to the adjoining properties. The issues raised in the submission are addressed in the body of this report, and conditions of consent are recommended to resolve these matters, where appropriate.

The proposal has been amended during the course of the assessment in order to address issues raised by Council staff and the Design Advisory Panel, including modifications to the design of the George Street facade and fenestration detail, materiality and awning height. The amended proposal has addressed most of the issues raised. While there are some issues remaining, conditions of consent are recommended to resolve these matters.

Transport for NSW (TfNSW) has granted concurrence, subject to conditions, under Clause 86 of the State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP), as the site is located within 25 metres of the Sydney Light Rail corridor and includes excavation deeper than 2 metres. These conditions are included within the recommended conditions of consent provided at Attachment A to this assessment report.

Subject to conditions, the proposal is generally consistent with the objectives and applicable planning provisions in the SLEP 2012 and Sydney Development Control Plan 2012 (SDCP 2012). While there are non-compliances, these are assessed as having merit in this particular case and are addressed in the body of this report.

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

Development controls:

- (i) Environmental Planning and Assessment Act 1979
- (ii) State Environmental Planning Policy (Infrastructure) 2007
- (iii) Sydney Harbour Regional Environmental Plan (Sydney Harbour Catchment) 2005
- (iv) Sydney Local Environmental Plan 2012
- (v) Sydney Development Control Plan 2012
- (vi) Central Sydney Development Contributions Plan 2013

Attachments:

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

Recommendation

It is resolved that:

- (A) the written variation requested to Clause 6.16(3)(a) 'Erection of tall buildings in Central Sydney' of the Sydney Local Environmental Plan 2012 in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 is considered satisfactory and is upheld;
- (B) the requirement for the preparation of a site-specific development control plan and the undertaking of a competitive design process in accordance with Clause 7.20 'Development requiring or authorising preparation of a development control plan' and Clause 6.21 'Design excellence' of the Sydney Local Environmental Plan 2012, are waived in the specific and particular circumstances of the site and the proposed development; and
- (C) consent be granted to Development Application No. D/2019/1277 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 proposal is generally consistent with the relevant objectives and controls of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012.
- (B) The proposal is consistent with the objectives of the B8 Metropolitan Centre zone.
- (C) The proposal complies with the maximum floor space ratio applicable to the site under the Sydney Local Environmental Plan 2012.
- (D) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:
 - (i) The applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3) of the Sydney Local Environmental Plan 2012, that compliance with the development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 6.16(3)(a) of the Sydney Local Environmental Plan 2012; and
 - (ii) The proposal is in the public interest because it is consistent with the objectives of the B8 Metropolitan Centre zone and the 'Erection of tall buildings in Central Sydney' development standard.
- (E) The proposal exhibits design excellence in accordance with the relevant provisions and matters for consideration in Clause 6.21 of the Sydney Local Environmental Plan 2012.

- (F) The proposal has a height and form suitable for the site, satisfactorily addresses the heights and setbacks of neighbouring developments, and is appropriate in the streetscape context and broader locality.
- (G) The new building can satisfactorily accommodate the proposed land uses and does not result in any significant adverse environmental or amenity impacts on surrounding properties, the public domain and the broader Sydney Central Business District, subject to the recommended conditions.
- (H) The requirement for the preparation of a site-specific development control plan and the undertaking of a competitive design process is unreasonable and unnecessary in the specific and particular circumstances of the site and proposed development, pursuant to Clauses 7.20(3) and 6.21(6) of the Sydney Local Environmental Plan 2012.
- (I) The proposal has been granted concurrence by Transport for New South Wales under Clause 86 of the State Environmental Planning Policy (Infrastructure) 2007, subject to conditions which have been adopted in the recommended conditions.
- (J) The public interest is served by the approval of the proposal, as amendments to the development application have addressed the matters raised by the City and the community, subject to the recommended conditions relating to facade and awning design details, transport and servicing.

Background

The site and surrounding development

1. A site visit was carried out by staff on 14 January 2020.
2. The site is legally described as Lots 1 and 2 in Deposited Plan 448986 and is commonly known as 327-329 George Street, Sydney.
3. The site is rectangular in shape, with an area of approximately 274.5 square metres. It has a primary street frontage to George Street to the east and a secondary frontage to Wynyard Lane to the west.
4. The site has a depth of approximately 27.9 metres and both frontages are approximately 9.8 metres in length. The site falls from Wynyard Lane to George Street by approximately 1.9 metres. The frontages are relatively flat, with only a slight fall from south to north by up to 230 millimetres.
5. The site is occupied by a 3 to 4 storey building, which is built to all site boundaries. The building contains a retail tenancy on the ground floor, offices premises on levels one and two, with a part fourth storey plant room located to the rear of the site. The building was constructed in 1955 with an additional storey added in 1962. The George Street facade of the building was refurbished in the late 1990s and early 2000s.
6. The site is located 40 metres north of the intersection of Wynyard Street and Wynyard Lane, approximately 50 metres east of Wynyard Park and 100 metres north-west of Martin Place. A light rail stop serving the CBD and South East Light Rail corridor is located directly in front of the site on George Street.
7. Surrounding land uses comprise predominantly multi-storey buildings in a range of architectural styles, generally containing ground floor retail premises and food and drink premises, with office premises located on the levels above.
8. Directly adjoining the site to the south, at 331-339 George Street (commonly referred to as '333 George Street'), is a 19 storey commercial building, constructed on the corner of George Street and Regimental Square. The building contains ground floor retail with office premises above. The majority of the building's northern facade is glazed and directly abuts the subject site.
9. Directly adjoining the site to the north, at 323-325 George Street, is a two-storey commercial building. Development consent was recently granted for the construction a 17 storey hotel development on this site. Further to the north at 319-321 George Street is a three-storey building, identified in Schedule 5 of the SLEP 2012 as a locally significant heritage item.
10. Other heritage items in close proximity to the site include the buildings at 350 George Street and 354-360 George Street, Angel Place and Martin Place, which are all located to the south-east of the site. Heritage items located to the south of the site include the buildings at 341 George Street and 343 George Street, and Regimental Square.
11. To the west of the site, on the opposite side of Wynyard Lane, is the rear of two 13 storey buildings known as 50 and 54-62 Carrington Street. These buildings have no setbacks to the rear lane and contain windows along their rear elevations. Wynyard Lane is predominantly used as a service lane.
12. Photos of the site and surrounding area are provided in Figures 1 to 16 below.

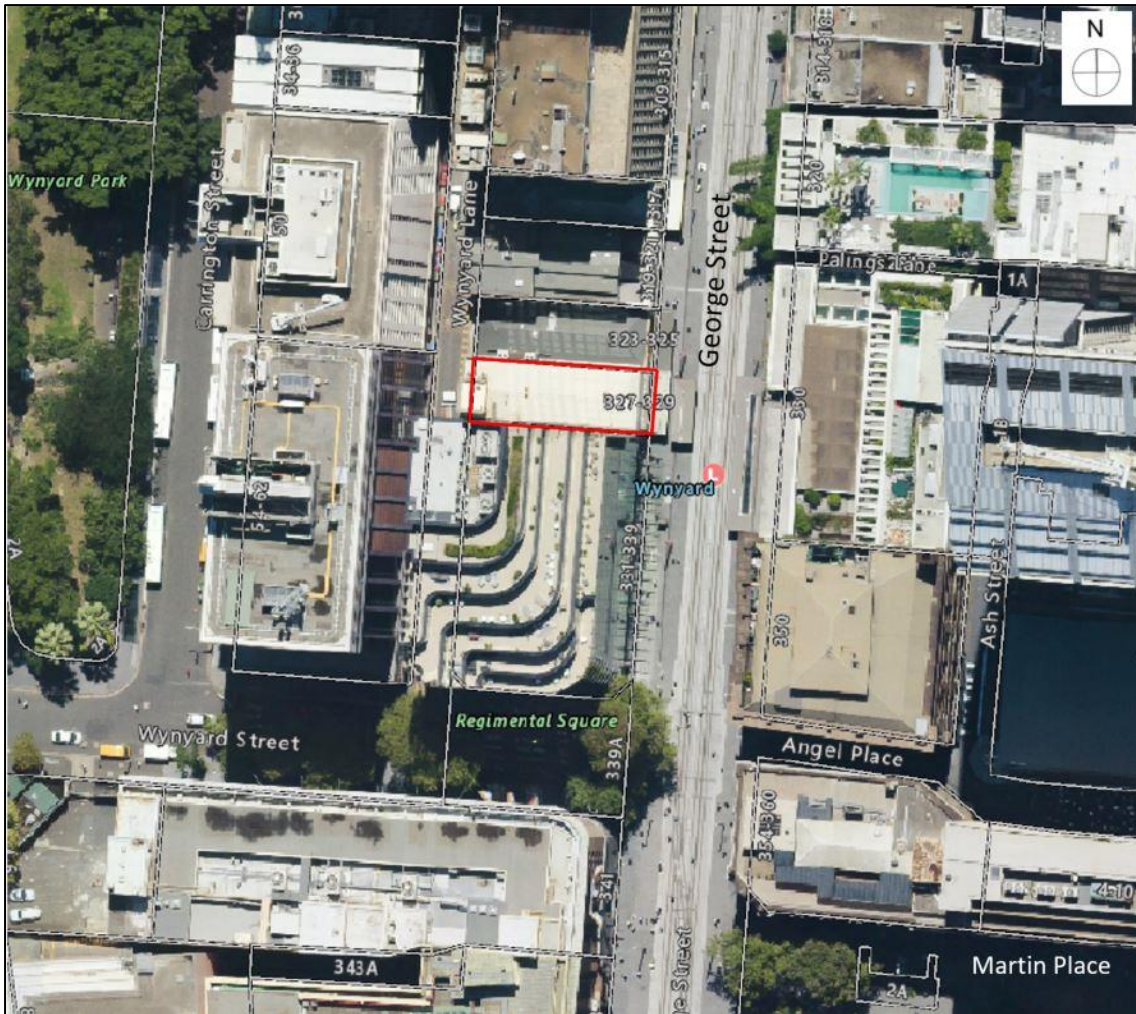


Figure 1: Aerial image of the subject site and surrounding area

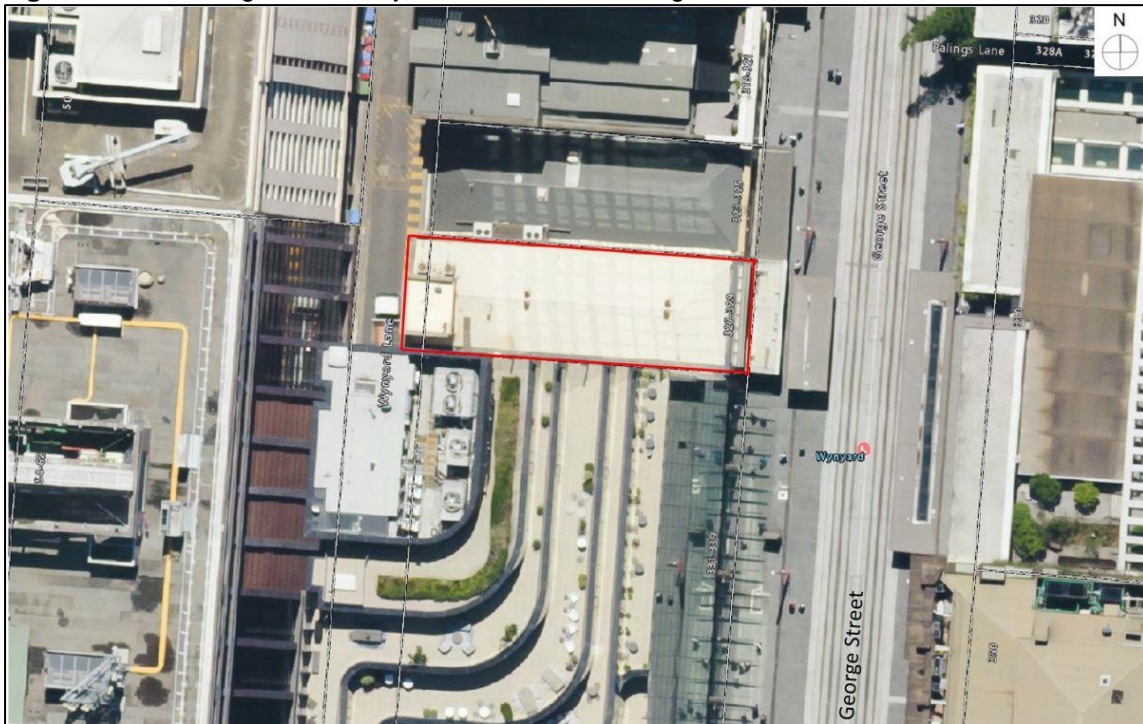


Figure 2: Closer aerial view of the subject site



Figure 3: Site viewed from George Street, facing west



Figure 4: Site viewed from George Street, facing south



Figure 5: Site viewed from George Street, facing south-west



Figure 6: Site viewed from George Street, facing south

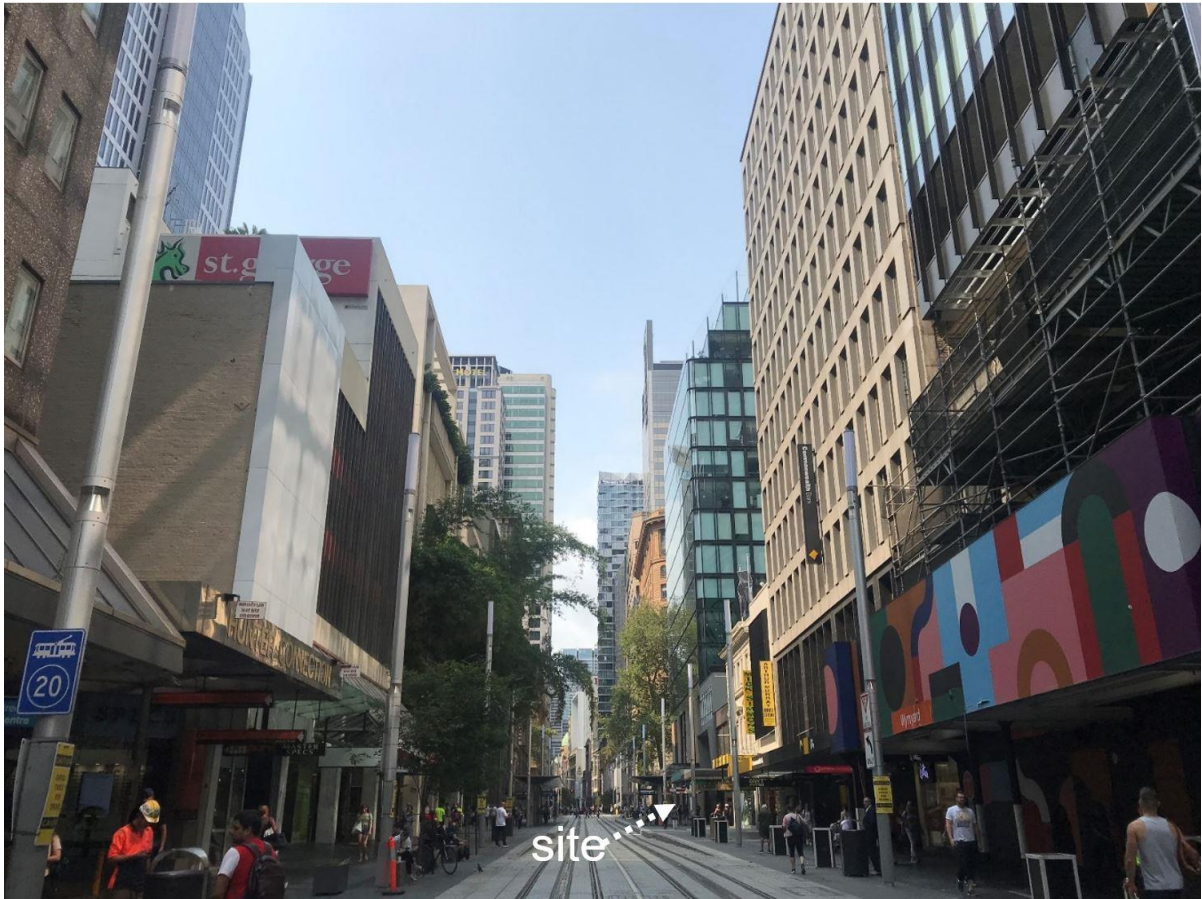


Figure 7: Site viewed from George Street, facing south



Figure 8: Site viewed from the corner of George Street and Martin Place



Figure 9: Site viewed from George Street, facing north



Figure 10: View of 333 George Street and the subject site from George street, facing west



Figure 11: Site viewed from George Street, facing west



Figure 12: Looking north along Wynyard Lane



Figure 13: Site viewed from Wynyard Lane, facing north

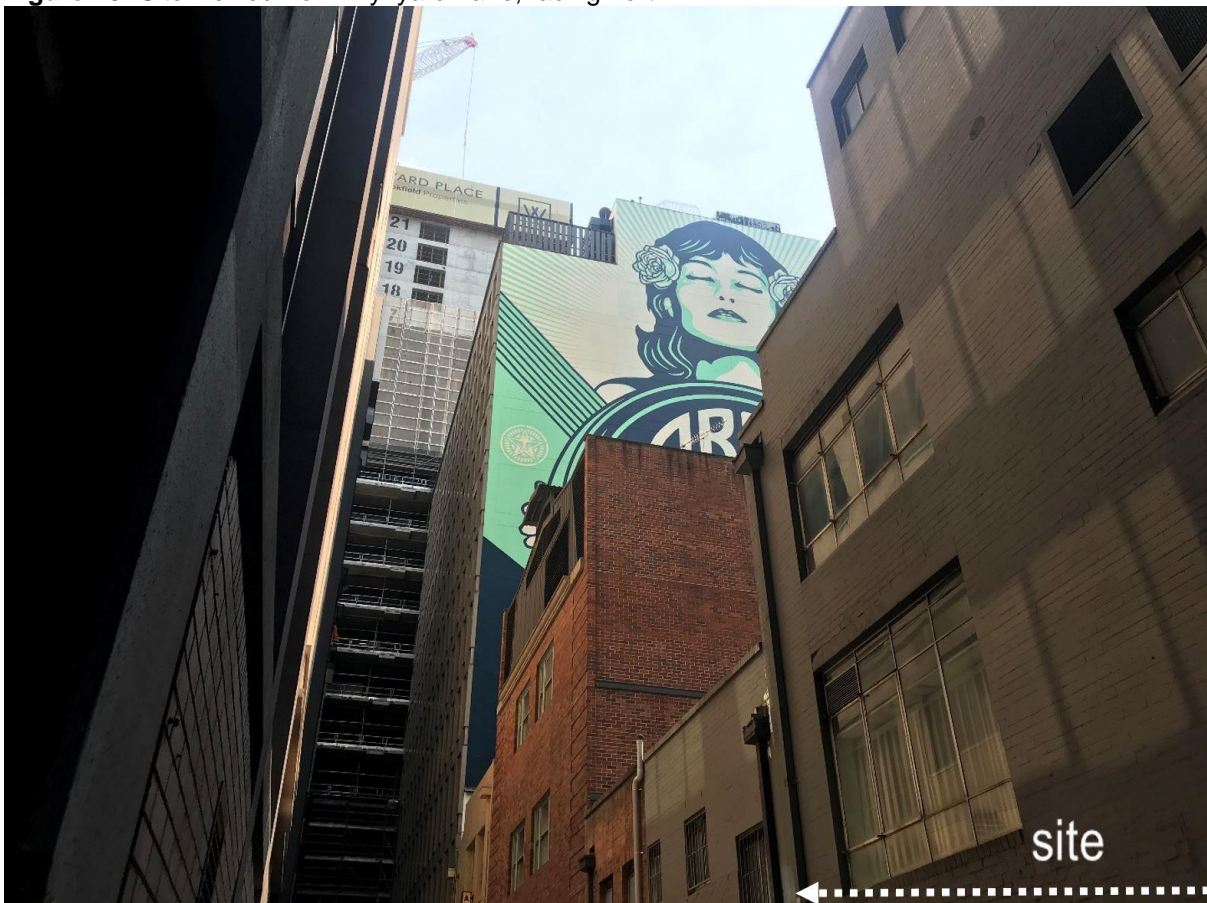


Figure 14: Site viewed from Wynyard Lane, facing north



Figure 15: Looking south along Wynyard Lane



Figure 16: Looking south along Wynyard Lane

Proposal

13. The application seeks development consent for the demolition of the existing building and construction of a 15 storey commercial building, including the following:
 - (a) Basement Level 1 and part Level 2**
 - (i) End of trip facilities including 32 spaces for bike parking;
 - (ii) Waste storage room; and
 - (iii) Water tank, plant and services.
 - (b) Ground Floor**
 - (i) Retail tenancy fronting George Street;
 - (ii) Entry foyer to upper levels via two lifts; and
 - (iii) Loading dock accessible from Wynyard Lane.
 - (c) Level 1**
 - (i) Tenancy for office or retail use with option for stairs to connect to ground floor tenancy to operate as a single tenancy; and
 - (ii) Toilet facilities.
 - (d) Levels 2 - 14**
 - (i) Office premises on each floor;
 - (ii) Toilet facilities on each floor; and
 - (iii) Outdoor terrace 31.5 square metres in size located on level 14 fronting George Street.
 - (e) Roof Level**
 - (i) Photovoltaic solar panels;
 - (ii) A/C and services plant concealed by parapet;
 - (iii) Lift overrun (up to a height of RL 70.40); and
 - (iv) Fire stairs (up to a height of RL 72.24).
14. The proposed hours of operation for the building are 7.00am to 10.00pm, Monday to Sunday. The individual fit out of each tenancy will be subject to separate applications.
15. Selected drawings of the proposed development are provided in Figures 17 to 31. A full set of architectural drawings is provided at Attachment B to this assessment report.

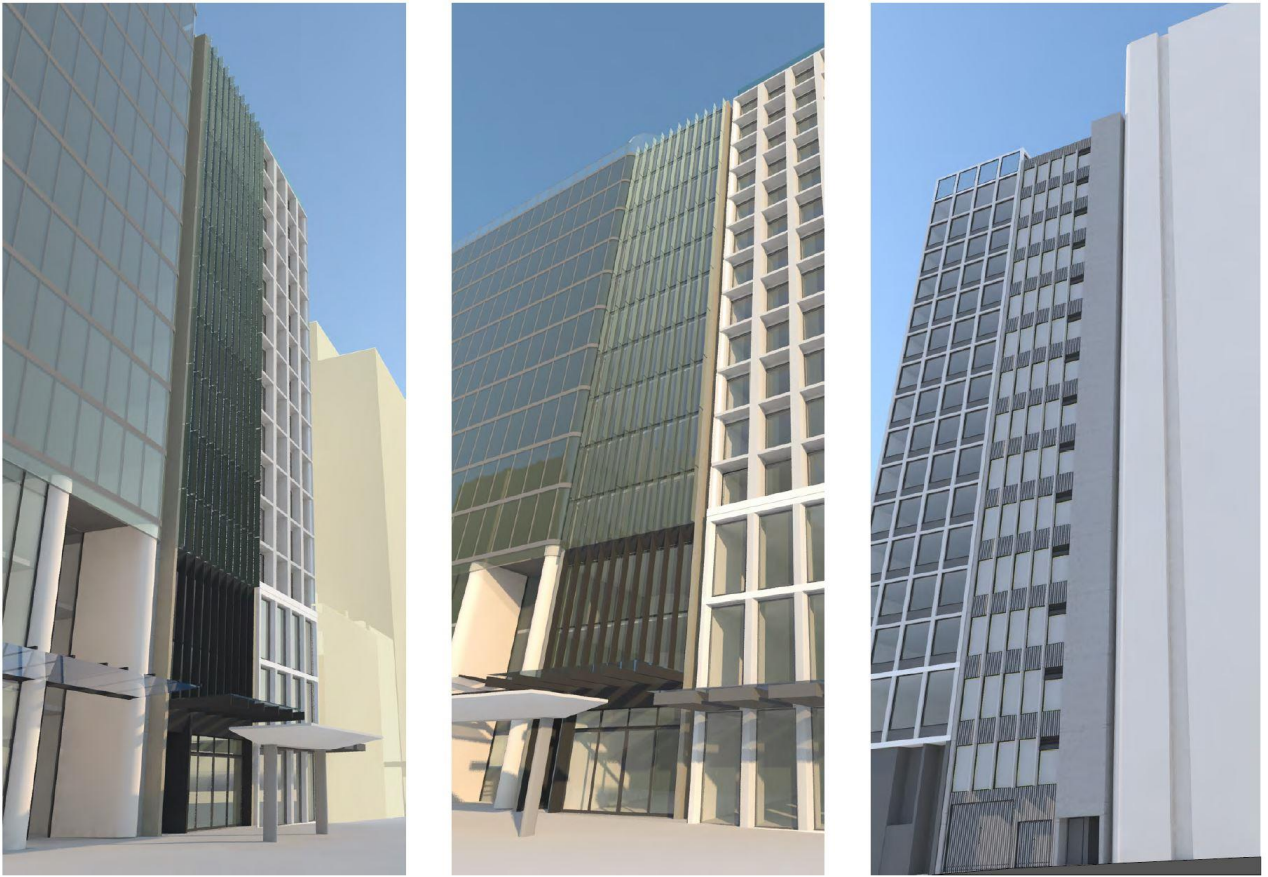


Figure 17: Renders (left to right): view from George Street looking north-east, view from George looking south-west and view from Wynyard Lane looking east, showing 333 George Street (left), subject site (centre) and 323-325 George Street (right, as approved)

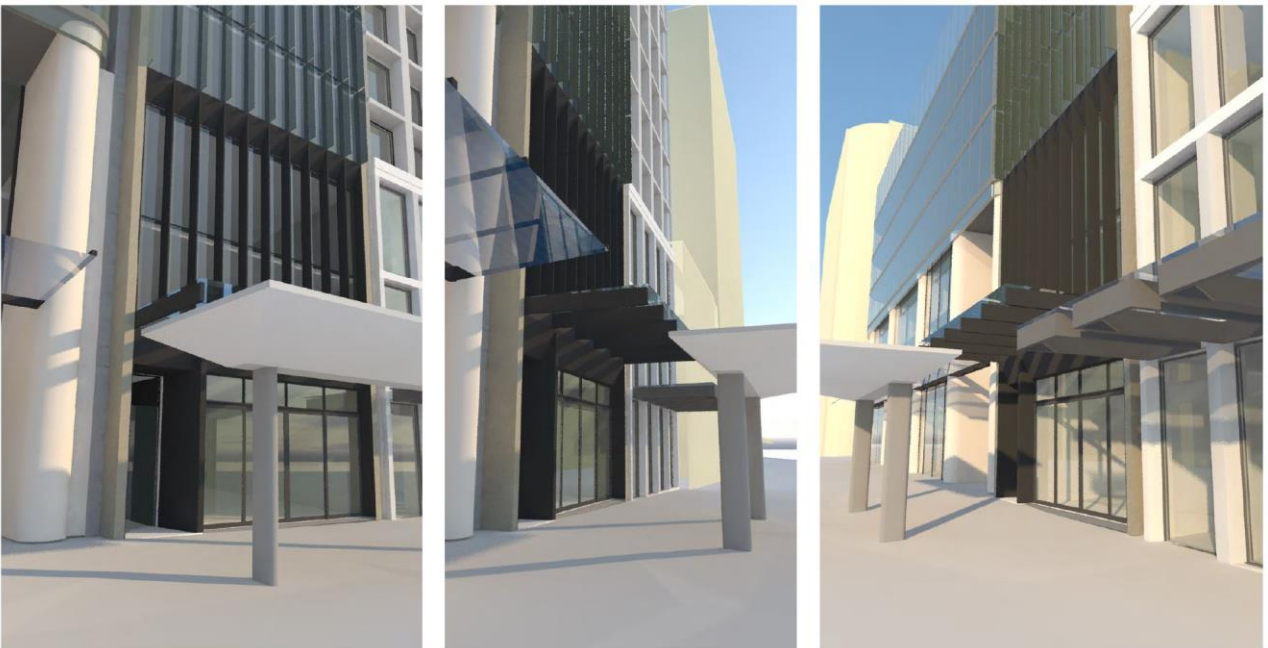


Figure 18: Renders of street level view from George Street

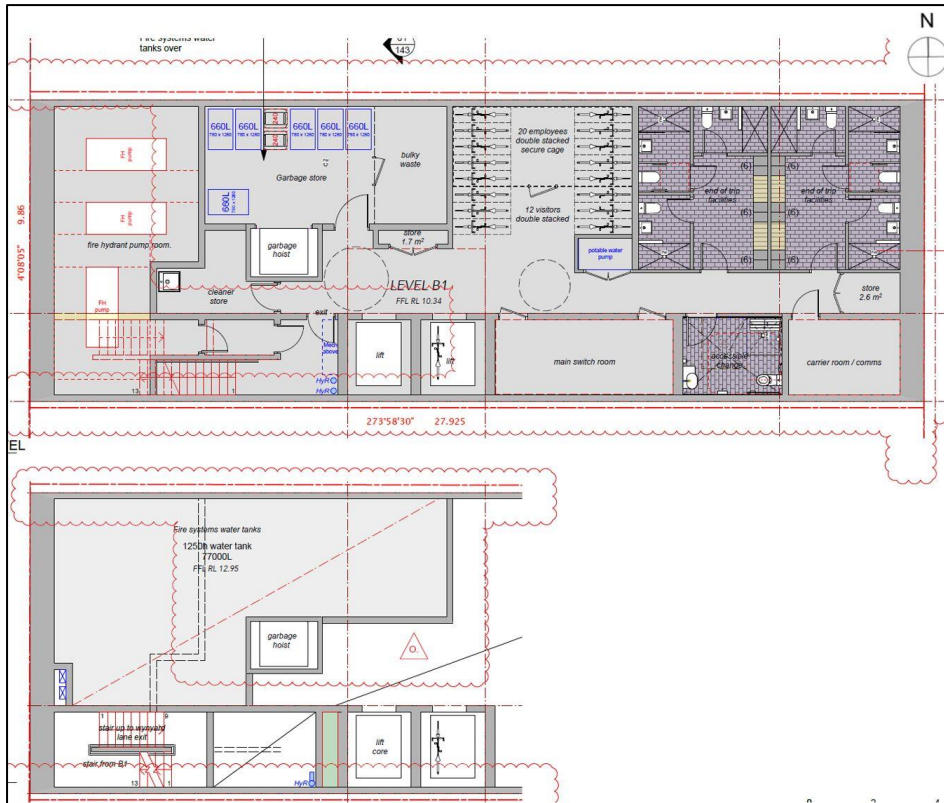


Figure 19: Basement levels

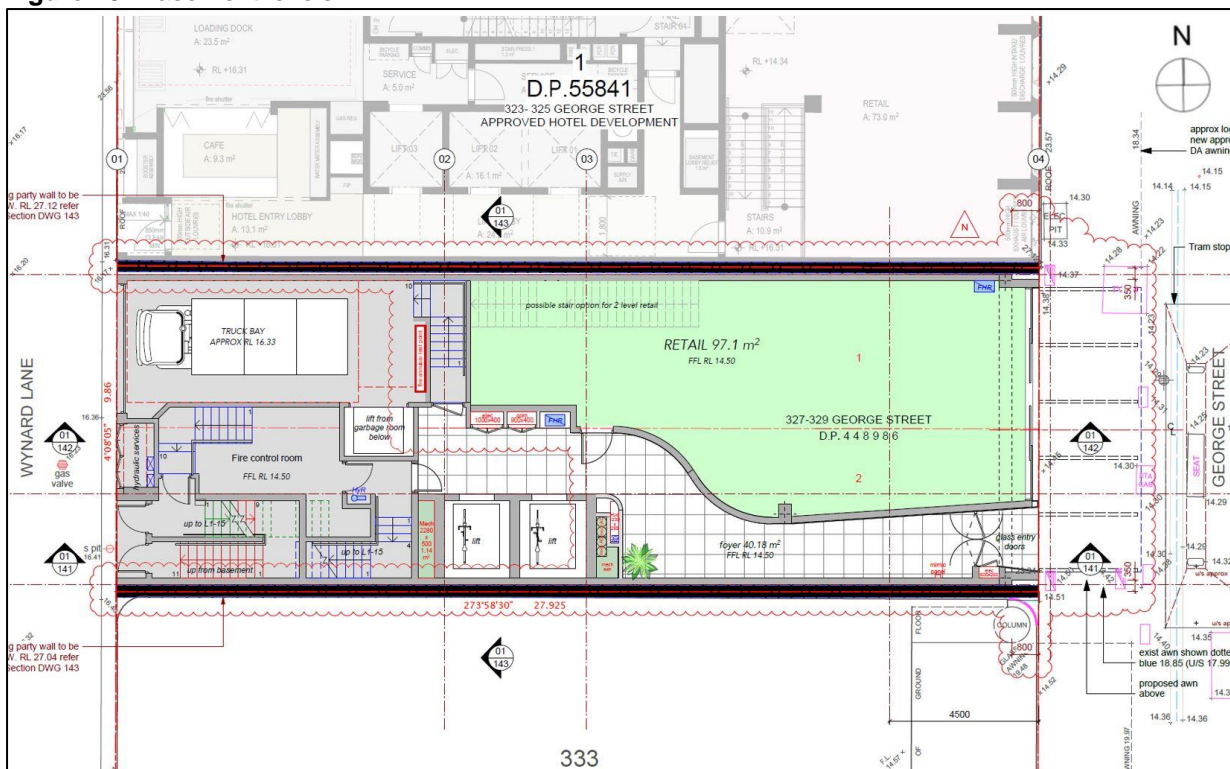


Figure 20: Ground floor plan

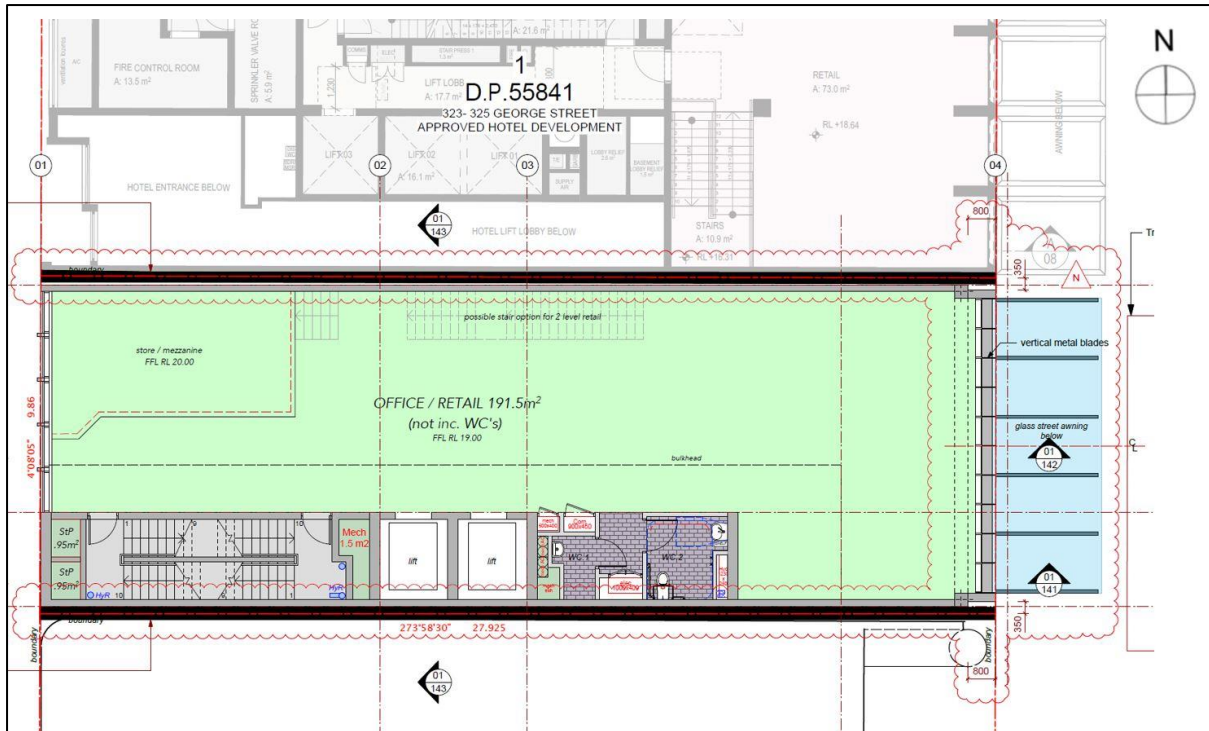


Figure 21: Level 1 floor plan

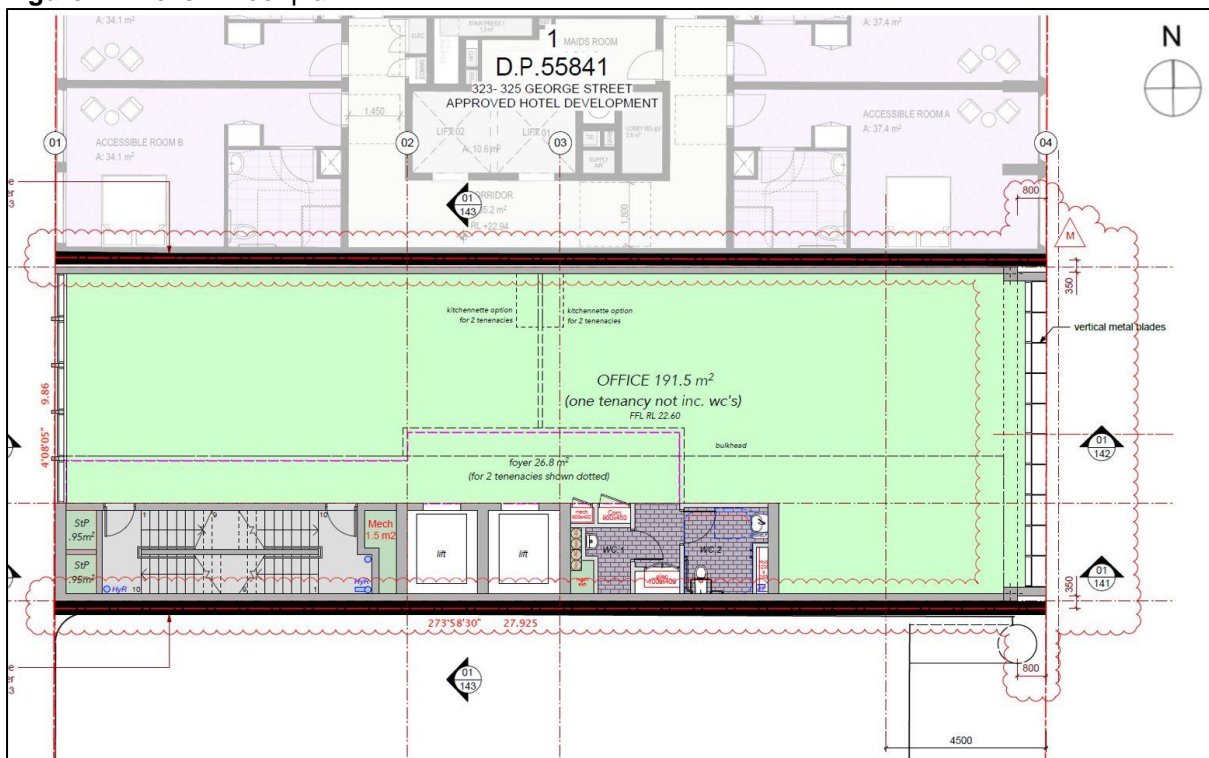


Figure 22: Level 2 floor plan

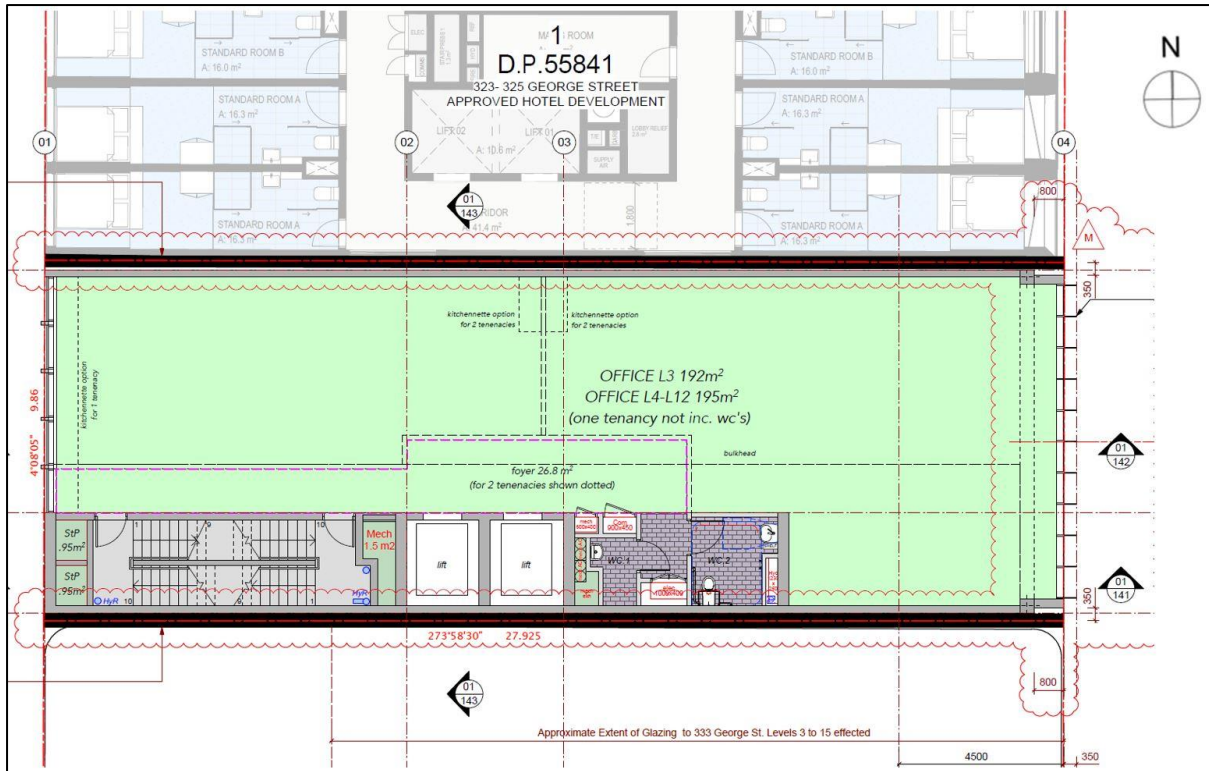


Figure 23: Levels 3 -12 typical floor plan

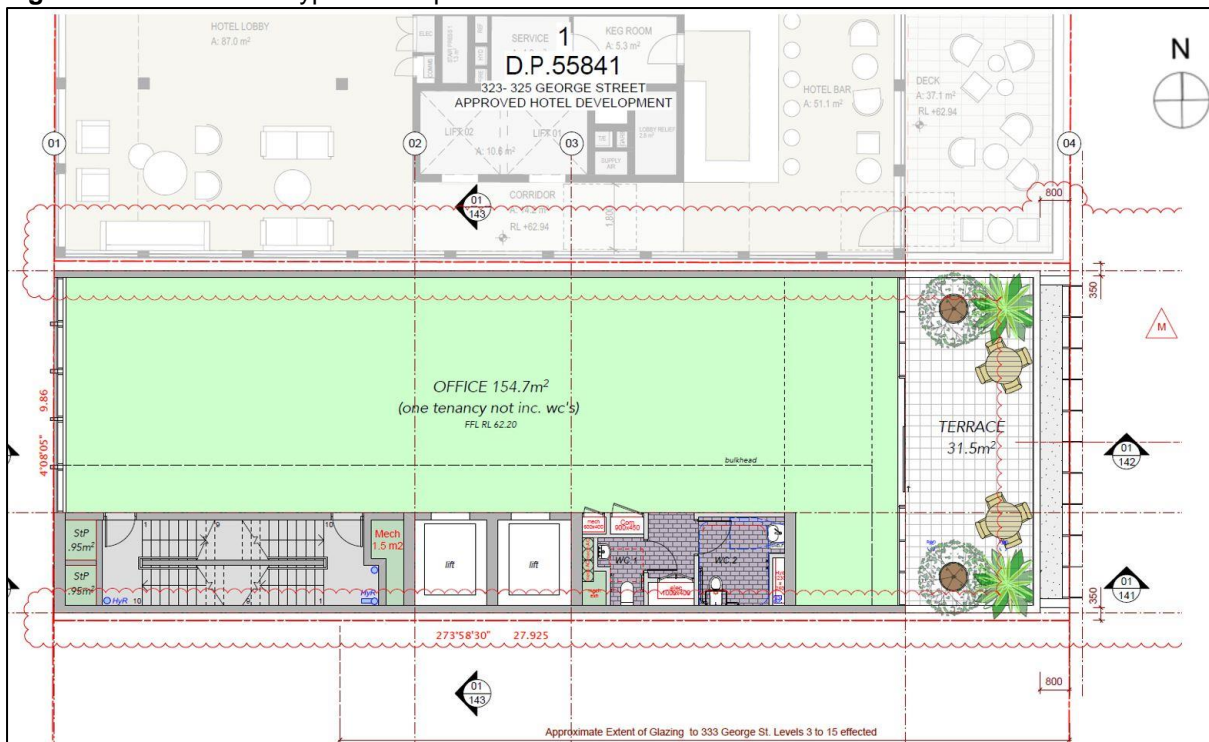


Figure 24: Level 13 floor plan

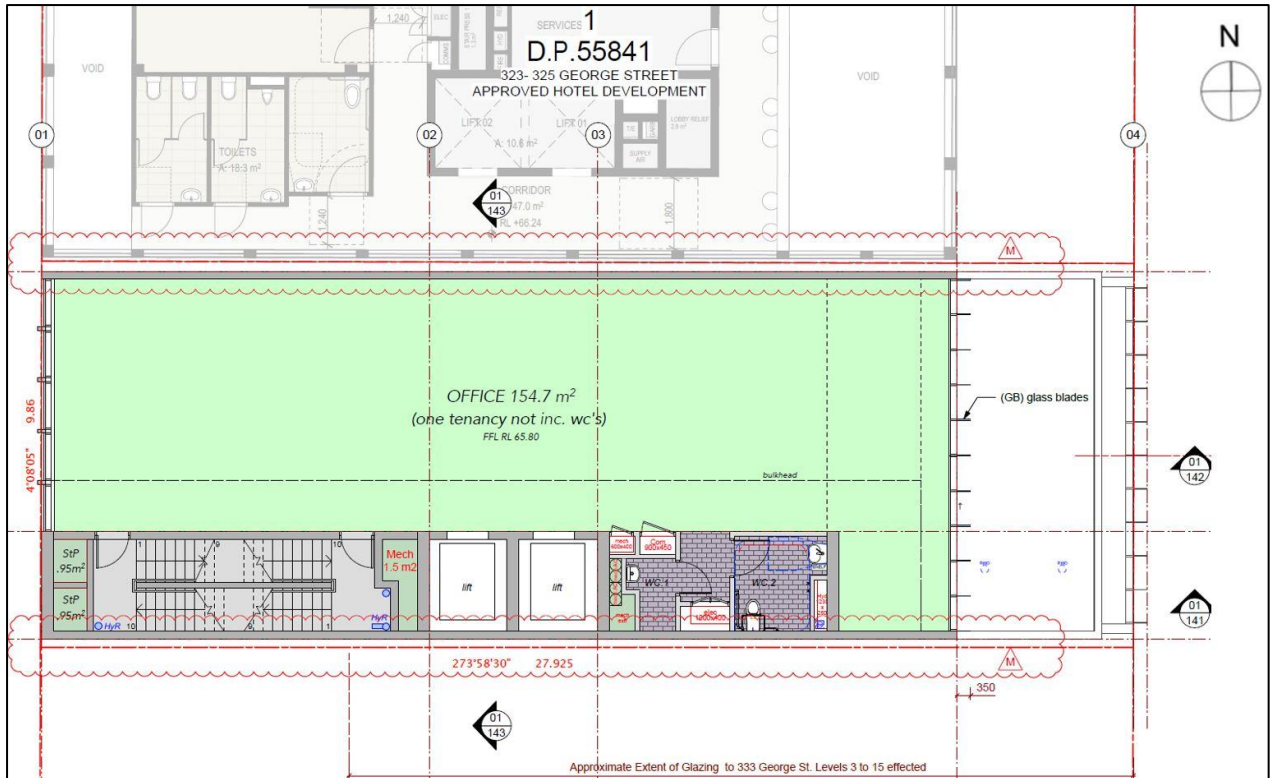


Figure 25: Level 14 floor plan

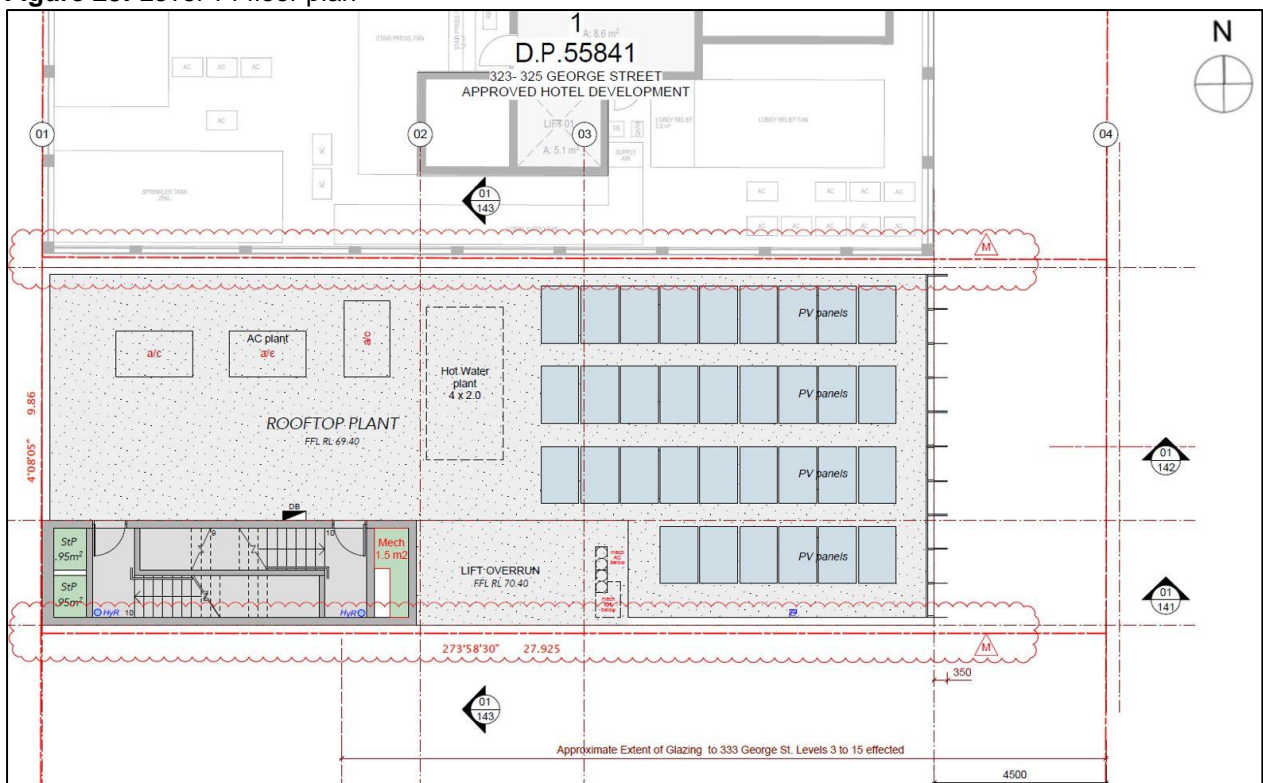


Figure 26: Level 15 roof and plant

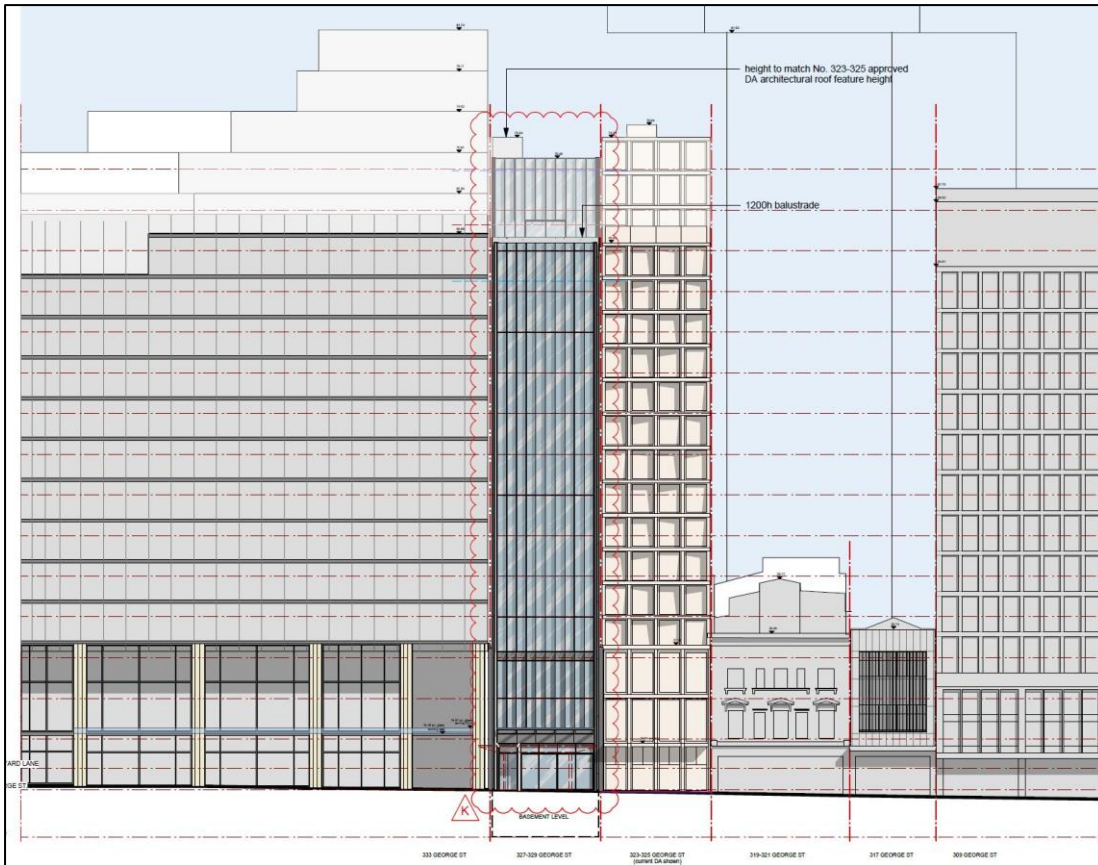


Figure 27: East (George Street) elevation

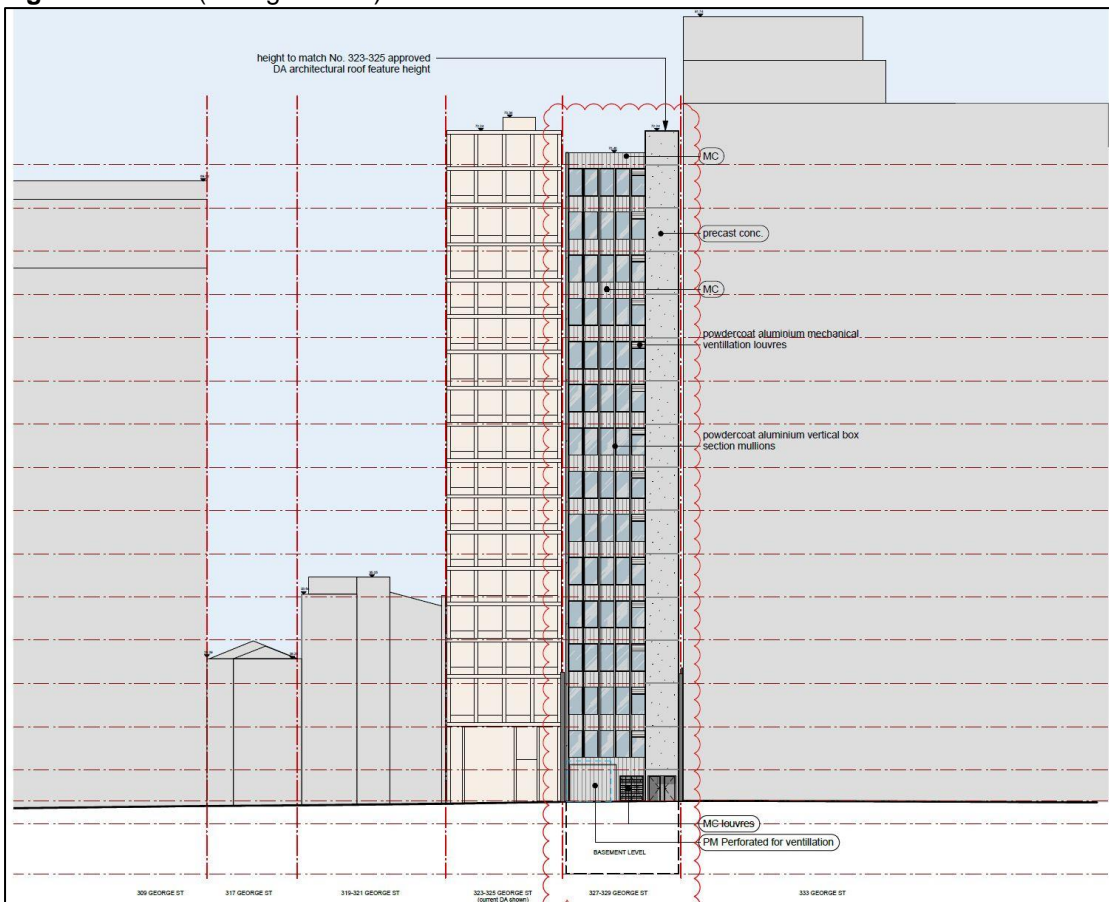


Figure 28: West (Wynyard Lane) elevation

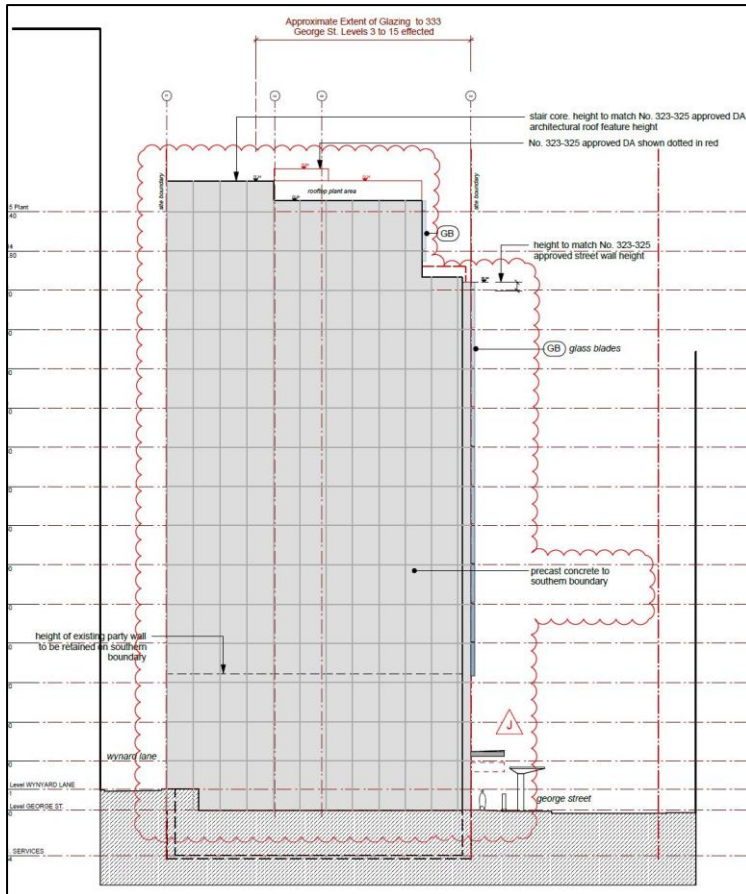


Figure 29: South elevation

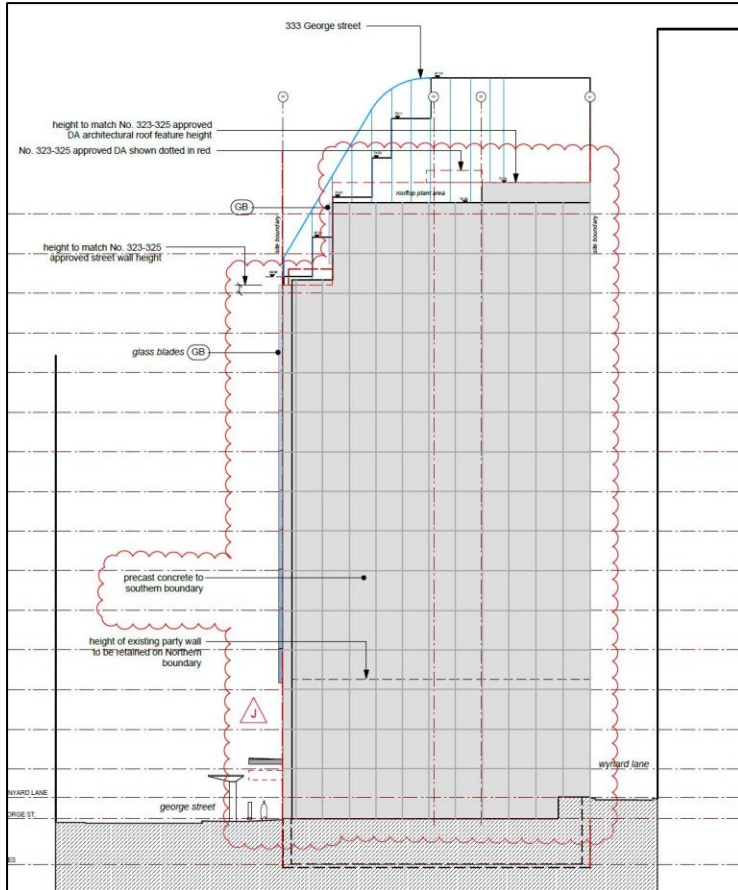


Figure 30: North elevation

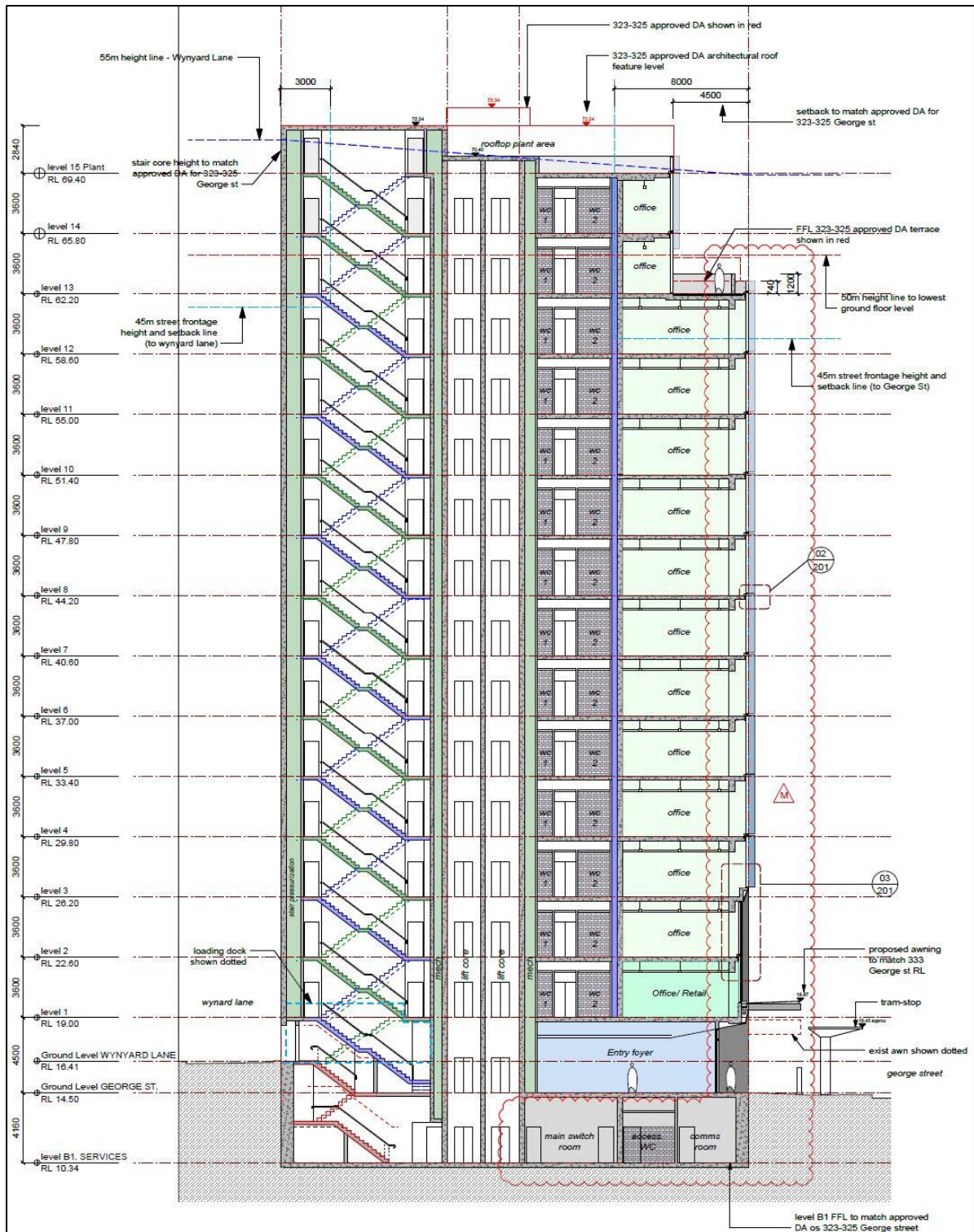


Figure 31: Long section (west-east)

History relevant to the subject development application

16. The development application was lodged on 12 November 2019.
17. The original proposal was presented to the City's Design Advisory Panel (DAP) on 20 February 2020. The key issues discussed by the Design Advisory Panel included:
 - (a) The building's relationship with the adjoining buildings to the north and south including the design of the George Street fenestrations and how the building responds to the curved corner of 333 George Street;
 - (b) The height of the awning should match the footpath awning of 333 George Street;
 - (c) The quality of space on the ground floor was poor;
 - (d) Further information required on the proposed materiality of facade;
 - (e) The glazed facade was acceptable, given the narrow width of the building; and
 - (f) The request to 'waive' the requirement to undertake a competitive design process was supported if all design issues are resolved.
18. The preliminary assessment of the application raised additional matters of concern as follows:
 - (a) Incorrect interpretation of Clause 6.16 'Erection of tall buildings in Central Sydney' in the SLEP 2012 and the associated Clause 4.6 variation request;
 - (b) Demolition of existing party walls on the northern and southern boundaries without the consent of the adjoining owner's consent;
 - (c) Insufficient waste storage area and Waste Management Plan; and
 - (d) Lack of information relating to the management of vehicle access and egress.
19. On 19 March 2020, Council officers requested additional information and amended drawings, in order to address the issues raised above.
20. On 25 May 2020, the applicant submitted additional information and amended drawings which are the subject of this assessment.
21. The amended application does not address all of the matters raised above, however the assessment provided in this report finds that the balance of outstanding issues can be satisfactorily addressed by the recommended conditions in Attachment A.

History of development applications and consents on adjoining properties

323-325 George Street, Sydney

22. Development consent D/2018/922 was granted on 15 April 2019 for the demolition of existing building and construction of a 17 storey mixed use building, including two levels of retail premises to George Street, 13 storeys of hotel use with 99 rooms, and an additional 2 levels for an ancillary hotel bar, including the hotel lobby/reception in addition to a ground floor cafe. Construction has not commenced.

331-339 George Street, Sydney

23. Development consent D/2012/696 was granted a deferred commencement consent on 6 December 2012 for the demolition of existing buildings and construction of a 19 storey commercial building comprising ground level retail, basement parking and building name signage. Construction of the building was completed in 2017.

Economic, social and environmental impacts

24. 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 Development Control Plans

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

25. The provisions of the Infrastructure SEPP have been considered in the assessment of the development application.
26. The application is subject to Clause 86 of the Infrastructure SEPP, as the site is located within 25 metres of the Sydney Light Rail corridor and includes excavation deeper than 2 metres. Accordingly, the application was referred to Transport for NSW (TfNSW) for concurrence.
27. TfNSW granted concurrence, subject to conditions. These conditions are included within the recommended conditions of consent provided at Attachment A to this assessment report.

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

28. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the SREP 2005.
29. The Sydney Harbour Catchment Planning Principles must be considered in the carrying out of development within the catchment. The key relevant principles seek to:
 - (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.
30. 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 2005 are not applicable to the proposed development.
31. The proposal is consistent with the controls contained within the SREP 2005.

Sydney Local Environmental Plan 2012 (SLEP 2012)

32. The site is located within the B8 Metropolitan zone. The proposed use is defined as a 'mixed use development', comprising 'office premises' and 'retail premises', all of which are permissible with development consent in the zone.
33. The relevant matters to be considered under the SLEP 2012 for the proposed development are outlined in the table provided below.

| Development Control | Compliance | Comment |
|---|------------|---|
| <p>4.3 Height of buildings</p> <p>6.17 Sun access plane</p> | Yes | <p>The site is located in Area 3 of the Height of Building Map. The height limit is determined by the Martin Place Sun Access Plane under Clause 6.17 of SLEP 2012, which is approximately 130 metres.</p> <p>A height of 56.58 metres is proposed.</p> |
| <p>4.4 Floor space ratio (FSR)</p> <p>6.4 Accommodation floor space</p> <p>6.6 End of journey floor space</p> | Yes | <p>An FSR of 8:1 is permitted under Clause 4.4 of the SLEP 2012.</p> <p>The site is located within 'Area 1' and an additional 4.5:1 'accommodation floor space' is permitted under Clause 6.4 of the SLEP 2012 for the proposed uses.</p> <p>The proposal also includes showers, change rooms, lockers and bicycle storage within the one area of the commercial building. These end of journey facilities are 65 square metres in area and, in accordance with Clause 6.6 of the SLEP 2012, the site is also eligible for an additional 0.23:1 'end of journey floor space'.</p> <p>Combining the floor space under the above clauses, a total FSR of 12.73:1 is permitted.</p> <p>The proposed FSR is 10.97:1, equating to 3,011 square metres of gross floor area (GFA). The proposal therefore complies with the maximum permitted FSR.</p> |

| Development Control | Compliance | Comment |
|---|------------|--|
| 4.6 Exceptions to development standards | Yes | <p>The proposal seeks to vary the development standard prescribed under Clause 6.16(3)(a) 'Erection of tall buildings in Central Sydney' of the SLEP 2012.</p> <p>Refer to the further discussion and assessment provided under the 'Issues' heading below.</p> |
| 5.10 Heritage conservation | Yes | <p>The subject site is not a heritage item and is not located within a heritage conservation area. The site is located in close proximity to the following heritage items:</p> <ul style="list-style-type: none"> • 319-321 George Street (I1767) • 341 George Street, Bank of NSW former head office (I1769) • 350 George Street, Former Equitable Life Assurance building (I1771) • 354-360 George Street, Former Bank of Australasia (I1772) • Angel Place (I1663) • Martin Place (I1889) • Regimental Square (I1768) <p>The proposal is for a contemporary infill commercial building.</p> <p>The proposed bulk, scale, form and materiality of the new building is compatible with the site setting and will not detract from the significance of these nearby heritage items.</p> |

| Part 6 Local Provisions - Height and Floor Space | Compliance | Comment |
|---|---------------------------|---|
| <p>6.11 Utilisation of certain additional floor space requires allocation of heritage floor space</p> <p>6.11A Temporary alternative arrangements in relation to allocation of heritage floor space</p> | Yes, subject to condition | <p>The proposal includes 751.8 square metres of accommodation floor space.</p> <p>In accordance Clause 6.11(1)(a), 375.9 square metres of heritage floor space is to be allocated to the site.</p> <p>A condition of consent is recommended to address this matter.</p> |
| 6.16 Erection of tall buildings in Central Sydney | Partial compliance | Refer to the further discussion and assessment provided under the 'Issues' heading below. |
| 6.19 Overshadowing of certain place | Yes | The proposed development does not result in any additional overshadowing to the specified public spaces under this provision, including Martin Place. |
| 6.21 Design excellence | Yes | <p>Subject to conditions, the proposed development demonstrates a high standard of architectural design, materials and detailing appropriate to the building type and location.</p> <p>In terms of bulk and scale, the proposal responds positively to both the public domain and surrounding land uses. The proposal satisfies the design excellence criteria contained in Clause 6.21(4) of the SLEP 2012</p> <p>Clause 6.21(5) of the SLEP 2012 stipulates that a competitive design process is required to be undertaken for development which is over 55 metres in height, and which is located in Central Sydney.</p> <p>A competitive design process has not been carried out for the proposal.</p> <p>Refer to the further discussion and assessment provided under the 'Issues' heading below.</p> |

| Part 7 Local Provisions - General | Compliance | Comment |
|---|---------------------------|--|
| <p>Car parking ancillary to other development</p> <p>7.6 Office premises</p> <p>7.7 Retail premises</p> | Yes | <p>A maximum of 6 car parking spaces are permitted.</p> <p>No car parking spaces are proposed.</p> <p>The proposal includes one loading dock for service vehicles only.</p> |
| 7.14 Acid sulfate soils (ASS) | Yes | <p>The site is identified as containing class 5 ASS and is located within 500 metres of land identified as containing Class 1 and 2 ASS.</p> <p>The geotechnical report submitted with the application concludes that the development is unlikely to lower the water table.</p> <p>Accordingly an ASS Management Plan is not required, and the development satisfies this provision.</p> |
| 7.15 Flood planning | Yes, subject to condition | <p>The floor level of the building fronting Wynyard Lane does not comply with the required minimum flood planning level.</p> <p>A condition is recommended to address this issue.</p> |
| 7.19 Demolition must not result in long term adverse visual impact | Yes | <p>While the proposal includes demolition of the existing building, the proposal also includes construction of a new building under the same application.</p> <p>Council planning staff are therefore satisfied that the site will be comprehensively redeveloped under the consent.</p> |

| Part 7 Local Provisions - General | Compliance | Comment |
|--|--------------------------------|---|
| 7.20 Development requiring the preparation of a development control plan | No, but assessed as acceptable | <p>Clause 7.20(2) of the SLEP 2012 requires the preparation of a site specific DCP (or concept development consent) for development which is over 55 metres in height and located in Central Sydney. The site and proposed development is not subject to a site specific DCP or concept development consent.</p> <p>Refer to the further discussion and assessment provided under the 'Issues' heading below.</p> |

Sydney Development Control Plan 2012 (SDCP 2012)

34. The relevant matters to be considered under the SDCP 2012 for the proposed development are outlined in the table provided below.

| 2. Locality Statements |
|--|
| The subject site is not located within an area subject to a Locality Statement under Section 2 of the SDCP 2012. |

| 3. General Provisions | Compliance | Comment |
|--|------------|---|
| <p>3.1 Public domain elements</p> <p>3.1.1.3 Lanes</p> | Yes | <p>The proposal improves the useability of Wynyard Lane by allowing all servicing and waste collection to occur within the subject site, given that deliveries and waste collection currently occur from the kerb.</p> <p>Management of service vehicles to avoid any conflict with pedestrians is discussed under the Transport and parking heading below.</p> |

| 3. General Provisions | Compliance | Comment |
|---|--------------------|---|
| 3.1.5 Public art | Yes | <p>A Public Art Strategy has been submitted in accordance with the City of Sydney Guidelines for Public Art in Private Development.</p> <p>Indicative locations for the public artwork include:</p> <ul style="list-style-type: none"> • The glass fins on the George Street facade; • The blank fire stairs concrete wall fronting Wynyard Lane; and • The sandstone pillar and internal foyer wall facing George Street. <p>A condition of consent is recommended which requires the provision of a detailed public art plan to be submitted and approved by the City, which will determine the final location and type of artwork</p> |
| 3.2 Defining the public domain 3.2.1 Improving the public domain | Yes | The proposed development will enhance the public domain by ensuring adequate sun access to publicly accessible spaces and considering public views. |
| 3.2.3 Active frontages | Yes | <p>The proposed development provides an active frontage to George Street.</p> <p>The ground floor frontage to George Street contains a retail tenancy with clear glazing to provide an unobstructed views to a minimum of at least 6 metres within the building.</p> <p>Wynyard Lane is not designated to provide an 'active frontage' under Section 3.2.3 of the SDCP 2012.</p> |
| 3.2.4 Footpath awnings | Partial compliance | The SDCP 2012 specifies that the height of an awning may vary between 3.2 metres and 4.2 metres above the footpath, must ensure continuity in appearance with adjacent awnings and that fully glazed awnings are generally not acceptable. |

| 3. General Provisions | Compliance | Comment |
|----------------------------------|--------------------------------|--|
| | | <p>A metal light rail shelter is located directly in front of the site, which is approximately 4 metres in height and 3.3 metres wide.</p> <p>The existing glazed awning at 333 George Street is approximately 4.9 metres in height above the footpath.</p> <p>A suitable height of the proposed awning was discussed with DAP and an awning to match the height of the awning at 333 George Street is recommended to provide continuity.</p> <p>In addition, by siting the awning 900 millimetres above the light rail shelter rather than at the same height (which would result in essentially a 7 metre deep awning), it provides visual relief and additional natural light to pedestrians and within the ground floor retail tenancy.</p> <p>The glazed awning was supported by the DAP, which is consistent with 333 George Street and not out of character with the area which contains a mixture of solid and glass awnings, particularly to the north of the site.</p> <p>The non-compliances have merit in this particular case and are supported.</p> <p>The proposed awning is approximately 3.4 metres wide which complies with SDCP 2012.</p> |
| 3.3.1 Competitive design process | No, but assessed as acceptable | <p>The proposal seeks to 'waive' the requirement to undertake a competitive design process.</p> <p>Refer to the further discussion and assessment provided under the 'Issues' heading below.</p> |

| 3. General Provisions | Compliance | Comment |
|--|---------------------------|--|
| 3.6 Ecologically Sustainable Development (ESD) | Yes | <p>The application has been accompanied by an ESD report which identifies a range of sustainability measures to be incorporated in the development, including a minimum NABERS Energy Rating of 5.5 stars, water reduction through WELS 4-6 star fixtures and a photovoltaic solar panel array on the roof of the new building.</p> <p>A number of conditions are recommended to ensure these measures are implemented.</p> |
| 3.7 Water and flood management | Yes, subject to condition | <p>The site is identified as being on flood prone land.</p> <p>Refer to the further discussion and assessment provided under the 'Issues' heading below.</p> |
| 3.9 Heritage | Yes | Refer to the discussion and assessment provided above in the SLEP 2012 compliance table. |
| <p>3.11 Transport and parking</p> <p>3.11.3 Bike parking and associated facilities</p> | Yes | <p>The proposal does not include any car parking.</p> <p>The proposal includes 32 bike parking spaces, consisting of 20 class 1 spaces for employees, and 12 class 3 racks for visitors.</p> <p>End of trip facilities, including 7 cubicles containing showers, toilets, basins, change areas and 36 lockers, are also provided.</p> <p>The bike parking and end of trip facilities are all located together in the one area of the basement and can be accessed via lifts and identified by wayfinding signage.</p> <p>The proposed bike parking and end of trip facility therefore comply with the minimum requirements of Section 3.11.3 of the SDCP 2012.</p> |

| 3. General Provisions | Compliance | Comment |
|---|---------------------------|--|
| <p>3.11.6 Service vehicle parking</p> <p>3.11.13 Design and location of waste collection points and loading areas</p> | <p>Partial compliance</p> | <p>The proposal includes one loading dock / service vehicle space accessed from Wynyard Lane, which is a one-way southbound service laneway, predominantly used by service / delivery vehicles with minimal pedestrian activity.</p> <p>The SDCP 2012 requires one service vehicle space per 3,300 square metres of commercial GFA. The proposed GFA is 3,011 square metres and one service vehicle space is proposed, which complies.</p> <p>The loading dock is also proposed to be used by waste collection vehicles. While the SDCP 2012 requires waste collection vehicles to enter and exit the site in a forward location, this is not possible for the subject site as it is only 9.8 metres wide.</p> <p>A Traffic Report was submitted with the application which includes a swept path assessment for the largest anticipated vehicle requiring access to the site, being a Small Rigid Vehicle (SRV).</p> <p>The assessment indicates that the vehicle is restricted to a reverse in manoeuvre.</p> <p>Due to physical constraints the following measures are proposed to minimise potential conflicts between service vehicles and pedestrians using Wynyard Lane:</p> <ul style="list-style-type: none"> • Safety measures including convex mirrors on either side of the proposed driveway and flashing lights and audible warning system which will activate when vehicles are reversing in; • Implementation of a booking system for all delivery and service vehicles to prevent potential queuing or circulation of service vehicles on the road network prior to accessing the loading dock; and |

| 3. General Provisions | Compliance | Comment |
|--|---------------------------|--|
| | | <ul style="list-style-type: none"> The building management to adopt a group procurement solution to reduce the likelihood of multiple suppliers providing identical products or services via numerous orders. <p>The application and proposed management of the loading dock has been reviewed by the City's Transport and Access Unit who support the proposal, subject to the recommended conditions in Attachment A.</p> <p>These conditions include requirements for the submission and approval of a Loading Dock Management Plan and appropriate management of the loading dock during its operation.</p> |
| 3.12 Accessible design | Yes | <p>An Accessibility Report, which details the design is capable of complying with accessibility requirements under the Building Code of Australia, the Disability Discrimination Act and Section 3.12 of the SDCP 2012.</p> <p>A condition is recommended to ensure that this matter is further resolved at the Construction Certificate stage.</p> |
| 3.13 Social and environmental responsibilities | Yes | <p>The proposed development provides adequate passive surveillance and is generally designed in accordance with Crime Prevention Through Environmental Design (CPTED) principles. The development will improve passive surveillance of Wynyard Lane from the site via the provision of windows on level 1 and above.</p> |
| 3.14 Waste | Yes, subject to condition | <p>The proposal includes areas for waste storage in accordance with the provisions of the City of Sydney Guidelines for Waste Management in New Development. The submitted Operational Waste Management Plan (WMP) has been reviewed by the City's Waste Management Team and is acceptable.</p> |

| 3. General Provisions | Compliance | Comment |
|--|------------|--|
| | | <p>The submitted demolition and construction waste management is insufficient and the construction and demolition waste calculations do not add up to 80% diversion for each waste type, as required by the relevant provisions in Section 3.14.2 of SDCP 2012. The Demolition and Construction WMP must therefore be revised to accurately reflect a minimum of 80% diversion on each type of waste material that will be generated during construction and demolition.</p> <p>A condition of consent is recommended requiring the provision of a revised Demolition and Construction WMP to be submitted to address the issues raised above.</p> |
| <p>3.16 Signage and Advertising</p> <p>3.16.1 Signage strategy</p> | Yes | <p>No signage is proposed.</p> <p>Conditions are recommended to require a signage strategy to be submitted for approval and any future signage to be the subject of a separate application.</p> |

| 4. Development Types | Compliance | Comment |
|--|--------------------|---|
| <p>4.2 Residential flat, commercial and mixed use developments</p> <p>4.2.1.2 Floor to ceiling heights and floor to floor heights</p> | Partial compliance | <p>The SDCP 2012 requires a minimum floor to floor height of 4.5 metres on the first basement floor to enable conversion to future retail uses.</p> <p>The proposed basement floor to floor height is approximately 4.1 metres. The floor space of the proposed basement is completely occupied by the required bike parking, end of trip facilities and the building's essential services including switch room, fire hydrant pump room.</p> |

| 4. Development Types | Compliance | Comment |
|---|---------------------------|--|
| 4.2 Residential flat, commercial and mixed use developments | | <p>It is therefore unlikely/undesirable that the basement be converted to retail use in the future. The minor numerical non-compliance to the required 4.5 metres floor to floor level control is acceptable in this particular instance.</p> <p>The proposed development contains a floor to floor level of 4.5 metres for the first floor level and 3.5 metres for the levels above, in accordance with the SDCP 2012.</p> |
| 4.2.4 Fine grain, architectural diversity and articulation | Yes | The proposed building is approximately 9.8 metres wide and complies with this provision. |
| 4.2.6 Waste and Recycling Management | Yes, subject to condition | Refer to the discussion and assessment provided in relation to waste management and Section 3.14 of the SDCP 2012 in the table above. |
| 4.2.7 Heating and Cooling Infrastructure | Yes | The proposed heating and cooling infrastructure is consolidated and located in centralised locations throughout the development, in order to ensure energy efficiency is achieved and to accommodate future environmental technologies. |

| 5. Specific Areas - Central Sydney | Compliance | Comment |
|--|--------------------|--|
| 5.1.1 Street frontage heights 5.1.2 Building setbacks | Partial compliance | Refer to the further discussion and assessment provided under the 'Issues' heading below. |
| 5.1.5 Building bulk 5.1.5.1 Commercial buildings | | The maximum horizontal dimension of the building facade does not exceed 65 metres in accordance with this provision. |

| 5. Specific Areas - Central Sydney | Compliance | Comment |
|------------------------------------|------------|--|
| 5.1.6 Building exteriors | Yes | <p>The first three levels of the George Street facade contain metal clad fascia and vertical metal blades.</p> <p>This facade treatment provides solidity to the lower levels of the building and is appropriate in the context of being an infill building between the existing contemporary building at 333 George Street and the approved building at 323-325 George Street.</p> <p>The proposed materiality of the building is appropriate for the character of the area and respects the predominant masonry character of Central Sydney.</p> |

Issues

Street frontage height, front and rear setbacks

35. Section 5.1.1 of the SDCP 2012 requires the street frontage height of a new building to be between 20 metres and 45 metres above ground level with the specific height set with regard to:
- (a) The predominant street frontage height of adjacent buildings and buildings in the vicinity;
 - (b) The location of the site in the street block, for example, corner sites can include special design emphasis such as increased street frontage height of one or two storeys; and
 - (c) The size of the site, for example small sites, less than 1,000 square metres in size, may attain a street a street frontage height of 45 metres regardless of the above criteria.
36. Section 5.1.2.1 of the SDCP 2012 requires buildings to be setback a minimum weighted average of 8 metres above the required the street frontage height.
37. Section 5.1.2.2 of the SDCP 2012 requires the building to be set back 3 metres above a height of 45 metres from Wynyard Lane.
38. The proposed development has a street frontage height of approximately 48 metres and from this street frontage height the building is setback 4.5 metres from George Street. No setback is proposed from Wynyard Lane.
39. Accordingly, the proposed development does not comply with the street frontage height, front and rear setback numerical requirements.

- 40. The proposed street frontage height, front and rear setbacks of the building do however respond to that of the existing adjoining building to the south at 331-339 George Street and to the recently approved development on the adjoining site to the north at 323-325 George Street.
- 41. The images provided in Figures 32 to 35 below depict the proposed building's relationship to the street frontage height and setbacks of the adjoining buildings.

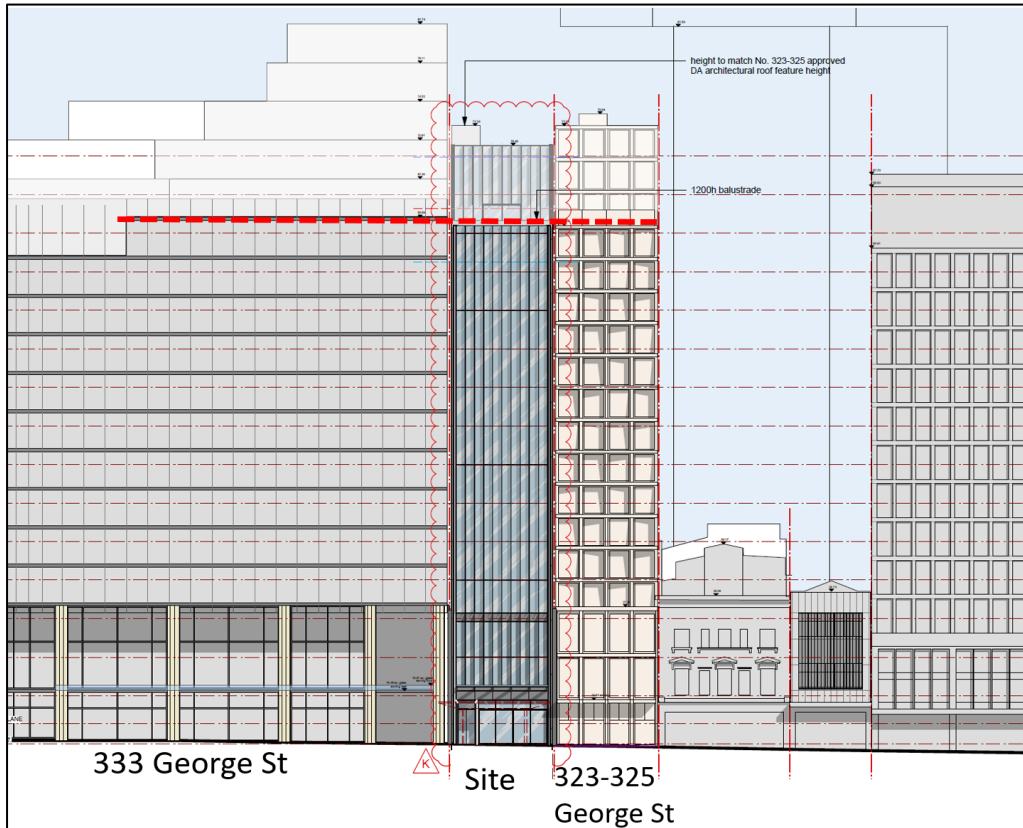


Figure 32: George Street elevation with dotted red line indicating approximate street frontage height

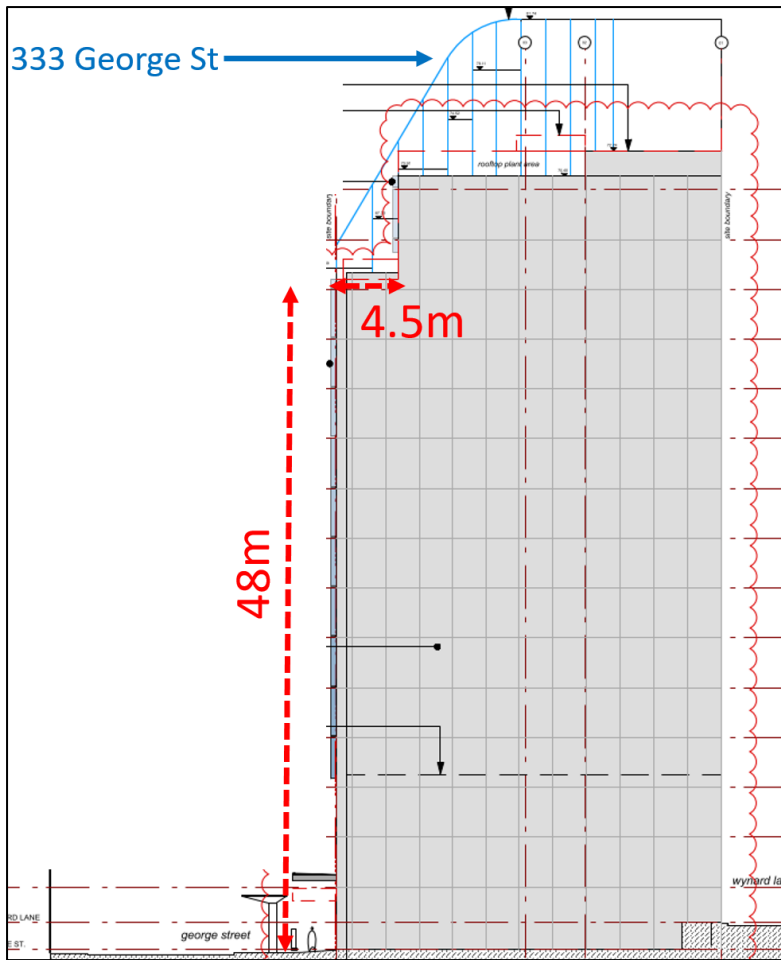


Figure 33: Proposed north (side) elevation with the street frontage height and setback indicated in red. The street frontage height and curved/tapered front setback of 333 George Street in shown in blue.

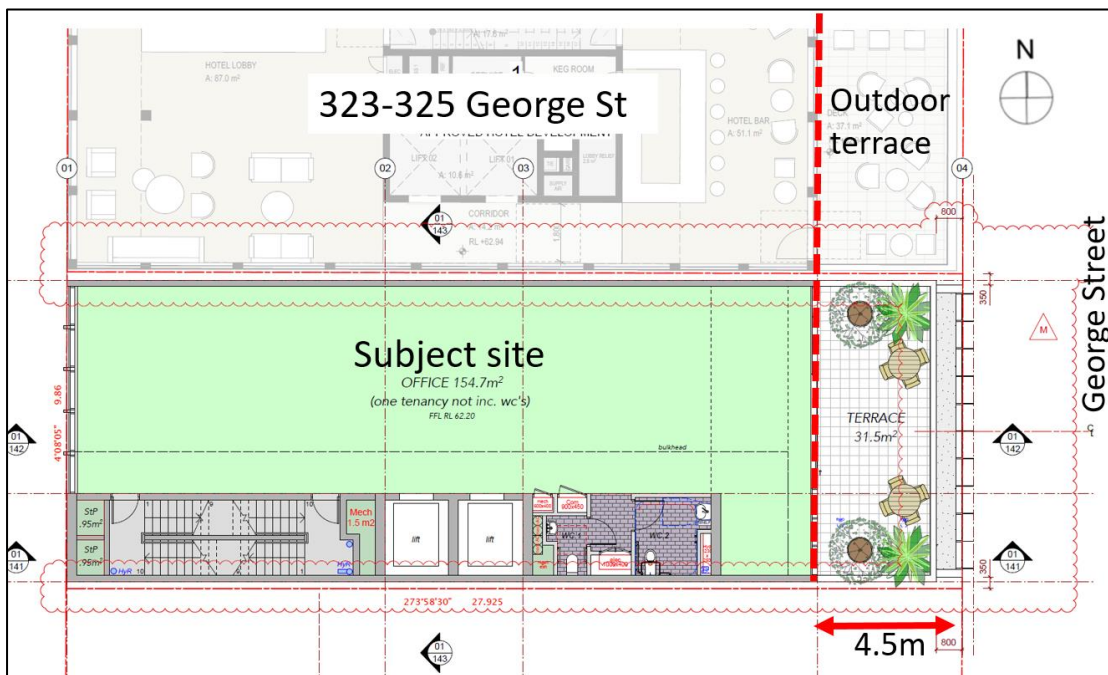


Figure 34: Level 13 floor plan of the proposed development and the approved hotel development of

323-325 George Street. This level is where the front street setback of 4.5 metres commences for both developments as indicated in red.



Figure 35: Renders of the proposal highlighting how the development is a contextual fit with the setbacks of the adjoining developments

42. As shown in the images provided above, the proposed street frontage height and front and rear setbacks are generally consistent with the adjoining developments.
43. The proposal will not have a negative impact on solar access to the public domain, particularly with regard to Martin Place, where no additional overshadowing will occur from the proposed development.

44. The proposal will not have significantly adverse impacts in regards to views from the public domain, wind and pedestrian amenity. Adequate daylight amenity to the public domain will be retained as the proposal is approximately 73 metres below the maximum height control for the site.
45. The buildings directly on the opposite side of Wynyard Lane are commercial buildings and are unlikely to be adversely impacted by the proposed nil setback from the Lane.
46. Given the points outlined above, the proposal demonstrates consistency with the relevant objectives of Sections 5.1.1 and 5.1.2 of the SDCP 2012 relating to street frontage heights and building setbacks, including:
 - *Achieve comfortable street environments for pedestrians with adequate daylight, scale, sense of enclosure and wind mitigation.*
 - *Encourage flexibility in building design and reinforce the character of Central Sydney and ensure built form is compatible with heritage items and the desired streetscape character.*
 - *Enhance amenity in terms of daylight, outlook, view sharing, ventilation, wind mitigation and privacy in residential and serviced apartments.*
 - *Enhance the quality of the public domain in terms of wind mitigation and daylight access.*
47. Overall the proposed non-compliances are supported in this particular case, as the proposal achieves the objectives of the SDCP 2012, does not result in any significantly adverse impacts to the public domain or surrounding properties, and presents a better contextual fit with the streetscape, compared to a strictly numerically compliant scheme.

Side setbacks / side windows on adjoining developments

48. The proposed development does not contain any windows on the north and south side elevations and no side setbacks are proposed. This complies with the relevant provisions in Section 5.1.2.2 of SDCP 2012.
49. The adjoining building to the south at 331-339 George Street is built to the shared side boundary and has extensive glazing along the building's northern facade, as depicted in the image provided in Figure 36 below.



Figure 36: View of the glazed northern side wall of 333 George Street as viewed from George Street

50. A condition is included in development consent D/2012/696 for 331-339 George Street required a covenant in Council's favour to be placed on the title of that land. It informs any future owner or lessee of any area adjoining the northern wall or windows of the subject building of the possibility that a new building could at any time be erected on the land adjoining to the north, diminishing views and available light. It also requires an external wall-wetting system to achieve compliance with the fire safety provisions of the Building Code of Australia.
51. Having regard to the visibility of the development's proposed southern boundary wall through the northern glazed wall of 333 George Street, the applicant proposes a pre-cast concrete panel cladding system spanning between the cast in site columns with a high quality natural finish. This is an appropriate material and finish to abut the glazed wall of the building at 331-339 George Street.
52. The approved development to the north at 323-325 George Street (not yet constructed) also has windows on the side boundary. These are however secondary windows and a similar condition is included in development consent D/2018/922, which requires a covenant in Council's favour, to require that these windows to be sealed, bricked up or otherwise enclosed prior to the construction of the proposed development.
53. In light of these points, the proposed nil side setbacks of the building are acceptable.

Relationship with curved corner of 333 George Street

54. The form of the building known as 333 George Street is characterised by rounded edges/corners, including at the corner of George Street and the subject site's southern side boundary.

55. The originally submitted proposal had a blade wall along the full length of the southern boundary up to level 12, which obscured the rounded corner of 333 George Street. This issue was raised as a concern during the preliminary assessment.
56. In response to this issue, the applicant amended the proposal by providing a 350 millimetre side setback at the George Street frontage for a depth of 800 millimetres (as measured from the front boundary).
57. This is to allow the curved corner of 333 George Street to remain partially exposed and legible. While this is supported, the drawings indicate that the existing party wall protrudes to the front property boundary, as shown in the image depicted in Figure 37 below.

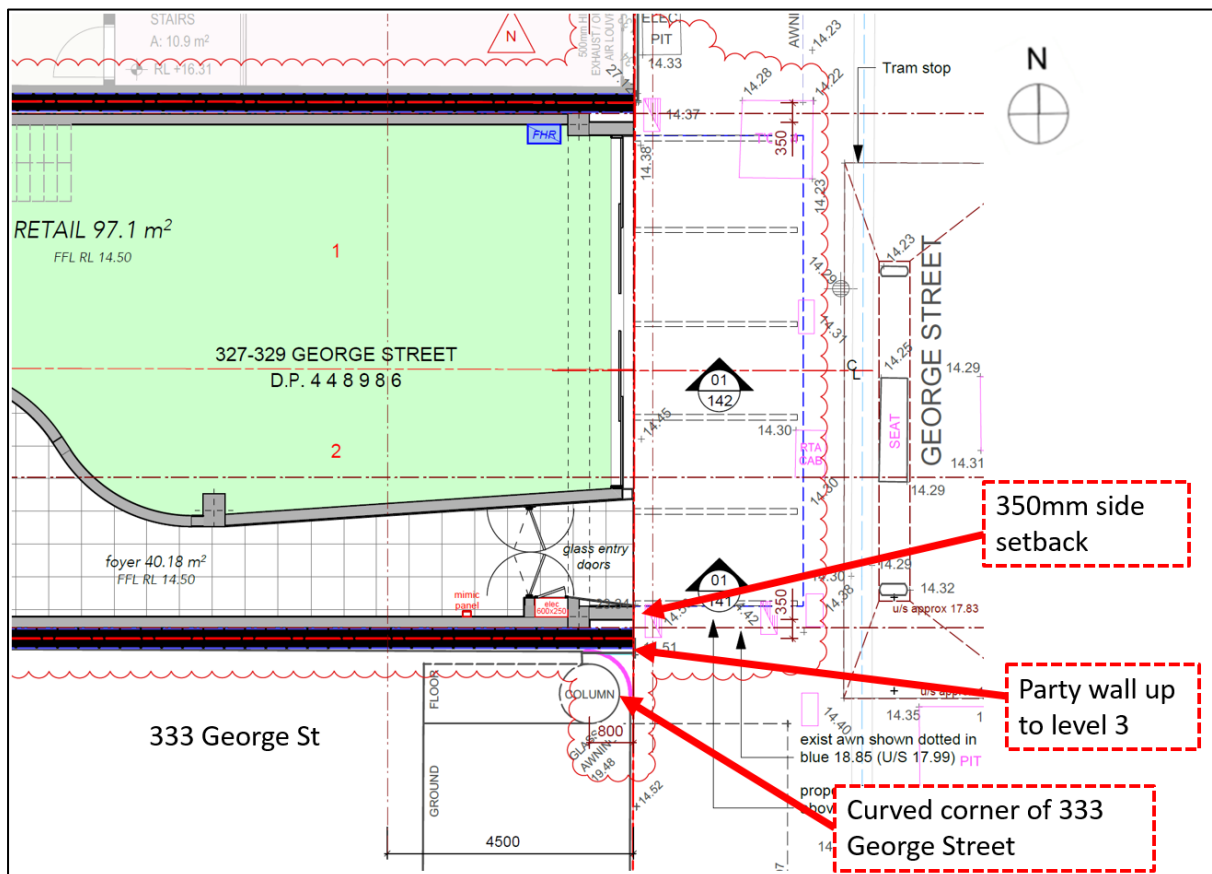


Figure 37: Proposed ground floor plan

58. As seen above, the extent of the party wall (as drawn on the plans) defeats the purpose of providing a 350 millimetre setback in order to see the curved corner.
59. A site inspection revealed however that the existing party wall, or the part of the party wall located at 331-339 George Street, is setback from George Street alignment, as shown in the images depicted in Figures 38 and 39 below.

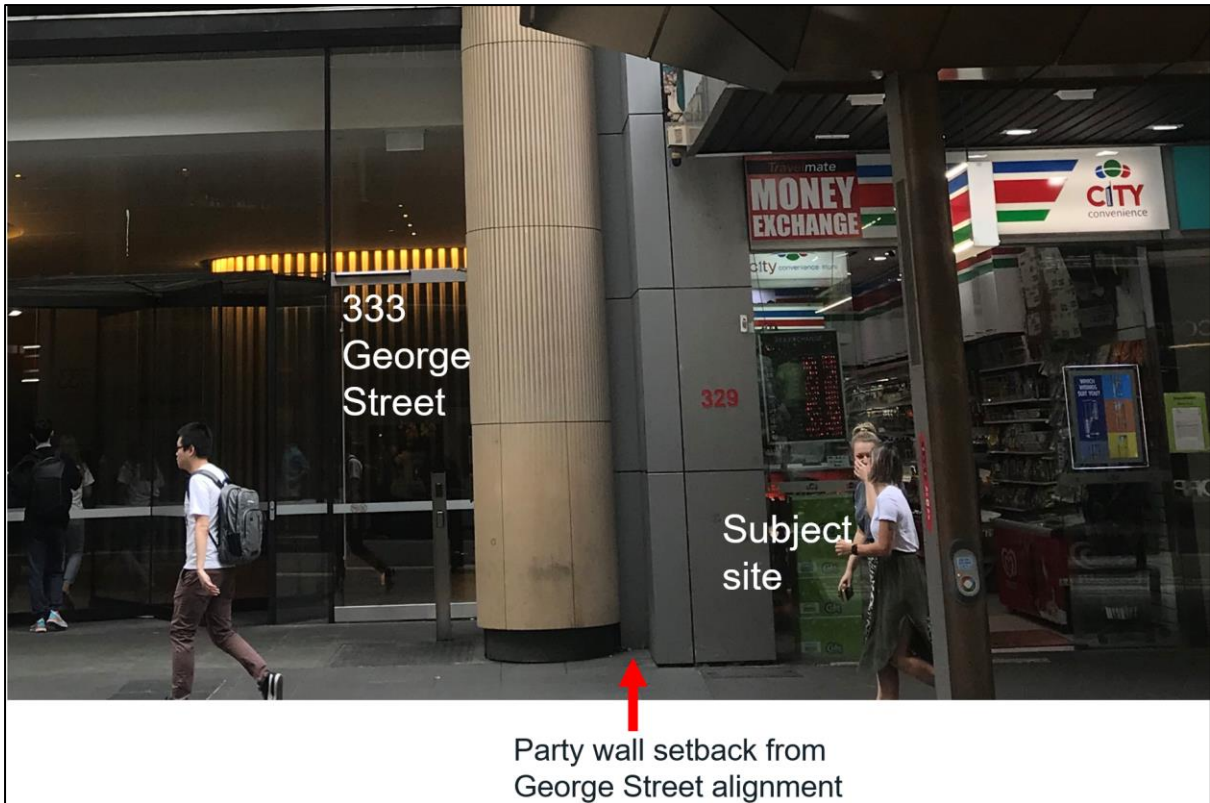


Figure 38: View of existing party wall from George Street



Figure 39: View of existing party wall from George Street, with top of party wall indicated

60. A condition of consent is recommended requiring the drawings to be amended to show the existing party wall setback from the George Street boundary. Subject to this condition, the proposal will allow the curved corner to remain partially exposed and visible from the public domain and is therefore acceptable.
61. It is noted that during the assessment it was recommended to the applicant that owner's consent be obtained from the adjoining landowners to demolish the entire party wall. According to the applicant, the adjoining landowner has decided not to grant such consent at this time.
62. The existing building at 331-339 George Street and the proposed building on the subject site do not rely on the existing party wall for structural support. Essentially the party wall will remain in situ and redundant.
63. Should the adjoining landowner decide to grant consent to demolition of the party wall in the future, the proposal could be amended through a future Section 4.55 modification application.

Site specific development control plan and competitive design process

64. The proposed development has a maximum height of 56.58 metres. As the proposed building is over 55 metres in height and is located within Central Sydney, the proposal triggers requirements for a site specific development control plan and competitive design process, under the provisions of Clauses 7.20(2)(a) and 6.21(5) (a) and (c) of the SLEP 2012, respectively.
65. Clause 7.20(4) of SLEP 2012 sets out matters must be addressed in a site specific development control plan. The proposal satisfies the criteria in Clause 7.20(4) as detailed below:

- (a) *requirements as to the form and external appearance of proposed development so as to improve the quality and amenity of the public domain*

The proposed form and external appearance of the new building will provide a positive contribution to the public domain. It is appropriate to its context and is compatible with the existing development to the south and the approved development to the north. The proposal will also improve activation of George Street and provide adequate weather protection for pedestrians.

- (b) *requirements to minimise the detrimental impact of proposed development on view corridors*

The proposed development is located approximately 73 metres below the potential maximum height control and the siting, massing and setbacks of this building are contained within the extent of the bulk of the adjoining building to the south at 331-339 George Street, and the approved development to the north at 323-325 George Street. Overall the proposal will not result in any significantly detrimental impacts on view corridors.

- (c) *how 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) *the impact on, and any proposed improvements to, the public domain,*
- (x) *the impact on any special character area,*
- (xi) *achieving appropriate interface at ground level between the building and the public domain,*
- (xii) *the excellence and integration of landscape design,*
- (xiii) *the incorporation of high quality public art into the fabric of buildings in the public domain or in other areas to which the public has access.*

The proposal addresses the above matters in the following manner:

- It comprises retail and office premises is permissible within the B8 Metropolitan Centre. The proposed use will replace an existing retail and office premises with a higher density mixed use development, which is consistent with the objectives of the land use zone by providing employment generating uses;
- The proposed bulk, scale and massing, including street frontage heights responds to the adjoining developments and is consistent with the character of the streetscape;
- Subject to conditions, it will not have adverse environmental impacts by way of overshadowing, visual and acoustic privacy, noise, wind and reflectively;
- It is accompanied by an ESD report which identifies a range of sustainability measures to be incorporated in the development including a minimum NABERS Energy Rating of 5.5 stars, water reduction through WELS 4-6 star fixtures and photovoltaic solar panels;
- The proposed bulk, mass, scale and materiality is sympathetic to nearby heritage items and the Martin Place Special Character Area located to the south and within the site's visual catchment;
- It will provide a positive contribution to the public domain and will provide an active frontage to George Street;

- On-site loading will improve amenity to Wynyard Lane, as servicing of the existing building currently occurs from the Lane. In addition, it will provide passive surveillance of the lane through the provision of windows on the west (rear) elevation;
 - Due to the small size of the site, there are limited opportunities for landscaping. Notwithstanding this, the outdoor terrace located on level 13 is proposed to be provided with some plantings; and
 - The Public Art Strategy submitted with the application indicates locations for the public artwork including the glass fins on the George Street facade, the blank concrete wall fronting Wynyard Lane, and the sandstone pillar and internal foyer wall facing George Street. A condition of consent is recommended requiring the provision of a detailed public art plan to be submitted to determine the final location and type of artwork.
66. Clause 6.21(4) of SLEP 2012 sets out the matters which are required to be addressed for a development to be considered to exhibit design excellence, which are consistent with the matters set out in Clause 7.20(4) of SLEP 2012.
67. The proposed development satisfies the design excellence criteria as detailed above and in the SLEP 2012 compliance table, subject to the recommended condition requiring the party wall to be depicted in accordance with the existing conditions..
68. The proposal complies with the applicable height and FSR development standards, and does not seek the award of the up to 10% additional height or FSR available under the City's design excellence provisions.
69. The part of the building which is located above 55 metres is limited to the fire stairs and parapet as shown in Figure 40 below. As depicted, the extent of the exceedance is very minor and does not comprise any gross floor area.

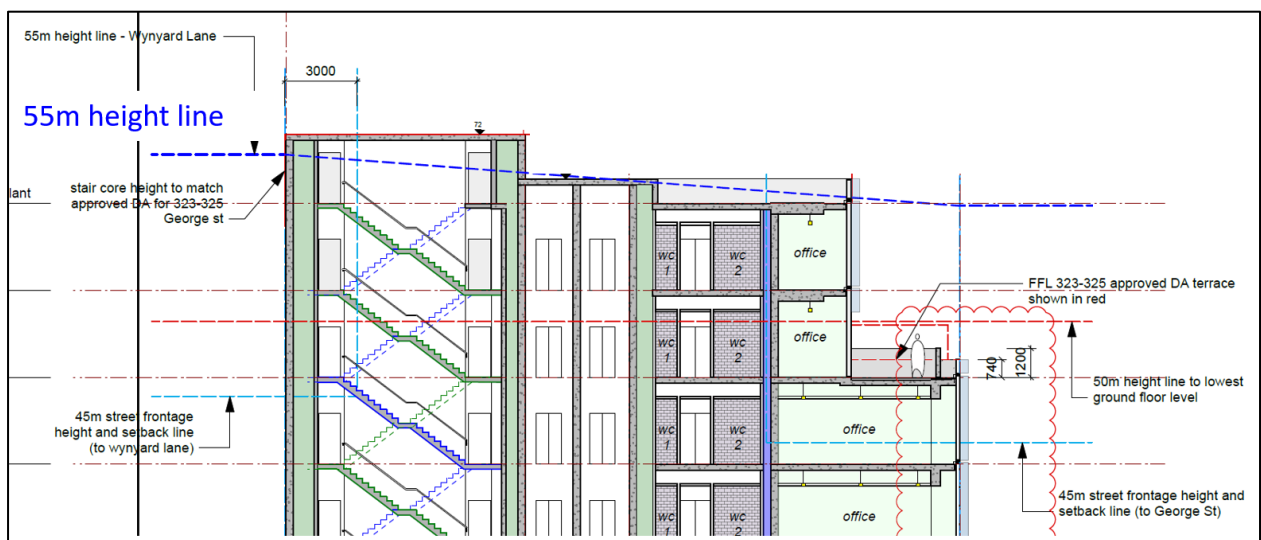


Figure 40: Long section (west - east) of upper levels showing portions of the building above 55 metres (dashed blue line)

70. Due to the small size of the site and adjoining built form, there are limited opportunities to explore alternative designs for the site, with the exception of materiality and some fenestration detailing.

71. The floor plates are largely bound by the site dimensions. The proposed street frontage height, front and rear setbacks have been driven by the adjoining developments, in order to provide an appropriate contextual fit for the infill building.
72. On this basis, and given the proposal demonstrates an appropriate response to the matters for consideration under Clause 7.20 and 6.21 of SLEP 2012 as detailed above, it is unlikely that a better design outcome would be achieved through imposing the requirements for site specific development control plan and a competitive design competition in this case.
73. In light of the above, there are sufficient reasons as to why a site specific development control plan and a competitive design process would be unreasonable or unnecessary in the circumstances of this case. Pursuant to Clauses 7.20(3) and 6.21(6) of SLEP 2012, it is recommended that these requirements are waived in this instance.

Clause 4.6 request to vary a development standard

74. The subject site has an area of less than 800 square metres and the proposed building exceeds 55 metres in height.
75. Accordingly, Clause 6.16 'Erection of tall buildings in Central Sydney' of SLEP 2012 applies to the development. This clause is reproduced below.

6.16 Erection of tall buildings in Central Sydney

(1) The objectives of this clause are to ensure that tower development on land in Central Sydney—

- (a) provides amenity for the occupants of the tower and neighbouring buildings, and*
- (b) does not adversely affect the amenity of public places, and*
- (c) is compatible with its context, and*
- (d) provides for sunlight to reach the sides and rear of the tower, and*
- (e) promotes the ventilation of Central Sydney by allowing the free movement of air around towers, and*
- (f) encourages uses with active street frontages.*

(2) This clause applies to development involving the erection of a building with a height greater than 55 metres above ground level (existing) on land in Central Sydney.

(3) Development consent must not be granted to development to which this clause applies if the building is on land having a site area of less than 800 square metres unless the consent authority is satisfied that—

- (a) the building will have a freestanding tower each face of which will be able to be seen from a public place, and*
- (b) the development will provide adequate amenity and privacy for occupants of the building and will not significantly adversely affect the amenity and privacy of occupants of neighbouring buildings, and*

- (c) *the ground floor of all sides of the building facing the street will be used for the purposes of business premises or retail premises.*
76. The proposal satisfies part (3)(b) of Clause 6.16, as the proposed development will provide an adequate level of amenity for future occupants of the new building and will not significantly adversely affect the amenity and privacy of occupants of neighbouring buildings.
77. As detailed in the discussion above under the 'Side setbacks / side windows on adjoining developments' heading, it is acknowledged that the building will block windows located on the site boundary of the developments to the north and south.
78. These owners/occupiers of these properties have been made aware that there is no legal right to any light and ventilation provided to these windows, given these two developments essentially borrow amenity from the subject site.
79. In relation to part (3)(c) of Clause 6.16, the development includes ground floor retail premises directly fronting George Street. Wynyard Lane is not considered to be a 'street' for the purposes of applying this provision.
80. As the proposed building directly abuts the building at 333 George Street which is taller than the proposed building, the face of the building's southern facade will not be visible from a public place.
81. The proposal does not therefore comply with sub-clause (3)(a) of Clause 6.16 of the SLEP 2012. This provision is a numerical development standard and a request to vary these development standards can be considered pursuant to Clause 4.6 of the SLEP 2012.
82. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the SLEP 2012 seeking to justify the contravention of the subject 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.
83. A copy of the applicant's written request is provided at Attachment C.

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

84. The applicant seeks to justify the contravention of the development standard on the following basis:
- (a) Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - (i) As it would result in a failure to achieve the street wall effect that the City has been working towards and that has been anticipated in the relevant objectives and provisions of the Sydney Development Control Plan 2012;
 - (ii) As it would result in a reduction in commercial floor space that would otherwise benefit the community and assist in achieving important planning goals;

- (iii) As it would result in the likely sterilisation, or partial sterilisation, of the subject site for redevelopment;
- (iv) Given there are no significant adverse impacts arising from the proposed contravention as follows:
 - (i) The proposal completes the street wall and is designed to respond to the height datums established by the neighbouring sites;
 - (ii) Infilling the street wall is an appropriate urban design response which will have a positive impact on the streetscape of George Street;
 - (iii) The specific areas of the building proposed to exceed 55 metres do not consist of habitable floor space and are for the purposes of building services and maintenance;
 - (iv) With the exception of a glass balustrade, which will be difficult to perceive due to its materiality, these building elements are located behind the parapet and will not be visible from the public domain and have no shadow impact upon it, neighbouring developments or Martin Place; and
 - (v) No other significant adverse impacts arise from the height of the lift overrun and other roof features.
- (v) Because, in terms of the minor exceedance of the 55 metre height threshold:
 - (i) The extent of the exceedance is minor being a maximum of 2.6 metres which is a variance of 4.73%;
 - (ii) The exceedance relates to elements necessary for access to roof top equipment and for the lift overrun;
 - (iii) The point of greatest height is setback within the centre of the roof which is in turn setback 4.5 metres from the street wall;
 - (iv) The visual impact of the exceedance will be minimal or non-existent from the public domain. When viewed from surrounding tall buildings the elements exceeding the threshold will appear as integrated components within the buildings design;
 - (v) The overall scale and built form will contribute positively to the surrounding area by responding to the scale of existing developments in the vicinity;
 - (vi) The development otherwise achieves a high-quality design outcome without any significant, adverse impact arising from the exceedance;
 - (vii) The outcome is a building that fits within its surroundings and achieves the objectives of the zone while staying generally within the built form outcome and scale anticipated for the area;

- (viii) In substance, the development remains compliant with the principles and general parameters of the built form controls and expectations within the planning framework; and
 - (ix) If approved, the built form outcome of the proposal will be in keeping with and not detrimental to the amenity of its surroundings.
- (vi) If the variation is not approved, then key objectives in the development standard will be thwarted or undermined as follows:
- (i) The maximum possible width of a free-standing tower of which each face could be seen from the public domain is 3.797 metres, assuming a minimum side setback of 3 metres to each side boundary;
 - (ii) The floor plate of such a tower would be too narrow to provide an adequate level of amenity for occupants;
 - (iii) A free-standing tower form would severely reduce the amenity for occupants in comparison to the proposed design which infills the street wall;
 - (iv) The sides of such a building would not be able to be appreciated in any meaningful sense from within any neighbouring building;
 - (v) A free-standing tower on the subject site would fail to complete the street wall that the building at 331-339 George Street and approved development at 323-325 George Street establish;
 - (vi) This would be highly incompatible with the existing pattern of development along that section of George Street;
 - (vii) It would also be inconsistent with the expectation Council established in the approval of the developments at 331-339 George Street and 323-325 George Street that a single street wall would be established; and
 - (viii) Failure to create a continuous street wall between 331-339 George Street and 323-325 George Street would diminish the streetscape quality of George Street, in turn reducing the amenity of the public domain.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard, including the following:
- (i) There is an absence of environmental harm arising from the contravention of the standard;

- (ii) Additionally, there are planning benefits, in particular, a proposal for a freestanding tower on the subject site alone would result in a worse environmental planning outcome relative to the proposed building design because:
 - (i) A freestanding tower providing minimum setbacks of 3 metres to each side boundary would have a maximum floor plate width of 3.797 metres which would be impractical to construct and would have unacceptable amenity outcomes for occupants;
 - (ii) A freestanding tower would fail to provide a level of land use intensity commensurate to the site's maximum FSR limit under Clause 4.4 of the SLEP 2012 and which is appropriate to its location in the Sydney CBD; and
 - (iii) A freestanding tower would create undesirable gaps in the street wall established by neighbouring sites which would be an unacceptable urban design outcome.
- (iii) A proposal for a building with a maximum height of less than 55 metres would result in a worse planning outcome relative to the proposed building design because it would necessitate that either the floor to floor heights within the building be reduced or that one storey be removed from the development, as follows:
 - (i) Section 4.2.1.2(1)(c) of the SDCP 2012 requires that commercial floors have a minimum floor to floor height of 3.6 metres;
 - (ii) The proposal complies with this by providing floor to floor heights of 3.6 metres above the ground floor;
 - (iii) A reduction in the floor to floor heights would cause a non-compliance with Section 4.2.1.2(1)(c) of the SDCP 2012 and would reduce the amenity for occupants creating an unacceptable planning outcome;
 - (iv) The alternative is to remove a storey from the building to reduce the total height below 55 metres;
 - (v) The subject site has a base FSR 8:1 under Clause 4.4 of the SLEP 2012 and is eligible for a bonus of 4.5:1 under Clause 6.4 providing a total maximum permissible FSR of 12.5:1;
 - (vi) If Level 14 were removed from the development, the building's GFA and FSR would be reduced well below the maximum FSR limit; and
 - (vii) This is a land use intensity which falls well below that which was envisioned in the FSR controls applicable to the subject site under the SLEP 2012 and which is inappropriate to its location in the Sydney CBD.

- (iv) The City of Sydney's Central Sydney Planning Strategy has recommended changes to the planning controls in order to protect and enhance the employment floor space in the Sydney CBD and the proposal is consistent with this strategic direction by providing additional office space, which is well located in relation to public transport;
- (v) Any loss of commercial floor space that can be delivered without significant adverse impacts is the loss of an environmental planning benefit;
- (vi) The proposed exceedance of the height threshold will not result in significantly adverse over shadowing effect to neighbouring developments as a result of the exceedance and there is no significant overshadowing to the public domain;
- (vii) Visual domination is usually associated with the perceptions from the public domain and from multi-storey buildings. In this case, the building responds to existing heights of the neighbouring built and approved developments which are of similar or greater scale;
- (viii) From the public domain, the height exceedance will not be readily visible. The building has been designed to be sympathetic to both neighbouring buildings and to contribute to the infill of the street wall of George Street;
- (ix) In determining the 'aesthetic character of the area', it is reasonable to review the type and form of development in the site vicinity as well as the future character of the area;
- (x) The existing form is a mix of heritage buildings of between 5 to 6 storeys, small sites to the north that are underdeveloped and multiple buildings larger contemporary buildings up to and exceeding 55 metres;
- (xi) The proposal will form a suitable part of the ongoing intensification of development along George Street; and
- (i) The proposed mix of uses as a commercial office building with lower level retail is consistent with the surrounding land uses and the objectives of the B8 Metropolitan Centre Zone.

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

85. 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)?

86. The applicant's written request adequately demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case, as the development satisfies the objectives of the control, notwithstanding the non-compliance.
87. The non-compliance relates to the number of sides of the development which will be visible from the public domain.
88. The non-compliance is acceptable, given the desire for a continuous street wall and the portion of the proposal which triggers the requirement does not significantly add to the bulk and scale of the building when viewed from the public domain and surrounding buildings.
89. The proposal responds well to the adjoining development, in terms of the proposed street wall height when viewed from George Street, with significant areas of the building remaining under the 55 metre height trigger for the standard.

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

90. The applicant has adequately demonstrated that there are sufficient environmental planning grounds to justify the contravention of the standard.
91. The new building is appropriate to the site's context and its location within the streetscape and Sydney Central Business District.
92. The proposal will not create unacceptable impacts on the amenity of surrounding properties with regard to views, solar access and visual privacy.

Is the development in the public interest?

93. The relevant objectives of the 'Erection of tall buildings in Central Sydney' are to ensure tower development on land in Central Sydney:
 - (a) Provides amenity for the occupants of the tower and neighbouring buildings;
 - (b) Does not adversely affect the amenity of public places;
 - (c) Is compatible with its context;
 - (d) Provides for sunlight to reach the sides and rear of the tower;
 - (e) Promotes the ventilation of Central Sydney by allowing the free movement of air around towers; and
 - (f) Encourages uses with active street frontages.
94. The amenity of neighbouring sites is not diminished by the development of a consistent street wall along the subject section of George Street, which could not be achieved by a compliant development.
95. Further, the proposal does not result in any unacceptable shadow impacts on the public domain and is within the height permissible under the sun access plane protecting Martin Place.

96. The new building is compatible with its context, including fenestration and design details to correspond with the existing pattern of development along George Street and Wynyard Lane, noting that the proposal and adjoining development do not present as free-standing tower forms.
97. The proposed development also provides an active frontage to George Street, in accordance with the requirements of the SLEP 2012 and Section 3.2.3 of the SDCP 2012.
98. The objectives of the B8 Metropolitan Centre zone are:
 - (a) 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;
 - (b) To provide opportunities for an intensity of land uses commensurate with Sydney's global status;
 - (c) To permit a diversity of compatible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community;
 - (d) To encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling; and
 - (e) 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.
99. The proposal will service the needs of residents, workers and visitors to the Sydney Central Business District by providing new employment generating land uses, which are easily accessible and located in close proximity to a wide range of public transport infrastructure.
100. The proposed development would be in the public interest because it is consistent with the objectives of 'Erection of tall buildings in Central Sydney' development standard and the B8 Metropolitan Centre zone.

Conclusion

101. For the reasons provided above, the requested variation to the 'Erection of tall buildings in Central Sydney' development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the SLEP 2012.

Other impacts of the development

102. The proposed development can comply with the Building Code of Australia.
103. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to the recommended conditions at Attachment A to this report.

Suitability of the site for the development

104. The proposal is of a nature in keeping with the overall function of the site.

105. The premises are within the predominantly commercial surrounding of the Sydney Central Business District and amongst similar uses to that proposed.

Internal referrals

106. The application was referred to, or discussed with the City's:

- (a) Heritage and Urban Design Specialists;
- (b) Building Approvals Unit;
- (c) Environmental Health Unit; Public Domain Unit;
- (d) Specialist Surveyor;
- (e) Transport and Access Unit; and
- (f) Waste Management Unit

107. These Council officers raised no objections to the proposal subject to conditions.

108. Where appropriate, the conditions recommended by other sections of Council are included in the recommended conditions at Attachment A to this report.

External referrals

109. The application was referred to the following external organisations:

- (a) Ausgrid;
- (b) The New South Wales Police Force;
- (c) Transgrid;
- (d) Transport for New South Wales (TfNSW);

110. No response was received from Ausgrid, the New South Wales Police Force or Transgrid.

111. Transport for New South Wales granted concurrence, subject to conditions. These conditions are included within the recommended conditions of consent provided at Attachment A to this assessment report.

Notification, advertising and delegation

112. In accordance the Community Participation Plan 2019 the proposed development is required to be notified and advertised.

113. As such, the original application was notified and advertised for a period between 5 December 2019 and 16 January 2020. As a result of this process, a total of 177 owners and occupiers of adjoining and nearby properties were notified.

114. The amended application made to the City on 25 May 2020 was not required to be re-notified and re-advertised, given the amendments are not considered to result in significant additional environmental impacts.
115. One submission was received in response to the public exhibition of the original proposal, which is summarised and addressed below.

- (a) While the application seeks an exemption from a competitive design process under Clause 6.21(5), the proposal fails to systematically respond to the Design Excellence requirements under Clause 6.21(3) and (4) of the SLEP 2012.

Response - This matter was raised in correspondence to the applicant on 19 March 2020.

The amended application made to Council on 25 May 2020 has adequately addressed the matters for consideration under Clause 6.21 of the SLEP 2012 and the requested waiver is now supported, as detailed above under the 'Issues' heading.

- (b) The Clause 4.6 variation request submitted with the application does not adequately respond to the required matters of assessment and grounds of exemption, including how the proposal will result in a better planning outcome for the site.
- (c) The application has failed to explain how the site, despite its small size, being only 34% of the required 800 square metres under Clause 6.16(3) of the SLEP 2012, should be considered suitable for a building height of 56.58 metres.

Response - These matters were raised in correspondence to the applicant on 19 March 2020.

The amended application made to Council on 25 May 2020 included a revised Clause 4.6 variation request which is now supported, as detailed above under the 'Issues' heading.

- (d) Impacts to the construction stage accessibility of Wynyard Lane have not been adequately dealt with, particularly given the fact that the George Street light rail would inhibit construction access from the street.
- (e) Cumulative adverse impacts of construction traffic relating to the development of the subject site and the site adjoining at 323-325 George Street on existing loading, servicing and pedestrian traffic activity in the locality.

Response - Transport for New South Wales and the City's Transport and Access Unit have reviewed the proposal, including matters relating to construction traffic management.

As discussed elsewhere in this report, the advice provided indicates that these matters are acceptable, subject to a range of concurrence conditions relating to the CBD and South-East Light rail corridor and the implementation of appropriate construction traffic management measures.

- (f) The development application history and Section 88B applying to 331-333 George Street do not excuse the need for adequate assessment of potential impacts to 331-339 George Street.

Response - An assessment of the proposed development, as amended on 25 May 2020, has been provided in this report. The potential for impacts to the adjoining properties is acceptable, subject to the recommended conditions included at Attachment A to this report.

- (g) The proposed non-compliances against the SDCP 2012, when read together with the SLEP 2012 height non-compliance and Design Excellence Dispensation Request, indicate that the site may not be best suited to the proposed development.

Response - As discussed elsewhere in this report, the site is suitable for the proposed development, subject to the recommended conditions included at Attachment A to this report.

- (h) The Design Excellence Dispensation Request has not adequately dealt with the matters that the Government Architect of New South Wales is currently requiring from applicants seeking exemptions from competitive design processes.

Response - The requested waiver of the requirement for a competitive design process has been reviewed in relation to the relevant provisions of Clause 6.21(6) of the SLEP 2012 and is acceptable, as discussed above under the 'Issues' heading.

Public interest

116. It is considered that the proposal will have no significant detrimental effect on the public interest, subject to the recommended conditions at Attachment A to this report.

Section 61 contributions

117. The cost of the development is in excess of \$200,000. The development is therefore subject to a levy under the Central Sydney Development Contributions Plan 2013.
118. A condition relating to this levy is included in the recommended conditions in Attachment A. The levy is to be paid prior to the issue of a Construction Certificate.

Conclusion

119. The subject application seeks consent for the demolition of the existing building and construction of a 15 storey building comprising retail premises at the ground level and level 1, office premises and outdoor terrace on the levels above, a loading dock accessed from Wynyard Lane, and 2 basement levels containing bicycle parking, end of trip facilities and building services.
120. The proposal has been amended to address Council's concerns relating to design details, awning height, existing party walls and transport and servicing. The amended proposal is satisfactory, subject to the recommended conditions of consent included in Attachment A.
121. The applicant has submitted a request to vary the 'Erection of tall buildings in Central Sydney' standard under Clause 4.6 of Sydney LEP 2012 and waive the requirements for the preparation of a site specific development control plan and a competitive design process. These requests are supported. Proposed variations to controls in the SDCP 2012 are also generally acceptable and are identified in this assessment report.
122. The proposed development, as amended and subject to conditions, is appropriate in its setting and is generally compliant with the relevant planning controls in the SLEP 2012 and the SDCP 2012.
123. The new building does not pose any significant or unreasonable impacts upon the existing or likely future development surrounding the site. The proposal will improve the interface between the private and public domain and exhibits design excellence in accordance with Clause 6.21 of the SLEP 2012.
124. The proposal will provide for new retail premises and office premises land uses within the Sydney Central Business District, on a site which is highly accessible to existing and planned employment, services, public transport infrastructure and community facilities.
125. Subject to the recommendations in this report, and the imposition of conditions, the proposal provides a design that responds to the constraints of the site and contributes positively to the existing and desired future character of the locality.

GRAHAM JAHN, AM

Director City Planning, Development and Transport

David Reynolds, Senior 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 Number D/2019/1277 dated 12 November 2019 and the following drawings prepared by Melocco and Moore Architects:

| Drawing Number | Drawing Name | Date |
|----------------|----------------------------------|-------------|
| 102 Revision O | Basement Plan | 22 May 2020 |
| 103 Revision N | Ground Floor Retail | 22 May 2020 |
| 104 Revision N | Level 1 Retail | 22 May 2020 |
| 105 Revision M | Level 2 Office | 22 May 2020 |
| 106 Revision M | Level 3-12 Office Levels Typical | 22 May 2020 |
| 107 Revision M | Level 13 - Office | 22 May 2020 |
| 108 Revision M | Level 14 - Office | 22 May 2020 |
| 109 Revision M | Level 15 - Plant | 22 May 2020 |
| 120 Revision M | Roof plan | 22 May 2020 |
| 131 Revision K | elevation- George St. | 22 May 2020 |
| 132 Revision K | elevation- Wynyard Lane | 22 May 2020 |
| 133 Revision J | elevation- South and North | 22 May 2020 |
| 141 Revision M | Section | 22 May 2020 |
| 142 Revision H | Section | 22 May 2020 |

| Drawing Number | Drawing Name | Date |
|----------------|------------------------|-------------|
| 143 Revision H | Section | 22 May 2020 |
| 200 Revision K | East Elevation Detail | 22 May 2020 |
| 201 Revision I | Facade Details | 22 May 2020 |
| 210 Revision D | Materials and finishes | 22 May 2020 |

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) SECTION 61 CONTRIBUTIONS PAYABLE - REGISTERED QUANTITY SURVEYOR'S DETAILED COST REPORT - SUBMITTED AND VERIFIED PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

A cash contribution comprising 1% of the total cost of the development is payable to the City of Sydney pursuant to section 61 of the *City of Sydney Act 1988* and the *Central Sydney Development Contributions Plan 2013* in accordance with the following:

- (a) Prior to a Construction Certificate being issued, evidence must be provided of Council's written verification of the amount of the contribution as required in (b) below, and then that the levy has been paid to the Council in accordance with this condition. Payment may be by EFTPOS (debit card only), CASH or a BANK CHEQUE made payable to the City of Sydney. Direct debit, personal or company cheques will not be accepted.
- (b) The contribution must not be paid to the City of Sydney until it is accompanied by separate written verification by the City of Sydney of the specific amount payable. In order to obtain such verification, the "City of Sydney Registered Quantity Surveyor's Detailed Cost Report" indicating the itemised cost of the development must be completed and submitted to Council by the Accredited Certifier, together with copies of the plans the subject of the application for the Construction Certificate. A copy of the required format for the "City of Sydney Registered Quantity Surveyor's Detailed Cost Report" may be obtained from the City of Sydney One Stop Shop, any of the Neighbourhood Service Centres and the City of Sydney's website (www.cityofsydney.nsw.gov.au).
- (c) The Council will consider the documentation submitted under subclause (b) and determine the cost of the proposed development having regard to the information submitted and to such other matters as it considers appropriate and will notify the Accredited Certifier accordingly.
- (d) The items to be included in the calculation of the cost of development are demolition works, site remediation including decontamination,

excavation and site preparation, construction costs, fit out, professional fees as part of the design (including design competitions) documentation and implementation process, fixed building machinery, equipment and appliances, kitchens and bar areas, car parking, air conditioning plant and equipment, services (fire, mechanical ventilation, electrical, hydraulic), ceilings, fire protection devices, installation of services (power, water, sewer, telephone), lifts and other essential machinery, floor coverings, *Building Code of Australia* compliance works, replacement of existing materials, fixtures and fittings, construction related insurance, assessment and construction related fees, charges and GST and any other matter not expressly excluded in (e) below. Any item for which an exemption has been granted is still to be included in the total cost of development, together with an itemised value to enable the City to calculate the value of the exemption.

- (e) The items to be excluded in the calculation of the cost of development are the cost of land, marketing expenses (excluding display suites etc), finance and interest, building insurance after practical completion, drapery, commercial stock inventory, loose furniture, loose equipment, loose electrical appliances, minor maintenance of existing retained fixtures (patching, repainting) and stamp duty.

Please contact Council's Planning Administration staff at Planningsystemsadmin@cityofsydney.nsw.gov.au to confirm the amount payable, prior to payment.

(3) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

- (a) The floor levels of the vehicle bay/loading dock and the entry to the stairs to/from the basement levels on the Wynyard Lane frontage must be a minimum of 300 millimetres above the adjacent road gutter invert level at the proposed building opening.
- (b) The ceiling level directly above the loading dock is to be raised (if required) in order to provide a minimum clearance height of 3.15 metres to enable a Small Rigid Vehicle to access the site.
- (c) If in complying with part (b) of this condition, the finished floor level of Level 1 protrudes above the sill height of the Level 1 windows on the west (Wynyard Lane) elevation, the sill height of these windows shall be raised so that the slab edge does not abut the glazing.
- (d) The existing party wall between 327-329 George Street and 331-339 George Street must be shown to be set back from the George Street alignment to reflect the existing site conditions and expose the rounded corner of the building at 331-339 George Street.
- (e) The datum height on the George Street building facade at the top of third storey level must be raised to align with the datum height (RL 27.34 AHD) of the approved development under development consent D/2018/922 at 323-325 George Street, Sydney.

The modifications are to be submitted to and approved by Council's Director City Planning Development and Transport to the issue of any Construction Certificate.

(4) BUILDING HEIGHT

- (a) The height of the building must not exceed RL 72.24 (AHD) to the top of the building and RL 70.40 (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.

(5) FLOOR SPACE RATIO

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio (FSR) of the proposal must not exceed 10.97:1 calculated in accordance with the *Sydney Local Environmental Plan 2012*. For the purpose of the calculation of FSR, the Gross Floor Area of the approved development is 3,011 square metres.
- (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 *Sydney Local Environmental Plan 2012* applicable at the time of development consent, to the satisfaction of the Principal Certifier.
- (c) Prior to a Construction Certificate being issued, Council's written verification must be obtained, confirming that 376 square metres of heritage floor space was allocated (purchased and transferred) to the development, being 50 percent of that gross floor area in excess of 8:1 as specified in the *Sydney Local Environmental Plan 2012*.
- (d) Notwithstanding (c) above, the applicant may enter into an agreement in accordance with the provisions of the City of Sydney Alternative Heritage Floorspace Allocation Scheme. Where such an agreement has been entered into, a Construction Certificate may be issued prior to the allocation of heritage floor space.
- (e) Where an agreement has been entered into in accordance with (d) above, the applicant must comply with the terms of the agreement. An Occupation Certificate can be issued where the City provides written confirmation that the terms of the agreement have been complied with.

(6) COMPLIANCE WITH SUBMITTED MATERIALS AND SAMPLES BOARD

The design details of the proposed building facades, including all external finishes, colours and glazing, must be in accordance with the materials and finishes drawing, numbered 210, revision D, prepared by Melocco and Moore Architects, and dated 22 May 2020.

(7) HOURS OF OPERATION

The hours of operation of the office premises and retail premises are restricted to between 7.00am and 10.00pm, Monday to Sunday.

(8) FIT OUT - SEPARATE DEVELOPMENT APPLICATION REQUIRED

No consent is granted or implied for the fit out of each individual office premises and retail premises tenancy.

A development consent or Complying Development Certificate (as appropriate) is required to be obtained for the fit out of each individual office premises and retail premises tenancy prior to that fit out or use commencing, unless that fit out comprises exempt development.

(9) AWNING DESIGN

The design of the awning must ensure that it does not interfere with any proposed or existing street trees, light poles or any other structures within the public domain.

(10) AWNING MAINTENANCE

The approved awnings must be regularly inspected and maintained to ensure the structural integrity, aesthetic and functional quality of the awning.

(11) UNDER AWNING LIGHTING

Illumination from any under awning lighting, when measured from any place in the public domain, must comply with the following:

- (a) The horizontal luminance level must not exceed 200 lux (including reflectivity from exterior finishes);
- (b) The horizontal illuminance uniformity ratio (E_{avg}/E_{min}) must not exceed 4:1 to ensure safe movement of pedestrians;
- (c) The intensity, colour, period of intermittency and hours of illumination must be varied if, at any time in the opinion of the Council, adverse impact or Obtrusive Light in accordance with the definition in Australian Standard AS4282-1997 Control of the obtrusive effects of outdoor lighting is being caused to the amenity of the area;
- (d) Where nearby residents are located above the level of the under awning lighting, details are to be provided to show that light is not directed upwards toward such residences; and
- (e) Batten type fluorescent lighting is not permitted to be used for under awning lighting.

(12) 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.

(13) 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.

(14) SWINGING DOORS OVER PUBLIC WAY

Any access doors to enclosures housing building services and facilities, such as hydrant and sprinkler booster assemblies or the like, must not open over the footway/roadway.

(15) NO SPEAKERS OR MUSIC OUTSIDE

Speakers and/or noise amplification equipment must not be installed and music must not be played in any of the outdoor areas associated with the building including the public domain. Speakers located within the building must not be placed so as to direct the playing of music towards the outdoor areas associated with the building.

(16) NO AIR CONDITIONING UNITS TO FACADE OR BALCONIES OF BUILDING

Development consent is not granted for the installation of any individual air conditioning units to the facade, terraces or balconies of the building.

(17) PARTITION WALLS

Where internal partitions meet external walls they must abut window mullions, columns or other such building elements and not glazing.

(18) 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 |
|---|--------|
| Service vehicle spaces (Small Rigid Vehicles) | 1 |

(19) 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".

(20) 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 |
|---------------------------|---------------------------------------|--|
| Staff | 20 | Class B bicycle parking facility in accordance with AS2890.3 |
| Customer | 12 | Class B / C bicycle parking facility in accordance with AS2890.3 |
| End of Trip Facility Type | Number | |
| Showers with change area | 7 | |
| Personal lockers | 27 | |

Notes:

- (i) *Australian Standard AS 2890.3:2015* refers to class 1 as class 'A', class 2 as class 'B', and class 3 as class 'C'.

The layout, design and security of bicycle facilities must comply with *Australian Standard AS 2890.3:2015 Parking Facilities Part 3: Bicycle Parking Facilities* and *Austrroads Bicycle Parking Facilities: Guidelines for Design and Installation*. The details must be submitted to and approved by the Certifying Authority confirming prior to the Construction Certificate being issued.

(21) BICYCLE WAYFINDING SIGNAGE

Signage directing users to the bicycle parking facility must be installed from the street level, between the main entry point and the entry point to the bike parking and End of Trip facilities. Signage must be installed before the issue of any Occupation Certificate.

(22) CAR PARKING DESIGN

The design, layout, signage, line marking, lighting and physical controls of all off-street car parking facilities is to satisfy the *Australian Standard AS/NZS 2890.2 - 2002 Parking facilities Part 2: Off-street commercial vehicle*. The details must be submitted to and approved by the Certifying Authority prior to a Construction Certificate being issued.

(23) CHANGES TO KERB SIDE PARKING RESTRICTIONS

A separate submission must be made for any changes to kerb side parking arrangements. There is no guarantee kerb side parking will be changed, or that any change will remain in place for the duration of the development / use.

All costs associated with the parking proposal will be borne by the developer.

Note: The applicant should approach the City's Area Traffic Engineer to discuss the proposal before making a submission.

Note: If new parking signage is to be installed, the developer must immediately notify the City's Public Domain Unit.

(24) COST OF SIGNPOSTING

All costs associated with signposting for any kerbside parking restrictions and traffic management measures associated with the development shall be borne by the developer.

(25) LOADING DOCK MANAGEMENT PLAN

A Loading Dock Management Plan must be prepared and submitted to Council's Area Planning Manager for approval prior to the issue of a Construction Certificate. This plan must outline the proposed management of the loading and servicing of the site referencing measures such as those proposed in the draft such as a booking system and consolidated / group procurement to minimise service vehicle movements and potential queuing / conflicts.

(26) MANAGEMENT OF DRIVEWAY AND VEHICLE ENTRY / EXIT

Appropriate design, safety provisions and management practices must be put in place to reduce any potential or actual conflict with pedestrians, noting that service vehicles will reverse into the site, and exit the site in a forward motion,. These provisions must prioritise pedestrian priority at the driveway crossing and maintain pedestrian amenity within the locality.

Note: Audible sirens and flashing lights are not supported by Council and must not be used.

(27) ON-SITE LOADING OPERATION

All loading and unloading associated with the site must be carried out within the site at all times and must not obstruct other properties/units or the public way.

At all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage storage.

(28) TRAFFIC WORKS

Any proposals for alterations to the public road, involving traffic and parking arrangements, must be designed in accordance with RMS Technical

Directives and must be referred to and agreed to by the Local Pedestrian, Cycling and Traffic Calming Committee prior to any work commencing on site.

(29) 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 Acoustic Logic, dated 15/10/2019 ref 20191215.1 and revision 0 titled Development Application Acoustic Report, Council Ref 2019/572684 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 accredited certifier.
- (c) Prior to the issue of any Occupation Certificate, a Suitably Qualified Acoustic Consultant* is to provide a written Acoustic Verification Report to the satisfaction of the Principal Certifier 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.

(30) 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 ($L_{A90, 15 \text{ minute}}$) 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.

(31) COMPLIANCE WITH DEMOLITION, EXCAVATION & CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN

- (a) All works conducted on site which form part of this development must be carried out in accordance with the approved Demolition, Excavation and Construction Management Plan.
- (b) Where all such control measures have been implemented and the resultant noise and/ or vibration levels at any sensitive receiver still exceed the council's applicable criteria stated in the *Construction Hours/Noise Code 1992* and are giving rise to sustained complaints then the contractor must provide regular, appropriate and sustained periods of respite in consultation with Council's Health and Building unit. Approval to vary the authorised noise and vibration levels must be received in writing by the proponent from Council prior to activities being undertaken that exceed sanctioned emission levels.

Such periods must be set and agreed to by Council's Health and Building Unit.

(32) 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 New South Wales Environment Protection Authority [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.
- (b) An $L_{Aeq,15 \text{ minute}}$ (noise level) emitted from the development must not exceed the $L_{A90, 15 \text{ minute}}$ (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.

(33) SHOP FRONTS

- (a) All shop front glazing must be clear and untinted and must not be obscured by blinds, curtains or the like.
- (b) Security roller shutters must not be installed on the outside of the shop front.
- (c) Merchandise, public telephones, stored material or the like must not be placed on the footway or other public areas.
- (d) No flashing signage visible from the public way shall be installed.
- (e) The approved layout must not be altered, without the prior approval of Council, where it would result in the shopfront being obscured in any way.
- (f) Any proposed shelving along the glass shopfronts must be of an open-framed, see through construction and the combined height of shelving and any goods displayed must not exceed 1200mm above the finished floor level.

- (g) All shelving, shop fittings, refrigeration equipment and the like which are placed in front of windows, must be kept a minimum of 1 metres from the inside face of the window.

(34) SIGNS- SEPARATE DEVELOPMENT APPLICATION REQUIRED

No consent is granted or implied for either the erection of any signage under this development consent.

A separate development application or applications for the erection of any signs (other than exempt or complying signs under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008) must be submitted to and approved by Council prior to the erection or display of any such signs.

(35) SIGNAGE STRATEGY

A signage strategy, prepared in accordance with the provisions in Section 3.16.1 of the Sydney Development Control Plan 2012, must be submitted to and approved by the City's Area Planning Manager, prior to the issue of any Construction Certificate.

(36) SIGNS/GOODS IN THE PUBLIC WAY

No signs or goods are to be placed on the footway or roadway adjacent to the property.

SCHEDULE 1B

PRIOR TO CONSTRUCTION CERTIFICATE/COMMENCEMENT OF WORK/HEALTH AND BUILDING

(37) 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.

(38) ASBESTOS REMOVAL WORKS

- (a) All works removing asbestos containing materials must be carried out by a suitably licensed asbestos removalist duly licensed with Safework New South Wales, 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 New South Wales 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, 2017* and the New South Wales Government and SafeWork New South Wales document entitled *How to manage and control asbestos in the work place: Code of Practice (Safework New South Wales) 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.

(39) HAZARDOUS MATERIALS SURVEY REQUIRED

A Hazardous Materials Survey Report must be prepared by a certified Occupational Hygienist (*Australia Institute of Occupational Hygienists*) and submitted to the satisfaction of the City's Area Planning Manager prior to any demolition / refurbishment work commencing at the site. The report must identify and record the type, location and extent of any hazardous materials on the site and make recommendations as to their safe management and/or removal to ensure the site is made safe for demolition, construction and future use/occupation.

(40) COMPLIANCE WITH HAZARDOUS MATERIALS SURVEY REPORT

All of the recommendations for management and/or removal of hazardous materials on the site, as outlined in the Hazardous Materials Survey Report, as approved by the City's Area Planning Manager must be complied with.

Prior to the Occupation Certificate, certification must be submitted to the Principal Certifier from a certified Occupational Hygienist (*Australia Institute of Occupational Hygienists*) confirming that all hazardous materials identified have been contained, managed or removed in accordance with the recommendations given in the Hazardous Materials Survey Report approved by the City's Area Planning Manager and that the site is safe for future occupation in accordance with the approved use.

(41) ANNUAL FIRE SAFETY STATEMENT FORM

An annual Fire Safety Statement must be given to Council and Rescue New South Wales 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.

(42) EXTERNAL WALLS AND CLADDING FLAMMABILITY

The external walls of the building including attachments must comply with the relevant requirements of the Building Code of Australia (BCA). Prior to the issue of a Construction Certificate and Occupation Certificate the Accredited Certifier and 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 BCA; and
- (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the BCA as proposed and as built.

(43) 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.

(44) 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, 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, 2017*).

(45) 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*.

(46) STRUCTURAL CERTIFICATION FOR DESIGN – BCA (ALL BUILDING CLASSES)

Prior to the issue of a Construction Certificate, structural details and a Structural Certificate for Design by a qualified practising structural engineer and in accordance with Clause A5.2(1)(e) of the Building Code of Australia must be submitted to the satisfaction of Council (where Council is the Accredited Certifier).

(47) EMISSIONS

- (a) The use of the premises must not give rise to the emission of gases, vapours, dusts or other impurities which are a nuisance, injurious or prejudicial to health.
- (b) Gaseous emissions from the development must comply with the requirements of the *Protection of the Environment Operations Act, 1997* and *Protection of the Environment Operations (Clean Air) Regulation, 2010*.

(48) 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 shall be notified to the City's Area Planning Manager and the Principal Certifying Authority immediately.

(49) 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 *New South Wales DECC Waste Classification Guidelines, Part 1: 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.

(50) 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.

(51) 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 New South Wales Environment Protection Authority (1995) Sampling Design Guidelines.

(52) 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

(53) PHYSICAL MODELS

- (a) Prior to the issue of any Occupation Certificate an accurate 1:500 scale model of the development as constructed must be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager for the City Model in Town Hall House.

Note:

- (i) The models must be constructed in accordance with the Model Specifications are 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, 1979*) that affect the external appearance of the building.

(54) SUBMISSION OF ELECTRONIC CAD MODELS PRIOR TO OCCUPATION CERTIFICATE

- (a) Prior to any Occupation Certificate being issued, an accurate 1:1 electronic CAD model of the completed development must be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager 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.

(55) INTERFERENCE WITH THE SYDNEY LIGHT RAIL OPERATION - GENERAL - TRANSPORT FOR NEW SOUTH WALES

The applicant must comply with:

- (a) All Altrac Light Rail Partnership (Altrac) or any subsequent operator of Sydney Light Rail (Sydney Light Rail Operator) policies, rules and

procedures when working in and about the Sydney Light Rail corridor;
and

- (b) The requirements of T HR CI 12080 ST External Developments version 1.0 and Development Near Rail Corridors and Busy Roads - Interim Guidelines.

(56) OTHER CONTRACTOR DEED POLL FORM - TRANSPORT FOR NEW SOUTH WALES

Prior to the issue of any construction certificate or any preparatory, demolition or excavation works, whichever is the earlier, the applicant must sign an Other Contractor Deed Poll form. The form can be accessed from Transport for NSW by sending an email to development.sco@transport.nsw.gov.au. The email shall include the subject line "Other Contractor Deed Poll form".

(57) FREIGHT AND SERVICING MANAGEMENT - TRANSPORT FOR NEW SOUTH WALES

Prior to the issue of the relevant Construction Certificate, the applicant shall prepare a Freight and Servicing Management Plan in consultation with the Sydney Coordination Office within TfNSW. The applicant shall submit a copy of the final plan to the Coordinator General, Transport Coordination for endorsement.

This Plan needs to specify, but not limited to, the following:

- (a) Details of the development's freight and servicing profile, including the forecast freight and servicing traffic volumes by vehicle size, frequency, time of day and duration of stay;
- (b) An altered design of the proposed development which includes adequate on-site loading to accommodate the forecast demand of the development; and
- (c) If the previous point is not achievable, details of shared off-street parking facilities at another location close to the site which adequately accommodate the forecast demand of the development so as to not rely on the kerbside restrictions to conduct the development's business.

If the development uses share off-street parking facilities, the applicant needs to ensure that an agreement to share off-street parking facilities is finalised prior to the issue of any construction certificate.

The Freight and Servicing Management Plan shall be implemented by the applicant following the issue of the Occupation Certificate.

(58) CONSTRUCTION PEDESTRIAN AND TRAFFIC MANAGEMENT - GENERAL - TRANSPORT FOR NEW SOUTH WALES

Construction vehicles shall not travel, stop or park on George Street (between Hunter Street and Bathurst Street) at any time without prior approval of the Sydney Coordination Office within Transport for NSW.

**(59) CONSTRUCTION PEDESTRIAN AND TRAFFIC MANAGEMENT PLAN -
TRANSPORT FOR NEW SOUTH WALES**

Prior to the issue of any construction certificate or any preparatory, demolition or excavation works, whichever is the earlier, the applicant shall:

- (a) Prepare a Construction Pedestrian and Traffic Management Plan (CPTMP) in consultation with the Sydney Coordination Office within TfNSW and the Sydney Light Rail Operator. The CPTMP needs to specify matters including, but not limited to, the following:
 - (i) A description of the development;
 - (ii) Location of any proposed work zone(s), noting that George Street is not a suitable location;
 - (iii) Details of crane arrangements including location of any crane(s) and crane movement plan if there will be cranes on the light rail side of the building;
 - (iv) Haulage routes;
 - (v) Proposed construction hours;
 - (vi) Predicted number of construction vehicle movements and detail of vehicle types, noting that vehicle movements are to be minimised during peak periods;
 - (vii) Construction program and construction methodology;
 - (viii) A detailed plan of any proposed hoarding and/or scaffolding, including adequate clearance for pedestrian movement alongside light rail vehicles and stop infrastructure;
 - (ix) Measures to avoid construction worker vehicle movements within the CBD;
 - (x) Consultation strategy for liaison with surrounding stakeholders, including other developments under construction and the Sydney Light Rail Operator;
 - (xi) Any potential impacts to general traffic, cyclists, pedestrians and light rail and bus services within the vicinity of the site from construction vehicles during the construction of the proposed works;
 - (xii) Cumulative construction impacts of projects including Sydney Metro City and South West and Wynyard Place development. Existing CPTMPs for developments within or around the development site should be referenced in the CPTMP to ensure that coordination of work activities are managed to minimise impacts on the surrounding road network; and
 - (xiii) Proposed mitigation measures. Should any impacts be identified, the duration of the impacts and measures proposed to mitigate any

associated general traffic, public transport, pedestrian and cyclist impacts should be clearly identified and included in the CPTMP.

- (b) Submit a copy of the final plan to the Coordinator General, Transport Coordination within TfNSW for endorsement; and
- (c) Provide the builder's direct contact number to small businesses adjoining or impacted by the construction work and the Transport Management Centre and Sydney Coordination Office within Transport for NSW to resolve issues relating to traffic, public transport, freight, servicing and pedestrian access during construction in real time. The applicant is responsible for ensuring the builder's direct contact number is current during any stage of construction.

(60) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

- (a) A Construction Traffic Management Plan (CTMP) must be submitted to and approved by Council's Area Planning Manager prior to the issue of any Construction Certificate. The CTMP must be prepared in accordance with Council's requirements, located on the City's website at:

<http://www.cityofsydney.nsw.gov.au/business/business-responsibilities/traffic-management/construction-traffic-management-plans>

- (b) The approved CTMP must be complied with at all times while the development is under construction.

(61) DEMOLITION, EXCAVATION AND CONSTRUCTION MANAGEMENT

- (a) Prior to the commencement of demolition and/or excavation work the following details must be submitted to and be approved by the Principal Certifier:
 - (i) Plans and elevations showing distances of the subject building from the location of adjoining and common/party walls, and (where applicable) the proposed method of facade retention;
 - (ii) A Demolition Work Method Statement prepared by a licensed demolisher who is registered with the Work Cover Authority. (The demolition by induced collapse, the use of explosives or on-site burning is not permitted.);
 - (iii) An Excavation Work Method Statement prepared by an appropriately qualified person;
 - (iv) A Waste Management Plan for the demolition and or excavation of the proposed development; and
 - (v) Plans and elevations showing the location, construction and installation of temporary site fencing and any temporary structures used in connection with the construction of the development.

Note: Temporary structures, including hoardings and scaffolding, proposed for erection on City-owned and controlled land (footways and

roadways), must comply with the City's *Guidelines for Hoardings and Scaffolding* and be approved by Council under the provisions of the *Local Government Act, 1993* and the *Roads Act, 1993* prior to installation.

- (b) Such statements must, where applicable, be in compliance with AS2601-2001 Demolition of Structures, the *Work, Health and Safety Act 2011* and Regulation; Council's *Policy for Waste Minimisation in New Developments 2005*, the *Waste Avoidance and Resource Recovery Act, 2001*, and all other relevant acts and regulations and must include provisions for:
- (i) A Materials Handling Statement for the removal of refuse from the site in accordance with the *Waste Avoidance and Resource Recovery Act 2001*;
 - (ii) The name and address of the company/contractor undertaking demolition/excavation works;
 - (iii) The name and address of the company/contractor undertaking off site remediation/disposal of excavated materials;
 - (iv) The name and address of the transport contractor;
 - (v) The type and quantity of material to be removed from site;
 - (vi) Location and method of waste disposal and recycling;
 - (vii) Proposed truck routes, in accordance with this development consent;
 - (viii) Procedures to be adopted for the prevention of loose or contaminated material, spoil, dust and litter from being deposited onto the public way from trucks and associated equipment and the proposed method of cleaning surrounding roadways from such deposits. (Note: With regard to demolition of buildings, dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site);
 - (ix) Measures to control noise emissions from the site;
 - (x) Measures to suppress odours;
 - (xi) Enclosing and making the site safe;
 - (xii) Induction training for on-site personnel;
 - (xiii) Written confirmation that an appropriately qualified Occupational Hygiene Consultant has inspected the building/site for asbestos, contamination and other hazardous materials, in accordance with the procedures acceptable to SafeWork New South Wales;

- (xiv) An Asbestos and Hazardous Materials Clearance Certificate by a person approved by the SafeWork New South Wales;
 - (xv) Disconnection of utilities;
 - (xvi) Fire Fighting. (Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed);
 - (xvii) Access and egress. (Demolition and excavation activity must not cause damage to or adversely affect the safe access and egress of the subject building or any adjacent buildings);
 - (xviii) Waterproofing of any exposed surfaces of adjoining buildings;
 - (xix) Control of water pollution and leachate and cleaning of vehicles tyres (proposals must be in accordance with the *Protection of the Environmental Operations Act, 1997*).
 - (xx) Working hours, in accordance with this development consent; and
 - (xxi) Any SafeWork New South Wales requirements.
- (c) The approved work method statements and a waste management plan as required by this condition must be implemented in full during the period of construction.

(62) DILAPIDATION REPORT

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of the following properties are to be prepared by an appropriately qualified structural engineer prior to commencement of demolition/excavation works:
 - (i) 323-325 George Street, Sydney; and
 - (ii) 331-339 George Street, Sydney.
- (b) 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 Accredited 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 any 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.

(63) EROSION AND SEDIMENT CONTROL

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 New South Wales *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; and
 - (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; and
- (ix) Other site-specific soil or water conservation structures.

(64) ROAD OPENING PERMIT

A separate Road Opening Permit under Section 138 of the *Roads Act, 1993* must be obtained from Council prior to the commencement of any:

- (a) Excavation in or disturbance of a public way; or
- (b) Excavation on land that, if shoring were not provided, may disturb the surface of a public road (including footpath).

(65) SANDSTONE RECYCLING

- (a) A Geotechnical Report prepared by a suitably qualified geotechnical engineer is to be submitted to Council's Area Coordinator Planning Assessments / Area Planning Manager prior to the issue of any Construction Certificate. The report is to include an investigation of the nature of the existing subsurface profile using appropriate investigation methodology and borehole testing techniques.
- (b) The Geotechnical Report is to analyse the quality of the material, including contamination, and to assess the suitability of the rock for removal by cutting into quarry blocks for use as high quality building construction material, including for building conservation.
- (c) Subject to confirmation that the rock is of a suitable quality for reuse in other construction, the Geotechnical Report is to include an Excavation Work Method Statement with recommendations as to the depth of the most suitable profile, details excavation methodologies, cutting methods and procedures for the removal of all sandstone material in a useable form and size, noise and dust attenuation measures in addition to recommendations for monitoring, notifications and review.
- (d) In addition, details of any required storage of material off site must be submitted. If the quantity of sandstone material exceeds the needs of the site, or if the approved development does not provide for the use of any sandstone, or if the material is 'Yellow Block' sandstone required for conservation of buildings, the material must be stored in an appropriate location for later reuse. Storage may be able to be facilitated by the Council or the NSW Department of Commerce. Please contact the Manager Centenary Stonework Program at the NSW Department of Finance and Services on 9372 8526 for further enquiries with regard to storage.
- (e) The programming of the works is to take into account, the above process.

(66) 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.

(67) ARCHAEOLOGICAL INVESTIGATION

- (a) The applicant must apply to the Heritage Division of the Department of Environment and Heritage for an excavation permit under Section 140 of the *Heritage Act, 1977*.
- (b) Should any potential archaeological deposit likely to contain Aboriginal objects be identified by any person during the planning or historical assessment stage, application must be made by a suitably qualified archaeologist to the NSW Government Office of Environment and Heritage for an excavation permit for Aboriginal objects.
- (c) The applicant must comply with the conditions and requirements of any excavation permit required, and are to ensure that allowance is made for compliance with these conditions and requirements into the development program.
- (d) General bulk excavation of the site is not to commence prior to compliance with the conditions and requirements of any excavation permit required.
- (e) Should any relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with Section 146 of the *Heritage Act, 1977*.
- (f) Should any Aboriginal objects be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and NSW Government Office of Environment and Heritage is to be informed in accordance with Section 89A of the *National Parks and Wildlife Act, 1974*; and
- (g) Should any archaeological remains or Aboriginal objects be discovered, a copy of recording of the finds and the final archaeological summary report is to be submitted to Council's Area Coordinator Planning Assessments / Area Planning Manager prior to issue of any Occupation Certificate.

(68) PHOTOGRAPHIC ARCHIVAL DOCUMENTATION

Prior to a Construction Certificate being issued, an archival photographic recording of the building(s) and structure(s) to be demolished 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; and
- (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.

(69) PUBLIC ART

Public art work must be installed to the satisfaction of Council's Area Planning Manager prior to the issue of any Occupation Certificate.

The public artwork must be in accordance with the Sydney Development Control Plan 2012, the City of Sydney Public Art Policy, and the City of Sydney Interim guidelines: public art in private developments.

Final details of the proposed public art work must be submitted to and approved by Council's Area Planning Manager, in the form of a Public Art Plan, prior to issue of any Construction Certificate for above ground works.

Note: Public Art, including artist shortlisting, must be reviewed and endorsed by the City's Public Art Team and/or the Public Art Advisory Panel prior to submission of a final Public Art Plan for Council approval. Further information is available online at <http://www.cityofsydney.nsw.gov.au/explore/arts-and-culture/public-art>.

Please contact the Public Art Team at publicartreferrals@cityofsydney.nsw.gov.au for further information.

(70) 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; and
- (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.

(71) SURVEY INFRASTRUCTURE – IDENTIFICATION AND RECOVERY

Under Section 24 of the *Surveying and Spatial Information Act, 2002*, it is an offence to remove, damage, destroy, displace, obliterate or deface any survey mark unless authorised to do so by the Surveyor-General. Accordingly, the applicant must, where possible, ensure the preservation of existing survey infrastructure undisturbed and in its original state or else provide evidence of the Surveyor-General's authorisation to remove or replace marks.

Prior to the issue of any Construction Certificate, documentary evidence must be prepared by a Registered Surveyor and submitted to and approved by Council's Area Planning Manager / Coordinator. This evidence must include either:

- (a) A copy of any Surveyor-General's Approval for Survey Mark Removal granted by NSW Spatial Services for the subject site, including all documentation submitted as part of that application (for example the survey mark audit schedule, strategy plan and strategy report); or

- (b) A letter, signed by a current NSW Registered Land Surveyor and including his or her Board of Surveying and Spatial Information (BOSSI) identification number, stating that all investigations required under Surveyor-General's Direction No.11 have been made for the subject site and that no survey infrastructure will be affected by the proposal.

Council's Principal Surveyor may request further information and/or add conditions to any Surveyor-General's Approval at their discretion.

(72) PUBLIC DOMAIN CONCEPT PLAN

A concept public domain plan, showing all the site frontages and extending a minimum of 5 metres past the boundary and to the middle of the road, must be prepared in accordance with the *Public Domain Manual* and the City's *Sydney Street Code*. It must be submitted to and approved by Council's Public Domain Unit prior to the issue of any Construction Certificate for the development other than for demolition or excavation. The plan must include (where relevant) all existing and proposed paving materials, locations of street trees, site furniture, light poles, signage and other public domain elements.

Note: A detailed Public Domain Plan will be required prior to construction (refer to Public Domain Plan Detailed documentation for construction).

(73) PUBLIC DOMAIN LEVELS AND GRADIENTS

Prior to the issue of any Construction Certificate, a Public Domain Levels and Gradients submission for the building and site frontages must be submitted to and approved by the City's Public Domain Unit. The submission, must be prepared in accordance with the City's *Public Domain Manual* and submitted with a completed *Application for Public Domain Levels and Gradients*. Information on how to complete the submission can be downloaded from the City's website at <https://www.cityofsydney.nsw.gov.au/>.

Any requirements to comply with Disability Discrimination Act at the entrance to a building or publically accessible space must be resolved inside the site boundary.

Note: Public Domain Levels and Gradients plans are to be included with Public Domain Plan – Detailed Documentation for Construction Condition submission.

(74) STORMWATER DRAINAGE DESIGN

Prior to issue of any Construction Certificate a detailed stormwater management plan prepared by suitable qualified and experienced professionals demonstrating compliance with the requirements of *Section 3.7.2 - Drainage and Stormwater Management*, *Section 3.7.3 – Stormwater Quality*, *3.7.4 – Additional provisions for Commercial and Industrial Properties* of the Sydney Development Control Plan 2012 must be submitted to and approved by Council's Public Domain Unit.

The submission must include the following;

- (a) A stormwater infrastructure design certification, stating that the proposed design complies with:

- (i) Council's *Sydney Streets Technical Specifications*, Part A4 *Stormwater Drainage Design*;
 - (ii) Council's *Sydney Streets Technical Specifications*, Standard Drawings;
 - (iii) Council's *Sydney Streets Technical Specifications*, Part B10: *Stormwater Drainage Construction*; and
 - (iv) All relevant Australian Standards.
- (b) Structural certification of the hydraulic and structural design of all elements, excluding standard details from Council's *Sydney Streets Technical Specifications*.

The above certification shall accompany information that address the requirements of *Section 4.5 Data Requirements, Part A4 Stormwater Drainage Design* of Council's *Sydney Streets Technical Specifications*. This information is available for download from the City's website at <https://www.cityofsydney.nsw.gov.au/>.

The requirements of Sydney Water with regard to the on-site detention (OSD) of stormwater must be ascertained and complied with. Evidence of the approval must be submitted to Council prior to any Construction Certificate other than demolition.

- (a) Note: A Deed of Agreement for all proposed connections to the City's drainage system, and a Positive Covenant for all OSD systems may be required prior to issue of any Occupation Certificate.
- (b) Note: The total discharge per site from kerb outlets must not exceed 25Litres/sec. If site discharge is greater, a connection must be made to a Council kerb inlet pit. If no kerb inlet pit exists, an extension of the Council storm water pipe system is required with a minimum 375mm diameter RCP.

(75) PUBLIC DOMAIN LIGHTING UPGRADE

Prior to issue of any Construction Certificate for excavation, civil construction, drainage or building work (whichever is earlier), a concept Public Domain Lighting Upgrade Plan for pedestrian and street lighting in the public domain must be submitted to and approved by Council's Area Planning Manager / Coordinator. The Lighting Plan must be prepared in accordance with the *Sydney Streets Technical Specifications A5 and B8, Sydney Lights Design Code* and *Public Domain Manual*. This information is available for download from the City's website at <https://www.cityofsydney.nsw.gov.au/>.

The lighting upgrade plan must cover all adjacent George Street and Wynyard Lane street frontages and shall be designed to include:

- (a) George Street:
 - (i) Provision of under awning lighting as per the requirements of City of Sydney Awnings Policy; and

- (ii) Lighting compliance with AS1158.3.1 Category P6.
- (b) Wynyard Lane:
 - (i) Provision of building facade mounted City of Sydney standard pedestrian lighting; and
 - (ii) Lighting compliance with AS1158.3.1 Category P1.

(76) DEWATERING

Prior approval must be sought from the City's Public Domain Unit to discharge any groundwater into the City's stormwater drainage system.

Other options for the disposal of groundwater include disposal to sewer with prior approval from Sydney Water, or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility.

(77) PUBLIC DOMAIN PLAN DETAILED DOCUMENTATION FOR CONSTRUCTION

A detailed public domain plan and all relevant documentation must be submitted to and approved by the City's Public Domain Unit prior to the construction of any public domain works. This 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*, *Sydney Street Tree Masterplan*, *Sydney Lights Design Code*, *Sydney Streets Technical Specification* and *Sydney's Parks Code*. The plan must consider footway pavement, kerb and gutter, drainage, vehicle crossovers, lighting, signage and other public domain elements. The documentation must be *checked, accurate, and comply with specified requirements*. Plans must be based on an accurate survey, to scale and fully coordinated across all disciplines and submissions. The supplied documentation must be to construction standard and will be approved under Section 138 of the *Roads Act, 1993*.

The Public Domain Manual and all other relevant documents are available for download from Council's website at <https://www.cityofsydney.nsw.gov.au/>.

The Public Domain Plan documentation must be submitted with an *Application for Public Domain Plan Assessment*. If the proposed detailed design of the public domain requires changes to any previously approved levels, an *Application for Public Domain Levels and Gradients* must be submitted to and approved by the Public Domain Unit to reflect these changes prior to an approval being issued for the construction of public domain work.

Note: Stamped plans will be issued for construction and approved under Section 138 of the *Roads Act, 1993*.

(78) SECTION 138 ROADS ACT APPROVAL

Approval under Section 138 of the *Roads Act, 1993* must be obtained from Council prior to the commencement of any excavation in or disturbance of a public way for the construction of approved public domain works.

(79) HOLD POINTS

Prior to an approval being issued for the construction of public domain work, including civil, drainage and subsurface works, a set of hold points for approved public domain, civil and drainage work is to be provided by the City's Public Domain Unit in accordance with the City of *Sydney's Public Domain Manual* and *Sydney Streets Technical Specification* (an approved list of hold points will be included in the Public Domain works Approval letter). These hold points must be adhered to during construction works.

(80) DRAINAGE CONNECTION

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. This must be approved prior to the issue of a Construction Certificate for the public domain.

(81) LIGHTING RETICULATION

Prior to the issue of any relevant approval for the construction of public domain works, a detailed Public Domain Lighting Plan for pedestrian and street lighting in the public domain must be submitted to and approved by Council's Public Domain Unit in accordance with the City of Sydney's *Sydney Lights Design Code*, *Sydney Streets Code*, *Sydney Streets Technical Specification* and *Public Domain Manual*.

The *Public Domain Manual* and all other relevant documents are available for download from Council's website at <https://www.cityofsydney.nsw.gov.au/>.

If applicable, this public domain lighting documentation shall include pole footing locations and structural details, location and details of underground electrical reticulation including connections and conduits, pit cabling and certifications as described in the City's *Public Domain Manual*. The public domain lighting is to be superimposed on the public domain plan to show any conflicts between lighting and the proposed landscape design.

(82) PUBLIC DOMAIN WORKS BOND

A Public Domain Works Bond will be required as security for the public domain works and for repairing damage that may be caused to the public domain in the vicinity of the site, in accordance with the City of Sydney's adopted fees and charges and the *Public Domain Manual*. The Public Domain Works Bond must be submitted as cash, an unconditional bank guarantee or insurance bond as per the Council's Performance Bond Policy in favour of the City as security for completion of the obligations under this consent (Guarantee).

The City's Public Domain Unit must be contacted to determine the guarantee amount prior to lodgement of the guarantee. The guarantee must be lodged with the City prior to an approval being issued for the Public Domain Plan.

The Guarantee will be retained in full until all Public Domain works, including rectification of damage to the public domain, are completed to City of Sydney standards and approval and the required certifications, warranties and works-as-executed documentation are submitted and approved by the City in writing.

On satisfying the above requirements, 90% of the security will be released. The remaining 10% will be retained for the duration of the specified Defects Liability Period.

(83) DEFECTS LIABILITY PERIOD – PUBLIC DOMAIN WORKS

All works to the City's public domain, including rectification of identified defects, are subject to a 6 month defects liability period from the date of final completion. The date of final completion will be nominated by Council on the Certificate of Practical Completion for public domain works.

(84) NO OBSTRUCTIONS

All public footways and paths of travel must be free from obstructions. If services are required to be relocated to clear paths of travel then this must be undertaken at the developer's expense. All obstructions are to be removed prior to the issue of any Occupation Certificate.

(85) PUBLIC DOMAIN WORKS COMPLETION

The Public Domain works are to be constructed in accordance with the Public Domain Works Approval, approved stamped plans for Gradients and Levels, Stormwater, Public Domain Lighting, the City of Sydney's *Public Domain Manual, Stormwater Drainage Manual, Sydney Lights Design Code* and *Sydney Streets Technical Specification*.

The public domain work must be inspected and a Certificate of Practical Completion must be issued by Council's Public Domain Unit prior to the issue of any Occupation Certificate or before the commencement of use, whichever is earlier.

(86) PUBLIC DOMAIN COMPLETION - WORK AS EXECUTED DOCUMENTATION

Prior to a Certificate of Practical Completion being issued for public domain works, works-as-executed (As-Built) plans and documentation, must be submitted to and accepted by the City of Sydney for all public domain works, including where required Stormwater, Public Domain Lighting and Road construction. These works must be certified by a suitably qualified, independent professional. Details of the documentation required for approval will be advised by the City's Public Domain Unit.

(87) STORMWATER COMPLETION DEED OF AGREEMENT AND POSITIVE COVENANT

Prior to the issue of any Occupation Certificate:

- (a) The Owner is required to enter into a Deed of Agreement with the City of Sydney and obtain registration of Title of a Positive Covenant for all proposed connections to the City's underground drainage system. The deed and positive covenant will contain terms reasonably required by the City and will be drafted by the City's Legal Services Unit at the cost of the applicant, in accordance with the City's Fees and Charges.

- (b) 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. The positive covenant will contain terms reasonably required by the City and will be drafted by the City's solicitor at the cost of the applicant, in accordance with the City's Fees and Charges.

(88) SURVEY INFRASTRUCTURE – PRE-SUBDIVISION CERTIFICATE WORKS

- (a) Pursuant to Section 38 of the *Surveying and Spatial Information Act, 2002*, if it is likely that any new survey mark will be disturbed by associated works (for example, footpath or kerb and gutter construction), a surveyor may defer the placement of those marks.
- (b) Prior to any the issue of any Subdivision Certificate, documentary evidence in accordance with Section B11 – *Survey Infrastructure of the Technical Specification* must be prepared by a Registered Surveyor and submitted to and approved by the City. This evidence must include:
 - (i) A copy of any Surveyor-General's Approval for Deferment of Survey Marks granted by NSW Spatial Services for the subject site, including all documentation submitted as part of that application (for example the draft deposited plan) or
 - (ii) A certificate of Practical Completion obtained from the City's Public Domain team, together with a letter, signed by a current NSW Registered Land Surveyor and including his or her Board of Surveying and Spatial Information (BOSSI) identification number, stating that all survey marks shown on their Deposited Plan remain at the date of practical completion.

(89) SURVEY INFRASTRUCTURE – RESTORATION

- (a) Prior to any Occupation Certificate being issued for the development, documentary evidence of restoration must be prepared by a Registered Surveyor and submitted to and approved by Council's Area Planning Manager / Coordinator. This evidence must include:
 - (i) Certification that all requirements requested under the Surveyor-General's Approval for Survey Mark Removal or by the City's Principal Surveyor under condition "Survey Infrastructure – Identification and Recovery" have been complied with;
 - (ii) Certification that all requirements requested under any Surveyor-General's Approval for Deferment of Survey Marks from condition "Survey Infrastructure – Pre Subdivision Certificate works" have been complied with and;
 - (iii) Time-stamped photographic records of all new survey infrastructure relating to the site clearly showing the mark itself and sufficient context to aid in identifying the mark on site.

(90) FLOOR LEVELS – WYNYARD LANE

The ground floor levels off the Wynyard Lane frontage (truck bay and stair entries) are to be a minimum of 300 millimetres above the adjacent road gutter invert level in accordance with the City's Interim Floodplain Management Policy.

(91) CONSTRUCTED FLOOR LEVELS

A certification report prepared by a suitably qualified practitioner engineer (NPER), must be submitted to the Principal Certifier prior to issue of any Occupation Certificate, stating that the development has been constructed and the required levels achieved in accordance with the approved drawings referenced in condition (1) of this consent and the 'Floor Levels – Wynyard Lane' condition.

(92) 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.

(93) 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 Ventilation and Air-conditioning in Buildings – Fire and Smoke Control in Buildings*.

(94) DRAINAGE AND SERVICE PIT LIDS

All existing or proposed utility drainage and service pit lids throughout the public domain shall be to City of Sydney specifications and heel / bicycle safe, slip resistant, infill with material to match surrounding surface, finished flush with the adjacent pavement to avoid trip hazards and be clear of obstructions for easy opening and cleaning. Infill pit lids are to be detailed where specified

by Council's Public Domain Officer. Private pits are not permitted within the public domain. All details of pit lids must be shown on the public domain plan and must be approved by Public Domain Unit prior to the issue of an approval for public domain works.

(95) TACTILE GROUND SURFACE INDICATORS AND HANDRAILS

All tactile ground surface indicators, handrails and other elements required to provide access into the building / property must be located entirely within the private property boundary.

(96) PAVING MATERIALS

The surface of any material used or proposed to be used for the paving of colonnades, thoroughfares, plazas, arcades and the like which are used by the public must comply with AS/NZS 4586:2004 (including amendments) "Slip resistance classification of new pedestrian surface materials".

(97) PUBLIC DOMAIN DAMAGE

- (a) A Public Domain Damage Bond calculated on the basis of 56 square metres of granite site frontage for George Street and 7 square metres of concrete site frontage for Wynyard Lane must be lodged with Council in accordance with the City of Sydney's adopted Schedule of Fees and Charges. The Public Domain Damage Bond must be submitted as an unconditional bank guarantee or insurance bond as per the Council's Performance Bond Policy in favour of Council as security for repairing any damage to the public domain in the vicinity of the site (Guarantee).
- (b) The Guarantee must be lodged with Council prior to an approval for demolition being granted or any Construction Certificate being issued, whichever is earlier.
- (c) The Guarantee in this condition will be retained in full until the Public Domain Works Deposit Guarantee is lodged with Council. Upon lodgement of the Public Domain Works Deposit Guarantee, the Guarantee in this condition will be released.

(98) 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) Where a hoarding and/or scaffolding (temporary structures) are proposed to be installed on or above a road reservation (footway and/or roadway), 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 for such structures.
- (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, artwork or historic images are provided and fully maintained to the City's requirements (Clauses 3.4, 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/wind vanes 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, 2017*).

(99) DEMOLITION/SITE RECTIFICATION

The following conditions apply to the development:

- (a) Demolition or excavation must not commence until a Construction Certificate has been issued for construction of the substantive building.
- (b) Prior to the Construction Certificate being issued, documentary evidence must be provided to Council that the owner of the site has entered into a Deed with Council, the cost of preparation and execution of such Deed (including stamp duty and registration fees) to be borne by the applicant,

which contains such conditions as the Council reasonably requires to ensure the matters set out in this condition are adequately provided for.

- (c) Without limiting the generality of paragraph (b), the Deed must provide for:
- (i) A bank guarantee to be provided in the sum of \$68,625 as security for the costs of such works provided that:
 - a. The maximum liability under the Deed must not exceed \$68,625; and
 - b. The Council may accept a lesser amount as security if substantiated by detailed design and Quantity Surveyor costing for works which meet the objectives of the condition.
 - (ii) Council is to be given sufficient contractual rights to be able to ensure that in any of the following events namely:
 - a. Demolition of the existing building has commenced but not been completed;
 - b. The existing building has been demolished; or
 - c. The site has been excavated; or
 - d. The erection of the structure has commenced;
 - (iii) That it, or any person authorised by it, may enter the site and carry out such works at the cost of the applicant (or such other person as the Consent Authority may approve) as may be then appropriate in the circumstances in each of the abovementioned events, to:
 - a. Make the building safe and of an appearance acceptable to Council at ground level;
 - b. Allow the ground level to be landscaped and of an appearance acceptable to Council from any public vantage point; or
 - c. For the hole to be covered to allow it to be landscaped and made attractive from any public vantage-point; or
 - d. In the event that the new building is constructed beyond the ground floor, to allow any hoardings to be removed and the ground floor development to be completed to a tenatable stage;
- AND to call on such bank guarantee to cover the cost thereof.
- (d) If the site is commenced to be developed and there is suspension in activity for 6 months (or suspensions of activity which in the aggregate exceed 6 months), resulting in a building site which has an appearance

not acceptable to Council, then the Council will have the readily enforceable rights to:

- (i) Require certain works including but not limited to those works necessary to achieve the results referred to in sub-clause (c) (ii) a – d to take place on the site; and
 - (ii) In the event of default, have the right to enter and carry out these works and to call upon security in the nature of a bank guarantee to cover the cost of the works.
- (e) The Deed may provide for the release of the Bank Guarantee upon practical completion of the approved development.

(100) INSTALLATION OF ARTWORK AND IMAGES ON SCAFFOLDING (DEMOLITION / CONSTRUCTION WRAPS)

- (a) Where scaffolding is to be installed to undertake the proposed development an approved artwork / historic image installation must be provided on the scaffolding system to screen the development from the public place, minimise adverse visual impacts on the locality and add visual and public art in the streetscape.
- (b) The artwork installation must be printed, installed and maintained in accordance with Council's *Guidelines for Hoardings and Scaffolding*. Details of the proposed installation must be submitted to and approved by Council prior to the issue of a construction certificate or work commencing.

Note: The scaffolding system on which a required artwork wrap is to be installed must be designed to safely and adequately accommodate and support the wrap mesh material on which the artwork is printed/displayed. This includes designing the scaffold to address potential increased wind loads that may be encountered in the locality.

(101) TEMPORARY STRUCTURES (HOARDINGS, SCAFFOLDING AND OTHER STRUCTURES) INSTALLED ON PUBLIC ROADS THAT REQUIRE DEVELOPMENT CONSENT

The following forms of temporary structures (hoardings, scaffolding and other structures) proposed for installation on or above public roads and in connection with the construction of the approved development require Council approval (development consent):

- (a) Type B hoardings that span over roads such as laneways;
- (b) Type B hoardings that propose more than a single storey of site sheds installed on a hoarding deck;
- (c) Type A and Type B hoardings with or without scaffolding that project beyond the side boundaries of adjoining properties;
- (d) Fenced work compounds at roadway/footway level;

- (e) Hoardings/scaffolding associated with works on heritage-listed buildings; or
- (f) Any other large and/or potentially high environmental impact temporary structures, as determined by Council.

A separate development application must be submitted and approved by Council prior to the installation of any temporary structure listed above.

(102) 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.

(103) LAND SUBDIVISION

Any proposal to subdivide the site, including any stratum subdivision of the building, will require a separate application to Council to obtain development consent for the proposal and subsequent issue of the Subdivision Certificate under Section 6.15 of the *Environmental Planning and Assessment Act 1979*.

(104) LOT CONSOLIDATION

All land titles within the site must be consolidated into one lot. A plan of consolidation must be registered with NSW Land Registry Services, prior to any Occupation Certificate being issued.

(105) STRATA SUBDIVISION – DEVELOPMENT CONSENT

Any proposal for strata subdivision will require development consent and therefore the lodgement of a separate development application or complying development application and subsequent approval from Council, or an accredited certifier, of the Strata Plan – and issue of a Strata Certificate, under the *Strata Schemes Development Act, 2015*.

(106) ENERGY EFFICIENCY OF BUILDINGS

The design of the building and its services must achieve a rating of 5.5 stars under the NSW Office and Environment and Heritage (OEH) National Australian Built Environment Rating System (NABERS Energy). This can be demonstrated by:

- (a) Entering into a Commitment Agreement with OEH, to deliver this star rating:
 - (i) For the base building, being services traditionally supplied as 'common' to tenants such as air conditioning, lifts and common area lighting;
 - (ii) Providing solar photovoltaic panels on the roof space of the development, equal to 8.25kW (based on 250W panels); and

- (iii) For the whole building where there is to be one tenant to occupy the whole building.

The applicant must provide a copy of the completed Commitment Agreement with their Construction Certificate application; and

- (b) Providing a copy of the independent energy assessment report to OEH and submitted with the Construction Certificate application, that follows the current OEH guidelines. This report must be based on the same documents as those submitted with the Construction Certificate.

Note: Definitions referred to in clause (a) above:

- (i) Commitment Agreement means an agreement that is set out in accordance with OEH NABERS Commitment Agreement, which is made/signed between OEH and the applicant/building owner/building manager, to design, build and commission the premises to an agreed star rating.
- (ii) Star rating refers to the benchmarking system applied by OEH for measuring the energy efficiency of a building, and known as NABERS the National Australian Built Environment Rating System.
- (iii) Base building means central services and common areas of a building.
- (iv) Tenancies means office space within a building covering tenant light and power. This may include tenancy air conditioning if this has been installed to service particular tenant loads, but does not include central services.
- (v) Whole building means all of the building, being the fabric of the building itself and all services and fit-outs.

(107) INSTALLATION OF DUAL-FLUSH TOILETS

All toilets installed within the development must be of water efficient dual-flush or other water-saving capacity with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). The details must be submitted for the approval of the Accredited Certifier, prior to a Construction Certificate being issued.

(108) INSTALLATION OF WATER EFFICIENT SHOWERS

All shower heads installed must be water efficient with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). The details are to be submitted for the approval of the Principal Certifier, prior to any Occupation Certificate being issued.

(109) INSTALLATION OF WATER EFFICIENT TAPS

All taps installed must be water efficient with at least a 6-star rating under the Water Efficiency and Labelling Scheme (WELS). The details are to be

submitted for the approval of the Principal Certifier, prior to any Occupation Certificate being issued.

(110) INSTALLATION OF WATER EFFICIENT URINALS

New urinal suites, urinals and urinal flushing control mechanisms must use waterless technology. Where it is submitted that this is not feasible, it must be demonstrated that products have been selected with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). Systems must include "smart controls" to reduce unnecessary flushing. Continuous flushing systems are not approved. Details are to be submitted to and approved by the Accredited Certifier, prior to a Construction Certificate being issued.

(111) INTERNAL LIGHTING SYSTEM

The proposed internal lighting system for the commercial office spaces must be designed to provide for the efficient use of energy including the use of energy efficient light fittings, zoned lighting and controls and sensors to ensure automatic switch off during non-working hours. Details of the internal lighting system must be submitted to and approved by the Accredited Certifier prior to a Construction Certificate being issued.

(112) 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.

(113) 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.

(114) TELECOMMUNICATIONS PROVISIONS

- (a) Appropriate space and access for ducting and cabling is to be provided within the plant area and to each level 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 Accredited Certifier prior to a Construction Certificate being issued.

- (b) A separate development application must be submitted prior to the installation of any external telecommunication apparatus, or the like.

(115) 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.

(116) WASTE AND RECYCLING COLLECTION CONTRACT

Prior to any Occupation Certificate being issued and/or commencement of the use, whichever is earlier, the building owner must ensure that there is a contract with a licensed contractor for the removal of **all waste**. No garbage is to be placed on the public way, e.g. footpaths, roadways, plazas, reserves, at any time.

(117) WASTE AND RECYCLING MANAGEMENT PLAN

- (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 Accredited Certifier prior to a Construction Certificate being issued. The plan must comply with the Council's *Guidelines for Waste Management in New Developments 2018*, specifically including the following matters:
 - (i) The development must accurately provide for a minimum of 80% diversion on each type of waste material that will be generated during demolition and construction processes.

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 any 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*.

(118) WASTE AND RECYCLING MANAGEMENT - GENERAL

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.

(119) 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.

SCHEDULE 1C

DURING CONSTRUCTION/PRIOR TO OCCUPATION/COMPLETION

(120) 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.

(121) HOURS OF WORK AND NOISE

The hours of construction and work on the development must be as follows:

- (a) All work, including demolition, excavation and building work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (e.g. loading and unloading of goods, transferring of tools etc.) in connection with the proposed development must only be carried out between the hours of 7.00am and 7.00pm on Mondays to Fridays, inclusive, and 7.00am and 5.00pm on Saturdays, 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*.

(122) ARCHAEOLOGICAL DISCOVERY DURING EXCAVATION

- (a) Should any relics be unexpectedly discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of New South Wales should be informed in accordance with Section 146 of the *Heritage Act, 1977*;
- (b) Should any Aboriginal objects be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and the New South Wales Government Office of Environment and Heritage is to be

informed in accordance with Section 89A of the *National Parks and Wildlife Act, 1974*;

- (c) Should any archaeological remains or Aboriginal objects be discovered, a copy of recording of the finds and the final archaeological summary report is to be submitted to Council prior to the issue of any Occupation Certificate; and
- (d) If the discovery is on Council's land, Council must be informed.

(123) 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.

(124) NOTIFICATION OF EXCAVATION WORKS OR USE OF HIGH NOISE EMISSION APPLIANCES/PLANT

The immediately adjoining neighbours must be given a minimum of 48 hours notice that excavation, shoring or underpinning works or use of high noise emission appliances / plant are about to commence.

(125) SITE NOTICE OF PROJECTS DETAILS AND APPROVALS

A site notice is to be prominently displayed at the boundary to each frontage of the site for the purposes of informing the public of appropriate project details and relevant approvals. The notice(s) is to satisfy all of the following requirements:

- (a) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (b) The notice is to be durable and weatherproof and is to be displayed throughout the construction period;
- (c) A copy of the first page of the development approval, building approval (including any modifications to those approvals) and any civic works approvals is to be posted alongside the notice in weatherproof casing;
- (d) The approved hours of work, the Principal Certifier including contact address and certification details, the name of the site manager, the responsible managing company, its address and 24 hour contact phone number for any enquiries, including construction/noise complaint, and the estimated date of completion of the project are to be displayed on the site notice;
- (e) The notice(s) is to be mounted at eye level on the perimeter hoardings and is also to state that unauthorised entry to the site is not permitted; and

- (f) All notices and signs must be displayed in locations as specified in the City's Guidelines for Hoardings and Scaffolding.

(126) PROJECTIONS OVER GEORGE STREET

The architectural embellishments attached to the building, shown as overhanging the alignment of George Street, must comply with the provisions of Schedule 4 ("Projections over or into public roads") of the Sydney Development Control Plan 2012.

(127) PROJECTIONS OVER WYNYARD LANE

Any projections attached to of the building which would overhang the alignment of Wynyard Lane, cannot comply with the provisions of Schedule 4 ("Projections over or into public roads") of the Sydney Development Control Plan 2012 and therefore must not overhang the alignment of Wynyard Lane.

(128) ENCROACHMENTS – PUBLIC WAY

Apart from projections referred to in the conditions above, no portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach upon or over Council's footpath area.

(129) ENCROACHMENTS – NEIGHBOURING PROPERTIES

No portion of the proposed structure shall encroach onto the adjoining properties.

(130) 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.

(131) SURVEY CERTIFICATE AT COMPLETION

A Survey Certificate prepared by a Registered Surveyor must be submitted to the Principal Certifier at the completion of the building work certifying the location of the building in relation to the boundaries of the allotment.

(132) 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.

(133) 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.

(134) 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.

(135) HAZARDOUS AND INDUSTRIAL WASTE

Hazardous and/or industrial waste arising from the demolition/operational activities must be removed and/or transported in accordance with the requirements of the New South Wales Work Cover Authority pursuant to the provisions of the following:

- (a) *Protection of the Environment Operations Act, 1997;*
- (b) *Protection of the Environment Operations (Waste) Regulation, 2005;*
- (c) *Waste Avoidance and Resource Recovery Act, 2001;*
- (d) *Work Health and Safety Act, 2011;* and
- (e) *Work Health and Safety Regulation, 2017.*

(136) 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.

(137) STREET NUMBERING

Prior to any 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.

(138) 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 any Occupation Certificate or subdivision/strata certificate being issued.

(139) ACCESS DRIVEWAYS TO BE CONSTRUCTED

Approved driveways are to be constructed for all vehicular access to the construction site in accordance with the requirements of Council's "Driveway Specifications" to the satisfaction of Council.

(140) 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* and Section 138 of the *Roads Act, 1993* must be obtained.

(141) 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.

(142) 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 New South Wales 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

CONCURRENCE CONDITIONS

The concurrence conditions, in accordance with Clause 86 of the State Environmental Planning Policy (Infrastructure) 2007 and as advised by Transport for New South Wales, are as follows:

(143) PROTECTION OF TfNSW INFRASTRUCTURE AND LIGHT RAIL OPERATIONS - GENERAL

- (a) The applicant must comply with all Altrac Light Rail Partnership (Altrac) or any subsequent operator of Sydney Light Rail (Sydney Light Rail Operator) policies, rules and procedures when working in and about the Sydney Light Rail corridor;
- (b) The applicant must comply with the requirements of T HR CI 12080 ST External Developments version 1.0 and Development Near Rail Corridors and Busy Roads- Interim Guidelines;
- (c) Activities of the applicant must not affect and/or restrict Sydney Light Rail operations without prior written agreement between the applicant, Transport for NSW (TfNSW), Altrac, and the Sydney Light Rail Operator, and it is a condition precedent that such written agreement must be obtained no later than two (2) months prior to the activity. Any requests for agreement are to include as a minimum the proposed duration, location, scope of works, and other information as required by the Sydney Light Rail Operator;
- (d) The applicant must apply to Altrac and the Sydney Light Rail Operator for any required network shutdowns four (4) months prior to each individual required network shutdown event. Each request for network shutdown must include as a minimum the proposed shutdown dates, duration, location, scope of works, and other information as required by the Sydney Light Rail Operator. It is likely in the first two (2) years there will not be a light rail shutdown for maintenance purposes. The Sydney Light Rail Operator may grant or refuse a request for network shutdown at its discretion;
- (e) The applicant shall provide safe and unimpeded access for Sydney Light Rail patrons traversing to and from the Sydney Light Rail stops at all times;
- (f) TfNSW, and persons authorised by it for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought; and
- (g) All TfNSW, Altrac and Sydney Light Rail Operator's costs associated with review of plans, designs and legal must be borne by the applicant.

(144) PROCESS OF ENDORSEMENT OF CONDITIONS - PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

Prior to the issue of any construction certificate or any preparatory, demolition or excavation works, whichever is the earlier, the applicant shall:

- (a) Consult with TfNSW, Altrac and the Sydney Light Rail Operator to ascertain requirements in relation to the protection of TfNSW's infrastructure and to confirm the timing of the each construction certificate and associated documentation and activities prior to preparation of requested documentation;
- (b) Sign Interface Agreement and Works Deed with TfNSW and/or the Sydney Light Rail Operator;
- (c) Confirm in writing with TfNSW what each Construction Certificate stage will involve; and
- (d) Submit all relevant documentation to TfNSW as requested by TfNSW and obtain its written endorsement for each construction stage. A summary report for each construction stage shall also be provided to TfNSW to demonstrate that submitted documentation has satisfied the relevant conditions.

The Principal Certifying Authority (PCA) is not to issue the relevant Construction Certificate until received written confirmation from TfNSW that the relevant conditions have been complied with for each Construction Certificate.

(145) REVIEW AND ENDORSEMENT OF DOCUMENTS - PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

Prior to the issue of any construction certificate or any preparatory, demolition or excavation works, whichever is the earlier, the following documentation shall be provided for the review and endorsement of TfNSW:

- (a) Final geo-technical and structural report I drawings. Geotechnical reports should include any potential impact on the light rail corridor located adjacent to the subject development site, easement and substratum;
- (b) Final construction methodology with construction details pertaining to structural support during excavation or ground penetration;
- (c) Details of the vibration and movement monitoring system that will be in place before excavation commences;
- (d) Final cross sectional drawings showing ground surface, rail tracks, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the Rail Corridor located adjacent to the subject development site. Cross sectional drawings should also include the accurate RL depths and horizontal distances from assets (tracks, overhead lines, structures and cables) to the nearest point of excavation or ground penetration works. All measurements are to be verified by a Registered Surveyor; and

(e) Detailed survey plan.

(146) PRE-CONSTRUCTION WORK DILAPIDATION REPORT - PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

A pre-construction work Dilapidation Report of the Sydney Light Rail and its assets shall be prepared by a qualified structural engineer. The dilapidation survey shall be undertaken via a joint site inspection by the representatives of the Sydney Light Rail Operator, TfNSW and the applicant. These dilapidation surveys will establish the extent of existing damage and enable any deterioration during construction to be observed.

(147) ACOUSTIC ASSESSMENT - PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

Prior to the issue of the relevant Construction Certificate, the final acoustic assessment is to be submitted to PCA demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines". All recommendations of the acoustic assessment are to be incorporated in the construction documentation.

(148) ELECTROLYSIS ANALYSIS - PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

Prior to the issue of the relevant Construction Certificate, the applicant is to engage an Electrolysis Consultant to prepare a report on the Electrolysis Risk to the development from stray currents. The applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the PCA with the application for the relevant Construction Certificate.

(149) REFLECTIVITY REPORT - PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

Prior to the issue of the relevant Construction Certificate, the applicant shall design lighting, signs and surfaces with reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor limiting glare and reflectivity to the satisfaction of Altrac, TfNSW and the Sydney Light Rail Operator.

(150) CONSULTATION REGIME - PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

Prior to the issue of the relevant Construction Certificate, a detailed regime is to be prepared for consultation with and approval by TfNSW for the excavation of the site and the construction of the building foundations (including ground anchors) for the approved development, which may include geotechnical and structural certification in the form required by TfNSW.

(151) INSURANCE REQUIREMENTS - PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

Prior to the issue of the relevant Construction Certificate, the applicant must hold current public liability insurance cover for a sum acceptable to TfNSW.

This insurance shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The applicant is to contact TfNSW to obtain the level of insurance required for this particular proposal. Prior to issuing the relevant Construction Certificate the PCA must witness written proof of this insurance in conjunction with TfNSW's written advice to the applicant on the level of insurance required.

(152) SAFETY INTERFACE AGREEMENT - PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

Prior to the issue of any construction certificate or any preparatory, demolition or excavation works, whichever is the earlier, if required by TfNSW, a Safety Interface Agreement between the applicant, TfNSW, Altrac and/or the Sydney Light Rail Operator must be agreed and executed by the parties. This agreement may deal with matters including, but not limited to, the following:

- (a) Pre and post construction dilapidation reports;
- (b) The need for track possessions;
- (c) Review of the machinery to be used during excavation/ground penetration / construction works;
- (d) The need for track monitoring;
- (e) Design and installation of lights, signs and reflective material;
- (f) Endorsement of Risk Assessment/Management Plan and Safe Work Method Statements (SWMS);
- (g) Endorsement of plans regarding proposed craneage and other aerial operations;
- (h) Erection of scaffolding/hoarding;
- (i) Light Rail Operator's rules and procedures; and
- (j) Alteration of rail assets such as the OHW along of track and associated hoarding demarcation system, if undertaken by the applicant.

(153) WORKS DEED - PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

Prior to the issue of any construction certificate or any preparatory, demolition or excavation works, whichever is the earlier, if required by TfNSW, a Works Deed between the applicant, TfNSW, Altrac and/or the Sydney Light Rail Operator must be agreed and executed by the parties. This agreement may deal with matters including, but not limited to, the following:

- (a) Sydney Light Rail Operational requirements;
- (b) Sydney Light Rail access requirements;
- (c) Altrac and Sydney Light Rail Operator policies, rules and procedures compliance requirements;

- (d) Indemnities and releases;
- (e) Insurance requirements and conditions;
- (f) TfNSW, Altrac and the Sydney Light Rail Operator's recovery of costs from the applicant for costs incurred by these parties in relation to the development (e.g. review of designs and reports, legal, shutdown /power outages costs including alternative transport, customer communications, loss of revenue etc.) risk assessments and configuration change processes;
- (g) Interface coordination between the Sydney Light Rail Operator and the subject development construction works;
- (h) Altrac and the Sydney Light Rail Operator's reviews and impact assessment of the applicant's proposal, engineering design and construction works methodology on Sydney Light Rail Operations and assets;
- (i) Attendance and participation in the construction works risk assessment of construction activities to be performed in, above, about, and/or below the Sydney Light Rail Corridor;
- (j) Arrangements for shutdowns and Sydney Light Rail restricted operations related costs attributed to the applicant; and
- (k) Sydney Light Rail site works access approval and access permit to work.

(154) DURING CONSTRUCTION

- (a) Construction vehicles shall not be stopped or parked on George Street at any time without prior approval of the Sydney Coordination Office within Transport for NSW.
- (b) All piling and excavation works are to be supervised by a geotechnical engineer experienced with such excavation projects;
- (c) No rock anchors/bolts (temporary or permanent) are to be installed into the light rail corridor without approval from TfNSW;
- (d) No metal ladders, tapes and plant/machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment unless a physical barrier such as a hoarding or structure provides separation;
- (e) During all stages of the development extreme care shall be taken to prevent any form of pollution entering the light rail corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the applicant;
- (f) The applicant must mitigate all noise and vibration to the extent possible and provide vibration monitoring equipment and provide the results to the Sydney Light Rail Operator at intervals required by TfNSW and the Sydney Light Rail Operator, and immediately implement corrective actions in the event that the noise or vibration exceeds acceptable limits;

- (g) Rainwater from the roof must not be projected and/or falling into the rail corridor/assets and must be piped down the face of the building which faces the rail corridor. Given the site's location next to the rail property, drainage from the development must be adequately disposed of/managed and not allowed to be discharged into the corridor unless prior approval has been obtained from TfNSW and the Sydney Light Rail Operator (or the delegated authority); and
- (h) No scaffolding is to be used within 6 horizontal metres of the rail corridor unless prior written approval has been obtained from the Sydney Light Rail Operator and TfNSW and a physical barrier such as a hoarding or structure provides separation. To obtain approval the applicant will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor.

(155) POST-CONSTRUCTION DILAPIDATION REPORT - PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

Prior to the issue of the Occupation Certificate, a post-construction dilapidation survey shall be undertaken via a joint inspection with representatives from TfNSW, Altrac, the Sydney Light Rail Operator and the applicant. The dilapidation survey will be undertaken on the rail infrastructure and property in the vicinity of the project. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report to TfNSW and the Sydney Light Rail Operator will be required unless otherwise notified by TfNSW. The applicant needs to undertake rectification of any damage to the satisfaction of TfNSW and the Sydney Light Rail Operator and if applicable the local council.

(156) REFLECTIVITY REPORT - PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

Prior to the issue of the Occupation Certificate, the applicant shall demonstrate that lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor were installed limiting glare and reflectivity to the satisfaction of TfNSW, Altrac and the Sydney Light Rail Operator.

Attachment B

| |
|--------------------------|
| Selected Drawings |
|--------------------------|

George Street Commercial

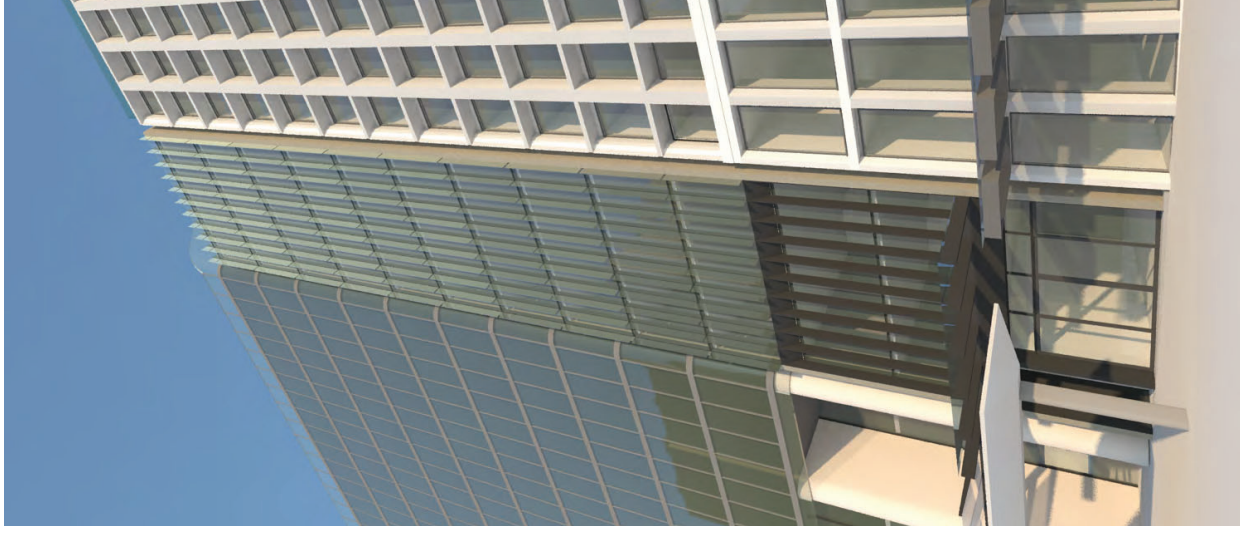
327-329 George St, Sydney



drawing list

architectural

| Number | Title |
|------------|------------------------------------|
| 1707-D-000 | Title Page |
| 1707-D-001 | Context Photographs |
| 1707-D-002 | Context Photographs |
| 1707-D-003 | Reference Images |
| 1707-D-004 | Site analysis |
| 1707-D-005 | Context + Concept |
| 1707-D-006 | Street view 3D's |
| 1707-D-007 | Street level 3D's |
| 1707-D-101 | Site Plan |
| 1707-D-102 | Basement / Level B1.5 Plan |
| 1707-D-103 | Ground Floor - Retail |
| 1707-D-104 | Level 1 - Retail |
| 1707-D-105 | Level 2 - Office |
| 1707-D-106 | Level 3-12 - Office levels typical |
| 1707-D-107 | Level 13 - Office |
| 1707-D-108 | Level 14 - Office |
| 1707-D-109 | Level 15 - Plant |
| 1707-D-120 | Roof Plan |
| 1707-D-131 | Elevation George St |
| 1707-D-132 | Elevation Wynyard Lane |
| 1707-D-133 | Elevation South and North |
| 1707-D-141 | Section |
| 1707-D-142 | Section |
| 1707-D-143 | Section |
| 1707-D-200 | East Elevation detail |
| 1707-D-201 | Facade details |
| 1707-D-210 | Materials and finishes |
| 1707-D-801 | Shadow diagrams 1 |
| 1707-D-802 | Shadow diagrams 2 |
| 1707-D-802 | Shadow diagrams 3 |
| 1707-D-901 | Area Schedule - GFA |
| 1707-D-902 | Area Schedule - Lettable Area |



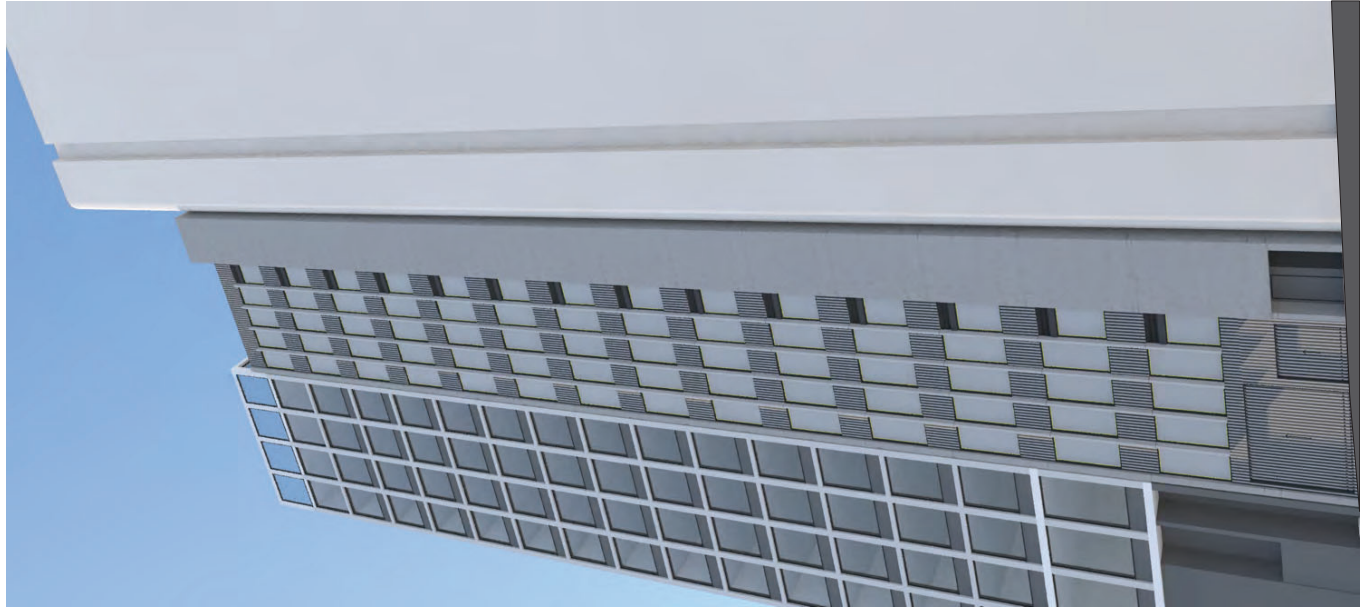
PROJECT New Development
 ADDRESS 327-329 George Street Sydney
 CLIENT Ledorli Holdings
 DWG 1707 D
 COVERPAGE

melocog moore
 Melocog and Moore Architects
 Level 2, Suite 204
 100 Market Street
 Redfern NSW 2016 Australia
 Nominated Architect - Philip Moore #5472
 T +612 9212 6111
 W www.melocogmoore.com.au

| ISSUE | DATE | BY | REVISION |
|-------|---------|----|--|
| L | 22/5/20 | ck | Amended DA |
| K | 9/4/20 | ck | AMENDED DA - Issued for client information |

Verify all dimensions and levels on site prior to the commencement of work. Do not scale from the drawings.

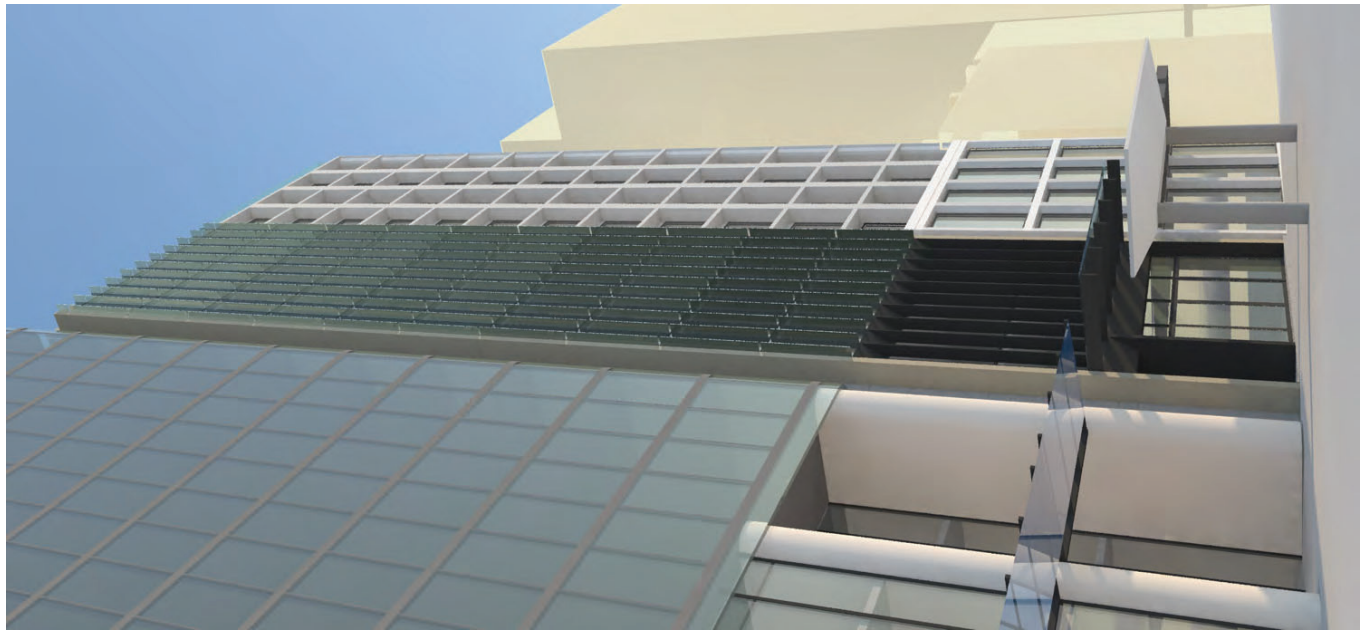
SCALE 1:100 @ A3 DRAWN CK CHG DM
 PROJECT NO STATUS DIVG NO + REVISION
 1707 D 000 L



Wynyard Lane
(Westside building on Wynyard Lane reserved for clarity)



Footpath view (East side of George Street)



Footpath view (East side of George Street)

| | |
|--------------------|------------------------------|
| PROJECT | New Development |
| ADDRESS | 327-329 George Street Sydney |
| CLIENT | Ledorri Holdings |
| DWG | Street View 3D's |
| SCALE | 1:400 @ A3 |
| PROJECT NO. | 1707 |
| DWG NO. + REVISION | D 006 I |

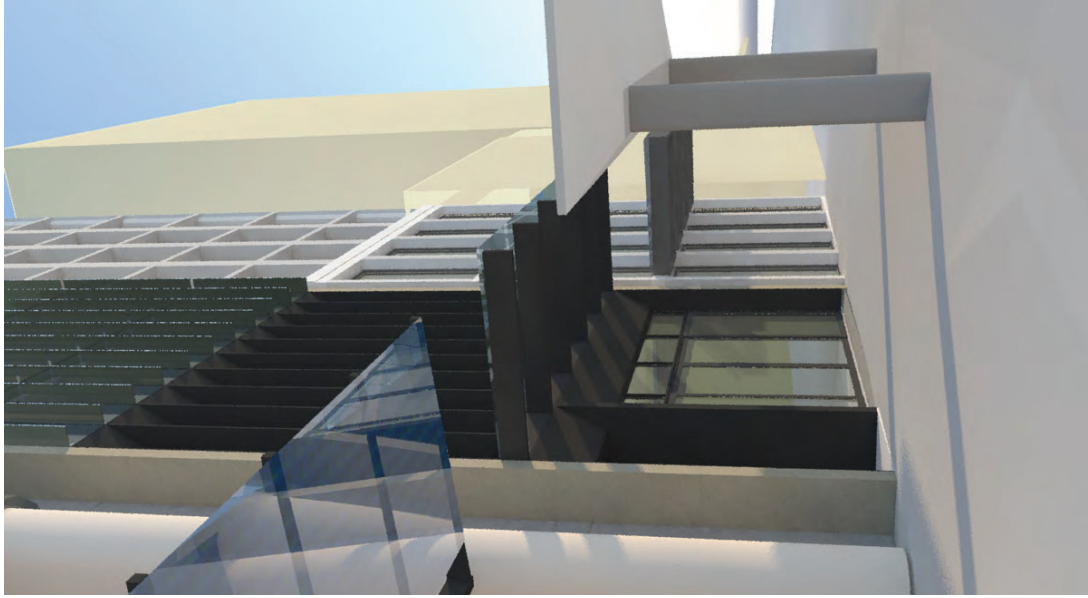
melocco moore
 Melocco and Moore Architects
 Level 2, Suite 204
 100 Pitt Street
 Redfern NSW 2016 Australia
 T +612 9212 6111
 W www.meloccomore.com.au
 Nominated Architect - Philip Moore #5472

| | | | |
|-------|---------|----|--|
| ISSUE | DATE | BY | REVISION |
| I | 22/5/20 | ck | Amended DA |
| H | 04/20 | ck | AMENDED DA - Issued for client information |

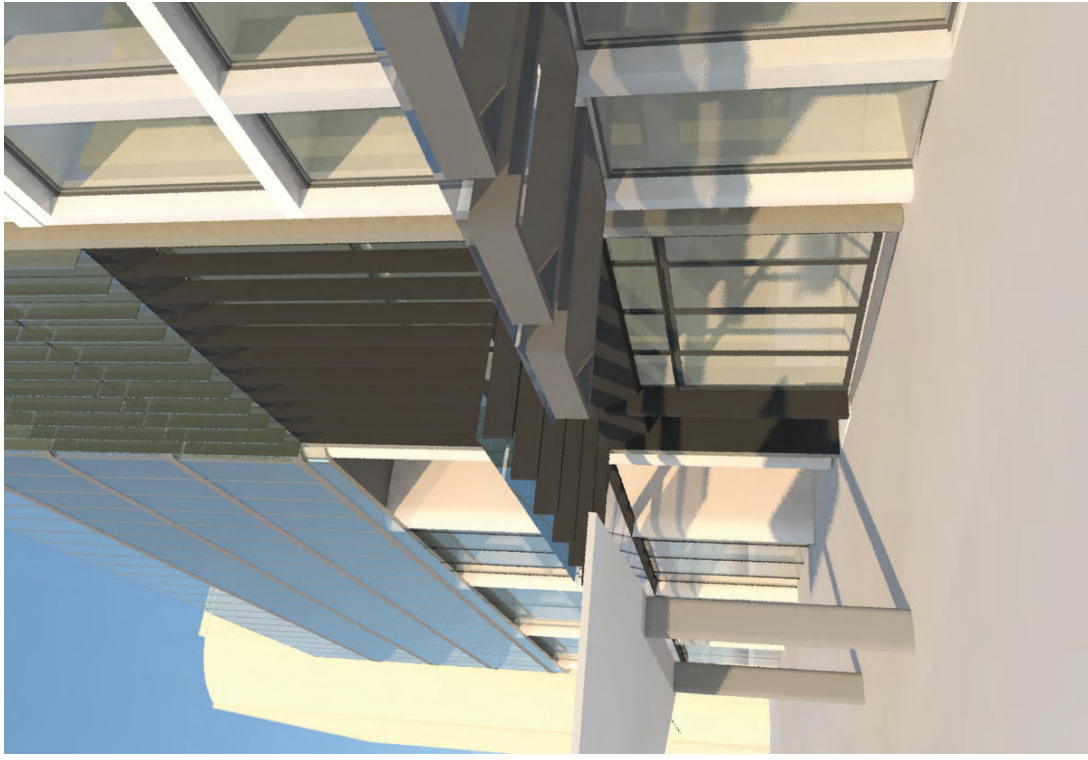
Verify all dimensions and levels on site prior to the commencement of work. Do not scale from the drawings.



Street Level view



Street Level view (West side of George Street looking North)



Street Level view (West side of George Street looking South)

PROJECT **New Development**
 ADDRESS **327-329 George Street Sydney**

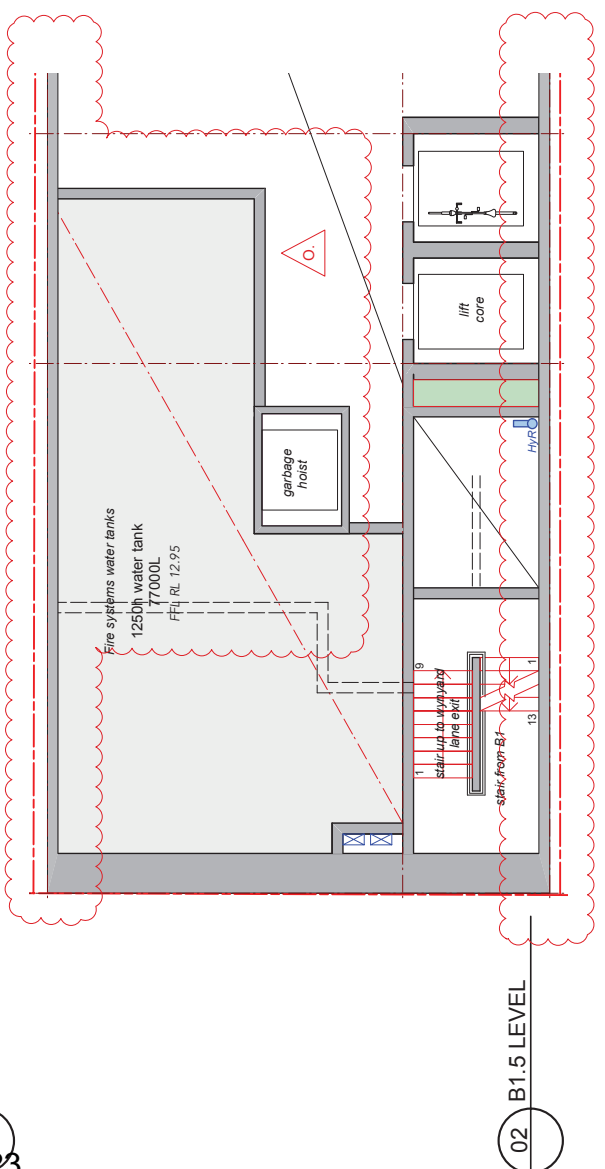
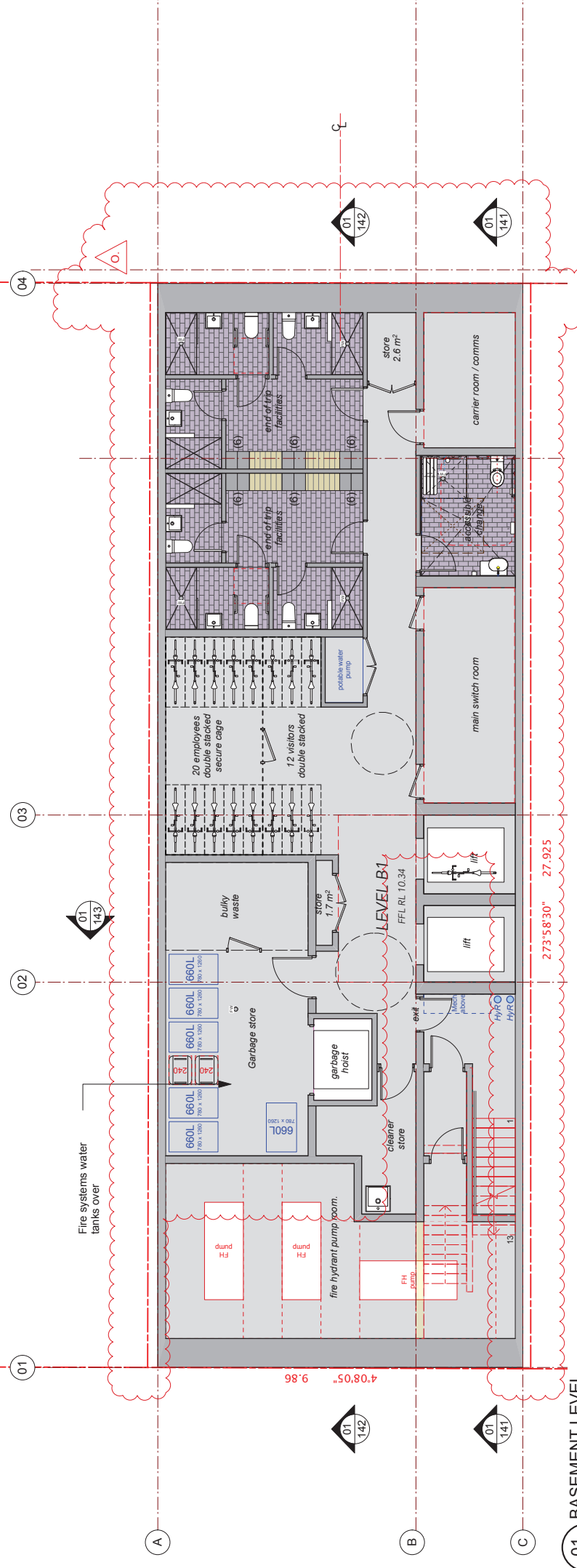
CLIENT **Ledorti Holdings**
 DWG **Street Level 3D's**
 PROJECT NO **1707** STATUS **D** DIVG NO + REVISION **007 D**
 SCALE **1:400 @ A3** DRAWN CK CHG DM

**melocco
moore**

Melocco and Moore Architects
 Level 2, Suite 204
 100 Pitt Street
 Redfern NSW 2016 Australia
 T +612 9212 6111
 W www.meloccomore.com.au
 Nominated Architect - Philip Moore #5472

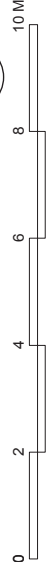
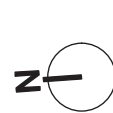
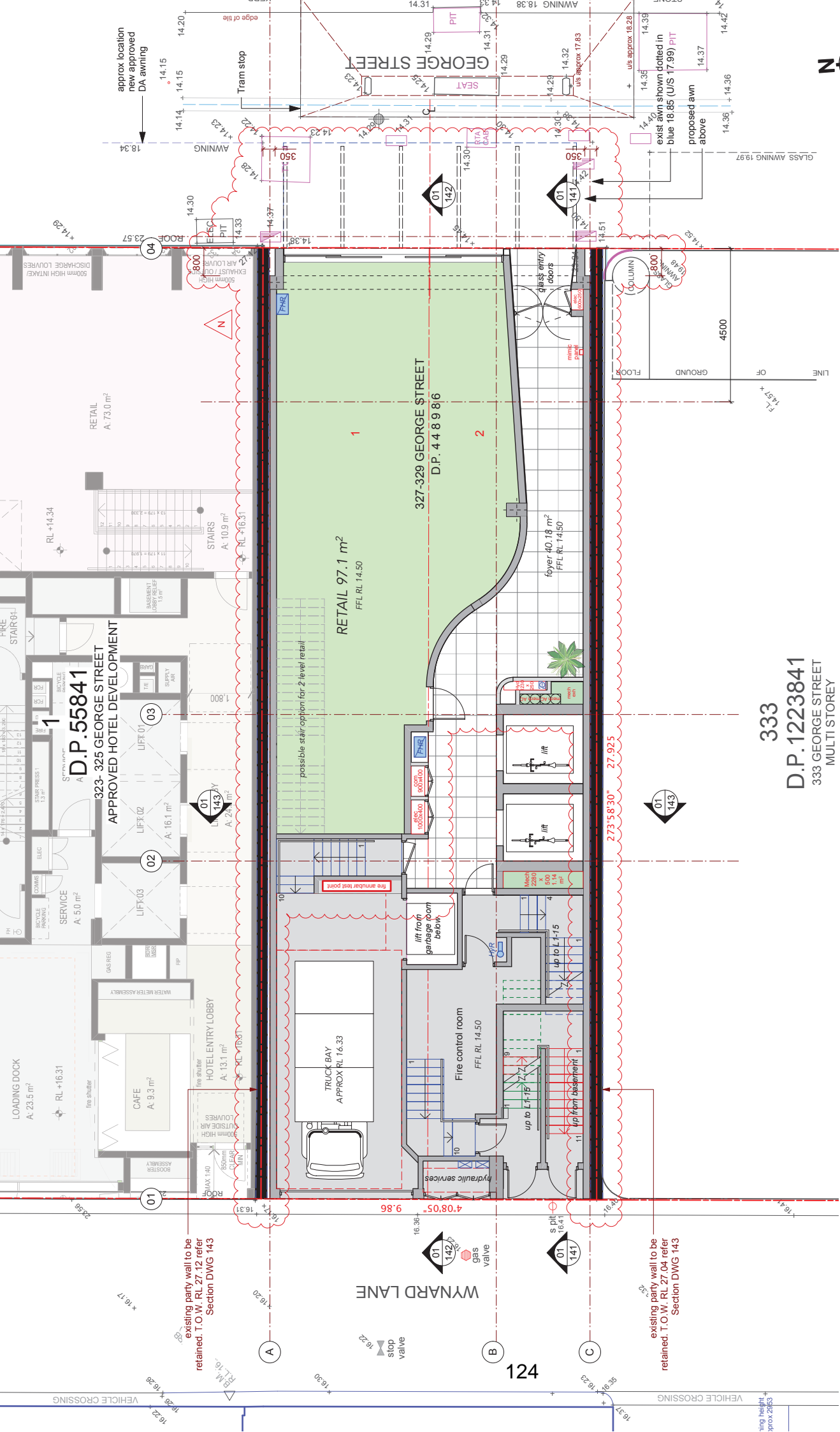
| ISSUE | DATE | BY | REVISION |
|-------|---------|----|--|
| D | 22/5/20 | ck | Amended DA |
| C | 04/20 | ck | AMENDED DA - Issued for client information |

Verify all dimensions and levels on site prior to the commencement of work. Do not scale from the drawings.



Verify all dimensions and levels on site prior to the commencement of work. Do not scale from the drawings.

01 BASEMENT LEVEL
23



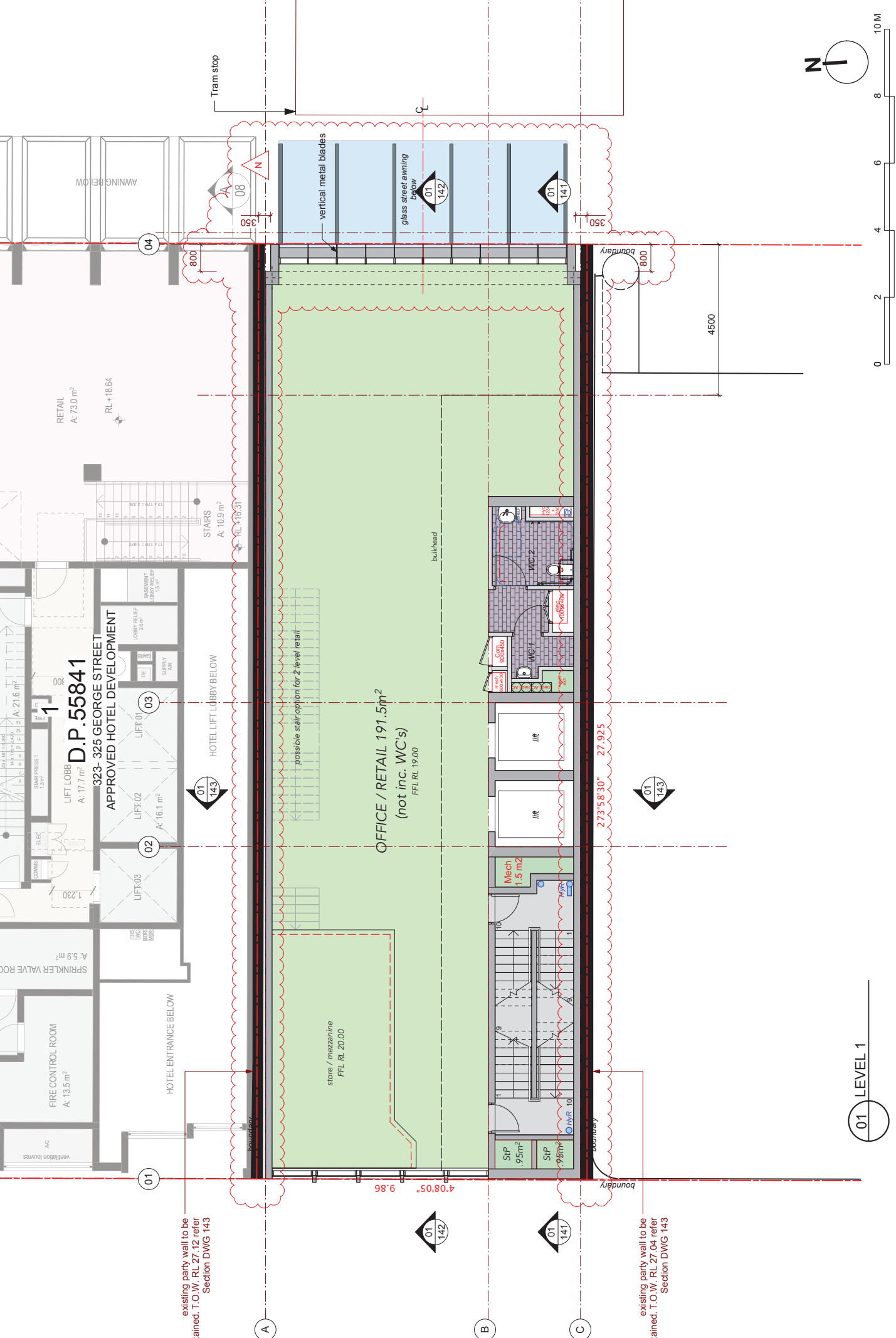
333
D.P. 1223841
333 GEORGE STREET
MULTI STOREY

01 GROUND FLOOR

| | | | | | | | |
|--------------------------------------|---------|----|--|-------|------|----|----------|
| N | 22/5/20 | ck | Amended DA | ISSUE | DATE | BY | REVISION |
| M | 04/2/20 | ck | AMENDED DA - Issued for client information | | | | |
| PROJECT New Development | | | | | | | |
| ADDRESS 327-329 George Street Sydney | | | | | | | |
| CLIENT Ledorli Holdings | | | | | | | |
| DWG 1707 D | | | | | | | |
| SCALE 1:100 @ A3 DRAWING | | | | | | | |
| PROJECT NO STATUS DWG NO + REVISION | | | | | | | |
| 1707 D 103 N | | | | | | | |

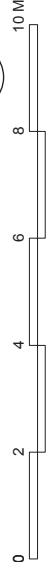
melocco moore
Melocco and Moore Architects
Level 2, Suite 204
Raffles Street
Redfern NSW 2016 Australia
Nominated Architect - Philip Moore #5-172
T +612 9212 6111
W www.meloccomore.com.au

Verify all dimensions and levels on site prior to the commencement of work. Do not scale from the drawings.



existing party wall to be retained. T.O.W. RL.27.12 refer Section DWG 143

existing party wall to be retained. T.O.W. RL.27.04 refer Section DWG 143



01 LEVEL 1

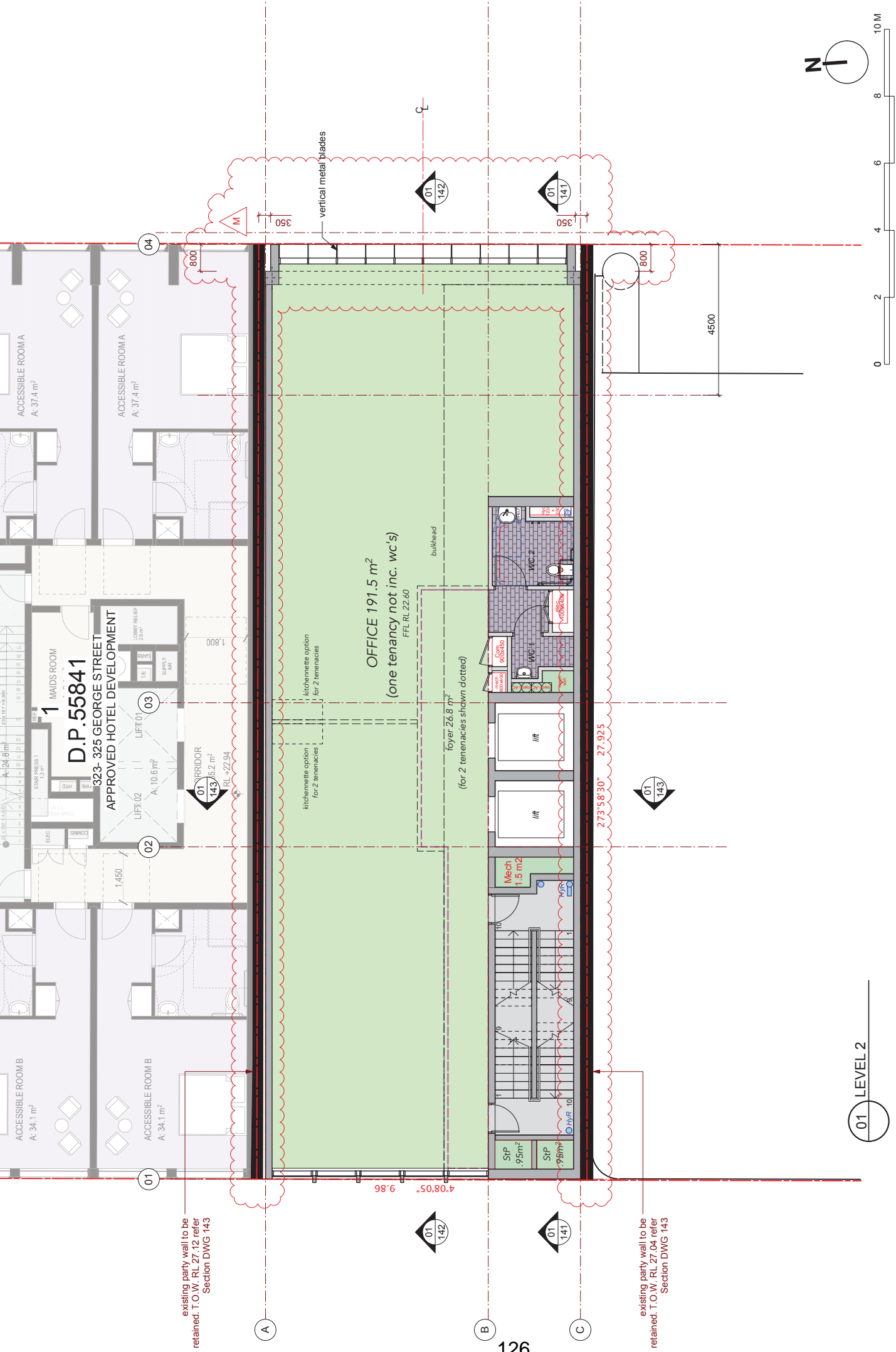
PROJECT New Development
 ADDRESS 327-329 George Street Sydney
 CLIENT Ledorli Holdings
 DWG Level 1 Retail

SCALE 1:100 @ A3 DRAWN ck CHGD DM
 PROJECT NO STATUS DIVS NO + REVISION
 1707 D 104 N

melocco moore
 Melocco and Moore Architects
 Level 2, Suite 204
 Redfern NSW 2016 Australia
 T +612 9212 6111
 W www.meloccomore.com.au
 Nominated Architect - Philip Moore #5472

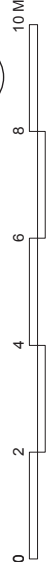
Amended DA ck
 AMENDED DA - Issued for client information ck
 ISSUE DATE BY REVISION

Verify all dimensions and levels on site prior to the commencement of work. Do not scale from the drawings.



existing party wall to be retained. T.O.W. RL.27.12 refer Section DWG 143

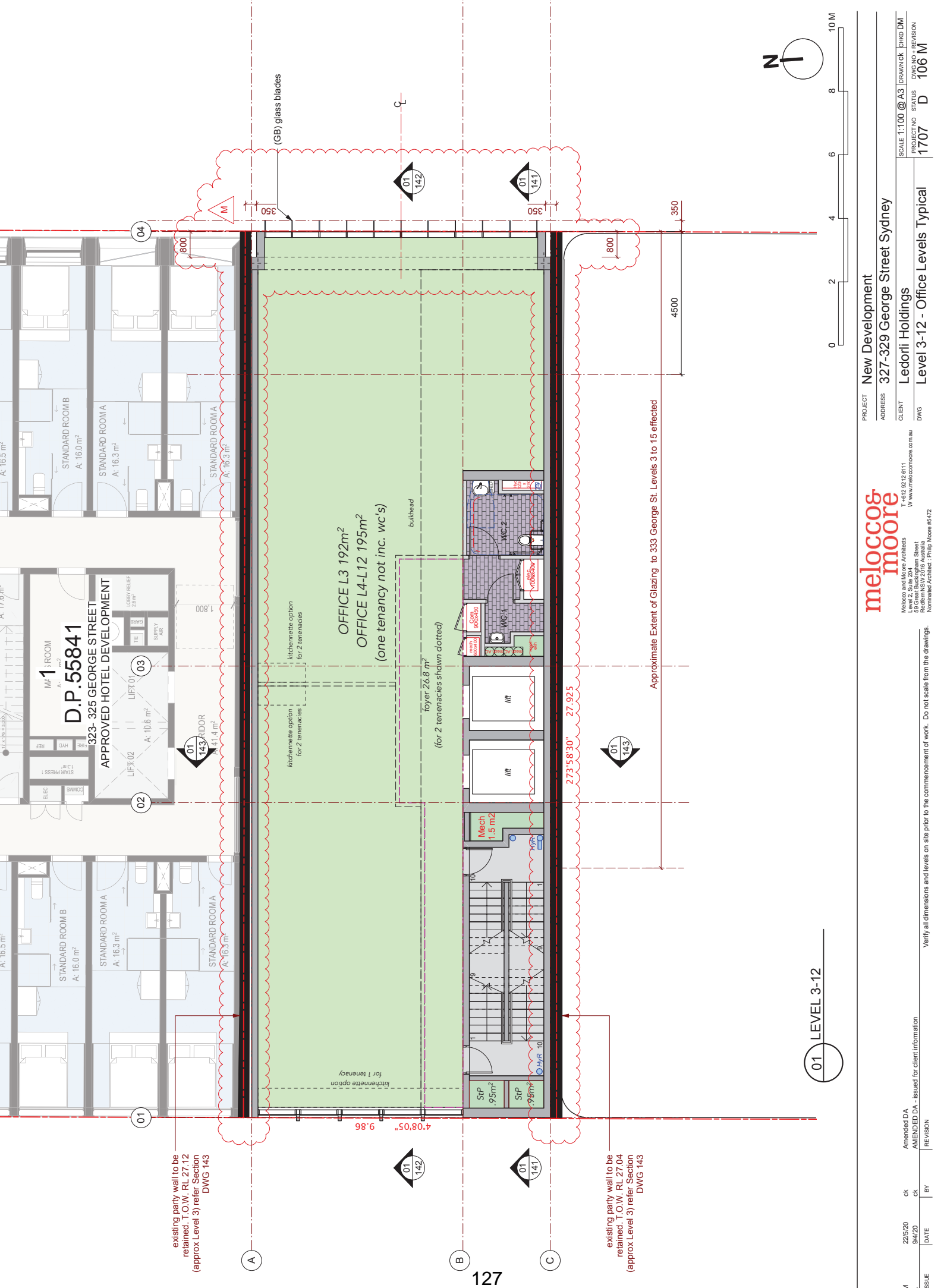
existing party wall to be retained. T.O.W. RL.27.04 refer Section DWG 143



01 LEVEL 2

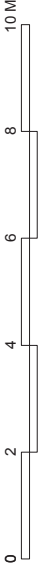
| | | | | | | |
|--|---------|----|------------|--|----|----------|
| M | 22/5/20 | ck | Amended DA | AMENDED DA - Issued for client information | BY | REVISION |
| L | 9/4/20 | ck | AMENDED DA | AMENDED DA - Issued for client information | BY | REVISION |
| ISSUE | DATE | BY | REVISION | REVISION | | |
| <p>PROJECT: New Development ADDRESS: 327-329 George Street Sydney CLIENT: Ledorli Holdings DWG: Level 2 Office</p> | | | | | | |
| <p>PROJECT NO: STATUS DWG NO + REVISION 1707 D 105 M</p> | | | | | | |
| <p>SCALE 1:100 @ A3 DRAWN BY: CHG DM PROJECT NO: STATUS DWG NO + REVISION 1707 D 105 M</p> | | | | | | |
| <p>melocco moore Melocco and Moore Architects Level 2, Suite 204 Redfern NSW 2016 Australia T +612 9212 6111 W www.meloccomore.com.au Nominated Architect - Philip Moore #5472</p> | | | | | | |

Verify all dimensions and levels on site prior to the commencement of work. Do not scale from the drawings.



existing party wall to be retained. T.O.W. RL 27.12 (approx Level 3) refer Section DWG 143

existing party wall to be retained. T.O.W. RL 27.04 (approx Level 3) refer Section DWG 143



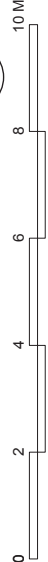
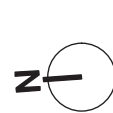
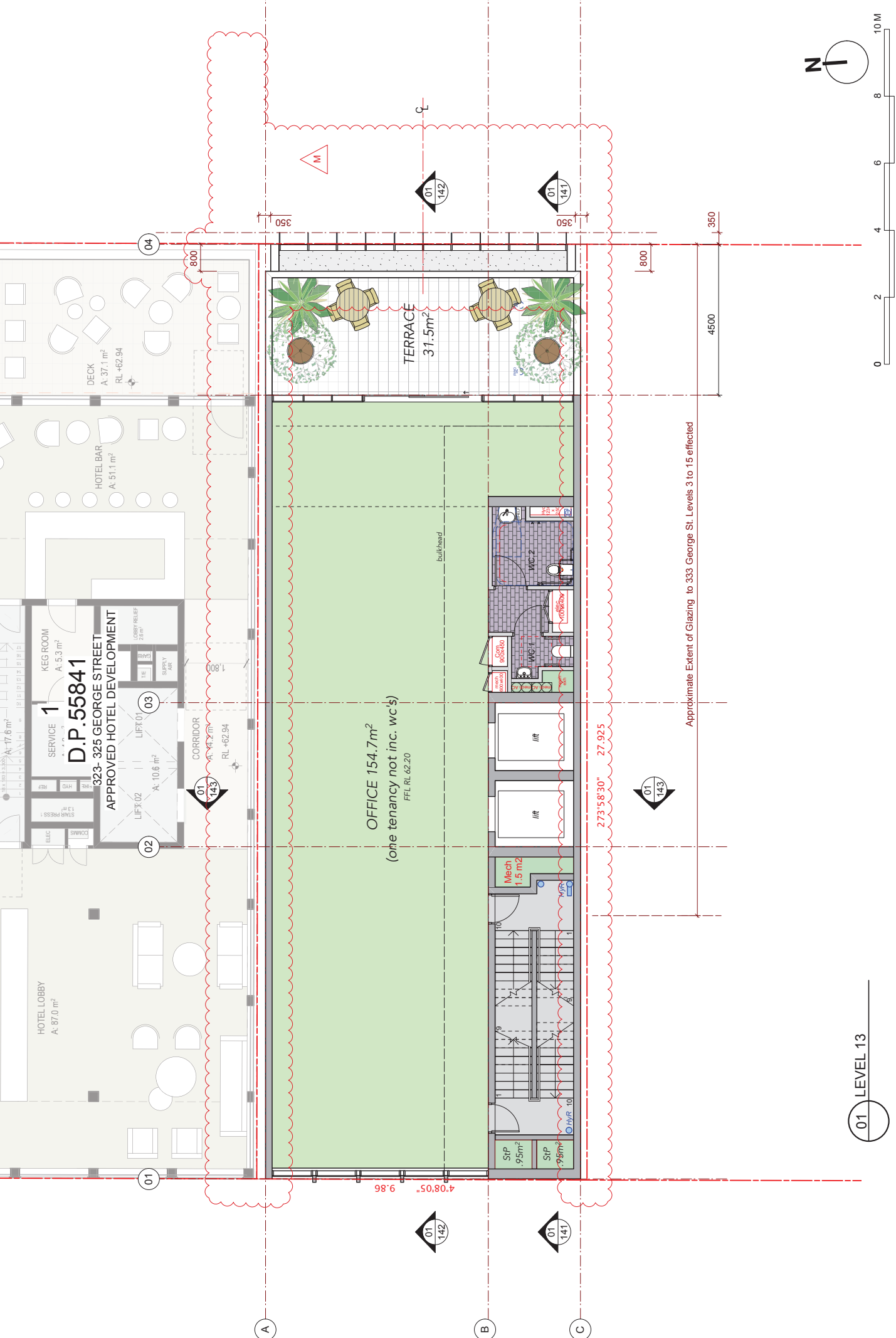
melocco moore
Melocco and Moore Architects
Level 2, Suite 204
Ridgeway NSW 2016 Australia
T +612 9212 6111
W www.meloccomore.com.au
Nominated Architect - Philip Moore #5472

PROJECT: New Development
ADDRESS: 327-329 George Street Sydney
CLIENT: Ledorli Holdings
DWG: 1707 D
Level 3-12 - Office Levels Typical

SCALE 1:100 @ A3 DRAWN BY: CHG DM
PROJECT NO.: STATUS: DIVG NO + REVISION: 1707 D
DWG: 106 M

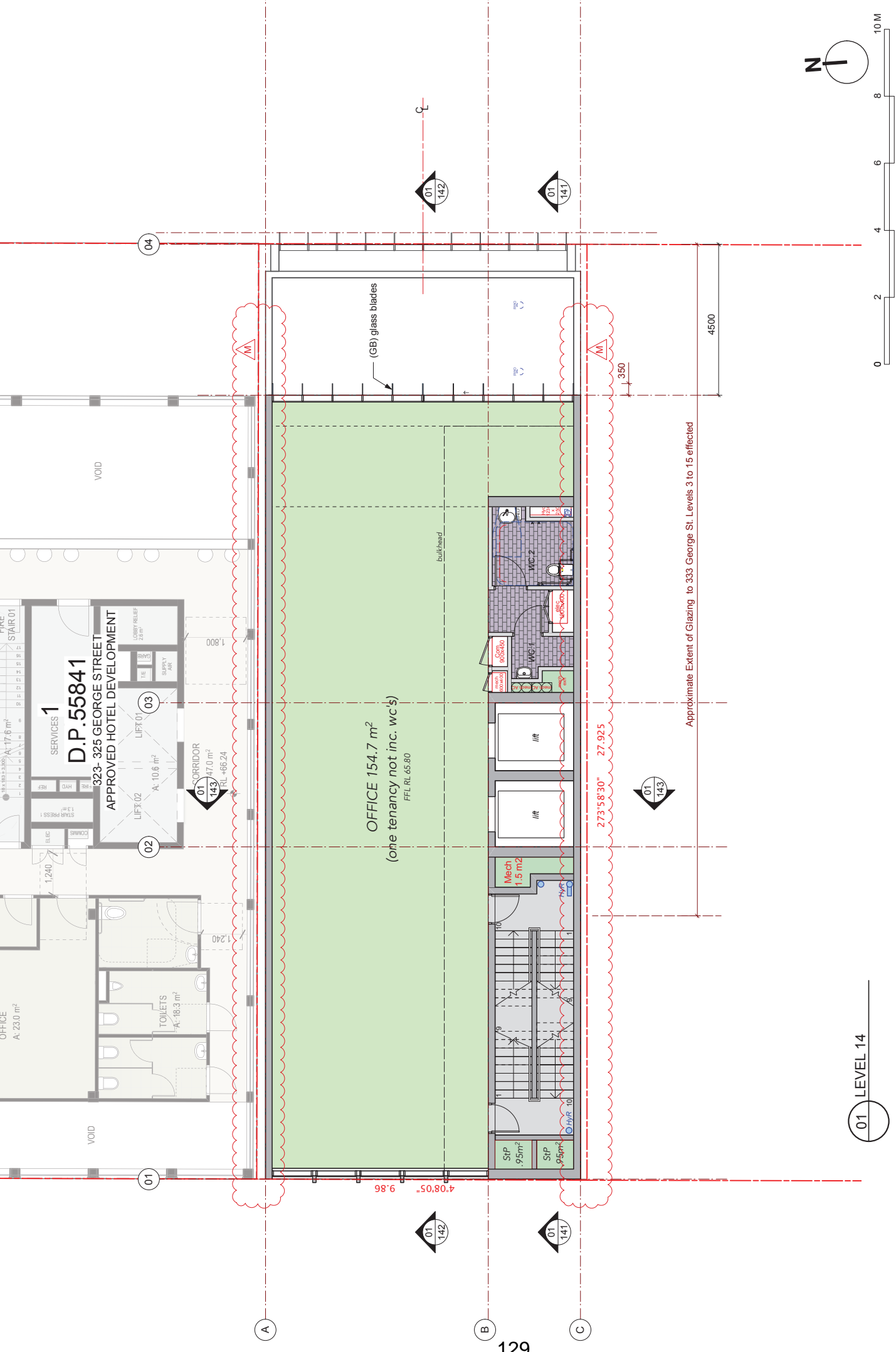
Issue: M 22/5/20 ck
L 9/4/20 ck
AMENDED DA - Issued for client information
REVISION: BY

Verify all dimensions and levels on site prior to the commencement of work. Do not scale from the drawings.



01 LEVEL 13

| | | | | | | |
|--|---------|----|------------|--|----|----------|
| M | 22/5/20 | ck | Amended DA | AMENDED DA - Issued for client information | BY | REVISION |
| L | 9/4/20 | ck | | | | |
| ISSUE | DATE | BY | REVISION | | | |
| <p>PROJECT: New Development ADDRESS: 327-329 George Street Sydney CLIENT: Ledorli Holdings DWG: Level 13 - Office</p> | | | | | | |
| <p>SCALE 1:100 @ A3 DRAWN BY CHG DM PROJECT NO. STATUS DIVG NO + REVISION 1707 D 107 M</p> | | | | | | |
| <p>melocog moore Melocog and Moore Architects Level 2, Suite 204 100 Pitt Street Redfern NSW 2016 Australia Nominated Architect - Philip Moore #5472 T +612 9212 6111 W www.melocogmoore.com.au</p> | | | | | | |
| <p>Approximate Extent of Glazing to 333 George St. Levels 3 to 15 effected</p> | | | | | | |
| <p>Verify all dimensions and levels on site prior to the commencement of work. Do not scale from the drawings.</p> | | | | | | |



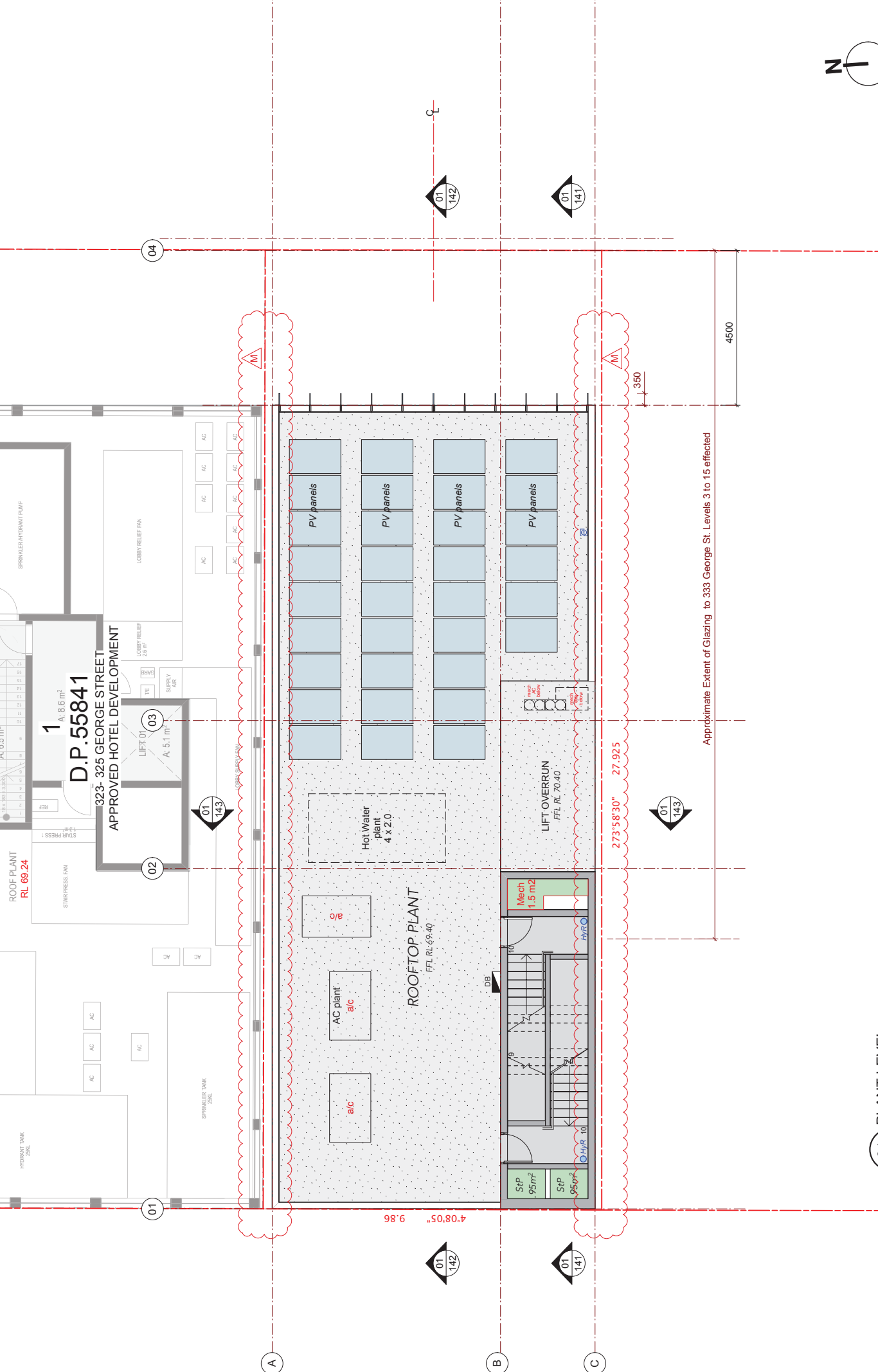
01 LEVEL 14

| | | | | | | |
|-------|---------|----|------------|--|----|----------|
| M | 22/5/20 | ck | Amended DA | AMENDED DA - Issued for client information | BY | REVISION |
| L | 04/20 | ck | | | | |
| ISSUE | DATE | BY | REVISION | | | |

| | | | |
|---------|-------------------|------------------------------|----------|
| PROJECT | | New Development | |
| ADDRESS | | 327-329 George Street Sydney | |
| CLIENT | Ledori Holdings | SCALE 1:100 @ A3 | DRAWN CK |
| DWG | Level 14 - Office | PROJECT NO. | STATUS |
| | | 1707 | D |
| | | DWG NO. | REVISION |
| | | 108 M | |

melocco moore
 Melocco and Moore Architects
 Level 2, Suite 204
 Redfern NSW 2016 Australia
 T +612 9212 6111
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Verify all dimensions and levels on site prior to the commencement of work. Do not scale from the drawings.



01 PLANT LEVEL

| | | | | | | |
|---|---------|----|------------|--|----|----------|
| M | 22/5/20 | ck | Amended DA | AMENDED DA - Issued for client information | BY | REVISION |
| L | 9/4/20 | ck | | | | |

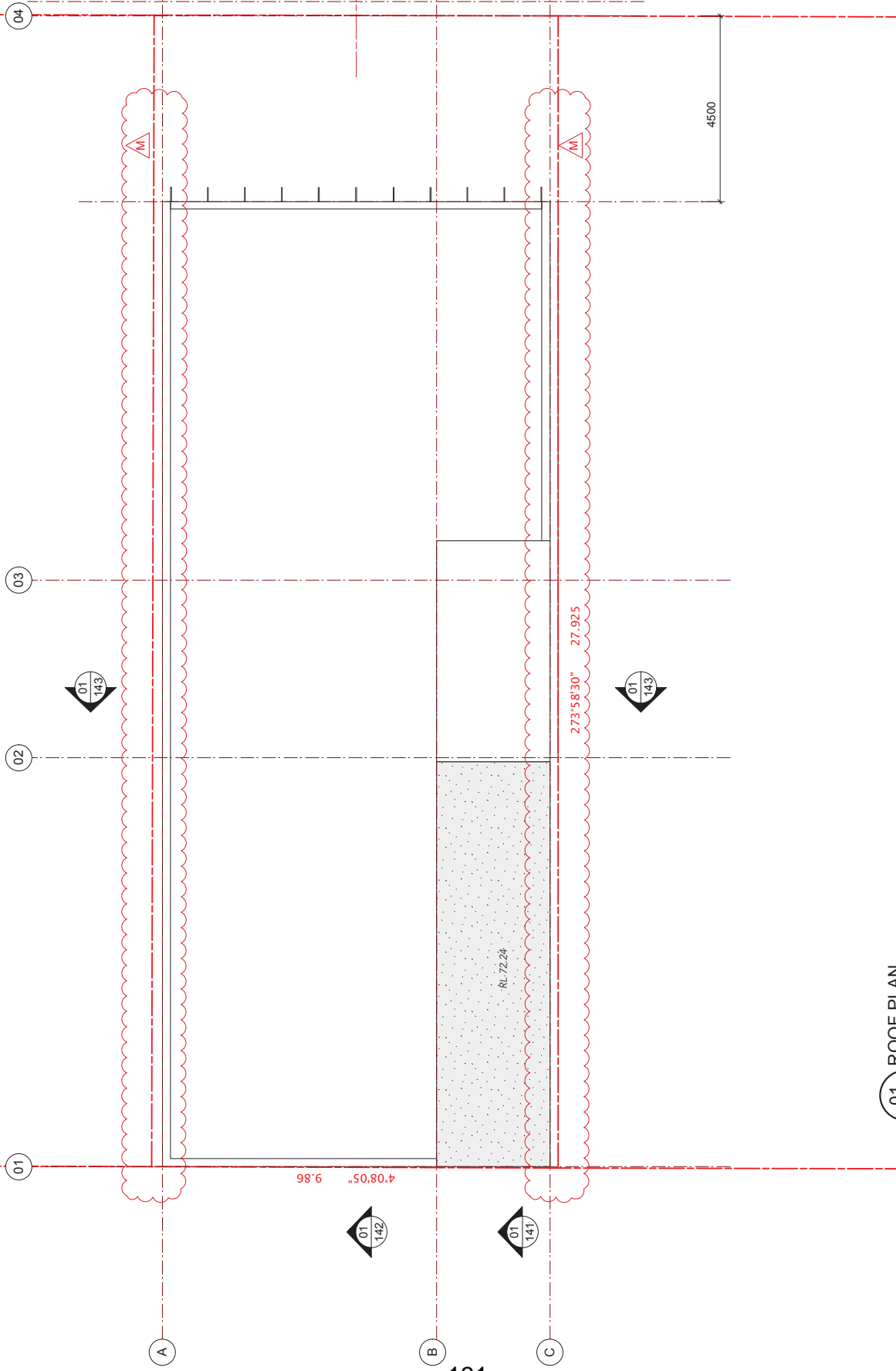
PROJECT: New Development
 ADDRESS: 327-329 George Street Sydney
 CLIENT: Ledorli Holdings
 DWG: Level 15 - Plant

SCALE 1:100 @ A3 DRAWN CK CHG DM
 PROJECT NO. STATUS DIVG NO + REVISION
 1707 D 109 M

meloccco moore
 Melocco and Moore Architects
 Level 2, Suite 204
 Redfern NSW 2016 Australia
 T +612 9212 6111
 W www.meloccco.com.au
 Nominated Architect - Philip Moore #5472

Verify all dimensions and levels on site prior to the commencement of work. Do not scale from the drawings.

1
D.P. 55841
 323- 325 GEORGE STREET
 APPROVED HOTEL DEVELOPMENT



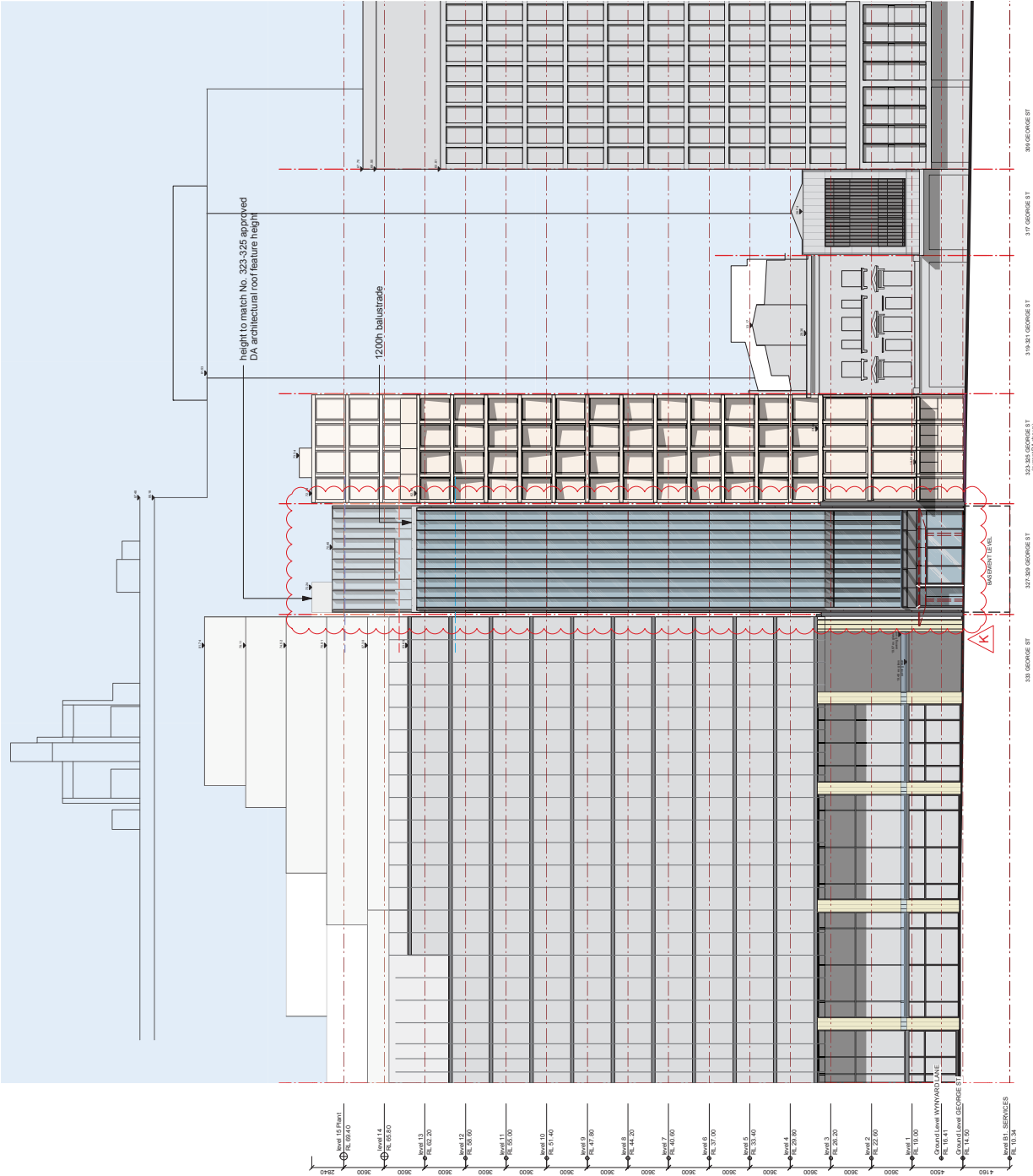
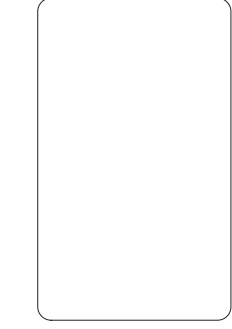
01 ROOF PLAN



| | | | | | | |
|---|---------|----|--|--|----|----------|
| M | 22/5/20 | ck | Amended DA | AMENDED DA - Issued for client information | BY | REVISION |
| L | 04/20 | ck | AMENDED DA - Issued for client information | AMENDED DA - Issued for client information | BY | REVISION |

| | | | | |
|---------|------------------------------|------------------|----------|-------------------|
| PROJECT | New Development | SCALE 1:100 @ A3 | DRAWN BY | CHKG DM |
| ADDRESS | 327-329 George Street Sydney | PROJECT NO. | STATUS | DWG NO + REVISION |
| CLIENT | Ledorli Holdings | 1707 | D | 120 M |
| DWG | Roof plan | | | |

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 Melocco and Moore Architects
 Level 2, Suite 204
 100 Pitt Street
 Redfern NSW 2016 Australia
 T +612 9212 6111
 W www.meloccomore.com.au
 Nominated Architect - Philip Moore #5472

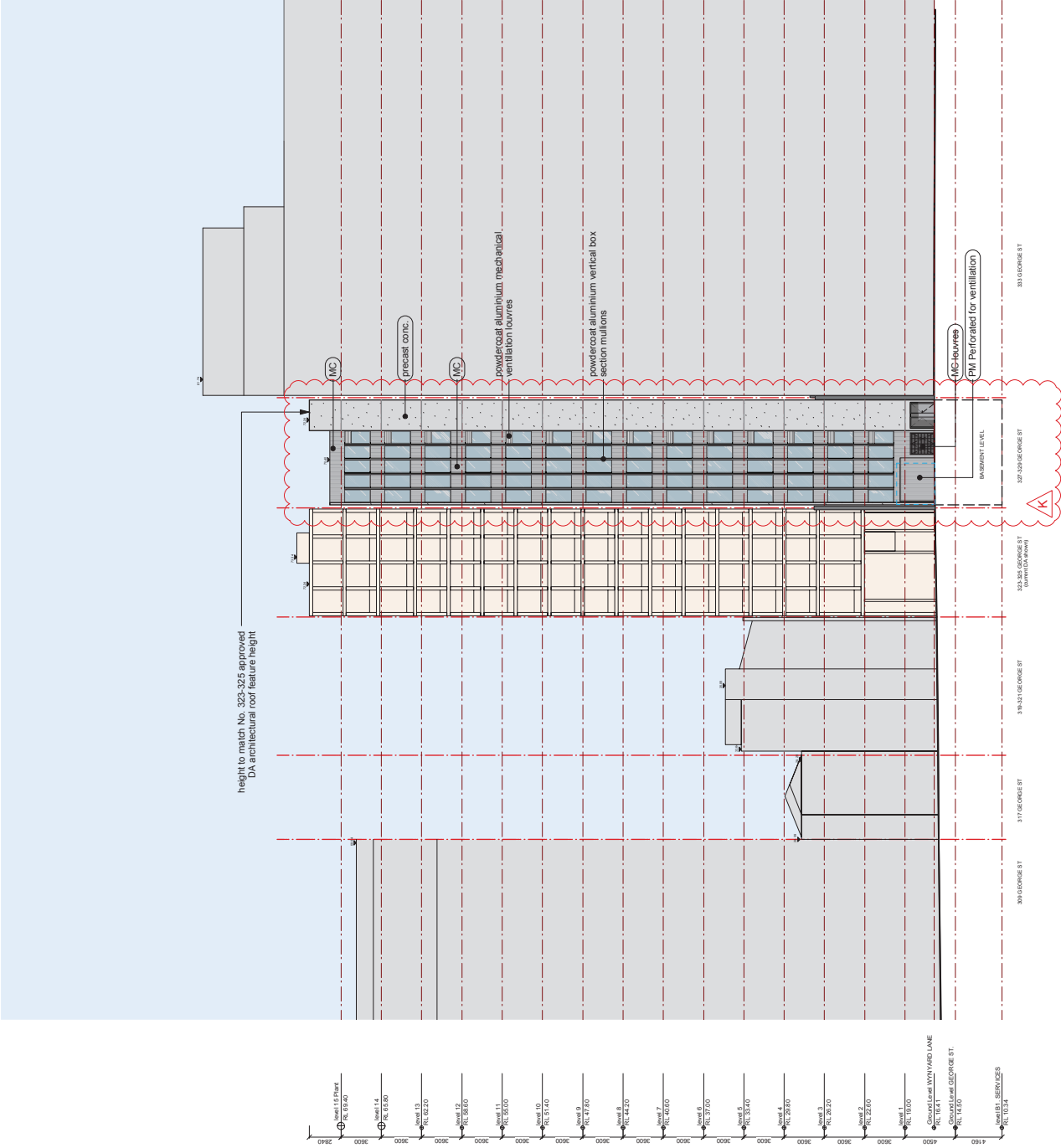


Proposed facade
 fine grain thin vertical glazed projecting elements
 create a bridge between 333 George 'glass box'
 with horizontal banding and 325 George st 'egg
 crate' grid design

NOTES:
 Refer Drawing 210 for East
 elevation Detail

01 EAST (GEORGE STREET) ELEVATION

| | | | | | | | |
|------------------|---------------|--------|---|----------|--|--|------------------------------|
| | | | | | | | |
| Amended DA ck | 22/5/20 ck | 9/4/20 | DATE | BY | REVISION | AMENDED DA - Issued for client information | PROJECT NO. STATUS 1707 D |
| J | K | 131 K | DIVG NO + REVISION | DRAWN CK | CHKG DM | SCALE 1:400 @ A3 | PROJECT NO. STATUS 1707 D |
| | | | melocco moore | | Melocco and Moore Architects Level 2, Suite 204 100 Pitt Street Sydney NSW 2000 Australia T +612 9212 6111 W www.meloccomore.com.au Nominated Architect - Philip Moore #5172 | | |
| | | | 0 2 4 6 8 10 M | | 1:400 @ A3 / 1:200 @ A1 | | |
| | | | Verify all dimensions and levels on site prior to the commencement of work. Do not scale from the drawings. | | PROJECT New Development ADDRESS 327-329 George Street Sydney CLIENT Ledorli Holdings elevation - George St. | | |



01 WEST (WYNYARD LANE) ELEVATION

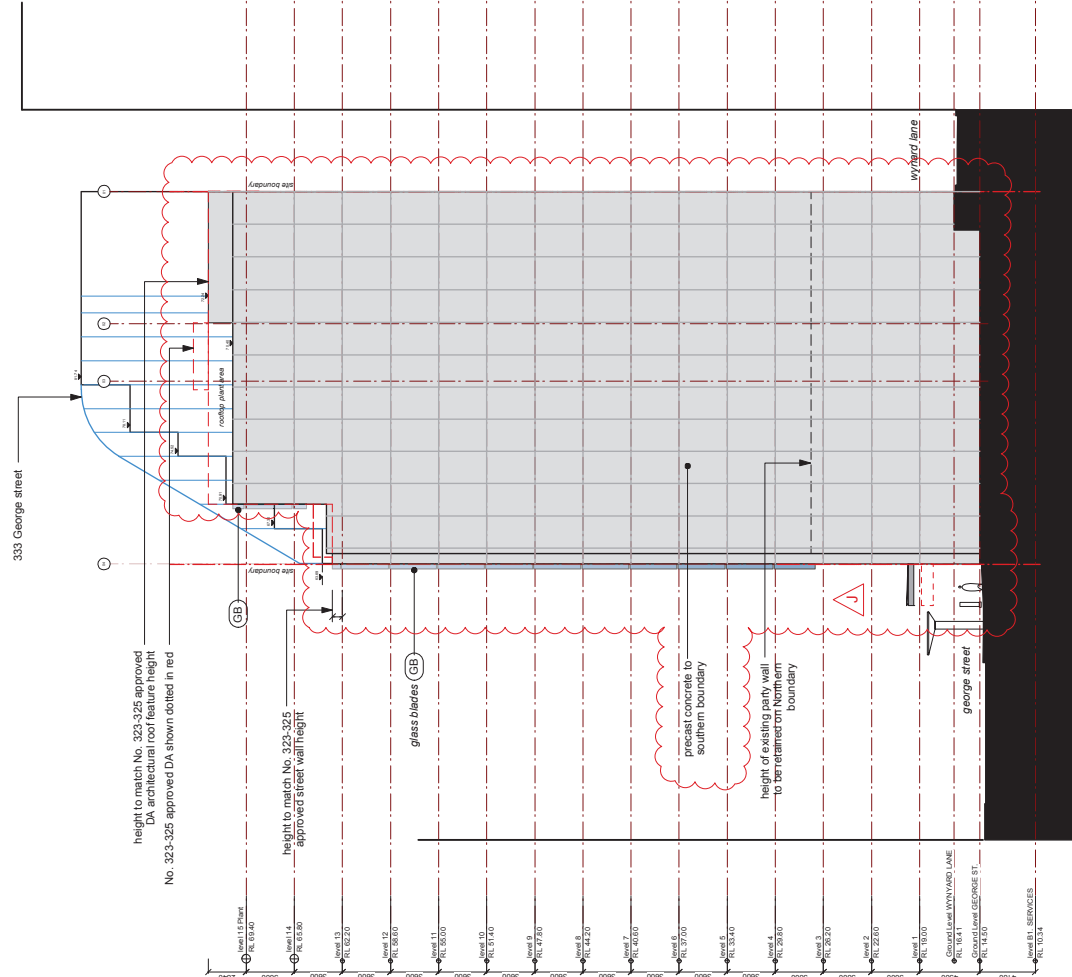
PROJECT New Development
 ADDRESS 327-329 George Street Sydney
 CLIENT Ledorli Holdings
 elevation - Wynyard Lane

SCALE 1:400 @ A3 DRAWN CK/CHG DM
 PROJECT NO. STATUS DWG NO + REVISION
 1707 D 132 K

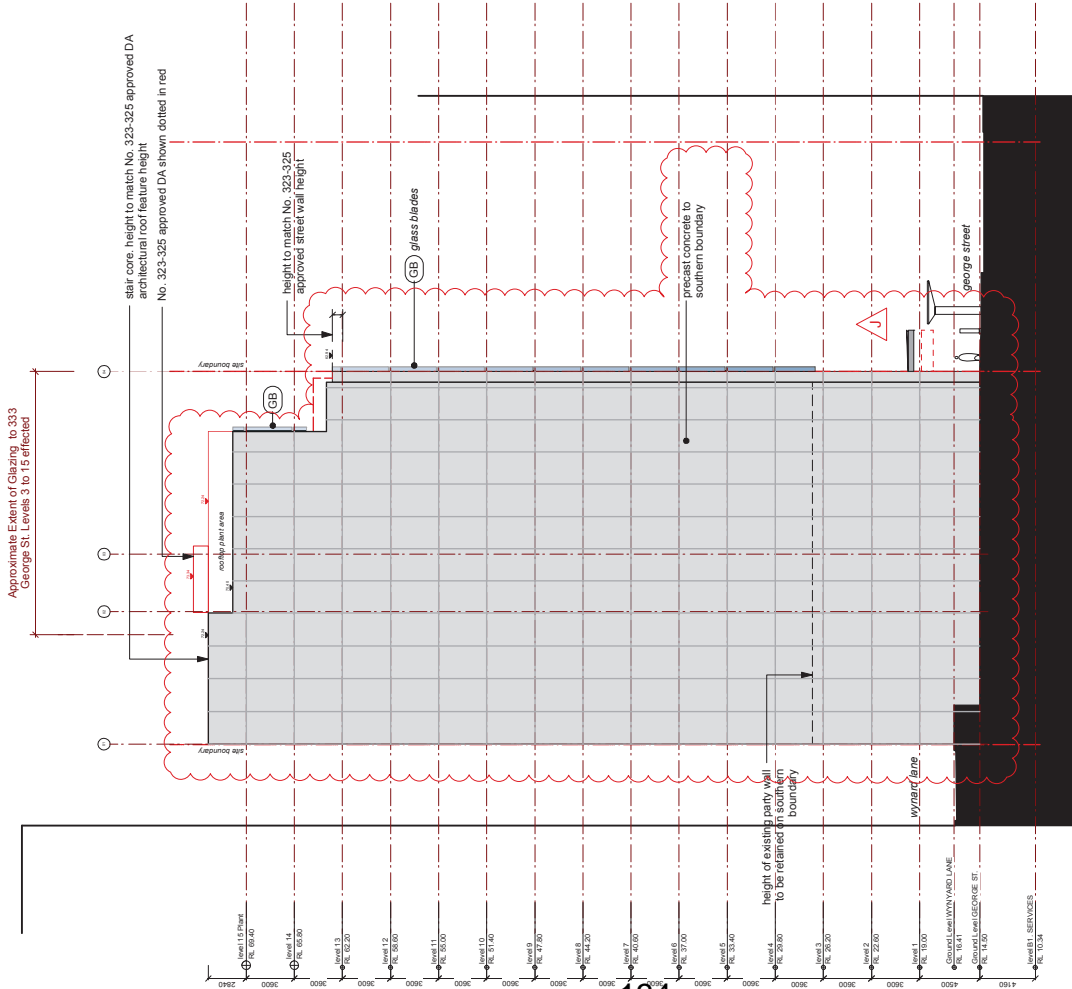
me locco moore
 Melocco and Moore Architects
 Level 2, Suite 204
 100 Market Street
 Redfern NSW 2016 Australia
 Nominated Architect - Philip Moore #5472
 T +612 9212 6111
 W www.meloccomore.com.au

0 2 4 6 8 10 M
 1:400 @ A3 / 1:200 @ A1
 Verify all dimensions and levels on site prior to the commencement of work. Do not scale from the drawings.

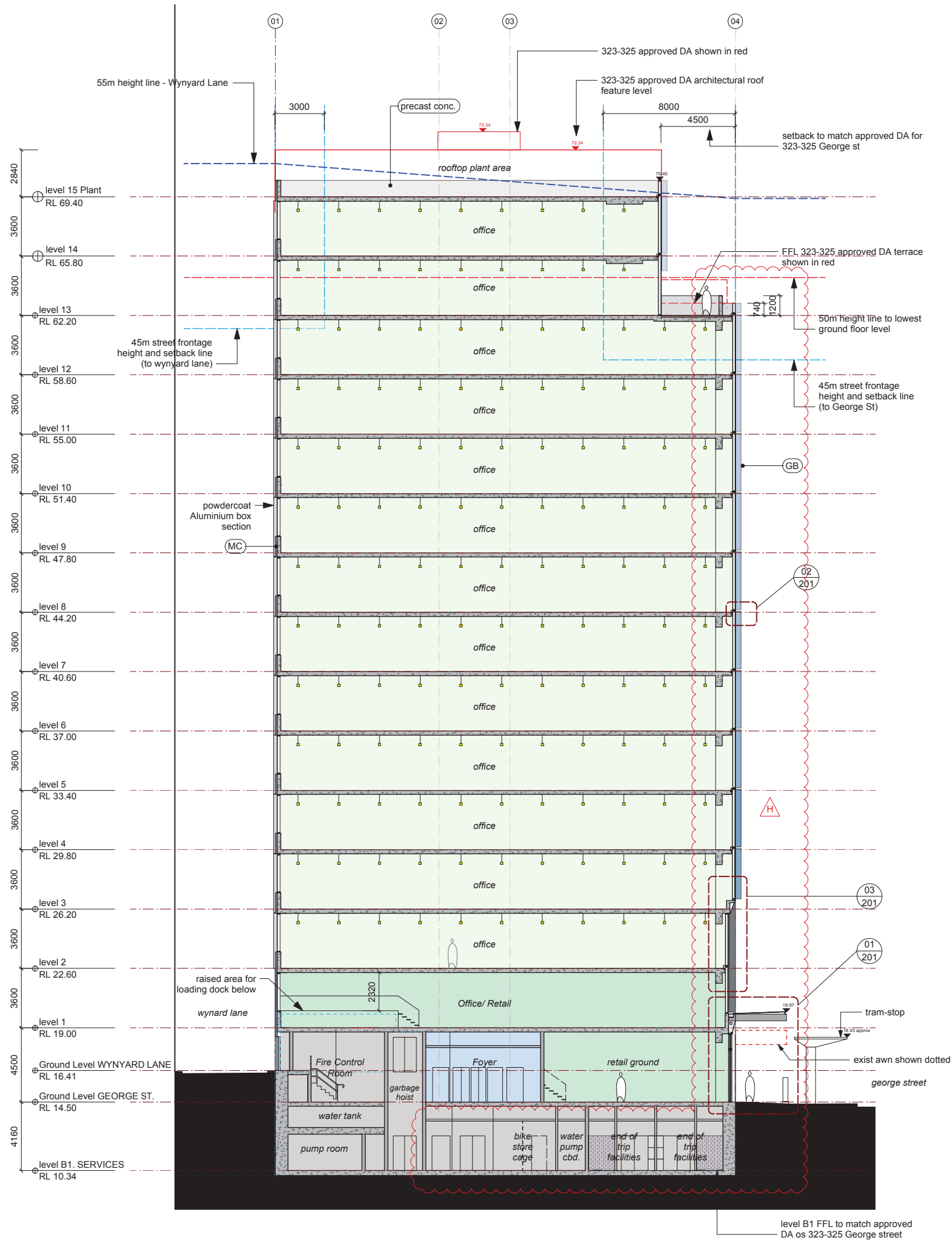
| ISSUE | DATE | BY | REVISION |
|-------|---------|----|--|
| K | 22/5/20 | ck | Amended DA |
| J | 04/2/20 | ck | AMENDED DA - Issued for client information |



02 NORTH ELEVATION



01 SOUTH ELEVATION



| ISSUE | DATE | BY | REVISION |
|-------|---------|----|--|
| G | 22/5/20 | ck | Amended DA |
| I | 9/4/20 | ck | AMENDED DA - issued for client information |

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Melocco and Moore Architects
Level 2, Suite 204
59 Great Buckingham Street
Redfern NSW 2015, Australia
Nominated Architect: Philip Moore #5472

T +612 9212 8111
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PROJECT New Development
ADDRESS 327-329 George Street Sydney
CLIENT Ledorli Holdings
DWG Section

SCALE 1:200@A3
PROJECT NO 1707 D
STATUS
DRAWN CK
CHKD DM
DWG NO + REVISION 142 H

Verify all dimensions and levels on site prior to the commencement of work. Do not scale from the drawings.



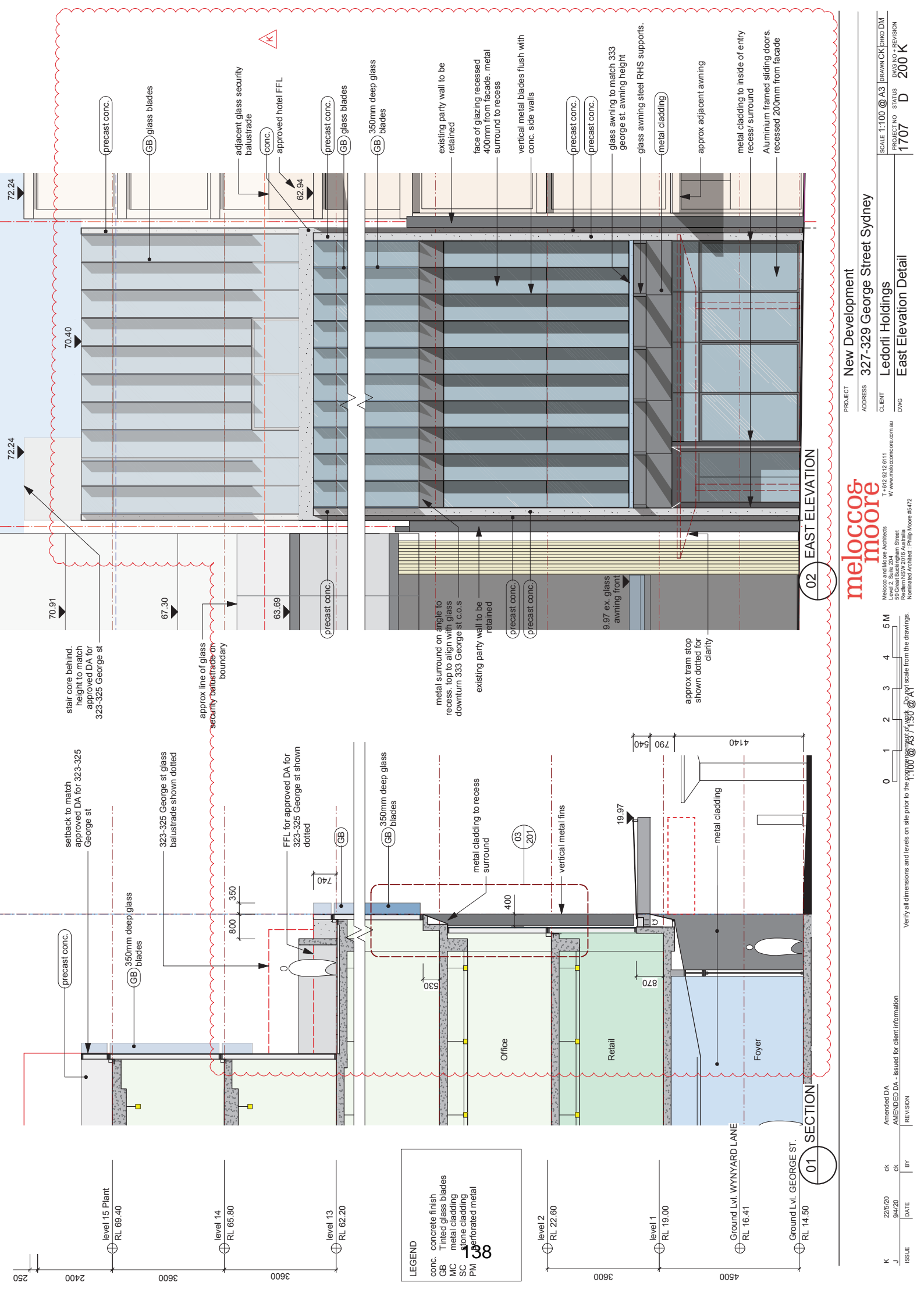
| ISSUE | DATE | BY | REVISION |
|-------|---------|----|--|
| H | 22/5/20 | ck | Amended DA |
| G | 9/4/20 | ck | AMENDED DA - issued for client information |

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 Level 2, Suite 204
 99 Great Buckingham Street
 Redfern NSW 2015 Australia
 Nominated Architect : Philip Moore #5472
 T +612 9212 6111
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PROJECT **New Development**
 ADDRESS **327-329 George Street Sydney**
 CLIENT **Ledorli Holdings**
 DWG **Section**

| SCALE | PROJECT NO | STATUS | DRAWN CK | CHKD DM |
|-------------------|------------|--------|----------|---------|
| 1:200@A3 | 1707 D | | | |
| DWG NO + REVISION | | | 143 H | |

Verify all dimensions and levels on site prior to the commencement of work. Do not scale from the drawings.



level 15 Plant
RL 69.40

level 14
RL 65.80

level 13
RL 62.20

LEGEND

concrete
GB Tinted glass blades
MC metal cladding
SC stone cladding
PM perforated metal

level 2
RL 22.80

level 1
RL 19.00

Ground Lvl. WYNYARD LANE
RL 16.41

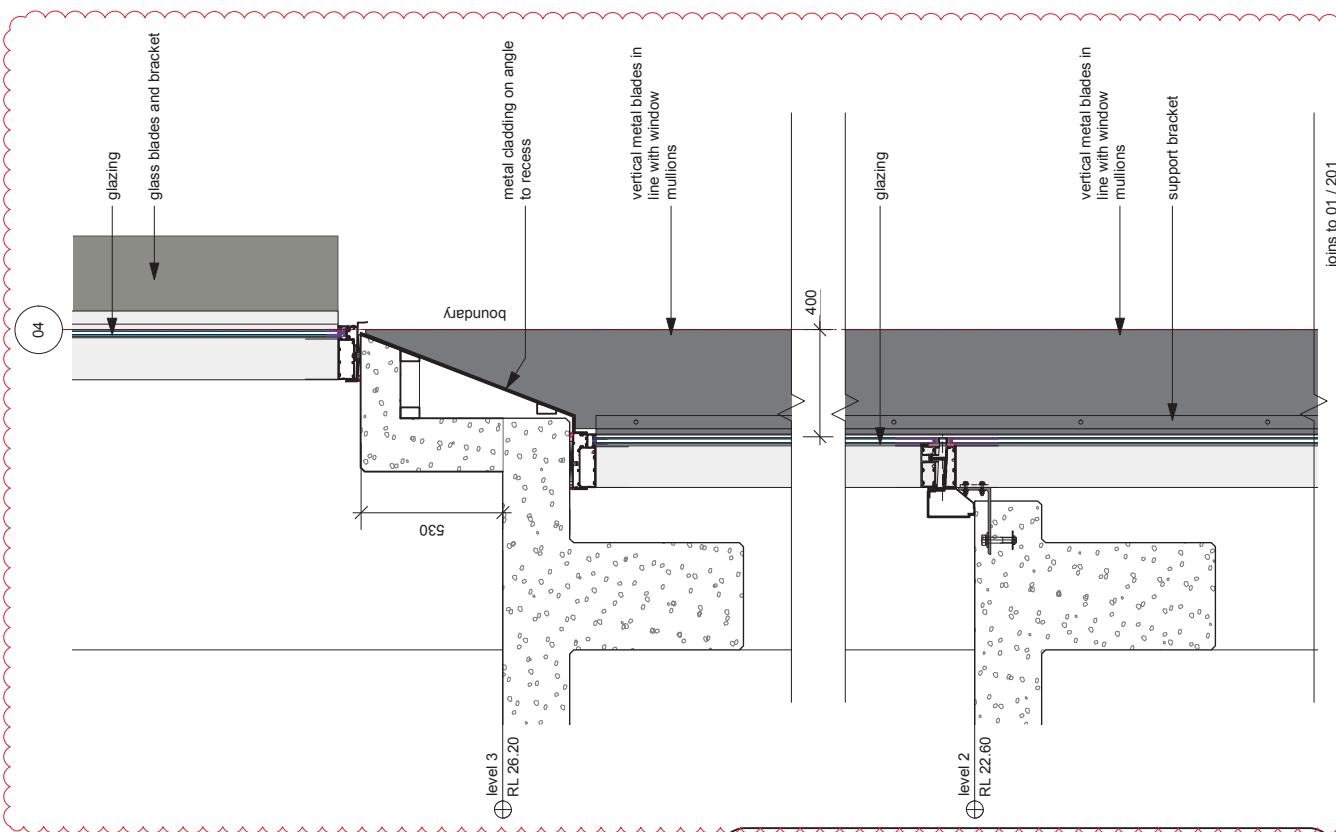
Ground Lvl. GEORGE ST.
RL 14.50

01 SECTION

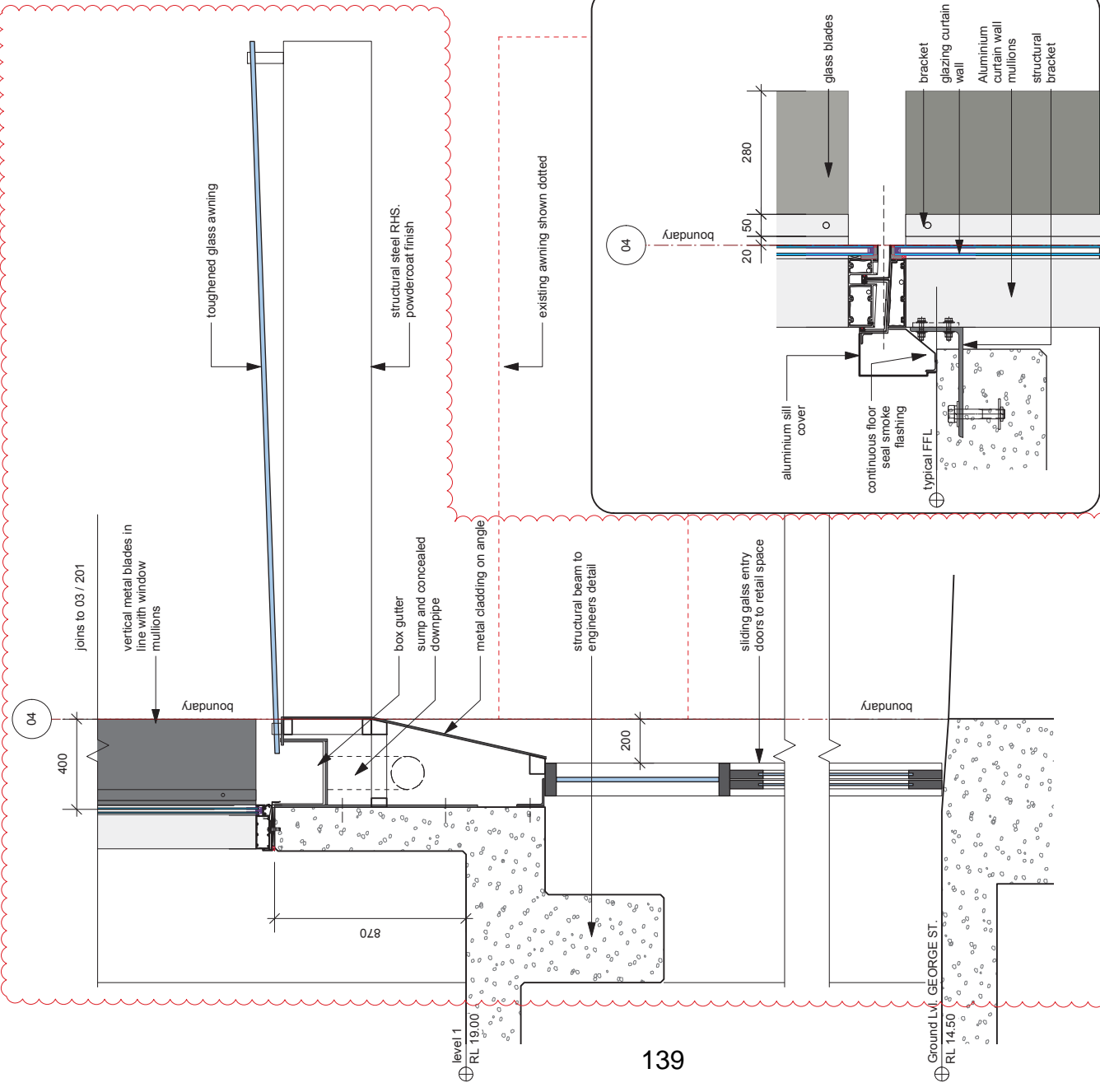
02 EAST ELEVATION

| | | | | | | |
|-------|---------|----|----|--|------------------------------|-----------|
| K | 22/5/20 | ck | BY | AMENDED DA - issued for client information | AMENDED DA | REVISION |
| J | 04/20 | ck | BY | Verify all dimensions and levels on site prior to the start of construction. Do not scale from the drawings. | 100 @ A3 | 1:50 @ A4 |
| ISSUE | DATE | ck | BY | PROJECT NO. STATUS | 1707 | D |
| | | | | PROJECT | New Development | |
| | | | | ADDRESS | 327-329 George Street Sydney | |
| | | | | CLIENT | Ledorli Holdings | |
| | | | | DWG | East Elevation Detail | |
| | | | | SCALE | 1:100 @ A3 DRAWN CK CHG DM | |
| | | | | PROJECT NO. | 1707 | |
| | | | | DWG NO + REVISION | 1707 D 200 K | |

Melocco and Moore Architects
Level 2, Suite 204
100 York Street
Sydney NSW 2016 Australia
Nominated Architect - Philip Moore #5-172
T +612 9212 6111
W www.meloccomore.com.au



03 AWNING SECTION CONTINUED
scale 1:20 @ A3



01 AWNING SECTION
scale 1:20 @ A3

02 SECTION- TYPICAL SLAB EDGE L4-L12
scale 1:10 @A3

PROJECT: New Development
ADDRESS: 327-329 George Street Sydney
CLIENT: Ledorli Holdings
DWG: Facade Details

PROJECT NO: 1707
STATUS: D
SCALE: 1:10/1:20
DRAWN CK/CHG DM
DIVS NO + REVISION: 201 I

melocco moore
Melocco and Moore Architects
Level 2, Suite 204
100 Pitt Street
Redfern NSW 2016 Australia
Tel: +612 9212 6111
W: www.meloccomore.com.au
Nominated Architect: Philip Moore #5472

Verify all dimensions and levels on site prior to the commencement of work. Do not scale from the drawings.

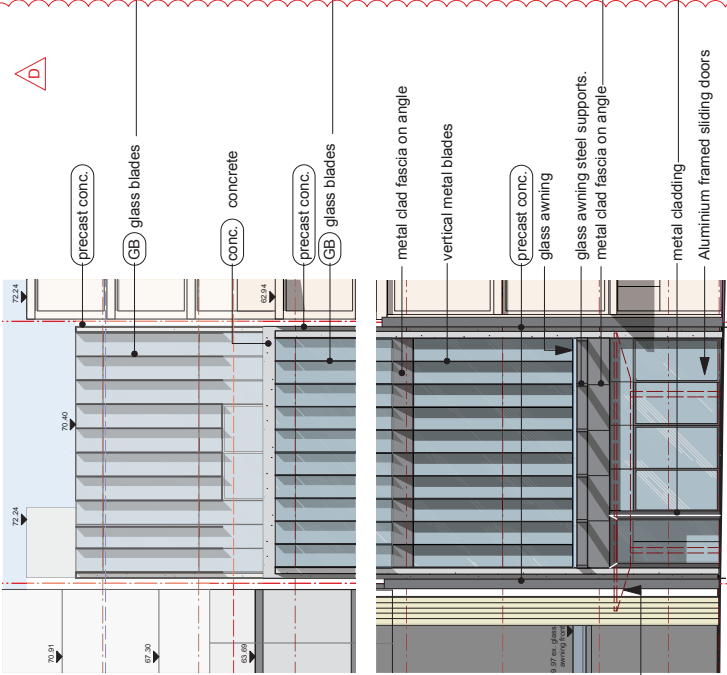
| ISSUE | DATE | BY | REVISION |
|-------|---------|----|--|
| I | 22/5/20 | ck | Amended DA |
| H | 04/2/20 | ck | AMENDED DA - Issued for client information |



note: photo shows design intent.

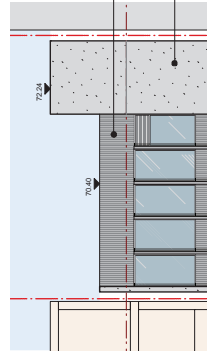


(GB) Glass blades on East facade and window glass units.



approx tram stop shown dotted for clarity

GEORGE STREET ELEVATION



WYNYARD LANE ELEVATION



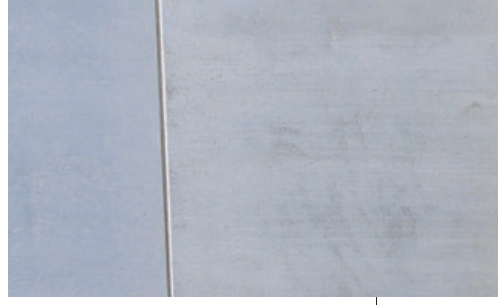
dark grey colour



powdercoat aluminium louvres colour to match MC metal cladding

standing seam metal cladding dark grey colour

perforated metal cladding dark grey colour



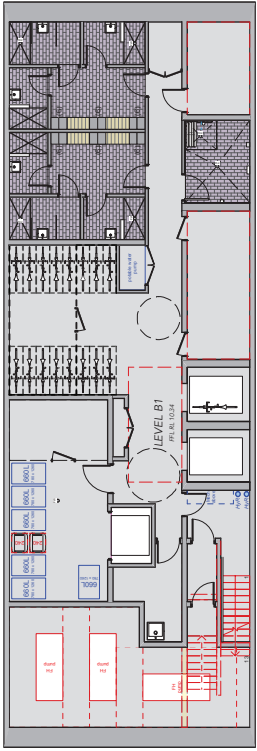
high finish precast concrete

WINDOWS TO EAST AND WEST FACADE (refer section J report)
Tinted Low-e double glazed. - grey tint

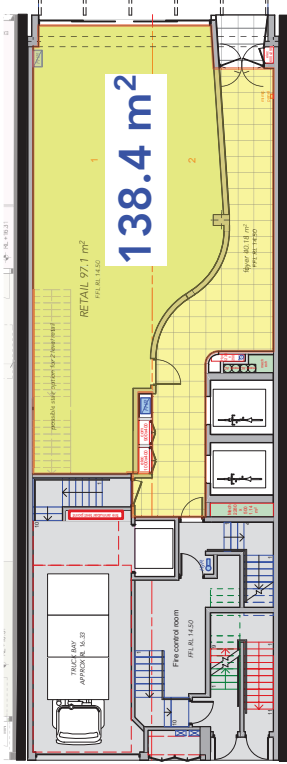
Proposed Clazing Total System: Frames & Glaz. U-Value and SHGC

| Level & Orientation | Option 1 | | Option 2 | |
|-----------------------------|-----------------------------|------------------------------|-----------------------------|------------------------------|
| | U-Value | SHGC | U-Value | SHGC |
| Ground floor - East | 5.0 (equal to or less than) | 0.60 (equal to or less than) | 5.0 (equal to or less than) | 0.60 (equal to or less than) |
| Level 1 to Level 14 - East | 3.5 (equal to or less than) | 0.25 (equal to or less than) | 3.0 (equal to or less than) | 0.30 (equal to or less than) |
| Level 1 to Level 12 - West | 3.5 (equal to or less than) | 0.60 (equal to or less than) | 3.0 (equal to or less than) | 0.60 (equal to or less than) |
| Level 12 to Level 14 - West | 3.5 (equal to or less than) | 0.25 (equal to or less than) | 3.0 (equal to or less than) | 0.30 (equal to or less than) |

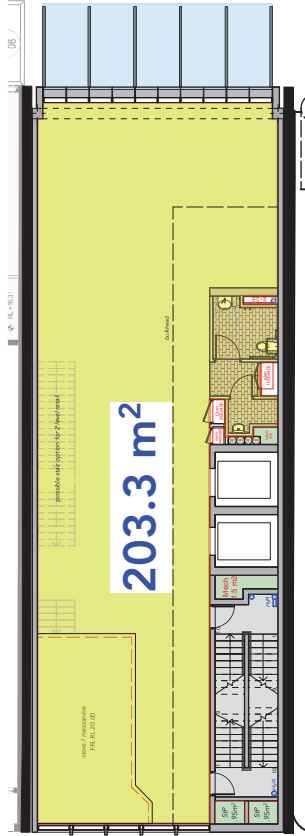
The above values are total system performance values, including the glass and the frame. The glazing and framing systems installed throughout the development must perform equal to, or better than the values stated in the tables above in order to comply with Section 3.1.



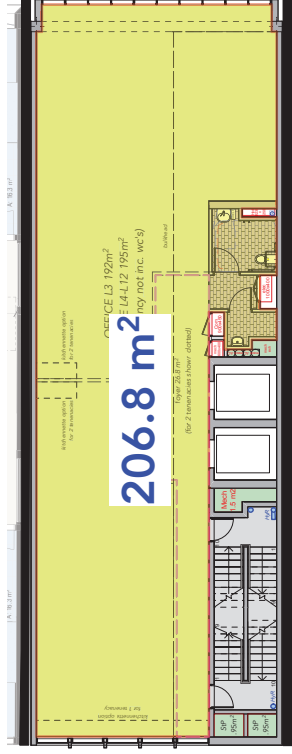
LEVEL B1



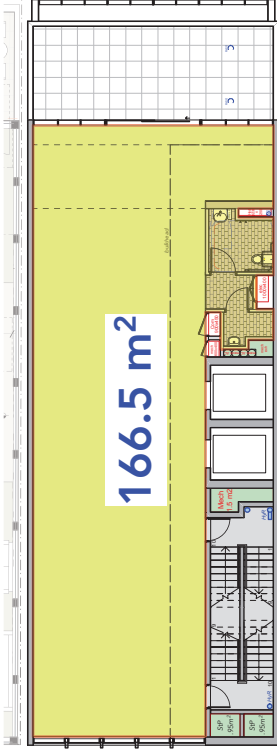
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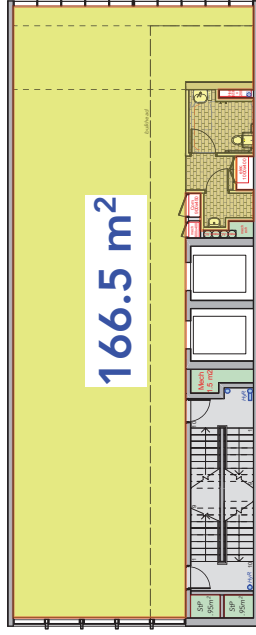
LEVEL 1 + LEVEL 2



LEVEL 3-12



LEVEL 13



LEVEL 14

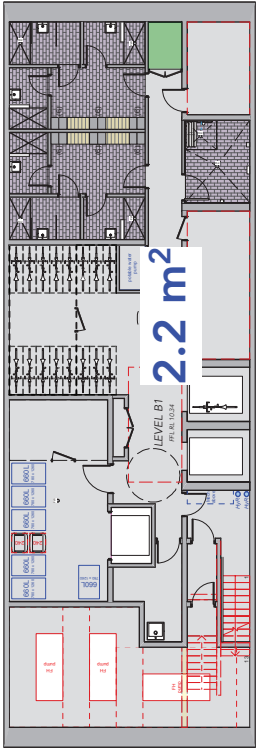
| | | |
|-----------------------|----------------------|----------|
| site area | 274.5 m ² | proposed |
| basement- B01 | 0 m ² | |
| Ground level | 138.4 m ² | |
| level 01 | 203.3 m ² | |
| level 02 | 203.3 m ² | |
| level 03 | 206.8 m ² | |
| level 04 | 206.8 m ² | |
| level 05 | 206.8 m ² | |
| level 06 | 206.8 m ² | |
| level 07 | 206.8 m ² | |
| level 08 | 206.8 m ² | |
| level 09 | 206.8 m ² | |
| level 10 | 206.8 m ² | |
| level 11 | 206.8 m ² | |
| level 12 | 206.8 m ² | |
| level 13 | 166.5 m ² | |
| level 14 | 166.5 m ² | |
| total area | 2946 m ² | |
| FSR bonus | 4.5 | |
| Total FSR (8.1 + 4.5) | 12.6 | 10.732 |

PROJECT New Development
 ADDRESS 327-329 George Street Sydney
 CLIENT Ledorli Holdings
 DWG Area Schedule - GFA

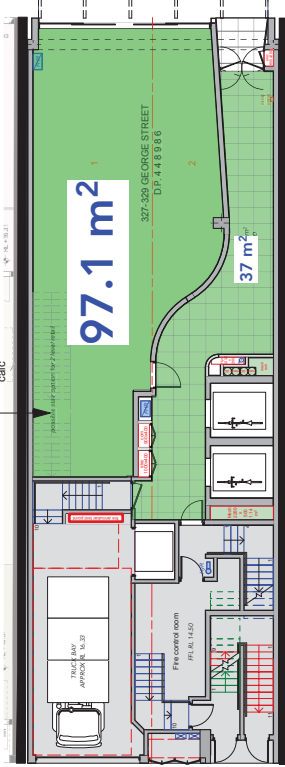
melocco moore
 Melocco and Moore Architects
 Level 2, Suite 204
 Redfern NSW 2016 Australia
 Nominated Architect - Philip Moore #5472
 T +612 9212 6111
 W www.meloccomore.com.au

| | | | |
|------------|--------|--|---------|
| SCALE | NTS | DRAWN BY | CHKD BY |
| PROJECT NO | STATUS | DWG NO + REVISION | |
| 1707 | D | 901 M | |
| DATE | BY | REVISION | |
| 22/5/20 | ck | Amended DA | |
| 9/4/20 | ck | AMENDED DA - Issued for client information | |

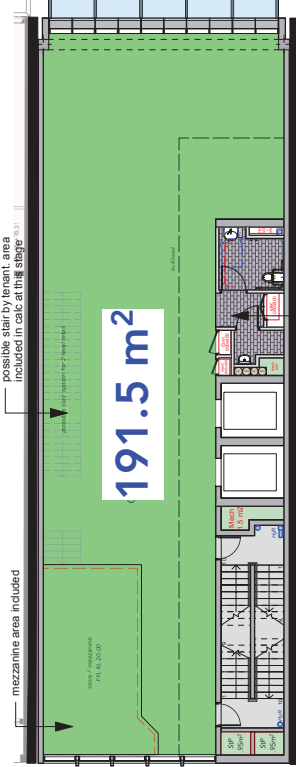
Verify all dimensions and levels on site prior to the commencement of work. Do not scale from the drawings.



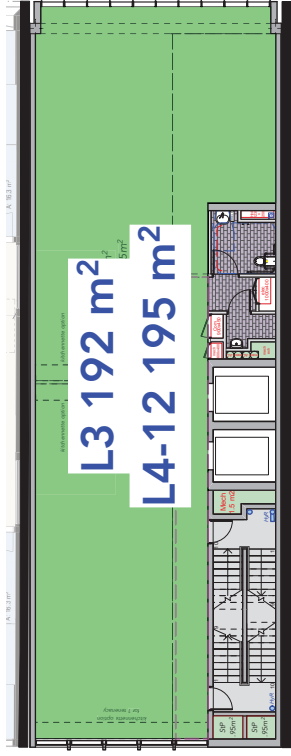
LEVEL B1 (option 1)



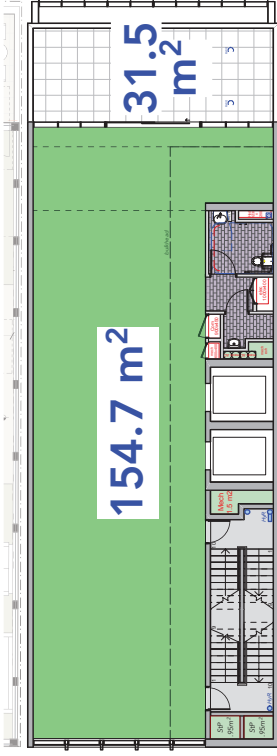
LEVEL GROUND



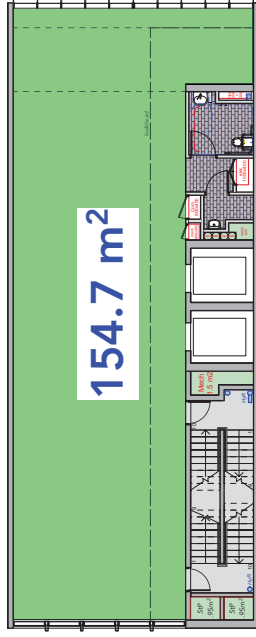
LEVEL 1 + LEVEL 2



LEVEL 3-12



LEVEL 13



LEVEL 14

| | lettable area |
|----------------------------------|-----------------------|
| level B01 | 2.2 m ² |
| Ground level retail / commercial | 97.1 m ² |
| Ground level foyer | 37 m ² |
| level 01 retail / commercial | 191.5 m ² |
| level 02 | 191.5 m ² |
| level 03 | 192 m ² |
| level 04 | 195 m ² |
| level 05 | 195 m ² |
| level 06 | 195 m ² |
| level 07 | 195 m ² |
| level 08 | 195 m ² |
| level 09 | 195 m ² |
| level 10 | 195 m ² |
| level 11 | 195 m ² |
| level 12 | 195 m ² |
| level 13 | 154.7 m ² |
| level 14 | 154.7 m ² |
| total lettable area | 2738.7 m ² |
| retail / commercial component | 288.6 m ² |
| office component + foyer | 2484.9 m ² |

PROJECT New Development
 ADDRESS 327-329 George Street Sydney
 CLIENT Ledorli Holdings
 DWG Area Schedule - Lettable Area

melocco moore
 Melocco and Moore Architects
 Level 2, Suite 204
 Redfern NSW 2016 Australia
 Nominated Architect - Philip Moore #5472
 T +612 9212 6111
 W www.meloccomore.com.au

SCALE N.T.S.
 PROJECT NO. STATUS 1707 D
 DIVG NO + REVISION 902 M

ISSUE DATE BY REVISION
 M 22/5/20 ck AMENDED DA - Issued for client information
 L 9/4/20 ck

Verify all dimensions and levels on site prior to the commencement of work. Do not scale from the drawings.

Attachment C

Clause 4.6 Variation Request

**CL 4.6 CONTRAVENTION OF DEVELOPMENT STANDARD REQUEST
327-329 GEORGE STREET, SYDNEY
DA FOR CONSTRUCTION OF A NEW OFFICE TOWER**



Photomontage: Melocco & Moore Architects

Report Prepared by: Planning Lab

Issue Date: 25 May 2020

Site

Lots 1&2 in DP448986 - 327-329 George Street, Sydney

Contraventions sought

Clause 6.16(3) Erection of tall buildings in Central Sydney

Extent of contraventions

Minimum site area to avoid application of the requirement set out in Clause 6.16(3): 800m²

Actual site area: 274.5m²

Scale of the contravention: a 291% contravention

Summary of non-compliance

The proposal is that the development be approved in contravention of clause 6.16(3) based on the established planning intention that the building form part of a street wall as part of an overall site comprising 1,692.1m². The overall site would meet the requirements of clause 6.16(3) if those requirements were applied to that overall site (which includes the 2 sites immediately adjoining the actual site area to the north and south).

Additionally, the building is only marginally above the 55m height threshold which triggers the application of clause 6.16(3) in any event.

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Summary

This Clause 4.6 Contravention of Development Standards Justification Report has been prepared by Planning Lab to accompany an application for the development of a 15-storey office building at 327-329 George Street, Sydney, known legally as Lots 1 & 2 in DP448986. Architectural drawings have been prepared by Melocco & Moore Architects and are included within this application (and form part of this request).

A description of the proposal is included within the attached Statement of Environmental Effects by Planning Lab (and this statement forms part of this request).

This contravention request is sought in relation to Clause 6.16(3) 'Erection of tall buildings in Central Sydney'. The clause which applies to this proposed building because it:

- is to be within Central Sydney;
- will have a height of greater than 55 metres; and
- will be on a site area of less than 800m².

The proposal is that the development be approved in contravention of clause 6.16(3). This is based on the planning intention for a street wall as part of an overall site comprising 1,692.1m². The overall site will meet the requirements of clause 6.16(3) if those requirements were applied to it.

Additionally — even without taking into account the intention that the building form part of a street wall as part of an overall site — the building is only marginally over the 55 metre height threshold that triggers the application of the clause. Buildings of 55 metres or less on height are not subject to clause 6.16(3), even when the relevant site area is less than 800m². There is no material difference, in terms of adverse impacts, between a building that is 55 metres and the proposed building.

The building reaches a maximum height of 57.6m. The bulk of the proposed building, including all habitable floor space, is located below a height of 55m. Several minor elements on the roof exceed 55m (figure 1). Specifically, a designated envelope which will contain rooftop plant equipment reaches a maximum of 57.6m. Stairwell access to the rooftop plant and equipment exceeds the 55m height limit by up to 1.58m. A very small portion of the lift overrun reaches 55.16m and the rooftop balustrade reaches a height of 55.78m. The dashed blue line in figure 1 indicates the 55m height limit. The points of exceedance are indicated by the red arrows with the size of the exceedance shown. The height of the roof elements has been measured from an incline plane between the highest and lowest points of the site. The highest fixed point measures 56.58m from a ground level of RL 15.66 and the roof top plant envelope theoretically reaches up to 57.6m. The image used for the depiction of the exceedance is a north/south section drawing numbered 142F.

The existing and approved developments immediately surrounding the site either match or exceed the proposed building's bulk and scale. As a result of existing development, the proposal has no additional shadow impacts. Almost all of the additional built form above the 55 metre plane will not be seen from the public domain due to it being set back from the street wall. This built form does not constitute habitable space and will not reduce the privacy or amenity of any other development.

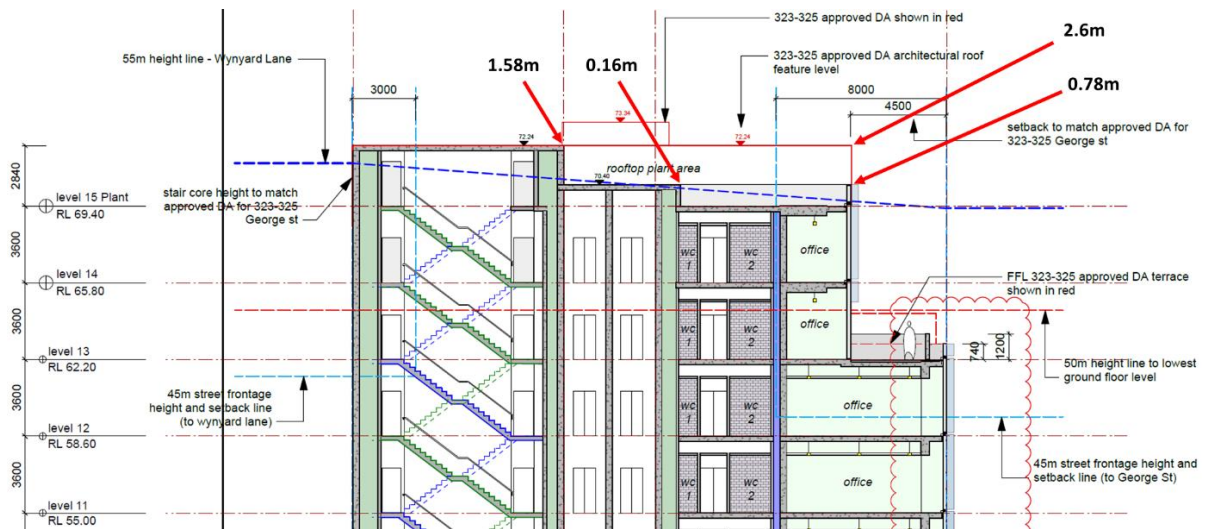


Figure 1 - Points of height exceedance

Relevant Clause Extracts

The relevant clauses of the Sydney LEP 2012 are CI 4.6 Exceptions to development standards and 6.16 Erection of tall buildings in Central Sydney. They are reproduced in full in the following pages.

4.6 Exceptions to development standards

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

(a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*

(b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(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.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note. When this plan was made it did not include land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Rural Small Holdings, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4,

(ca) clause 4.3 (Height of buildings), but only in relation to land shown as being in Area 1 or Area 2 on the Height of Buildings Map,

(cab) clause 4.5A (Balconies on certain residential flat buildings),

(cb) clause 5.3A (Development below ground level in Zone RE1),

(cc) clause 6.10 (Heritage floor space),

(cd) clause 6.11 (Utilisation of certain additional floor space requires allocation of heritage floor space),

(cda) clause 6.11A (Temporary alternative heritage arrangements in relation to allocation of heritage floor space),

- (ce) clause 6.17 (Sun access planes),*
- (cf) clause 6.18 (Exceptions to sun access planes),*
- (cg) clause 6.19 (Overshadowing of certain public places), except in respect of Australia Square Plaza, Chifley Square, First Government House Place and Sydney Town Hall steps,*
- (cga) clause 6.26 (AMP Circular Quay precinct),*
- (cgb) clause 6.29 (58–60 Martin Place, Sydney),*
- (cgc) clause 6.33 (230–238 Sussex Street, Sydney),*
- (cgd) clause 6.35 (45 Murray Street, Pyrmont), but only if the development is an alteration or addition to an existing building,*
- (cge) clause 6.36 (12–20 Rosebery Avenue, 22–40 Rosebery Avenue and 108 Dalmeny Avenue, Rosebery),*
- (cgf) clause 6.37 (296–298 Botany Road and 284 Wyndham Street, Alexandria),*
- (ch) Division 1 of Part 7 (Car parking ancillary to other development).*

The development standard proposed to be contravened is Clause 6.16(3) which is not expressly excluded from the operation of Clause 4.6.

6.16 Erection of tall buildings in Central Sydney

- (1) The objectives of this clause are to ensure that tower development on land in Central Sydney:*
 - (a) provides amenity for the occupants of the tower and neighbouring buildings, and*
 - (b) does not adversely affect the amenity of public places, and*
 - (c) is compatible with its context, and*
 - (d) provides for sunlight to reach the sides and rear of the tower, and*
 - (e) promotes the ventilation of Central Sydney by allowing the free movement of air around towers, and*
 - (f) encourages uses with active street frontages.*
- (2) This clause applies to development involving the erection of a building with a height greater than 55 metres above ground level (existing) on land in Central Sydney.*
- (3) Development consent must not be granted to development to which this clause applies if the building is on land having a site area of less than 800 square metres unless the consent authority is satisfied that:*
 - (a) the building will have a freestanding tower each face of which will be able to be seen from a public place, and*
 - (b) the development will provide adequate amenity and privacy for occupants of the building and will not significantly adversely affect the amenity and privacy of occupants of neighbouring buildings, and*
 - (c) the ground floor of all sides of the building facing the street will be used for the purposes of business premises or retail premises.*

Background

The subject site for the Development Application is 327-329 George Street which is legally described as Lots 1 & 2 in DP448986 and comprises a site area of 274.5m². This is the 'site area' that applies, in a strict sense.

The existing structure on site is a part-3 part-4 storey commercial building that was originally constructed in the 1950s and which has been substantially altered in the intervening years.

The proposal is for the demolition of the existing building on site and for the construction of a 15-storey office building with retail uses on the lower two storeys and one basement level. It reaches a maximum height of 57.6m at RL 72.24 where the rooftop plant area envelope extends towards the eastern boundary.

The site is located on the western side of George Street approximately 100m from Martin Place. To the rear of the site across Wynyard Lane are 50 and 54-62 Carrington Street which are commercial buildings reaching heights of RL 86.18 and RL 81.53 respectively. Opposite the subject site along the eastern side of George Street are several 5-6 storey commercial buildings.

Importantly, the subject site should be read in the context of an overall site comprising the neighbouring sites immediately to the south and north.

To the south of the site is a 19-storey commercial building located at 333 George Street which is on a prominent corner and reaches a height of RL 81.74. This site is 1,152m² in area.

The northern neighbouring building is a two-storey retail building located at 323-325 George Street which is a property with similar dimensions to the subject site. Development consent has been granted for the construction of 17 storey hotel on that site under D/2018/922. The approved building reaches a maximum height of 58.063m at RL 73.34. This site is 265.6m² in area.

The proposed building is designed in a manner that responds to and integrates with:

- the existing building at 333 George Street; and
- the approved design of 323-325 George Street (and has a lower height than that building).

The subject site, together with these two neighbouring sites, forms part of an overall site of 1,692.1m².

The maximum height limit applied to the site under Clause 4.3 is determined by the Sun Access Plane to Martin Place. The maximum height given under this Clause is approximately 130m. The proposed building is well under the maximum height limit.

Request

Under Clause 6.16(3) of the City of Sydney LEP 2012 says that development in Central Sydney must not be approved if:

- it involves the erection of a building with a height greater than 55 metres above ground level (existing); and
- a site area of less than 800 square metres,

unless the consent authority is satisfied that:

- the building will have a freestanding tower each face of which will be able to be seen from a public place;
- the development will provide adequate amenity and privacy for occupants of the building;
- the development will not significantly adversely affect the amenity and privacy of occupants of neighbouring buildings; and
- the ground floor of all sides of the building facing the street will be used for the purposes of business premises or retail premises.

The proposed building's roof plant, roof access, roof balustrade and lift overrun all exceed 55m by between 0.16m-2.6m.

The overall site

There is an established planning intention that the buildings located from

- 333 George Street; and
- 323-325 George Street,

(including the subject site) will contribute to a single street wall without any building separation between them.

333 George Street

333 George Street was approved by development consent D/2012/696. The assessment report was presented to the Central Sydney Planning Committee on 6 December 2012. That report said (in paragraph 24):

The concept plan details the design resolution of the façade to the north boundary in the event that the northern neighbouring building will be developed. This includes a tightened radius of the curved building element similar on all levels and the shadow gap.

Paragraph 24 referenced a 'figure 12'. This figure is reproduced below:

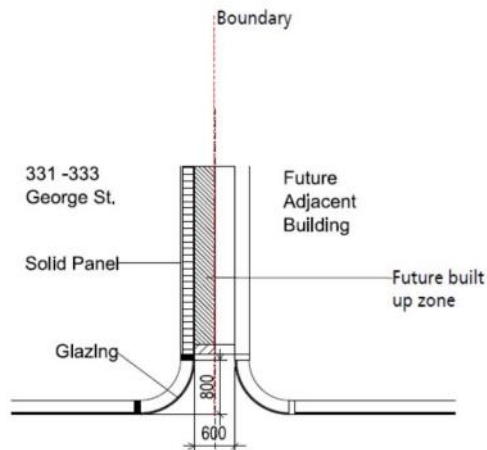


Figure 12 – North boundary design resolution concept

The ‘future adjacent building’ is the building now proposed to be erected on the subject site. It can be seen that it was anticipated that it would directly abut the building on 333 George Street.

333 George Street was approved under the Central Sydney DCP 1996 with a ‘street frontage height’ of 46m-50m. The assessment report says this in the compliance table (after paragraph 46):

Generally complies: *The proposed street frontage height ranges between 46m - 50m. The street frontage height is within the design of the glazed ‘veil’. The non-compliance is acceptable in this instance as the location of the site in the street block is a corner site and the built form of the building has been designed to comply with the sun access plane height requirement. Clause 2.2.1 (iii) allows corner sites to generally include special design emphasis such as increased street frontage heights by one or two floors.*

It can be seen from this text that it was anticipated that the street frontage height (together with the ‘building to the street alignment’ requirement) would create a street wall. As a corner site, the building at 333 George Street was expected to present as a taller building at the street frontage (than the buildings to the north). This proposal for the subject site is consistent with that expectation. Significantly, that expectation could not be achieved if the development of the subject site was to be a ‘freestanding tower each face of which will be able to be seen from a public place’ (as required by Clause 6.16(3)(a) of the LEP).

The above analysis is reinforced by the assessment report’s response to a submission from the owner of 327-329 George Street (the subject site). The report says (in paragraph 84(a)):

327-329 George Street is to be redeveloped in the near future and concern is raised over the northern boundary glazed wall and building name signage located at the top of the building. The redevelopment potential of this site is not to be compromised as a result of the northern boundary glazed wall.

Comment: *The applicant has been advised that should consent be granted, a condition will be imposed to include a boundary covenant requiring the windows to be sealed, bricked up or otherwise enclosed prior to the construction of any building abutting, adjoining or adjacent to such windows. The applicant accepts that a boundary window covenant will be imposed to ensure the development potential on the adjoining site is not compromised by the subject development and glazed northern boundary wall. No signage will be approved as part of this application. A condition will be imposed recommending a Signage Strategy be submitted to detail all proposed future signage for the site.*

The covenant generally anticipated by this comment was imposed under DP1226945 that says (in Section 4.6 Contravention Request | 327-329 George Street, Sydney

term 3(c)):

The registered proprietor must inform any future lessee of any area affected by this covenant of the possibility that a new building could be erected on the land adjoining to the north, possibly diminishing views and available light.

323-325 George Street

323-325 George Street is subject to development consent D/2018/922. The development application was determined in April 2019.

The assessment report indicates that a street wall is expected and desired. It says on page 17:

The proposal has a street wall height of 48.6m with the upper 2 levels set back 4.4m. ... Council's Urban Design Specialist reviewed the proposal. Surrounding development is mostly commercial, with limited setbacks ...

The assessment report includes a 'figure 10' which shows how a street wall is to be created. Figure 10 is reproduced below:

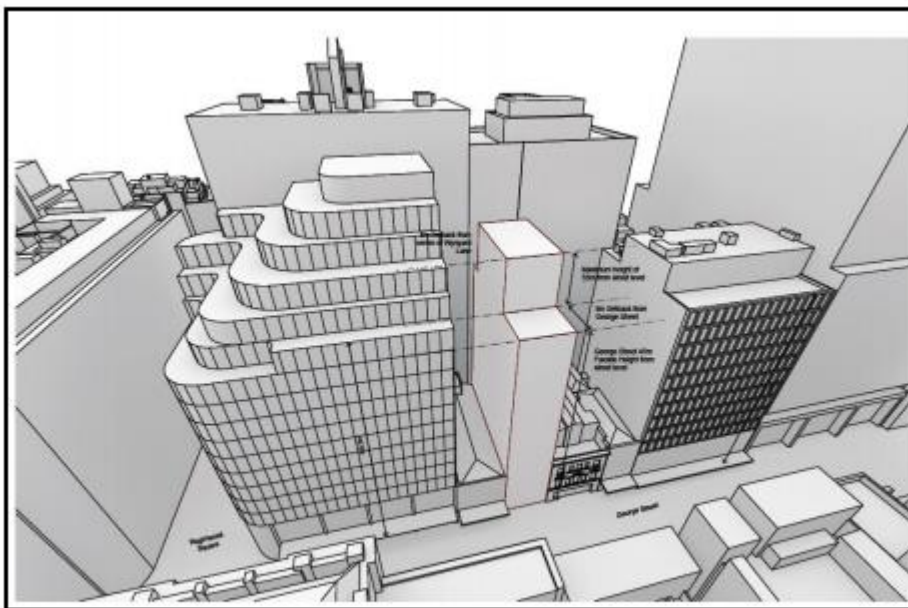


Figure 10: Isometric representation of the proposed development.

The building to the north of 323-325 George Street is heritage-listed, and it should **not** be assumed that it would be re-developed. However, the context shown in the above figure 10 plainly anticipates that the site to the south (ie the subject site) would be developed to fill in the missing gap in the street wall.

The report details comments from the City's Design Advisory Panel. The panel's (relevant) comment and the City's response (on page 27) are set out below:

The windows proposed on the southern facade are not supported and require deletion. They rely on borrowed light and impact the possibility of future development of the adjoining site. The windows to the northern boundary are supported in that the adjoining site is a heritage item and is less likely to be

developed.

Comment: The proposal is amended by deleting the south facing windows.

Similarly, the owner of the subject site (being the site to the south of 323-325 George Street) provided a submission and a comment was offered in response as follows (on page 32):

We are the owners of the building/site adjoining the proposed development to the south. The windows proposed to the southern facade should not be approved as we are proposing to develop the site and a solid wall would be more appropriate.

Response - The application was amended with the deletion of the windows to the southern facade. The windows to the north are acceptable as the site is unlikely to be developed given the sites' heritage status.

The report also says (on page 26):

As a result of the constraints resulting from the small size of the site no rear or side setbacks have been incorporated into the design. A setback of 4.4m is provided over the street frontage height of 48.6m. In this context the street wall height is acceptable.

The inevitable consequence from this decision is that, once the subject site is developed, the approved building at 323-325 George Street cannot be 'a freestanding tower each face of which will be able to be seen from a public place' (as would have been required under clause 6.16(3)(a) of the LEP, had a clause 4.6 variation not been approved). The development consent was granted on the basis of clause 4.6 request in relation to clause 6.16 (pages 21-22).

Planning controls

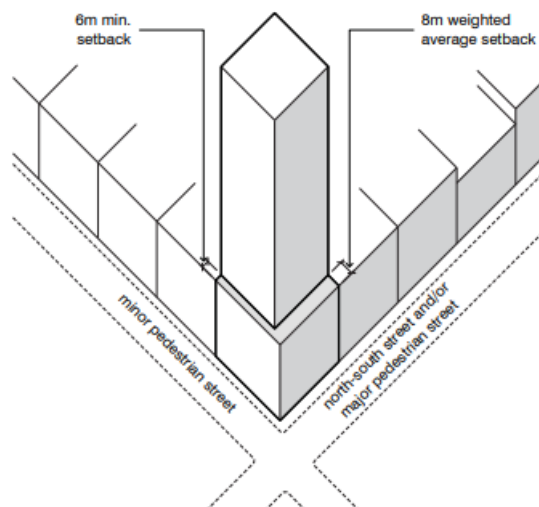
The above planning intent is also consistent with the development controls that were applied in relation to 323-325 George Street and also apply to the subject site.

In section 5.1.2 of the *Sydney Development Control Plan 2012* under the heading 'Side ...setbacks' it says:

Separation between commercial buildings is not as critical given the reduced requirement for privacy.

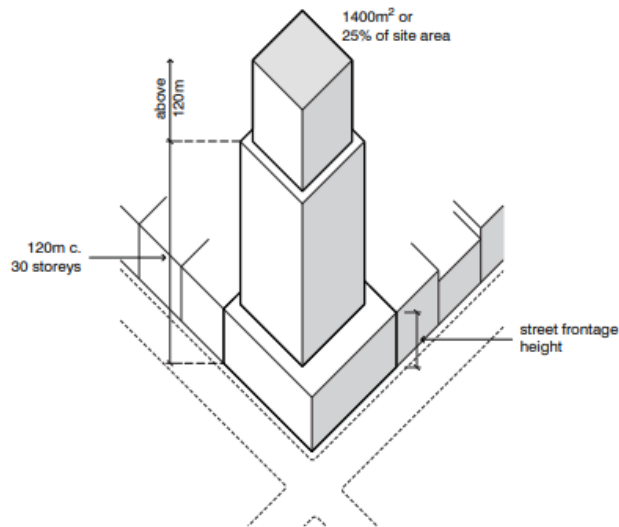
The intended street wall effect is shown in 'figure 5.5' of the DCP (in section 5.1.2). That figure is reproduced below:

Figure 5.5
Front setbacks at street frontage heights may be reduced from the 8m weighted average setback on corner sites on secondary pedestrian streets, provided an average weighted setback of at least 8m is maintained to north-south streets and major pedestrian streets



A similar figure appears as 'figure 5.20' in section 5.1.5 of the DCP:

Figure 5.20
Upper level
floor plates for
commercial
buildings-



In both figure 5.5 and figure 5.20, the corner building would be the equivalent of 333 George Street. The subject site and 323-325 George Street would be the buildings with no side setback, providing a solid street wall at the street frontage height. This is the building form that the City has plainly been working towards with the two consents it has already given. This building form is not able to be achieved while also adhering to the requirement that each individual building 'will have a freestanding tower each face of which will be able to be seen from a public place' (as per clause 6.16(3)(a)). Of course, the overall site will achieve this effect. That is the site bounded by Regimental Place, Wynyard Lane, the heritage property to the north of 323-325 George Street and George Street.

Marginal exceedance of 55 metre height threshold that triggers Clause 6.16(3)

The building reaches a maximum height of 57.6m. The bulk of the proposed building, including all habitable floor space, is located below a height of 55m. Several minor elements on the roof exceed 55m.

The greatest fixed exceedance (of the 55m threshold) arises from the stairs accessing the roof top which is required for the maintenance of roof top plant and equipment. This structure will have an unobtrusive concrete finish which matches the masonry materiality of much of the surrounding development. The greatest possible exceedance may relate to roof top equipment located in the roof top plant area.

Elements of the roof top plant will exceed 55m. The plant is necessary for the operation of the building and does not exceed the approved height of 323 George Street. A balustrade is required to the roof for the safety of anyone who accesses the roof. The balustrade is glass and will not be clearly visible from the public domain due to its location and materiality.

All elements that exceed the height threshold, excluding the glass balustrade, are set within the roof plane and will not be seen from the public domain. The exceedances of the threshold are minor and will be unobtrusive when viewed from surrounding development.

The proposal is acceptable for the site as the marginal height exceedances over the 55m threshold will allow for the proper and safe operation of the building and do not cause any significant adverse environmental effects.

To be clear, the building complies with the maximum height limit for site. This is set under Clause 4.3 and is determined by the Sun Access Plane to Martin Place. The maximum height given under this Clause is approximately 130m.

Justification

In response to the proposed contravention of Clause 6.16(3), this Clause 4.6 request is provided to seek development consent despite the contravention. This request is based on the established planning intention that the building form part of a street wall as part of an overall site comprising 1,692.1m². The overall site would meet the requirements of clause 6.16(3) if those requirements were applied to that overall site.

It is submitted that the request is well-founded and is worthy of the Council's approval. The following is an assessment of the proposed contravention against the requirements of Clause 6.16 (Erection of tall buildings in Central Sydney) and Clause 4.6 (Exceptions to development standards).

Firstly, the established planning intention for the subject site and its two neighbouring sites is that, together, they will form part of a street wall as part of an overall site comprising 1,692.1m². The overall site would meet the requirements of clause 6.16(3) if those requirements were applied to that overall site.

Secondly, clause 6.16(3) would not apply, in any event, if the building was 55m or less in height. The proposed building height is set to meet anticipated development needs for the foreseeable future and provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure. The proposed development reflects the desired character of Central Sydney and minimises adverse impacts on the amenity of the area.

In particular:

- The exceedance of the 55m threshold is relatively minor with the greatest fixed exceedance being 1.58m and greatest possible exceedance being 2.6m.
- The proposed height supports a positive built form and scale relationship with the neighbouring buildings at 333 and 323 George Street.
- The marginal difference between the proposed height and the 55m threshold does not result in increased density or adverse overshadowing to neighbouring developments or Martin Place.
- This same marginal difference does not give rise to any environmental effect of sufficient significance that would cause concern, and it is considered that the environmental benefits of the proposal deliver environmental planning benefits sufficient to justify the contravention of the development standard.

Objectives of Clause 6.16(3)

The proposed development will be in the public interest because it is consistent with the development standards' objectives and the zone objectives.

This section of the request deals with the objectives in Clause 6.16(1) (which are the objectives for Clause 6.16(3)). The non-compliance does not violate the objectives of the clause as demonstrated below.

(1) The objectives of this clause are to ensure that tower development on land in Central Sydney:

- (a) provides amenity for the occupants of the tower and neighbouring buildings, and***
- (b) does not adversely affect the amenity of public places, and***
- (c) is compatible with its context, and***
- (d) provides for sunlight to reach the sides and rear of the tower, and***
- (e) promotes the ventilation of Central Sydney by allowing the free movement of air around towers, and***
- (f) encourages uses with active street frontages.***

Objective 1a.

As explained above, the proposal has been designed to be built to the site boundaries to continue the infill of the street wall of George Street. This reflects the established planning intent for the overall site.

All habitable floor space of 327-329 George Street is located below 55m in height. The amenity for occupants will be high as the development has a relatively small floor plate with access to natural light at both ends. The floor to floor heights throughout the office levels of the development are 3.6m which provides ample ceiling height to allow light to reach the centre of the floor plate.

323-325 George Street and 333 George Street have been designed on the understanding that future development would occur to the boundary on 327-329 George Street. Both buildings were approved on this basis and in acknowledgement that they will provide suitable amenity for occupants. Across the overall site, high levels of amenity have been provided for occupants of the commercial and hotel buildings.

The development across the overall site reflects a standard pattern of development within the Sydney CBD where street wall heights of up to and above 45m are common, including for tower podiums. The amenity of neighbouring sites is not diminished by the development of a consistent street wall along George Street, which is the intended planning outcome of existing and past controls.

The height exceedance (above the threshold that triggers the application of clause 6.16(3)) relates to items (access stairs and protective balustrade) which allow roof access for the purpose of servicing roof top plant and elements of the roof top plant to be determined in detailed design. The minor exceedance relating to the lift overrun allows the building's lifts to operate. In this way, the

exceedances (above the threshold) contribute to the amenity of the proposal for its occupants. The surrounding developments will not be significantly impacted by the exceedances.

Objective 1b.

The proposal within the context of the overall site creates a consistent street wall along George Street which is compatible with the planning intention as demonstrated in figures 5.5 and 5.20 of the Sydney DCP 2012. This is a positive urban design response to the existing and desired pattern of development along George Street. The scale of the constructed and the approved development on the overall site is consistent with the pattern of surrounding development and significantly lesser in scale than freestanding towers located in the vicinity. The proposal thereby will not cause any form of visual domination.

The overall site does not cause any unacceptable shadow impacts on the public domain and is within the heights allowable under the solar access planes protecting Martin Place. The proposal for the subject site, as part of the overall site, does not result in any additional overshadowing of the public domain.

Objective 1c.

Figure 10 from the Assessment Report produced concerning D/2018/922 (which is reproduced under the 'Request' heading of this request) demonstrates that an infill building with a consistent street wall is expected and desired between 333 George Street and 323-325 George Street. This is to ensure that the overall site corresponds with the pattern of development established by 333 George Street and 309-315 George Street. The overall site is responsive to the street wall height of 309-315 George Street with the buildings at 323-329 George Street both being designed in respect of the street wall height established by 333 George Street and 309-315 George Street. The overall site is compatible with its context.

In terms of the proposal for the subject site, the height of the proposed building is compatible with the neighbouring developments 333 George Street and the DA approved design for 323 George Street. Specifically, the height of the proposal is less than what was approved for the neighbouring 323 George Street. The site is exceptionally well located for a commercial office and retail development being located near public transport and within the Sydney CBD. The design and proposed use are both entirely appropriate to the site's context.

Objective 1d.

The overall site provides windows on all sides. All three buildings having windows to the eastern and western elevations. The northern elevation of 323-325 George Street contains windows and the southern elevation of 333 George Street contains windows. The overall site does allow sunlight to reach all sides.

In terms of the proposal for the subject site, the portion of the development which is over 55m in height is limited to the top of a stairwell, lift overrun, balustrade and a rooftop plant envelope area.

The height exceedances have no impact on sunlight reaching the sides or rear of the building. The proposal is not a tower form and it is for this reason that exemption is being sought from this clause.

Objective 1e.

The overall site does not contain a tower form (in the sense that the site is occupied by buildings whose height is modest in the context of the Sydney CBD). However, if there is a 'tower' the tower will comprise the three buildings that will contribute to the overall site. The elements of the overall site that do exceed 55m will not prevent the free movement of air within Central Sydney.

Additionally, there will be free movement of air around the three buildings below 55 metres.

In terms of the proposal for the subject site, the minor additional height above 55m will have no impact on the circulation of air. The proposal is not a 'tower' form (as per response to 1(d)) above), but to the extent that there is any 'tower' it is made up by the three buildings that will comprise the overall site.

Objective 1f.

The overall site provides active street frontages to George Street and Regimental Place.

An active street frontage is provided to George Street under the proposal.

Zone objectives

As stated above, the proposed development will be in the public interest because it is consistent with the development standards' objectives and the zone objectives.

The land use table in the LEP specifies the zone objectives and permissible uses. The objectives of the B8 Metropolitan 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.*

The proposal recognises these objectives for the B8 Metropolitan zone by:

- Providing office and retail space within the CBD.
- Developing a currently under-utilised site in an efficient manner and providing a land use

- and high-quality design that is compatible with Sydney’s role as a global city.
- The site’s land use as a commercial office building with lower level retail is compatible with the surrounding commercial developments and contributes to a diverse land use pattern.
- The site has exceptional access to a wide range of public transport options which will encourage the use of public and active transport.
- An active retail frontage is provided to George Street.

Compliance unreasonable or unnecessary

Compliance with the development standard is unreasonable or unnecessary in the circumstances of this case.

Historically the most commonly invoked way to establish that a development standard was unreasonable or unnecessary was satisfaction of the first method of the five methods set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827.

This first method requires that the objectives of the standards are achieved despite the non-compliance with the standards.

This was re-affirmed as an appropriate method in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [16]-[17].

This request addresses this first method outlined in *Wehbe*. It should be noted that this method alone is sufficient to satisfy the ‘unreasonable and unnecessary’ requirement.

The request also addresses the third method in *Wehbe* — that the underlying objective or purpose of the development standard(s) would be undermined, defeated or thwarted if compliance was required with the consequence that compliance is unreasonable (*Initial Action* at [19] and *Linfield Developments Pty Ltd v Cumberland Council* [2019] NSWLEC 131 at [24]). Again, this method alone is sufficient to satisfy the ‘unreasonable and unnecessary’ requirement.

For completeness, this request also seeks to demonstrate that the ‘unreasonable and unnecessary’ requirement is met because the burden placed on the community by not permitting the variation would be disproportionate to any adverse consequences attributable to the proposed non-compliant development. This disproportion is, in itself, sufficient grounds to establish unreasonableness (relying on comments made in an analogous context, in *Botany Bay City Council v Saab Corp* [2011] NSWCA 308 at [15]). In this regard, the burden placed on the community would be:

- the failure to achieve the street wall effect that the City has been working towards and that has been anticipated in the DCP;
- the reduction in commercial floor space that would otherwise benefit the community and assist in achieving important planning goals; and
- the likely sterilisation, or partial sterilisation, of the subject site as a re-development site.

Consistency with the relevant development standard objectives

This has been demonstrated earlier in this request.

No significant adverse impacts

No significant adverse impacts arising from the proposed contravention.

327-329 George Street has a site width of 9.797m as shown on Drawing '1707 D 103 L' by Melocco & Moore Architects. 333 George Street is built to its common boundary with the subject site and 323-325 George Street is approved to be built to both of its common boundaries. For a free-standing tower with windows to all elevations to be constructed on-site, minimum side setbacks of 3m to each boundary would be required which would allow the tower a maximum possible width of 3.797m. It is evident that such a tower would be impractical to construct and would not offer a land use intensity commensurate with the subject site's maximum FSR limit and location in the Sydney CBD. A free-standing tower on the subject site would be incompatible with the desired street wall discussed previously in this Request. It would result in an inferior urban design outcome by creating gaps in the street wall. The sides of the building would still largely not be visible from the public domain (as views would be obscured by the two neighbouring buildings).

In comparison, the proposal completes the street wall and is designed to respond to the height datums established by the neighbouring sites. Infilling the street wall is an appropriate urban design response which will have a positive impact on the streetscape of George Street. The specific areas of the building proposed to exceed 55m do not consist of habitable floor space and are for the purposes of building services and maintenance. With the exception of a glass balustrade, which will be difficult to perceive due to its materiality, these building elements are located behind the parapet and will not be visible from the public domain and have no shadow impact upon it. No significant adverse impacts arise from the height of the lift overrun and other roof features.

Additionally, in terms of the minor exceedance of the 55m height threshold:

- The extent of the exceedance is minor being a maximum of 2.6m which is a variance of 4.73%.
- The height exceedance relates to elements necessary for access to roof top equipment and for the lift overrun.
- The point of greatest height is setback within the centre of the roof which is in turn setback 4.5m from the street wall. The visual impact of the exceedance will be minimal or non-existent from the public domain. When viewed from surrounding tall buildings the elements of height exceedance will appear as integrated components within the buildings design.
- The overall scale and built form will contribute positively to the surrounding area by responding to the scale of existing developments in the vicinity.
- The development otherwise achieves a high-quality design outcome without any significant, adverse impact arising from the exceedance.

The outcome is a building that fits within its surroundings and achieves the objectives of the zone while staying generally within the built form outcome and scale anticipated for the area.

In substance, the development remains compliant with the principles and general parameters of the built form controls and expectations within the planning framework. If approved, the built form outcome of the proposal will be in-keeping with, and will not be detrimental to the amenity of its surroundings.

Technical issue re the site area

The contravention of the development standard is a technical non-compliance which results from treating the 'site area' as simply being the subject site rather than overall site area which has been the basis for two precedent planning decisions over a seven-year period (that both anticipate the proposed development of the subject site).

If overall site area was taken into consideration when calculating the site area, there would not be any non-compliance (see analysis above).

Thwarting or undermining certain development standard objectives

If the variation is not approved, then key objectives in the development standard will be thwarted or undermined.

Objective 1a.

As discussed under the 'no significant adverse impacts' heading above, the maximum possible width of a free-standing tower of which each face could be seen from the public domain is 3.797m assuming a minimum side setback of 3m to each side boundary. The floor plate of such a tower would be too narrow to provide an adequate level of amenity for occupants. A free-standing tower form would severely reduce the amenity for occupants in comparison to the proposed design which infills the street wall.

The sides of such a building would not be able to be appreciated in any meaningful sense from within any neighbouring buildings.

Objective 1b.

As discussed above, a free-standing tower on the subject site would fail to complete the street wall that 333 George Street and 323-325 George Street establish. This would be highly incompatible with the existing pattern of development along that section of George Street. It would also be inconsistent with the expectations of Council established in the approval of 333 George Street and 323-325 George Street that a single street wall would be established. Failure to create a continuous street wall between 333 George Street and 323-325 George Street would diminish the streetscape quality of George Street, reducing the amenity of the public domain.

Objective 1c.

The context of the subject site is defined by its relationship to the neighbouring buildings. 333 George Street is constructed to the northern boundary and was approved on the assumption that a neighbouring building would be constructed to that boundary. It has a street wall height of between 46m-50m. 323-325 George Street was approved with a street wall height of 48.6m and building height of 58.063m. Its design responded to the street wall heights established by 333 George Street

and 309-315 George Street. By being built to the boundary and responding to the height datums established by the neighbouring sites, the proposal for 327-329 George Street completes that portion of the street wall and conforms to its context.

A freestanding tower on the subject site, each face of which will be able to be seen from a public place, would reject the pattern of development that has been established by 333 George Street, 323-325 George Street and 309-315 George Street. It would present undesirable gaps in the street wall which are incompatible with the existing pattern of development along George Street.

Environmental planning grounds

There are sufficient environmental planning grounds to justify contravening the development standard.

In saying this, we have focused on:

- the aspect or element of the development that contravenes the development standard, not on the development as a whole; and
- why that contravention is justified on environmental planning ground,

(Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 at [24]).

There is an absence of environmental harm arising from the contravention, for reasons already set out above.

Additionally, there are planning benefits, for reasons outlined above.

In particular, a proposal for a freestanding tower on the subject site alone would result in a worse environmental planning outcome relative to the proposed building design because:

- A freestanding tower providing minimum setbacks of 3m to each side boundary would have a maximum floor plate width of 3.797m which would be impractical to construct and would have unacceptable amenity outcomes for occupants.
- A freestanding tower would fail to provide a level of land use intensity commensurate to the site's maximum FSR limit under Clause 4.4 of the Sydney LEP 2012 and which is appropriate to its location in the Sydney CBD.
- A freestanding tower would create undesirable gaps in the street wall established by neighbouring sites which would be an unacceptable urban design outcome.

A proposal for a building with a maximum height of less than 55m would result in a worse planning outcome relative to the proposed building design because it would necessitate that either the floor to floor heights within the building be reduced or that one storey be removed from the development. These options are considered below.

Section 4.2.1.2(1)(c) of the Sydney DCP 2012 requires that commercial floors have a minimum floor to floor height of 3.6m. The proposal complies with this section by providing floor to floor heights of 3.6m above the ground floor. A reduction in the floor to floor heights would cause a non-compliance

with Section 4.2.1.2(1)(c) of the Sydney DCP 2012 and would reduce the amenity for occupants creating an unacceptable planning outcome.

The alternative is to remove a storey from the building to reduce the total height below 55m. The subject site has a base FSR 8:1 under Clause 4.4 of the Sydney LEP 2012 and is eligible for an Area 1 bonus of 4.5:1 under Clause 6.4 providing a total maximum permissible FSR of 12.5:1. The proposed design has a total GFA of 3,076.2m² which equals an FSR of 11.207:1. If Level 14 were removed from the development, the building's GFA would be reduced by 173.3m² to 2,902.9m² and the total FSR would be 10.58:1. The removal of a storey from the proposal thereby reduces the FSR to 1.92:1 below the maximum FSR limit. This is a land use intensity which falls well below that which was envisioned in the FSR controls applied to the subject site under the Sydney LEP 2012 and which is inappropriate to its location in the Sydney CBD.

The City of Sydney's Central Sydney Planning Strategy has recommended changes to the planning controls in order to protect and enhance the employment floor space in the Sydney CBD. The proposal is consistent with this strategic direction by providing additional office space in the Sydney CBD which is supremely located in relation to public transport. Any loss of commercial floor space (that can be delivered without significant adverse impacts) is the loss of an environmental planning benefit.

With regard to environmental amenity matters of consideration which are; overshadowing, privacy/overlooking, view loss and visual domination. These matters provide an indication of a proposal's suitability and reflect the matters of consideration under Section 4.15 of the Act.

As indicated previously, the proposed exceedance of the height threshold will not adversely impact on any of those criteria. As reflected in the shadow diagrams submitted with the DA, there is no significant adverse over shadowing effect to neighbouring developments as a result of the exceedance and there is no additional overshadowing to the public domain.

Visual domination is usually associated with the perceptions from the public domain and from multi-storey buildings. In this case, the building responds to existing heights of the neighbouring built and DA approved developments which are of similar or greater scale. From the public domain, the height exceedance will not be readily visible. The building has been designed to be sympathetic to both neighbouring buildings and to contribute to the infill of the street wall of George Street.

In determining the 'aesthetic character of the area' it is reasonable to review the type and form of development in the site vicinity as well as the future character of the area. The existing form is a mix of heritage buildings of between 5-6 storeys, small sites to the north that are underdeveloped and multiple buildings larger contemporary buildings up to and exceeding 55m. The proposal is a suitable part of the ongoing intensification of development along George Street.

The proposed mix of uses as a commercial office building with lower level retail is consistent with the surrounding land uses and the objectives of the B8 Metropolitan Centre Zone.

Therefore, it would appear that neither the environmental amenity nor the aesthetic character of the area, are detrimentally impacted by the proposal. In such a context the contravention of Clause 6.16(3).

Concurrence of the Secretary

The Secretary of Department of Planning and Environment can be assumed to have concurred to the contravention, provided that the application is not determined under delegation. This is because of Department of Planning Circular PS 08–003 ‘Variations to development standards’, dated 9 May 2008. This circular is a notice under 64(1) of the *Environmental Planning and Assessment Regulation 2000*. Under Clause 64(2), a consent granted by a consent authority that has assumed concurrence is as valid and effective as if concurrence had been given. The application must not be determined under delegation, as some of the requirements to be varied are not numerical.

In any event, the contravention of the development standard does not raise any matter of significance for State or regional environmental planning.